



This project is funded by  
the European Union.

Network for Transparency, Accountability and  
Integrity in Public Procurements



# TRANSPARENCY, ACCOUNTABILITY AND INTEGRITY OF INSTITUTIONS IN PUBLIC PROCUREMENTS

Study, Ranking  
and Analysis  
2019

Skopje, October 2019

The project is implemented by:



Publisher:  
Center for Civil Communications

Proofreading:  
Tatjana B. Eftimoska

Graphic design:  
Datapons Skopje

Print:  
Datapons Skopje

Circulation:  
400 copies

Free/Non-Commercial Circulation

CIP - Каталогизација во публикација

Национална и универзитетска библиотека "Св. Климент Охридски", Скопје

35.073.53:005.332.5]:354(497.7)(047.31)

TRANSPARENTНОСТ, отчетност и интегритет на институциите во јавните набавки : истражување, рангирање и анализа : 2019. - Скопје :

Центар за граѓански комуникации, 2019. - 24, 24 стр. : граф. прикази ;

30 см

Насл. стр. на припечатениот текст: Transparency, accountability and integrity of institutions in public procurements : research, ranking and analysis : 2019. - Обата текста меѓусебно печатени во спротивни насоки.

- Текст на мак. и англ. јазик. - Содржи и: Прилог ; Appendix

ISBN 978-608-4709-77-0

а) Јавни набавки - Транспарентност - Државна власт - Македонија - Истражувања  
COBISS.MK-ID 111475722

This publication is developed with financial support from the European Union. The content thereof is sole responsibility of the Center for Civil Communications and does not reflect views of the European Union.



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TABLE OF CONTENTS

- INTRODUCTION ..... 03
- SUMMARY ..... 04
- METHODOLOGY CLARIFICATIONS ..... 05
- RANKING OF INSTITUTIONS ..... 06
- DETAILED FINDINGS ..... 09
- APPENDIX: STUDY, ASSESSMENT AND RANKING PARAMETERS ..... 21

# INTRODUCTION

Transparency is generally acknowledged as one of the underlying principles in public procurements. It promotes competition, increases efficiency of public spending and reduces threats of corruption in public procurements.

Only transparent process of public procurements allows citizens to demand accountability and responsibility from the public administration and politicians, thereby increasing their integrity and the public's trust in system institutions. More specifically, transparency and accountability are tools for promotion of integrity and for prevention of corruption in public procurements.

Transparency in public procurements is commonly measured and promoted by oversight performed by civil society organizations, which results in timely opening of issues, risk management, advancement of practices, public demands for responsibility and, in general, enhanced good governance in the country.

The Law on Public Procurements in RNM enlists transparency and integrity as underlying principles in the process of public procurements. On annual level, more than 750 million euros are spent on public procurements in the country.

Public procurements are among areas that are most vulnerable to corruption, given that they involve spending of enormous amounts of funds and imply direct contacts between the state and private businesses. According to global estimates, corruption in public procurements "accounts" for 20% to 30% of their total value.

Starting from the need to increase efficiency and to reduce risks of corruption in public procurements in our country, from 2009 onwards the Center for Civil Communications has engaged in continuous and in-depth monitoring of the manner in which public procurements are organized and implemented, by assessing state-of-affairs, detecting weaknesses and proposing specific measures to amend relevant legislation and practices, in order to narrow the space for corruption and to advance implementation of public procurements in the country.

Having in mind that all activities performed in this regard thus far have targeted the system as a whole, i.e. promote the overall system of public procurements, this study attempts to analyse public procurements at the level of individual institutions. The main idea is to assess transparency, accountability and integrity demonstrated by institutions in implementation of public procurements and to provide them with a tool for continuous advancement of these three principles in public spending.

Criteria defined for this study, ranking and data analysis cover all stages in the cycle of public procurements, from assessment of procurement needs, through planning and implementation of tender procedures, to performance of procurement contracts. Hence, they could serve as benchmarks to appraise the state-of-affairs and to improve the overall process of public procurements beyond the procurement procedures regulated by the relevant legislation.

However, it should be noted that this tool is intended to be used by all institutions in the country that implement public procurements, although the study and ranking of institutions presented in this publication cover line ministries, government secretariats and the Parliament of RNM.

The first study was developed for public procurements organized by targeted institutions in 2016 and this study covers public procurements organized in 2018, which allows comparisons and measurement of progress made throughout the years.

At the same time, civil society organizations across the country, united into the network that advocates for greater transparency, accountability and integrity in public procurements, is also developing a study and ranking of all municipalities and the City of Skopje.

Aforementioned activities are implemented as part of the project "Network for Transparency, Accountability and Integrity in Public Procurements", financed by the European Union.

## SUMMARY

- The average compliance rate with criteria on transparency, accountability and integrity throughout the entire cycle of public procurements, as demonstrated by ministries, government secretariats and the parliament, stands at 55.2% (from possible 100%). This implies small improvement compared to previous years (in 2017 their compliance rate was 53.6% and in 2016 it was 51.7%).
- Most institutions are ranked under the category of 'limited' transparency, accountability and integrity in public procurements, with compliance rate from 40% to 60% (from possible 100%). In that, top-ranked institutions are the Ministry of Economy and the Ministry of Defence, while the Ministry of Health and the Ministry of Education and Science are ranked at the bottom.
- Cumulatively, analysed institutions have spent 124 million euros on public procurements organized in 2018. At the level of individual institutions, the highest amount of funds was spent by the bottom-ranked institution, i.e. the Ministry of Health (39 million euros), while the best-ranked institution, i.e. the Ministry of Economy, belongs to the group of institutions with public procurements of smaller scope (334,000 euros).
- In 2018, institutions that demonstrated minimum compliance with criteria on transparency, accountability and integrity account for 31% of funds spent on public procurements compared to 2016 when their share reached high 75% of the value of tender procedures implemented by the executive and legislative branch of government.
- 86% of institutions publish annual plans for public procurements on their websites, only half of them publish procurement notices, and two institutions publish notifications on procurement contracts signed.
- The average implementation rate of annual plans for public procurements stands at 65%. At the level of individual institutions, the lowest implementation rate is 32% and the highest rate is 92%.
- Only four institutions are marked by average number of bids per tender procedure higher than the national average.
- In 68% of public procurements, institutions have defined so-called reasonable deadlines for submission of bids, longer than the law-stipulated minimum deadline.
- Concentration of one company in tender procedures has increased. In the case of five institutions, the share of single procurement holder in total value of tender procedures is higher than 40%, which is considered threshold for concentration.
- The share of tender documents with discriminatory elements that might limit competition has decreased from 29% in previous two years to 18% in 2018.
- Every third tender procedure organized by analysed institutions was annulled. Unlike last year when their share stood at 25%, in 2018 annulled tender procedures account for 30.3%. At the level of individual institutions, this share ranges from 10% to 73%.
- Use of the negotiation procedure without prior announcement of call for bids has decreased.
- The share of annex contracts signed by analysed institutions is high, both in comparison to the national average and in comparison to the situation observed last year.
- The average share of appeals lodged by companies in total number of procurement notices announced by analysed institutions is increased. It stands at 5.7% and is higher than the national average of 3.3% for 2018 and the national average of 4.6% for 2017.
- Deterioration is observed in terms of institutions' response to requests submitted under the instrument for free access to public information. Last year the average response time was calculated at 38 days and this year it accounts for 42 days, although the law-stipulated deadline is set at 30 days.
- Few institutions have internal rules for public procurements, especially rules that govern aspects that are not precisely regulated by law.

## METHODOLOGY CLARIFICATIONS

The study on institutions' transparency, accountability and integrity in public procurements is developed on the basis of previously defined goals, criteria and indicators used to measure their compliance with these three principles that underline public spending.

The methodology used for this study is designed to cover all stages in the process of public procurements, including those that are not formally regulated under the procedural Law on Public Procurements, but are integral part of the cycle of public procurements and, to great extent, affect the efficiency of public procurements.

For the first time, this study was conducted in 2017 and covered public procurements organized by analysed institutions in 2016. This is the third ranking study about the manner in which analysed institutions implemented public procurements in 2018, as the last completed calendar year. Such timeframe defined for this study allowed establishment of the baseline situation in terms of institutions' compliance with transparency, accountability and integrity in public procurements, which later facilitates comparisons and measurement of progress achieved throughout the years.

The study was conducted in several stages. The first stage, conducted in 2017, included organization of public survey among citizens and private sector representatives, as well as the media and civil society organizations, inquiring about institutions' compliance with criteria on transparency, accountability and integrity, and the need for improvements. Hence, high 92% from the total of 400 respondents indicated that state institutions are opaque in their public spending and would like to have more information about public spending on public procurements. This survey will serve as baseline for future measurement of effects created by measures taken by institutions in following years, because the project plans another public survey to be conducted by the end of 2019.

Then the project team developed a reference list of indicators on the basis of domestic and adequate international experiences and knowledge, which was fine-tuned and improved by experts and practitioners from the country and the region in terms of relevance and weight of individual indicators, availability of necessary data and other inputs, data uniformity and susceptibility to further processing, comparison and analysis.

The proposed list of indicators for measurement of compliance with criteria on transparency, accountability and integrity in public procurements was subjected to broad consultations with more than 170 representatives from state institutions, civil society organizations and the business sector, by means of a series of public workshops organized in all eight planning regions across the country.

Finally, indicators defined in this manner were tested on a selected sample, followed by research study that included: collection of thousands of individual datasets secured by means of browsing and extracting data hosted on the Electronic Public Procurement System; responses obtained from analysed institutions to requests submitted under the instrument for free access to public information; and information and data collected as part of the desk research targeting online contents published by analysed institutions.

Collected data were categorized and imputed into relevant matrices for further processing. Prior to initiation of data analysis, they were cross-referenced and verified.

The ranking of institutions was conducted by indexing them on the basis of 31 indicators (given in the appendix to this publication). Depending on scores assigned to data collected and state-of-affairs based on responses provided by analysed institutions, each institution was first assigned certain number of points for all individual indicators (0, 1 or 2). Descriptive indicators were assigned points according to responses they have provided: "yes", "no" and "partially". On the other hand, numeric indicators were first correlated to the average value for particular issues or indicators, and were then assigned scores depending on the fact whether they implied below-average or above-average values. Large number of indicators necessitated complex indexing in order to arrive to one final, unified and comparable score for individual institutions.

The final ranking was compiled on the basis of percentile compliance with criteria defined for institutions' transparency, accountability and integrity in public procurements. For example, if an institution is assigned 31 from the total of 62 points, it means it has demonstrated compliance rate of 50% with criteria on full transparency, accountability and integrity in public procurements.



Here it should be noted that for vast portion of data collected, the responsibility for their truthfulness lies with institutions that have provided relevant information in the Electronic Public Procurement System and their responses to requests submitted under the instrument for free access to public information, as well as contents uploaded on their websites.

As regards restricting factors for this study, three such factors should be elaborated here. The first concerns inadequate format of data hosted on the Electronic Public Procurement System, which prevents easy and automatic download and further processing of datasets, imposing the need for heavy manual and labour-intensive engagement. The second restrictive factor concerns inertness on the part of institutions to disclose request-

ed documents and data. In this stage, a particularly restrictive circumstance is identified in the fact that competent Commission for Protection of the Right to Free Access to Public Information is non-functional on the account of issues related to shortage of staff. All these factors imposed the need for substantial additional efforts to secure complete and necessary information, given that the project team was unable to exercise the right to appeal in cases when institutions had failed to disclose information requested under the instrument for free access to public information. The third restrictive factor is late publication of the Annual Operation Report for the System of Public Procurements which serves as source of information for several average values related to public procurements in the country that are used as weighted values for development of this study and ranking.

## RANKING OF INSTITUTIONS

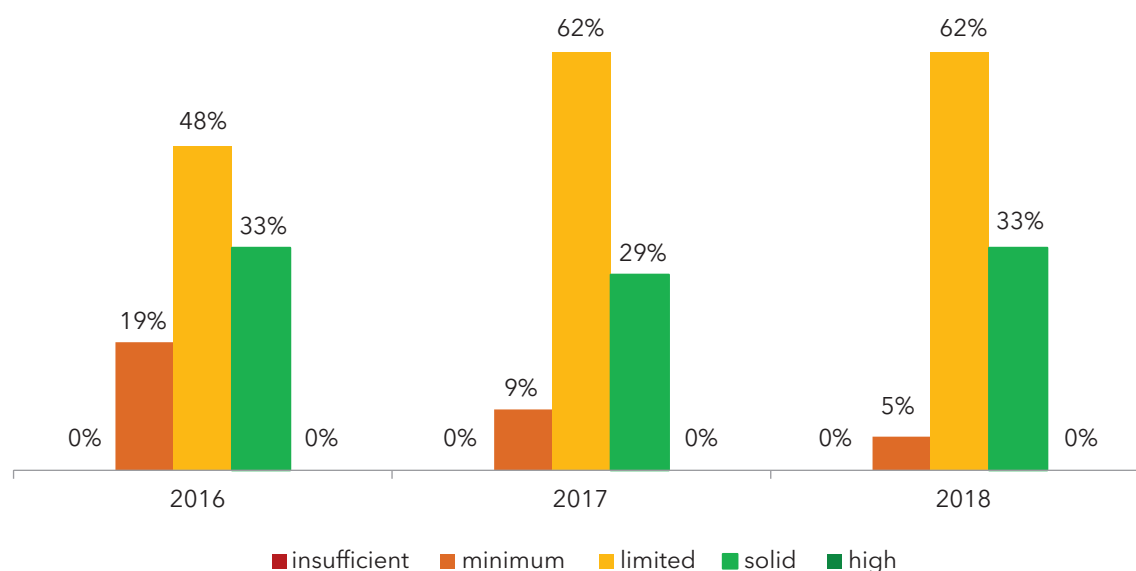
» **Most institutions are ranked under the category of 'limited' transparency, accountability and integrity in public procurements, with compliance rate from 40% to 60% (from possible 100%).**

Depending on the scores assigned, i.e. compliance rate with criteria defined for aforementioned principles, analysed institutions were ranked under five categories, those being: "insufficient" (0% to 20%), "minimum" (20% to 40%), "limited" (40% to 60%), "solid" (60% to 80%) and "high" (80% to 100%) compliance with the principles on transparency, accountability and integrity

in all stages of the cycle of public procurements, from assessment of procurement needs, through planning and implementation of tender procedures, to performance of procurement contracts.

No institutions are ranked under the categories of "high" (the best) or "insufficient" (the worst) compliance with criteria on transparency, accountability and integrity in public procurements.

### *Breakdown of institutions per compliance categories with the principles on transparency, accountability and integrity in public procurements*





All analysed institutions are ranked under the three middle categories of compliance, i.e. "minimum", "limited" and "solid". Most institutions are ranked under the category of "limited" compliance with the criteria in the range from 40% to 60%.

Having in mind that the ranking is based on 31 criteria defined pursuant to obligations stipu-

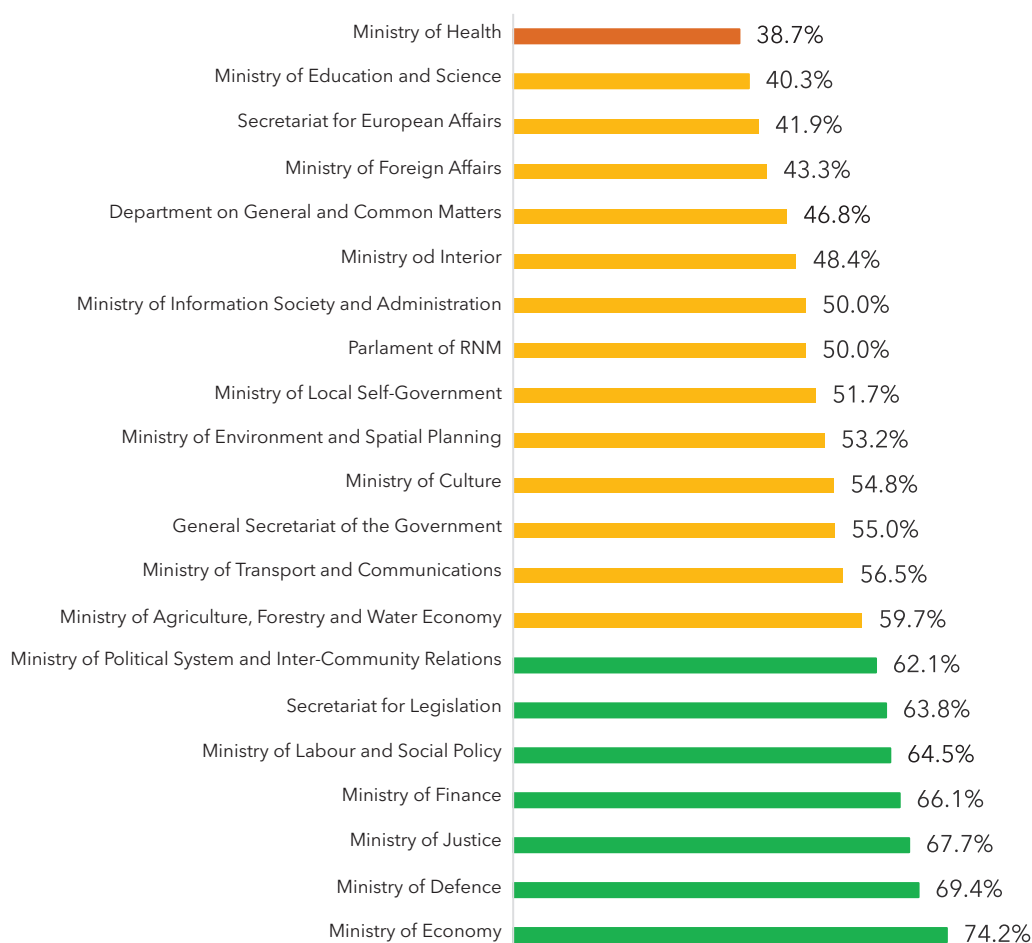
lated under the Law on Public Procurements, commitments assumed under the Open Government Partnership's Action Plan 2016-2018 and obligations imposed by good practices, it could be inferred that institutions have not invested sufficient efforts to guarantee efficient, purposeful and cost-effective public spending.

» **The average compliance with criteria on transparency, accountability and integrity throughout the entire cycle of public procurements, as demonstrated by ministries, government secretariats and the parliament, stands at 55.2% (from possible 100%).**

As regards the average compliance rate with criteria on transparency, accountability and integrity in public procurements, in 2018 minor improvement is noted compared to the situa-

tion in 2017. In 2018, the average compliance rate is calculated at 55.2%, while in 2017 it stood at 53.6% and in 2016 it was 51.7%.

### **Compliance with criteria on transparency, accountability and integrity in public procurements**



This year the Ministry of Health is ranked at the bottom and is the single institution with compliance rate below 40%. Although last year it was ranked in the "red zone", under this study the Ministry of Education and Science is ranked in the middle compliance category by small margin, i.e. with compliance rate of 40.3%.

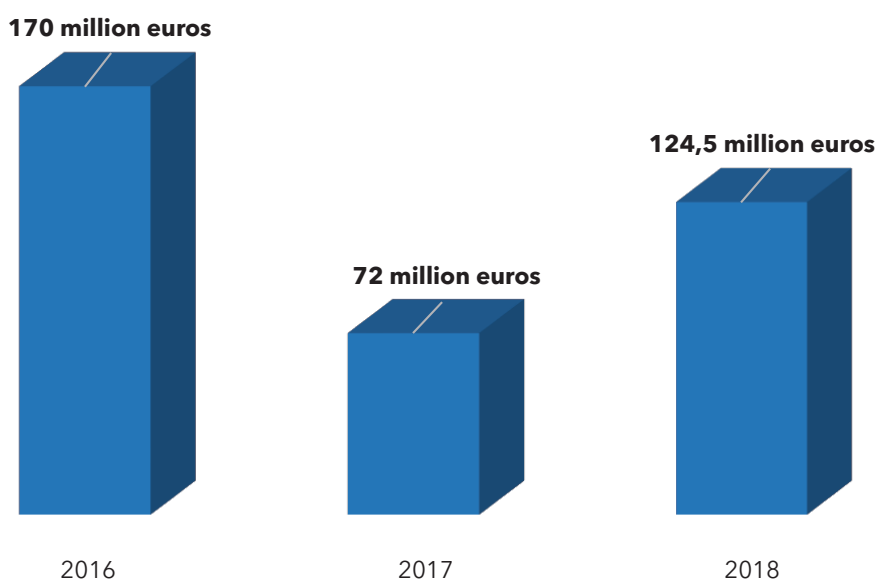
On the other hand, the Ministry of Economy is ranked at the top and is the single institution with compliance rate above 70%, followed by the Ministry of Defence with compliance rate of 69.4%.

» **The value of tender procedures organized by analysed institutions has increased by 73%. In that, tender procedures organized by the Ministry of Health account for the same amount of funds spent by other 17 institutions together.**

The value of total public procurements implemented by all institutions covered under the 2018 study amounts to 124.5 million euros and represents 16% of the total value of public procurements in the country. In 2018, all 21 analysed institutions have signed a total of 1,671 public procurement contracts.

The value of tender procedures organized by these institutions in 2018 has increased by 73% compared to the previous year, from 72 million euros to 124.5 million euros. However, the increased value of tender procedures organized in 2018 is still much lower than the record-breaking 170 million euros noted in 2016.

#### *Value of public procurements organized by analysed institutions, per year*



In 2018, the highest value of procurement procedures in the amount of 39 million euros is observed with the worst-ranked institution, i.e. the Ministry of Health, whose total public procurements account for one third of the value of public procurements organized by other institutions together. In particular, this ministry has signed procurement contracts in the same amount as other 17 institutions from this study together.

On the other hand, individual shares of 9 institutions account for less than 1% in total public procurements of all analysed institutions. Among them, the lowest shares of only 0.007% are observed with the Secretariat for Legislation and the Ministry of Local Self-Government, which have signed contracts in the value of around 8,000 euros each, for the entire year.

» **The best-ranked institutions have spent the lowest amount of money together.**

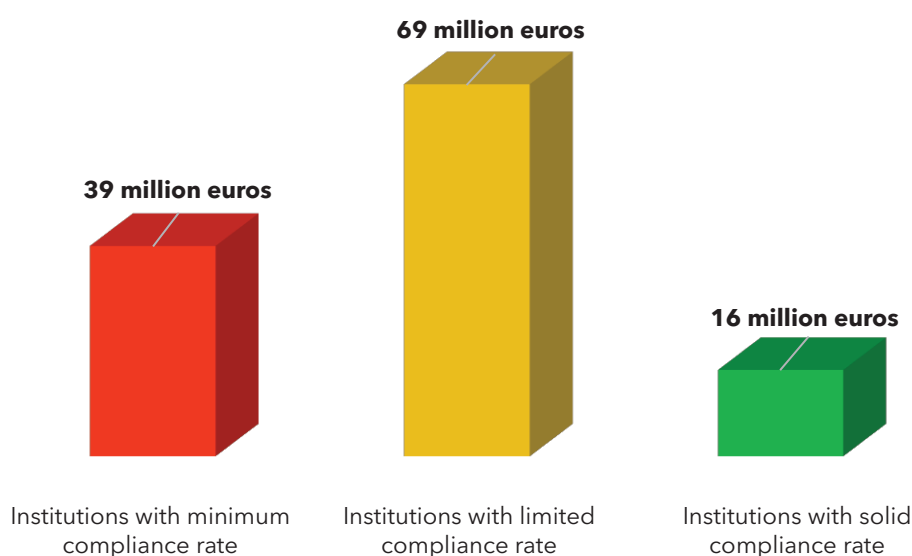
While in 2016 high 75% of funds on public procurements organized by executive and legislative branch of government were spent by institutions demonstrating minimum compliance with criteria on transparency accountability and integrity, in 2018 this share accounts for 31%.

The seven best-ranked institutions, with com-

pliance rate from 62% to 74%, have spent the smallest share of funds on public procurements, i.e. 13% of total funds spent by all analysed institutions together.

On the contrary, public procurements organized by the institution with lowest compliance rate accounted for 32% of total funds spent by all analysed institutions, i.e. 39 million euros.

***Value of public procurements per compliance categories with criteria on transparency, accountability and integrity***



All remaining 13 institutions, ranked in the middle with compliance rate from 40% to 60%,

have spent 55% of the funds for all institutions covered with this analysis, i.e. 69 million euros.

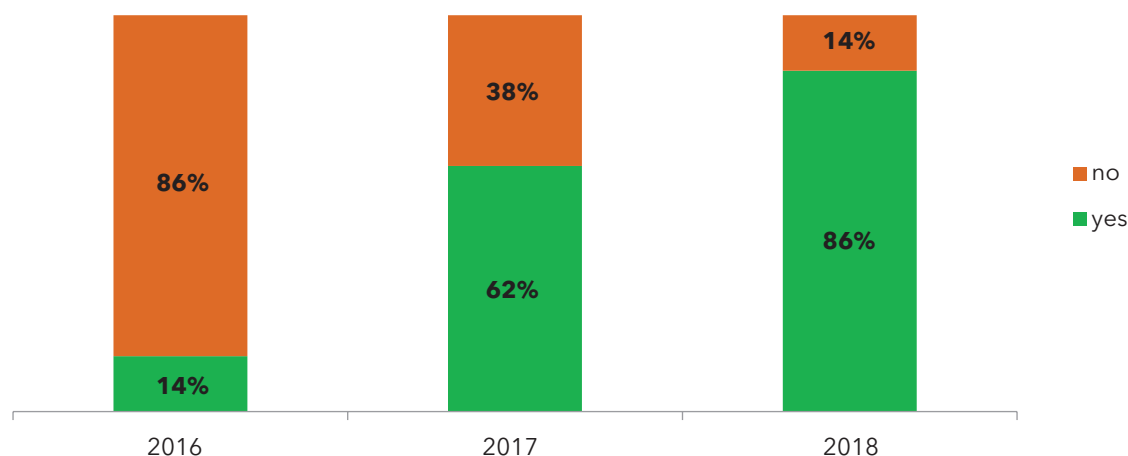
## DETAILED FINDINGS

» **Although it was unimaginable several years ago, nowadays high 86% of institutions publish annual plans for public procurements on their websites.**

Publication of annual plans for public procurements on institutions' official websites is marked by intensive activity this year, although it has become regular practice in other countries long time ago. This plan is one of the documents which, as of recently, ministries and other government institutions are obliged to publish on their websites by means of the government decision, while the same obligation for these and for other institutions was assumed as commitment under the Open Government Partnership's National Action Plan 2016-2018.

Hence, this year, high 86% of institutions covered by this study published their annual plans for public procurements, but the remaining 14% of them failed to comply with this obligation. Nevertheless, the current situation in this regard is actually a reversal of shares observed in terms of publication of annual plans for public procurements two years ago when 86% of institutions have not published their annual plans.

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



Nevertheless, the current situation in this regard is actually a reversal of shares observed in terms of publication of annual plans for public procure-

ments two years ago when 86% of institutions have not published their annual plans.

#### » Half of institutions publish procurement notices on their websites, but only two institutions also publish notifications on contracts signed.

Contrary to the situation observed in terms of annual plans for public procurements, this year's study observed a minor improvement in terms of publication of other documents and information related to tender procedures on the institutions' official websites, such as: procurement notices, notifications on contracts signed, texts of procurement contracts and annexes thereto, and notifications on contracts performed. Publication of these documents and information is defined as direct obligation under the Open Government Partnership's National Action Plan 2016-2018, which is a document adopted by the Government of RNM. No results were yielded by the government's decree on mandatory publication of these documents on websites of all state administration bodies, including ministries and secretariats, which the project team enlisted as recommendation to the government under the

previous report on transparency, accountability and integrity in public procurements published in 2018.

Less than half of analysed institutions published their procurement notices, 2 institutions published notifications on contracts signed, 6 institutions published contracts and annexes thereto, but not a single institution published notifications on contract performance.

This is considered as particularly bad practice, especially knowing that, on the basis of the Open Government Partnership's National Action Plan, the Bureau of Public Procurements enabled easy publication of these documents on the institutions' official websites with direct links to documents already published in the Electronic Public Procurement System.

### Number of institutions that publish mandated information on their websites

Document	2018	2017	2016
Procurement notices	10	2	3
Notifications on contracts signed	2	2	1
Public procurement contracts and annexes thereto	6	2	0
Notifications on contract performance, on EPPS	0	0	0

It is believed that institutions will demonstrate actual transparency by publishing these documents and information on their websites, in particular because publication of such information on EPPS is necessary for implementation of tender procedures, but not in terms of informing

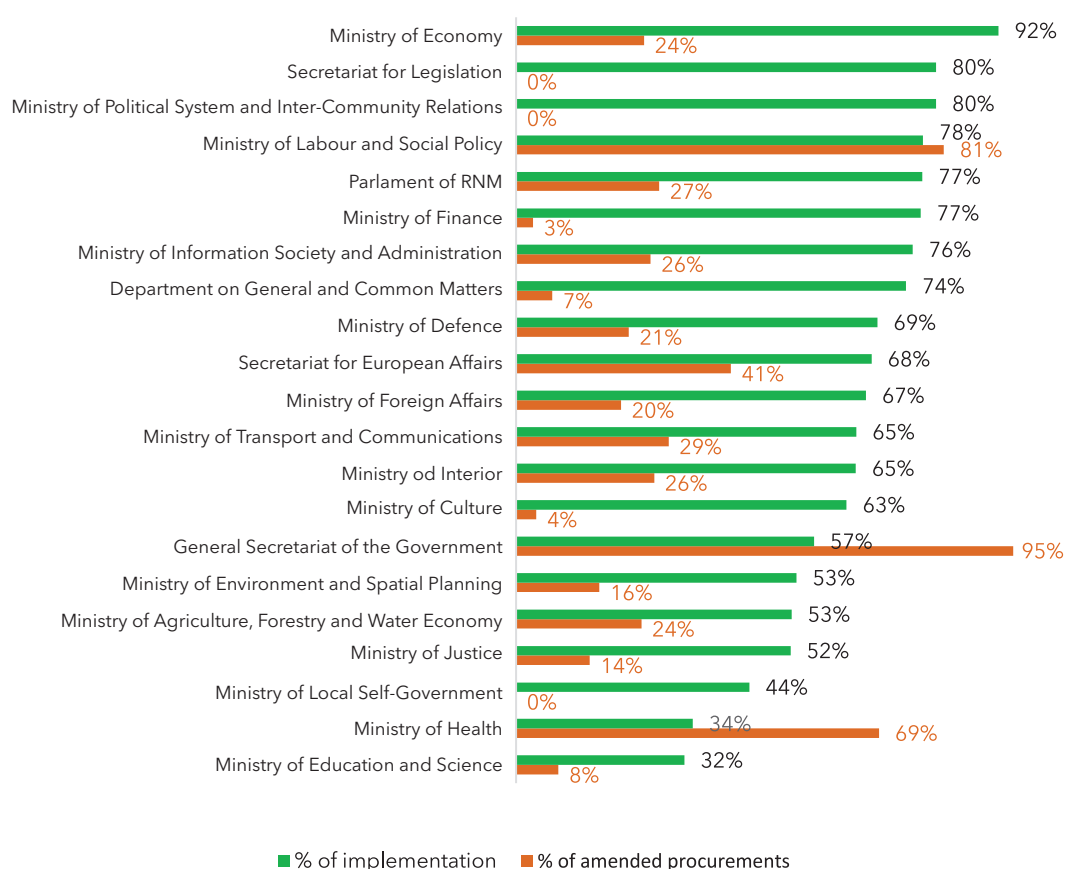
the broader public and other interested parties, in addition to tender participants. This type of information dissemination should be pursued on websites of individual institutions as the place of reference for interested parties.

» **The implementation rate of annual plans for public procurements was slightly improved. In 2018, the average implementation rate stands at 65% compared to 62% in 2017. At the level of individual institutions, the lowest implementation rate is 32% and the highest is 92%.**

Implementation of plans for public procurements remains one of the main weaknesses in implementation of public procurements. This problem becomes more prominent when analysed against the fact that low implementation rates concerned plans that have been amended in the course of the year and not plans that were initially developed at the year's beginning. Namely, during the year institutions are allowed to make unlimited changes and amendments

to their plans, initially developed in January, on the basis of changed procurement needs and other circumstances that have emerged. Hence, efforts are needed to ensure as higher implementation rate as possible of amended plans. That would result in increased security and predictability of planning among companies, while citizens would have more precise insights into the manner in which public funds, bankrolled by taxpayers, are planned to be spent.

### Implementation rate of initial and amended plans for public procurements



As regards unlimited changes to plans for public procurements which institutions are allowed to make during the year, the average share of amended procurements is calculated at 26%,

while changes to these plans at individual institutions range from 0% to astonishing 95%, which was observed with the Government's General Secretariat.

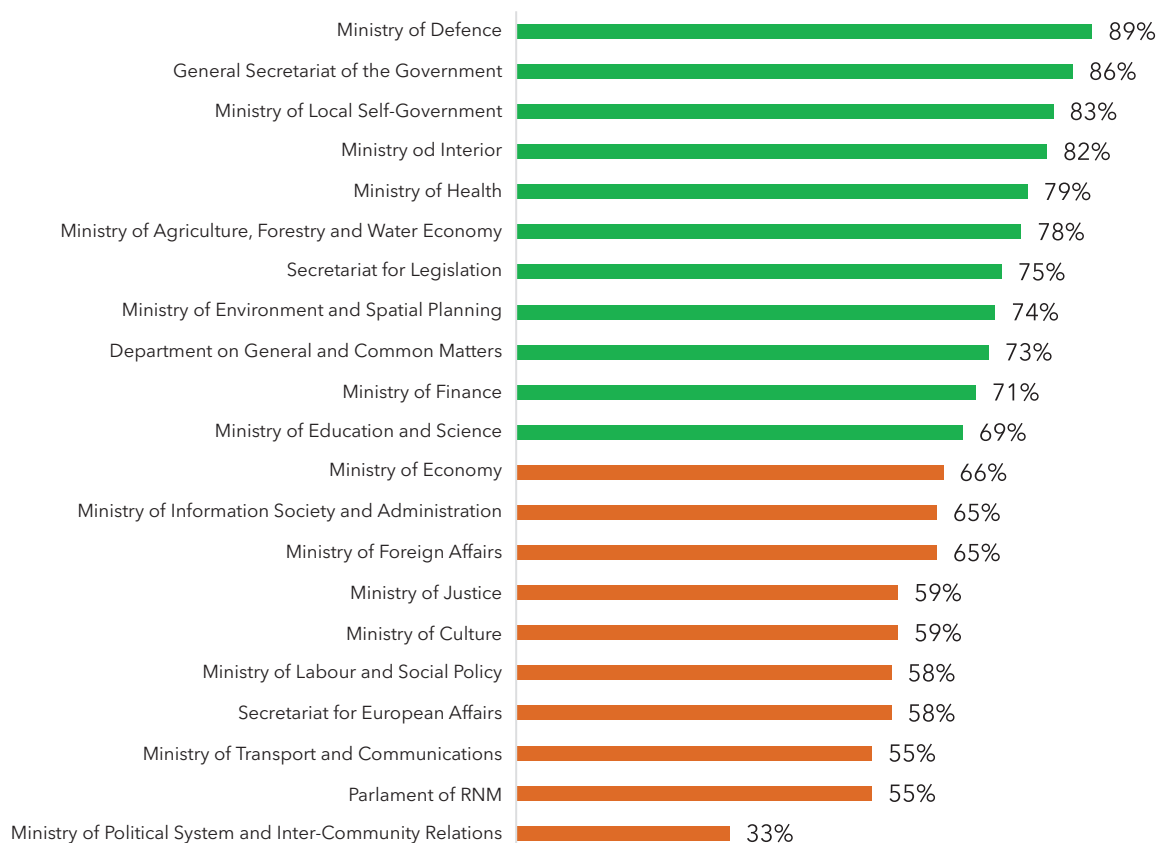
» **In 68% of public procurements, analysed institutions have defined so-called reasonable deadlines for submission of bids that are longer than the law-stipulated minimum deadlines, thereby allowing companies to better prepare their bids.**

Although 68% represents a significant share of tender procedures with deadlines for submission of bids longer than the law-stipulated minimum deadlines, it could be inferred that insufficient efforts have been made compared to the previous year when this share stood at 70%, but is significantly better compared to the situation observed in 2016 when such public procurements accounted for 54%.

Notably, in the case of bid collection procedures the law-stipulated minimum deadlines

of 5 and 10 days are considered insufficient for companies to secure necessary documents and to prepare bids of better quality. This is particularly important given the fact that these deadlines include weekend days and national holidays. Hence, good practices are identified when contracting authorities define longer deadlines for submission of bids, which is also an indicator of honest intention on the part of contracting authorities to receive as many as possible and bids of better quality.

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



At the level of individual institutions, the shares of tender procedures with longer deadlines range from 33%, as observed with the newly formed

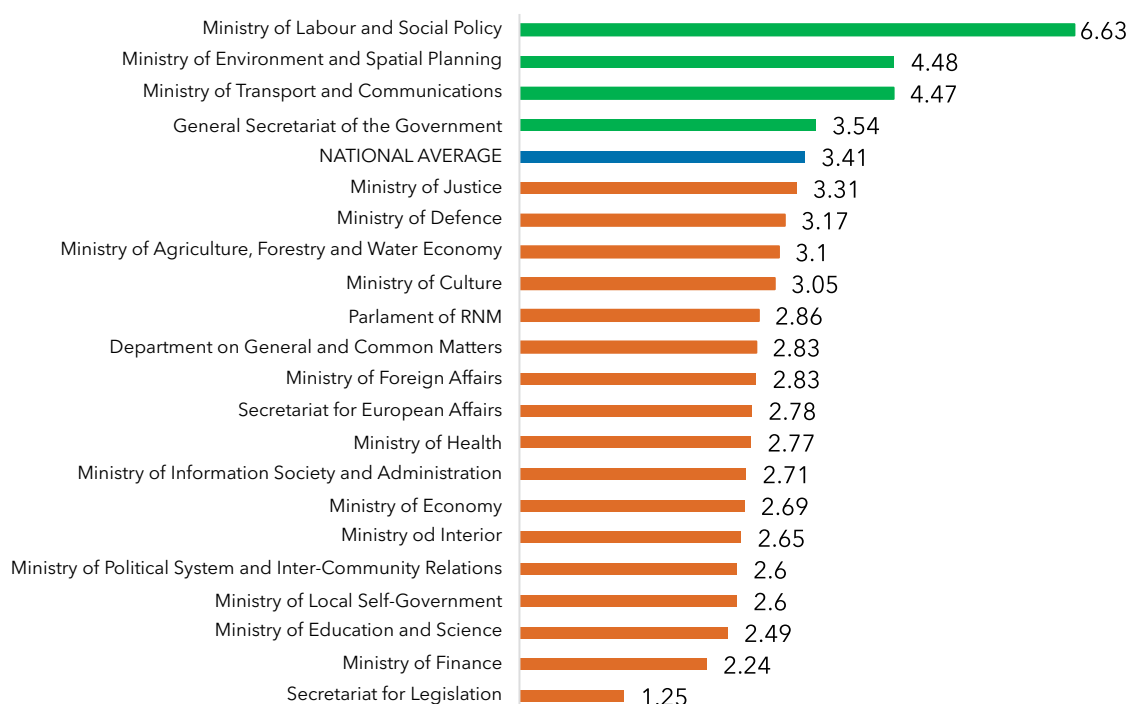
Ministry of Political System and Inter-Community Relations, to 89% in the case of the Ministry of Defence.

» **Only four institutions are marked by average number of bids per tender procedure higher than the national average.**

Although the average number of bids per tender procedure calculated for all tender procedures in the county has increased from 3.33 in 2017 to 3.41 in 2018, no improvements were noted in the last two years among analysed institutions under this key indicator. As was the case in 2017, the average number of bids in tender procedures organized by analysed institutions in 2018 is calculated at 3.1.

In that, the average values for individual institutions range from 6.63 bids, as observed with the Ministry of Labour and Social Policy, to 1.25 bids per tender procedure calculated in the case of the Secretariat for Legislation. Only four institutions have average number of bids per tender procedures higher than the national average, while the remaining 17 institutions are marked by below-average competition in tender procedures.

**Average number of bids per tender procedure**



Low competition in tender procedures is one of the biggest problems in the Macedonian system of public procurements. After many years, in 2017, for the first time the average number of bids per tender procedures exceeded the threshold of 3 bids, which was considered to represent minimum competition. Low competition is a result of many interrelated problems and the institutions should invest serious efforts, both as specific measures and more generally, to advance implementation of public procurements in order to increase the

number of bids they receive in tender procedures. The fact that their average barely remains above 3 bids and is below the national average is indicative of the fact that, at least in the course of 2018, they have not made such efforts. Increasing competition in tender procedures would mean increased trust among companies in the institutions and in the market of public procurements, would improve the quality of procured goods, services and works, and would ultimately result in cost-effective public spending.

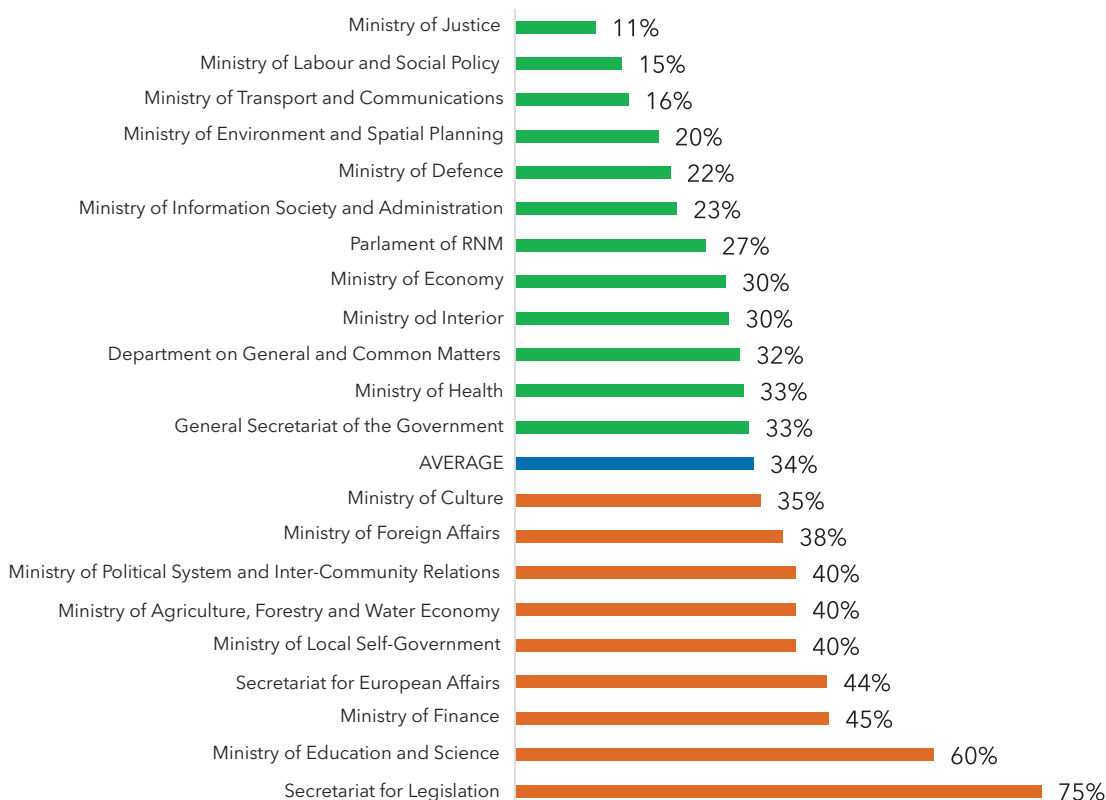


» **One third of tender procedures were presented with only one bid.**

The trend on high share of public procurements presented with only one bid continues year after year with unreduced tempo. In 2016, this share accounted for 27%, in 2017 it stood

at 33%, while in 2018 it is calculated at 34%. Individual values for analysed institutions are in the range from 11% to 75%.

**Share of tender procedures presented with only one bid**



The problem related to tender procedures presented with only one bid lies in the fact that they are not completed with organization of electronic auctions for downward bidding in order to reduce initially offered prices. Having in mind that companies initially offer higher

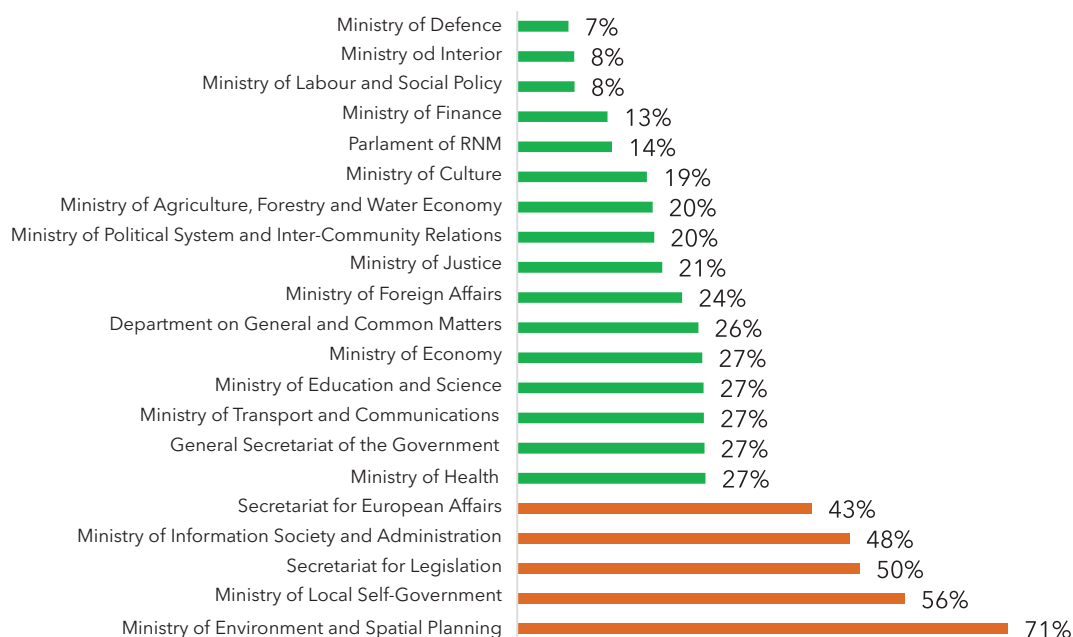
prices in expectation of e-auctions and price reduction, procurement procedures marked by participation of one bidding company most often result in acceptance of such high prices as the final price.

» **Concentration of one company in tender procedures has increased, whereby the highest average share of single procurement holder in all tender procedures organized by one institution accounted for 28% and represents an increase compared to the previous two years when it stood at 25%. In the case of five institutions, this share is higher than 40%, which is considered threshold for concentration.**

Under this parameter, the benchmark for concentration of particular company is taken from relevant provisions in the Law on Protection

of Competition, whereby concentration is defined as market share of one tender participant higher than 40%.

### Highest share of particular company in total value of public procurements



Contrary to the situation observed last year when only two institutions were marked by concentration of particular company higher than the threshold of 40%, in 2018 this was the

case with five institutions, whereby concentration of one company in tender procedures organized by the Ministry of Environment and Spatial Planning accounted for 71%.

#### » The share of tender documents with discriminatory elements that could limit competition has decreased from 29% in previous years to 18% in 2018.

This indicator concerns tender documents that include high eligibility criteria related to economic and financial capacity of companies, as well as their technical and professional abilities.

In the case of institutions with small number of public procurements, the analysis included all tender documents, while in the case of those with higher number of public procurements,

the subject of analysis were tender documents for the ten biggest procurements.

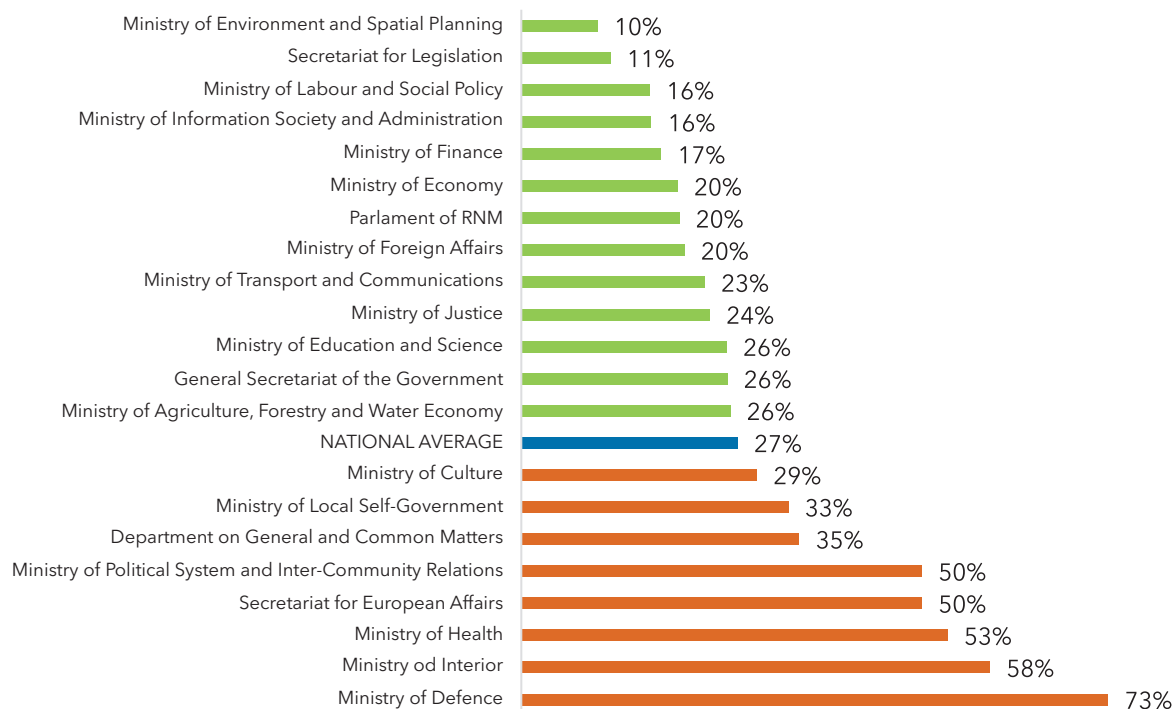
Tender documents featuring competition-limiting elements were identified in the case of the Ministry of Transport and Communications, the Government's Department on General and Common Matters and the Parliament of RNM.

#### » Every third tender procedure of analysed institutions was annulled, which means that contrary to the situation observed last year when it stood at 25%, in 2018 the share of annulled tender procedures among analysed institutions was 30.3%. At the level of individual institutions, these shares range from 10% to 73%.

The share of fully or partially annulled tender procedures organized by analysed institutions accounts for 30.3%, which is higher than the national average of 27.2%. Both shares are higher than those calculated for previous years when annulled tender procedures of analysed institutions accounted for 25% and the national average stood at 24%.

This analysis included all tender annulments, i.e. full and partially annulled tender procedures, having in mind that annulment of one procurement lot imposes the need for implementation of completely new procurement procedure for the annulled lot. In the case of 38% of institutions, relevant shares of annulled tender procedures were higher than the national average.

### Share of annulled procedures in total public procurements



Concerns are also raised with the fact that in the case of 29% of annulled tender procedures the institutions have assessed that bids received are unacceptable, which is considered to be one of the most subjective reasons for annulment of tender procedures. The national average for this parameter is calculated at 18%.

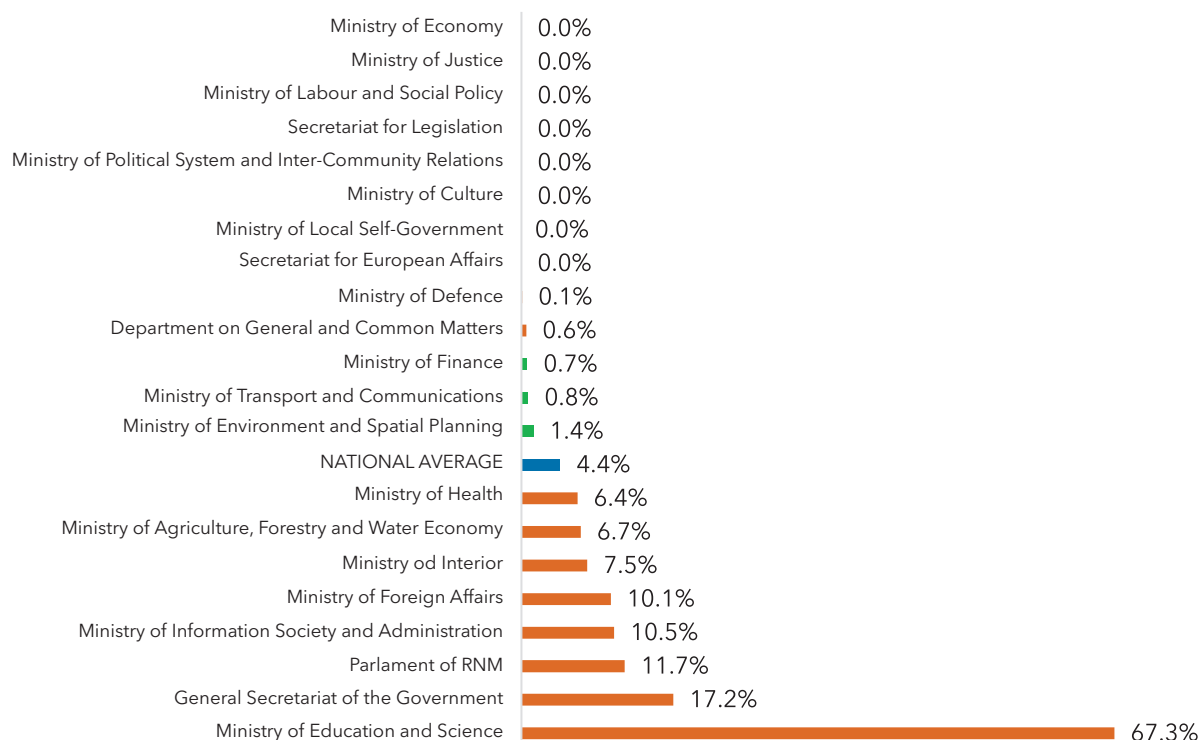
Last year, the national average under this indicator was 14% and the average calculated for analysed institutions was 19%, which implies significant deterioration in 2018.

» **Use of the negotiation procedure without prior announcement of call for bids was slightly decreased both in terms of the number of tender procedures and in terms of the value of contracts signed.**

The average share of contracts signed under negotiation procedures without prior announcement of call for bids in total number of procurement contracts accounts for 5.6% and is several times higher than the national average of 2%. Last year this share stood at 6.5%.

Minor improvement is noted in terms of the value of these contracts, whereby the average share of these tender procedures in total value of tender procedures for all analysed institutions accounts for 6.7% and the national average is 4.4%. Previously, the value share accounted for 7.2% and the national average was calculated at 4.7%.

**Value share of contracts signed under negotiation procedures without prior announcement of call for bids in total value of contracts signed by individual institutions**



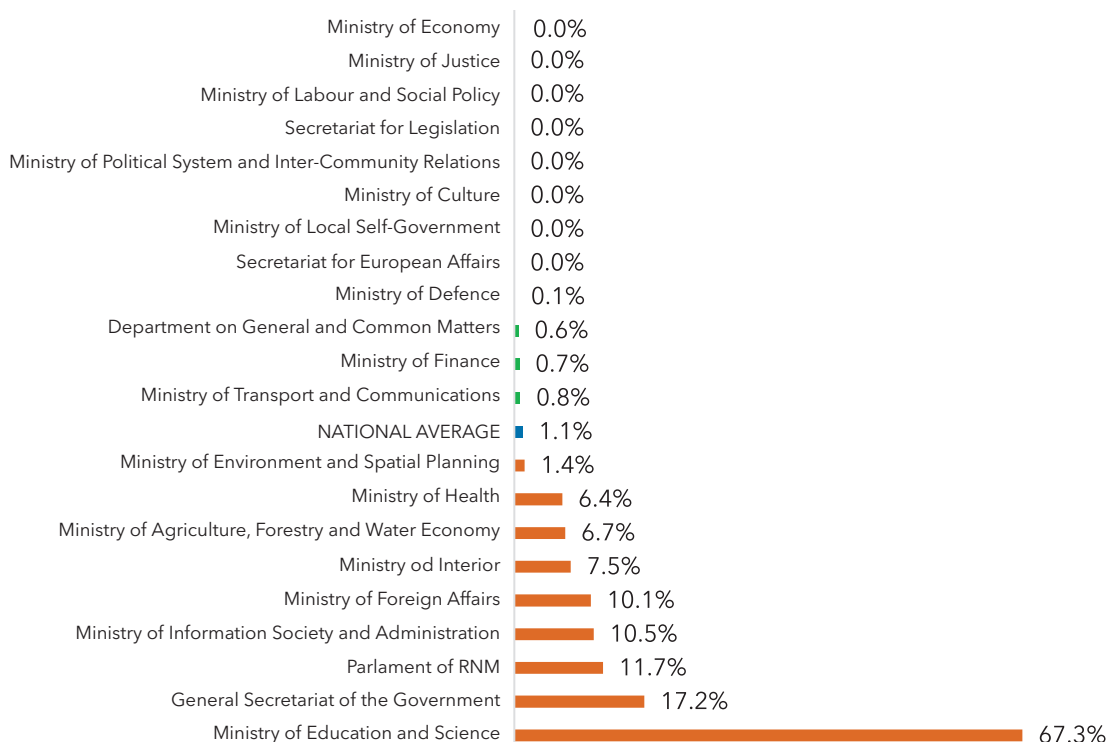
» **The share of annex contracts signed by analysed institutions is high both in comparison to the national average and in comparison to the situation observed last year.**

Last year only 24% and this year high 62% of analysed institutions have signed annex contracts, which are also awarded under negotiation procedures without prior announcement of call for bids for procurement of unforeseen and additional works, and in cases of surpluses and shortages.

The share of annex contracts in the total number of contracts among analysed institutions

accounts for 5.6% and the national average is calculated at 0.3%. Last year the share among analysed institutions was 0.9%.

The same situation is observed in terms of the value of annex contracts in total value of tender procedures organized by analysed institutions. The value share of annex contracts accounts for 6.7% and the national average is 1.1%, but last year their share was only 1.1%.

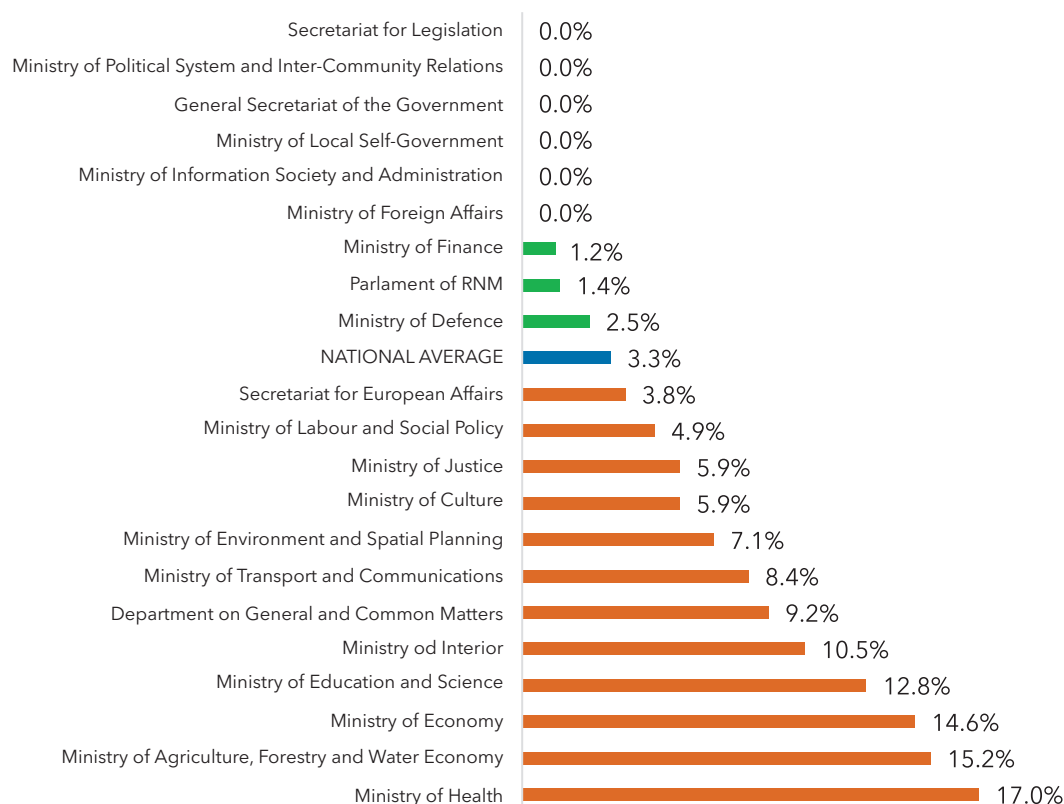
**Value share of annex contracts in total value of contracts signed**

» **The average share of appeals lodged by companies in total number of procurement notices announced by analysed institutions is increased. It stands at 5.7% and is higher than the national average of 3.3% for 3018. Last year, this share was 4.6%.**

71% of analysed institutions were addressed with appeals lodged against public procurements they have organized. The share of appeals in total number of procurement notices accounts for 5.7% and is significantly higher than the national average of appeals lodged for all procurement notices, which stands at 3.3%.

It should be noted that the State Commission on Public Procurement Appeals has approved only 40% of appeals lodged (the national average stands at 42%), which is lower than the relevant share in 2017, when this commission approved 58% of appeals.

### Share of appeals lodged in total number of procurement notices



» **Deterioration is observed in terms of institutions' response to requests submitted under the instrument for free access to public information. Last year the average response time was 38 days and this year it accounts for 42 days, although the law-stipulated deadline is set at 30 days.**

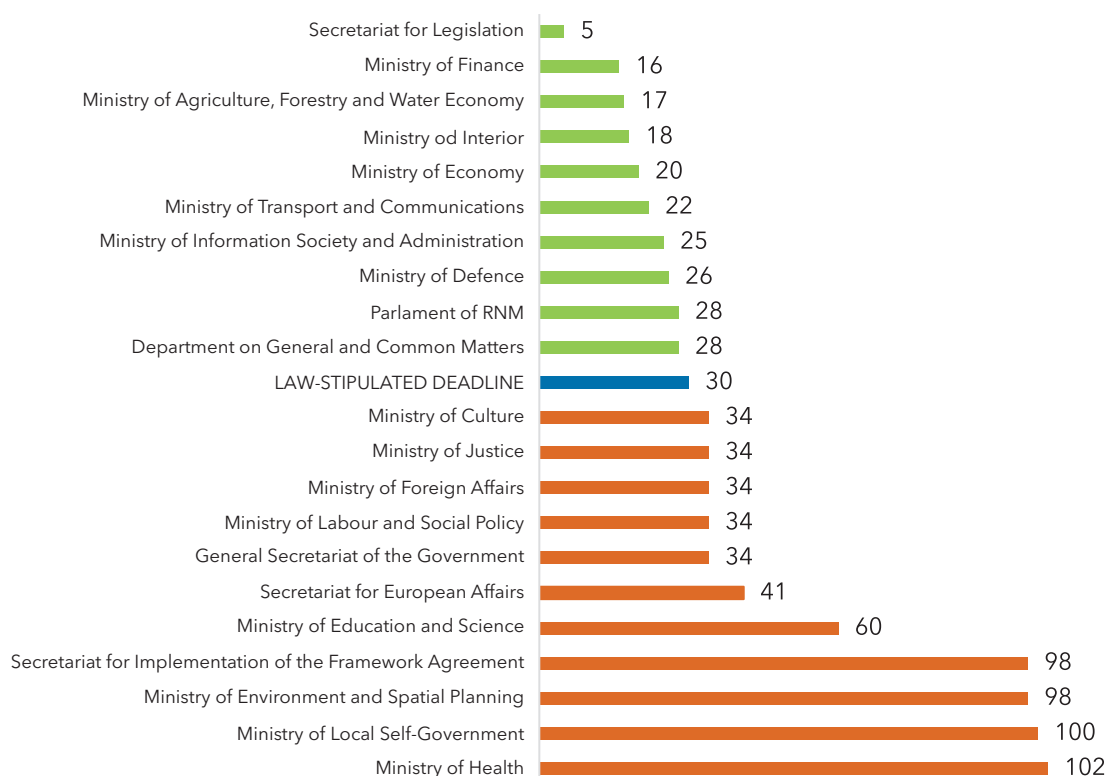
More than half of institutions responded to requests submitted under the instrument for free access to public information beyond the law-stipulated deadline of 30 days and thereby acted in violation of the Law on Free Access to Public Information.

The average number of days within which institutions disclosed information requested under the instrument for free access to public information is calculated at 42. As was the case last year, in this study the Secretariat for Legislation disclosed such responses within the

shortest time of 5 days (last year this period was 7 days).

The longest response time was observed with the Ministry of Health in duration of 102 days.

Having in mind that the Commission for Protection of the Right to Free Access to Public Information is not functional due to issues related to shortage of staff and therefore submission of appeals on the grounds of non-disclosed information from institutions could not yield any results, urgency letters were sent to three institutions to disclose information requested.

*Period (in days) for disclosure of requested information*

» **Few institutions have internal rules for public procurements, especially rules that govern aspects that are not precisely regulated by law.**

Only one institution has developed methodology for calculation of procurements' estimated values. Estimated values have a major effect on the outcome of procurement procedures and therefore it is important for these values to be adequately calculated, taking into consideration market situation and fluctuations.

Two thirds of institutions responded that they monitor implementation of annual plans for public procurements and three quarters of them reported they are monitoring performance of public procurement contracts, but only few institutions disclosed their internal documents that provide basis for these activities. Information requests included an inquiry whereby institutions that monitor implementation of their annual plans and contracts were asked to disclose methodologies, rulebooks or other documents used for that purpose.

Vast majority of institutions did not disclose such documents. In their responses, some institutions indicated that documents are given in attachment, but have failed to actually attach them, while other institutions ignored that section of the information request. One institution refused to disclose such documents and indicated that the procedure in question is considered intellectual property of the ministry and is intended for internal use!

In 2018, only half of institutions developed justifications for their procurement needs, which is very important in order to reduce abuses in the first stage of the cycle of public procurements, i.e. to prevent procurement of unnecessary goods, services and works. Development of these justifications is stipulated as mandatory under the new Law on Public Procurements.



## APPENDIX: RESEARCH, ASSESSMENT AND RANKING PARAMETERS

1. Has the institution appointed an officer or organization form responsible for matters related to public procurements?  
(Yes/No)
2. Has the officer responsible for public procurements obtained the relevant certificate on passed exam for public procurements?  
(Yes/No)
3. Do members of public procurement committees rotate for different procurements or does the composition of this committee remain the same for all procurements?  
(Yes, they are rotated /  
No, they remain the same)
4. Does the institution develop justification on the need for all individual procurements?  
(Yes/No)
5. Does the institution have internal methodology/guidelines or similar document that governs the method for calculation of procurements' estimated value?  
(Yes/No)
6. Does the institution publish annual plans on public procurements and amendments thereto on its official website?  
(Yes, both /Partially, only one /No, neither)
7. Implementation rate of annual plans on public procurements  
(% of implemented versus planned procurements; High - above 90% /  
Partial - 70% to 90% / Low - up to 70%)
8. Share of public procurements that were changed with amendments to annual plans  
(% of amended versus planned procurements;  
High - above 30% / Partial - 10% to 30% /  
Low - up to 10%)
9. Has the institution established monitoring system for implementation of plans on public procurements (and what is that system)?  
(Yes/No)
10. Does the institution publish procurement notices on its official website (integral text or link to EPPS)?  
(Yes/No)
11. Share of procurement notices with reasonable deadlines (longer than the law-stipulated minimum deadlines) for submission of bids  
(Yes - above 70% / Partially - 50% to 70% /  
No - up to 50%)
12. Are there tender documents with discriminatory elements that could limit competition?  
(Yes - in more than 30% / No - up to 30%)
13. Has the institution disclosed documents requested under the instrument for free access to public information?  
(Yes, within law-stipulated deadline /  
Yes, after deadline expiration or upon  
lodged appeal / No)
14. Has the institution responded to information requests under the instrument for free access to public information within the law-stipulated maximum deadline of 30 days?  
(Yes, within law-stipulated deadline /  
Partially, after deadline expiration / No)
15. Average number of bidding companies that participate in tender procedures organized by the institution  
(relative to the national average; above  
average / below average)

16. Share of tender procedures presented with only one bid  
*(relative to the average calculated for analysed institutions; below average / above average)*
17. Highest share of particular company participating in tender procedures organized by the institution  
*(below 40% / above 40%)*
18. Share of all public procurement procedures annulled  
*(relative to the national average; below average / above average)*
19. Share of annulled tender procedures on the grounds of no acceptable bids received in the institution's total number of annulled tender procedures  
*(relative to the national average; below average / above average)*
20. Value share of contracts signed under negotiation procedures without prior announcement of call for bids in the total value of all contracts  
*(relative to the national average; below average / above average)*
21. Share of the number of contracts signed under negotiation procedures without prior announcement of call for bids in the total number of public procurements  
*(relative to the national average; below average / above average)*
22. Value share of annex contracts in the total value of public procurements  
*(relative to the national average; below average / above average)*
23. Share of the number of annex contracts signed in the total number of contracts  
*(relative to the national average; below average / above average)*
24. Share of contracts for which notifications on contracts signed were published within the law-stipulated deadline of 30 days from their signing  
*(Yes - above 80% / No - up to 80%)*
25. Does the institution comply with the obligation on publication of records from bid-collection procedures on EPPS within the law-stipulated deadlines  
*(Yes - both within deadlines / Partially - one within deadlines / No - both after deadline expiration)*
26. Does the institution publish notifications on signed public procurement contracts on its official website?  
*(Yes / No)*
27. Share of notifications on performed contracts published on EPPS  
*(Yes - above 80% / No - up to 80%)*
28. Does the institution publish contracts signed and possible annexes thereto on its official website?  
*(Yes - both / Partially - only one / No - neither)*
29. Has the institution established monitoring system for performance of public procurement contracts signed?  
*(Yes / No)*
30. Share of appeals in the total number of procurement notices  
*(relative to the national average; below average / above average)*
31. Share of approved appeals in the total number of appeals lodged  
*(relative to the national average; below average / above average)*