

TRANSPARENCY, ACCOUNTABILITY and INTEGRITY of institutions in public procurements

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**RESEARCH,
RANK LIST
AND ANALYSIS**

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**Research,
Rank List
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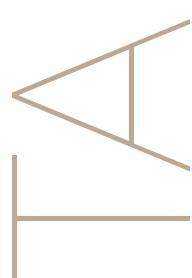
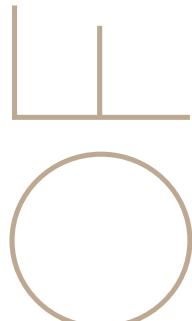
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Introduction

Transparency is a broadly accepted underlying principle in public procurements. It promotes competition, increases efficiency of public spending and reduces risks of corruption in public procurements.

Only transparent public procurement process allows citizens to hold the administration and politicians accountable and responsible, which further enhances their integrity and the public trust in institutions of the system. In particular, transparency and accountability, together, are tools for promotion of integrity and for prevention of corruption in public procurements.

Usually, transparency in public procurements is measured and advanced through monitoring by civil society organizations, which results in timely opening of issues, reduction of risks, improvement of practices, demanding responsibility and overall enhancement of good governance in the country.

Moreover, the Law on Public Procurements of the Republic of Macedonia stipulates transparency and integrity in the public procurement process as underlying principles.

In our country, public procurements account for roughly one billion EUR annually, i.e. around one-third of the state budget. Also, public procurements are one of the most vulnerable areas to corruption, as they involve enormous amounts of funds and imply direct contacts between the state and the private sector. Most common assumption across the world shows that corruption ‘accounts’ for 20-30% of the value of public procurements.

Starting from the need to increase efficiency and to reduce risks of corruption in public procurements in the Republic of Macedonia, from 2009 onwards, the Center for Civil Communications is engaged in continuous, in-depth monitoring of the manner in which public procurements are implemented, detecting weaknesses and proposing specific measures to change legal regulations and practices, aimed at narrowing the space for corruption and advancing the manner in which public procurements are organized and implemented in the country.

Given that all previous activities in this regard were taken at the level of the system as a whole, i.e. promotion of the overall system of public procurements, this research makes an attempt to analyse public procurements at the level of individual institutions. Hence, the idea is to assess transparency, accountability and integrity in implementation of public procurements by individual institutions and to provide them with a tool for continuous promotion of these three principles in public spending.

Criteria defined for this research, which provide the basis for data analysis and ranking of institutions, cover all stages of the public procurement cycle, from procurement needs assessment, through planning and implementation of tender procedures, to performance of contracts signed. Therefore, they may serve as benchmarks to assess state-of-play and to improve the overall public procurement process, i.e. more broadly than merely assessing the procedures covered by legal regulations.

In that, due consideration should be made of the fact that this tool is intended for all institutions in the country implementing public procurements, although the research on assessment and ranking of institutions, in this first phase, only targeted line ministries, government's secretariats and the Parliament of the Republic of Macedonia. In the next phase, it is planned for the research scope to be expanded, in order to also include municipalities, by involving non-governmental organizations from across the country united under the network that will advocate for greater transparency, accountability and integrity in public procurements.

The first research was conducted for public procurements organized in 2016 by all analysed institutions, while the next two research cycles will focus on public procurements in 2017 and 2018, in order to ensure comparability and measurability of progress made.

All these activities are implemented as part of the EU-funded project "Network for Transparency, Accountability and Integrity in Public Procurements".

Summary

Depending on the level of transparency, accountability and integrity in public procurements, institutions are ranked according to five categories, those being: 'poor' (0-20%), 'minimum' (20-40%), 'limited' (40-60%), 'solid' (60-80%) and 'high' (80-100%) level of transparency, accountability and integrity in public procurements.

All 21 analysed institutions (line ministries, government's secretariats and the Parliament) are ranked in the middle three levels (from maximum five levels) and fulfil 34% to 65% of criteria on transparency, accountability and integrity in public procurements. Not a single institution is categorized under the best level defined as 'high' or under the worst level defined as 'poor'. Most institutions are ranked with 'limited' level of transparency, accountability and integrity in public procurements, as they fulfil 40% to 60% of criteria defined.

Together, the four bottom-ranked institutions (Ministry of Interior, Ministry of Health, Ministry of Agriculture, Forestry and Water Economy, and Ministry of Education and Science) account for 75% of total funds spent on public procurements by all analysed institutions. In contrast, the seven top-ranked institutions (Ministry of Justice, Ministry of Culture, Ministry of Information Society and Administration, Ministry of Environment and Spatial Planning, the Parliament, Secretariat for European Affairs and Secretariat for Implementation of the Framework Agreement) account for only 5% of all funds spent on public procurements.

Needs assessment and planning of procurements are among the weakest stages of the public procurement cycle, together with performance of procurement contracts. Almost half of institutions do not develop rationales on the need for individual procurements, and there are no methodologies in place on calculation of procurement's estimated value, while 86% of institutions do not make their annual plans on public procurements publicly available.

The average realization rate of plans on public procurement is 65%, although some institutions demonstrate realization rates of only 27%. Significant portion of public procurements are subject of amendments in the course of the year, reaching up to 88% of initially planned procurements.

86% of institutions do not publish procurement notices also on their websites, while one institution publishes notifications on contracts signed on its website, and not a single institution publishes contracts signed and annexes thereto.

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- The average number of bids received in tender procedures of analysed institutions accounts for 2.91 and is close to the national average of 2.97. In that, only one-third of institutions are marked by higher number of bids per tender procedures compared to the average.
 - The share of tender procedures with only one bid in total number of tender procedures at the level of individual institution ranges from 7% to 41%.
 - Tender annulment is one of the most prominent problems affecting analysed institutions. The total share of annulled tender procedures (in full and in part) ranges from 7% to 69% and almost three-quarters of institutions are characterized by higher shares of annulled tender procedures compared to the national average.
 - In the case of almost one-third of institutions, tender documents include discriminatory elements that prevent competition in public procurements.
 - More than half of institutions have not applied negotiation procedures without prior announcement of call for bids. However, some institutions have awarded as much as 41% of their total value of procurements under this form of direct negotiations.
 - In the case of every fifth tender procedure, institutions have breached the law-stipulated deadline on publication of information about contracts signed in the Electronic Public Procurement System.
 - 67% of institutions have not established internal system on monitoring performance of contracts signed. In 2016, not a single institution has published notifications on performance of signed contract in EPPS.
 - Half of institutions were addressed with higher number of appeals contesting implementation of tender procedures compared to the national average and as many as 37% of these appeals were admitted by the State Commission on Public Procurement Appeals.
 - One-third of institutions disclosed documents requested through the instrument on free access to public information only after an appeal was lodged before the Commission on Protection of the Right to Free Access to Public Information. On average, institutions that complied with the law-stipulated deadline (30 days) needed 27 days to disclose information requested.

Methodology clarifications

The research on transparency, accountability and integrity of institutions in public procurements was conducted on the basis of previously defined goals, criteria and indicators used to measure attainment of these three principles in public spending at the level of individual institutions.

Methodology's main objective is to cover all stages of the public procurement process, including those that are formally not regulated under the procedural Law on Public Procurements, but are part of the public procurement cycles, whose implementation - to great extent - determines the efficiency of public procurements.

The research was conducted in several phases over a period of nine months, from April to December 2017.

First, the project team conducted a public survey to inquire about views and opinions of citizens and representatives of the private sector, the media and non-governmental organizations about the level of transparency, accountability and integrity of institutions and the need for improvement thereof. Among total of 400 survey respondents, 92% believe that state institutions are not transparent in spending public funds and would like to have more information about spending in public procurements. This survey will serve as baseline for future assessment of the effects created by measures that will be taken by institutions in the following years.

Next, preliminary list of indicators was developed on the basis of domestic and relevant international experiences and knowledge, which was further detailed and improved by experts and practitioners from the country and the region in terms of relevance and weight of indicators, availability of necessary data and other inputs, uniformity thereof, as well as their conductivity to further processing, comparison and analysis.

The proposed list of indicators on measuring the level of transparency, accountability and integrity in public procurements was then subjected to broad consultations with more than 170 representatives of the state institutions, non-governmental organizations and the business sector, as part of series of public workshops organized in all eight regions across the country.

The final set of indicators were tested on a sample, followed by voluminous research that implied collection of more than 36,000 individual data values, secured by extracting data from the Electronic Public Procurement System, responses from analysed institutions obtained through the instrument on free access to public information and appeals lodged before the Commission on Protection of the Right to Free Access to Public Information when necessary, and information gathered by browsing official websites of analysed institutions.

Collected data were grouped and inputted into relevant matrices for further processing. Prior to engaging in detailed analysis, all data sets were verified by means of cross-referencing.

The final ranking of institutions was performed by indexing state-of-play on the basis of total of 31 indicators (given in the appendix to this publication). Depending on the value of data collected and situation depicted in responses obtained from the institutions, each of them was first scored at the level of individual indicators (on the scale of 0, 1 or 2). Indicators with descriptive values were scored according to institutions' answers 'yes', 'no' and 'partially'. Indicators with numeric values were first correlated against the average calculated for the particular phenomenon or indicator, and were then scored depending on their position below or above the average.

Last, the final ranking was performed on the basis of percentile fulfilment of criteria pertaining to the level of transparency, accountability and integrity of institutions in public procurements. For example, if one institution scored 31 points from the total of 62 points, it demonstrates 50% fulfilment of criteria on full transparency, accountability and integrity in public procurements.

In the case of large number of indicators, indexing of their values for observed phenomena they describe necessitated complex efforts in order to arrive to single, final, unified and comparable value at the level of individual institutions.

It is important to note that for vast portion of data collected, responsibility for their truthfulness lies with institutions that have provided said data to the Electronic Public Procurement System and disclosed them as part of responses to information requests submitted pursuant to the instrument on free access to public information.

Among restrictive factors in the research, two are of particular importance and should be duly noted. The first concerns inadequate format of data kept in the Electronic Public Procurement System, which prevented easy and automated download and further processing of data, thereby imposing the need for voluminous manual and labour-intensive efforts. The second restrictive factor concerns inertness on the part of institutions in regard to disclosing data and documents requested, which imposed the need for additional engagement aimed at securing necessary information in their entirety and which, in significant number of cases, resulted in motions for appeal procedure led before the competent state commission.

The present, first ranking of this type in the country was conducted about state-of-play and manner in which public procurements were implemented by analysed institutions in the year 2016, as the last year with completed data. The same will be repeated for the years 2017 and 2018.

Such time definition of the research will allow establishment of the baseline situation and level of transparency, accountability and integrity of institutions in public procurements and possibility for future comparisons and assessment of progress made.

After the initial research, the next round of research efforts and ranking for the following years will have an expanded scope, in order to include institutions at local level, i.e. municipalities and the City of Skopje, which means that the research for 2017 and 2018 will target more than 100 institutions.

Institutions' rankings and detailed results

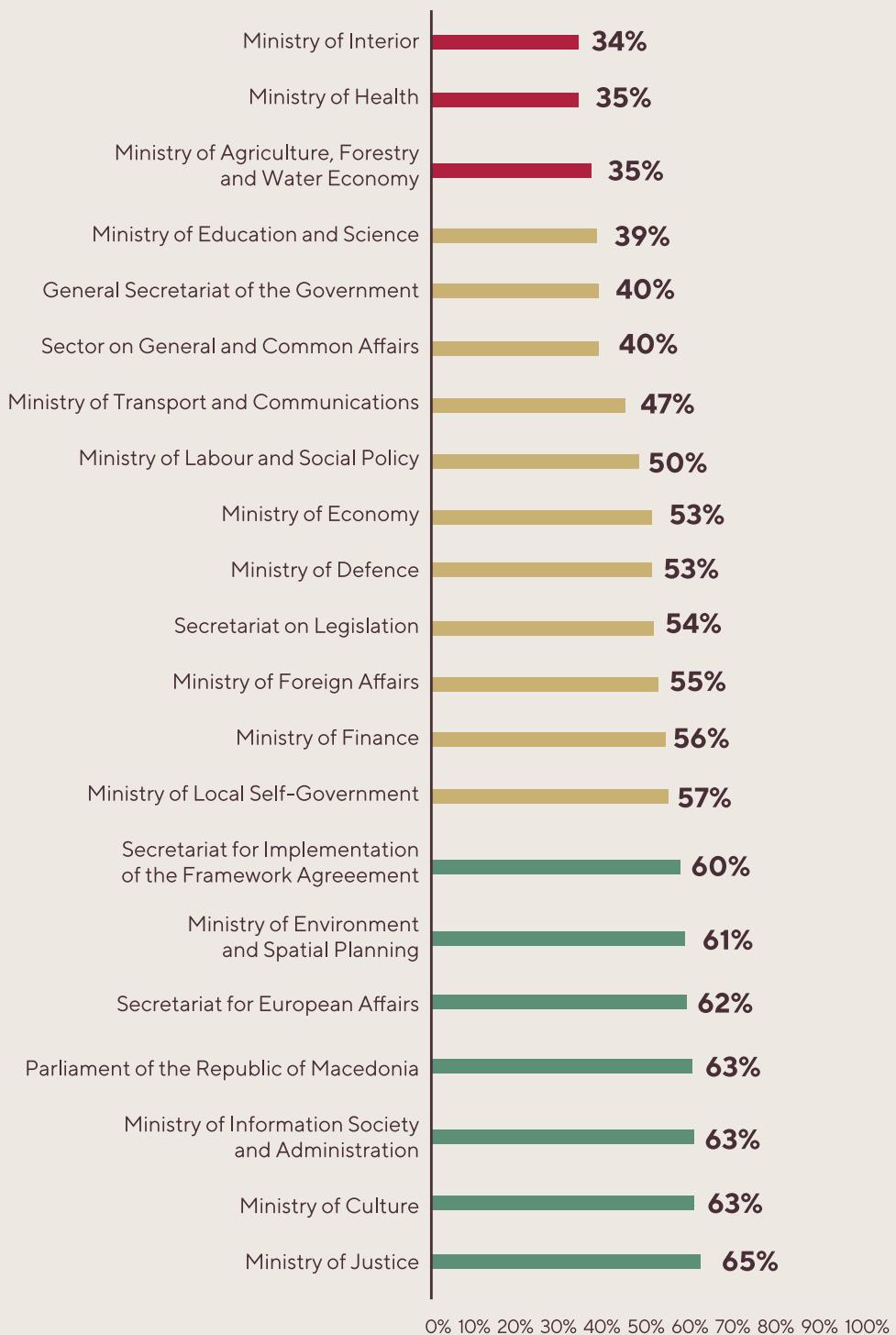
Fulfilment of criteria on transparency, accountability and integrity in public procurements demonstrated by line ministries, government's secretariats and the Parliament of the Republic of Macedonia ranges from 34% to 65%. The average level of criteria fulfilment is 52% (out of possible 100%).

Not a single institution has fulfilled all or dominant share of defined criteria on transparency, accountability and integrity in all stages of the public procurement cycle, from procurement needs assessment, through planning and implementation of tender procedures, to performance of procurement contracts. Having in mind that it is a matter of ranking list complied on the basis of 31 criteria defined pursuant to obligations arising from the Law on Public Procurements, obligations arising from the Open Government Partnership's Action Plan 2016-2018 and obligations imposed by good practices, it seems that institutions in Macedonia do not invest sufficient efforts in order to guarantee efficient, purposeful and cost-effective public spending.

The Ministry of Interior has the poorest rank, by fulfilling only 34% of defined criteria, while the Ministry of Justice is ranked the best, with criteria fulfilment of 65%. (Full rank list and detailed overview of criteria fulfilment at the level of individual institutions are available at www.integritet.mk)



Level of transparency, accountability and integrity in public procurements



Only two from total of 31 criteria were fulfilled by all analysed institutions, i.e. all public procurements are implemented by special organizational unit (sector or department) and by officers with passed exam on public procurements. On the other hand, three criteria are not fulfilled by any institution and they concern application of internal methodology/manual on calculation of procurement's estimated value, publication of notifications on performed contracts in EPPS and publication of contracts signed and annexes thereto. In the case of remaining 26 criteria, which cover all stages of the public procurement process, the research observed variable levels of fulfilment on the part of analysed institutions.

In 2016, total value of procurement contracts signed by all 21 analysed institutions amounts to 170 million EUR, accounting for 18% of the total value of all public procurements in the country. Together, all analysed institutions have signed a total of 1,823 procurement contracts.

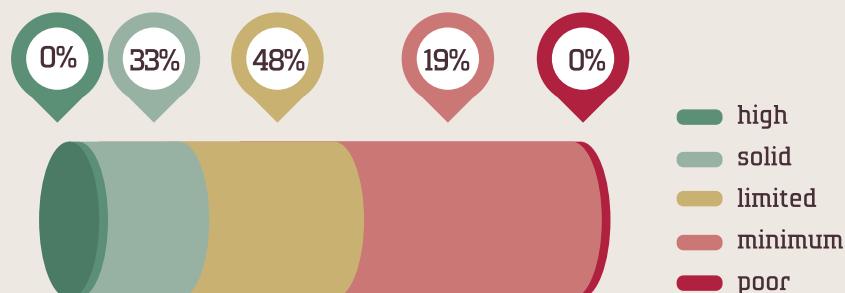
The highest value of public procurements is observed with the Ministry of Agriculture, Forestry and Water Economy, whose procurements account for 30% of all public procurements organized by institutions included in this ranking list. On the other hand, individual shares of as many as 10 institutions in public procurements organized by all analysed institutions account for less than 1%. Among them, the lowest share of only 0.004% is observed with the Secretariat on Legislation, which has signed contracts in total value of 6,228 EUR.

The average level of transparency, accountability and integrity of institutions in public procurements is 'limited'.

Depending on demonstrated results, i.e. percentile fulfilment of criteria for above cited principles, institutions can be ranked under five categories, those being: 'poor' (0-20%), 'minimum' (20-40%), 'limited' (40-60%), 'solid' (60-80%) and 'high' (80-100%) level of transparency, accountability and integrity in public procurements.

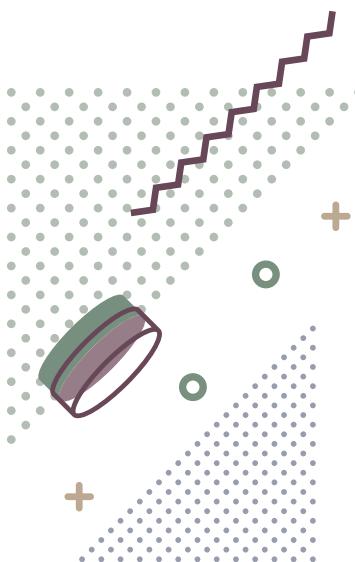
All analysed institutions are ranked under one of the three middle levels. Not a single institution is ranked under the best level of transparency, accountability and integrity in public procurements defined as 'high' or under the worst level defined as 'poor'. The highest number of institutions is ranked under 'limited' level of transparency, accountability and integrity in public procurements, with criteria fulfilment in the range from 40% to 60%.

Distribution of institutions (expressed as %) under relevant categories according to the level of transparency, accountability and integrity in public procurements



The four bottom-ranked institutions, marked by percentile fulfilment of criteria in the range from 34% to 39%, actually spend the highest share of funds on public procurements, accounting for 75% of total funds spent by all analysed institutions together. In contrast, the seven institutions marked by the highest percentile fulfilment of criteria in the range from 60% to 65% account for only 5% of total funds spent on public procurements..

Institutions that spend highest amounts of funds have the poorest ranks.



Value of public procurements per category of institutions, according to the relevant level of transparency, accountability and integrity



Almost half of institutions do not prepare rationales on the need for individual procurements, while not a single institution has developed methodology or manual on calculation of procurement's estimated value.

Needs assessment and planning of procurements are among the weakest stages of the public procurement cycle, together with performance of procurement contracts.

Does the institution develop rationale for the need to implement public procurements?



Does the institution have methodology, manual or similar document that provides basis for calculation of estimated value?



Needs assessment for particular procurement and development of detailed rationale thereof are considered as initial activities in the cycle of public procurements. When implementing these activities, contracting authorities or procurement-making entities are guided by analysis of procurements and procurement needs in the previous period, current needs, situation in terms of reserves, analysis of the current market situation, as well as annual and mid-term operation plans. Importance of these activities arises from the fact that their proper realization marks the start of attainment of purposefulness of public procurements, i.e. purchasing what is actually needed, according to previously defined quantity, quality, time and amount.

On the other hand, implementation of procurements that are not necessary, as well as procurements whose scope and technical characteristics exceed the institution's actual needs, inevitably leads to non-purposeful spending of public funds, but could also indicate to tendencies of certain people to benefit from illegal proceedings.

86% of institutions do not publish their annual plans on public procurements.

Publication of the annual plan on public procurements, which must be developed by 31st January in the current year, is not stipulated as obligation in the Law on Public Procurements, but is defined as mandatory under the Open Government Partnership's National Action Plan 2016-2018. This Action Plan is

adopted by the Government of the Republic of Macedonia and tasks institutions with publication of their annual plans on public procurements on their websites, while in the case of institutions that do not have separate website, to publish the plan on the official website of institutions under whose competences they operate. Nevertheless, annual plans on public procurements, including amendments thereto in the course of the year, are published by only two analysed institutions, while one institution publishes its plan, but not the amendments thereto.

Does the institution publish the annual plan on public procurements on its website?



Institutions that publish their annual plans:

Ministry of Information Society and Administration

Ministry of Finance

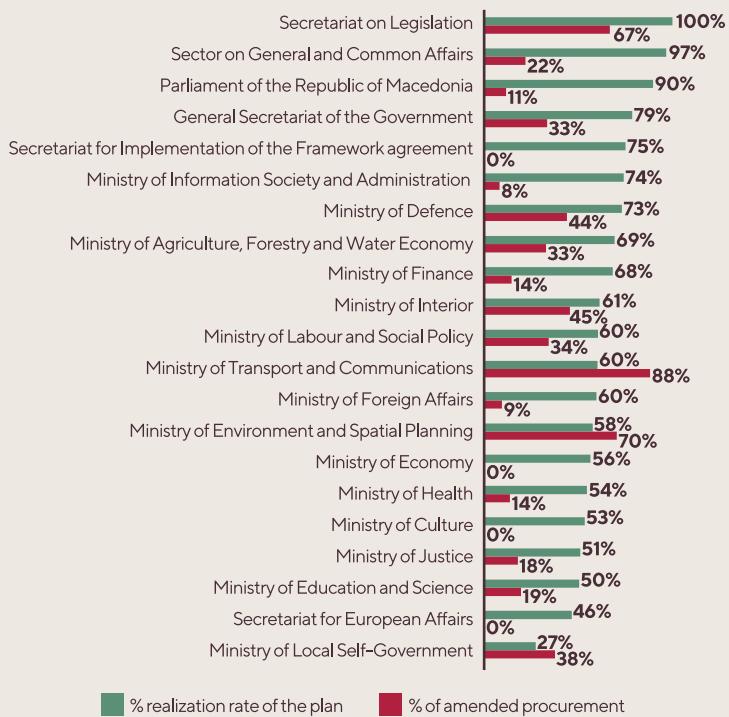
Ministry of Environment and Spatial Planning
(only the plan, not amendments thereto)

Publication of annual plans on public procurements is necessary for citizens and companies to have insight into what individual institutions plan to procure throughout the year. In the case of citizens, this will allow them to compare plans against what they believe are actual needs of the institution, while in the case of companies, publication of these plans allows them to timely prepare and better plan their businesses. Nevertheless, publication of annual plans on public procurements is also a widespread good practice in large number of countries.

Significant share of procurements are subject of amendments in the course of the years, reaching up to 88% of initially planned public procurements.

The average realization rate of plans on public procurements is 65%, although in the case of some institutions the realization rates of these plans account for only 27%.

Realization rates of the plan and amended plan on public procurements



Having in mind that plans, in general, are management instruments, it could be said that the annual plan on public procurements is an instrument to manage procurements in the course of the year. Although, according to the legislation in effect, unlimited amendments to the plans are allowed throughout the year, frequent changes to the plan are not considered good practice and are indicative of imprecise planning, i.e. failure to invest sufficient efforts to make as realistic as possible assessment of procurement needs, including type, quantity, time and necessary funds.

Nevertheless, high realization rates for plans of analysed institutions concern realization of already changed, i.e. amended plans on public procurements, which further underlines the problem related to low realization of plans. According to this situation, it can be assessed that plans on public procurements in our country resemble a certain ‘wish list’, instead of being actual management instruments.

Only 14% of institutions publish procurement notices on their websites, only one institution publishes notifications on contracts signed on its website, and not a single institution publishes contracts signed and annexes thereto, as well as notifications on performed contracts.

As was the situation in regard to plans on public procurements, there are no law-stipulated obligations for institutions to publish procurement notices and notifications on contracts signed on their websites. This obligation arises from the Open Government Partnership’s National Action Plan 2016–2018, which is a document adopted by the Government of the Republic of Macedonia.

Publication of said documents has multifold importance for both citizens and potential bidders. Publication of information on planned procurements and signed contracts on the institution’s website means that these sets of information are more accessible to citizens and to greater number of companies. By habit and as the easiest method for obtaining information, citizens browse websites of institutions instead of the Electronic Public Procurement

System, which is primarily intended for companies and for implementation of procurements, and is not intended to demonstrate transparency before citizens, having in mind the system’s complexity, as well as required prior knowledge for citizens to be able to find and learn particular information. Except for the benefit of citizens, it is believed that publication of tender documents on the institution’s website is one among many measures that could prevent attempts for discrimination of companies or limiting competition in public procurements.

In spite of that, all institutions implementing public procurements are obliged by law, within a deadline of 30 days from signing the public procurement contract, to publish notification thereof in the Electronic Public Procurement System, including information on the contract value, business entity with which the contract was signed, time of contract signing, period of contract performance, and the like. In the case of small procurements, notifications on individual contracts are not published; instead, every six months, institutions publish records in the form of list of small procurements, including information on business entities with which and time when contracts were signed. According to the law-stipulated obligation, these records should be published every six months, for procurements made in the previous period. Nevertheless, institutions breach the law-stipulated deadline in the case of every fifth contract and as many as one-quarter of analysed institutions also breach the law-stipulated deadline on publication of records on signed contracts in the value up to 20,000 EUR for goods and services, i.e. up to 50,000 EUR for works.

Finally, the Electronic Public Procurement System allows a possibility for individual institutions to publish so-called notifications on performance of procurement contracts, wherein they provide basic information on performance of contracts, such as estimated value of the procurement, value of the contract signed, value

of the contract performed, value of possible annexes to the contact, and information on reasons behind increased or decreased value of the contract signed. However, in the course of 2016, not a single institution published notifications on performed contracts, although all analysed institutions, together, have signed a total of 1,823 public procurement contracts in total value of 170 million EUR.

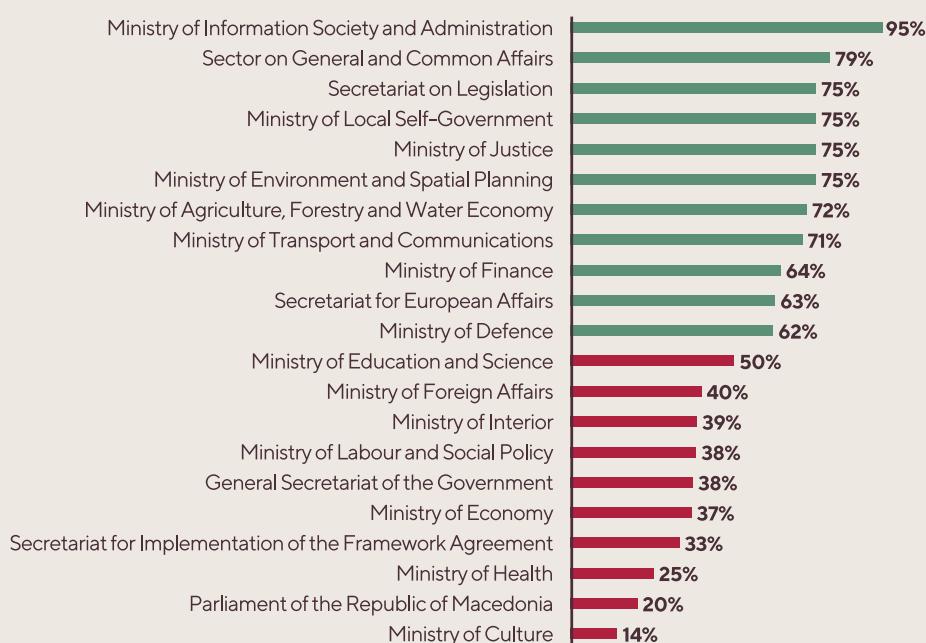
Number of institutions that publish following sets of information

Procurement notices, on their websites	3
Notifications on signed contracts, on their websites	1
Public procurement contracts and annexes thereto	0
Notifications on performed contracts, in EPPS	0

As regards collection of bids, most often, the law-stipulated minimum deadlines of 5 and 10 days are considered insufficient for bidders to be able to secure necessary documents and to develop bids of better quality. This is due to the fact that said minimum deadlines are calculated as calendar days, which means they also include weekend and non-working days, i.e. official holidays. Hence, good practices, especially those applied by EU member-states, imply that contracting authorities define longer deadlines for submission of bids, which is also an indicator of their honest intention to obtain as more as possible bids and bids of better quality.

In the case of half of tender procedures, institutions do not define more reasonable deadlines for collection of bids from the law-stipulated minimum deadline

Share of procurement notices with reasonable deadlines (longer than the law-stipulated minimum) for collection of bids

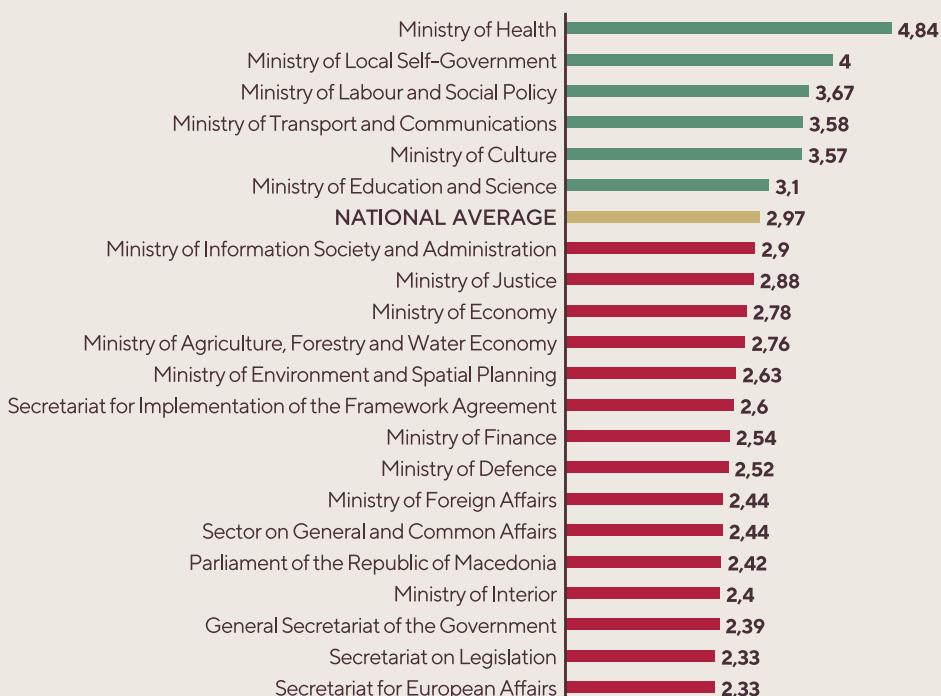


More reasonable deadlines for submission of bids were defined in 54% of analysed procurement procedures, and in the case of one half of institutions these deadlines are more dominant than the law-stipulated minimum deadline.

The average number of bids per procurement procedure received by analysed institutions accounts for 2.91 and is slightly below the national average of 2.97

As many as 15 institutions are ranked below the average in terms of the number of bids per public procurement. The average number of bidders per public procurement at the level of individual institutions ranges from 2.33 to 4.84.

Average number of bids per public procurement

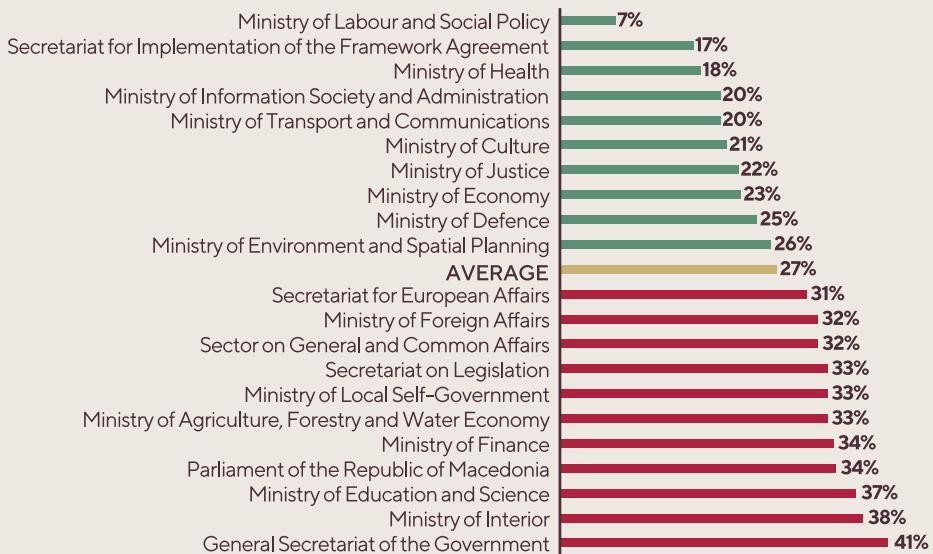


Above enlisted averages are derived from data provided by analysed institutions, i.e. notifications on contracts signed and records on small procurements. As part of this research, efforts were made to obtain more realistic overview of the average number of bidders, because the values reported by institutions do not reflect actual competition in tender procedures. For example, if one tender procedure is comprised of 10 lots and two bids were received, the number two does not provide actual image of competition. Only a number of analysed institutions provided realistic image and included the number of bids received per individual lots in the procurement procedure in their respective notifications on contracts signed, instead of reporting more generally about the number of bids received for all lots in the tender procedure.

The share of tender procedures presented with only one bid is exceptionally high. This brings under question compliance with certain basic principles that underline public procurements, such as competition, equal treatment and non-discrimination of companies. Lack of competition brings under question economic, efficient, effective and cost-efficient spending of budget funds.

The average share of tender procedures presented with only one bid accounts for 27%, ranging from 7% to 41% at the level of individual institutions.

Share of tender procedures presented with one bid



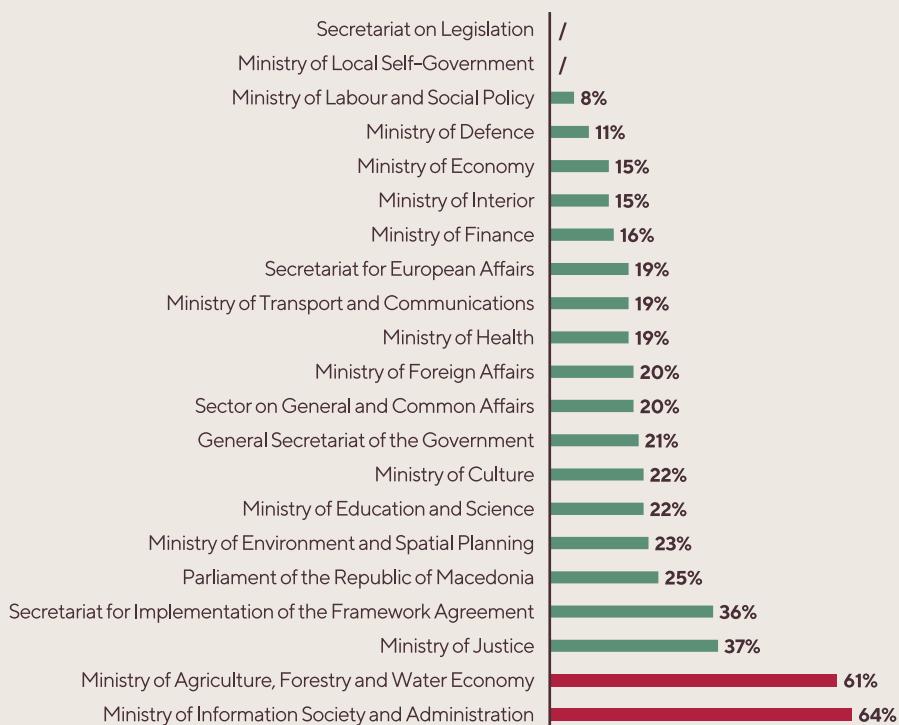
What raises additional concerns is the fact that total value of public procurements organized by 11 institutions marked by shares of tender procedures with one bidder higher than 30% amounts to more than 100 million EUR. The problem here is identified in the fact that submission of only one bid prevents organization of electronic auction for downward bidding and price reduction. Hence, there is risk for public procurement contracts to be signed under unrealistically high prices, given that, in expectation of e-auctions, companies initially submit significantly higher prices that would be reduced during e-auctions.

For the purpose of this research, the provision from the Law on Protection of Competition which defines concentration as market share of one participant higher than 40% is taken as benchmark for bidder concentration.

Based on this benchmark, the highest share of particular participant is observed with only two institutions, although two other institutions are marked by shares that borderline with the threshold on concentration.

On average, the highest share of particular bidder in total tender procedures organized by one institution accounts for 25% and only two institutions are marked by shares higher than 40%, which is considered as threshold on concentration.

The highest share of one bidder in total value of procurements



29% of institutions have defined tender documents that could be assessed as containing discriminatory elements, i.e. requirements for tender participation that may limit competition.

Tender documents containing discriminatory elements are those that define high eligibility criteria in terms of bidding companies' economic and financial status, as well as technical or professional ability.

For the purpose of this assessment task, the focus was put on the following eligibility criteria: requirements related to total turnover of bidders, i.e. definition of particular annual income; requirements related to the number of employees, their qualifications and experience; previously signed or performed contracts; particular type and scope of machinery, equipment, premises, facilities, etc. In the case of institutions with smaller number of public procurements, all tender documents were analysed, while in the case of institutions with higher number of public procurements, subject of analysis were tender documents from their ten biggest procurements. This analysis showed that in the case of six line ministries, more than one-third of tender documents contain discriminatory elements, those being: Ministry of Agriculture, Forestry and Water Economy, Ministry of Health, Ministry of Education and Science, Ministry of Interior, Ministry of Transport and Communications, and Ministry of Culture.

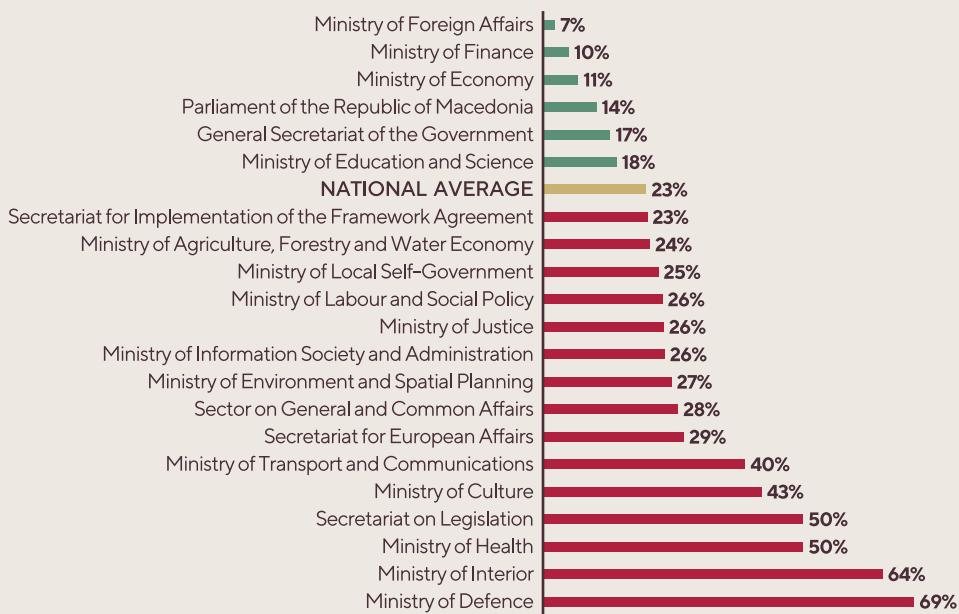
chinery, equipment, premises, facilities, etc. In the case of institutions with smaller number of public procurements, all tender documents were analysed, while in the case of institutions with higher number of public procurements, subject of analysis were tender documents from their ten biggest procurements. This analysis showed that in the case of six line ministries, more than one-third of tender documents contain discriminatory elements, those being: Ministry of Agriculture, Forestry and Water Economy, Ministry of Health, Ministry of Education and Science, Ministry of Interior, Ministry of Transport and Communications, and Ministry of Culture.

Analysed institutions have very often annulled tender procedures, which most certainly is indicative of serious problems in implementation of public procurements. In 2016, analysed institutions have annulled in full as much as 23% of tender procedures, whereas 7% of tender procedures were annulled in part, whereby the total share accounts for 30%. In comparison, at the national level, 16% of procurement procedures were annulled in full and 7% of them were annulled in part, accounting for total of 23%.

The share of annulled public procurements (in full and in part) ranges from 7% to 69% at the level of individual institutions.

For the purpose of this research, the analysis took into account the total number of annulled tender procedures, i.e. those annulled in full and in part, having in mind that annulment of only one part of the procurement procedure imposes the need for implementation of completely new procedure in respect to the annulled part. The share of annulled tender procedures in the total number of procurement procedures announced by analysed institutions ranges from 7% to 69%. The high share of 69% in terms of annulled tender procedures observed with the Ministry of Defence is due to 32% tender procedures annulled in full and 37% of tender procedures annulled in part, while in the case of the Ministry of Interior, 38% of tender procedures were annulled in full and while 26% were annulled in part.

Total share of annulled procurement procedure



Having in mind that one of the most subjective reasons for annulment of tender procedures could be non-acceptance of bids, the ranking process made due consideration of this parameter as well. The analysis showed that as much as 20% of annulled tender procedures are based on the fact that institutions have assessed that not a single bid is acceptable. The national average for this parameter is lower and accounts for 16%. Respective shares of more than half of ranked institutions are higher than the average share of tender procedures annulled on the grounds of unacceptable bids. At the level of individual institutions, this share reaches up to 51%.

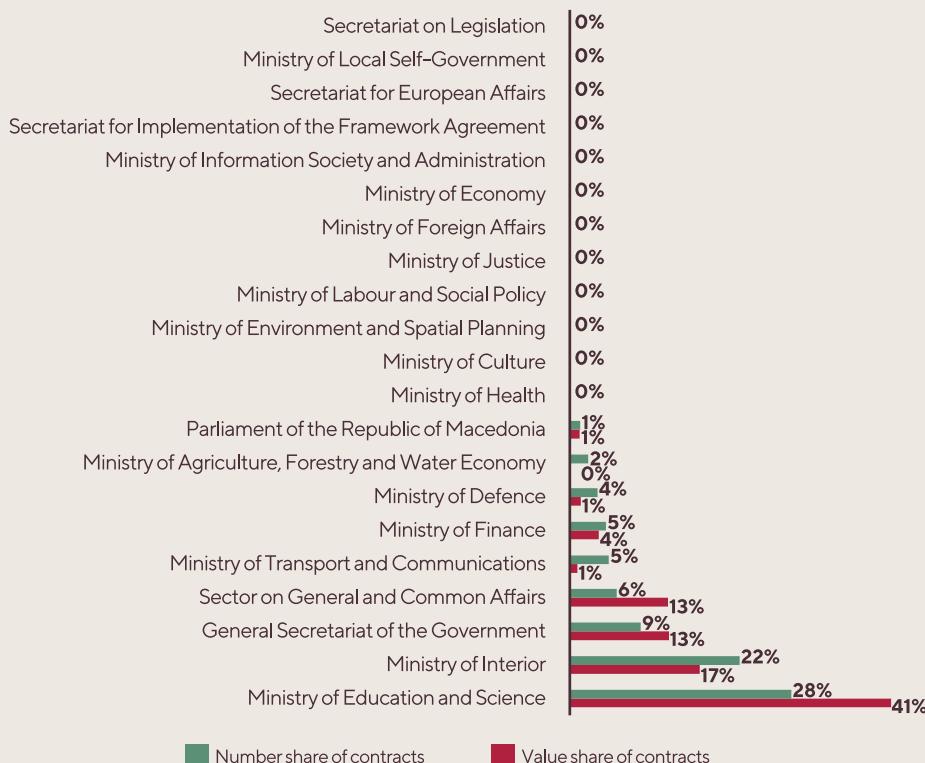
Nine institutions applied the negotiation procedure without prior announcement of call for bids, while 12 institutions have not signed contracts under such procurement procedures.

In the case of institutions that applied this type of procurement procedures, the value share of non-transparently signed contracts ranges from 0.1% (Ministry of Agriculture, Forestry and Water Economy) to 41% (Ministry of Education and Science). In terms of the number share of contracts signed by means of negotiation procedures without prior announcement of call for bids, the Ministry of Education and Science is marked by the highest share of such contracts (28%) in total number of contracts signed, while the Parliament of the Republic of Macedonia has the lowest share (1%).

Hence, it seems that the Ministry of Education and Science most frequently applies non-transparent procurement procedures, according to both parameters. High value share of such contracts in total procurement procedures is observed with the Ministry of Interior (17%) and the General Secretariat of the Government (13%).

The average share for all analysed institutions under these two parameters accounts for 4%, which is above the respective national averages. Namely, the national average in terms of the number share of contracts signed under negotiation procedures in total contracts accounts for 2% in 2016, while the value share of such contracts is slightly below 4%, i.e. it accounts for 3.88%.

Value and number shares of contracts signed under negotiation procedure without prior announcement of call for bids in total number of contracts at the level of individual institutions

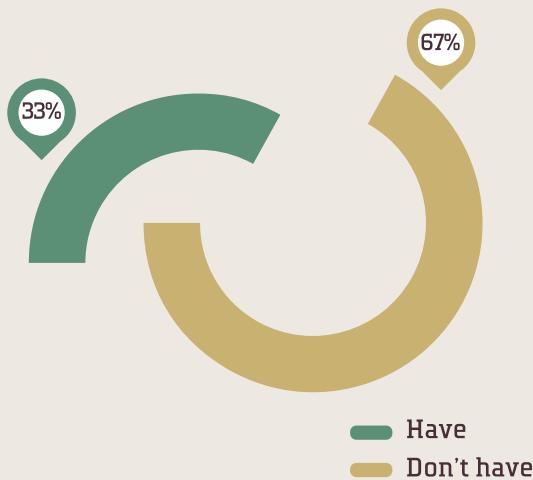


■ Number share of contracts ■ Value share of contracts

As regards annex contracts which are also signed under negotiation procedures without prior announcement of call for bids, only three institutions have signed such annex contracts. In that, analysed in terms of their value, the share of annex contracts ranges from 0.1% (Ministry of Agriculture, Forestry and Water Economy), through 0.6% (Ministry of Education and Science), to 6.8% (Sector on General and Common Affairs).

Only one-third of institutions have established internal system on monitoring performance of signed public procurement contracts.

Does the institution have established system on monitoring performance of signed public procurement contracts?



Institutions with established system on monitoring performance of public procurement contracts:

Ministry of Environment and Spatial Planning

Ministry of Information Society and Administration

Ministry of Culture

Ministry of Local Self-Government

Ministry of Labour and Social Policy

Ministry of Finance

Parliament of the Republic of Macedonia

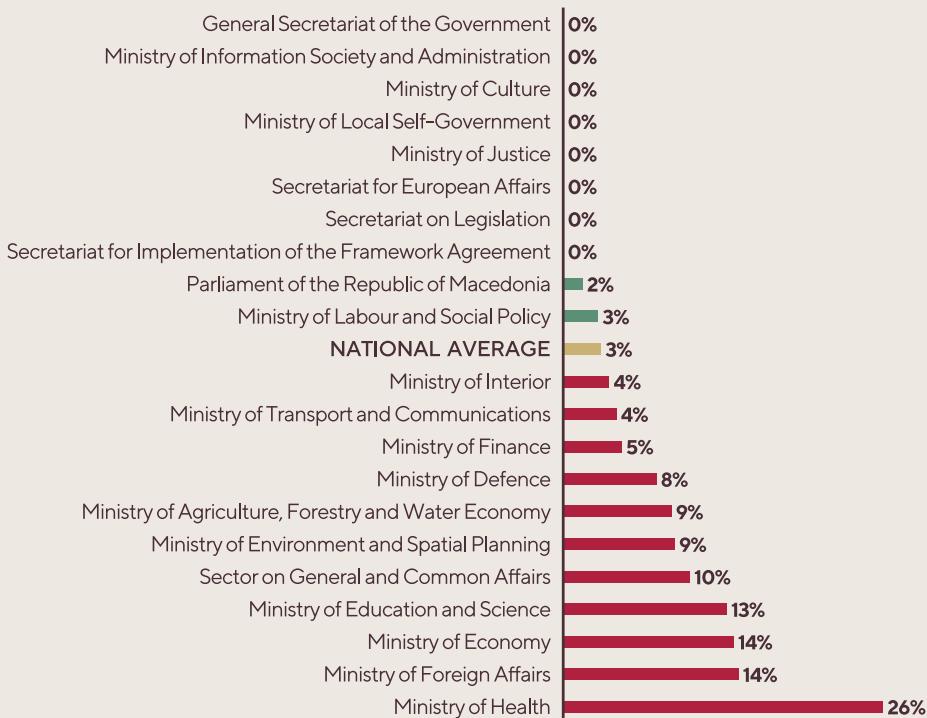
When monitoring contract performance, contracting authorities should determine whether the bidder fulfils all contractual obligations within relevant deadlines and in the manner stipulated in the contract, whereby the procurement-making entity is obliged to act pursuant to so-called "prudence of good businessperson", meaning that they should take all measures at their disposal in order to ensure timely and adequate contract performance.

Systematic and regular monitoring of contract performance ensures avoidance of situations in which the procurement is made for items, types and quantities different than those enlisted in the procurement contract. Moreover, this implies adequate monitoring of the situation in terms of reserves stored at warehouses or the status in terms of equipment, assets or facilities that were subject of implemented procurement procedures.

The share of appeals lodged by companies in total number of procurement notices announced by analysed institutions accounts for 6%, which is almost twice as higher than the national average (3.1%). In the case of some institutions, the share of appeals accounts for up to 26%.

Among 21 analysed institutions, eight institutions were not addressed with single appeal related to procurement procedures implemented in 2016, while the shares of appeals in total number of procurement notices for the remaining 13 institutions range from 2% to incredible 26%. Relevant shares of as many as 9 among these 13 institutions are higher than the national average of 3.1%.

Share of appeals lodged in total number of procurement notices



The average share of appeals lodged by companies in total number of procurement notices of all analysed institutions accounts for 6%, which is almost twice as higher than the national average (3.1%).

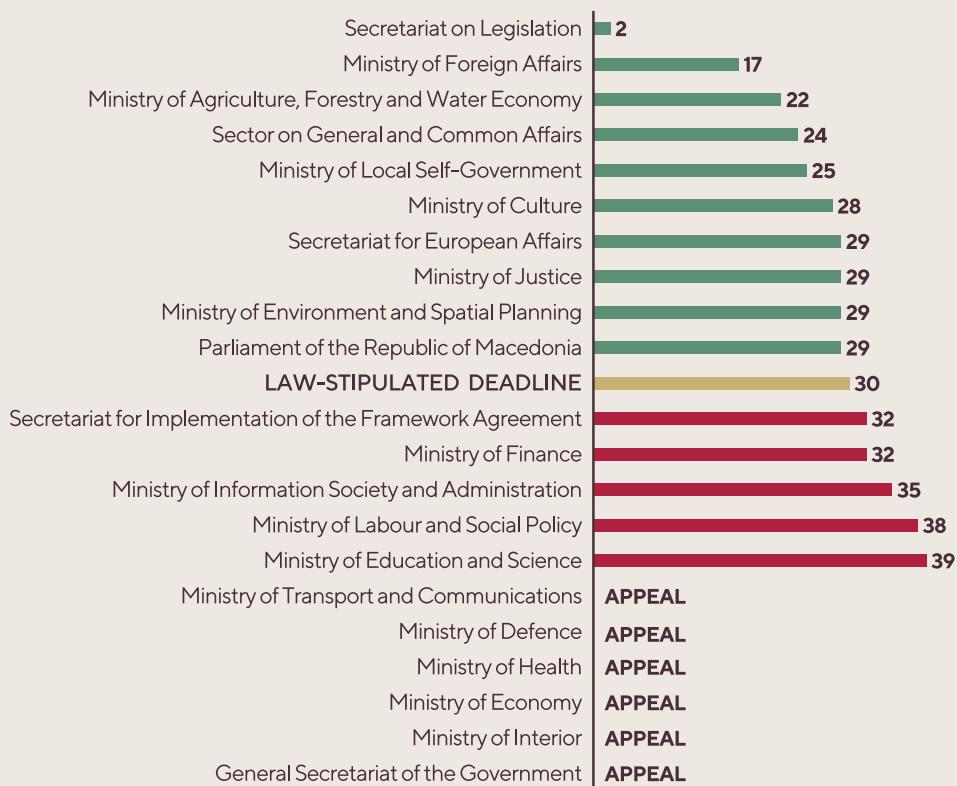
The State Commission on Public Procurement Appeals admitted as much as 37% of these appeals. At the level of individual institutions, the share of admitted appeals ranges from 20% (Ministry of Economy) to 100% (Ministry of Agriculture, Forestry and Water Economy and Ministry of Labour and Social Policy). The Ministry of Health which, on average, was presented with an appeal for every fourth tender procedure, also has high share of 71% of appeals admitted by the State Commission on Public Procurement Appeals.

Only 10 institutions complied with the law-stipulated deadline of 30 days for disclosing requested data and documents. Having in mind that Article 21 of the Law on Free Access to Public Information stipulates that institutions are obliged to immediately respond to applicant's information request or within a deadline of 30 days from the receipt of the information request the latest, it can be concluded that even in the case of most institutions disclosing requested data have actually complied with this obligation in the last days before the deadline's expiration.

Every third institutions disclosed information requested only after an appeal was lodged before the competent commission.

In the diagram below, institutions are grouped into three categories: the first group is comprised of those that disclosed information within the deadline, the second group is comprised of those that disclosed information, but beyond the deadline, and the third group is comprised of those that disclosed information only after an appeal was lodged before the Commission for Protection of the Right to Free Access to Public Information. In that, the General Secretariat of the Government, the Ministry of Defence and the Ministry of Transport and Communications disclosed information after the Commission had informed them about the appeal lodged against them, while the Ministry of Interior and the Ministry of Health disclosed information only after the competent commission had adopted relevant decisions which tasked them to disclose information requested. Due to such behaviour on the part of some institutions, data collection lasted up to 84 days compared to the law-stipulated maximum of 30 days, which most certainly casts serious shadows on accountability of some institutions.

Number of days within which requested information was disclosed



Appendix:

Parameters used to research, assess and rank institutions

1. Has the institution appointed an officer or organizational unit whose tasks and duties include activities in the field of public procurements? (Yes/No)
2. Does the officer on public procurements or the officer tasked with performance of public procurements hold adequate certificate for passed exam on public procurements? (Yes/No)
3. Do members of the committee on public procurements change for each and every procurement or they are the same for all procurements? (Yes, they change/No, they are the same)
4. Does the institution develop rationale for the need to implement procurement procedure for all procurements? (Yes/No)
5. Does the institution have methodology/manual or similar document which provides basis for calculation of procurement's estimated value? (Yes/No)
6. Does the institution publish the annual plan on public procurements and amendments thereto on its website? (Yes, both/Partially, one document/ No)
7. Realization rate of the institution's plan on public procurements
(% of implemented procedures versus planned; High – 90%+/ Partial – 70–90%, Low – up to 70%)
8. Share of procurements that were changed by means of amendments to the annual plan on public procurements (% of changed procurements versus planned; High – above 30%/ Partial – 10–30%, Low – up to 10%)
9. Does the institution have established system on monitoring realization of the annual plan on public procurements (and what is the system)? (Yes/No)
10. Does the institution publish procurement notices on its website (in their entirety or links to EPPS)? (Yes/No)
11. Share of procurement notices with reasonable deadlines (longer than the law-stipulated minimum) for collection of bids (Yes –above 70%/ Partially – 50–70%/ No – up to 50%)
12. Does the institution have tender documents with discriminatory elements that could limit competition? (Yes – in more than 30%/ No – up to 30%)
13. Did the institution disclose requested documents as response to the request submitted under the instrument on free access to public information? (Yes, within the law-stipulated deadline/ Yes, beyond the deadline or upon appeal lodged / No)
14. Did the institution respond to the request for free access to public information within the law-stipulated maximum deadline of 30 days? (Yes, within the law-stipulated deadline/ Partially, beyond the deadline/ No)
15. Average number of bidders per tender procedure implemented by the institution (compared to the national average; above the average/below the average)

16. Share of tender procedures presented with one bid (compared to the average calculate for all institutions; below the average/above the average)
17. Highest share of particular bidder in all tender procedures organized by the institution (below 40%/above 40%)
18. Total share of annulled public procurement procedures (compared to the national average; above the average/below the average)
19. Share of annulled tender procedures on the ground of no acceptable bids in total number of tender procedures annulled by the institution (compared to the national average; above the average/below the average)
20. Value share of contracts signed under negotiation procedures without prior announcement of call for bids in the total value of contracts (compared to the national average; above the average/below the average)
21. Number share of contracts signed under negotiation procedures without prior announcement of call for bids in the total number of procedures (compared to the national average; above the average/below the average)
22. Value share of annex contracts signed in the total value of procurement procedures (compared to the national average; above the average/below the average)
23. Number share of annex contracts signed in the total number of contracts (compared to the national average; above the average/below the average)
24. Share of contracts for which notifications on signed contracts are published within the law-stipulated deadline of 30 days from contract signing (Yes – above 80% / No – up to 80%)
25. Does the institution comply with its obligation to publish records on bid collection procedures in EPPS within the law-stipulated deadlines (Yes – both within the deadline/ Partially – one of two within the deadline/ No – both beyond the deadline)
26. Does the institution publish notifications on signed public procurement contracts on its website? (Yes/No)
27. Share of published notifications on performed contracts in EPPS (Yes – above 80% / No – up to 80%)
28. Does the institution publish contracts signed and possible annexes thereto on its website? (Yes – both/Partially – one of two/ No – none)
29. Does the institution have established system on monitoring performance of signed public procurement contracts? (Yes/No)
30. Share of appeals in the total number of procurement notices (compared to the national average; above the average/below the average)
31. Share of admitted appeals in the total number of appeals (compared to the national average; above the average/below the average)

