



INDICATORS FOR MEASURING THE PERFORMANCE OF REMEDY SYSTEMS

Guidelines for data collection

1. Number of first instance review decisions
2. Median length of first instance reviews
3. Number of first instance review decisions that were appealed to the (next) judicial level and its results

Scope and definitions

The data shall only cover public procurement procedures falling under the EU directives¹ (i.e. above EU thresholds, including exemptions and exceptions). It shall cover reviews made both before and after contract signature.

The data shall cover all relevant bodies, regardless of whether they are administrative or judicial; regardless of whether they are national, regional or local. In case of multiple level administrative review it shall only include the data from the first instance.

(For those Member States that cannot disaggregate the data based on the EU thresholds or have only a part of the data available (e.g. no information on post-contractual review, regional information not shared), if possible, please give your “best guess” estimate of the additional/missing information in the relevant Comments section.)

The data on reviews started following a complaint and *ex officio*² shall be collected separately.

Indicators are requested per year (2018, 2017 and 2016). Decisions should be included in the calculation for the calendar year in which they were issued (i.e. dates relating to years where the complaint was submitted, or where decisions were appealed to a higher instance should be excluded/ignored).

¹Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ 2014 L 94, p. 1).

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ 2014 L 94, p. 65).

Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ 2014 L 94, p. 243).

² A review initiated upon review body's own motion.

“Decision” means a binding outcome of the review (be it started following a complaint or *ex officio*). (Typically, we would expect the number of non-*ex-officio* decisions to be equal to the number of complaints.)

It includes decisions to reject a complaint³, decisions on interim measures containing an assessment of the case and not followed by any other decision⁴, and decisions regardless of whether multiple decisions are linked to the same procedure. Decisions not on the merits, i.e. “procedural” or “technical” decisions should not be included (e.g. decisions on nomination of experts to provide expert view).

1. NUMBER OF FIRST INSTANCE REVIEW DECISIONS

It shall include all the first instance review decisions.

2. MEDIAN LENGTH OF FIRST INSTANCE REVIEWS

It shall be the median⁵ length of all the first instance reviews.

Length is defined as the number of calendar days between a starting date and an end date.

- The starting date is when the complaint is registered or an *ex officio* proceeding initiated.
- The end date is when the review decision is issued.

3. NUMBER OF FIRST INSTANCE REVIEW DECISIONS THAT WERE APPEALED TO THE (NEXT) JUDICIAL LEVEL AND ITS RESULTS

It shall include all the first instance review decisions that were appealed to the (next) judicial level, both on merit or procedural reasons

For first instance judicial review bodies, “next judicial level” refers to the second judicial level; for first instance administrative review bodies, “next judicial level” refers to the first judicial review.

Furthermore, it shall include the number of first instance review decisions that were a) (primarily) upheld; b) (primarily) rejected; or c) neither upheld nor rejected by the (next) judicial level (e.g. because they were not yet decided, retracted).

³ Complaints may be rejected for example because the complainant did not have the standing (*locus standi*), did not pay the fee, brought the complaint in front of the wrong body, did not fulfil other conditions necessary to bring a complaint before the review body. However, all those decisions may be appealed.

⁴ There is not any other decision because for instance a complaint is withdrawn after the interim measure is issued or a complaint contains only a request to suspend the procedure for the award of a public contract or the implementation of any decision taken by the contracting authority.

⁵ <https://en.wikipedia.org/wiki/Median>. We choose the median instead of the arithmetic mean because the average length of first instance reviews is particularly susceptible to the influence of so called “outliers”. Outliers are unusual values, e.g. unusually small or large.

Member State		
Year	2025	Comments
1. Number of decisions	167	Overall number of decisions in 2025 was 299 (132 below EU Directives' thresholds, 167 above)
upon a complaint	167	
<i>ex officio</i>	0	Estonian Public Procurement Review Committee does not act ex officio
2. Median length of the review	23	-
upon a complaint	23	
<i>ex officio</i>	N/A	Estonian Public Procurement Review Committee does not act ex officio
3. Number of review decisions appealed and their results		-
Number of review decisions appealed	40	
Number of decisions (primarily) upheld	25	
Number of decisions (primarily) rejected	6	
Number of decisions – other	9	In 5 cases, the appeal was withdrawn; 4 cases ended due to contracting authority cancelling the procurement procedure in question

