

PAR PRINCIPLES MAINSTREAMING IN SECTORAL POLICIES

REPORT FOR NORTH MACEDONIA

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Report summary

The Ministry of Transport and Communications (MTC) of the Republic of North Macedonia carries out public procurement procedures in line with the fundamental principles of transparency, competition among economic operators, equal treatment and non-discrimination. In 2023 and 2024, the Ministry of Transport and Communications published the annual public procurement plans and their amendments. In 2023, the original plan had two amendments, and in 2024 the original plan had only one amendment.

The procedures are carried out in full compliance with the Law on Public Procurement, via the electronic public procurement system (EPPS). In the reporting period, 01.01.2023 to 30.06.2024, the contracting authorities (CAs) carried out open/competitive public procurement procedures, and by procedure types 71.7% are small value procurements, in 84.7% of procedures the main criterion is the lowest price, and an electronic auction was carried out in more than 90% of procedures. The publication of the annual report of all public procurement procedures is not required by law. The law requires keeping records in a special electronic ledger in the EPPS.

The data related to the public procurement procedures carried out are published on the EPPS and they are publicly available. The EPPS is straightforward and clear, and anyone can easily access and download the data for the public procurement procedures they are interested in. The EPPS has a high level of data accessibility.

In order to improve transparency, CAs need to draft detailed explanations for the need for public procurement, as well as detailed explanations for any amendments to the annual public procurement plan. Furthermore, all CAs need developed internal procedures for public procurement. Depending on the number of procedures carried out and the number of persons directly involved in public procurement procedures at the CA, the procedures should delegate competences and duties, and include timelines for the planning, implementation and execution of the public procurement procedure at all stages. The drafting of an annual report for all implemented/not implemented/annulled public procurements is key for planning public procurement for the coming year for all contracting authorities.

In the above order, we have used qualitative and quantitative research methods and facilities to establish whether the selected sectoral institution subject to this analysis has met, partially met or not met the above requirements. The monitoring involves gathering primary and secondary data, searching and researching data available in the EPPS and on the MTC website, as well as sending freedom of information requests for public information and data that was not otherwise available. On the basis of all gathered information and data, structured and entered into a matrix, we analysed the implementation of public procurement from the point of view of the above principles. Following the analysis of data, we drafted a report on the main findings from the monitoring of the implemented public procurement operations by the MTC in the current year and the previous year.

Introduction

1.1 What does WeBER monitor and how?

Monitoring of some of the area of Public Finance Management by the MTC of the Republic of North Macedonia.

Principle 28: Public procurement legislation, including public-private partnerships and concessions, is based on principles of equal treatment, non-discrimination, transparency, proportionality and competition, and supported by a sound governance framework.

Principle 29: Contracting authorities conduct public procurement operations, including public-private partnerships, efficiently and economically.

The checklist consists of 7 requirements regarding the updated public procurement plans and their availability on the MTC website and the EPPS. Do public procurements start in line with the plan and if they have not started, are they justified with an adequate explanation for the reasons/explanation by the CA? Are the changes in the public procurement plans for the current and previous year clearly visible, what was changed, and are the changes clearly visible and noticeable compared to the original public procurement plan, and are the changes to the public procurement plans duly justified? Furthermore, the monitoring focuses on whether the CA carries out competitive public procurement procedures, analysing all initiated public procurements, how many have been awarded on competitive grounds on average from the 2 years cumulatively, by procedure, by criteria, by contract type, and how many bidders on average have submitted bids for public procurement procedures initiated by the MTC? It also involves monitoring the average number of bids in open/competitive procedures in the course of the current and the previous year and whether the annual reports including all implemented public procurement procedures are publicly available on the MTC website, on the EPPS, and whether they are accessible.

For the purpose of data gathering, the approach to the checklist relies on an overview of the website of the CA and the EPPS, as well as on filing freedom of information requests for public information for all documentation not available online. The timeframe of the analysis includes the current and the previous year.

1.2 In this report

In this report, we have analysed the public finance management of the MTC, focusing on public procurements and whether they are implemented efficiently and cost-effectively. The public procurement legislation, which is largely in line with the European Union (EU) public procurement legislation, will provide the basis for the successful negotiations of North Macedonia with the EU, as well as for the accomplishment of the top priority, the accession to the EU.

The current Law on Public Procedures¹ allows contracting authorities to carry out public procurement transparently, strategically and efficiently. Both in member states and here, public procurement is facing new challenges because it is increasingly expected that they provide the best value for public money, increase efficiency, reduce irregularities, and identify and prevent fraud and corruption in a timely fashion. The end goal for public procurement is to provide quality and best value efficiently and with effective means for the money spent. In order to carry out this analysis, we obtained relevant information from the MTC website, the EPPS, and from responses to freedom of information requests for public information.

¹ <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>

Requirement 1. Up-to-date public procurement plans are publicly available

The Law on Public Procurement² has introduced the duty that CAs mandatorily publish their annual plans on the EPPS at latest by January 31 for the current year. This legal requirement aims to further improve the transparency of the public procurement system and improve the planning process of the contracting authority.

This requirement was first introduced in 2020. With the adoption of plans at the start of the year in 2023 and 2024, MTC continued the legal requirement to publish annual plans in the system. The EPPS is set up in such a way that a public procurement call cannot be published if the procurement has not been envisaged and entered in the annual public procurement plan in the EPPS. This system setup has resulted in comprehensive data for annual plans³ and their amendments from 2019 to 2024 for the contracting authority⁴.

In accordance with the law, annual public procurement plans may suffer changes in the course of the year. This legal possibility has been implemented in the EPPS,⁵ allowing for updates and amendments to the plan by the CA, and the broader public may easily compare the original plan to all its amendments.⁶ It is also possible to monitor the execution of planned procurement, i.e. a visitor may at any time observe which of the planned procurement with the contracting authority has been implemented, with direct access to the published public procurement call.⁷

Amendments to MTC annual plans for public procurement are publicly available and updated (including the latest changes in the course of the year) on the MTC website,⁸ as well as on the EPPS,⁹ whereby **“the requirement is fully met”**.

Requirement 2. Public procurements are launched in accordance with the plan

For Requirement 2, we analysed the last 5 planned public procurements up until 31.05.2024, as published in the annual public procurement plan on the MTC website and on the EPPS, in order to establish whether they started according to plan. However, if some procedures have not been launched, with an adequate transparent justification, it will be considered that they have been launched according to plan.

Of the planned 5 public procurement procedures¹⁰ by 31 May 2020, none have been carried out. We addressed the MTC with a FoI request,¹¹ but received no adequate and transparent justification or explanation for the unimplemented planned public procurement procedures by 31 May 2024.

“The contents of the annual public procurement plan shall not be amended for changes in the assessed value, the type of planned procedure for awarding a public procurement contract, or the estimated start of the procedure,” as stipulated in the Rulebook on the form, content and drafting of the annual public procurement plan.¹² In this respect, we assess that **“The requirement has not been met”**.

2 <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>

3 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/annual-plans>

4 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/dossie-annual-plan/0b09cef9-af8c-4f57-9758-b10000acb66f/2>

5 <https://www.e-nabavki.gov.mk/AnnualProcurementPlans/PlanComparer.aspx#/home?id=0b09cef9-af8c-4f57-9758-b10000acb66f>

6 <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>

7 *ibid*

8 <https://mtc.gov.mk/>

9 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/annual-plans>

10 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/dossie-annual-plan/0b09cef9-af8c-4f57-9758-b10000acb66f/2>

11 Freedom of information request sent on 27.06.2024

12 Official Gazette of RM 64 of 28.3.2019, <https://www.bjn.gov.mk/podzakonski-akti-zjn/pravilnik-za-godisen-plan-za-javni-nabavki/>

Requirement 3. Amendments to public procurement plans are clearly visible

In the amendments to its public procurement plans for 2023 and 2024, the MTC clearly states what is amended compared to the original public procurements plan and previously adopted amendments, and they are publicly available on the EPPS.^{13 14}

The original public procurement plan and all its amendments (versions) are published on the EPPS throughout the year, with an option to select the version, compare the published versions and download the document. When comparing versions, on the last selected version of the document the legend clearly states the changes (new item, changed, item, deleted item and unchanged item) and the percentage change of the item. The overall percentage change of the annual public procurement plan is also stated.¹⁵

The 2023 annual public procurement plan has three versions, the original version and two amended ones, with three new items added with 100% percentage change and an overall percentage changes of 4.55%.¹⁶ The 2024 annual public procurement plan up to 30.06.2024 has two versions, the original version and one amended one, with one new item added with 100% percentage change and an overall percentage change of 1.64%.¹⁷

The amendments to the public procurement plans in the 2023 and 2024 annual public procurement plans published by the MTC are clearly visible and we have assessed that the **“Requirement is fully met”**.

Requirement 4. Amendments to public procurement plans are duly justified

In 2023, the MTC has amended its original public procurement plan twice, adding 3 new items¹⁸, and in 2024, the original public procurement plan has been amended once, adding one new item.¹⁹ The CA has published no justification or explanation for the amendments to the public procurement plans for any of the four added items. The justification by merely adding a new item is insufficient to reach a conclusion for the reason for the addition.

In order to observe the trend of publishing amended public procurement plans and the existence or non-existence of due explanations for the changes, we have extended the research to the published public procurement plans by the MTC on the EPPS from 2019 to 2022. During this time, there have been 82 new items published, none of which has been accompanied by an adequate explanation for the reason for the changes made.^{20 21 22 23} In that same period, there have been 8 deleted items, not accompanied by an explanation, three changed items with just one accompanied by an explanation clearly visible in the comments section in the 2022 annual public procurement plan.²⁴ The assessment is that **“The requirement has not been met”** due to the fact that no amended items have been duly explained.

13 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/dossie-annual-plan/228f7646-24db-48ff-a6af-af9600e970e1/3>

14 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/dossie-annual-plan/0b09cef9-af8c-4f57-9758-b10000acb66f/2>

15 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=228f7646-24db-48ff-a6af-af9600e970e1>

16 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=228f7646-24db-48ff-a6af-af9600e970e1>

17 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=0b09cef9-af8c-4f57-9758-b10000acb66f>

18 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=228f7646-24db-48ff-a6af-af9600e970e1>

19 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=0b09cef9-af8c-4f57-9758-b10000acb66f>

20 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=807443b3-2162-464f-b12a-aa1e00b119dc>

21 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=329f953a-bb66-4281-bca7-ab4f00f86d5d>

22 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=90ec83e0-931c-4994-a8dc-acb400a3be39>

23 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=5ae88486-b6e1-42aa-8469-ae2a00e9ab7d>

24 <https://www.e-nabavki.gov.mk//AnnualProcurementPlans/PlanComparer.aspx#/home?id=329f953a-bb66-4281-bca7-ab4f00f86d5d>

Requirement 5. Contracting authority conducts out open/competitive public procurement procedures

In the period from 01.01.2023 to 30.06.2024, the MTC has initiated a total of 92 public procurement procedures.²⁵ "The contracting authority, in a manner and under conditions stipulated by the law, uses the following public procurement procedures":²⁶

- a. small value procurement;
- b. simplified open procedure;
- c. open procedure;
- d. limited procedure;
- e. competitive negotiation;
- f. competitive dialogue;
- g. partnership for innovation;
- h. negotiation without publishing a call; and
- i. negotiation with publishing a call.

*Table 1 provides the implemented public procurement procedures from 2023 up until 30.06.2024, as well as the overall number of public procurement procedures carried out. The small value procedure was the most frequently used one in the reporting period of 1.5 years, in 71.7% of all procedures carried out.*²⁷

Procedure	2023	2024	Total
Small value procurement	47	19	66
Simplified open procedure	13	7	20
Open procedure	3	1	4
Negotiation without publishing a call	2	0	2
Total	65	27	92

*Table 2 provides the criteria for the public procurement carried out from 2023 to 30.06.2024, as well as the overall number of public procurement procedures carried out. In the above period, the lowest price had been used as the criterion in 84.7% of public procurement procedures.*²⁸

Criterion	2023	2024	Total	%
Lowest price	54	24	78	84.7%
Costs via the viability principle	0	0	0	0
Best price to quality ratio	11	3	14	15.3%
Total	65	27	92	100%

²⁵ <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/notices>

²⁶ Pursuant to Article 47 of the Law on Public Procurement (Official Gazette of the Republic of Macedonia 24/19) applied as of 1st April 2019, <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>

²⁷ <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>

²⁸ <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>

Table 3 provides the public procurement carried out from 2023 to 30.06.2024, as well as the overall number of public procurement procedures carried out by type of contract/subject. According to public procurement cases, services are the most common type of contract accounting for 55.88%.²⁹

Procurement contract/subject type	2023	2024	Total	%
Goods	21	12	33	32.36%
Services	44	13	57	55.88%
Works	11	1	12	11.76%
Total	76	26	102	100%

Table 4 provides the annulled public procurement procedures from 2003 to 30.06.2024, as well as the overall number of annulled public procurement procedures by type of procedure annulled. Small value procurement is the most common type of annulled procedure, accounting for 80% of procedures.³⁰

Annulled procedures	2023	2024	Total	%
Small value procurement	16	8	24	80%
Open procedure	1	0	1	3.33%
Simplified open procedure	5	0	5	16.66%
Total	22	8	30	100%

Table 5 provides the annulled public procurement procedures from 2023 to 30.06.2024, as well as the overall number of annulled procedures by cause of annulment. Of the twenty odd causes offered, the below were most commonly used by the contracting authority. Two reasons account for as much as 40% of annulments each: 1. Procedure annulment due to no bids or only one acceptable bid submitted; and 2. Bidders offering prices and conditions to exercise the public procurement contract that are less favourable than the realistic ones on the market.³¹

Annulled procedures	2023	2024	Total	%
No bids or only one acceptable bid submitted	9	3	12	40%
Bidders offering prices and conditions to exercise the public procurement contract that are less favourable than the realistic ones on the market	7	5	12	40%
Assessment that the terms of reference contain significant gaps	6	0	6	20%
Total	20	8	30	100%

The average number of bids is 3.1 bids on average for the period 2023 to 30.06.2024 (the average number of bids in 2023 was 3, and in 2024 it was 3.2). In 2023, there were 92 public procurement procedures published, 90 of which were awarded competitively, i.e. in 97.8% of cases by using procurement methods where all interested economic operators could submit a bid in an open call, while two public procurement contracts were awarded in a negotiation procedure without publishing a call. We may conclude that **“The requirement is fully met”**.³²

29 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>

30 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/cancelations>

31 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/cancelations>

32 <https://www.e-nabavki.gov.mk/PublicAccess/home.aspx#/contracts/0>

Requirement 6. Average number of bidders in open/competitive procedures

"The open procedure is carried out in a single stage and it may be carried out for any subject of procurement, where any interested economic operator may submit a bid with the required documentation to establish competence and all other documentation in line with the terms of reference."³³

In the period from 2022 to 30.06.2024, the MTC used the open procedure for public procurement very seldom. In 2022, the open procedure for public procurement was used in 7 procedures, with an average number of 4 bids. In 2023, the average number of bids in 3 open procedures carried out was 3, and in 2024, in one such procedure, the average number of bids was 4. On average, in 2.5 years, the average number of bids in an open/competitive procedure was 4. The assessment is that **"The requirement is partially met"**.

Requirement 7. Annual reports encompassing all conducted public procurement procedures are publicly available

The CA has no legal duty to draft annual reports covering all carried out public procurement. It falls under voluntary transparency of the institutions. The MTC has published no available annual reports. No ministry has published annual reports in the past two years. The assessment is that **"The requirement has not been met"**.

Final assessment of the requirements

Requirement	Final assessment
Requirement 1. Updated public procurement plans are publicly available	Fully met
Requirement 2. Public procurement initiated according to plan	Not met
Requirement 3. Clearly visible amendments to public procurement plans	Fully met
Requirement 4. Duly justified amendments to public procurement plans	Not met
Requirement 5. The contracting authority carries out open/competitive procedures	Fully met
Requirement 6. Average number of bids in open competitive procedures	Partially met
Requirement 7. Annual reports including all carried out public procurement procedures are publicly available	Not met

³³ Pursuant to Article 50, paragraph (1) of the Law on Public Procurement (Official Gazette of the Republic of Macedonia 24/19) applied as of 1st April 2019 <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>

III. Recommendations for improvements

Requirement	Recommendations
1. Updated public procurement plans are publicly available	Continue the transparency with timely publication of updated annual plans
2. Public procurement initiated according to plan	Introduce a duty for the CA to publish the reasons for failing to launch a planned procedure, considering that initiating procedures off schedule contributes to increasing suspicions of corruption in public procurement procedures
3. Clearly visible amendments to public procurement plans	Continue the transparent publication of amendments to public procurement plans
4. Duly justified amendments to public procurement plans	Enter an appropriate justification/explanation for the amendment in the comments section of amended public procurement plans in order to improve transparency
5. The contracting authority carries out open/competitive procedures	Continue the trend of carrying out competitive procedures in public procurement, considering that this would improve both competitiveness and transparency
6. Average number of bids in open/competitive procedures	Extend the deadlines to submit bids and thus provide an opportunity to improve competitiveness
7. Annual reports including all carried out public procurement procedures are publicly available	<p>Amend the Law on Public Procurement and introduce a duty for contracting authorities to publish annual reports on the EPPS by January 31 for the previous year, considering that CAs currently have no legal duty to draft annual public procurement reports.</p> <p>The MTC should adopt a Rulebook on developing a comprehensive public procurement monitoring and reporting system, that should ensure:</p> <ol style="list-style-type: none"> 1. Planning and preparation (publishing a public procurement plan and dialogue); 2. Monitoring and contracting (calls, decisions to award contracts, procedures used, number of bids etc.); 3. Monitoring contracts (contract, annexes, outputs); 4. System for gathering and processing public procurement data; 5. Reporting on the implementation of public procurement; 6. Functionalities to provide information for the purpose of external analyses; 7. Data analysis to the level of economic operator or product/service or contract; 8. Public access to information. <p>It would allow CAs, as well as civil sector organisations to analyse finished public procurement procedures in detail, identify weaknesses, benefits etc., while allowing CAs to approach carrying out public procurement strategically.</p>

Appendices

Free access to information requests

Institution	Date of sending	Date of receipt
Ministry of Transport and Communications	27.06.2024	22.07.2024

Interviews

Institution/Organisation	Position	Date	Place
/	/	/	/
/	/	/	/
/	/	/	/

Other sources

1. Law on Public Procurement (Official Gazette of RM 24/19), <https://www.bjn.gov.mk/wp-content/uploads/2019/04/Zakon-za-javni-nabavki-br.24-19.pdf>
2. Rulebook on the form, content and manner of drafting the annual plan for public procurement (Official Gazette of RM 64/19), <https://www.bjn.gov.mk/podzakonski-akti-zjn/pravilnik-za-godisen-plan-za-javni-nabavki/>
3. Rulebook on keeping records of public procurement procedures, as well as on the contents of the ledger (Official Gazette of RM 64/19), <https://www.bjn.gov.mk/wp-content/uploads/2019/05/Pravilnik-za-ev-identna-kniga.pdf>
4. Rulebook on using the electronic public procurement system (Official Gazette of RM 64/19) <https://www.bjn.gov.mk/wp-content/uploads/2019/05/Pravilnik-za-ESJN.pdf>
5. Strategy for promoting the public procurement system in the Republic of North Macedonia for 2022-2026 <https://www.bjn.gov.mk/wp-content/uploads/2022/03/Strategi-a.pdf>
6. Action plan for 2023 to implement the strategy for promoting the public procurement system in the Republic of North Macedonia for 2022-2026 <https://www.bjn.gov.mk/wp-content/uploads/2022/03/Akciski-plan-za-2023.pdf>

