



# **ANNUAL ANALYTICAL INTEGRITY REPORT**

## **2023**

**Budapest, June 2024**

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# Abbreviations

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ARACHNE – risk scoring tool developed by the European Commission

Audit Authority – Directorate General for Audit of European Funds (DGAEF)

DIAI – Directorate for Internal Audit and Integrity

Investment Act – Act LXIX of 2023 on Public Works Projects Criminal Code – Act C of 2012 on the Criminal Code

CPV – Common Procurement Vocabulary: the European Union's single classification system for public procurement to describe the subject of contracts

DPS – Dynamic Procurement System

DKÜ – Digital Government Agency

HRD OP – Human Resource Development Operational Programme

EPPS – Electronic Public Procurement System

Integrity Authority Act – Act XXVII of 2022 on the Control of the Use of European Union Budget Funds

EAFRD – European Agricultural Fund for Rural Development

EAGF – European Agricultural Guarantee Fund

SEUP – System of European Union Programmes

DGAEF – Directorate General for Audit of European Funds

ADF – Annual Development Framework

DCT – Hungarian State Treasury Department for Calls for Tenders

GINOP – Economic Development and Innovation Operational Programme

HCA – Hungarian Competition Authority

Authority – Integrity Authority

IACS – Integrated Administration and Control System of the Hungarian State Treasury ITOP – Integrated Transport Development Operational Programme

Integrity Report – Annual Analytical Integrity Report

CAP – Common Agricultural Policy

PPA – Act CXLIII of 2015 on Public Procurement

PPAB or Arbitration Board – Public Procurement Arbitration Board

DGPPS – Directorate General for Public Procurement and Supply

KEHOP – Environmental and Energy Efficiency Operational Programme

Framework – Performance Measurement Framework for Evaluating the Efficiency and Cost-effectiveness of Public Procurement; created by Government No. 1425/2022 (5 September), to which Hungary undertook commitments as part of the procedure launched under Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (conditionality regulation); the results of the Framework must be disclosed by 28 February each year

PPSD or Public Procurement Supervision Department – Prime Minister’s Office Deputy State Secretariat with responsibility for public procurement supervision  
Public Procurement Supervision Department

PPAH – Public Procurement Authority of Hungary

GTOC – Government Training Organisation Centre

FA1 and FA2 – framework agreement where FA1 indicates public procurement procedures and contracts aimed at concluding framework agreements, while FA2 indicates tender procedures completed based on framework agreements

KÖFOP – Public Administration and Civil Service Development Operational Programme

MPARD – Ministry of Public Administration and Regional Development

MAHOP – Hungarian Fisheries Operational Programme

NTCA – National Tax and Customs Administration

NMA – National Managing Authority

NCO – National Communications Office

NACS 2024–2025 – Medium–Term National Anti–Corruption Strategy for 2024–2025

NPA – National Paying Agency

OECD – Organisation for Economic Co–operation and Development

OLAF – European Anti–Fraud Office

OP – Operational Programme

Civil Code – Act V of 2013 on the Civil Code

TOP – Territorial and Settlement Development Operational Programme

SAMO – State Aid Monitoring Office

DPA – Defense Procurement Agency

VEKOP – Competitive Central-Hungary Operational Programme

RDP – Rural Development Programme

DRDG – Division of the Hungarian State Treasury for Regional Development Grants



# 1. Introduction

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## **Background**

The Authority was instituted on 19 November 2022, serving as an autonomous state administrative body, in accordance with the provisions of Act XXVII of 2022 on the control of the use of European Union budget funds ('Integrity Authority Act'). The Authority aims to bolster efforts in preventing, uncovering and rectifying instances of fraud, conflicts of interest, corruption, and other related illegalities and irregularities that arise during the implementation of European Union financial support.

The Authority takes action in all cases where it considers that an organisation which is competent in the use, or the control of the use of, European Union funds has failed to take the necessary steps toward safeguarding the sound financial management of the European Union budget and the European Union's financial interests, or where the risk of such failure arises.

In carrying out its duties, the Authority gives special consideration to the integrity risk assessment report, taking it into account for the preparation of the annual analytical integrity report.

## **Applied methodology and limitations**

Pursuant to section 11 of the Integrity Authority Act, the Authority shall prepare an analytical integrity report every year. The Authority shall prepare and publish its annual analytical integrity report for the calendar year 2023 on its website by 30 June 2024, while also sending it to the National Assembly for informational purposes in accordance with section 12(1). Subsequently, the Government shall outline in its response to the Authority how it will handle the findings and recommendations presented in the annual analytical integrity report.

In accordance with the relevant provisions of the Integrity Authority Act, the integrity report shall include the following:

- a) an analysis of the procurement market's concentration linked to the use of European Union funds, as well as the difference, including the possible causes thereof, between the estimated value and contract amount in public procurement procedures;
- b) an examination of the effectiveness of laws within the Authority's remit and the problems that arise during their implementation, an analysis of the law

enforcement and administrative practice, and the definition of risk indicators;

- c) an analysis of the application of framework agreements and the practice of contracts concluded on the basis of framework agreements, including their allocation amongst each economic operator.
- d) an evaluation of the control system for the control of European Union funds in the areas of identifying and effectively preventing risks of corruption, fraud and conflicts of interest, as well as uncovering and remedying such cases;
- e) recommendations pertaining to subjects under points a) to d), and
- f) and evaluation of how bodies competent in controlling the use of European Union funds have taken earlier reports and recommendations into account.

As part of its work, the Authority essentially conducted desk research by compiling, reviewing, and analysing the relevant information and data provided to the Authority, as well as publicly available information and data, up to 24 May 2024. In doing so, the Authority took into account its previous reports, related Government responses, previous reports by the Anti-Corruption Task Force, and the 2023 results concerning the performance measurement framework assessing the efficiency and cost-effectiveness of public procurement, amongst other aspects.

As part of its investigation conducted for this assessment, the Authority gathered additional information from the organisations/managers concerned within the confines of professional interviews, data provisions, and questionnaire surveys.

The analyses, evaluations and recommendations presented in the 2023 Integrity Report were defined solely based on the referenced publicly available information, data and information provided by stakeholders, and interviews that were conducted.

## 2. Evaluation of the audit system for European Union funds

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### 2.1 Executive summary

In the context of examining the changes that occurred in 2023, which serve as the subject of the Annual Analytical Integrity Report, a review was conducted on the government decrees regulating the 2014–2020 and the 2021–2027 programming periods.<sup>1</sup> The most important innovations encompass the data sets to be provided in the risk scoring tool ARACHNE, the DIAI's expanded range of functions, specifying the rules relating to on-site audits, and the new rules introduced to the Rural Development Programme ('RDP').

In addition to changes to the legislative environment, changes to the structure and segmentation of the institutional system are also noteworthy. Starting 1 January 2024, the newly formed Ministry of Public Administration and Regional Development ('MPARD') has incorporated the managing authorities that previously operated as deputy state secretariats under the Prime Minister's Office. This reorganisation had no impact on the Cabinet Office of the Prime Minister or the Ministry of Agriculture, which had already been viewed as separate ministries, under any of the programming periods. Furthermore, specialised areas within the Ministry of Interior continue to operate under an unchanged organisational structure.

Moreover, considering the rules in government decrees on the use of grants, the Authority has also evaluated policy assessment activities of a design nature and so-called pre-evaluation/pre-assessment activities in the context of operational programmes. These two categories of activities within the domestic allocation system for European Union funds hold similar significance in relation to tasks carried out within the confines of decision preparation, contract management, funding, oversight, irregularity, and maintenance. Consequently, the Authority finds it imperative that individuals engaged in these two phases submit conflict-of-interest declarations, and in the same context, to examine the existence of conflicts of interest in particular projects.

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<sup>1</sup> Government Decree No. 272/2014 (5 November) on the procedure for using certain EU funds in the 2014–2020 programming period ['Government Decree No. 272/2014 (5 November)'], Government Decree No. 256/2021 (18 May) on the rules governing the use of grants from certain EU funds in the 2021–2027 programming period ['Government Decree No. 256/2021 (18 May)'], and Government Decree No. 601/2022 (28 December) on the organisation and institutions of the implementation of the Common Agricultural Policy and agricultural subsidies provided from the national budget ['Government Decree No. 601/2022 (28 December)']

In accordance with point f) of section 11 of the Integrity Authority Act, the Authority also evaluates in the Report how bodies competent in controlling the use of European Union funds have taken earlier reports and recommendations into account.

In addition, the Report also presents a summary of the findings, measures and recommendations from the Authority's investigations that were closed in 2023. Up until 31 December 2023, the Authority formulated a total of 19 unique measures, which were issued to 23 addressees, along with 15 recommendations and proposals over the course of the investigations it concluded.

Following the conclusion of investigations, the Authority follows up on its recommendations, proposals and measures. The organisations concerned largely failed to comply with their obligation to respond and, where the Authority requested continued supply of information, regularly provide information within the deadline specified by the Authority. Consistently, they carried out these duties only after repeated requests from the Authority.

The Authority observed varying practices in the implementation of its recommendations and proposals for action. In several cases, the recipient organisations did not agree with the Authority's recommendations and proposals for action. Although they articulated a thorough justification for this decision, the reasons brought forward contradict or have ignored the findings outlined in the Authority's reports in many cases. 50% of recipient organisations agreed with the recommendations/proposals, 37% did not regard additional measures as warranted, while 13% did not agree.

Out of approximately 11 proposals concerning audit systems, the Government's response to and position on the 2022 report indicate agreement with 3, partial agreement with an additional 3, and disagreement with 5. The Authority evaluated the Government's response and position individually before sending a summary of its stance in a response to the Minister for Regional Development on 5 December 2023.

Proposals regarding the audit trails were also formulated by the Authority in its 2022 report. The Regulatory Division of the MPARD for Development Policy and the Authority engaged in discussions regarding these proposals to gain a deeper understanding of the findings.

The practical implementation of the findings presented in the previous year's report had no impact on the year 2023, allowing the Authority to examine them in the 2024 report.

The Authority put in a request for the regulations on the management of (beneficiary) conflict-of-interest declarations used by managing authorities and intermediate bodies from 2023, along with the methodologies and internal procedures developed by managing authorities and intermediate bodies for the verification of contractor independence in relation to any operational programme within the Authority's scope. In the case of the Deputy State Secretariat of the MPARD for the Implementation of Economic Development Operational Programmes ('GINOP MA'), the DIAI forwarded the Deputy State Secretary's record, dated 20 December 2022, concerning the management of conflict-of-interest declarations in a professional response to the Authority. Furthermore, it provided the Authority with general information from the Regulatory Division of the MPARD for Development Policy concerning conflict-of-interest declarations by beneficiaries and contractors (subcontractors), along with Vice-presidential Directive no. 42/2023 on the checking of quotes ("Vice-presidential Directive no. 42/2023"), which was developed for MAHOP, MAHOP Plus, RDP, and CAP SP of the Ministry of Agriculture, as well as its guide.

Amongst the documents listed, the Authority analysed and assessed the GINOP MA rules, which are elaborated in its conflict-of-interest record, concerning declarations by beneficiaries, contractors and subcontractors, as well as the provisions set forth in Vice-presidential Directive no. 42/2023 on the examination of tenderers' independence.

The timely and appropriate reaction of the GINOP MA to a legislative environment that is going through considerable changes prompted by the conflict of interest rule introduced in late 2022 is recognised with appreciation. It underlines the managing authority from the specialised areas of the institutional system for development policy, while the fundamental principles outlined in the record could serve as a good example for other managing authorities in the future.

## **2.2. Changes to domestic laws concerning the use of European Union funds in the context of the regulatory environment of audit systems**

### **2.2.1. Changes to the regulatory environment of development policy**

With the end of the 2014–2020 programming period (Széchenyi 2020), the ensuing 2021–2027 period (Széchenyi Plan Plus) saw the introduction of Government Decree No. 256/2021 (18 May) on the rules governing the use of grants from certain EU funds in the 2021–2027 programming period ('Government Decree No 256/2021 (18 May)'), which include some important changes compared to Government Decree No.

272/2014 (5 November) on the procedure for using certain EU funds in the 2014–2020 programming period ‘Government Decree No. 272/2014 (5 November)’, which pertained to the previous period. The new government decree was necessary to ensure conformity with the new EU package of regulations pertaining to the 2021–2027 period.

The scope of this analysis covers the 2023 calendar year. And although Government Decree no. 256/2021 (18 May) came into effect prior to this date, it is vital to deliver a concise presentation and evaluation of the main changes between the two government decrees, along with the novel features of the new government decree.

When developing legislation, lawmakers strive to bolster transparency and craft straightforward regulations. Furthermore, one of the objectives was to integrate the provisions and related documents concerning the use and implementation of European Union funds within a standardised framework, while also ensuring that it includes detailed and comprehensive rules for these areas. The goal of this approach was to ensure easier understanding and support the grant applicant, the beneficiary, and the law enforcer.

As opposed to Government Decree no. 272/2014 (5 November), Government Decree no. 256/2021 (18 May) include shorter and tighter regulations. The comparison has shown that the provisions taken out of the government decree do not need to be included in the hierarchy of legal sources at the regulatory level of the government decree.

A more uniform structure emerged, as the documents annexed to Government Decree no. 272/2014 (5 November), such as the standardised operations manual, were incorporated into the text of the government decree. Another annex to the previous government decree, the accounting instructions, was finalised in an standalone document, while sample documents which can be managed more effectively in the IT system were also created.

The extension of Government Decree no. 256/2021 (18 May) to the Asylum, Migration and Integration Fund, the Border Management and Visa Instrument, and the Internal Security Fund marks an important distinction and innovation at the same time; however, it does not include rules concerning agricultural and rural development funds.

With regard to compliance with the rule of law criteria, the year 2023 witnessed the inclusion of many important provisions in Government Decree no. 272/2014 (5 November), the evaluation of which is crucial, considering that these provisions

were also incorporated in Government Decree no. 256/2021 (18 May), which pertains to the new programming period.

### **2.2.2. Main changes to Government Decree no. 272/2014 (5 November) and Government Decree no. 256/2021 (18 May) in 2023**

Government Decree no. 272/2014 (5 November) was amended 10 times, whereas Government Decree no. 256/2021 (18 May), which pertains to the new programming period, was amended a total of 8 times during the period stretching from 1 January 2023 to 31 December 2023, which serve as the subject of the Authority's analysis. The main changes to these legal acts are set out below. While specifying the changes introduced in the examined period, the Authority deems it essential to reflect on the modifications carried out in the third and fourth quarters of 2022, considering their direct correlation with the novel features that emerged in 2023.

#### Data to be sent to the ARACHNE risk scoring tool

Developed by the European Commission, the ARACHNE risk scoring tool ('ARACHNE') is a system that aims to filter risky projects, contracts, businesses, and beneficiaries, drawing on various data submitted by the managing authorities of member states. In line with the government decrees, managing authorities apply and take into account all functions of ARACHNE over the course of the built-in audit to prevent fraud, conflicts of interest, double funding, and other irregularities.<sup>2</sup> Besides, the introductory thoughts of the Arachne Charter show that the commission services aspire to aid the work of authorities managing European structural and investment funds through the provision of ARACHNE. This is because, by using this tool, the referenced bodies can filter through the most risky projects, contracts, businesses and beneficiaries, which is essential to efficiently and effectively conduct administrative audits by managing authorities in accordance with point c) of section (4) of Article 125 of Regulation (EU) No 1303/2013 laying down common provisions<sup>3</sup> ('Regulation laying down common provisions').

It is important to mention the history of the domestic regulations of ARACHNE to understand and examine the changes that took place in 2023, which fall within the scope of this analysis. The table titled 'Data to be submitted in the Arachne Risk Scoring Tool', which constitutes Annex no. 7 of Government Decree no. 272/2014 (5 November), was incorporated in the legislation in September 2022. This table

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<sup>2</sup> Point 22. e) of section 20 of Government Decree no. 272/2014 (5 November) and section 19(2)c) of Government Decree no. 256/2021 (18 May)

<sup>3</sup> 'Managing authorities employ effective and proportionate measures against fraud in the financial management and control of the operational programme, while taking into account the identified risks.'

includes general information, data concerning contractor contracts reaching community value thresholds, information about legal persons (data pertaining to beneficiaries, consortium members, contractors with contracts reaching community value thresholds), funding details, along with data concerning grant applicants and projects. In this context, the minister with responsibility for the use of European Union funds have been assigned the task of submitting the data outlined in Annex no. 7 in ARACHNE on a bi-weekly basis and providing access to ARACHNE for the staff members of the audit authority of the institutional system for development policy, the managing authority, the intermediate body, and the organisation implementing the fund of funds.

The table titled 'Data to be submitted in the Arachne Risk Scoring Tool', which constitutes Annex no. 4 to Government Decree no. 256/2021 (18 May), was also incorporated in the legislation on 1 January 2023. Beyond the aforelisted information, this table includes data related to subcontractors with contracts reaching EUR 50,000 and beneficial owners (for contractors, contracts meeting community value thresholds). Similarly, in this context, it can be noted that the minister with responsibility for the use of European Union funds have been assigned the task of submitting the data outlined in Annex no. 4 in ARACHNE on a bi-weekly basis and providing access to ARACHNE for the staff members of the audit authority of the institutional system for development policy and the managing authority.

As an additional similarity in comparison to the previous government decree, the managing authority must also take into account the functions of ARACHNE, in accordance with point c) of section 19(2), while undertaking its duties to prevent fraud, conflicts of interest, double funding, and other irregularities.

In January 2023, the data in the referenced annex to Government Decree no. 272/2014 (5 November) were complemented with additional contract information concerning contractors' contracts. This included information confirming the modification of contracts, the amount and number of contract amendments, and the number of suppliers, consortium partners and valid tenders. In addition, funding data were also expanded to include the type of costs and settlement date of invoices. In the same period, the specification of the referenced annex to Government Decree no. 256/2021 (18 May) was also complemented, in accordance with the amendments to Government Decree no. 272/2014 (5 November).

With regard to the expanded provision of data implemented for contract information, the Authority's evaluation shows that all of these incentivise the successful uncovering of risks, possible fraud, and other irregularities.



However, the Authority maintains that a contract's amendment does not signify a true acknowledgment of risk unless the number, subject of the contract amendments, along with their justifications, are accessed and therefore examined. A similar train of thought can be formulated regarding the number of valid tenders, as examining their amounts, dates and subjects can also provide essential complementary information. In the course of performing the analytical tasks, this examination may also be connected to the type of the cost included in the funding data.

However, it is evident that extracting the listed additional information from the available databases is a complicated assignment, as the rationale behind the contract amendments, along with the amounts, dates and subjects of the tenders, can in many cases be accessed in the free text contents provided (in the case of contract amendments) and documents uploaded by the grant applicant and the beneficiary (in the case of tenders).

#### Directorate for Internal Audit and Integrity (DIAI)

As an important background aspect of the Authority's 2023 report, the newly formed DIAI, along with the duties and responsibilities of the organisation, were specified in Government Decree no. 272/2014 (5 November) in autumn 2022, positioning it as a new auditor of the institutional system for development policy. In accordance with section 24/C, the DIAI is responsible for carrying out the sampling of conflict-of-interest declarations and declarations of interest, investigating notifications aimed at determining conflicts of interest, and identifying potential instances of conflict of interest, wherein it carries out risk assessments, bolsters awareness amongst the actors of the institutional system for development policy about avoiding conflict of interest situations, and cooperates with agencies engaged in criminal proceedings. Simultaneously, the DIAI was integrated into the framework of Government Decree no. 256/2021 (18 May) in the autumn of 2022, serving as a new audit body with tasks that were specified similarly to the previous legislation (section 31/A).

In the spring of 2023, the government decrees were complemented and expanded concerning the remit of the DIAI. On 15 April 2023, in accordance with section 24/D of Government Decree no. 272/2014 (5 November), the DIAI assumed the responsibility, previously held by the minister with responsibility for the use of European Union funds, of evaluating, as part of its review functions, the objections submitted against decisions made by the managing authority, the organisation implementing the fund of funds, or the Local Action Group (LAG) in cases of financial intermediary and community-led local development, along with applications for review submitted in irregularity procedures against decisions made by the

managing authority or the organisation implementing the fund of funds, and applications for review submitted against non-supportive closing procurement certificates issued by the minister with responsibility for public procurement. The scope of this evaluation does not cover the Rural Development Programme and the Hungarian Fisheries Operational Programme.

In the course of carrying out the listed activities, the DIAI ensures the uniformity of decisions made in the evaluation of applications for review and objections against irregularity decisions formulated for the proper use of development funds. Furthermore, Government Decree no. 256/2021 (18 May) was also complemented with the DIAI's new review functions in the spring of 2023: in line with section 31/B, the DIAI assumes the duty of evaluating the objections and applications for review as part of its review functions, a task that was previously performed by the minister with responsibility for the use of European Union funds, while ensuring the uniformity of these decisions.

Therefore, because of the presented expansion of its remit, the DIAI now holds responsibility for performing tasks related to the applications for review submitted against the non-supportive certificates and reports issued as a result of reviews of EU-funded public procurement procedures conducted by the minister with responsibility for public procurement. Furthermore, because of this change, the Legal Division for Development Policy, now part of the DIAI's organisation, is tasked with preparing applications for review against irregularity decisions in development policy and the evaluation of development policy objections, including objections and applications for review against irregularity decisions to be rejected without a substantive investigation, grant decisions related to the EU Own Resource Fund, and objections to the use of appropriations for direct EU grants.

From an audit and control perspective, legal remedies for public procurement and irregularities, along with objection management, are significant areas of expertise that, according to the Authority's evaluation, can effectively continue operating as part of the DIAI, which is committed to the transparent and proper use of European Union funds and the fight against corruption.

The last amendment to Government Decree no. 272/2014 (5 November) in 2023 marks a further extension of the DIAI's duties, incorporating the body as of 1 January 2024, alongside the State Aid Monitoring Office, in liaising with the European Commission and the European Court of Auditors. In accordance with section 191(2), the DIAI receives notifications regarding audits planned by the European Commission and the European Court of Auditors, while also being authorised to participate in the opening and closing ceremonies of on-site audits. Furthermore,

in line with section 191(3), the DIAI also carries out a preliminary assessment of the response to be issued on the draft reports of the European Commission and the European Court of Auditors, as well as the position of member states formulated on the basis of related verbal consultations.

The significance of the DIAI in overseeing the use of grants may increase further because of its rights to receive notifications of and participate in the aforementioned audits, as well as its authority to carry out preliminary assessments.

In this context, the year 2023 saw the DIAI mentioned in several aspects under the subtitle 'External audit by non-domestic audit bodies' found in chapter 'XVI. Coordinating audits' of Government Decree no. 272/2014 (5 November). For example, the letter of notification, the draft report, the report, and other documents sent by the external audit body, are forwarded to the DIAI. It is necessary to invite the DIAI to the opening and closing consultations related to on-site audits as well. In addition, the DIAI also delegates a member to the audit task force of member states.

Finally, OLAF shall send a confidential letter of notification concerning the initiation of an investigation to the head of the unit responsible for coordinating audits, as specified by the government decree under subtitle 'OLAF investigation' in chapter 'XVI. Coordinating audits'. The head of this unit shall then promptly inform the head of the managing authority subject to the OLAF investigation, as well as the DIAI, through electronic means regarding the receipt of this notification.

With a perspective on coordination, the DIAI has been granted rights to notifications and participation in external audits conducted by non-domestic bodies and OLAF investigations, thereby amplifying the organisation's influence.

#### Rules regarding on-site audits

In December 2020, the 'Procedural rules of on-site audits' within chapter XI, titled 'On-site audits', of the Standardised Cooperation Manual, which constitutes Annex no. 1 to Government Decree no. 272/2014 (5 November), was added a new provision which allows for the execution of on-site audits using an electronic application, provided that the beneficiary's documented consent is obtained and the technical requirements are met. The same subclause lays down that any photograph or video footage produced by the beneficiary at the planned location of the on-site audit, which undoubtedly corroborates the fact to be verified, may be accepted as on-site audit.

Regarding the new form of on-site audits presented above, the following modifications can be highlighted in relation to Government Decree no. 272/2014 (5 November) for the year 2023. In line with the subtitle 'Procedural rules of on-site audits', on-site audits may also be carried out through an electronic application, within the confines of remote audits, provided that the beneficiary's documented consent is obtained and the technical requirements are met. The provision which mandated that the managing authority provide the plan and its underlying risk analysis to the minister with responsibility for public finance by 15 November has been removed from the subtitle 'Planning on-site audits'. Another provision under the referenced subtitle, which mandated that the modifications to the annual on-site audits be submitted to the minister with responsibility for public finance, has also been removed.

In the context of the Subtitle "Conducting on-site audits", on-site auditors take minutes during on-site audits at the site, or use an electronic application for this purpose at their workstations when conducting remote audits, which serves as an addition to remote audits. With regard to the authentication of minutes, the same subtitle establishes, taking remote audits into consideration, that on-site auditors and the auditee's authorised representative may also authenticate the minutes by utilising the Identification Based Document Authentication service, provided that the technical requirements are met.

In accordance with Government Decree no. 272/2014 (5 November), the term 'remote audit' (section 444) was incorporated into Government Decree no. 256/2021 (18 May) as well. Regarding this term, the referenced government decree also stipulates that on-site auditors and the auditee's authorised representative may also authenticate the minutes through electronic means [section 460(2)].

In addition, Government Decree no. 256/2021 (18 May) stipulates that on-site auditors are required to make a declaration of confidentiality and a conflict-of-interest declaration prior to the commencement of an on-site audit [section 452(3)]. Furthermore, in line with section 453/A, observers who possess a letter of appointment issued by the managing authority may also participate in on-site audits. These observers are also required to make a confidentiality and conflict-of-interest declaration prior to the commencement of an on-site audit.

Complementing the rules concerning on-site audits: the Authority views the appearance of the term 'remote audits' in government decrees favourably. The Authority maintains that enshrining this concept in legal frameworks could further facilitate the broader adoption of remote audits. Basically, the integration of today's technological developments into audit systems is recognised with appreciation,

and the Authority also believes that there are instances, beyond the pandemic-related circumstances, where on-site audits can be carried out efficiently and effectively even remotely by meeting the appropriate technological requirements.

The Authority also wishes to draw the attention of the involved organisations and audit participants to the associated risks. If the resolution of an image or video footage is unsatisfactory, the image or video footage may be inadequate to assess the status or progress of the project. Using images or video footage may serve as a fertile ground for abuse because of their manipulability and controllability. The Authority argues that the physical presence of on-site auditors, which enables them to identify irregularities by observing the environment and circumstances, cannot be entirely replaced by remote audits.

In summarising the Authority's position, images and video recordings captured during a remote audit serve as a useful and effective means for conducting audits if they 'undoubtedly corroborate the fact to be verified'.

### **2.2.3. Main changes to the regional development grant in the year 2023**

The period spanning 2014 to 2020, along with the transitional years of 2021 and 2022 for the Rural Development Programme ('RDP'), saw the regulations for the RDP, together with other operational programmes, outlined in Government Decree no. 272/2014 (5 November). After this period, however, the incorporation of the Common Agricultural Policy ('CAP') and agricultural subsidies from the national budget into Government Decree no. 601/2022 (28 December) on the organisation and institutions of the implementation of the Common Agricultural Policy and agricultural subsidies provided from the national budget ['Government Decree no. 601/2022 (28 December)'] and Act LXV of 2022 on the Procedure for Agricultural Subsidies Provided by the Common Agricultural Policy and the National Budget ('CAP Act') is to be recognised as a significant change. The CAP Strategic Plan, which covers both the European Agricultural Fund for Rural Development ("EAFRD") and the European Agricultural Guarantee Fund ("EAGF"), was also introduced. Furthermore, a national authority was appointed to administer both Funds, while the Hungarian State Treasury is the sole accredited institution responsible for handling payments. It is important to note that the CAP Strategic Plan incorporates not only regional development grants, but also direct payments and certain market measures.

A review of the legal regulations listed earlier has been carried by the Authority, with the main amendments to Government Decree no. 601/2022 (28 December) presented below, focusing on the investigation period of the report. Effective from April 2023, the minister with responsibility for agricultural policy is authorised, as per

points f) and g) of section 2(1), to order and conduct targeted investigations and to compile assessment analyses and reports, operating within their remit as the competent authority under section 12(2) of the CAP Act. Moreover, in order to carry out these targeted investigations, they may require that the National Paying Agency ('NPA') provide information from its data that are necessary for any of the registered targeted investigations, while specifying the data management objective and the data category. Furthermore, they are also authorised to request anonymised data essential for compiling the assessment analyses and reports referenced earlier, provided that such requests do not impede the NPA in discharging their fundamental functions.

Pursuant to the modifications implemented in the second semester of 2023, section 2(3) of the government decree was complemented by the addition of points k), l), and m), whereby the minister with responsibility for agricultural policy determines the tasks necessary for preventing, identifying, and reporting fraud, the repaying and sanctioning of unauthorised payments, as well as develops the related procedure and methodology, while also bolstering anti-fraud awareness and engaging in cooperation with the involved institutions to efficiently and effectively prevent, uncover and sanction fraud.

As part of its remit, the National Managing Authority ('NMA') is tasked, pursuant to the complementation of point 17 in section 3 of the legislation, with filing complaints and making criminal notifications that pertain to the necessary criminal proceedings concerning the measures in the CAP Strategic Plan, while being required to inform the DAI of such complaints and criminal notifications, and of any request it receives in connection with the criminal proceedings, within a fifteen-day window. Moreover, section 3 was elaborated with additional points (20, 21, 22) the essence of which is that the NMA, in cooperation with the NPA, develops and regularly reviews the methodology concerning the application of ARACHNE and the use of its results, utilises the electronic platform of the palyazat.gov.hu website, which enables the submission of conflict of interest<sup>4</sup> and public interest reports,<sup>5</sup> and determines, within the framework of legislation or calls for tenders, the data categories to be submitted in ARACHNE, contingent upon the nature of agricultural subsidies described in points a) and b) in section 1 of the government decree.

In accordance with section 5(3a) of the government decree, the employees of the organisation outlined in section 12 of the CAP Act shall make a general conflict-of-interest declaration and a declaration of interest containing data outlined under

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<sup>4</sup> palyazat.gov.hu/osszefehetetlenseg

<sup>5</sup> www.anti-lop.hu

point 6.3. of Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (2021/C 121/01) either concurrently with the establishment of employment relationship or prior to commencing such activity. Then, prior to commencing substantial procedural activities, they shall make a conflict-of-interest declaration regarding the application under review.

Pursuant to section 5/A of the legislation, the DIAI is responsible for carrying out – in accordance with the aspects discussed earlier concerning Government Decree no. 272/2014 (5 November) and Government Decree no. 256/2021 (18 May) – the sampling of conflict-of-interest declarations and declarations of interest, investigating notifications regarding conflicts of interest, and identifying potential instances of conflict of interest, wherein it carries out risk assessments, reports annually to the Integrity Authority on its activities, and cooperates with agencies engaged in criminal proceedings, in respect of the CAP Funds described in points a) and b) of section 11(1) of the CAP Act. In relation to Government Decree no. 601/2022 (28 December), the conflict of interest regulations implemented by the DIAI, which were integrated into the government decrees for the two programming periods in the autumn of 2022, are also reflected in the current legislation under review [subsections (5) and (9) of section 5, as well as sections 5/A, 5/B, and 5/C].

#### **2.2.4. Changes in the organisations of the institutional system for development policy**

With the establishment of the MPARD, the fourth quarter of 2023 witnessed the removal of deputy state secretariats with competence in operational programmes from the organisational structure of the Prime Minister's Office and their integration into the MPARD, indicating a significant shift regarding both Government Decree no. 272/2014 (5 November) and Government Decree no. 256/2021 (18 May). The wording of the legislation and the formation of the new structure took place in December 2023, with an effective date of 1 January 2024.

Accordingly, Annex no. 3 to the government decree of the earlier programming period underwent a change whereby, in relation to the 12 programmes, the operational programmes under the supervision of the Minister for Regional Development (Human Resource Development Operational Programme – HRD OP, Economic Development and Innovation Operational Programme – GINOP, Integrated Transport Development Operational Programme – ITOP, Environmental and Energy Efficiency Operational Programme – KEHOP, Operational Programme for Supporting Socially Disadvantaged Persons – RSZTOP, Territorial and Settlement Development Operational Programme – TOP, Competitive Central-Hungary

Operational Programme – VEKOP, European Union Solidarity Fund) would continue to operate under the same person, who is now acting as the Minister for Public Administration and Regional Development as part of the new ministry, starting on 1 January 2024. The areas of specialisation listed under the Cabinet Office of the Prime Minister and the Ministry of Agriculture (the Public Administration and Civil Service Development Operational Programme – KÖFOP, the Hungarian Fisheries Operational Programme – MAHOP, and the Rural Development Programme – RDP) were left unchanged.

With regard to the government decree for the new programming period, the operational programmes, out of a total of 13, managed by the Minister for Regional Development (HRD OP Plus, ITOP Plus, GINOP Plus, Implementation Operational Programme Plus – IOP Plus, TOP Plus, KEHOP Plus, European Union Solidarity Fund) were likewise the ones that were reassigned to the Minister for Public Administration and Regional Development on 1 January 2024. The organisational structure of the areas of specialisation managed by the Cabinet Office of the Prime Minister, the Ministry of Agriculture, and the Ministry of Interior (Digital Renewal Operational Programme Plus – DROP Plus, MAHOP Plus, as well as the Asylum, Migration and Integration Fund Plus, the Border Management and Visa Instrument Plus, and the Internal Security Fund Plus) continues to operate unchanged in accordance with Government Decree no. 272/2014 (5 November).

### **2.3. Planning, policy assessment, pre-qualification, and pre-evaluation within operational programmes**

Besides the central state administrative bodies responsible for the operational programmes discussed above, the planning (policy assessment) phase and the pre-qualification (a type of pre-evaluation) phase, which occurs within a defined scheme for particular projects, play an important role in relation to calls for tenders drafted within particular programmes. The Authority maintains that the planning and pre-qualification activities mentioned earlier hold similar significance within the domestic allocation system for European Union funds as the decision preparation, contract management, funding, auditing, irregularity, and maintenance modules. Furthermore, it is evident that the obligation to make a conflict-of-interest declaration and the need to investigate conflict of interest situations (may) arise in the context of activities related to decision preparation, contract management, funding, auditing, irregularities, and maintenance in respect of individuals involved in activities related to the utilisation of funds, since grant applicant(s) targeting a development purpose designated in a specific



operational programme and other economic operator(s) who maintain(s) contact with them and are relevant to specific projects (may) appear in this period.

In relation to the planning activity, it can be said that both Government Decree no. 272/2014 (5 November)<sup>6</sup> and Government Decree no. 256/2021 (18 May)<sup>7</sup> regulate in detail the preparation, adoption, publication, modification, suspension, and conclusion of the planning document titled 'annual development framework' ('ADF'), as well as call(s) for tenders found in programme(s) outlined in the ADF.

Section 18(1) under Title 10, 'Responsibilities of the policy manager', within Chapter II, titled 'Institutional system', of Government Decree no. 272/2014 (5 November), outlines the policy manager's responsibilities, which are carried out to enforce policy aspects during programme planning. In the course of the ADF's development, noteworthy responsibilities amongst these include formulating the professional concept for calls for tenders and preparing the underlying professional concept of the ADF, falling under the responsibilities of the managing authority, which is to be submitted to the same authority, as well as defining the professional content for calls for tenders to be published. Section 26(1) under Title 12, 'Responsibilities of the policy manager', within Chapter II, titled 'Institutional system for development policy', of Government Decree no. 256/2021 (18 May), details the above planning responsibilities in a similar fashion.

Moreover, section 18/A(1) under Title 10/A, 'Responsibilities of the scheme manager', within Chapter II, titled 'Institutional system', of Government Decree no. 272/2014 (5 November), specifies the responsibilities carried out by the scheme manager for the enforcement of policy aspects in the context of formulating calls for tenders for programmes. In the course of the ADF's development, these responsibilities include contributing to the formulation of the professional concept for calls for tenders and the preparation of the underlying professional concept of the ADF, falling under the responsibilities of the managing authority, which is to be submitted to the same authority, as well as defining the professional content for calls for tenders to be published. The planning responsibilities referenced in section 28(1) under Title 13, 'Responsibilities of the scheme manager', within Chapter II, titled 'Institutional system for development policy', of Government Decree no. 256/2021 (18 May), are also present.

After studying the referenced legislative environment, it can be established that the institutional system for development policy also includes thematically specific policy actors that, although neither Annexes 2 and 2/A to Government Decree no.

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<sup>6</sup> Sections 41-53/A

<sup>7</sup> Sections 70-94

272/2014 (5 November) nor Annex 2 and 3 to Government Decree no. 256/2021 (18 May) specify, contribute to the development of sectoral and intersectoral development concepts and programmes involving European Union funds according to sectoral laws related to their terms of reference.

With regard to the aforementioned pre-qualification, it is important to emphasise that the government decrees concerning programming periods are familiar with the term only in the context of auditing public procurement procedures. At the same time, however, there is a pre-qualification activity outside the scope of the above legal regulations, which represents a turning point in the life of projects before the submission of grant applications. Consequently, the positive result of the pre-qualification provides the option to submit grant applications for several schemes and enables the managing authority to carry out a substantial assessment. The rules concerning pre-qualification are predominantly laid down in the relevant call(s) for the reasons discussed above.

Within the context of the project evaluation procedure, the appropriate organisation evaluates the designated project to determine if its activities conform to the technicalities specified in the call for tenders. Amongst the supporting documents submitted as a result of the managing authority's decision-preparation activity, the organisation then examines the professional position described by the pre-qualifying organisation, taking into account the outcome of the examination in the decision on the fulfilment of eligibility criteria.

With regard to mapping out the actors of the institutional system for development policy, extending beyond government decrees, it can be established, considering the previously discussed points, that there are actors within the institutional system for development policy, involved in pre-qualification, that can have a significant influence on the fate of tenders by carrying out their preparatory tasks leading up to decision preparation. In view of the points discussed earlier, the Authority recommends that these organisations also be mandated to make a conflict-of-interest declaration and to address conflicting situations in the event of a conflict of interest, taking into account the rules outlined in government decrees.

#### **2.4. Summary of findings and recommendations from closed investigations**

As part of its functions and powers specified in the Integrity Authority Act, the Authority conducts investigation procedures to identify circumstances or risks that adversely affect, or may adversely affect, the implementation of EU financial support.

The Authority conducts evaluations of the information gathered during its investigation procedures by issuing reports in which it may call upon the organisations concerned to implement proposals for action and may formulate ad hoc recommendations, typically for the organisations involved in the investigated programme, designated to perform managing authority tasks. Organisations that have been called upon are required to inform the Authority about the implementation of proposals for action or their disagreement with the proposals – although this latter decision must be supported with justification. Should the Authority consider inappropriate the implementation of its proposals for action, it may turn to the competent authority or court. Up until 31 December 2023, the Authority formulated a total of 19 unique measures, which were issued to 23 addressees, along with 12 recommendations and 3 proposals over the course of the 5 investigations it concluded.

In accordance with point f) of section 11 of the Integrity Authority Act, the Authority's annual analytical integrity report also evaluates how bodies that have functions and powers relating to the control of the use of European Union funds have taken earlier reports and recommendations into account.

While formulating recommendations and proposals for action, the Authority takes into account the shortcomings and weaknesses relevant to the individual case, which were uncovered during the underlying investigation procedures, and applies them to systemic processes, thereby providing guidance in a broader sense to promote the effective and appropriate use of EU budgetary resources, given that it is comprehensible in such format.

During its investigation procedures, the Authority initiated unique proceedings with the bodies concerned, typically with the managing authority of the operational programme in question, drawing conclusions from the findings. As part of these initiatives, suspicions of irregularities, procedural errors, and suspicious circumstances identified by the Authority are specified, while the Authority defines which measures it deems warranted to implement in this regard.

Therefore, in the context of these proceedings, the Authority initiates targeted measures that fall within the scope of authority of the approached organisations, with the expectation of receiving concrete and definitive answers. For the approached institution to be able to make a well-founded decision regarding the execution of proceedings that have been initiated, the Authority may provide access to its detailed investigation report and evidence it has acquired. The specific recommendations and proposals for action typically pertain to the initiation of irregularity procedures, the review of specific components within the relevant

project, and the provision of information on the actions planned by the contacted organisation concerning the project.

The Authority examines its recommendations and proposals for action concerning individual cases to ascertain the cause of the suspicions and procedural deficiencies that have been identified. If the deviation or procedural error stems from the incorrect or incomplete application of an existing environment that regulates processes adeptly, the Authority's proposal does not extend beyond the level of an individual case.

If the reason for an uncovered case lies within the weakness of the regulatory environment, the Authority makes a recommendation regarding the development of a system that is more effective in controlling the use of European Union financial resources, along with the selection and proper execution of projects. In the case of a systemic recommendation, the Authority provides guidance to the contacted organisation on a different approach to the procedure and control environment to be developed, or to the existing regulations, and formulates the objective to be achieved by implementing the recommendation.

The Authority sets a deadline for the implementation of the recommendation, proportionate to the complexity of the process to be developed. Upon agreeing with the recommendation, the approached organisation must develop its own operational arrangements, incorporate them into its existing procedures, and report the outcome – or, in the case of ongoing implementation, the partial outcome – to the Authority.

The main types of the recommendations and proposals for action from the Integrity Authority's 2023 report are summarised in the following table:

| <b>Recommendations and main types of proposals for action by the Integrity Authority</b> |  |
|--|--|
| <b>Individual cases</b>  | <b>Systemic cases</b>                                  |
| Initiating irregularity procedures   | Forming procedures / complementing existing procedures |
| Obligation to report on specified processes  | Proper application of existing control environments    |
| Requesting information on the progress of projects                                       | Proposal for legislative amendment                     |
| Considering withdrawing from grant contracts   | Amendment proposals for calls for proposals            |
| Initiating proceedings with competent organisations concerning identified suspicions     |  |

11: Main types of recommendations and proposals for action by the Integrity Authority

The organisation to which the recommendations pertain is, for the most part, the organisation that is appointed to carry out the managing authority tasks of the programme under investigation. If other illegalities surface in connection with an uncovered suspicion, the Authority will initiate proceedings with the competent body, provided that the circumstances it has uncovered necessitate the initiation of such proceedings. Furthermore, the Authority may formulate recommendations for the beneficiary as well.

The Authority provided in all cases its recommendations and proposals for action from 2023 to the organisations concerned. If the recipient confirmed an absence of authority in relation to the recommendation or proposal for action, they took steps to ensure its transmission, thus supporting their enforcement.

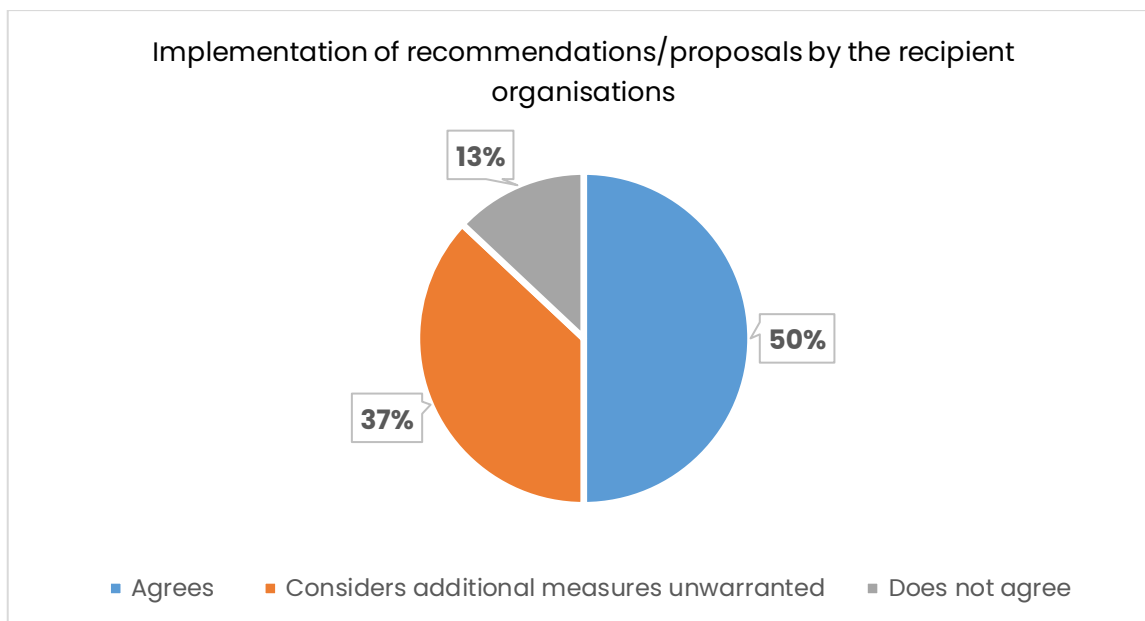
Following the conclusion of the investigations, the Authority actively follows up on its recommendations, proposals and measures. Depending on the deadlines set by the Authority, it carries out continued monitoring while reminding the parties concerned of the expiry of the deadline if it becomes necessary. The responses to

the recommendations, proposals and measures are in all cases processed and integrated into future workflows.

The organisations concerned largely failed to comply with their obligations pertaining to the Authority's recommendations and proposals for action, which required them to provide responses and, where the Authority requested continued supply of information, regularly present information within the deadline specified by the Authority. They complied with such obligation in the case of three out of the five closed investigations only after repeated requests from the Authority.

The Authority observed varying practices in the implementation of its recommendations and proposals for action. The recipient organisations evaluated what was put forth by the Authority and made decisions regarding their implementation within their own sphere of authority. In several cases, the recipient organisations did not agree with the Authority's recommendations and proposals for action. Although they articulated a justification for this decision, the reasons brought forward contradict or have ignored the findings outlined in the Authority's reports in many cases.

The Authority asserts that refusing to implement recommendations for improvement in this manner, without taking into account the findings from the reports, is inconsistent with the objective of achieving an efficient and correct use of EU funds. The Authority bases its recommendations and proposals for action only on the evidence it has examined, thereby drawing the conclusions on the basis of which recommendations are made. In light of these factors, the Authority asserts that it is not a sound practice for recipient organisations to refuse the implementation of the recommendations, as this action is unwarranted, considering that the findings in the reports derive from a type of dysfunctionality in the system responsible for monitoring the use of funds, which must be corrected.



The Authority will continue to promote the effective, correct and efficient use of European Union funds by formulating recommendations and proposals for action. For the recipient organisations to efficiently acquaint themselves with the justification and necessity of these recommendations, along with their implementation, the Authority will provide further assistance and guidance, as well as examine the possibility of introducing new methodologies, such as presenting the recommendations prior to the conclusion of reports and creating forums for dialogue.

In this context, it is worth mentioning that, based on the investigative experience acquired and the analytical activities carried out in 2023, the Authority has formulated general recommendations for the managing authorities, aimed at bolstering the efficiency and effectiveness of their activities specified in relation to future incoming European Union funds. These recommendations were delivered to the heads of the managing authorities conducting the control of various programmes in early February 2024, outside the context of a report, which led to dialogues between the Authority and the organisations concerned.

## 2.5. **Current status of recommendations concerning audit systems in the 2022 report**

Out of approximately 11 proposals concerning audit systems, the Government's response to and position on the 2022 report indicate agreement with 3, partial agreement with an additional 3, and disagreement with 5.

Amongst the proposals in the 2022 report concerning the audit systems and the practice of the institutional system for auditing the use of European Union funds, the Government mostly supported procedural proposals, such as the greater involvement of independent external experts in audits and the extension of the scope of data to be published on irregularity procedures.

The Authority evaluated the Government's response and position individually before sending a summary of its stance in a response to the Minister for Regional Development on 5 December 2023. In its letter of reply, the Authority first of all acknowledged that its proposals had been evaluated by the institutional system, while also drawing attention to the importance of those proposals that had not or had only been partially agreed upon. In this letter, the Authority stressed the need to prioritise systemic changes and a risk-based methodology.

In its 2022 report, the Authority formulated a recommendation regarding audit trails, while Annex no. 3 to the report included the Authority's individual findings regarding audit trails according to the audit area and the related finding.

In relation to the findings regarding audit trails, the Regulatory Division of the MPARD for Development Policy contacted the Authority, seeking cooperation to discuss and understand the findings. Discussions were held between the Authority and the Regulatory Division of the MPARD for Development Policy, after which the Authority also handed over the analyses supporting the findings, which were prepared for each operational programme.

Accordingly, the Authority maintains that the recommendations in the 2022 report regarding audit systems are relevant to the year 2023 as well. Because of the time variation also discussed above, the recommendations formulated for the year 2022 may impact the year 2024, a phenomenon that the Authority will be able to analyse in its annual analytical integrity report due next year.

## **2.6. Examining internal regulations relating to conflict-of-interest declarations made by beneficiaries, contractors and subcontractors**

With regard to the preparation of its Annual Analytical Integrity Report, the Authority has contacted the DIAI with a request to collect and provide the Authority with the regulations on the management of (beneficiary) conflict-of-interest declarations used by managing authorities and intermediate bodies from 2023, along with the methodologies and internal procedures developed by managing authorities and intermediate bodies for the verification of contractor independence in relation to



any operational programme within the Authority's scope, to facilitate the effective performance of its analytical tasks.

In respect of the regulations regarding the management of conflict-of-interest declarations by beneficiaries, the DIAI has provided the Authority with a note, prepared by the deputy state secretary of GINOP MA on 20 December 2022, which regulates the management of conflict-of-interest declarations. Within the scope of this issue, a notification from the Regulatory Division of the MPARD for Development Policy, whereby central models were complemented by the addition of conflict-of-interest declarations, has been sent. Therefore, conflict-of-interest declarations are part of project data sheets and payment claims, which means they are not standalone documents.

By contrast, contractor and subcontractor declarations are available as standalone documents, both in Hungarian and English, at [palyazat.gov.hu](http://palyazat.gov.hu). These documents must be sent to the managing authority when submitting the relevant contractor invoice during its settlement (taking into account point 6.8 of Annex no. 4 to Government Decree no. 272/2014 (5 November) in respect of the previous programming period, and point 6.8 of Chapter II of the Accounting Instructions available at <https://www.palyazat.gov.hu/programok/szechenyi-terv-plusz#kapcsolodo-dokumentumok> in the context of the new programming period). As stipulated, the managing authority is required to verify the availability and content of contractor and subcontractor declarations in accordance with point 7/A of Annex no. 6 to Government Decree no. 272/2014 (5 November) and point 7/A of Chapter III of the Accounting Instructions.

With regard to verifying contractors' independence, the Regulatory Division of the MPARD for Development Policy responded – via the DIAI's data provision – by providing general information regarding the methodologies and internal procedures issued by managing authorities and intermediate bodies. Based on this response, the provisions governing contractors' independence are set out in points 2.3.2.5 and 2.3.2.5b of Annex no. 5 to Government Decree no. 272/2014 (5 November) and points 2.3.2.4 and 2.3.2.8 of the Accounting Instructions.

Moreover, the DIAI also sent, along with the related guide, Vice-Presidential Directive no. 42/2023, titled 'For conducting audits regarding quotes during the administrative audit of applications submitted within the Rural Development Programme', which was forwarded by the Ministry of Agriculture and is available in the context of MAHOP, MAHOP Plus, the RDP, and CAP SP.

As part of the data provision presented above, which lacks comprehensiveness in respect of the operational programmes that the Authority intends to review, the

Authority will now analyse and evaluate the note from the deputy state secretary of GINOP MA, along with Vice-Presidential Directive no. 42/2023, from the documents made available. The Authority argues that the latter document and the related guide do not have concrete references to extensive application in the case of MAHOP, MAHOP Plus and CAP SP, prompting the Authority to recommend integrating the listed areas of specialisation into the Vice-Presidential Directive and its annex.

### **2.6.1. Note by the Deputy State Secretariat of the MPARD with Responsibility for the Implementation of Economic Development Operational Programmes regarding conflict-of-interest declarations – managing conflict-of-interest declarations**

As the first step of the new provisions regarding conflicts of interest, which were enacted in the two government decrees on 15 November 2022 at 11 p.m.<sup>8</sup>, the GINOP MA promptly sent out its request via e-Post to GINOP and GINOP Plus beneficiaries with valid grant relationships, asking for the submission of conflict-of-interest declarations, with a stipulated deadline of 5 days.

It is important to note that, since no transitional provisions were included in Government Decree no. 463/2022 (15 November) on the amendment of government decrees concerning development policy [‘Government Decree no. 463/2022 (15 November)’], the GINOP MA applies the amended provisions in the case of accounts, contract amendment requests, maintenance reports, and other procedures initiated by the beneficiary or the managing authority, which were received following the effective date, i.e. after 15 November 2022 at 11 p.m., in accordance with point b) of section 15(1) of the Legislation Act.

The Authority deems it necessary to mention that the timely and appropriate reaction of the GINOP MA to a legislative environment that is going through considerable changes prompted by the newly introduced conflict of interest rules underlines the managing authority from the specialised areas of the institutional system for development policy, while the fundamental principles outlined in the record could serve as a good example for other managing authorities in the future.

The note broadly states that, pursuant to the referenced legislation, the acting case worker of the managing authority is in all cases required to investigate ex officio the abstention of any person with a conflict of interest from any procedural action

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<sup>8</sup> effective date

carried out in a specific case, and that conflict of interest cases must in all cases be addressed promptly.

With regard to the GINOP MA document's principle presented above, which is to be applied generally, the Authority believes that stipulating this type of minimum requirement in internal procedures – or in a note in this case – may also be viewed as a key requirement to identifying and investigating conflict of interest situations. As another remark, this 'preamble' is destined to forge a connection and illustrate consistency with the conflict of interest rules introduced in 2022, which pertain to the government decrees regarding the use of European Union funds, highlighting amongst them section 39(3) of Government Decree no. 272/2014 (5 November) and section 50(1) of Government Decree no. 256/2021<sup>9</sup> (18 May).

### Beneficiary declaration

In relation to beneficiary declarations, the note prepared by the GINOP MA shows that any caseworker acting in current open processes – such as evaluating contract amendment requests, verifying accounts – is required to verify whether the beneficiary has fulfilled its obligation to submit a conflict-of-interest declaration, as required by law and set out in the form forwarded via e-Post. If this verification has previously or simultaneously been performed by another caseworker of a different field, the caseworker who discharges functions in relation to the process must also perform the referenced verification regardless of said previous or simultaneous verification.

In absence of a declaration from the beneficiary, the caseworker is required to call upon the beneficiary to provide missing documents. Unless this is adequately completed, the given process cannot be carried forward, which means their contract amendment requests and settlement of accounts cannot be approved. If the beneficiary declaration is available and does not indicate any conflicts of interest, the given procedure can be carried out as normal. If, however, based on the declaration, there is a conflict of interest, it is necessary to examine its cause, which the beneficiary is required to present in their declaration. Furthermore, the caseworker is required to document the verification of the conflict-of-interest declaration on the checklist used by the relevant area of expertise. The note also stipulates that where the checklists have not yet been updated in the System of European Union Programmes ('SEUP') regarding the new verification referred to

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<sup>9</sup> 'Any employee who observes that he or she has a conflict of interest in relation to a case or that there is a risk or appearance of a conflict of interest shall promptly notify his or her supervisor in writing. In the notification, the employee shall specify the cause of the conflict of interest and, if he or she cannot be expected to produce an unbiased evaluation of the case for any additional reasons, shall provide relevant justification.'

above, the relevant area of expertise is also required to ensure that the development relating to the supplementation of the checklist is requested.

If the caseworker unambiguously finds that the conflict of interest situation described by the beneficiary lacks substantiation/relevance based on data (SEUP) at their disposal, he or she will compile a note of the outcome of the investigation, which will be attached to the relevant project in the SEUP after receiving the head of department's signature. If the conflict of interest circumstance cannot be substantiated beyond a shadow of doubt by involving the acting caseworker, his or her head of department or, if needed, the Legal and Methodological Department, the relevant area of expertise is required to forward the declaration to the DIAI for further investigation. Until a substantive judgement on the existence of a conflict of interest is passed, no decision can be made in the relevant proceedings.

The Authority presumes that those involved in the verification are sufficiently acquainted with the issues mentioned above; nonetheless, it makes the following commentary on this segment of the note:

The note does not include sufficiently detailed internal procedural regulations for instances where the managing authority cannot unambiguously determine whether there is a conflict of interest, for example:

- If the caseworker does not know whether there is a conflict of interest, under what conditions and how does he or she send the question to the head of department.
- If the head of department likewise cannot unambiguously determine whether there is a conflict of interest, how does he or she initiate the involvement of the Legal and Methodological Department into the investigation.
- Subsequently, if the conflict of interest still cannot be determined beyond a shadow of doubt, in what way was the case referred to the DIAI.
- To conclude, what additional professional and time-related criteria exist beyond the expected requirements of reasonableness?

#### Contractors' conflict of interest declaration

With regard to contractors' conflict-of-interest declarations, the note created by the GINOP MA makes reference to the rules included in row 144b of Annex no. 4 to Government Decree no. 272/2014 (5 November) and point 6.8.1 of Chapter II<sup>10</sup> of the Accounting Instructions. These rules require that the contractor, alongside the beneficiary, must also declare any existing conflicts of interest. The submission of

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<sup>10</sup> Accounting Instructions for the 2021–2027 programming period ('Accounting Instructions')

the declaration and its verification by the managing authority are due at the time of assessing the settlement of the relevant cost element in both programming periods. It follows that it is not necessary to examine the contractor's conflict-of-interest declaration during the pre-decision examination and contract amendment review of the grant application, as well as the transfer of the advance payment.

When assessing the relevant account, the acting auditor is required to conduct an audit similar to the one previously outlined in relation to the beneficiary's declaration. In this regard, it is important to note that requiring the contractor involved in the relevant accounts to submit a conflict of interest declaration as part of a request for missing documents is necessary even if accounts had already been accepted in their case before the obligation to make a declaration entered into force. However, it should be stressed that this is not an ad hoc declaration obligation for the contractor, as by signing the declaration template, the contractor also assumes an immediate reporting obligation for the future. Therefore, in the event of a conflict of interest situation arising later, the contractor is still responsible for reporting it.

An important rule is that when a conflict of interest is confirmed, a decision to reject the accounting of the given cost is required. Furthermore, the previously accepted costs concerning the contractor in question must also be reviewed from a conflict of interest perspective. An additional note is that submitting or reviewing the above declaration is not necessary when the accounts are submitted on a cost summary report.

Based on the Authority's evaluation, the process of verifying the beneficiary declarations is detailed and regulated. Nonetheless, this part of the note does not detail whether the availability and contents of conflict-of-interest declarations are verified during an on-site audit in the case of accounts submitted in a summary (to be detailed, see also 6.1.4.)

#### *Subcontractors' conflict-of-interest declaration*

Similarly to the practice regarding contractors' conflict of interest declarations presented earlier, the submission of subcontractors' conflict of interest declarations is due at the time of assessing the settlement of the relevant cost element. The note created by the GINOP MA also makes reference to the relevant provisions: row 144c of Annex no. 4 to Government Decree no. 272/2014 (5 November) and point 6.8.2 of Chapter II of the Accounting Instructions. It must be stressed that if the subcontractor's involvement is evident from the available supporting documents during the assessment of the settlement, the procedure applicable to contractors' conflict of interest declarations should be followed for examining and

supplementing subcontractors' conflict of interest declarations. An additional detail is that if subcontractor involvement is established in the case of a project subject to public procurement, the governing rules are likewise the ones outlined above. If the submitted documents show that subcontractor involvement is absent, further investigation or request for a conflict-of-interest declaration is not necessary.

Based on the Authority's opinion, the latter provision can be expanded for clarity with an addition stating that in every procedural action, the existence of subcontractor involvement should be separately examined based on the available supporting documents, including the relevance of the obligation of subcontractors to submit a conflict-of-interest declaration. Once that has been established, we regard as relevant the rule which stipulates that if the available supporting documents indicate that subcontractor involvement is absent, further investigation or request for a conflict-of-interest declaration is not warranted.

#### Other rules regarding conflicts of interest

If a conflict of interest is confirmed, the managing authority is required firstly to review the procedural action in question in accordance with section 39(4i) of Government Decree no. 272/2014 (5 November) and section 52 of Government Decree no. 256/2021 (18 May), secondly to correct or repeat that procedural action in which the person with a conflict of interest has participated, or which has affected or may affect the merits of the case. Thirdly, other procedures outlined in the aforementioned legal regulations may also be launched. In addition, the head of the area of specialisation is required to ensure the appointment of another person in place of the employee with a conflict of interest in the case.

During the on-site audit, the acting auditor is required to verify the availability of the beneficiary's conflict-of-interest declaration at the latest during the preparatory activities for the on-site audit. If the declaration has not yet been submitted, the auditor is responsible for obtaining it during the preparation process. In the case of settlement on a cost summary report, the examination of the contractor's and subcontractor's conflict-of-interest declarations is carried out based on the on-site document verification methodology.

Based on the available information, the Authority considers that the on-site document verification methodology of the GINOP MA is sufficiently regulated and detailed. The recommendations and findings made by the Authority regarding on-site audits were outlined in the previous year's report.

In relation to financial instruments, the technical projects of the Hungarian Development Bank Ltd. (Magyar Fejlesztési Bank Zrt., MFB) and cost reimbursements

outside the tender scheme are carried out within the framework of institutional implementation. Therefore, the note prepared by the GINOP MA does not apply to these.

### **2.6.2. Directive of the Vice-President of the Hungarian State Treasury with responsibility for Agricultural and Rural Development Grants – reviewing the independence of bidders**

The signing of Vice Presidential Directive no. 42/2023, titled 'For conducting audits regarding bids during the administrative audit of applications submitted within the Rural Development Programme', of the Vice-President of the Hungarian State Treasury with responsibility for Agricultural and Rural Development Grants, took place on 6 December 2023. In this regard, a guide has also been approved, which was authorised by the Vice-President with responsibility for Agricultural and Rural Development Grants regarding the tasks of the paying agency, as well as by the Deputy State Secretary (the Head of the Managing Authority) with responsibility for the implementation of the Common Agricultural Policy concerning RDP managing authority tasks and delegated intermediate organisational tasks.

Within the RDP framework, the guide, serving as an annex, is a procedure containing procedural rules concerning verifications related to bids used to support the customary market price, in accordance with Vice Presidential Directive no. 42/2023. The document must be applied to the Hungarian State Treasury's Division for Rural Development Grants, as well as the Department for Agricultural and Rural Development of County Government Offices, which are organisations carrying out delegated tasks. The procedure stipulates, following the presentation of the legal background, the fundamental rules for submitting bids, as well as the examination of the content elements of the bids, (completeness, timeliness, comparability, uniqueness, and exclusivity), and the examination of the price realism within the examination process (usual market price, price realism/reasonableness). It also covers the verification of the bidders' activities, the examination of their independence, and the administrative tasks following and concluding the examination of the bidders.

In the following, considering the integrity analysis amongst the listed topics, which is in the focus of this report, the Authority seeks to analyse and evaluate – following the structure of the Vice Presidential Directive – the verification of bidders' independence from one another, the verification of independence between the client and the bidder, and that of the foreign bidder, as well as the examination of data provided by the client as part of examining the bidder's independence.

Based on the procedure, the bids must come from tenderers who are independent from one another and the beneficiary as well. It is important that the independence verification is carried out as part of the administrative review of any relevant grant application, amendment notification, and payment request. The guide presents three scenarios in which the tenderer is not considered to be independent:

- Firstly, if, in relation to the tenderer, the grant applicant, beneficiary, or their owner (their managing or supervisory body), a member of that body, or a person authorised to make statements on behalf of and represent the organisation, or a relative of these individuals under point 2 of section 8:1(1) of the Civil Code, exercises ownership, maintenance, asset management, managing, representation, employer, or appointment rights.
- Secondly, if the owner of the tenderer (their managing or supervisory body), a member of that body, or a person authorised to make statements on behalf of and represent the organisation, exercises ownership, maintenance, asset management, managing, representation, employer, or appointment rights in the beneficiary's or in the other tenderer's organisation.
- Thirdly, if the tenderer is considered a partner or affiliated company of the grant applicant, the beneficiary, or another tenderer.<sup>11</sup>

#### Verifying the independence of bidders from one another

The verification of bidders' independence from one another is based on the e-Company Register. In this database, it is necessary to compare the registered offices, sites, branches of companies, as well as the names, mothers' names, and addresses of members. Furthermore, the procedure recommends using Opten, where in addition to the certificate of incorporation, the social network is also available. Because the social network shows the affiliated companies in which owner(s) and authorised signatory(ies) of the tendering company hold additional executive or ownership positions. In relation to the referenced database, the interface allows for displaying not only the current status but also terminated companies and inactive contacts. Data about sole proprietors are sourced from the Register of Sole Proprietors.

According to the guide, if from the investigation it is confirmed that the registered offices, sites and branches match up, the grant applicant's attention must be drawn to the independence requirement as part of a request for missing documents. Moreover, it must be investigated whether the executives and owners featured amongst the registration data of tenderers show any identity. If any match is found, the applicant may also be asked to comply with the independence

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<sup>11</sup> Point 2.3.2.5 of Annex no. 5 to Government Decree no. 272/2014 (5 November)



requirement when submitting missing documents. It is also necessary to investigate, based on the available public data, any potential family relationships amongst the individuals appearing as executives and owners in the tenderers' data. If there is a suspicion of a familial relationship amongst the tenderers, it must also be clarified by providing additional information, and the applicant must be required to declare whether the suspected familial relationship exists.

When corroborating the independence, it is necessary to reference, in addition to the relevant provisions of the call, points 2.3.2.5 and 2.3.2.5b of Annex no. 5 to Government Decree no. 272/2014 (5 November) in the notice to provide missing documents. Point 2.3.2.5 states that the grant applicant and the beneficiary are required to assess the suitability of the tenderers to perform the contract. Point 2.3.2.5b includes the previously mentioned scenarios in which the tenderer cannot be considered independent.

It must be noted that the guide only refers to the relevant provisions of Government Decree no. 272/2014 (5 November) regarding the independence of the RDP bidders. Therefore, considering the new programming period, the requirements listed in sections 2.3.2.4 and 2.3.2.8 of the Accounting Instructions are not referenced.

#### Verifying the independence between the client and the bidder

In the<sup>12</sup> examination of the independence between the client and the bidder, the verification of possible ownership and management relationships is carried out by the managing authority through the analysis of data received from Microsec Zrt. In this regard, Vice Presidential Directive no. 42/2023 highlights and details two tables:

- In the table displaying ownership relations, after locating the client, the table must be filtered to show only the rows related to the client in order to display only the relevant data associated with them. Subsequently, it can be examined whether the tenderers appear in the specified columns of the table.
- After locating the client in the table displaying executives, the table must also be filtered here to display only the rows related to the client. Afterward, it is possible to verify whether the tenderers or their owners and executives, as identified through an investigation in the company register, appear in the table.

If a tenderer or their owner or executive appears in the rows corresponding to the relevant client in any of the Microsec tables, the bid cannot be accepted, as it is not

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<sup>12</sup> The term 'client' used in Vice Presidential Directive no. 42/2023 means the relevant grant applicant and/or beneficiary, based on the context of the text.

independent of the applicant. In this case, a new bid must be requested as part a request for missing documents.

Furthermore, when examining the independence of the tenderers, potential family relationships must also be taken into account. If the address or last name of the grant applicant matches, or if the latter is similar to, that of a natural person, owner or executive featured in the company registration data of the tendering company, and if the mother's name is identical amongst the birth data, a familial relationship may be presumed to exist between them.

If suspicions concerning familial relationships are raised, the grant applicant's attention must be drawn to the independence requirement regarding the submitted bids as part of a request for missing documents, and the client must be required to confirm or confute the existence of a familial relationship, in accordance with the provisions outlined in the verification of bidders' independence from one another.

The Authority considers it crucial to integrate the databases used by the managing authority, which display the presented ownership relations and executives, into the verification process of bidders' independence. In this regard, the Authority notes that a similar approach to listing and examining the grant applicant, along with the beneficiary partner or affiliated company, may be a potential avenue for further development. As the tenderer cannot be a partner or affiliated company to the grant applicant, beneficiary or another tenderer, based on point 2.3.2.5 of Annex no. 5 to Government Decree no. 272/2014 (5 November).

#### *Verifying the independence of foreign bidders*

According to the guide, the first step in verifying the independence of the client and the foreign tenderer must be carried out based on the social network available on the Opten online database platform. The social network shows the affiliated company(ies) in which the owner(s) and authorised signatory(ies) of the grant applicant/ beneficiary company hold additional executive or ownership positions. If the tendering company appears in the social network, the tenderer's independence cannot be determined. Therefore, the bid cannot be accepted, necessitating the submission of a new bid as part of a request for missing documents.

In addition, Vice Presidential Directive no. 42/2023 mentions the possibility provided by Article 68(4) of Regulation (EU) No. 1306/2013, which states that Member States mutually assist each other in carrying out the verifications required by the

regulation. This is because, under legal aid, it is possible to request information for the purpose of verifying the independence of foreign tenderers.

Furthermore, the managing authority's procedure stipulates that the independence of foreign tenderers, in respect of companies, is assessed based on documents certifying the ownership structure of the company, whereas for natural persons, it is based on documents certifying the ownership structure of the company(ies) within their sphere of interest. The assessment is carried out via sampling, through a 5% sample of the population subject to an administrative check. The sampling is carried out by the Treasury Department with Responsibility for the Call ('TDRC') in relation to applications automatically and manually selected for central review.

As part of the administrative review, if the project involves a bid submitted by a foreign tenderer (company or natural person), it is required to conduct a comprehensive check of the parts which are not affected by the foreign bid and conclude the administrative review.

During the administration of applications selected for central review, it is possible to request information, as ensured by the Paying Agency, through legal aid for the purpose of verifying the independence. At this point, the TDRC sends the relevant data of the project under investigation, including the item(s) related to the foreign bid, to the Coordination Department via email to initiate a request for foreign legal aid. Subsequently, the Coordination Department will request the contact details of the paying agency of the Member State relevant to the foreign bidder's jurisdiction from the Department for Accreditation and External Audit Coordination. Based on the available data, the Coordination Department will then prepare a letter in English regarding the request for foreign legal aid, which will be sent to the head of the relevant Member State's paying agency via email and simultaneously by post by the Head of the Division for Rural Development Grants ('DRDG').

According to the guide, the Coordination Department consolidates the data received from the paying agencies and is authorised to contact the relevant paying agency again if necessary. After the data provision process has been completed, the Coordination Department will send a notification about this to the TDRC via email, which will then inform the caseworker via email about the results of the data provision and the supporting documents.

It is important to note that if the data necessary for verifying the bidders' independence does not arrive through the foreign legal aid as outlined above, the caseworker must carry out data collection from online company information registers regarding the companies concerned. The outcome of the data provision must be attached to the Integrated Administration and Control System ('IACS'). If

the data received through foreign legal aid or from online company information registers reveal a conflict of interest amongst the tenderers or between the beneficiary and the foreign tenderer, the request will be returned to the caseworker for correction.

With regard to verifying the independence of foreign bidders, it can be observed that providing the option of foreign legal aid can be an effective method for detecting abuses and conflicts of interest that may arise concerning foreign bids. However, the Authority acknowledges that the guide's lack of specified procedural deadlines for this data provision represents a flaw. Consequently, compliance with the requirement for decision-making within a reasonable time frame can be considered uncertain, which is further supported by the fact that the presented legal aid process consists of several interdependent steps.

#### Examining data provided by the client

The examination is based on the data provided by the grant applicant/beneficiary on the electronic submission platform. The grant applicant is required to indicate whether they have affiliated or partner companies, as well as interests in other companies, on the 'I have interests in other companies' tab found on the 'Client data' panel. Detailed information about each of these interests can also be provided here.

One objective of the examination is to verify whether the bids submitted with the grant application were issued by the company listed under the 'I am interested in another company' tab. If any of the submitted bids are issued by a company registered in the above panel, the bid cannot be accepted, necessitating a new bid as part of a request for missing documents.

The Authority notes that examining the contents displayed on the electronic submission platform with a perspective on verification is essential, but evaluating them on their own is insufficient, as fraudulent and inaccurate data provisions could jeopardise the success of the verification. The Authority emphasises that the data provided by the grant applicant or beneficiary should always be considered in conjunction with the examination of publicly available company information registers or other documents verifying the ownership structure of the company(ies).

After reviewing the rules for verifying the independence of tenderers as outlined in Vice Presidential Directive no. 42/2023, the Authority intends to make a system-level recommendation. Based on the legal provisions of point (b) of section 38/B and section 39(8) of Government Decree no. 272/2014 (5 November), as well as point (b) of section 43/A and section 52/A(6) of Government Decree no. 256/2021 (18

May), the provisions regarding conflicts of interest must be interpreted together with Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01, which contains several risk indicators related to verifying the independence between the contractor and the beneficiary.

Point 2.3.2.5 of Annex no. 5 to Government Decree no. 272/2014 (5 November) and point 2.3.2.4 of the Accounting Instructions at the foundational level specify that if the managing authority requires the beneficiaries and grant applicants to provide bids to verify the customary market price, the bids must come from at least three tenderers who are independent of each other and of the beneficiary. Furthermore, section 215(2)b) of Government Decree no. 256/2021 (18 May) also mentions that establishing the customary market price is based on valid tenders obtained from a minimum of three potential contractors that are capable of performing the contract and are independent of one another and of the beneficiary. In addition, point 2.3.2.5b of Annex 5 to Government Decree no. 272/2014 (5 November) and point 2.3.2.8 of the Accounting Instructions list the cases in which a tenderer is not considered to be independent (as previously detailed, see also 6.2).

It is evident from the previously mentioned provisions that the relevant provisions of the guideline, particularly the risk indicators listed in point 6.4, titled 'Other measures', are not referenced in the independence review. It follows that the risk criteria to be developed according to the Commission Notice has not yet been directly incorporated into the domestic regulatory environment related to the allocation of EU funds.

To resolve this contradiction, the Authority suggests that managing authorities integrate the risk criteria in the guideline into their supervisory practices (internal procedures, methodologies), and that the law enforcer also consider incorporating the notion which states that the rules on independence are to be interpreted together with the risk indicators outlined in the Commission Notice into periodic government decrees. In the Authority's opinion, the application of these risk factors is essential in matters of independence.

# 3. Evaluation of the effectiveness of public procurement rules

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## 3.1 Executive summary

In its annual analytical integrity report, the Authority evaluates the effectiveness of public procurement rules, addressing problematic areas and bottlenecks arising in their application, with particular focus on the practice of law enforcement. In accordance with the provisions of the Integrity Authority Act and considering their increasing significance, the report devoted specific attention to the operation of framework agreements, including the practice of centralised public procurement.

Assessing the effectiveness of public procurement regulations may involve several aspects. One of the most apparent one is the extent to which the regulations in force and, in particular, the law enforcement practice derived from them can systematically meet the fundamental objectives of public procurement and the expectation of how, under what rules, with what cost allocation, and within what time frame, contracting authorities in public procurement procedures can achieve a procurement outcome based on their procurement demands.

From a procurement perspective, public procurement procedures are bipolar relationships involving multiple stakeholders: they establish a regulated relationship between contracting authorities and the economic operators participating in the procedure. As a result, another group of criteria used to assess the effectiveness of the regulations can be associated with the procedural opportunities and rights of stakeholders entering a public procurement procedure as tenderers. This includes, in particular, the examination of the effectiveness of rules relating to the access of economic operators to public procurement, their participation in procurement procedures, and, where applicable, their opportunities for legal enforcement.

On the one hand, the areas highlighted in the evaluation of the effectiveness of public procurement rules reflect the contents of the Authority's 2022 Annual Integrity Report and track the recommendations put forth by the Authority in light of the governmental stance or proposed measures developed in response to them. On the other hand, they are related to risks newly identified by the Authority during the integrity risk assessment, taking into account the experiences of the past year. Thirdly, they are based on the feedback from respondents to the questionnaire survey conducted by the Authority amongst tenderers and public procurement professionals. This chapter relies on international comparative analyses and

methodologies provided by the OECD<sup>13</sup>, the results of the performance measurement framework ('Framework') that assesses the effectiveness and cost-efficiency of public procurement, and the information received through targeted data requests issued to specific data providers by the Authority. We note that the primary source of the statistical data referenced in this chapter is the Framework.<sup>14</sup>

In accordance with section 11 of the Integrity Authority Act, the Authority's Integrity Report also contains an analysis relevant to the application of framework agreements and the practice of contracts concluded based on them. Therefore, we will specifically address this topic in the context of evaluating the efficiency of public procurement. In this regard, the growing implementation of framework agreements and their impact on the procurement market cannot be overlooked: according to data published by the Framework in 2024,<sup>15</sup> the value-based ratio of framework agreements doubled in 2023; therefore, the total value of these procedures accounts for 61% of all successful procedure parts.

Thus, it is timely to conduct a comprehensive examination and targeted analysis of the use of framework agreements.

Although any contracting authority can conclude a framework agreement, due to the high volume of procurements, the framework agreements concluded within centralised procurement are crucial in terms of the efficiency of public procurement, as are the effective operations of the central purchasing bodies. In the 2022 Annual Integrity Report we presented the stages of centralisation in Hungary, the key institutional actors, and provided a detailed analysis of the operational characteristics of centralised public procurement. On this basis, we made a number of recommendations for improving the current operation of centralised public procurement and enhancing its transparency. In this year's report, in addition to analysing centralised public procurement, we will also evaluate the measures taken or planned based on our recommendations and discuss the possible directions for further progress, taking into account newly identified risks.

We also continue to believe that the root cause of most of the problems encountered in the areas under review, or identified by legal practitioners as integrity risks, lies primarily in the improper application of law and practices that

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<sup>13</sup> In 2024, a cooperation was established between the Integrity Authority and the OECD, under which the OECD, amongst other things, provided international methodologies and international comparative analyses for the analyses conducted by the Authority in the present Annual Integrity Report.

<sup>14</sup> The analyses of public procurement data, performed according to the Authority's own methodology, are presented in Chapter 4.

<sup>15</sup> See indicator no. 45 of the Public Procurement Framework

lose sight of the true purpose of public procurement and the relevant legal institution. Given that the Hungarian public procurement legislation is in line with the requirements of the EU Directives, the most important need is to effectively address anomalies in the application of the law and to strengthen public procurement control systems to ensure the proper functioning of public procurement. When formulating our specific recommendations, we focused on key objectives that ensure the proper functioning of public procurement, such as rationalising public sector spending, transparency and wide public scrutiny of the use of public funds, and ensuring fair competition in public procurement processes, as a guarantee for the proper functioning of public procurement.

Given its prominent impact on the functioning of the public procurement market and the fact that centralised public procurement can be a key tool for increasing the efficiency of public procurement, the Authority makes the following recommendations for a review of centralised public procurement and the framework agreements and dynamic systems typically used by such systems:

- Despite the recommendations made in the 2022 Integrity Report, there has been no noticeable progress in terms of the transparency of procedures carried out by central purchasing bodies<sup>16</sup>. We consider it essential for transparency to ensure that data related to centralised public procurement held by central purchasing bodies is made widely accessible – not just upon targeted data requests.
- Assessing the cost-effectiveness of centralised public procurement systems is a key issue in assessing the effectiveness of these systems. Taking into account, on the one hand, the established views regarding centralised public procurement systems and<sup>17</sup>, on the other hand, that measuring achieved savings is part of European Union centralised public procurement models as well, the Authority continues to advocate for the development of methods and standards that enable the objective assessment of prices achieved under centralised public procurement. Without this, forming a realistic and objective picture of the effectiveness of these systems is unattainable.
- ‘Client satisfaction,’ i.e. measuring how institutions using centralised public procurement assess the functioning of the centralised public procurement system, is part of the system established by several central purchasing bodies in EU member states. The Authority recommends the development of a system for measuring user feedback in order to improve the effectiveness of the centralised public procurement system.

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<sup>16</sup> We wrote about the targeted government measure under chapter 3.4.1.

<sup>17</sup> See in detail in chapter 3.4.1.



- The centralised public procurement market has become fragmented. With the addition of a new participant (GTOC), the number of central purchasing bodies has increased compared to the previous year, and so has the number of centralised public procurement portals operating alongside the EPPS. The distribution of data regarding centralised public procurement in various places, across multiple larger subsystems, complicates the consistent measuring of inputs and outputs and the gathering of information about the results. Feedback indicates that using several and various systems creates challenges for law enforcers as well, while also raising questions about cost-effectiveness. The Authority therefore recommends conducting an analysis to determine how to ensure the availability of the data in one place and its automatic integration with the data recorded in the EPPS.
- For centralised public procurement to work properly, it is essential that the products involved can be 'easily managed' and standardised with a perspective on centralisation. If properly implemented, centralisation can be a key tool for increasing efficiency; however, improper implementation may carry numerous risks for the public procurement system. With regard to centralised product categories, the Authority proposes conducting targeted impact assessments to analyse the effectiveness of centralised public procurement, taking into account the experiences of the relevant institutions and presenting both the benefits and drawbacks.
- While the share of framework agreements is increasing, the use of dynamic public procurement systems, which provide economic actors with continuous opportunities to join and thereby better express competition, and the number of economic operators participating in these systems is decreasing. Because of this, the Authority recommends surveying practical experiences related to the use of dynamic procurement systems ('DPS'), raising awareness of the use of this legal instrument among contracting authorities and tenderers alike, and, as part of this, the targeted development of the Electronic Public Procurement System ('EPPS').
- The Authority recommends eliminating the mandatory application of and participation in centralised public procurement procedures overlooking the value threshold<sup>18</sup>. This would enable the institutions to decide how to conduct their procurements the most efficiently under the governing thresholds. At the same time, there is a need for heightened verification of compliance with the obligation to aggregate in the context of institutions.

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<sup>18</sup> Conducted amongst public procurement professionals, the survey's outcome concerning this topic is presented in point 3.4.5.

- In the 2022 Annual Integrity Report, concerning our proposal related to the limits to the number of tenderers used in framework agreements and the possibility of partial tendering, the Government has instructed central purchasing bodies to conduct an investigation, with a deadline for publishing the report on this investigation set for 31 December 2024. Until the publication of the report, we believe it is essential to open up these procedures to a wider range of economic operators. This could be done by de-emphasising single-tenderer framework agreements in favour of multi-tenderer ones, increasing the limits in terms of the number of tenderers, and making use of DPSs over a broader spectrum.
- In order to assess the practice of procurement under framework agreements, the Authority recommends conducting an analysis within the Framework to evaluate the extent to which the procurements under a given framework agreement, concluded by central purchasing bodies, are carried out either (i) through direct orders or (ii) by reopening competition.
- In connection with the previous proposal, we recommend reviewing the justification for maintaining framework agreements that follow mixed models and enable both direct ordering and the reopening of competition.
- At the same time, we urge reviewing the regulatory framework for central purchasing bodies in a way that shifts the practice of framework agreements towards genuine competitive tendering.
- The Authority recommends analysing and reviewing the justification of the practice followed by central purchasing bodies, which allows for the conclusion of framework contracts based on framework agreements – without a specific order being placed.

The public procurement chapter of the report puts special emphasis on the analysis of circumstances leading to low levels of competition observed in public procurement procedures. The Authority stresses in this context that this is a complex issue that cannot be equated with the topic of single bid procedures, thereby indicating a need for a multifaceted approach to address it.

These issues include, amongst other things:

- not only single tender procedures, but also procedures with a few – mainly two – tenders, the practice of the so-called ‘supporting’ bids,
- market access difficulties, competition-restricting regulations used by contracting authorities in public procurement procedures (eligibility and contracting criteria, evaluation criteria, technical parameters),
- the high ratio of invalid tenders,
- the excessive use of conditional public procurement procedures,

- the high ratio of unsuccessful public procurement procedures,
- the duration of public procurement procedures,
- framework agreements that are used at an extremely high rate and lead to prolonged market 'closures' (over 71% of these framework agreements are signed with one tenderer),
- restricting the possibility of partial tendering,
- difficulties associated with enforcing the right to legal remedies
- administrative burdens and risks associated with participating in public procurement procedures.

However, considering that the Government has undertaken in the conditionality mechanism and Hungary's Recovery and Resilience Plan to reduce the percentage of single bid procedures, the issue of single bid procedures continues to require special attention. In this regard, in addition to the examination foreseen in point 7(c) of Government Decision no. 1082/2024 (28 March) on the review of the action plan for measures aiming to increase the level of competition (2023–2026), the Authority proposes analysing the effectiveness of the measures introduced thus far (in particular, preliminary market consultation) to address single bid procurements.

The Authority proposes further analysis to uncover the reason behind the significant differences in the public procurement market regarding single bid procedures, contingent upon the funding source (EU or national). Furthermore, the Authority considers it warranted to--

- on the one hand, implement solutions (including, where appropriate, stricter controls) that lead to greater competition in the context of EU funds for domestic funds as well;
- on the other hand, conduct a heightened examination to verify whether the more favorable values are indeed the result of competitive tenders, and (at least in part) not the mere products of the practice of 'supporting bids'.

The Authority has identified the high number of invalid tenders and unsuccessful procedures as a significant issue. It must be stressed that the increase in the number of tenders submitted in public procurement procedures is of no consequence if the number of invalid tenders also increases.

The Authority assumes that the contracting authorities' lack of market knowledge, as well as mistakes made during the preparation of public procurement procedures, the definition of the subject of procurement, and the setting of other procurement conditions, contribute not only to the high number of single bid procedures but also to the high proportion of unsuccessful procedures.

In the Authority's view, it is crucial to increase the rate of successful public procurement procedures, which requires proper preparation of the procedures – including the definition and securing of financial frameworks, as well as the clear definition of the subject matter of the procurement and the proportional design of the contractual terms.

According to the Authority, the high proportion of conditional public procurements and the fact that the PPA does not set a maximum duration for the evaluation (and the expected binding period for tenders) represent significant factors of uncertainty for tenderers with regard to public procurement procedures. Uncertainty can affect the interest of economic operators in public procurement and, consequently, the level of competition. Therefore, in order to mitigate this uncertainty, it is warranted to adjust the relevant legal provisions.

According to the auditing experience of the Authority, the negative impact of malpractices in implementing the procedure set out in section 115 of the PPA and the integrity risks associated with the procedure extend beyond mere numbers and the national procedure. Consequently, the Authority considers that it is warranted to terminate this procedural option.

Taking into account the consistently low number of remedy proceedings initiated upon request, the Authority has formulated several recommendations to eliminate the obstacles to the exercise of the right to legal remedies, with some requiring amendments to the PPA and others requiring a review of the legal practice.

The Authority has identified that the compulsory transformation of the public procurement profession, namely the planned abolition of the institution of accredited public procurement consultants, which faced professional objections by stakeholders, introduces a novel risk to public procurement processes. Following adequate assessment and preparation, the Authority considers it warranted to –

- transform the institution of accredited public procurement consultants instead of discontinuing it;
- review the legislative amendments relating to the abolition of the institution of accredited public procurement consultants;
- support the professionalisation of the public procurement profession;
- expand the circle of experts authorised to carry out expert activities, while amending the regulations concerning the required practice and upholding training and advance training obligations; and
- investigate whether it is warranted, and if so, in which cases it is warranted, to require the involvement of an expert independent of the contracting

authority in public procurement procedures to ensure public procurement expertise.

With regard to enforcing the amended conflict of interest regulations, the results of the Authority's survey show that contracting authorities continue to focus on requesting conflict-of-interest declarations, while the verification and the implementation of the amended rules into public procurement regulations, as well as the expected change in approach, have not taken place. Because of this, the Authority considers it necessary to amend the provisions of the PPA in order to clarify the obligations.

The Authority has also identified several practical and legislative trends from the past year that jeopardise the efficient and responsible utilisation of public funds (e.g. the determination or capping of prices at fixed values, as well as the omission of price competition and, in the case of certain ownership structures, the lack of transparency regarding the beneficial owners of companies participating in public procurement procedures). The Authority has formulated recommendations for addressing these issues.

### **3.2. Framework agreements and dynamic procurement systems**

In accordance with Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Hungary {COM(2022) 686 final} and, in view of this, section 11 of the Integrity Authority Act, the annual integrity report must address the practice of contracts concluded under framework agreements, as well as data on the distribution of the conclusion of individual contracts based on framework agreements and the award of individual contracts based on framework agreements amongst certain economic operators.

Framework agreements – just like DPSs – are procurement techniques and unique procurement methods designed to allow contracting authorities to carry out their recurring, well-defined, and parametrisable procurements during a given period within the confines of flexible procedures. The effectiveness of public procurement processes may be examined according to numerous aspects. One possible consideration is to what extent contracting authorities rely on specific procurement methods, such as framework agreements or DPSs. These procurement techniques, when applied correctly, provide an opportunity for contracting authorities to carry out public procurement within a defined pool of tenderers more flexibly and with less time investment. The advantage of DPSs over framework agreements is that while the former allows continuous participation, framework agreements create a closed system after their initial phase, meaning no new participants can join thereafter.

Framework agreements can be made with one or more tenderers. While framework agreements, when applied correctly, are able to allow contracting authorities to swiftly and efficiently carry out their procurements, their improper application carries the risk of restricting competition. One possible cause for this could be the improper selection of the limit to the number of tenderers, as well as the duration of the framework agreement. Therefore, the proper and intended application of the rules is crucial.

Data from the Framework<sup>19</sup> indicate that the number of procedures aimed at establishing framework agreements and their ratio relative to all successful procedure parts have shown a gradually increasing trend since 2019. In 2023, more than 12% of all successful public procurement procedure parts were aimed at establishing framework agreements. Although compared to 2022 the ratio of procedures aimed at establishing framework agreements only slightly increased in terms of the number of the procedures, the value-based ratio of framework agreements nearly doubled. Therefore, compared to the 32.7% stake measured in 2022, the total value of framework agreements accounted for 60.9% in 2023. The underlying causes of this standout ratio are likely complex and require further investigation to identify, but because of the high stake, compliance in these procedures is crucial.

DPSs are comprehensive electronic processes designed to fulfil the often-emerging demands of contracting authorities. Similarly to framework agreements, they are a flexible procurement method, the application of which is supported by the argument that – contrary to framework agreements – DPSs enable the economic operators that meet the eligibility criteria set by the contracting authority to join throughout their entire durations. According to data from the Framework,<sup>20</sup> although the period between 2019 and 2022 witnessed a gradually increasing trend in the number of procedures aimed at establishing DPSs, the ratio of these procedures in terms of numbers is still negligible, with a 1.4% stake of all public procurement procedures.

It is thought-provoking that while the average number of economic operators participating in DPSs was 14 and 27 during the initial application of the legal institution (between 2019 and 2020, respectively), by 2023, this number has significantly decreased (on average by 66%): the year 2023 saw an average of 7 economic operators participating in DPSs.<sup>21</sup> An investigation into the distribution of

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<sup>19</sup> See Framework indicators no. 44-45

<sup>20</sup> See Framework indicators no. 39-42

<sup>21</sup> See indicator no. 41 of the Framework

economic operators by procurement subject finds that the largest decrease primarily occurred in the case of goods procurements.

The Framework also displays data concerning economic operators joining DPSs following its establishment<sup>22</sup>. Since 2020, the number of those joining DPSs following their establishment has demonstrated a downward tendency. While the year 2020 saw an average of 12 economic operators joining DPSs, this number shrank to 2 in 2023. Stakeholders' unfamiliarity with the option to join DPSs, along with the lack of clarity surrounding the deadline for doing so, may lie at the core of this occurrence.

Because of these tendencies, assessing the practical experiences with the legal institution's application and analysing the causes are essential, as the available data show that stakeholders are not leveraging the advantageous opportunities that the DPSs offer. At the same time, familiarising contracting authorities with the application of the legal institution seems necessary, especially if data concerning the marginal application of DPSs are analysed simultaneously with the expansion of framework agreements.

### **3.3. Centralising procurements, centralised public procurement systems**

The large-volume goods exchange carried out within the confines of centralised public procurement, the limited number of potential economic operators capable of participating in centralised public procurement, and the typically longer-term framework agreements resulting from such procurements highlight the crucial importance of the compliant, efficient, and transparent operation of the centralised public procurement system. Because of the specificities mentioned earlier, the Authority has also highlighted the issue of centralised procurement in its 2022 Annual Integrity Report and made several recommendations regarding the practice of centralised public procurement and the functioning of central purchasing bodies. Most of these recommendations were aimed at promoting publicity and transparency in these procedures and improving efficiency in the operation of these systems.

The Government agreed with some of the recommendations and proposed various measures – their implementation, as well as the underlying investigations, are underway. Updates on some of the Authority's recommendations will be addressed in connection with the analysed topics.

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<sup>22</sup> See indicator no. 42 of the Framework

Amongst the characteristics of centralised public procurement systems, we primarily examined those elements that pose integrity risks to the operation of these systems.

As an activity continuously carried out by central purchasing bodies, centralised public procurement – which most commonly uses the framework agreement procedural mechanism – aims to:

- order goods or services with the aim of reselling them to contracting authorities as defined in the PPA, or
- conclude contracts or framework agreements aimed at the procurement of goods, ordering of services or public works projects for contracting authorities as defined in the PPA [point 26 of section 3 of the PPA].

The aim of the centralised public procurement system is, on the one hand, to enable the procurement of recurring products and services with the same (or similar) technical, economic, or other characteristics, and identical intended use, within a single public procurement procedure for the designated group of contracting authorities, and to handle emerging demands through a flexible procedure. On the other hand, an expectation related to centralised public procurement systems is that, by leveraging economies of scale – through discounts associated with large-volume orders – they should lead to economic advantages and enable the realisation of better price-to-value procurements through centralisation.

Centralising procurements, which is aimed at achieving a better price-to-value ratio in public procurement, is a widespread practice in OECD countries. By consolidating the procurement demands of different legal entities and centralising expenditures, clear advantages can be gained for the public procurement system. However, to fully capitalise on these benefits, centralisation must be carried out effectively.

Like every coin, centralised procurement also has two sides: there are arguments both in favor of and against centralisation. The advantages of centralisation include, first and foremost, savings deriving from economies of scale, better prices achievable through the consolidation of procurements, time savings, a flexible procurement model, as well as the concentration of specialised expertise and higher levels of professionalism in central purchasing bodies. However, the joint management of procurement demands carries the risk of market concentration, narrowing competition, and limiting the opportunities for SMEs to access the market in the segments concerned.



Countries that follow centralised public procurement models implement centralisation by establishing central purchasing bodies.

Central purchasing bodies are organisations authorised to request tenders in centralised public procurement. There are several central purchasing bodies operating in the domestic public procurement market: Digitális Kormányzati Ügynökség Zrt. (Digital Government Agency Pvt Ltd; DKÜ), the Directorate General for Public Procurement and Supply (DGPPS), the National Communications Office (NCO), the Defense Procurement Agency (DPA), and the Government Training Organisation Centre (GTOC), founded in 2024.

Amongst the listed central purchasing bodies, the DGPPS has the largest procurement portfolio: it deals with a wide range of general procurement categories, such as furniture procurement, vehicle procurement, travel organisation, or energy procurement. Additionally, the DGPPS undertakes the procurement of, amongst other items, medical consumables as defined by law, as well as medical gases, hygiene products, and cleaning agents for obligated institutions.<sup>23</sup>

The other four central purchasing bodies handle the public procurement procedures of obligated and voluntarily joining institutions in more specific, well-defined areas, and for certain specialised product groups.

The DKÜ carries out the centralised procurement of government IT<sup>24</sup> purchases based on Government Decree no. 301/2018 (27 December).

The NCO performs its functions as a central purchasing body for the execution of tasks related to government communication and organisational development based on Government Decree no. 162/2020 (30 April)<sup>25</sup>.

The DPA performs its functions as a central purchasing body within a special field, engaging in domains exempt from the scope of the PPA,<sup>26</sup> concerning tasks related to defence and security.

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<sup>23</sup> Government Decree no. 168/2004 (25 May) on the Centralised Public Procurement System and the Functions and Powers of the Central Purchasing Body

<sup>24</sup> Government Decree no. 301/2018 (27 December) on the National Council for Telecommunications and Information Technology, the Digital Government Agency Private Limited Company and the Centralized Public Procurement System for IT Procurements of the Government.

<sup>25</sup> Government Decree no. 162/2020 (30 April) on the Legal Status of the National Communications Office and Government Procurement relating to Communications

<sup>26</sup> Government Decree no. 329/2019 (20 December) on the designation of a central purchasing body, the definition of the scope of procurements related to defence and security tasks and the centralised system of procurements related to defence and security tasks

A new central purchasing body was instituted on 1 January 2024. Government Decree no. 396/2023 (24 August), adopted in August 2023,<sup>27</sup> ordered the centralisation of government education and training services from 1 January 2024. Ludovika University of Public Service is the designated central purchasing body, which performs its duties through the GTOC.

With the emergence of the GTOC, a new central purchaser, the centralised public procurement market, which was already fragmented with many actors and therefore a greater risk to integrity, has become even more fragmented.

### **3.4. Risks identified in connection with the operations of centralised public procurement systems**

In its 2022 Annual Integrity Report, the Integrity Authority made several recommendations relating to centralised public procurement systems. In the following, on the one hand, we will examine the proposed measures in light of the government's responses to our recommendations, whereas on the other hand, we will propose potential avenues for further steps, considering the risks that have been identified.

In this chapter, we took into account the data provided by central purchasing bodies, the results of the survey conducted by the Authority amongst tenderers and public procurement professionals, the international comparative analyses and methodologies provided by the OECD, as well as the indicators from the Framework.

#### **3.4.1. Assessing the cost-effectiveness of centralised public procurement systems**

Measuring the performance of public procurement systems is a complex task that evaluates the operation of these systems based on various components and indicators. The Framework, developed with reference to international standards and OECD recommendations, assessed the performance of the national public procurement system in 2023, employing 114 indicators and 158 sub-indicators. A specific group of indicators aims to provide an overview of the efficiency of public procurement, which, although consists of many components and includes, among other things, the time requirements of procedures, the effectiveness of the procedures applied, and data on the intensity of competition, a key element of these indicators is the data on the cost-effectiveness of the public procurement

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<sup>27</sup> Government Decree no. 396/2023 (24 August) on Government Procurement Relating to Training and Education

system. It is not possible anymore to paint a reliable picture of the public procurement performance without considering cost factors.

Given that centralised public procurement can be one of the most important tools for achieving cost-effectiveness, the efficiency of these systems' operation is crucial.

In the 2022 Annual Integrity Report, the Authority recommended conducting targeted investigations to assess the cost-effectiveness of centralised public procurement systems, while also strengthening the data reporting obligations of central purchasing bodies to facilitate this assessment.

The Government only partially agreed with our recommendation, providing a proposal for action only regarding the part related to strengthening the data reporting obligations of central purchasing bodies. Accordingly, it instructed the Minister of Finance and the Head of Cabinet of the Prime Minister through Government Decree no. 1082/2024 (28 March) to ensure, with the involvement of the central purchasing bodies they oversee, the disclosure of data on the distribution of economic operators in individual contracts based on framework agreements and dynamic purchasing systems in relation to those framework agreements and dynamic purchasing systems that enable procurement financed by European Union funds, in accordance with a unified template for the data reporting obligations of the central purchasing bodies.

According to the information provided by central purchasing bodies, the implementation of the measure is underway: stakeholders are required to disclose the 2023 data by 30 June 2024, with subsequent data disclosures due by January 31 each year thereafter.

However, in the context of assessing cost-effectiveness, the Government took the position that the price stipulated in individual contracts resulting from centralised public procurement cannot be the sole indicator. For this does not directly reflect the benefits provided by centralised public procurement systems, such as cost savings resulting from time savings, the implementation of the centralised procurement strategy, or savings arising from the ancillary services provided by central purchasing bodies.

While agreeing with the advantages associated with centralised public procurement as outlined in the Government's response, we continue to believe that it is a legitimate expectation for the efficiency of these systems to be measurable and actually measured.

This is also supported by the international comparative analysis provided by the OECD, which, in relation to the presented European Union centralised public procurement systems (such as those of Austria, Estonia, Lithuania, Italy, and Norway) points out that one of the key performance indicators for each of these systems is the savings achieved through centralised procurement.

Only 31% of respondents in the Integrity Authority's survey regarding the general perception of public procurement amongst tenderers (with 559 respondents completing the questionnaire) believe that the prices in contracts resulting from framework agreements are the same as or more favorable than those available outside of these agreements.

The results of the survey conducted amongst public procurement professionals (accredited public procurement consultants, state public procurement consultants, consultants), with 223 respondents completing the questionnaire, indicate that the overwhelming majority of professionals – 90% of respondents – believe that centralised public procurement will not lead to procurements being realised at prices lower than market rates. This evaluation is further highlighted by the fact that, for specific product categories, 75% of respondents believe that the prices achieved through centralised public procurement are typically higher than market prices. And in response to the question that generally inquired about the effectiveness of centralised public procurement, 78% of the respondents took the position that centralised public procurement does not work efficiently.

In an attempt to draw a comprehensive picture, we also requested data from the central purchasing bodies to assess whether, in light of the Government's response, there has been any shift compared to the previous year in the evaluation of the effectiveness of centralised public procurement systems and in the analysis of the price levels achieved through framework agreements.

In its response, the DKÜ informed the Authority that although the minister with responsibility for public procurement initiated consultations with central purchasing bodies, no methodology was developed for comparing the list prices established in framework agreements, as well as the prices resulting from competitive tendering, with market prices, considering the specialised nature of the subject-matter of procurement. The DKÜ examines the evolution of prices in the relevant market during the preparation of specific procurement procedures.

Similarly to its response in 2023, the DGPPS stated that comparing the prices of procurements conducted on the basis of framework agreements resulting from public procurement procedures with market prices remains unfeasible, given the significantly different content of the services included in the prices.

Nonetheless, in relation to indicator no. 109 of the Framework, both the DKÜ and the DGPPS stated that they employ a system that is aimed at tracking the prices of products procured by the central purchasing body or included in a framework agreement or DPS it established. The NCO does not use such a system.

While acknowledging that the assessment of the price levels achieved through centralised public procurement cannot overlook the benefits obtainable with centralisation – like those associated with time savings or ensuring continuous operations – this does not mean that developing tools to measure the effectiveness of these systems can be disregarded. Central purchasing bodies generally maintain that framework agreements ensure the fulfillment of institutions' procurement demands in a cost-effective and predictable manner; however, this opinion, which disregards all sorts of numerical data, is insufficient by itself. This is especially true if we compare this perspective with the assessments of those providing opinions in the referenced surveys.

In terms of the perception of public procurement, opinions on centralised public procurement are also crucial, and measuring the savings achieved is also part of the European Union's centralised public procurement models.

In this regard, the Authority continues to advocate for the development of methods and standards that would enable the objective evaluation of prices achieved through centralised public procurement. The methodology used to achieve this is secondary in terms of the objective.

### **3.4.2. Improving the supply of data by central purchasing bodies, enhancing transparency**

For a precise evaluation of the efficiency of public procurement, it is vital that the inputs necessary for the measurements are available. Considering that the centralised public procurement market involves multiple stakeholders, access to and navigating through data pose a challenge to both the institutional framework and participants in public procurement. In line with this, the OECD also pointed out that measuring the effectiveness and efficiency of the public procurement system is more complex and cumbersome in national systems where multiple central purchasing bodies operate.

As detailed in the Authority's 2022 Annual Integrity Report, each central purchasing body has established its own electronic public procurement portal, aimed at implementing procurements based on framework agreements. One integrity risk that has been identified in relation to this was the circumstance wherein there is either no or only limited data available regarding the implemented procurement

demands (such as reopening of competition and direct orders) in the second part of framework agreement procedures conducted by central purchasing bodies, which take place outside the EPPS. In an attempt to address the identified risk, we recommended that data on the distribution of the awarding of framework agreements concluded by central purchasing bodies and individual contracts concluded on the basis of dynamic procurement systems amongst economic operators must be made accessible in order to strengthen public visibility and transparency. This includes information on the number and value of these contracts, as well as the prices achieved in the second part of the framework agreement and the savings achieved through the centralised public procurement system.

While the Government expressed partial agreement with the recommendation and outlined plans to develop, with the involvement of central purchasing bodies, a standardised template for data provisions to be carried out by central purchasing bodies and, based on this, to disclose data on the distribution of the awarding of individual contracts based on framework agreements, following a periodic breakdown in accordance with section 11(c) of the Integrity Authority Act, there has been no significant progress to date in terms of the accessibility of data regarding procedures conducted by central purchasing bodies.

We consider it essential for transparency to ensure that data related to centralised public procurement held by central purchasing bodies is made widely accessible – not just upon targeted data requests.

### **3.4.3. The number of central purchasing bodies and the electronic portals they operate**

The growing prevalence of centralised public procurement in the domestic context is also reflected in the increasing number of central purchasing bodies, in addition to the expansion of centralised product categories. This inevitably carries the risk of overlapping competences.

A key pillar of the system developed by the OECD for measuring the performance of public procurement systems<sup>28</sup> is efficiency, along with the factors that must be considered when measuring it. In this regard, the OECD also highlights in the analyses provided to the Authority that measuring the efficiency and effectiveness

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<sup>28</sup> OECD: Public procurement performance. A framework for measuring efficiency, compliance and strategic goals, 2023. <https://www.oecd.org/publications/public-procurement-performance-0dde73f4-en.htm> (21 December 2023)

of the system presents a greater challenge in a national environment where multiple central purchasing bodies operate within a country: data and expertise are spread across multiple locations, making it difficult to consistently measure inputs and outputs and to collect information on the results.

This specific image – where information is available at multiple organisations – is further highlighted in Hungary by the fact that only the first part of the procedures related to the procurement methods used by central purchasing bodies appears on the EPPS platform. In the second part of the procedure, the institutions involved carry out the second phase of the procedure, which results in actual procurement, on the procurement portal operated by the central purchasing body (DGPPS – Centralised Public Procurement Portal, DKÜ – Digital Public Procurement System, NCO platform).

Beyond the fact that fragmented data are available on centralised public procurement, which plays a significant role in public procurements, central public procurement portals that are not integrated into the EPPS and are built on a non-unified approach clearly do not make it easier for users. This presupposition is also supported by the results of the Authority's survey conducted amongst public procurement professionals.

81% of the surveyed professionals believe that participants in public procurement procedures face difficulties because they have to use multiple electronic systems, which differ from the EPPS, for centralised public procurement. Similarly, 80% of the respondents believe that maintaining electronic systems different from the EPPS for centralised public procurement is unwarranted.

In the analysis provided by the OECD, the organisation indicated that their discussions with several stakeholders in Hungary on this issue had shed light on potential problems with the effectiveness of the Hungarian centralisation system for public procurement. One aspect of this is the aforementioned operational characteristic whereby each central purchasing body maintains its own electronic portal.

In light of these aspects, the Authority recommends examining, in respect of the procurement e-portals maintained by central purchasing bodies for carrying out the second phase of centralised public procurements, how to ensure the availability of data in one place and its automatic linkage with the data recorded in the EPPS.

The integration of data – while maintaining the independence of central purchasing bodies – could contribute to improving the transparency, traceability, and efficiency of the public procurement system.

#### **3.4.4. Impact study concerning centralised products**

In its 2022 Annual Integrity Report, the Authority formulated a recommendation to analyse the efficacy of the application of centralised public procurement regarding currently centralised products. At the same time, the Authority recommended conducting an impact study on the expected benefits of centralised procurement prior to the decision on possibly newly centralised products.

Regarding the proposal, the Government has outlined that the minister with responsibility for public procurement will instruct the ministers overseeing central purchasing bodies to exercise particular care in preparing a detailed impact assessment, which is necessary for the legislative amendment, in relation to the product categories to be included in the centralised public procurement system, touching upon the expected benefits of procurement within the centralised scope. However, we do not have information regarding the preparation of such a preliminary assessment for the newly centralised category of training services.

Based on the results of the questionnaire survey conducted amongst public procurement professionals, the vast majority (84%) of respondents consider it warranted to review the product categories and subject-matters of procurement included in the centralised public procurement scope.

We believe that for centralised public procurement to function properly, it is essential that only products that can be 'easily managed' and standardised from the perspective of centralisation are included. When applied correctly, centralisation can be a key tool for increasing efficiency. However, improper implementation can carry numerous risks for the public procurement system, both in terms of efficiency and competition.

#### **3.4.5. Proposals concerning the practice of centralised public procurement**

The Authority has made several proposals to review and rationalise certain mechanisms used in the practical operation of centralised public procurement.

##### *The issue of procurements carried out under an organisation's own authority*

The use of centralised public procurement systems is mandatory for the organisations falling under the scope of such systems. At the same time, each centralised public procurement system regulates the possibility of procurements being carried out under an organisation's own authority. However, this is considered



an exceptional procedure, and it can only take place if the conditions explicitly defined in the relevant legislation are met.

In the 2022 Annual Integrity Report, the Authority made a proposal regarding the legal review of the cases of procurements carried out under an organisation's own authority, and the public disclosure of the criteria for decisions on transferring procurement to an organisation's own authority by the central procurement organisation. The Government partially agreed with this proposal. It suggested that a report be prepared for the Government, with the involvement of the central purchasing bodies, on the possibilities for reviewing the legal provisions.

In this context, the DGPPS informed us in response to our inquiry that it does not consider it necessary to review the relevant legal provisions with the aim of making amendments. On the one hand, it is because the legal provisions are sufficiently clear in this respect, and on the other hand, according to established practice – when the legal conditions are met – the DGPPS is able to assess and approve procurement requests for an organisation's own authority within a short period.

Regarding the DKÜ – for which the relevant government decree does not detail the conditions for transferring procurements to the organisation's own authority – the Authority was informed that, according to their statement, the decision to transfer a procurement to the DKÜ's authority is based on the nature of the procurement, including the complexity of the technical specifications, as well as the available capacity and technical expertise, all determined on a case-by-case basis.

Moreover, it is thought-provoking that 80% of the responding procurement professionals are of the opinion that contracting authorities would generally not participate in centralised public procurement if it were not mandatory.

#### *Centralised Public Procurement Regardless of the Value Threshold*

In the product categories covered by the scope of centralised public procurement, the institution is required to procure under the centralised procurement system not only when the applicable procurement value threshold is reached but also when it is below the threshold. Considering, on the one hand, that the application of the PPA is mandatory only when the relevant value thresholds are reached, and on the other hand, that the obliged institutions are required to pay a fee for the service provided by the central purchasing body, the Authority proposed in its 2022 Annual Integrity Report a review of the system that mandates procurement through centralised public procurement, regardless of the value threshold.

According to the Framework 2023 data, more than half of the respondents (347 responses) to the questionnaire assessing the effectiveness of the centralised public procurement system evaluated that, in terms of procurement procedures – i.e. in the range below the public procurement value threshold – using the centralised procurement system did not result in savings (23.3% of respondents), or even led to additional expenses (33.1% of respondents).<sup>29</sup>

The Government took the position, in connection with the proposal, that there is no justification for amending the obligation, partly due to the need for the swift and efficient handling of demands arising from institutions, and partly due to security concerns and the need to ensure the supply of goods and services necessary for day-to-day operations. The implementation of the proposed measure will therefore involve the minister responsible for public procurement approaching the ministers overseeing central procurement bodies, in order to collect and analyse practical experiences, and to assess the justification of maintaining mandatory central procurement regardless of the value threshold. To date, the Authority does not have any information on this matter.

The DGPPS took the position in response to the Authority's proposal that it does not consider it necessary to review the system of mandatory procurement regardless of the value threshold. In their view, the current regulation supports the Government's objectives, ensuring the efficient, fast, and continuous supply of critical product categories to institutions, while also pursuing national economic objectives, significantly easing the monitoring of procurement compliance, the accountability of EU funds, and addressing the difficulties that arise for institutions under the aggregation rules.

Nevertheless, the Authority believes that, in light of the arguments presented earlier, as well as the results of the official survey conducted among procurement professionals (78% of respondents consider the obligation to maintain centralised procurement below the procurement value threshold unjustified), it is justified to at least abolish the obligation in the lower threshold range. This would allow institutions to decide how to procure most efficiently below the applicable value thresholds.

At the same time, and as discussed in more detail in section 3.4.6, the Authority emphasises the need for increased oversight of compliance with the aggregation obligation.

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<sup>29</sup> See the chart presenting the answers to Question 18 of the document titled 'Annex 4 to the Performance Measurement Framework Assessing the Efficiency and and Cost-effectiveness of Public Procurement 2023 (Results of the Questionnaire Assessing the Effectiveness of Public Procurement)'.

Limits to the number of tenderers in framework agreements, the examination of the level of competition

Framework agreements – in cases of improper application – also carry the potential for restricting competition, which may be caused by selecting the limits to the number of tenders incorrectly, and the duration of the framework agreement. In the case of centralised public procurement, it must also be considered that, due to the aggregated procurement demands, the pool of tenderers eligible to participate in the procedures is inherently limited.

According to the Framework 2024 data, the proportion of framework agreements concluded with a single tenderer is exceptionally high, with a steadily increasing trend since 2019, reaching 71.4% in 2023.<sup>30</sup>

As for the centralised procurement organisations: this ratio is 100% for the NCO (representing 5 framework agreements in 2023), given that only the single-tenderer version of the framework agreement model is used. The DKÜ has the lowest ratio: in 2023, the proportion of framework agreements concluded with a single tenderer was 25% (11 active framework agreements). The same proportion is significantly higher for the DGPPS: 43.63% (a total of 89 active framework agreements).<sup>31</sup> According to Framework data, over 40% of the active framework agreements concluded by central purchasing bodies in 2023 were with a single economic operator.

In a questionnaire survey conducted by the Authority amongst public procurement professionals, nearly three-quarters (74%) of the respondents believe that the regulation about the range of the number of tenderers in framework agreements in the context of centralised public procurement generally does not ensure an adequate level of competition. In response to a similar question in the questionnaire for tenderers, 44% of respondents with meaningful answers stated that, in centralised public procurement procedures, contracting authorities typically set a limit on the number of tenderers that restricts competition.

In light of the data presented, we particularly deem our proposal in the 2022 Integrity Report on the practice of applying the regulation on the range of tenderers (setting a numerical limit) by contracting authorities to be both justified and timely. It should be noted that, agreeing with this proposal, the Government has called for

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<sup>30</sup> See indicator no. 47 of the Framework.

<sup>31</sup> See indicator no. 98 of the Framework

a review of the practice regarding the number of tenderers in framework agreements used by central purchasing bodies.

In line with this, Government Decision no. 1082/2024 (28 March) on the revision of the action plan for measures aiming to increase the level of competition in public procurement (2023–2026), has called upon the Minister of Finance and the Head of Cabinet of the Prime Minister to examine the practices of setting limits on the number of tenderers and ensuring the possibility of partial tendering in centralised public procurement systems, particularly regarding those framework agreements that involve procurement financed by European Union funds, and to publish a report on the results of the examination. The deadline for publishing the referenced report is 31 December 2024.

Regarding this measure, it should be noted that although section 3 of the Integrity Authority Act does indeed confer on the Authority, in general terms, powers relating to the control of the use of EU budgetary resources in the context of the designation of the Authority's tasks, particularly concerning audit and investigation powers, the Authority's powers related to preparing the annual analytical integrity report, in particular the part relating to the analysis of the practice of framework agreements [section 11(c) of the Integrity Authority Act], go beyond this scope and do not specifically refer to EU funding (unlike points a) and b) of section 11).

It can be considered as a slight improvement that, according to the Framework data, the average duration of framework agreements (active period) has been decreasing since 2021 (it was slightly over 2 years in 2021, and in 2023 it was 1 year and 9 months).

To change the general perception regarding the framework agreement procedures conducted by central purchasing bodies, it is essential to open up these procedures to a wider range of economic operators. This could be done by de-emphasizing single-tenderer framework agreements in favour of multi-tenderer ones, increasing the applied limits on the number of tenderers, and making wider use of dynamic procurement systems. Our proposals for making competition more dynamic are set out in section 3.4.6.

#### Framework agreements and SMEs

The Framework indicators show that although the proportion of public procurement procedures won by SMEs (micro, small and medium-sized enterprises), both in terms of the number of procedure parts by procedure and the value of contracts, has been consistently high for years, at around 80% in terms of the number of

procedure parts per procedure and 60% in terms of the value of the successful procedure parts, the picture is not so positive for framework agreements concluded by central purchasing bodies.

Although all five framework agreements concluded by the NCO were won by SMEs, the percentage of contracts concluded with SMEs in centralised procurement for the DGPPS, which has the largest number of framework agreements (2,166,719 contracts concluded in 2023 on the basis of framework agreements),<sup>32</sup> is only 4.22%(!). This ratio stands at 49.9% for the DKÜ. Further analysis of the specific nature of the procured goods/services is necessary to assess whether the low proportion of contracts with SMEs in the case of the DGPPS is justified.

These data align with the results of the Authority's survey amongst procurement experts, which showed that 76% of the experts surveyed consider that centralised public procurement reduces SMEs' chances of participation.

### **3.4.6. Reviewing government decree regulations concerning central purchasing bodies based on the practice**

#### *Analysing applied procurement methods*

In section 3.4.5 – in line with the recommendations outlined in the 2022 Annual Integrity Report – we addressed several specific rules based on the provisions contained in the relevant government decree on the procedure of specific central purchasing bodies.

The authorisations specified in section 198(1) of the PPA, which allow for the establishment of centralised public procurement systems, always ensure the possibility of derogating from the main rules of the PPA when establishing the procedures for centralised public procurement, taking into account the specific nature of such procedures. It is thus a matter of legislative decision as to what rules central purchasing bodies can follow when carrying out centralised public procurement procedures.

While central purchasing bodies have the option to choose from the types of procedures regulated by the PPA, the Hungarian domestic centralised models – in line with international trends – predominantly use framework agreements and DPSS

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<sup>32</sup> Data of Framework sub-indicator no.100.3.

for carrying out the procurement procedures assigned to the centralised procurement scope.

As indicated by the statistical data referred to in point 1, with the clear rise of framework agreements, DPSs have been marginalised, with their application being minimal (it should be noted that the introduction of DPSs was actually facilitated with the implementation of the EPPS, and that framework agreements have a much longer tradition). This is an unfavorable trend in terms of their impact on competition, because – as already mentioned – the advantage of DPSs over framework agreements is that while DPSs allow continuous participation, framework agreements, after its first phase, create a closed system to which no further participants can join. Therefore, framework agreements, depending on the decision of the contracting authority or central purchasing body on its duration, restrict orders to a narrow group.

In order to exploit the potential of DPSs and increase competition, we encourage central purchasing bodies to establish DPSs. Where appropriate, we recommend adapting the legislation to ensure that, prior to launching centralised public procurement procedures, an analysis and justification is provided for why framework agreements, which are typically used, are considered a more efficient model for procurement.

#### *Procedural techniques used under framework agreements*

The rules and conditions for the application of framework agreements are set out in sections 104-105 of the PPA, ensuring the possibility of both single- and multiple-tenderer framework agreements. In the case of centralised public procurement, the procedure aimed at establishing a framework agreement – which takes place in the first part of the framework agreement – is always conducted by the central purchasing body. In the following second part of the procedure, the procurement will be carried out based on the framework agreement, in accordance with the provisions outlined in the call for tenders.

Based on the framework agreement concluded, the second part of the procedure for the specific procurement may involve different procedural mechanisms, with each central purchasing body following different solutions in this regard (these are discussed in detail in the 2022 Annual Integrity Report).

If the framework agreement contains all the conditions for the procurement and contract conclusion that will be carried out under it, the procurement is generally implemented through direct ordering in the second part of the procedure. If the

framework agreement does not contain all the terms and conditions for contract conclusion, the winner is selected after a so-called written consultation in the case of a framework agreement with one tenderer or after a reopening of competition in the case of a framework agreement with multiple tenderers. Under the PPA, the contracting authority may also use the competitive tendering procedure even if the framework agreement contains all the conditions.

Framework agreements concluded by central purchasing bodies specify the rules and conditions under which institutions can fulfill their demands under the framework agreement. One common solution is the use of a mixed approach in the framework agreement: it contains an 'internal' threshold below which institutions can implement their procurements via direct ordering, and above which reopening the competition is mandatory.

In 2023, the Framework made significant progress in better understanding the practice of centralised public procurement: it provided a range of data on how institutions are implementing concrete public procurement under framework agreements concluded by central purchasing bodies.

According to the Framework data, the DGPPS has the highest proportion of framework agreements that allow for direct ordering for the implementation of procurements: 95% of the framework agreements concluded by DGPPS are of this type. Similarly, the DKÜ predominantly enters into framework agreements – 68% of the agreements it concludes<sup>33</sup> – that contain all the terms and conditions of the contract(s) for the implementation of the procurement awarded under them and which can be implemented by direct ordering. The NCO did not have such framework agreements in 2023; in their case, procurement demands were most likely implemented through written consultation.

It is evident that central purchasing bodies with the broadest procurement portfolios and the largest contract volumes tend to conclude framework agreements where the realisation of the specific procurement demand does not require the institutions to reopen competition. This picture is obviously highlighted by the fact that, as indicated above, some of the framework agreements contain an internal value threshold, above which reopening of competition is mandatory. There is currently no available data on the proportion of procurements that are implemented through direct ordering or reopening of competition under the framework agreements. To gain a full understanding of the applied practice, we

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<sup>33</sup> See sub-indicator no. 98.2 of the Framework

recommend that the Framework analyse framework agreements based on this criterion as well.

We believe that a model that includes both the possibility of direct ordering and reopening the competition makes procurement strategies more difficult for tenderers, since they have to calculate their prices in a way that, for part of an otherwise homogeneous product range, they must provide fixed prices, while for an unforeseeable portion, tenders are subject to re-competition. On the other hand, the possibility of procurement through direct orders – fixed-price contracts – does not encourage tenderers to engage in real price competition. This would be essential, especially for contracts with large volumes and inherently longer durations.

In light of the above, the Authority recommends a review of the justification for maintaining framework agreements that apply mixed models.

According to the results of a survey conducted amongst public procurement professionals, there is no real competitive situation in the procurement processes carried out under framework agreements concluded as a result of centralised procurement. In response to the question of whether tenderers genuinely compete with each other during the reopening of competition in the second phase of framework agreement procedures, 75% of the respondents consider that there is no competition. Additionally, 63% of the respondents stated that contracting authorities, in the second phase of framework agreement procedures, prefer to implement direct orders whenever possible.

In view of this, we advocate for a review of the regulations from the perspective that the practice of framework agreements should shift towards real competitive tendering. This would be particularly important for centralised public procurement, which, due to its aforementioned characteristics, inherently carries the risk of creating monopolies, but which, in the Authority's opinion, would align more with the principle of efficiency.

#### *Framework contracts concluded under a framework agreement*

In 2024, data published by the Framework, based on the questionnaire-based data collection provided by central purchasing bodies, will show the proportion of framework agreements concluded by these bodies that allow for the signing of a framework contract.<sup>34</sup> The sub-indicator highlights how widespread the practice is

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<sup>34</sup> See sub-indicator no. 98.3 of the Framework



where, under a framework agreement, a framework contract is signed but no specific procurement obligation is yet undertaken, i.e., 'only' the framework contract is concluded. According to the referenced sub-indicator, during the examined period (2023), both the DGPPS and the NCO had only active framework agreements that allowed the possibility for institutions to conclude a framework contract, which may not necessarily lead to a specific procurement obligation or a contract for procurement. The DKÜ did not have such framework agreements.

Although there is no rule prohibiting the conclusion of a framework contract under a framework agreement, this practice could pose several risks. On the one hand, it may be a way of circumventing the competitive tender procedure, as it puts only the economic operator who has signed the framework contract in a favorable position. On the other hand, without sufficient control, it may lead to a situation where the duration of the framework contract exceeds the active period of the framework agreement.

In light of the above, the Authority recommends analysing the practice of central purchasing bodies in this regard, examining its justification, and adjusting the legislation if necessary, based on the findings.

#### *Number of contracts concluded under a framework agreement*

To better understand the functioning of centralised public procurement and the practices followed by public procurement organisations, it is essential to have adequate input data. The Framework also provided more data on the scale of contracts concluded under framework agreements and dynamic procurement systems established by public procurement organisations.<sup>35</sup>

In the case of the DGPPS, the number of contracts concluded by the institution under framework agreements and DPSs more than doubled compared to 2022, with around 2.2 million contracts concluded in 2023. The number of contracts concluded by institutions under centralised procurement for the other two institutional players (DKÜ, NCO) remained close to the 2022 levels: in 2023, the number of contracts concluded based on framework agreements and dynamic procurement systems was 15,332 for DKÜ and 295 for NCO. (Note that each direct order was considered as one contract.)

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<sup>35</sup> See indicator no. 100 of the Framework

For the DGPPS and DKÜ, the high number of contracts could be explained by the product range covered by the framework agreements and the variety of products that can be procured under them.

The Framework also provides data on the average number of contracts institutions conclude within the system maintained by the central purchasing body. For the DGPPS, this means an average of 829 contracts per institution, for the DKÜ, an average of 17 contracts per institution, and for NCO, this figure is 2 contracts.

If we compare the data on the average number of contracts per institution – particularly for the DGPPS and the DKÜ – with the previously discussed characteristic that central purchasing bodies conclude mixed-type framework agreements, under which institutions can meet procurement demands via direct orders up to an internal threshold value, the following question arises. Do institutions follow the rules for aggregating procurement demands, or do they treat each procurement demand separately to ensure that lower-value procurements can be processed via direct ordering? This consideration also affirms the need to review the analysed contractual practices.

For the purposes of the subject discussed in this section, conclusions can be drawn not only from the number of individual contracts concluded under the various centralised procurement systems but also from their value.

According to the Framework<sup>36</sup>, the value of contracts concluded under the framework agreements and dynamic procurement systems established by central purchasing bodies – as expected based on the number of contracts – is also the highest for the DGPPS, totaling approximately HUF 617 billion net. For the DKÜ, the total value of contracts is HUF 284.4 billion net, while for the NCO, it is HUF 167.7 billion.<sup>37</sup>

If we compare the above figures with the number of institutions with successful procedures and the number of contracts concluded by them, we can obtain information on the average contract value per institution and the average contract value per contract. This value is particularly high for the NCO: the average contracted value per institution is HUF 1.2 billion, and the average contracted value per contract is HUF 623.1 million. Considering that the NCO follows a practice of concluding framework agreements with a single tenderer, the framework agreements concluded by the NCO present the most risk of market concentration.

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<sup>36</sup> See indicator no. 101 of the Framework

<sup>37</sup> See indicator no. 101 of the Framework

Due to the high number of contracts and the large number of organisations using the system of the central purchasing body, the DGPPS has the lowest average contract value per institution (HUF 236 million) and the lowest average contract value per contract (HUF 284.8 thousand).

### **3.5. Low level of competition in public procurement procedures**

The low level of competition is a recognised issue in Hungarian public procurement, typically identified with the number of single bid procedures in analyses. The latter is likely because the Government has undertaken in the conditionality mechanism and Hungary's Recovery and Resilience Plan to reduce the proportion of single bid procedures: for EU-funded public procurements, to 15% starting from 2022, while for domestically funded public procurements, to 32% in 2022, to 24% in 2023, while from 2024 onwards, to 15% uniformly. Given the aforementioned context, this indicator is crucial in terms of Hungary's fulfilment of its commitments towards the European Union.

However, as the Authority also stated in its 2023 Integrity Risk Report, the issue related to the level of competition in public procurement is complex and cannot be identified solely with the question of single bid procedures. As a result, its resolution also requires a multifaceted approach. The intensity of public procurement competition should be examined in a broader context.

These issues include, amongst other things:

- not only single tender procedures, but also procedures with a few – mainly two – tenders, the practice of the so-called 'supporting' bids,
- market access difficulties, competition-restricting regulations used by contracting authorities in public procurement procedures (eligibility and contracting criteria, evaluation criteria, technical parameters),
- the high ratio of invalid tenders,
- the excessive use of conditional public procurement procedures,
- the high ratio of unsuccessful public procurement procedures,
- the duration of public procurement procedures,
- framework agreements that are used at an extremely high rate and lead to prolonged market 'closures' (over 71% of these framework agreements are signed with a single tenderer),
- restricting the possibility of partial tendering,
- difficulties associated with enforcing the right to legal remedies

- administrative burdens and risks associated with participating in public procurement procedures.

The combination of these may have led, as a result of a lengthy process, to a decrease in the level of competition in public procurement procedures and a significant loss of trust among tenderers. As a result, many tenderers have withdrawn from the public procurement market, and those who remain are increasingly likely to automatically refrain from submitting tenders in cases of tailored (or seemingly tailored) calls for tenders. Some tenderers still attempt to notify the contracting authorities of the specifications they consider to be restrictive of competition, either by requesting additional information or through informal dispute resolution procedures that directly express suspicion of infringement. However, based on the contracting authority's potential rejection of their request, they generally abandon their intention to submit a tender without initiating formal legal remedies.

In view of the above, the Authority proposes that, in 2024, the Framework should examine, collectively and in context the following:

- the number of expressions of interest received for single or double bid procedures,
- whether additional requests for information were made for single or double bid procedures, or if preliminary dispute resolution was initiated, and whether this concerned the restrictive nature of the technical specifications or other requirements of the procurement procedure,
- whether the preliminary dispute resolution was successful,
- finally, the number of tenders submitted in the procedure.

This would provide a more realistic picture of the actual level of interest in single or double bid public procurements, and whether the low number of tenders received is potentially due to restrictive conditions or genuinely reflects the structure of the market.

In general, interested economic operators very rarely request legal remedies regarding provisions they perceive as restrictive of competition in the public procurement documents: based on the data published in the Framework, in 2023, only 15 requests for legal remedies were submitted concerning alleged violations in the content of the contract notice and other public procurement documents, which is similar to the figure recorded in the previous year. According to the substantial responses received from the Authority's survey of tenderers, it can be concluded that tenderers are primarily concerned about the potential negative impact that initiating a legal remedy procedure could have on their future standing, but the

amount of the administrative-service fee also serves as a significant deterrent to initiating a remedy. (See the analysis of the issue regarding legal remedies in point 3.8)

### **3.5.1. Partial tendering**

Providing the possibility of partial tendering is closely linked to increasing and broadening competition, and thus even reducing the number of single bid procedures.

Wider competition generally results in lower prices, which is also essential from the perspective of ensuring responsible public spending. Therefore, it is crucial for contracting authorities to make appropriate decisions regarding the provision of partial tendering opportunities, including the creation of a sufficient number of partial lots. A practice that, where the possibility of partial tendering is provided for in the procedure, no longer considers it necessary to examine the legality of the partial tendering structure would not be deemed acceptable.

Excluding the possibility of partial tendering is also questionable if, although more than one tenderer is capable of submitting a tender, the definition of the subject matter and/or the quantity of the procurement significantly reduces the number of potential economic operators who could participate in the public procurement procedure.

In the case of high-value framework agreements and framework contracts, the absence or limited provision for partial tendering is particularly restrictive in terms of competition.

The possibility of partial tendering is a widely accepted tool at EU level for bringing small and medium-sized enterprises into competition.

The Government did not support the Authority's proposal to establish mandatory criteria for contracting authorities to consider when deciding whether to allow or exclude partial tendering, in light of the legal application issues experienced in previous regulations. However, it did mandate that the minister with responsibility for public procurement ensure the preparation of a separate methodology document on providing partial tendering, specifically for cases involving EU funding, and facilitate consultations with relevant authorities on its draft.

The Authority recommends that the methodology documents be published on the Public Procurement Authority's website, along with the information that the

provisions contained therein are also applicable to public procurement procedures financed with domestic funding.

It is also justified to follow up on whether the methodological material alone is an appropriate tool for adapting the practices of contracting authorities and review bodies.

According to a communication from the President of the Public Procurement Authority (PPAH) published in February 2024,<sup>38</sup> it is an innovative advancement that, as part of executing the National Anti-Corruption Strategy 2024-2025 and point 5.1. a) of Annex 1 to Government 1025/2024 (14 February) on the adoption of the action plan relating to the implementation thereof, the Public Procurement Authority upscales its contract notice audit activities in the fields of two procurement legal institutions where contracting authorities have a high chance of integrating regulations capable of narrowing down competition into procurement notices. The upscaled inspection covers the obligation to justify the provision of a partial tender, as well as specific branding, over-specification of eligibility requirements and evaluation criteria.

### **3.5.2. Single and double bid procedures, supporting bids, reverse evaluation**

Regarding the statistical data specifically related to single bid procedures: in 2022, Hungary met its commitment towards the European Union to reduce the proportion of single bid procedures, however in 2023, this was only partially successful. Based on the data published in the Framework, regarding the number of procedures:

- the overall proportion of single bid procedures continued to decrease, from 26.6% in 2022 to 21.8%;
- the proportion of single-bid procedures in EU-funded public procurements improved further, from 13.3% in 2022 to 5.5%;
- however, in the context of domestically funded public procurements, the proportion only decreased slightly from 31.3% to 29%;

Moreover, according to the data published in the Framework, while the number of single bid procedures decreased, the proportion by value showed an increase.

In relation to the data, it is worth noting that the European Court of Auditors' 2023 Special Report on 'Public Procurement in the European Union' identified the

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<sup>38</sup> Announcement by the President of the Public Procurement Authority on enhancing the audit activities of contract notices in relation to the implementation of the National Anti-Corruption Strategy, 22 February 2024.

decreasing level of competition in public procurement procedures<sup>39</sup> as a problem at EU level. This phenomenon, including the increase in the proportion of single bid procedures, does not only affect Hungary. In the mentioned report, the European Court of Auditors calls for an in-depth analysis of the underlying causes of the reduction in competition.

Returning to the analysis of the single bid data: the Framework also points out that the differences between EU-funded and domestically funded public procurements may be explained by the stricter controls applied to the former, as well as the fact that the requirement for contracting authorities to avoid awarding public contracts through single-bid procedures has been enforced for a longer period in EU-funded procurements. However, further analysis is recommended to understand the reasons behind the significant differences in market behavior regarding single bid procedures, depending on the funding source, and

- on the one hand, it is justified to implement solutions (including, where appropriate, stricter controls) that lead to greater competition in the context of EU funds for domestic funds as well;
- on the other hand, conduct a heightened examination to verify whether the more favorable values are indeed the result of competitive tenders, and (at least in part) not the mere products of the so-called 'supporting bids'.

The latter is also necessitated by the fact that, according to the data published in the Framework, in 2023, the most frequent number of tenders received for a successful procedure part in domestic public procurement procedures was still two<sup>40</sup>, although the median number of tenders in 2023 was 3<sup>41</sup>, indicating that, compared to previous years, more procedures received three or more tenders for the award of a contract. Furthermore, for successful procedure parts, an average of 3.4 tenders were<sup>42</sup> received last year, representing an increase compared to the average of fewer than 3 in previous years.

The results are also highlighted by the fact that the Framework follows the methodology used in the Single Market Scoreboard, which, in calculating the number of single tender values, excludes public procurement procedures conducted for the conclusion of framework agreements<sup>43</sup>. While not disputing this methodological approach, the Authority wishes to point out that a significant portion of framework agreement procedures (71.4% in terms of value, according to

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<sup>39</sup> [Special report no. 28/2023: Public Procurement in the EU \(europa.eu\)](#)

<sup>40</sup> Framework indicator no. 60

<sup>41</sup> Framework indicator no. 61

<sup>42</sup> Framework indicator no. 62

<sup>43</sup> [Access to public procurement | Single Market Scoreboard \(europa.eu\) Indicator 1](#)

the Framework<sup>44</sup>) were concluded with only one tenderer in 2023, which, according to the explanation provided in the Framework, was partly due to the fact that only one tender was received in the procedure.

The methodology used in the Scoreboard also does not account for negotiated procedures without prior publication of a contract notice when calculating the number of single tender values, whereas the Hungarian methodology includes procedures under section 115 of the PPA (which are typically non-negotiated but procedures without prior publication of a contract notice) in the statistics. As these procedures tend to attract more tenders, this improves the statistics. It is worth noting that, as the Framework also points out, although more tenders are usually received in these procedures, the most significant issue here is the practice of submitting 'supporting bids.'

The institution of reverse evaluation can help to conceal the practice of 'supporting bids' and reduce the proportion of invalid tenders. In such procedures, the contracting authority has the option to only include the most advantageous tender in the evaluation, thus avoiding having to take a position on whether the procedure was actually competitive or whether, in cases of suspected collusion, it needs to signal to the Hungarian Competition Authority. The submission of 'supporting bids' is also harmful because its costs can make public procurement more expensive; the submission of 'sham' bid(s) by non-competitive tenderer(s) must be remunerated in some way by the tenderer, and if this is not done on a reciprocal favor basis, the fees paid in this way are incorporated into the tender price offered in the public procurement procedure, the cost of which is ultimately borne by taxpayers.

In order to discourage the practice of 'supporting bids', the Authority proposes that the possibility of reverse evaluation in double or triple bid public procurement procedures be excluded, at least temporarily, by the PPA and that any failure to signal to the HCA be subject to increased scrutiny by the control bodies. In procedures with a small number of tenders, it is unrealistic for the contracting authority not to include all tenders in the evaluation, as it must always account for the possibility that the most advantageous tender may not meet the necessary requirements.

In order to increase the number of successful signals related to public procurement procedures under section 36(2) of the PPA, the Hungarian Competition Authority plans to organise a conference. Furthermore, in November 2023, a guidance document titled 'Professional Guidance on Corruption Risks and Cartel Agreements

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<sup>44</sup> Source: Framework indicator no. 47



Affecting the Fairness of Public Procurement Competition’ was published in cooperation with the Public Procurement Authority and the Hungarian Competition Authority<sup>45</sup>.

Moreover, to increase the number of effective indications, the Authority recommends creating and sharing document templates, as well as publishing information on decisions related to public procurement cartels on the Public Procurement Authority’s website.

### **3.5.3. Invalidity, restrictive regulations**

One of the further shortcomings of the approach that equates the level of competition in public procurement solely with the number of single bid procedures is that it does not take into account the proportion of invalid tenders. In addition to the fact that intentionally non-compliant (‘supporting’) bids are also invalid (or would be, if the contracting authority were required to assess them substantively, as mentioned above), the level of competition is significantly influenced by the proportion of submitted tenders that are invalid despite genuine competitive intent. According to the data presented in the Framework, the proportion of invalid tenders exceeded 10% of the total submitted tenders in all examined years, with the highest percentage in 2023, reaching 14.9% (this was nearly 1% higher than the previous year’s value)<sup>46</sup>. The increase in the number of tenders submitted in public procurement procedures is of no consequence if the proportion of invalid tenders also increases.

Based on the data presented in the Framework, the majority of invalid tenders fell into the so-called ‘other’ category<sup>47</sup> (section 73(1)(e) of the PPA – the tender does not comply in any other way with the conditions stipulated in the contract notice, the invitation to tender or the invitation to participate and the procurement documents and by law, with the exception of formal requirements for tenders and requests to participate set out by the contracting authority). This could include, for example, as highlighted in the Framework, when a tenderer commits a non-correctable mistake in their tender. Excluding the ‘other’ category, the most common reasons for invalid bids in the past three years have been failure to meet eligibility requirements or inadequate proof of meeting these requirements (section

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<sup>45</sup> [Professional guidance was published on corruption risks and cartel agreements concerning the fairness of competition in public procurement – Main portal \(kozbeszerzes.hu\)](#)

<sup>46</sup> Framework indicator no. 37

<sup>47</sup> Framework sub-indicator no. 37.1

73(1)(d) of the PPA), followed by the establishment of disproportionately low prices or other impossible conditions (section 73(2) of the PPA).

For each of the main grounds for invalidity, it is important to monitor closely the practices of contracting authorities, especially in relation to the requirements for technical offers and the definition of eligibility criteria. The enhancement of the verification of contract notices by the Public Procurement Authority (see the previously referenced Communication<sup>48</sup>) and the strengthening of controls by other organisations could assist in reviewing these practices.

The Authority recommends that the Framework examine in more detail the typical errors found in tenders declared invalid under section 73(1)(e) of the PPA, in order to identify further measures that could help ensure that valid tenders are made, which may, if necessary, involve expanding the functions of the EPPS.

Furthermore, given that the highest proportion of single bid procedures is found in the field of goods procurement, the Authority recommends examining and intensifying the inspection by monitoring bodies to determine whether this is due to the contracting authorities issuing tenders for a specific product, with or without reference to a brand. (As noted in the previously referenced Communication from the Public Procurement Authority, the verification of contract notices will be strengthened in this regard as well.) While it is the contracting authority's right to decide what they wish to purchase, competition can be restricted by the parameters defined either in the technical specifications or in the evaluation criteria. It is therefore justified to examine to what extent it is typical for single tenderer goods procurement procedures to specify the subject of the procurement by referring to a particular brand/source/standard, with reference to the acceptance of equivalent tenders. In itself, merely stating the possibility for equivalent tenders does not ensure competition. It is recommended that this investigation be extended to affected goods procurements, looking into whether there have been any signals from interested market participants, either through preliminary market consultations, additional requests for information, or requests for preliminary dispute resolution, regarding the competition-restricting nature of the tender.

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<sup>48</sup> Announcement by the President of the Public Procurement Authority on enhancing the audit activities of contract notices in relation to the implementation of the National Anti-Corruption Strategy, 22 February 2024.

#### **3.5.4. Restrictive regulations**

Apart from competitive restrictions in the definition of the subject matter of the contract, the eligibility requirements, and the evaluation criteria in a non-competitive manner, the most frequently used instruments for participation in public procurement procedures – as confirmed by the Authority’s surveys – are the definition of the contract award and/or performance conditions.

The specification of the contract award condition or conditions has become increasingly widespread, partly as a consequence of the fact that in the light of previous audit experience, it is more acceptable in audit practice for contracting authorities not to define certain requirements as suitability criteria to be fulfilled by all tenderers by the tender submission deadline, but rather only as contract award and/or performance conditions applicable to the successful tenderer.

While acknowledging that this solution does indeed reduce the administrative burden on tenderers, its substantive impact will only be realised if the fulfilment of the contract award or performance condition does not require such lengthy preparation that it is no longer feasible after the contract award. If the requirement in question can only be fulfilled over a longer period of time, it will not pose an obstacle to potential tenderers only if it is generally expected within the market for that particular procurement.

Given the potentially competition-restricting nature of the contract award and performance conditions, the Authority recommends that the Public Procurement Authority, as well as other supervisory bodies, increase their monitoring of these conditions in addition to the eligibility requirements. In this regard, it is also justified to strengthen monitoring during the contract performance period, to ensure that contracting authorities only establish justified and consistently enforced requirements related to contract performance.

#### **3.5.5. Preliminary market consultation**

According to Government Decree no. 63/2022 (28 February), preliminary market consultation is a key tool for enhancing competition and reducing single bid procedures. This decree made it mandatory to conduct such consultation from 15 March 2024 in all public procurement procedures where the contracting authority does not require the application of the grounds for declaring the procedure unsuccessful as specified in section 75(2)(e) of the PPA in the call for tenders.

The results of the expert survey conducted by the Authority suggest that preliminary market consultations, by themselves, are not suitable for significantly increasing the level of competition:

|  | Likely yes + Yes % | Likely no + No % |
|--|--------------------|------------------|
| <b>PMC5</b> In your opinion, do contracting authorities use preliminary market consultations because they aim to enhance competition in public procurement procedures and are open to improvement proposals from economic operators? | 34                 | 66               |
| <b>PMC1</b> In your opinion, is preliminary market consultation an effective tool for stimulating competition in the public procurement market and reducing single bid procedures?   | 36                 | 64               |
| <b>PMC2</b> Based on your experience, do contracting authorities make substantive changes to the public procurement documents based on the feedback received during preliminary market consultations?                                | 56                 | 44               |
| <b>PMC4</b> In your opinion, does preliminary market consultation make a meaningful contribution to the better preparation of public procurement procedures?   | 59                 | 41               |
| <b>PMC3</b> In your opinion, do the procedural rules developed for conducting preliminary market consultation in the EPPS provide sufficient flexibility for carrying out the procedural action?                                     | 76                 | 24               |
| <b>PMC6</b> In your opinion, do contracting authorities apply preliminary market consultation only as a formality, considering the mandatory legal requirements?   | 80                 | 20               |

Feedback suggests that preliminary market consultation can be an effective tool for the proper preparation of public procurement procedures; however, this effect is less evident immediately prior to the announcement of the procurement procedure. This is supported by the Framework data<sup>49</sup>, which shows that although the proportion of preliminary market consultations increased significantly in 2023 (nearly half of the public procurement procedures were preceded by preliminary market consultations), the willingness of economic operators to respond did not increase substantially (the number of responses received rose from 1 in 2022 to 1.1 in 2023). Further analysis is required to assess the impact of the legal amendments implemented in 2023 regarding the institution of preliminary market consultation on competition – specifically, setting a minimum deadline for participation in preliminary market consultations, extending the minimum duration of the consultations, expanding the scope of information to be disclosed, and imposing a stricter obligation on contracting authorities to justify their decisions.

The Authority recommends that, in addition to analysing the impact of the action plan for measures aiming to increase the level of competition in public procurement (2023–2026) outlined in section 7(c) of Government Decision no. 1082/2024 (28 March), which are based on section 5 of Government Decree no. 63/2022 (28 February), on single bid public procurement procedures, the

<sup>49</sup> Framework indicators no. 56 and 57

effectiveness of the additional measures introduced to address the issue of single bid procedures (in particular, preliminary market consultation) be analysed in 2024.

### **3.5.6. Tenderer training programmes**

Among the measures aimed at increasing the level of competition, mention should be made of the tenderer training programmes for SMEs launched in 2023, which could also help increase the number of tenderers participating in public procurement procedures.

In this regard, the Authority considers it important to provide practical, free training specifically aimed at assisting with the use of the EPPS for tenderers in public procurement procedures, as well as for economic operators interested in public procurement procedures. The Authority also recommends considering the creation of a freely and continuously accessible EPPS practice platform.

### **3.5.7. Non-Publicly Announced or Implemented Public Procurement Procedures, Unlawful Disregard of the PPA, Exceptions**

Another issue to be analysed in terms of the level of competition in public procurement is the proportion of procurements carried out without publication of a contract notice, which in Hungary is particularly low as a result of the strict control practice of the Public Procurement Authority and the supervisory bodies for EU funds<sup>50</sup>: as for domestic public procurements, they account for 1.9% in terms of the number of procedures, while accounting for 1.5% in terms of value, both of which show a decrease compared to the previous year.

The proportion of non-publicly announced procedures is significantly higher, primarily due to procedures under section 115 of the PPA, applicable in the national procedural system (see below)<sup>51</sup>: in the case of successful procedure parts, the proportion of public procurement procedures started with a public announcement was 11.7% in 2023, measured by the number of procedure parts.

No data is available on public procurements excluded from the scope of the PPA due to emergency regulations or exceptions under the Act. In order to ensure that comprehensive information is available on publicly announced public

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<sup>50</sup> Framework indicator no. 27

<sup>51</sup> Framework indicator no. 24

procurements, the Authority recommends that the Framework also examine the scale of procurements made in this way.

Finally, also in this context, it is necessary to mention contracts concluded in violation of the PPA's provisions. As recorded in the Framework<sup>52</sup> based on data provided by the Public Procurement Arbitration Board, the unlawful disregard of the PPA was found by the Board on six occasions in 2023 – a lower number compared to previous years. According to the Framework, 'This may be due to a variety of reasons, such as the spread of specific procurement methods (centralised procurement systems, framework agreements, dynamic procurement systems), and, for procurements funded from purely domestic sources, less scrutiny.'

The inadequacy of inspections may be indicated by the fact that in recent years, supervisory bodies overseeing domestic funds – compared to the previous period – have not uncovered or have uncovered only a small number of violations regarding unlawful disregard of the PPA.

The Authority recommends that the supervisory bodies conduct specific procurement compliance audits and, in the course of these audits, give special attention to investigating unlawful exclusions from public procurement procedures.

We believe that in this section, it is appropriate to highlight the observations regarding the public procurement regulations for procurements funded by grants:

Amendments to the PPA have continuously narrowed – beyond the mandatory scope defined by the directives – the range of grants for which public procurement procedures must be conducted. An exception to this is the modification of the PPA<sup>53</sup>, which came into effect in February 2024, that brought certain service contracts funded by specific grants under the scope of the PPA. Moreover, the amendment to the PPA, effective from 1 January 2023, repealed the interpretative provision that defined the concept of 'grant.'

Based on its experience with the use of grants, the Authority sees merit in bringing procurements financed by EU and Hungarian national funds back under the scope of the PPA, applying Hungarian national procedural rules once a specified support threshold is reached. The Authority also recommends the preparation and

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<sup>52</sup> Framework indicator no. 9

<sup>53</sup> Section 5(3) of the PPA: In addition to the provisions set out in subsection (2), a public procurement procedure must be conducted for procurements funded by grants by an organisation not falling under the scope of subsection (1), where the estimated value of the service contract to be awarded directly – with the exception of the Recovery and Resilience Facility – is funded from EU sources and meets or exceeds the national public procurement threshold.

publication of a methodological document clarifying the public procurement implications of Corporate Tax Donation (TAO) grants.

### **3.6. Proposals for improvements to the EPPS to increase the level of competition and transparency of the system**

An electronic public procurement system designed in line with international standards is capable of bolstering public trust in public procurement in multiple aspects. To this end, the Authority has formulated recommendations in the following areas.

Following an examination of the cost implications of the planned and proposed developments, the Authority recommends improving the EPPS as soon as possible to enable economic operators who have expressed interest in procurements under specific CPV codes to automatically receive notifications about preliminary market consultations and subsequent public procurement procedures related to those CPV codes. The proposed development could significantly increase the level of competition.

The Authority recommends that economic operators registered in the EPPS be directly notified by the EPPS about system developments that may support their more effective participation in public procurement procedures.

The Authority recommends that communications and methodological materials issued by the minister with responsibility for public procurement should not be published exclusively in the News section, but also in a separate submenu.

To increase the level of competition, the Authority also recommends developing a feature in the EPPS – if possible, as a priority – that makes the current ('open') Dynamic Procurement Systems (DPS) specifically visible to economic operators. This would support later participation in DPSs and, in turn, increase the number of economic operators involved in them.

The Authority continues to consider it important to implement the earlier recommendation aimed at eliminating the waiting time between the tender deadline and the opening in 2024. Based on the results of a survey conducted amongst public procurement professionals, 61% of the respondents consider that maintaining a waiting time between the tender submission deadline and the opening is unnecessary.

The Government supports the proposal of the Authority and the Anti-Corruption Task Force regarding the proposal made in their 2022 reports. This proposal, aimed

at building tenderer trust, suggests that the identity of interested economic operators should not be made known to the contracting authority before the opening of submitted tenders. (However, in order to allow the contracting authority to be informed of the level of interest in its procedure, it may still be appropriate to include information on this in the EPPS.) This measure will eliminate the risk of the contracting authority or a competing economic operator attempting to influence the pool of tenderers. This solution could also help ensure that the contracting authority provides equal treatment and equal opportunity to all economic operators, as their response to requests for additional information and requests for preliminary dispute resolutions (their willingness to cooperate) should not be influenced by the identity of the inquirer/initiator, nor should economic operators fear that their questions will negatively affect their chances. The time limit foreseen for the development, according to the action plan for measures to increase the level of competition (2023–2026) outlined in Government Decision no. 1118/2023 (31 March), is 31 December 2024.

In almost all cases, requests for preliminary dispute resolution concerning the outcome of the procedure – where the tenderer does not wish to challenge the contracting authority’s decision on its own tender, or not exclusively – are preceded by a request for access to the contracting authority’s file. Ensuring that the right of access to the file is properly guaranteed is fundamental to enforce the right to legal remedy. Despite the fact that public procurement procedures have been completely electronic in Hungary since 2018, the PPA still does not require contracting authorities to provide electronic access to documents. In fact, although the provision excluding it has been removed from the PPA, contracting authorities are still required to ensure access to documents in the EPPS by having the economic operator’s representative appear in person, in accordance with section 20(1) of Government Decree no. 424/2017 (19 December) on the Detailed Rules of Electronic Public Procurement, which was issued on the authority of the PPA. Therefore, since public procurement procedures are carried out in the EPPS, personal access to the file is still the general rule. Considering that contracting authorities are required to provide access to the file within two business days following receipt of the request (which, from the tenderers’ point of view, means that they must appear in person at the time specified by the contracting authority within two business days if they do not wish to miss out on the opportunity), the Authority continues to maintain that the administrative burden on tenderers’ participation in the procedural action could be significantly reduced if contracting authorities were required to provide electronic access to documents for content not classified as trade secrets, if requested by the tenderer.



The Government did not support the recommendation made in this respect in the 2022 Integrity Report, as it considered that remote electronic access to documents without the direct supervision of the contracting authority would be equivalent to the transfer of documents, which would be disproportionate to the intended purpose.

However, the Authority maintains that it would not violate the principle of proportionality nor exceed what is strictly necessary for the exercise of the right to appeal if the contracting authority were to provide electronic access to the documents at the request of the tenderer. According to section 45(1) of the PPA, the contracting authority is required (and entitled) to grant access to documents only to the extent necessary for the enforcement of the alleged breach of law identified by the economic operator, and a full review of another economic operator's tender or participation submission is not permitted within the scope of such access. The foregoing provisions would also apply to electronic access to documents. While personal document inspection at the contracting authority's office does not allow for copies to be made – according to current practice – and this would indeed not be enforceable in the case of electronic document access, the Authority considers that there is no substantial difference between allowing the economic operator to 'only' take notes on the documents presented to them or permitting them to copy or photograph the documents.

Therefore, it is recommended to empower the tenderer to decide whether to exercise the right to inspect documents in person or through an electronic public procurement system (such as the EPPS). With regard to this, the Authority maintains its recommendation to amend the provisions of the PPA and Government Decree no. 424/2017 (19 December) accordingly.

The EPPS is already significantly simplifying the tendering process in public procurement procedures, notably through the use of easy-to-complete forms, thus standardising a significant portion of the tender. Based on feedback received as part of the questionnaire surveys, the Authority recommends the implementation/activation of an EPPS feature that automatically transfers previously submitted content from earlier tenders – both in terms of the registration of the economic operator's data and the forms (excluding the fiche) as well as the ESPD (European Single Procurement Document) –, thus reducing the administrative burden, the possibility of errors, and the costs associated with submitting tenders.

### **3.7. High ratio of unsuccessful and conditional public procurement procedures, duration of procedures**

#### **3.7.1. Increasing the ratio of successful procedures**

As emphasised by the Framework, the success of procedures is crucial for the effectiveness of public procurement, as failure to achieve a result means the procurement will not fulfil its purpose, and, in such cases, it may need to be restarted, incurring additional human resources and costs.

A public procurement procedure can only be declared unsuccessful in the cases defined in section 75 of the PPA. The purpose of the regulation is to ensure that, after the binding of the tender, the contracting authority may only declare a public procurement procedure unsuccessful in cases that are justified and explicitly defined by the PPA. The ratio of unsuccessful public procurements in Hungary has consistently remained high: in recent years, over one-fifth of public procurement procedures – calculated per phase – have ended unsuccessfully<sup>54</sup>. The examination by procedure in the EU regime paints an even bleaker outlook for 2023: more than one-fourth of the procedure parts resulted in failure<sup>55</sup>.

The most common reason for unsuccessful procurements in 2023 was the lack of tenders received for procedures (28.9%, section 75(1)(a) of the PPA). The second most common reason was the lack of financial coverage (22.9%, section 75(2)(b) of the PPA), and the third reason was that fewer than two tenders were received for procedures, and the contracting authority had stipulated in the notice that the procedure would be declared unsuccessful for this reason (21.5%, section 75(2)(e) of the PPA). The reason for the unsuccessful outcome of the procedures in 17.5% of cases was the submission of only invalid tenders or participation requests (section 75(1)(b) of the PPA).<sup>56</sup> Therefore, nearly 70% of the unsuccessful outcomes can be traced back to either no tenders being submitted, only one tender being received, or all tenders being found invalid in the public procurement procedure.

It can be assumed that the contracting authorities' lack of market knowledge, as well as mistakes made during the preparation of public procurement procedures, the definition of the subject of procurement, and the setting of other procurement conditions, contribute not only to the high number of single bid procedures but also to the high proportion of unsuccessful procedures.

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<sup>54</sup> Framework indicator no. 35

<sup>55</sup> Framework sub-indicator no. 35.1.

<sup>56</sup> Framework indicator no. 36

The results of the Authority's questionnaire survey also support the finding that the use of subject-matter expertise (i.e. technical expertise) in public procurement procedures is not always appropriate. Effective preliminary market consultations can also serve as a tool for addressing this problem.

An unsuccessful public procurement procedure results in unnecessary expenditures not only for contracting authorities but also for tenderers, which, under the Framework, can amount to several hundred thousand forints for tenderers and even reach millions for contracting authorities.<sup>57</sup>

In the Authority's view, it is extremely important to increase the proportion of successful public procurement procedures, which requires proper preparation of the procedures – including the definition and securing of financial frameworks, as well as the clear definition of the subject matter of the procurement and the proportional design of the contractual terms.

### **3.7.2. Conditional public procurement procedures**

Conditional public procurement procedures provide contracting authorities with the possibility to close the procurement procedure without a contract award notice if a predefined condition is not met, or to decide not to put the awarded contract into effect. According to section 53(6) of the PPA, a conditional public procurement procedure may also be initiated if the contracting authority makes the successful award of a grant a condition for the success of the public procurement procedure.

Conditional public procurement procedures offer contracting authorities greater flexibility and may expedite the use of subsequently awarded funding. However, they pose several risks for tenderers: the actual contract award is uncertain, as is the start date, and consequently the performance period and deadline. As a result, tenderers cannot foresee how long they will need to maintain their tenders, when they will need to schedule their resources, while the signing of public procurement contracts can only be avoided in exceptional circumstances, and the contracts include strict consequences in the event of non-performance.

The PPA does not set a time-limit for maintaining a situation of contingency meaning that, in practice, contracting authorities often do not set a final date for the contract's entry into force. In the context of the use of EU funds, the expectation is that the contracting authority should set the contract start date to a maximum of 180 days (i.e. half a year!). Since the binding period for tenderers starts when the

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<sup>57</sup> Framework indicator no. 52

tendering deadline expires, this means that a tenderer must maintain the tender price and other contractual terms for the entire evaluation period, plus a maximum of half a year. Under current economic conditions, this is almost untenable or only possible at an unrealistically high risk premium. Given the rapidly changing global economic environment, supply chain stability can collapse overnight, and ensuring the fulfilment of contractual obligations cannot be guaranteed over such a timeframe. The result of this is a reduction in the number of tenderers or a significant price inflation, affecting the efficiency of the use of public funds, whether domestic or EU.

A non-extendable deadline could result in delays in the entry into force of several contracts, leading to significant unnecessary costs for contracting authorities and tenderers alike.

Although the option of conditional public procurement has previously been provided by public procurement laws, its use was considered an exception in comparison to the current situation. In contrast, in 2023, more than one-fifth of procurement procedures (21.54%) were conducted conditionally. This proportion is higher than in previous years (2021: 17.69%, 2022: 17.62%), which, according to the Framework, is likely related to the closure of the 2014–2020 programming period and the beginning of the 2021–2027 period, as well as the implementation of RRF projects.

Considering also the data from the questionnaire surveys, the Authority continues to deem it necessary to clarify the legal requirements for conditional procurement, at a minimum by specifying that:

- a public procurement procedure cannot be initiated before the submission of the grant application, and
- considering the realities of the economic environment, a significantly shorter deadline (maximum 90 days) for the entry into force should be set, compared to current practice.

The Authority also recommends that supervisory bodies pay special attention to ensuring that the possibility of conditional public procurement is not abused by contracting authorities, i.e. that contracts are only avoided in justified cases.

### **3.7.3. Duration of public procurement procedures**

In its 2022 Integrity Report, the Authority extensively addressed the duration of public procurement procedures and, as a result of its analysis, recommended that the maximum duration for the evaluation process be defined in the PPA.

Taking the recommendation into account, section 70(2a) of the PPA was amended in 2024, so that if the binding period for tenders exceeds 150 days (previously 180 days) before the contracting authority notifies tenderers of the decision to close the procedure, the contracting authority may close the procurement procedure successfully only if the tenderer deemed the most advantageous based on the evaluation criteria still maintains their tender.

However, the amendment did not provide a solution to the fact that the maximum duration of the evaluation period is not currently specified in the PPA, which creates uncertainty for tenderers, similar to that described in the context of conditional public procurements. Although, according to the data from the Framework<sup>58</sup>, the average duration of the evaluation has continuously decreased in recent years, there are still exceptional cases (905 days). To allow tenderers to submit tenders under more predictable conditions, the Authority continues to consider it justified to establish a maximum evaluation deadline in the PPA, differentiated by procedure type and procurement process. Exceptions may be allowed in specific cases, subject to conditions. Such a differentiated approach could contribute to achieving the goal referenced in the Government's response to the previous year's Integrity Report, namely, to prevent contracting authorities from abusing the extension of the evaluation period.

In this regard, it is worth recalling that the average tender submission deadlines in both EU and national procedures only minimally exceed the minimum value set by law. In order to achieve a balance, it is necessary for contracting authorities to apply similarly tight timelines for the duration of the evaluation process.

### **3.7.4. Discontinuing procedure type under section 115 of the PPA**

The Government did not support the Authority's recommendations regarding the elimination or significant overhaul of the rules for the so-called 'five-tenderer procedure' under section 115 of the PPA in its 2022 report, and justified this partly by the EU legal requirements, and partly by the relatively low significance of the

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58 Framework indicators no. 30-34

procedure (which represents only 2% of the public procurement market), as well as the low administrative burden associated with it.

However, the Authority continues to attach high priority to the abolition of this procedure type in order to enhance the integrity of public procurement, for the reasons outlined below.

Since the procedure under section 115 of the PPA starts without a public call for tenders, its significance in terms of transparency is considerable. This procedure is only applicable to public works projects valued below 300 million HUF, meaning it is limited to relatively smaller investments within the Hungarian national procurement framework. A 2020 amendment to the law<sup>59</sup>, which came into effect on 1 February 2021, eliminated the possibility of initiating procurement procedures for public works projects without a public call for tenders in the context of EU funds (in order to avoid financial corrections). In the Authority's view, it is not justified for national public procurement procedures to apply a different approach from that used for EU-funded projects; the concerns raised in the case of EU funds are equally relevant for domestic funding.

Furthermore, according to the data from the Framework<sup>60</sup>, the proportion of procedures under section 115 of the PPA cannot be considered negligible: they accounted for approximately one-third of both the public works related procedures and those conducted within the national procurement framework. This is still notably significant, even if the value-based proportion presents a more favorable picture: in 2023, the value-based share of public procurement procedures conducted under section 115 of the PPA in the national procurement framework, regarding public works projects, accounted for 28.5% of successful procedure parts, and 13% of all successful construction-related procedure parts. Given that the application of section 115 is only applicable to public works projects, the Authority believes it is justified to assess the significance and impacts of this procedure type within the construction procurement sector.

In the Authority's survey, the majority of respondents (tenderers) stated that in procedures under section 115 of the PPA, tenderers do not actually compete and that the procedure does not improve the chances of SMEs winning smaller value public procurements. The latter is a significant issue, as smaller contracts would typically provide opportunities for SMEs to enter the market.

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<sup>59</sup> See Act CXXVIII of 2020 on the Amendment of Act CXLIII of 2015 on Public Procurement and Certain Related Acts

<sup>60</sup> Framework indicators no. 28 and 29

In procedures under section 115 of the PPA, violations of the principle of fair competition seem to be more common, including collusion between tenderers, coordinated bids, and the submission of supporting bids. This is confirmed by reports received by the Authority and the experiences from review and appeal proceedings. In view of the data presented above, these issues have a significant impact on the overall practice of implementing public procurement procedures.

The application of procedures under section 115 of the PPA also leads to a higher risk of irregular solutions in terms of the application of the prohibition of demolition by instalments (the procedure can only be tendered up to a net threshold of HUF 300 million). It is also worrying that there is practically no control in these procedures (in contrast to other procedures without prior publication of a contract notice). These are also confirmed by the fact that remedy proceedings in connection with the application of this procedure take place almost exclusively based on an ex officio initiative by the bodies controlling EU-funded public procurement and public interest reports. The virtual total absence of remedy proceedings at request also seems to confirm the view that there is no real competition in these procedures. This is why tenderers submitting tenders in the procedure do not even attempt to challenge the contracting authority's decision to close the procedure.

The Authority's stance remains that the enforcement of the fundamental principles intended to be applied also for procedures under section 115 of the PPA (ensuring competition, avoiding discrimination in selecting economic operators, maintaining equal treatment) is difficult to construe in a procedure where the contracting authority selects five economic operators to be invited to tender.

In the Authority's opinion, the negative impact of malpractices in implementing the procedure set out in section 115 of the PPA extends beyond mere numbers and the national procedure. Considering the trust in the functioning of the entire public procurement system, it is vital for the system to be void of any weaknesses – including those manageable with appropriate regulations – that public procurement stakeholders believe can easily be circumvented. Meanwhile, the Authority maintains that if public procurement stakeholders consider experience gained from only a section of procedures to be applicable to the entire public procurement system, it has a significant impact on the overall public procurement moral.

### **3.8. Recommendations concerning preliminary dispute resolution and administrative and judicial legal remedies system**

Swift, effective and predictable legal remedies are essential to the adequate operation of the public procurement market, as well as to building and maintaining the trust of tenderers in public procurement.

#### **3.8.1. Preliminary dispute resolution procedure**

As an informal form of legal remedies, preliminary dispute resolution is extensively employed in the Hungarian legal remedies system, possessing the capacity to reduce the number of formal legal remedies, considering the arbitration and judicial practices connected to this system.

In 2023, the PPA was amended in such a way that the contracting authority may, in addition to the previously mentioned evaluation acts (request for missing documents, request for clarification, correction of calculation errors, justification of disproportionately low prices), invite economic operators to submit any document or information necessary for the evaluation or assessment, thus extending the scope of procedural errors that may be corrected in the context of a preliminary dispute resolution. If the assessment is reopened, it makes it more difficult to meet the deadline if the contracting authority has to order several assessment actions (e.g. submission of missing documents following a request for clarification or a request for a supplementary estimate following a price quotation). It is therefore advisable to revise the time limits for contracting authorities to respond, while maintaining consistency with the time limits for legal remedies (including the extension of the contracting moratorium).

Based on the interpretation of the law already established by the Arbitration Board, the amendment to the PPA has made it clear that as a continuation of the preliminary dispute resolution procedure or procedures, the summary may be amended even if the twenty-calendar-day deadline set in section 79(4) of the PPA may have expired earlier. The amendment is required to ensure that the preliminary dispute resolution can fulfil its purpose. However, it is advisable to monitor whether it leads to disproportionate delays in public procurement procedures (in particular, given the typically long duration of the evaluation process), taking into account the relaxation of rules on the amendment of the summary in 2023.

Considering the Authority's proposal, the 2023 amendment to the PPA supplemented the range of illegalities punishable by higher fines regarding preliminary dispute resolution with the related reference if the contracting authority



fails to respond to the request. In the Authority's opinion, it could increase the significance of preliminary dispute resolution and the willingness of contracting authorities to cooperate if the PPA made it obligatory to impose fines also in cases where the contracting authority fails to respond completely or within the specified time frame to the request for preliminary dispute resolution, or if it submits its position on the infringement but does not take any other action, and the economic operator that is initiating preliminary dispute resolution in connection with the illegality serving as the basis for the dispute resolution request turns to the Arbitration Committee, which subsequently confirms the infringement. The Authority recommends reviewing the regulations in respect of the previous points as well.

The contracting authority is required to publish the information on preliminary dispute resolution in the EPPS immediately upon receipt of the request for preliminary dispute resolution. In the context of the obligation for contracting authorities to inform contracting entities of a preliminary dispute resolution, the Authority continues to consider it warranted to clarify in the PPA, in a manner modelled after the rules on requests for supplementary information, that this must be done in an anonymous manner prior to the opening, without revealing the identity of the person making the request. Since section 80(2) of the PPA does not regulate the disclosure of the identity of the economic operator submitting a request for preliminary dispute resolution, and thus, in light of the principle of fair competition – and the conventions of the PPA – the Authority believes that, even under the current legislation, it is questionable for the contracting authority to indicate which economic operator has initiated the procedure. Obviously, these do not apply after the tender/participation deadline, as the tenderers/candidates already know the identities of the economic operators participating in the procedure.

### **3.8.2. Legal remedy before the Public Procurement Arbitration Board**

Attained through short deadlines while maintaining a ban on contracting, legal remedy before the Public Procurement Arbitration Board has a significant advantage in that a substantial part of the violations confirmed can be remedied by annulling the contracting authority's decisions. The specialisation of the Public Procurement Arbitration Board is a crucial factor for the efficiency of the legal remedies system: resolving typically complex cases of public procurement requires the understanding of the – regularly changing – national and EU legislation and practice relating to public procurement.

The number of remedy proceedings in Hungary has drastically dropped in the past years. It is relevant to and highlighting the data communicated by the Arbitration Board that the applications for review procedure and initiatives concerning several partial tenders within the same public procurement procedure are documented by the Public Procurement Arbitration Board as separate cases, and the same approach is applied to requests/initiatives concerning the illegal disregard of the PPA. Moreover, the percentage of non-substantive decisions is also high: it was at 36% in 2023. In the same context, the percentage of case groups involving non-performance in correcting deficiencies (usually meaning the failure to pay the administrative service fee) and withdrawal of requests/initiatives was 66% in 2023. When examining the number of legal remedies, it cannot be ignored that a significant percentage of remedy proceedings – 42% in 2023 – were initiated ex officio. This means that the number of procedures initiated upon request and documented as independent cases by the Arbitration Board totaled only 344 in 2023.

#### Amount of the administrative service fee

The constantly low number of applications for review initiated upon request can still be attributed mainly to the high administrative service fee, as indicated by feedback from the interviews and questionnaire surveys. Although administrative service fees were slightly adjusted in 2023, this mainly impacts only high-value public procurements, as only the maximum threshold was decreased, not the fee amount itself.

While halving the fees in disputing documents related to the initiation of proceedings can be considered a notable improvement, the fees to be paid during remedy proceedings remain disproportionately high in this respect as well, ranking amongst the highest in the European Union.

The Authority recommends analysing the impact of fee reduction on applications for review based on data from 2024.

In light of this, the Authority recommends introducing a differentiated regime that, at the most, applies a minimum fee before the tender/participation deadline in the event of a challenge to public procurement documents within the prescribed period.

In cases involving illegalities beyond those mentioned earlier, the Authority considers it warranted to further reduce legal fees, for example, in line with the tiered

tariffs defined in Austria, while also seeing merit in considering the setting of a fixed fee.

As the tasks carried out by the Public Procurement Arbitration Board do not differ depending on the estimated value of the public procurement, it is warranted to make the amount of the administrative service fee independent from the procurement's estimated value (which could also help SMEs involved in framework agreements with substantial overall amounts to exercise their right to seek legal remedies).

With the 2023 amendment, the minimum amount of administrative service fee to be paid increased from HUF 200,000 to HUF 300,000, which means there were other changes in the fees related to legal remedies, not just reductions.

While in the past a significant increase in fees in line with the element of the application was due to the high number of unwarranted and unfounded applications for review, the current situation is the opposite: the number of procedures initiated upon request have drastically decreased. It is important to note that international experience has shown that increasing the administrative service fee alone is not sufficient to reduce the misuse of legal remedies; it is warranted to investigate further options.

The Authority also finds the amount of the administrative service fee to be unreasonably high, considering the average fines imposed on contracting authorities in public procurement remedy proceedings: under current practice, when dealing with high-value procurement, the tenderer must risk a significantly higher amount when seeking remedy proceedings compared to the potential risk faced by the contracting authority, even in cases of severe violations.

The Authority continues to propose the abolition of the regulation depending on the number of application elements. However, the current approach could potentially be sustainable with the following two guarantee changes:

- on the one hand, it is warranted to increase the number of application elements in the 'basic' category to five elements; many applicants are prevented by the three elements from identifying further relevant violations,
- on the other hand, it is warranted to clarify in the interpretative provision on the element of application in the PPA, but at least to stipulate in a general council's decision that violations alleged in connection with the same act of assessment (e.g. the assessment of an unreasonably low price) constitute one application element (irrespective of the number of grounds on which the applicant claims that the act of assessment is unlawful).

If the contracting authority has ensured tendering for parts in the procedure, and if the identical regulations, regarded as unlawful, in contract notices initiating public procurement procedures and related procurement documents have been prescribed in identical terms for all or several parts, the Authority maintains it is unwarranted to charge legal fees multiple times for applications for review intended to challenge the regulations concerning all contested parts.

The Authority also considers it necessary to set out a specific rule for framework agreements, dynamic procurement systems, and framework contracts (both for the documents initiating the procedure and for legal remedies against violations during the evaluation and assessment) that the basis for the legal fee should not be the estimated value provided by the contracting authority but only the value subject to the obligation to call down/provide the service (and indicated as such in the call for tenders) (if this is not indicated in the calls for tenders, only the basic fixed fee should be applied).

According to the Public Procurement Arbitration Board, chambers and advocacy groups have not submitted an application for review procedure since 2019, including the year 2023. As there is no interpretative provision in the PPA regarding the term advocacy groups, it would be advisable to define it in such a way as to ensure CSOs' right to legal remedy. Section 150(2) of the PPA only exempts chambers from the obligation to pay the administrative service fee. The Authority proposes expanding this exemption to advocacy groups and CSOs (we believe that the budgetary impact would be minimal, and so the measure would not jeopardise the balance of the budget).

### Assessing client eligibility

The eligibility of applicants submitting an application for review procedure is subject to very strict scrutiny by the Public Procurement Arbitration Board. Based on the Authority's recommendation from the previous year, in point 6 of Government Decision no. 1082/2024 (28 March), the Government requested that the President of the Public Procurement Arbitration Board examine the practice of client eligibility before the Board and to issue a guideline to the relevant parties to improve the accessibility of initiating remedies.

In the process of developing the guide, the Authority considers it necessary to review the current legal practice and, if the appeals body determines that enforcing that practice necessitates a legislative amendment, to amend the PPA.

For instance, under the current legal practice, a tenderer who submits an invalid tender is not eligible to challenge the invalidity of the winning tender, even if only two tenders were submitted in the procedure, in case they fail to successfully challenge the invalidity of their own tender. In the Authority's opinion, considering the fundamental principles of equal opportunity and equal treatment, the tenderer should have the right whereby the contracting authority treats all tenders equally in the procedure, which means that it declares all tenders invalid if they are rejected due to invalidity under the PPA.

Client eligibility cannot be deemed non-existent on the grounds that it is uncertain whether, in the event of the unsuccessful outcome of the procedure, the contracting authority will reopen the public procurement procedure or whether the applicant tenderer will win the contract.

The Authority maintains that not even the tenderer's tender price exceeding the financial resources available to the contracting authority can, by itself, lead to a finding of client ineligibility, as this does not automatically result in the invalidity of the tenderer's tender either.

It is crucial that the Arbitration Board does not apply a restrictive approach in cases of serious violations, including remedy cases initiated because of the unlawful disregard of the PPA.

Public procurement legislation in Hungary also ensures the possibility for a number of organisations to initiate ex officio remedy proceedings, which contributes significantly to the orderly functioning of the public procurement market.

### Hearings

In accordance with the applicable legal provisions, the Arbitration Board makes decisions on public procurement cases without a hearing, unless it is strictly necessary, especially for the exercise of the parties' rights, clarifying the facts of the case, and making a professional decision that considers all relevant circumstances.

Under the regulations on electronic communications, it is possible for a meeting of the Arbitration Board to be held via an electronic communication network. This, however, is only an option and not an obligation for the Arbitration Board.

The Public Procurement Arbitration Board held in-person hearings 69 times in 2019 and 40 times in 2020. Hearings via an electronic communication network took place 44 times in 2021, 62 times in 2022, and 84 times in 2023. Only one in-person hearing was held in 2023.

Although the number of hearings increased in 2023, the Public Procurement Arbitration Board held hearings for only 22% of the remedy proceedings that led to a substantive decision that year, with only that one case being conducted in person.

Feedback suggests that a larger number of law enforcers would require a hearing, and there are some who prefer hearings in face-to-face format rather than via an electronic communication network, as they find face-to-face hearings more efficient in terms of enforcement. The low number of hearings may further increase the business risk associated with high administrative service fees. This is because clients feel more restricted in their capacity to fully present their arguments and engage with diverse perspectives.

In accordance with the provisions of the PPA, hearings are public, while the Arbitration Board shares information about the hearings on the Public Procurement Authority's website.

In view of the above-mentioned points and the fact that remedy cases before the Public Procurement Arbitration Board are usually quite complex, it would be appropriate to stipulate in the PPA that, in line with the previous regulation, if the applicant or initiator requested a hearing, the Arbitration Board would be bound to hold one. In other cases, it would be possible to maintain the current regulatory approach: that is, to leave it to the discretion of the Arbitration Board to decide whether it is warranted to call a hearing.

Undoubtedly, there may be cases where it is more convenient for the applicant/initiator not to have to attend the hearing in person. Therefore, when it comes to participating in person or through an electronic communication network, it would be appropriate to let the applicant/initiator choose how they want to participate in the hearing (if they wish to have one). Feedback suggests that conducting hearings in person would also have a positive influence on participants' trust in the Arbitration Board.

#### *Representation in remedy proceedings*

The Authority also pointed out in its reports that mandatory representation may further complicate and increase the cost of initiating remedy proceedings, and that the requirement for mandatory representation cannot be warranted, considering the preparation and expertise of public procurement arbitrators.

Beginning in November 2023, the circle of those eligible for representation has been diminished as a result of the legal regulations concerning accredited public

procurement consultants, amplifying the significance of mandatory representation: the PPA also abolished the representation rights of accredited public procurement consultants (although the register of consultant will be maintained until 2026) and authorises only state public procurement consultants, along with legal counsels and attorneys, to act as representatives before the Public Procurement Arbitration Board. According to the Authority's questionnaire survey, the amendment is unfounded from a professional point of view, and even constitutional concerns may arise about the withdrawal of the rights. The future discontinuation of the APPC institution does not mean that the professionals on the list will not be as well equipped to carry out their representational tasks as before.

Taking into account the amendments, as well as the Government's response to the Authority's recommendations from the previous year, the Authority recommends extending the scope of those entitled to provide representation at least to accredited public procurement consultants, public procurement lawyers, and other professionals with a higher education degree or professional qualification in public procurement, who may not hold a degree in law (including, for example, public procurement officers and procurement specialists).

#### *Imposition of penalties*

It is advisable to review the legal provisions on fines for priority infringements and to return to the regulatory approach of minimum rather than maximum penalties.

The Authority recommends that the Public Procurement Arbitration Board publish a prospectus setting out the principles on the application of penalties. There is a case for adequate and consistent enforcement of accountability and sanctions in the event of breaches of the law affecting public procurement. The prospectus could help to avoid violations and promote adherence to public procurement rules by law enforcers.

#### *Availability and searchability of the decisions of the Public Procurement Arbitration Board*

Usually, both substantive and non-substantive decisions of the Public Procurement Arbitration Board are fully accessible on the Public Procurement Authority's portal within a reasonable time frame (clarification is needed as to the reason for the exceptions that may occur).

As regards the searchability of the Public Procurement Arbitration Board's decisions: feedback suggests that law enforcers are satisfied with the accessibility of decisions, but a notable fraction of them wishes to see improvement in searchability. Considering that the search interfaces were not improved in 2023, the Authority upholds its proposal, which is based on observations from public procurement law enforcers, suggesting improving the application in order to enable reliable search options for certain attributes of decisions and judgements (subject matter, violated legal provisions, etc.). In 2023, the Captcha application was added to the search interface of the Public Procurement Arbitration Board's decisions too, making it difficult to gain access to the decisions. The application of other, less restrictive solutions, which can also help reduce information security risks, is recommended.

The search interfaces could make it easier to track the Public Procurement Arbitration Board's decisions. This is because, based on feedback from law enforcers, parties often refer to relevant arbitration board (or court) decisions in remedy proceedings. (Furthermore, even the Public Procurement Arbitration Board often refers to the legal practice of the high court in its decisions.) Furthermore, the Authority recommends the designation of violated or investigated legal provisions on the data sheets published in connection with the search interface of public procurement remedy proceedings. This will facilitate efficient searching through decisions.

Making it easier to review the emerging legal practice in the decisions could, on the one hand, promote law-abiding behaviour and, on the other hand, further strengthen trust in remedies forums.

#### *Decision of the general council*

Section 168 of the PPA regulates the system of the general council's decision to ensure the unity of the Public Procurement Arbitration Board's decision-making. In accordance with section 168 of the PPA, if the competent panel and the council or general council reach an agreement, the Public Procurement Arbitration Board will publish information about the new decision of the general council and any amendments thereof on the Public Procurement Authority's website. Law enforcers have requested an increase in the number of decisions made by the general council, as they provide significant help in understanding lawful solutions to complex legal issues. It can be assumed that simplifying the rules for disclosing the decisions of the general council could help their disclosure. Therefore, the Authority recommends modifying the rules in a way that the Public Procurement Arbitration Board's position is the sole prevailing one in the decisions.



It is worth mentioning that the Public Procurement Authority's website has recently published a number of key findings of principled court judgements. It would be advisable to make the judgments cited directly available from these news.

### **3.8.3. Judicial review**

Based on the information received, the percentage of administrative proceedings initiated against the decisions of the Public Procurement Arbitration Board is confirmed to be between 10-15% annually, considering the percentage of all legal remedies.

Based on feedback from lawmakers, the fact that the contracting moratorium no longer applies during the judicial review may play a major role in this. This means that the contracting authority can conclude the public procurement contract following the Arbitration Board's decision. Therefore, opting for a judicial review is less appealing for parties seeking legal remedies. The Authority recommends that the judicial review allows for the option to request the suspension of the ongoing public procurement procedure and seek an appeal against the court's decision related to this matter.

In addition to arbitration board decisions, court decisions also must be published on the Public Procurement Authority's website: once the case is closed, the Public Procurement Arbitration Board discloses the final judgement as well. However, finding these judgements is problematic, and not all of them appear directly in amongst the data of a specific arbitration board case.

In relation to court judgements, public procurement stakeholders have raised that it is warranted to create a separate database on the Public Procurement Authority's website (the Authority's suggestions for improving the search interface for arbitration decisions also apply to the related search interface).

According to the information received, committees that are not specialised in public procurement are involved in the review of public procurement cases in the courts. In this respect, the Authority recommends exploring if specialised councils could facilitate a quicker conclusion to legal proceedings.

### **3.9. Risk associated with transforming the public procurement profession**

It is crucial to have a substantial number of competent public procurement experts in the ever-changing European Union and domestic public procurement

environment to provide support for public procurement processes: to ensure that public procurement procedures are lawfully and effectively conducted by the contracting authority and to ensure successful tendering by the tenderer.

Public procurement regulations have ensured the application of public procurement technicalities since 1 May 2004 by allowing professionals and organisations with specific public procurement experience to be added to a professional register and, at the same time, requiring contracting authorities to engage these experts in specific public procurement procedures and involve an independent expert in the case of public procurements that reach the EU threshold from European Union funds. The Public Procurement Act initially referred to the professionals as official public procurement consultants; then, starting from 1 November 2015, following a review of the practice authorising registration, as accredited consultants. Even the regulations concerning accredited public procurement consultants have considerably narrowed down the circle of public procurement professionals who could be added to the register of accredited public procurement consultants (since the legislation no longer accepted activities performed on the tenderers' part as relevant experience), while mandatory representation – which could be provided, in addition to lawyers and legal counsels, only by accredited consultants – was introduced in remedy proceedings at the Public Procurement Arbitration Board. As a result, those public procurement experts who would typically perform tasks on the tenderer's part were no longer authorised to represent their clients before the Arbitration Board unless they operated as lawyers or legal counsels.

Although characterised by different regulatory backgrounds and titles, the past almost twenty years saw the formation of a stable pool of public procurement consultants. Mandatory training and advanced training regulations prescribed by law for accredited public procurement consultants ensured that public procurement consultants update their knowledge at least before renewing their authorisations; this is crucial in the ever-changing regulatory environment of public procurement regulations.

While granting some lead time, Act LXIX of 2023 on the Order of State Public Works Projects ('Investment Act') is bringing an end to the system of accredited public procurement consultants that have built up over the years. For the Investment Act amended the Public Procurement Act and introduced the institution of state public procurement consultants, effective from 8 November 2023. In accordance with section 3(2a) of the PPA, as amended, a public procurement consultant may only be a person employed by the ministry, central purchasing body appointed by the Government, the state or the budgetary authority – except for local municipal

budgetary authorities and minority municipal budgetary authorities – who performs ancillary purchasing activities for the contracting authority employing him or her.

One source of the problem is that public procurement consultancy may be performed only with an employment status in accordance with the Investment Act. Although the consultants in the register of accredited public procurement consultants maintained by the Public Procurement Authority were added, by course of law, to the register of state public procurement consultants on 8 November 2023, accredited public procurement consultants had to declare, within 30 days of receiving the notification of their registration, whether they would continue their work as public procurement consultants. Based on the information at our disposal, the majority of accredited public procurement consultants have chosen, as of now, not to continue their work as state public procurement consultants (the current<sup>61</sup> register numbers 146 state public procurement consultants and 724 accredited public procurement consultants). One of the reasons for this is that this shift was possible only if accredited public procurement consultants were in an employment relationship with one of the contracting authorities listed in the PPA by the declaration deadline. Another important factor is that a significant number of accredited public procurement consultants had been discharging their functions without an employment contract.

In this respect,<sup>62</sup> data based on the responses given in a questionnaire survey conducted amongst the contracting authorities reveal that, in the Framework, experts who are authorised accredited public procurement consultants or state public procurement consultants employed by contracting authorities under an employment relationship exhibit huge capacity shortages. 92% of local authorities that completed the questionnaire responded by claiming to have no experts amongst the members of their internal staff who is an authorised accredited public procurement consultant or state public procurement consultant, which is true also for 75% of central budgetary authorities.

Therefore, since there is no guarantee that contracting authorities can comply with their responsibility of engaging state public procurement consultants in cases set out in the PPA, the compulsory transformation of the public procurement profession, despite stakeholders' professional objections, constitutes a new risk to public procurement processes. However, it is possible for state public procurement consultants to be employed part-time by contracting authorities, which may offer

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<sup>61</sup> <https://ekr.gov.hu/portal/faksz/faksz-nyilvantartas> (downloaded on 8 June 2024)

<sup>62</sup> Framework indicator no. 81

a way to circumvent regulations. Furthermore, the PPA allows state public procurement consultants, with the consent of the contracting authorities they are employed by, to enter into an agency relationship with other contracting authorities, meaning that they can perform expert activities for other contracting authorities (the law is unclear as to whether this way contracting authorities can still fulfil their obligation to involve state public procurement consultants).

These may put public procurement consultants employed by contracting authorities in a more favourable position compared to accredited public procurement consultants and other experts with a different status, as only this group of experts will have a register under current regulations, while others will not. This will make it more challenging for the latter group to be contacted and secure jobs.

The fact that the law enforcer expects procurement expertise to be provided through procurement experts employed by the contracting authority in a certain scope does not justify the complete abolition of the institution of accredited public procurement consultants. The obligation to engage state public procurement consultants concerns only a portion of ordinary contracting authorities. Therefore, it would be safer for other contracting authorities if they were able to ensure public procurement expertise by involving accredited public procurement consultants with professional liability insurance, at least in the case of high-value public procurements or those financed from European Union funds.

The modification of regulations may be considered a backward step in that, marking a break with a two-decade old practice, the obligation to engage registered experts, as defined in the legislation, is required only from a portion of contracting authorities in respect of public procurements financed from European Union funds and those whose value exceed European Union thresholds; whereas the compliance of public procurement procedures have been facing issues all along. In accordance with effective regulations, just to mention two significant categories of contracting authorities, neither local governments nor public utilities are required to involve public procurement consultants. Similarly, for example, supported organisations are also not required to engage accredited public procurement consultants to ensure public procurement expertise.

And on top of that, this happens at a time when, considering the European competency framework for public procurement professionals (ProcurCompEU), the European Union is planning to attribute strategic importance to the public procurement profession and prepare it to face future challenges.

This issue is further highlighted by the fact that the Investment Act modified section 145(7) of the PPA in a way that, starting from 8 November 2023, representation by accredited public procurement consultants in remedy proceedings before the Public Procurement Arbitration Board is no longer available – mandatory representation may be performed only by state public procurement consultants, registered in-house legal counsels, or attorneys. This change has also impacted pending cases. Therefore, with the new regulation becoming effective, accredited public procurement consultants were or are no longer authorised to represent their clients in remedy proceedings related to the procedures they are conducting.

The public procurement consultant system is currently characterised by a particular duality where, although accredited public procurement consultants are allowed to provide public procurement consultancy until 30 June 2026 in cases under section 27(3) of the PPA, except for public works, starting from 8 November 2023, they are not allowed to serve as representatives before the Public Procurement Arbitration Board, even in cases where they have extensive prior experience and involvement in the related public procurement procedures. This ambiguous situation, further complicated by the lack of professionals mentioned earlier, jeopardises professionalism in public procurement procedures, which poses a serious integrity risk while conducting public procurement procedures.

Following adequate assessment and preparation, the Authority considers it warranted to--

- transform the institution of accredited public procurement consultants instead of discontinuing it;
- review the legislative amendments relating to the abolition of the institution of accredited public procurement consultants;
- support the professionalisation of the public procurement profession;
- expand the circle of experts authorised to carry out expert activities, while amending the regulations concerning the required practice and upholding training and advance training obligations; and
- investigate whether it is warranted, and if so, in which cases it is warranted, to require the involvement of an expert independent of the contracting authority in public procurement procedures to ensure public procurement expertise.

### 3.10. Applying conflict of interest rules

The amendment to the PPA, which came into effect on 11 October 2022, has basically aligned the public procurement regulations with the 2018 EU Financial Regulation<sup>63</sup> and the Commission's Guidelines on its application. In the summer of 2022, a communication issued by the minister with responsibility for public procurement, concerning the verification practices aimed at avoiding situations that could compromise the fairness of competition in public procurement, was reviewed in light of the EU regulatory framework. Furthermore, in May 2023, the Public Procurement Authority supported the correct application of the amended rules with the publication of a guide.

The essence of the amended regulation is that, in addition to the prevention of conflicts of interest, it also establishes the obligation for contracting authorities to uncover and remedy such situations. Consequently, it is not sufficient for the contracting authority to request multiple conflict of interest declarations when preparing or conducting the public procurement procedure; it must also ensure the verification of the information contained therein and address any situation that is identified or reported. The PPA does not provide detailed provisions on the verification obligation; information on this obligation can only be found in EU documents, the ministerial motivations, and the guide issued by the PPAH.

For this reason, the Authority recommended in its 2022 Integrity Report the clarification of the provisions of the PPA regarding the verification obligation (particularly with regard to its possible forms, including the declaration of interest) and the regulations concerning the public procurement rules intended to define its framework.

Experiences from 2023 and the Authority's questionnaire survey show that contracting authorities continue to focus on requesting conflict of interest declarations, while the verification and the implementation of the amended rules into public procurement regulations, as well as the expected change in approach, have not taken place:

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<sup>63</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

|   | Not typical +      |  | Typical +      |    |
|---|--------------------|--|----------------|----|
|   | Somewhat typical % |  | Very typical % |    |
| <b>Col1</b> Under the amended conflict of interest rules, contracting authorities have not made any substantial changes to their previously established practice, meaning that they continue to assess conflicts of interest solely based on the conflict of interest declaration(s). | 27                 |  |                | 73 |
| <b>Col11</b> In public procurement procedures, decision-makers, staff members and experts involved in the procurement process consider the tasks set out under the conflict of interest rules to be an unnecessary burden.  | 30                 |  |                | 70 |
| <b>Col15</b> As the PPA does not specify the option of requesting a declaration of interest, the decision-makers of contracting authorities refrain from requesting them.   | 41                 |  |                | 59 |
| <b>Col18</b> Staff members and experts involved in public procurement procedures within contracting authorities are aware of the key aspects of the conflict of interest rules (including the fact that declarations must also be made with respect to their relatives).              | 60                 |  |                | 40 |
| <b>Col19</b> Staff members and experts involved in public procurement procedures within contracting authorities are aware that failure to declare a conflict of interest may result in the loss of the entire EU funding.   | 65                 |  |                | 35 |
| <b>Col13</b> Contracting authorities regulate the procedure for checking the contents of the conflict of interest declarations in their public procurement regulations.   | 66                 |  |                | 34 |
| <b>Col10</b> Contracting authorities identify and appropriately address conflicts of interest.  | 70                 |  |                | 30 |
| <b>Col17</b> In order to ensure the proper application of conflict of interest rules, staff members and experts involved in public procurement procedures within contracting authorities are provided with appropriate guidance/training.   | 73                 |  |                | 27 |
| <b>Col12</b> In light of the amended conflict of interest rules, contracting authorities also verify the accuracy of the statements made in the submitted declarations.   | 80                 |  |                | 20 |
| <b>Col16</b> The amended conflict of interest rules contribute to increasing the integrity of the procedures.   | 83                 |  |                | 17 |
| <b>Col14</b> Contracting authorities also request declarations of interest in connection with the conflict of interest declarations in order to verify the accuracy of the statements made in the conflict of interest declarations.  | 90                 |  |                | 10 |

Considering the aforementioned points, the Authority continues to consider it necessary to amend the provisions of the PPA in order to clarify the obligations as outlined above. In this context, it emphasises that the Authority, contrary to the governmental response to the Authority's recommendation from the previous year, does not propose the legal codification of all possible and accepted methods for verifying conflict of interest declarations, but rather the clarification of the obligation to conduct such checks and considers it necessary to list the solutions that are deemed particularly appropriate, as outlined in the ministerial justification for the November 2022 amendment to the PPA. Taking into account the Authority's

recommendation, the Public Procurement Authority's guide<sup>64</sup> has been supplemented with templates for conflict of interest declarations and declarations of interest, along with instructions on how to complete them, which signifies a positive development. Equally promising is the fact that the referenced revised guide, following extensive consultations, provides detailed clarification on numerous issues that arise regarding the interpretation of the provisions related to conflicts of interest.

Upholding its recommendation from the previous year, which the Government also endorsed, the Authority continues to attach high priority to providing training on conflict of interest issues with a practical approach.

Furthermore, given that the Authority's questionnaire survey indicates that professionals engaged in public procurement procedures are typically unaware of the consequences of undeclared and unaddressed conflicts of interest, placing significant emphasis also on the promotion of awareness concerning this issue during training is justified.

Considering the significance of conflict of interest regulations, the Authority also recommends supplementing the list of priority illegalities under section 137(1) of the PPA with cases involving the violation of conflict of interest rules.

### **3.11. Practical trends jeopardising the effective and responsible use of public funds**

#### **3.11.1. Setting the tender price or some of its elements at fixed value**

Based on the Authority's audit experiences, it occurs that contracting authorities in public procurement procedures set the tender price, or certain components thereof, at fixed value without any objective justification (e.g. when the product is subject to a regulated price), while also specifying the technical content and only competing tenderers on certain parameters.

The Authority considers that if the contracting authority excludes price competition entirely or to a significant extent from the public procurement procedure without appropriate justification, it violates the principle of the responsible use of public funds. In light of this, the Authority recommends amending the provision under

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<sup>64</sup> [Guidance on conflicts of interest by the Council operating within the Public Procurement Authority \(kozbeszerzes.hu\)](https://kozbeszerzes.hu) - 9 May 2024



section 76(4) of the PPA, or at least, the exclusion of its application in the case of procurements using European Union funds.

### **3.11.2. Setting a maximum tender price, or a maximum tender price that may be offered for each element of the tender**

The 2023 amendment to the PPA may also lead to the limitation of price competition, as it allows the contracting authority<sup>65</sup> – with the exception of lump-sum contracts – to set an expectation regarding unit prices or costs, which are not independently evaluated but are included in the tenderer’s proposal and represent the compensation to be paid by the contracting authority under the contract, compared to which the respective bid element cannot be less favorable [section 77(1) of the PPA]. On the one hand, capping the tender price or some of its elements can have a price-inflating effect (since it reveals to the tenderers the tender price which the contracting authority considers reasonable and for which the contracting authority ideally has already set the financial coverage). On the other hand, if the contracting authority sets an unrealistically low price, it could render the contract awarded at that price unfeasible.

The Authority recommends monitoring the legal practice forming in connection to the amended legal regulations.

### **3.11.3. Classifying priced bill of quantities including unit prices as trade secrets in procedures involving framework agreements and in the case of framework contracts**

Under section 44(3) of the PPA, it is not excluded that the tenderer may declare partial information or basic data (such as the priced bill of quantities) as business secrets and, in this regard, prohibit its disclosure.

Since, in the case of framework agreement procedures and framework contracts – where specific quantities are not provided – tenderers do not submit a tender price in the traditional sense (as they would, for instance, in the case of a lump-sum contract), but rather compete on the basis of unit prices, which the contracting authority typically aggregates to determine the ranking of the tenders, the Authority recommends clarifying that, in these cases, even if the unit prices are not included on the fiche, they constitute offers that cannot be classified as trade secrets. In the

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65 Act CXVII of 2023

absence of this, the unit prices accepted in the given framework agreement or framework contract cannot be known, whereas in the second phase of framework agreement procedures, for example, tenderers cannot offer less favourable prices than those proposed in the first phase. If the competitors do not know each other's offers, it renders the competition impossible.

### **3.12. Reviewing certain exclusion grounds**

#### **3.12.1. The practice of applying exclusion grounds regarding material breach of contract**

In the 2022 Annual Integrity Report, in order to address trends in legal practice, the Authority proposed a review of the legal provision for the 'grounds for exclusion' under section 63(1)(c) to ensure that the exclusion grounds fulfill their intended role.

The serious breach of contract that forms the basis of the exclusion ground must be reported by the contracting authority to the Public Procurement Authority. The report must include a description of the breach of contract, the legal consequence applied as a result of the breach, and the documents that demonstrate that the winning tenderer did not dispute the breach of contract or that legal action was initiated regarding the breach. In case of litigation, the contracting authority must send the final, legally binding court ruling to the Public Procurement Authority [section 142(5) of the PPA].

The Public Procurement Authority keeps a record of the reports. The contracting authority verifies the absence of grounds for exclusion using the registry published by the Public Procurement Authority in the EPPS [section 9(b) of Government Decree no. 321/2015 (30 October) on the method of verifying suitability and exclusion grounds and the definition of the technical specifications of public procurement]. Therefore, it is crucial which criteria are used for placing an economic operator on the list published by the Public Procurement Authority.<sup>66</sup>

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<sup>66</sup> [Electronic Public Procurement System - PPAH Registries \(gov.hu\)](#)

An economic operator can only be placed on the Public Procurement Authority's registry if:

(i) the economic operator did not dispute the fact of the breach of contract,  
or

(ii) a final court ruling has established a serious violation of the contractual obligations undertaken in a public procurement procedure.

In the 2022 Annual Integrity Report, we presented in detail the case law related to the grounds for exclusion and the procedure followed by the Public Procurement Authority during the registration process.<sup>67</sup> Given that, in line with current practice, the tenderer can be exempted from the legal consequences of a material breach of contract announced by the contracting authority, using a formal declaration – where the tenderer only need to state that they dispute the assertion of the breach of contract –, the exclusion ground is unable to serve its intended purpose in its current form. This is particularly unfortunate because, based on this exclusion ground, the contracting authority can exclude a poorly performing partner who previously had a contractual relationship under a public procurement contract from the procurement process, and contracting authorities can obtain information on companies which have committed serious breaches of contract from the register of grounds for exclusion.

The Government did not support the proposals we made for addressing this issue; amongst other things, we suggested making the circumstances that substantiate the fact of a serious breach of contract mandatory in the contract. In its response, the Government argued, citing EU case law, that the EU legislator intended to leave the decision of whether a tenderer should be excluded from a procurement procedure to the discretion of the contracting authority. The primary aim is to allow the contracting authority to assess the integrity and reliability of each individual tenderer.

Our position regarding the Government's response is that, while section 63(1)(b) of the PPA allows for reconsideration by the contracting authority regarding the act that forms the basis of the exclusion, the same provision under point (c) does not refer to such reconsideration. On the other hand, for contracting authorities to be able to make use of this possibility at all, it would be necessary to keep a register of

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<sup>67</sup> According to the information provided by the Public Procurement Authority, their established practice is to always request a statement from the successful tenderer regarding whether they dispute the fact of the reported breach of contract and its severity, regardless of whether any legal consequences have been applied.

the economic operators in question. The root of the problem is that the economic operators concerned are not even listed in the referenced official registry.

For the proper application of the exclusion ground under section 63(1)(c) of the PPA, we continue to consider it important to review the regulations based on consultations with the relevant parties and take necessary measures on this basis.

### **3.12.2. Specification and expansion of grounds for exclusion concerning offshore**

According to Article 39(1) of the Fundamental Law of Hungary, grants from the central budget or payments made under a contract can only be provided to an organisation whose ownership structure, organisational structure, and activities aimed at using the grant are transparent.

This requirement is partially reflected in point k) of section 62 (1) of the PPA, which outlines the so-called grounds for exclusion concerning offshore.

The exclusion ground under subpoint kb) of point k) of section 62(1) of the PPA does not refer back to the provision of point 38c) of section 3 of Act LIII of 2017 on the Prevention and Combating of Money Laundering and the Financing of Terrorism, relating to trust. As a result, the beneficial owner is not required to be disclosed in public procurement procedures in cases of trust.

The PPA does not include provisions regarding the disclosure of the beneficial owner of private equity funds either. Considering the significance of assets managed in private equity funds, the Authority considers it appropriate to extend the legislative requirements for identifying the beneficial owner to include private equity funds.

It also needs to be considered whether the regulation needs to be supplemented in relation to preference shares, in light of the referenced provisions of the Fundamental Law.

The Authority recommends amending the provisions of the PPA, considering the points raised earlier.

### **3.13. Managing disproportionately low prices**

Section 72 of the PPA regulates the issue of the examination of disproportionately low prices.

In request-based review procedures, a frequently contested contracting authority decision is the declaration of a tender as invalid due to an abnormally low price, or

the claim that the contracting authority – according to the applicant's perspective – did not properly examine the abnormally low price and therefore unlawfully accepted the tenderer's proposal as valid and awarded it the contract.

According to the applicable public procurement regulations, the examination of an disproportionately low price is mandatory in EU procedures, while in national procedures, it is left to the discretion of the contracting authority. In relation to the national procedure, there is a controversial interpretation of the legal provisions regarding whether it is solely at the discretion of the contracting authority to decide whether to exercise the option to examine an disproportionately low price. During the examination of disproportionately low prices, the contracting authority may, or is required to, request supplementary data and price justifications multiple times, based on the legal practice. This is to ensure that the tender price is compatible with economical reasonableness and that the public procurement contract can be executed at the proposed price. The latter is one of the key objectives of the obligation to examine disproportionately low prices; the other is to ensure that tenderers attempting to gain a competitive advantage through a compensation that is incompatible with economic reasonableness can be excluded from the evaluation of tenders.

Hungarian legal practice regarding the examination of disproportionately low prices is extremely strict, and it is questionable whether it is always in line with the objectives outlined earlier. The legal practice examines the legal requirement for objectivity in justifications very strictly: providing precise amounts is expected; in fact, even reallocating costs set apart for profit or reserves, or making small adjustments to individual elements, is not allowed, even if the tender price would be acceptable based on these adjustments. During supplementary price justifications, it is not permitted to specify the data provided in previous rounds. This results in stricter requirements for this content – which is not even part of the original tender – compared to, for example, the technical proposal (the latter can still be modified within the framework set out in section 71(8) of the PPA, unlike the price justification).

It is a common phenomenon that the contracting authority's initial request for justification is extremely general in nature, only asking tenderers to provide a few key cost elements, and then, in subsequent requests for supplementary price justifications based on the submitted justification, the contracting authority demands the inclusion of additional cost elements.

These often cause tenders to be invalid.

Price analysis is subject to the application of an extremely complex legal practice by arbitration committees and courts, with rulings both pro and contra, which makes ensuring the consistency of legal practice important, especially because any potential misuse of the provisions regarding disproportionately low prices could provide an opportunity for contracting authorities to exclude tenderers they do not prefer from public procurement procedures.

In its 2022 Integrity Report, the Authority recommended both amending the PPA and issuing supporting materials to address the issue. The Government did not support the former, but it did support the latter, which led the Public Procurement Authority to begin preparing a guide. The Authority recommends closely monitoring whether the issuance of guidelines proves to be an effective tool in correcting legal practices that deviate from regulatory objectives.

In addition, the Authority continues to maintain the following recommendations from its 2022 report (which were not explicitly addressed in the Government's response from the previous year):

- it is justified to issue supporting materials for all types of public procurement – with a level of detail similar to that previously used in the cleaning and security sector – which allow tenderers to familiarise themselves with relevant cost elements for disproportionately low prices, as well as their generally accepted percentage ratios and amounts, prior to submitting tenders, thus ensuring that tenders submitted in public procurement procedures are already in line with these considerations.
- the publication of templates for contracting authorities' requests for justification and supplementary price justification requests in relation to disproportionately low prices, to facilitate the examination of price justifications.

## 4. Analysis of public procurement data

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In the quantitative analysis of the 2023 public procurement processes, the Authority primarily focuses on presenting the use of EU funds, as outlined in its mandate under section 11(1)(a) of the Integrity Authority Act. However, to provide a comprehensive analysis stipulated by the Act, it is necessary to examine data on the public procurement market more broadly and communicate the findings.

In compliance with legal and other obligations, competent institutions have already published several public compilations, such as the Performance Measurement Framework Assessing the Efficiency and Cost-effectiveness of Public Procurement by the Public Procurement Authority. These compilations provide statistical analysis and present indicators derived from the rich, largely publicly available data on Hungarian public procurement. The goal of the Authority's analysis is not to produce another such compilation, but rather to highlight concentration trends within the public procurement market, identify potentially harmful developments, and, where possible, trace their underlying causes.

The values presented below are based solely on the Authority's analyses, mainly sourced from the Electronic Public Procurement System database and data provided at the Authority's request. For a detailed description of the methodology, see Chapter 4.2.

### **4.1. Executive summary**

In recent years, international organisations such as the OECD and the European Commission have been investigating and implementing measures to tackle the competition-restricting effects of market concentration. One of the main areas where this is evident is the public procurement market, which is a key area for the use of public funds, with the vast majority of EU funds also being spent through public procurement. For these reasons, a comprehensive analysis of market concentration is a priority issue in Hungary as well.

The Authority conducted the concentration analysis of the public procurement market in line with the provisions of the Integrity Authority Act. The methodology used was based on internationally recognised concentration indicators (such as the number of market participants, the market share of each participant and the use of the Herfindahl-Hirschman index, the most commonly used concentration indicator worldwide), the use of which was also agreed in advance with the OECD. These concentration indicators provide important new information on market conditions, but they assume binary ownership and thus do not account for, among

other things, (minority) shareholders in competing firms or the practice of institutional investors acquiring shares in competing firms, as is often the case. As the proportion of such ownership (interest) overlaps has significantly increased in certain industries and markets over the past decades, the usual concentration indicators used in our current analysis are likely to underestimate the true extent of concentration. The analysis is also further complicated by the practice of using dividend preference shares and private equity funds, which has become widespread in recent years. Therefore, we emphasise that, to avoid the 'overinterpretation' of results based on the usual concentration indicators, it is advisable to interpret them in conjunction with the mentioned characteristics, as well as other indicators of market trends and market power. Other indicators that may be relevant include data on profitability, profit margins, and market entry and exit dynamics. For instance, by combining concentration data with profit margin trends over time, we can obtain a clearer understanding of the overall competition in the market. Although this approach has not yet been integrated into our current analysis, the Authority plans to expand its analyses to include these factors in the future.

Based on the available data, the total number of public procurement procedures has shown only a slight change over the past five years. However, in 2023, the total value of contracts (excluding framework agreements) decreased by nearly 29%, while the total contract value of framework agreements (FAI) increased significantly (by 135.7% from 2022 to 2023, and by an average of 46.5% annually from 2019 to 2023). The number of public procurement contracts involving EU funds has also changed only slightly over the last five years, but their total amount decreased significantly by 36% last year due to the freezing of EU funds in the conditionality procedure. In terms of both the number of procedures/contracts and contract value, construction continues to stand out among investment categories, both in the overall public procurement market and in the market for procurements involving European Union funding (with respective shares of 25.3% and 37.3% in 2023). However, it is also the procurement category most affected by the value decrease observed in 2023.

In terms of the contract value of public procurement contracts involving EU funds by county, Budapest remained the leader in 2023, with a 22.3% share, as well as in the total public procurement market, with a 33.6% share. The next largest county in terms of the contract value of public procurement contracts involving EU funds is Csongrád-Csanád (6.2%), while Pest County is the second largest in terms of the total public procurement market, with a 10.9% share.



In 2023, the most successful operator in the overall public procurement market accounted for 8.2% of the total contract value, and 9.6% of the EU market. While the Herfindahl-Hirschman Index indicates concentration only in the 2021 European Union public procurement market when examining market as a whole, several groups show signs of concentration when the data is broken down by product categories over the past few years. In some of these, such as the energy market, the number of the participants is small due to legal requirements and the nature of the market, while in other markets, the high concentration is not as clearly defined (for example, the EU public procurement market for electrical machinery also showed high concentration over the past four years).

In 2023, the average number of tenders in the overall public procurement market was 3.28, while in the market for public procurement involving EU funding, the average number of tenders was 4.99. The share of single bid contracts was 29.85% for all public procurement contracts and 5.91% for the EU-funded contracts last year.

When analysing the ratios and potential imbalances (outliers) of the joint participation of key stakeholders in public procurement procedures – specifically, the contracting authorities (purchasers), tenderers, and winning organisations – several concentration processes can be observed. The data analysed by the Authority include 'always successful' tenderers, the frequent co-occurrence of winning and losing tenderers, and frequent pairs of contracting authorities and tenderers.

For example, the results show that between 2019 and 2023, two organisations (participating in a consortium) won 59 tenders over the past five years. In procedures involving EU funding, the highest number of contracts awarded to a tenderer with exclusively successful tenders was 12. The highest number of winning contracts by non-exclusively winning tenderers is 570 in the total public procurement market, and 224 in the market for public procurement contracts involving EU funding. In 2023, there were 54 instances in which two tenderers were in the same position – either winning or losing – in a tender. (For public procurement contracts involving EU funding, the highest number of tenders for the same tenderers was 25.) A 'contracting authority/successful tenderer' economic operator pair can be identified in 220 public procurements during the 2019–2023 period, with the highest value for procurements involving EU funding being 69 tenders. For most pairs of companies identified in public procurement, it was almost a general characteristic to find high exposure to the contracting authority among the winners, i.e. having up to two thirds of the winning tenders connected to the same contracting authority. Though much rarer, it was still common for a large

proportion of the contracts awarded by a given contracting authority to be linked to the same winner.

In terms of the comparison of contract value to estimated value, the ratio of cases where the two variables are identical or nearly identical remains high. This phenomenon, which is contrary to the intention of expanding market competition, is made possible by numerous rules and circumstances. At the same time, it is likely that the high inflation trends of the past two years have significantly contributed to an increasing occurrence of contract values exceeding the estimated values in procedures based on framework agreements.

Finally, it is important to note that identifying imbalances in market concentration cannot, by itself, be considered an indication of fraud. In many cases, outliers can be logically explained by the specific performance conditions of a given task, as referenced at the relevant points in the analysis. Additionally, in many cases, values significantly above the average for a given area are driven by the operational and development needs of key socio-economic sectors, such as the limited number or specialised nature of organisations with the capacity to implement the projects.

Considering the above, the outliers and disproportionalities identified in the concentration analysis, may still serve as important indicators of dysfunctions in certain segments of the public procurement market. When complemented by the examination of other factors, such as information on ownership, management, or other negative details about companies, the anomalies uncovered in market concentration can significantly contribute to the functioning of an abuse detection system.

## **4.2. Data sources and analytical methodology**

In developing its methodology for analysing the concentration of the Hungarian public procurement market, the Authority also considered internationally applied procedures and indicators, among other things, on the basis of professional consultations with the OECD.

The Authority conducted the 2023 analysis not only based on that year's data, but also using longer time series (e.g. from the past two or five years), presenting the trends as well.

### **4.2.1. Databases and information used as sources**

The starting point for the analysis of the public procurement market was the Contract Award Notices database downloaded from the Electronic Public Procurement System (EPMS) website (ekr.gov.hu). This source of information is

freely downloadable and contains all the information that appears in the information notices. For the analysis the updated database issued on 5 April 2024 was used.

The Contract Award Notices database contains the most important information from the notices at the contract level, without aggregation, and is therefore a rich, well-structured, and well-analysable source of information. Additional data were also required for a comprehensive concentration analysis and to support the findings of the Report. These were provided by the Deputy State Secretariat for Public Procurement Supervision of the Ministry of Public Administration and Regional Development, through the DIAI, at the Authority's request. Among these, for the concentration analysis, the Authority used the list of tendering organisations and their details from the e-procurement system for procedures carried out between 2019 and 2023, as well as a detailed statement of the initially estimated total contract value (sourced from the form for providing the estimated value in the EPPS's 'Preparatory Files' interface).

#### **4.2.2. Preparation of the EPPS Contract Award Notices database for processing**

The following corrective steps were applied as data preparation after downloading the Contract Award Notices database:

- We did not consider the procedure to be aimed at a framework agreement if 'Joint Information' was specified as the type of notice in the relevant section of the database. After reviewing the database and conducting a sampling, it can be considered certain that in these cases, the designation of the procedure as a framework agreement was incorrect.
- Regarding the award of a contract, we considered the content of the so-called calculated (corrective) column in the downloaded database as decisive. (The correction in the database is likely based on the content recorded for the announcement date and the contractual price.)

Based on the information regarding the award of contracts, out of the 239,707 initiatives for contract conclusion in the database, 199,429 records contain details about awarded contracts.

The filters applied during the data cleaning prior to data extraction and the results of these were as follows:

- Contract amounts recorded in a currency other than HUF were excluded. The reason for this was that in several cases the conversion resulted in unrealistic amounts in forint and the inaccuracy of the recording was also confirmed by

the content of the individual contract award notices, which were examined through random sampling. No further information was available to distinguish between accurate and incorrectly filled-out data. For 4,549 records in the database, the currency denomination was either not recorded in forints or not recorded at all, which reduced the number of contracts examined to 194,880.

- Contract amounts below 1,000 forints are, in the vast majority of cases, based on recording errors, and therefore, we only considered them in certain cases (e.g. when there were unusually high values in a tenderer's winning tenders), following manual verification. 879 contracts did not exceed the threshold amount, so the number of records considered was reduced to 194,001.
- The final filter was the restriction to the five calendar years preceding the data collection and analysis – 2019 to 2023. Thus, a total of 91,737 contracts were analysed. Their total value was HUF 30,284.9 billion.

This contract number and amount also include data on framework agreement procedures (FA1). Excluding these, 87,920 contracts amounting to 19,006.5 billion HUF were analysed.

### **4.2.3. Classification and analytical considerations**

The classification of individual contracts by calendar year was based on the calendar year of the notice regarding the conclusion of the contract. If this information was not available in the database, the year of the contract's conclusion was taken as the reference year.

The extraction and analysis of the data was by default examined at the level of individual contracts. Our rationale for this was that, both in terms of the tendering opportunity and the award, a contract represents a distinct basic unit. For this reason, each record in the EPPS Contract Award Notices database contains data on either a concluded contract or a failed attempt to conclude a contract.

In this regard, it should also be emphasised that the procedure identifier (typically starting with characters 'EPPS' or 'KBE') in the database, along with the procedure part number, does not unequivocally identify a specific contract. Certain procedures, or – less commonly, and mostly in the case of framework agreements – procedure parts, may also be associated with multiple tendering opportunities, resulting in several independent contracts being linked. In the workflow, the individual contracts were identified by the serial number assigned to each record in the downloaded database.

Data on contracts related to the conclusion of framework agreements (FA1) can be separated within the Contract Award Notices database, considering the correction

mentioned above. Based on the concluded framework agreements, public procurement procedures (FA2) conducted in the second phase of the process – such as reopening the competition, direct orders, or written consultations – can be filtered by the procedure identifier code.

The volume of extracted data and the individual examination of the documents for each procedure in the database clearly indicate that the data on contracts awarded under framework agreements in the second part of the procedure (FA2) are only partially included in the database. Determining the extent of the missing data will only be possible through further comprehensive analysis of data from various sources (e.g. centralised public procurement organisations).

The database also contains the CPV codes for the goods, services, and works subject to public procurement, listed under the columns 'Main CPV Code(s)' and 'Additional CPV Codes.' In our analysis, only the CPV divisions were considered (defined by the first two digits of the CPV code). If this method did not result in a clear classification for a given contract, the primary CPV division associated with the contract had to be determined to allow for analysis. Based on the applied methodology, in these cases, the division that was selected is the one with the largest (clearly identifiable) contract amount (for the years 2019–2023, in total).

Based on the information in the preparatory files, it was possible to compare the estimated values to the contract values in a very high proportion – about 80% – of the contracts. Due to partial gaps in the data, it was not possible to do this comprehensively, as the inclusion of some outlier data could not be justified, and in some cases, the format of the procedure part code differed from what could be extracted from the Contract Award Notices database. The following points are also worth mentioning regarding our further analyses:

- To define the data on public procurement contracts involving EU funding, we used the 'Yes' condition in the 'Procurement related to a project and/or programme financed by EU funds' column of the Contract Award Notices database as a filtering criterion.
- The presentation of the distribution of the number of contracts and total contract value by region was based on the NUTS codes found in the Contract Award Notices database. During the analysis, only contracts where the Hungarian county was clearly identifiable were considered. If more than one county could be identified as a contract execution site, all of them were considered, assigning to each a proportional share of the contract (for example, one-third for three NUTS codes).

- When determining the number of losing and winning tenders for individual companies, we compared the content of the separately provided Tenderers' Database with the Contract Award Notices database. The former database was also compiled at the procedure part level (unlike the latter, which was at the contract level), so only the contracts that could be clearly identified – making up 93–95% of the entire dataset, depending on the content of the analysis – were considered.

No more detailed information was available for the losing tenders than what was provided in the Tenderers' Database; while the number of winning tenders, on the other hand, was found to be highly accurately determinable from the Contract Award Notices database.

Finally, we note that certain methodological considerations, concerning specific details, will be presented in the text section related to the specific analysis results.

#### **4.2.4. Suggestions for improving the accuracy of the analysis**

To make the analysis of national Hungarian public procurement market data more accurate, practical, and transparent, the Authority recommends the following changes to the registration system:

In the Contract Award Notices database, instead of using the contract part (which does not provide clear identification), the contract itself and the corresponding tender notice should be considered as the 'basic unit'. It is recommended to assign a separate code to the contract (and tender notice), which would significantly facilitate contract-based identification and analysis.

As of October 25, 2023, public procurements conducted in line with EU procedures have followed the advanced and information-rich eForms standard. However, as this covers only a small fraction of the total contract portfolio, the eForms data has not yet been used substantively in the analysis. We recommend expanding the use of eForms data to all procedures so that contracting authorities can provide more accurate and reliable data in a standardised format. This would ensure, amongst other things, that in the future, the entire set of public procurements would include the complete list of tenderers in the publicly available Contract Award Notices database.

We propose reviewing how to ensure that data on all contracts based on framework agreements (FA2) are included in the EPPS. To achieve this, we consider it necessary to review the relevant procedural rules for contracting authorities and, if necessary, amend them.

In the Contract Award Notices database, we suggest clearly indicating whether a given contract was based on a framework agreement, including a reference to the relevant framework agreement data.

To identify the data of winners and tenderers accurately, we suggest verifying the technical validity of the tax numbers provided. Appropriate synchronisation should be ensured so that the correct (registered) names of economic operators are entered into the EPPS.

We recommend reviewing how to ensure that based on the legal requirement concerning the distribution of the contract amount amongst consortium members [under section 8 d) of Government Decree no. 424/2017 (19 December)] both the intended and actual share of each consortium member at the time of contract signing and following the completion of the contract is entered in the EPPS database, with the final data related to the execution of the contracts to be recorded.

A more precise procedure should be developed for recording contract amounts listed in currencies other than the Hungarian forint, ensuring that in these cases, the original currency value should be recorded, not the converted forint amount.

When determining contract values, it is recommended to apply realistic ranges to prevent the entry of unrealistic values – e.g. very low, very high, or values in an uninterpretable format.

In the Contract Award Notices database, we recommend publishing the estimated values based on the content of the preparatory files – at the contract level, rather than at the procedure level. This would allow for an analysis of the difference between the estimated value and the contract amount, using data from the entire (or nearly complete) contract portfolio.

### **4.3. International overview of market concentration**

According to the methodological guide prepared by the OECD for the Integrity Authority on analysing the concentration of public procurement markets, there is a global trend of increasing market concentration and a corresponding decline in competition. This trend is equally true for both the United States and the European Union. While the average industry concentration in the latter has increased moderately over the past 20 years, the proportion of high-concentration industries has grown significantly.

The European Commission has also recognised the risks posed by growing market concentration in various industries. In response, it has refined its 'Guidance on enforcement priorities when dealing with abusive exclusionary conduct by dominant undertakings.' (2023/C 116/01). As of March 2023, the concept of 'anti-competitive foreclosure' now includes situations where the conduct of a dominant undertaking beyond just excluding competitors negatively impacts the competitive structure of the market as a whole.

Transparency is crucial for monitoring public procurement processes, ensuring accountability, and promoting open and competitive procurement procedures. The low level of competition and market concentration is a widespread issue across the European Union and negatively affects the efficiency and effectiveness of public procurement systems. The European Court of Auditors' 2023 report<sup>68</sup>, which examined public procurements from 2011 to 2021, concluded that there has been an increasing trend towards contracts being awarded without competition. This trend is primarily driven by direct awards of contracts and single bid procurements. In some sectors – such as energy (from 16% to 29%) and medical equipment (from 9% to 20%) – the number of direct awards without a call for tenders has increased, but the rise of single bid procurements is evident across all sectors. While the construction industry had a lower proportion of single bid procurements and a slower annual increase, the healthcare and transport services sectors, as well as equipment procurement, showed a higher rate and a faster rate of growth. The lower levels of competition can be linked to a high degree of specialisation, increasing R&D costs, and the importance of strategic relationships with suppliers. The report emphasised that nearly half of the respondents believed that the high levels of single bid procurements and awards without tender calls could be explained by the limited number of market players. According to the report, there is a need for ongoing monitoring of public procurement integrity and market concentration within EU member states. Respondents (both tenderers and contracting authorities) indicated that public procurement procedures represent a significant administrative burden, the proportion of small and medium-sized enterprises (SMEs) involved in public procurement has not grown significantly, and strategic aspects (such as environmental, social, and innovative criteria) are rarely considered in procurement calls.

In light of the above, as well as the European Commission's and the European Court of Auditor's special attention to these issues and their reports, the OECD expects

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<sup>68</sup> Public Procurement in the European Union – In the 10-year period ending in 2021, competition decreased for contracts awarded for construction works, goods, and services, as detailed in the [Special report no. 28/2023: Public Procurement in the European Union \(europa.eu\)](#).



that additional follow-up measures focusing on the competitive environment and the integrity of public procurement will soon be introduced at the European Union level.

#### **4.4. Key indicators of the public procurement market**

As detailed in the methodological description in Chapter 4.2, the key market indicators in this report have been primarily derived from processing the publicly available Contract Award Notices database<sup>69</sup> of the EPPS. Among other data, this database includes the procedures for the conclusion of framework agreements (FA1). The number and contract values of these agreements are presented separately below or, unless otherwise noted, are not considered. This is because these values represent potential supplier orders, not actual financial transactions. Actual financial transactions are based on public procurement contracts concluded under framework agreements (FA2), which are formed through reopening of competition, direct orders, or written consultations. These contracts are included in the analysis unless otherwise stated.

The number of public procurement procedures can be categorised at three levels:

- 'Number of procedures' refers to how many distinct procurement procedures (each with a unique identifier) were announced during the given period, Regardless of whether multiple individual tender notices were issued within a single procurement procedure, resulting in the conclusion of several contracts.
- 'Number of procedure parts' takes into account that a single procedure may have several parts, each with a distinct identifier in the EPPS database.
- 'Number of contracts' takes into account the different contracts concluded within each procedure part. This occurs primarily in the case of contracts concluded (FA2) based on framework agreements (FA1), where multiple separate contracts are associated with the same procedure part.

Based on the Authority's experience and the consensus of experts, the EPPS database cannot be considered complete. In particular, in the case of FA2 procedures, there may be instances where contracting authorities do not register data on the process, resulting in these contracts not being included in the database or appearing in the Public Procurement Bulletin. The extent of these missing

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<sup>69</sup> It should be noted that the indicators presented in this report slightly differ from the statistical data provided by the Public Procurement Authority, which are based on a somewhat different information base and methodology.

contracts can primarily be estimated based on the framework agreement data from central purchasing bodies.

Based on the available data, the number of public procurement procedures over the past five years has developed as follows:

**Table 1**

**Number of public procurement procedures and contracts (2019-2023)**

| Results publication year (year of notice) | Procedure aimed at concluding a framework agreement? | Number of procedures | Number of procedure lots | Number of contracts |
|---|--|----------------------|--------------------------|---------------------|
| 2019                                      | Yes (FA1)  | 280                  | 778                      | 779                 |
|   | No   | 9 419                | 17 850                   | 18 698              |
| 2020                                      | Yes (FA1)  | 255                  | 699                      | 699                 |
|   | No   | 7 223                | 15 461                   | 16 484              |
| 2021                                      | Yes (FA1)  | 326                  | 680                      | 680                 |
|   | No   | 7 651                | 15 652                   | 17 549              |
| 2022                                      | Yes (FA1)  | 312                  | 787                      | 787                 |
|   | No   | 7 527                | 15 551                   | 17 308              |
| 2023                                      | Yes (FA1)  | 335                  | 872                      | 872                 |
|   | No   | 7 308                | 15 942                   | 17 881              |

The next table shows the ratios of procedures aimed at framework agreements, as well as those involving European Union funds.

**Table 2**

**Key data of the public procurement market in terms of framework agreement orientation and EU funding content (2019-2023)**

| Year of notice | Aimed at a framework agreement? | Number of contracts | Contracts with EU funding content |            | Contract value (HUF billion) | Contracts with EU funding content |            |
|----------------|---------------------------------|---------------------|-----------------------------------|------------|------------------------------|-----------------------------------|------------|
|                |                                 |                     | Number                            | Percentage |                              | Value (HUF billion)               | Percentage |
| 2019           | Yes (FA1)                       | 779                 | 120                               | 15.40%     | 605.4                        | 133.2                             | 22.00%     |
|                | No                              | 18 698              | 6 923                             | 37.00%     | 3 182.00                     | 992.1                             | 31.20%     |
| 2020           | Yes (FA1)                       | 699                 | 59                                | 8.40%      | 1 463.80                     | 513.2                             | 35.10%     |
|                | No                              | 16 484              | 4 647                             | 28.20%     | 3 284.50                     | 907.2                             | 27.60%     |
| 2021           | Yes (FA1)                       | 680                 | 68                                | 10.00%     | 3 395.30                     | 1 872.30                          | 55.10%     |
|                | No                              | 17 549              | 4 167                             | 23.70%     | 4 447.10                     | 1 352.50                          | 30.40%     |
| 2022           | Yes (FA1)                       | 787                 | 62                                | 7.90%      | 1 731.90                     | 1 020.50                          | 58.90%     |
|                | No                              | 17 308              | 4 429                             | 25.60%     | 4 724.70                     | 1 762.60                          | 37.30%     |
| 2023           | Yes (FA1)                       | 872                 | 72                                | 8.30%      | 4 082.10                     | 458                               | 11.20%     |
|                | No                              | 17 881              | 5 026                             | 28.10%     | 3 368.10                     | 1 123.20                          | 33.30%     |

Of particular relevance to the results of the concentration analysis is the fact that, in many cases, the winning contracting party is not a single company but a consortium of joint tenderers. Reliable information regarding the distribution of the contract value among consortium members is not available. The commonly used methodology assumes an equal distribution of the contract value among the consortium members. The ratios of consortium contract values are shown in the table below.

Table 3

✚  
Consortium contracts data (2019-2023)

| Year of tender notice | Aimed at a framework agreement? | Number of contracts | Consortium contracts |            | Contract value (HUF billion) | Consortium contracts Value (HUF billion) |            |
|-----------------------|---------------------------------|---------------------|----------------------|------------|------------------------------|--|------------|
|                       |                                 |                     | Number               | Percentage |                              | Value                                    | Percentage |
| 2019                  | Yes (FA1)                       | 779                 | 151                  | 19.40%     | 605.4                        | 369.2                                    | 61.00%     |
|                       | No                              | 18 698              | 1 164                | 6.20%      | 3 182.00                     | 784.5                                    | 24.70%     |
| 2020                  | Yes (FA1)                       | 699                 | 135                  | 19.30%     | 1 463.80                     | 954.8                                    | 65.20%     |
|                       | No                              | 16 484              | 1 494                | 9.10%      | 3 284.50                     | 910.5                                    | 27.70%     |
| 2021                  | Yes (FA1)                       | 680                 | 203                  | 29.90%     | 3 395.30                     | 2 642.50                                 | 77.80%     |
|                       | No                              | 17 549              | 1 975                | 11.30%     | 4 447.10                     | 1 395.50                                 | 31.40%     |
| 2022                  | Yes (FA1)                       | 787                 | 164                  | 20.80%     | 1 731.90                     | 1 411.90                                 | 81.50%     |
|                       | No                              | 17 308              | 1 918                | 11.10%     | 4 724.70                     | 1 088.90                                 | 23.00%     |
| 2023                  | Yes (FA1)                       | 872                 | 213                  | 24.40%     | 4 082.10                     | 2 918.40                                 | 71.50%     |
|                       | No                              | 17 881              | 1 471                | 8.20%      | 3 368.10                     | 911.2                                    | 27.10%     |

Regarding the total contract value of framework agreements, the share of consortia is overwhelming. Both for framework agreements and for contracts aimed at implementing a specific project, the share of the total contract value of consortia contracts far exceeds the share of the number of contracts awarded. This suggests that consortium contracts, on average, have higher values than contracts awarded to a single company. In 2023, the share of consortium contract values decreased noticeably compared to 2022 (from 81.5% to 71.5%), but remained significant nonetheless.

The following table shows the key data of public procurement procedures conducted in various product and service categories.

Table 4

## Number and value of public procurement contracts broken down by main product and service categories (CPV); 2022, 2023

| CPV division   | Year 2022           |                                |                              |  | Year 2023           |                                |                              |  |
|--|---------------------|--------------------------------|------------------------------|--|---------------------|--------------------------------|------------------------------|--|
|  | Number of contracts | Contracts involving EU funding | Contract value (HUF billion) | Value of contracts with EU funding (HUF billion) | Number of contracts | Contracts involving EU funding | Contract value (HUF billion) | Value of contracts with EU funding (HUF billion) |
| (45) Construction works  | 4 792               | 1 924                          | 2 802.80                     | 1 423.10   | 4 531               | 2 265                          | 1 257.90                     | 623.5  |
| (9) Petroleum products, fuels, electricity and other energy sources  | 265                 | 4                              | 287.9                        | 0.1  | 559                 | -                              | 522.2                        | -  |
| (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services                      | 1 009               | 161                            | 276                          | 6.2  | 838                 | 136                            | 271.6                        | 2.8  |
| (33) Medical equipment, pharmaceuticals, and personal care products  | 2 554               | 315                            | 129.1                        | 25.2   | 3 096               | 614                            | 237.4                        | 83.9   |
| (72) IT services: consultancy, software development, internet, and support   | 649                 | 210                            | 138.4                        | 73.8   | 754                 | 301                            | 216.1                        | 100.9  |
| (66) Financial and insurance services  | 151                 | 1                              | 31.1                         | 0.1  | 125                 | 1                              | 104.2                        | 51.3   |
| (48) Software packages and information systems   | 222                 | 112                            | 79.9                         | 71.9   | 264                 | 162                            | 94.6                         | 85.3   |
| (36) Office and computing machines, equipment and supplies, excluding furniture and software packages                    | 529                 | 265                            | 61.3                         | 49.1   | 517                 | 267                            | 92.9                         | 86.8   |
| (50) Repair and maintenance services   | 489                 | 6                              | 53.5                         | 0  | 484                 | 1                              | 73                           | 0.1  |
| (34) Transport equipment and supplementary transport items   | 649                 | 66                             | 148.4                        | 6.8  | 579                 | 75                             | 60.8                         | 2  |
| (90) Sewage and waste treatment and environmental protection services  | 900                 | 12                             | 85.8                         | 4.8  | 786                 | 13                             | 57.7                         | 0.1  |
| (71) Architectural, construction, engineering, and inspection services   | 1 206               | 630                            | 124.7                        | 43.6   | 686                 | 302                            | 52.4                         | 11.8   |
| (32) Radio, television, telecommunications, and related equipment  | 134                 | 65                             | 22.4                         | 18.5   | 191                 | 130                            | 36.4                         | 33.8   |
| (55) Hotel, restaurant, and retail services  | 99                  | -                              | 47.7                         | -  | 55                  | 3                              | 31.8                         | 0.4  |
| (44) Construction structures and materials; construction accessories (excluding electrical equipment)                    | 251                 | 9                              | 20.8                         | 0.2  | 301                 | 39                             | 27.5                         | 3.5  |
| (38) Laboratory, optical, and precision equipment (excluding spectacles)   | 478                 | 200                            | 18.6                         | 6.5  | 440                 | 168                            | 27.1                         | 15.3   |
| (15) Food, beverages, tobacco, and related products  | 685                 | 2                              | 21.2                         | 2.8  | 956                 | -                              | 20.7                         | -  |
| (65) Public utilities, public services   | 13                  | -                              | 19.8                         | -  | 24                  | -                              | 19.7                         | -  |
| (77) Agricultural, forestry, horticultural, beekeeping, and aquaculture services   | 225                 | 24                             | 31.9                         | 1.2  | 230                 | 6                              | 19.7                         | 0.1  |
| (39) Furniture (including office furniture), furnishings, household equipment (excluding lighting) and cleaning products | 350                 | 145                            | 13.4                         | 4  | 573                 | 330                            | 18.6                         | 6.1  |
| (60) Transport services (excluding refuse collection)  | 159                 | 3                              | 199.2                        | 0  | 289                 | -                              | 18.3                         | -  |
| (64) Postal and telecommunications services  | 26                  | 2                              | 9                            | 3.2  | 41                  | 10                             | 15.8                         | 0.9  |
| (85) Health and social care services   | 113                 | 17                             | 6.9                          | 0.2  | 94                  | 10                             | 13.6                         | 0.2  |
| (31) Electrical machinery, equipment, appliances, and consumables; lighting  | 90                  | 9                              | 5.3                          | 1.5  | 178                 | 18                             | 9.4                          | 4  |
| (80) Educational and training services   | 77                  | 51                             | 6.6                          | 5.1  | 51                  | 28                             | 8.8                          | 4.3  |
| (24) Chemical products   | 187                 | 15                             | 6                            | 0.1  | 287                 | 5                              | 8.8                          | 0  |
| (76) Oil and gas industry services   | 116                 | -                              | 8.1                          | -  | 134                 | -                              | 8.4                          | -  |
| (18) Clothing, footwear, luggage, and travel goods and accessories   | 96                  | 4                              | 6.8                          | 0.1  | 106                 | 8                              | 8.1                          | 0.1  |
| (42) Industrial machinery  | 252                 | 38                             | 12.6                         | 1.3  | 184                 | 45                             | 5.6                          | 2.2  |
| (86) Other community, social, and personal services  | 52                  | 6                              | 15.5                         | 0.6  | 58                  | -                              | 4.3                          | -  |
| (37) Musical instruments, sports equipment, toys, games, handicraft, art materials and accessories                       | 90                  | 35                             | 2.4                          | 0.4  | 99                  | 38                             | 3.9                          | 0.8  |
| (63) Transport support and auxiliary services; travel agency services  | 21                  | 1                              | 4.2                          | 0.1  | 21                  | 1                              | 3.7                          | 0.1  |
| (51) Installation services (excluding software)  | 30                  | 6                              | 8.6                          | 7.1  | 33                  | -                              | 3.3                          | -  |
| (16) Agricultural machinery  | 87                  | 52                             | 3.1                          | 1.9  | 48                  | 22                             | 2.5                          | 1.6  |
| (22) Printed materials and related products  | 52                  | 5                              | 3.9                          | 0.9  | 20                  | -                              | 2.4                          | -  |
| (43) Mining, quarrying, and construction machinery   | 61                  | 22                             | 3.9                          | 0.7  | 37                  | 13                             | 2                            | 0.2  |
| (35) Security, firefighting, police, and defense equipment   | 44                  | 5                              | 1.7                          | 0.4  | 31                  | 1                              | 1.9                          | 0  |
| (92) Services related to leisure, culture, and sport   | 22                  | 5                              | 1.8                          | 0.7  | 36                  | 6                              | 1.7                          | 0.8  |
| (3) Plant cultivation, animal breeding, fishing, forestry, and related products  | 69                  | 3                              | 1.3                          | 0.3  | 91                  | 7                              | 1.1                          | 0.1  |
| (14) Mining, basic metals, and related products  | 17                  | -                              | 1                            | -  | 18                  | -                              | 0.6                          | -  |
| (19) Leather and textile fabrics, plastics and rubber  | 23                  | 1                              | 0.9                          | 0  | 24                  | -                              | 0.6                          | -  |
| (73) Research and development services and related consultancy services  | 5                   | 4                              | 0.1                          | 0  | 6                   | -                              | 0.5                          | -  |
| (41) Collected and purified water  | 2                   | -                              | 0.3                          | -  | 1                   | -                              | 0.3                          | -  |
| (75) Administrative, defense, and social security services   | 3                   | 2                              | 0.1                          | 0.1  | 1                   | 1                              | 0.1                          | 0.1  |
| (70) Real estate services  | 4                   | -                              | 0.7                          | -  | 6                   | -                              | 0.1                          | -  |

The table shows that the majority of contracts are linked to construction works CPV codes, followed by contracts for the procurement of medical equipment, pharmaceuticals and personal care products in both 2022 and 2023. In 2023, the third most common type of contract was related to food procurement.

The following charts illustrate the trends of the total contract values for the CPV divisions with the largest contract portfolios. The exceptionally large contract value (45) in the Construction Works category could not be included in the chart, so only the value for this category is provided.

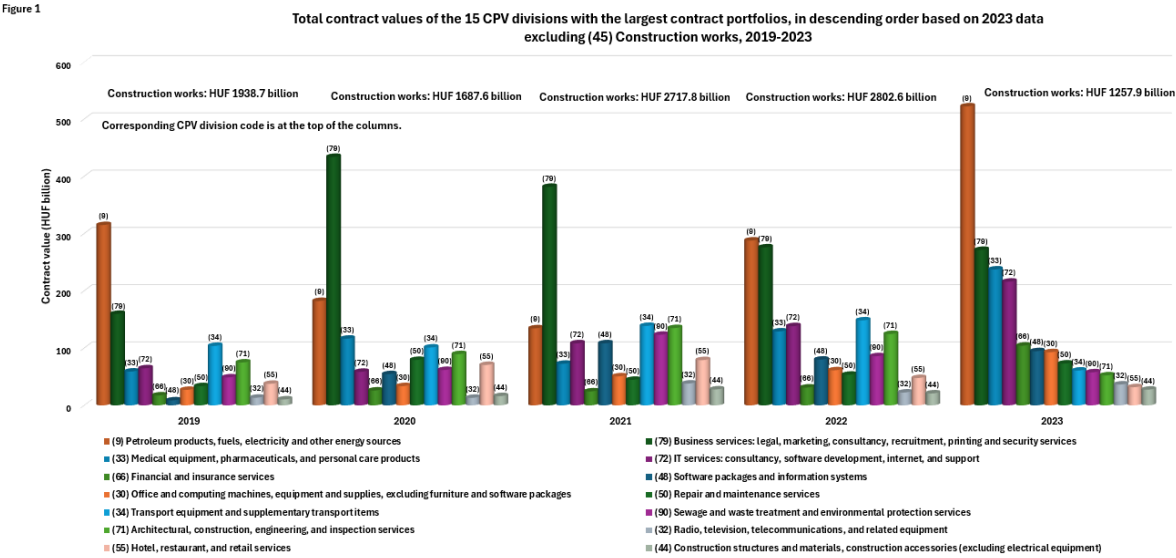
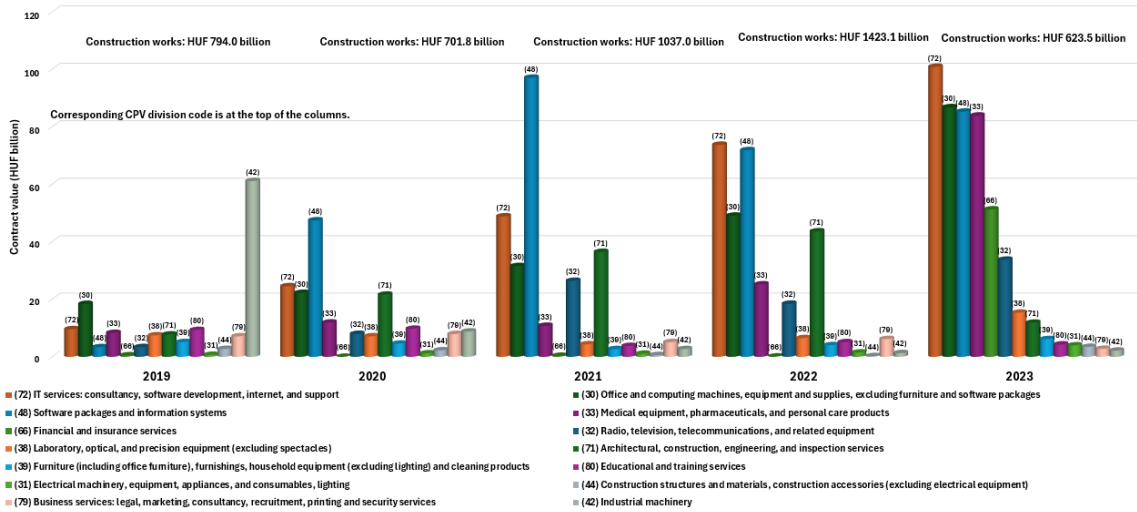


Figure 2

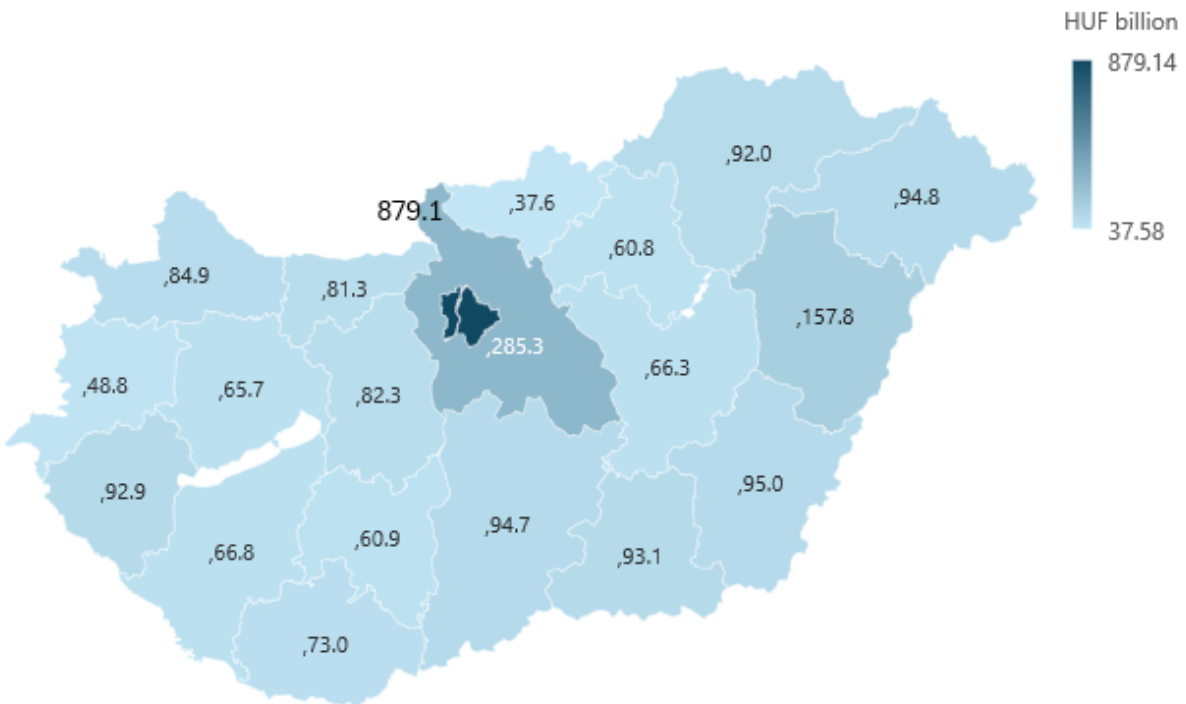
Total contract values of the 15 CPV divisions with the largest contract portfolios of procurements with EU funding content, in descending order based on 2023 data, excluding (45) Construction works, 2019-2023



The following graphs show the breakdown of the total values of public works contracts by place of execution across counties.

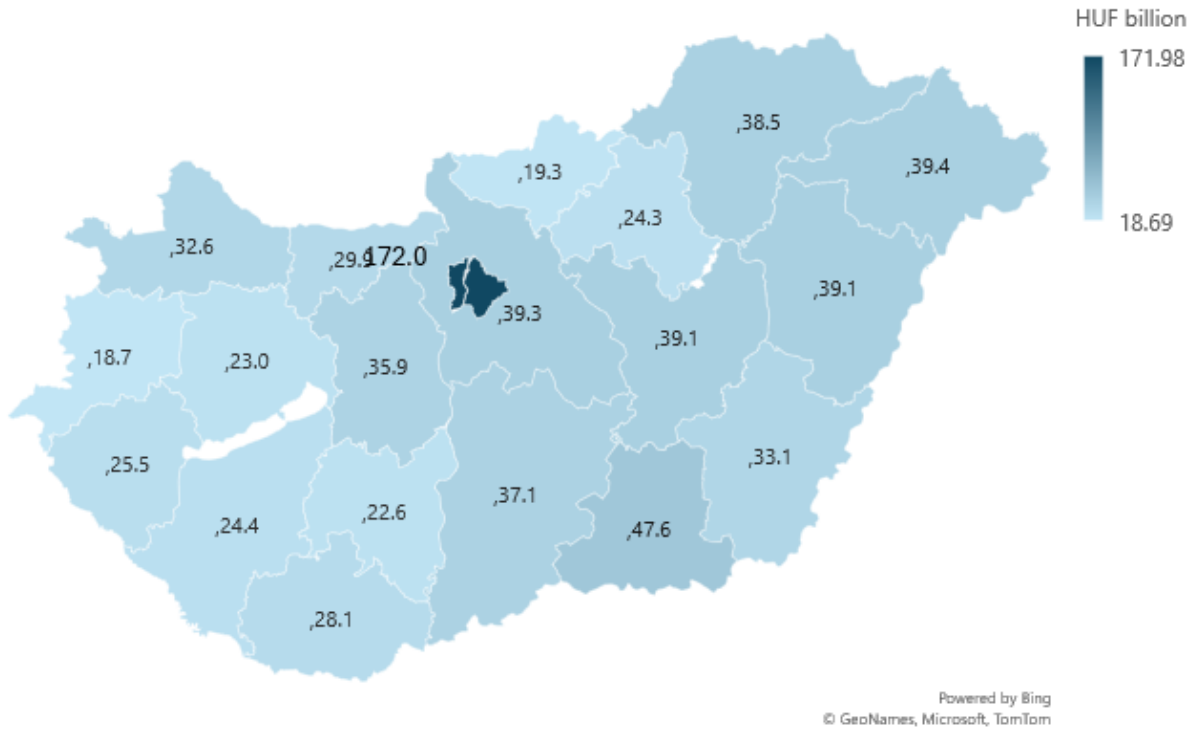
Figure 3

Total value of public procurement contracts by counties in 2023, in HUF billion (data coverage: 75.4%)



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**Figure 4 Total value of public procurement contracts with EU funding content by counties in 2023, in HUF billion (data coverage: 77.0%)**



The Hungarian public procurement system provides an opportunity for contracting authorities to select the potential pool of tenderers, provided that certain conditions are met. As discussed in another chapter of the report, the system of 'non-open procedures' is based on realistic considerations, but in practice it operates inconsistently. The extent of non-open procedures over the past five years is shown in the following tables.

| Year of tender notice | Aimed at a framework agreement? | Number of contracts | Contracts concluded under non-open procedures |            | Contract value (HUF billion) | Contracts concluded under non-open procedures |            |
|-----------------------|---------------------------------|---------------------|---|------------|------------------------------|---|------------|
|                       |                                 |                     | Number  | Percentage |                              | Value (HUF billion)                           | Percentage |
| 2019                  | Yes (FA1)                       | 779                 | 40  | 5.10%      | 605.4                        | 4.6   | 0.80%      |
|                       | No                              | 18 698              | 5 360   | 28.70%     | 3 182.00                     | 548.7   | 17.20%     |
| 2020                  | Yes (FA1)                       | 699                 | 20  | 2.90%      | 1 463.80                     | 5.1   | 0.30%      |
|                       | No                              | 16 484              | 2 738   | 16.60%     | 3 284.50                     | 291.5   | 8.90%      |
| 2021                  | Yes (FA1)                       | 680                 | 23  | 3.40%      | 3 395.30                     | 4.1   | 0.10%      |
|                       | No                              | 17 549              | 2 673   | 15.20%     | 4 447.10                     | 289.7   | 6.50%      |
| 2022                  | Yes (FA1)                       | 787                 | 12  | 1.50%      | 1 731.90                     | 2.4   | 0.10%      |
|                       | No                              | 17 308              | 1 753   | 10.10%     | 4 724.70                     | 208.7   | 4.40%      |
| 2023                  | Yes (FA1)                       | 872                 | 21  | 2.40%      | 4 082.10                     | 3.9   | 0.10%      |
|                       | No                              | 17 881              | 1 469   | 8.20%      | 3 368.10                     | 175.3   | 5.20%      |

Table 5/B

## Key data of non-open procedures in the public procurement market with EU funding content (2019-2023)

| Year of tender notice | Aimed at a framework agreement? | Number of contracts | Contracts concluded under non-open procedures |            | Contract value (HUF billion) | Contracts concluded under non-open procedures |            |
|-----------------------|---------------------------------|---------------------|---|------------|------------------------------|---|------------|
|                       |                                 |                     | Number  | Percentage |                              | Value (HUF billion)                           | Percentage |
| 2019                  | Yes (FA1)                       | 120                 | -   | -          | 133.2                        | -   | -          |
|                       | No                              | 6 923               | 2 708   | 39.10%     | 992.1                        | 178.3   | 18.00%     |
| 2020                  | Yes (FA1)                       | 59                  | -   | -          | 513.2                        | -   | -          |
|                       | No                              | 4 647               | 1 334   | 28.70%     | 907.2                        | 100.7   | 11.10%     |
| 2021                  | Yes (FA1)                       | 68                  | 2   | 2.90%      | 1 872.30                     | 0.1   | 0.00%      |
|                       | No                              | 4 167               | 885   | 21.20%     | 1 352.50                     | 84.6  | 6.30%      |
| 2022                  | Yes (FA1)                       | 62                  | -   | -          | 1 020.50                     | -   | -          |
|                       | No                              | 4 429               | 23  | 0.50%      | 1 762.60                     | 7.4   | 0.40%      |
| 2023                  | Yes (FA1)                       | 72                  | -   | -          | 458                          | -   | -          |
|                       | No                              | 5 026               | 8   | 0.20%      | 1 123.20                     | 0.9   | 0.10%      |

The largest product categories within the scope of non-open procedures are as follows.

Table 6

## Share of the largest product categories in non-open public procurement procedures, based on contract portfolio, in 2022 and 2023

|           | Total market of non-open procedures   |        | Non-open procedures with EU funding content                                |        |
|-----------|---|--------|--|--------|
|           | Total contract value  |        | Total contract value   |        |
| Year 2022 | 208.7 billion HUF   |        | 7.4 billion HUF  |        |
|           | (45) Construction works   | 60.54% | (33) Medical equipment, pharmaceuticals, and personal care products        | 52.01% |
|           | (72) IT services: consultancy, software development, internet, and support                          | 14.96% | (72) IT services: consultancy, software development, internet, and support | 39.28% |
|           | (9) Petroleum products, fuels, electricity and other energy sources                                 | 7.41%  | (45) Construction works  | 7.73%  |
|           | (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services | 6.49%  | (71) Architectural, construction, engineering, and inspection services     | 0.98%  |
|           | (71) Architectural, construction, engineering, and inspection services                              | 3.01%  |  |        |
| Year 2023 | 175.3 billion HUF   |        | 0.9 billion HUF  |        |
|           | (45) Construction works   | 64.31% | (72) IT services: consultancy, software development, internet, and support | 36.13% |
|           | (72) IT services: consultancy, software development, internet, and support                          | 10.12% | (45) Construction works  | 34.56% |
|           | (71) Architectural, construction, engineering, and inspection services                              | 6.84%  | (33) Medical equipment, pharmaceuticals, and personal care products        | 24.02% |
|           | (65) Public utilities, public services  | 5.62%  | (92) Services related to leisure, culture, and sport                       | 5.28%  |
|           | (9) Petroleum products, fuels, electricity and other energy sources                                 | 5.36%  |  |        |

#### **4.5. Concentration analysis based on the 'Concentration Index' (CI) results**

The public procurement market is not uniform and homogeneous, as it encompasses a wide range of tasks, covering various product and service categories, as well as different price segments with varying levels of quality. The complexity of the public procurement market is further enhanced by the specificities of each country's territorial and procedural rules, as well as the structure and interrelationship of market participants.

Thus, the Hungarian public procurement Contract Award Notice database does not show data for one market but rather the combined data of many different markets. Though analysing the market as a whole yields interesting information, the indicators of well-defined sub-markets are generally considered more useful. The Authority's 2023 report uses product categories (CPV divisions) as the basis when examining market segments.

The CI indicator shows the combined market share of a given number (e.g. 1, 5, or 10) of the largest market players (CI1, CI5, or CI10). The level of the CI is heavily influenced by the number of market participants, as well as the number of winning participants, so these two pieces of data should be interpreted together.

Our analysis focuses on the concentration of the total value of the contracts awarded, complemented by the number of contracts.

The changes in the CI indicator over the past five years is shown in the following tables.



Table 7

## CI indicators for the entire Hungarian public procurement market, 2019-2023

| Rank of winning company | 2019, Number of companies: 5495 |       |                     |       |          | 2020, Number of companies: 4570 |       |                     |       |          | 2021, Number of companies: 4621 |       |                     |       |          |
|-------------------------|---------------------------------|-------|---------------------|-------|----------|---------------------------------|-------|---------------------|-------|----------|---------------------------------|-------|---------------------|-------|----------|
|                         | Contracts                       |       | Contract values     |       | CI index | Contracts                       |       | Contract values     |       | CI index | Contracts                       |       | Contract values     |       | CI index |
|                         | Number                          | Share | Total (HUF billion) | Share |          | Number                          | Share | Total (HUF billion) | Share |          | Number                          | Share | Total (HUF billion) | Share |          |
| 1                       | 4                               | 4.69% | 140.1               | 4.69% | 4.69%    | 42                              | 5.93% | 189.4               | 5.93% | 5.93%    | 3                               | 9.62% | 411.2               | 9.62% | 9.62%    |
| 2                       | 25                              | 4.23% | 126.4               | 4.23% | 8.92%    | 41                              | 3.97% | 126.8               | 3.97% | 9.90%    | 91                              | 3.89% | 166.2               | 3.89% | 13.51%   |
| 3                       | 7                               | 3.65% | 109.1               | 3.65% | 12.56%   | 2                               | 3.12% | 99.7                | 3.12% | 13.02%   | 14                              | 2.38% | 101.5               | 2.38% | 15.89%   |
| 4                       | 16                              | 3.33% | 99.6                | 3.33% | 15.90%   | 5                               | 3.01% | 96                  | 3.01% | 16.03%   | 268                             | 2.27% | 96.8                | 2.27% | 18.15%   |
| 5                       | 12                              | 2.04% | 60.8                | 2.04% | 17.93%   | 173                             | 2.67% | 85.2                | 2.67% | 18.69%   | 83                              | 2.20% | 94.1                | 2.20% | 20.35%   |
| 6                       | 21                              | 1.70% | 50.9                | 1.70% | 19.63%   | 2                               | 2.63% | 84                  | 2.63% | 21.32%   | 127                             | 1.90% | 81.1                | 1.90% | 22.25%   |
| 7                       | 12                              | 1.67% | 50                  | 1.67% | 21.30%   | 194                             | 2.06% | 65.9                | 2.06% | 23.39%   | 111                             | 1.74% | 74.2                | 1.74% | 23.99%   |
| 8                       | 112                             | 1.56% | 46.6                | 1.56% | 22.86%   | 13                              | 1.96% | 62.6                | 1.96% | 25.35%   | 1                               | 1.72% | 73.3                | 1.72% | 25.71%   |
| 9                       | 130                             | 1.55% | 46.4                | 1.55% | 24.42%   | 55                              | 1.78% | 57                  | 1.78% | 27.13%   | 1                               | 1.72% | 73.3                | 1.72% | 27.42%   |
| 10                      | 10                              | 1.51% | 45.1                | 1.51% | 25.93%   | 38                              | 1.72% | 55                  | 1.72% | 28.85%   | 1                               | 1.72% | 73.3                | 1.72% | 29.14%   |
| 11                      | 60                              | 1.44% | 43                  | 1.44% | 27.37%   | 4                               | 1.37% | 43.9                | 1.37% | 30.23%   | 12                              | 1.67% | 71.5                | 1.67% | 30.81%   |
| 12                      | 8                               | 1.36% | 40.5                | 1.36% | 28.72%   | 11                              | 1.10% | 35.1                | 1.10% | 31.33%   | 12                              | 1.63% | 69.6                | 1.63% | 32.44%   |
| 13                      | 9                               | 1.03% | 30.9                | 1.03% | 29.76%   | 55                              | 1.07% | 34                  | 1.07% | 32.39%   | 1                               | 1.48% | 63.4                | 1.48% | 33.92%   |
| 14                      | 32                              | 0.98% | 29.4                | 0.98% | 30.74%   | 7                               | 1.03% | 33                  | 1.03% | 33.43%   | 128                             | 1.47% | 62.9                | 1.47% | 35.39%   |
| 15                      | 12                              | 0.96% | 28.7                | 0.96% | 31.70%   | 11                              | 1.03% | 32.8                | 1.03% | 34.45%   | 23                              | 1.96% | 58.3                | 1.96% | 36.76%   |
| 16                      | 33                              | 0.86% | 25.6                | 0.86% | 32.56%   | 4                               | 0.99% | 31.8                | 0.99% | 35.45%   | 12                              | 1.18% | 50.3                | 1.18% | 37.93%   |
| 17                      | 85                              | 0.79% | 23.7                | 0.79% | 33.35%   | 1                               | 0.76% | 24.3                | 0.76% | 36.21%   | 348                             | 1.15% | 49.1                | 1.15% | 39.08%   |
| 18                      | 2                               | 0.78% | 23.4                | 0.78% | 34.13%   | 12                              | 0.75% | 23.9                | 0.75% | 36.95%   | 10                              | 1.14% | 48.9                | 1.14% | 40.23%   |
| 19                      | 1                               | 0.76% | 22.6                | 0.76% | 34.89%   | 1                               | 0.74% | 23.6                | 0.74% | 37.69%   | 103                             | 1.04% | 44.4                | 1.04% | 41.27%   |
| 20                      | 85                              | 0.72% | 21.6                | 0.72% | 35.61%   | 54                              | 0.74% | 23.6                | 0.74% | 38.43%   | 7                               | 0.90% | 38.6                | 0.90% | 42.17%   |
| 21                      | 8                               | 0.70% | 20.8                | 0.70% | 36.31%   | 9                               | 0.68% | 21.7                | 0.68% | 39.11%   | 126                             | 0.90% | 38.4                | 0.90% | 43.07%   |
| 22                      | 41                              | 0.64% | 19.1                | 0.64% | 36.95%   | 14                              | 0.62% | 19.8                | 0.62% | 39.73%   | 124                             | 0.88% | 37.4                | 0.88% | 43.94%   |
| 23                      | 1                               | 0.64% | 19                  | 0.64% | 37.58%   | 4                               | 0.52% | 16.6                | 0.52% | 40.25%   | 9                               | 0.78% | 33.3                | 0.78% | 44.72%   |
| 24                      | 10                              | 0.61% | 18.1                | 0.61% | 38.19%   | 11                              | 0.52% | 16.5                | 0.52% | 40.76%   | 9                               | 0.73% | 31.2                | 0.73% | 45.45%   |
| 25                      | 23                              | 0.58% | 17.4                | 0.58% | 38.77%   | 24                              | 0.51% | 16.4                | 0.51% | 41.28%   | 41                              | 0.64% | 27.2                | 0.64% | 46.09%   |
| 26                      | 3                               | 0.58% | 17.2                | 0.58% | 39.34%   | 66                              | 0.51% | 16.2                | 0.51% | 41.78%   | 4                               | 0.59% | 25.4                | 0.59% | 46.68%   |
| 27                      | 48                              | 0.53% | 16                  | 0.53% | 39.88%   | 9                               | 0.48% | 15.4                | 0.48% | 42.27%   | 36                              | 0.59% | 25.3                | 0.59% | 47.27%   |
| 28                      | 1                               | 0.49% | 14.7                | 0.49% | 40.37%   | 4                               | 0.47% | 15.1                | 0.47% | 42.74%   | 3                               | 0.59% | 25                  | 0.59% | 47.86%   |
| 29                      | 1                               | 0.49% | 14.7                | 0.49% | 40.86%   | 59                              | 0.43% | 13.8                | 0.43% | 43.17%   | 64                              | 0.58% | 24.7                | 0.58% | 48.44%   |
| 30                      | 1                               | 0.49% | 14.7                | 0.49% | 41.35%   | 50                              | 0.38% | 12                  | 0.38% | 43.54%   | 11                              | 0.57% | 24.2                | 0.57% | 49.00%   |
| Rank of winning company | 2022, Number of companies: 4573 |       |                     |       |          | 2023, Number of companies: 4255 |       |                     |       |          |                                 |       |                     |       |          |
|                         | Contracts                       |       | Contract values     |       | CI index | Contracts                       |       | Contract values     |       | CI index |                                 |       |                     |       |          |
|                         | Number                          | Share | Total (HUF billion) | Share |          | Number                          | Share | Total (HUF billion) | Share |          |                                 |       |                     |       |          |
| 1                       | 20                              | 4.13% | 188.5               | 4.13% | 4.13%    | 455                             | 8.22% | 256.4               | 8.22% | 8.22%    |                                 |       |                     |       |          |
| 2                       | 2                               | 4.00% | 182.7               | 4.00% | 8.13%    | 25                              | 4.72% | 147.3               | 4.72% | 12.94%   |                                 |       |                     |       |          |
| 3                       | 13                              | 3.91% | 178.5               | 3.91% | 12.04%   | 2                               | 3.39% | 105.9               | 3.39% | 16.33%   |                                 |       |                     |       |          |
| 4                       | 1                               | 3.02% | 138                 | 3.02% | 15.06%   | 86                              | 3.34% | 104.1               | 3.34% | 19.67%   |                                 |       |                     |       |          |
| 5                       | 188                             | 2.95% | 134.5               | 2.95% | 18.01%   | 19                              | 2.94% | 91.6                | 2.94% | 22.61%   |                                 |       |                     |       |          |
| 6                       | 1                               | 2.93% | 133.9               | 2.93% | 20.94%   | 12                              | 2.86% | 89.1                | 2.86% | 25.46%   |                                 |       |                     |       |          |
| 7                       | 26                              | 2.88% | 131.4               | 2.88% | 23.82%   | 4                               | 2.74% | 85.3                | 2.74% | 28.20%   |                                 |       |                     |       |          |
| 8                       | 17                              | 2.43% | 110.9               | 2.43% | 26.25%   | 1                               | 2.24% | 70                  | 2.24% | 30.44%   |                                 |       |                     |       |          |
| 9                       | 69                              | 1.72% | 78.3                | 1.72% | 27.96%   | 123                             | 1.20% | 37.3                | 1.20% | 31.64%   |                                 |       |                     |       |          |
| 10                      | 1                               | 1.58% | 72.3                | 1.58% | 29.55%   | 26                              | 0.94% | 29.2                | 0.94% | 32.57%   |                                 |       |                     |       |          |
| 11                      | 14                              | 1.50% | 68.5                | 1.50% | 31.05%   | 73                              | 0.83% | 26                  | 0.84% | 33.41%   |                                 |       |                     |       |          |
| 12                      | 156                             | 1.32% | 60.4                | 1.32% | 32.37%   | 1                               | 0.82% | 25.6                | 0.82% | 34.23%   |                                 |       |                     |       |          |
| 13                      | 88                              | 1.14% | 52.1                | 1.14% | 33.51%   | 1                               | 0.82% | 25.6                | 0.82% | 35.05%   |                                 |       |                     |       |          |
| 14                      | 4                               | 1.07% | 48.7                | 1.07% | 34.58%   | 6                               | 0.80% | 24.8                | 0.80% | 35.85%   |                                 |       |                     |       |          |
| 15                      | 25                              | 1.05% | 47.8                | 1.05% | 35.63%   | 2                               | 0.80% | 24.8                | 0.80% | 36.64%   |                                 |       |                     |       |          |
| 16                      | 87                              | 0.95% | 43.3                | 0.95% | 36.58%   | 2                               | 0.80% | 24.8                | 0.80% | 37.44%   |                                 |       |                     |       |          |
| 17                      | 7                               | 0.92% | 42                  | 0.92% | 37.50%   | 2                               | 0.72% | 22.3                | 0.72% | 38.15%   |                                 |       |                     |       |          |
| 18                      | 8                               | 0.92% | 41.8                | 0.92% | 38.41%   | 5                               | 0.71% | 22.2                | 0.71% | 38.86%   |                                 |       |                     |       |          |
| 19                      | 123                             | 0.91% | 41.6                | 0.91% | 39.32%   | 25                              | 0.62% | 19.4                | 0.62% | 39.48%   |                                 |       |                     |       |          |
| 20                      | 35                              | 0.90% | 40.9                | 0.90% | 40.22%   | 89                              | 0.60% | 18.6                | 0.60% | 40.08%   |                                 |       |                     |       |          |
| 21                      | 6                               | 0.89% | 40.8                | 0.89% | 41.11%   | 8                               | 0.58% | 18.1                | 0.58% | 40.66%   |                                 |       |                     |       |          |
| 22                      | 173                             | 0.82% | 37.5                | 0.82% | 41.93%   | 18                              | 0.56% | 17.5                | 0.56% | 41.22%   |                                 |       |                     |       |          |
| 23                      | 4                               | 0.81% | 37.1                | 0.81% | 42.75%   | 4                               | 0.55% | 17.2                | 0.55% | 41.78%   |                                 |       |                     |       |          |
| 24                      | 37                              | 0.70% | 32                  | 0.70% | 43.45%   | 24                              | 0.53% | 16.6                | 0.53% | 42.31%   |                                 |       |                     |       |          |
| 25                      | 7                               | 0.65% | 29.8                | 0.65% | 44.10%   | 128                             | 0.48% | 15.1                | 0.48% | 42.79%   |                                 |       |                     |       |          |
| 26                      | 17                              | 0.63% | 28.9                | 0.63% | 44.73%   | 8                               | 0.45% | 14.1                | 0.45% | 43.24%   |                                 |       |                     |       |          |
| 27                      | 47                              | 0.60% | 27.3                | 0.60% | 45.33%   | 5                               | 0.44% | 13.7                | 0.44% | 43.68%   |                                 |       |                     |       |          |
| 28                      | 15                              | 0.59% | 27.1                | 0.59% | 45.93%   | 15                              | 0.41% | 12.9                | 0.41% | 44.10%   |                                 |       |                     |       |          |
| 29                      | 10                              | 0.59% | 26.9                | 0.59% | 46.51%   | 3                               | 0.41% | 12.9                | 0.41% | 44.51%   |                                 |       |                     |       |          |
| 30                      | 50                              | 0.56% | 25.4                | 0.56% | 47.07%   | 25                              | 0.39% | 12.2                | 0.39% | 44.90%   |                                 |       |                     |       |          |

Table 8

| CI indicators for the market of public procurement procedures with EU funding content, 2019-2023 |                                 |        |                     |        |          |                                 |        |                     |        |          |                                 |        |                     |        |          |
|--|---------------------------------|--------|---------------------|--------|----------|---------------------------------|--------|---------------------|--------|----------|---------------------------------|--------|---------------------|--------|----------|
| Rank of winning company  | 2019, Number of companies: 2746 |        |                     |        |          | 2020, Number of companies: 1914 |        |                     |        |          | 2021, Number of companies: 1700 |        |                     |        |          |
|  | Contracts                       |        | Contract values     |        | CI index | Contracts                       |        | Contract values     |        | CI index | Contracts                       |        | Contract values     |        | CI index |
|  | Number                          | Share  | Total (HUF billion) | Share  |          | Number                          | Share  | Total (HUF billion) | Share  |          | Number                          | Share  | Total (HUF billion) | Share  |          |
| 1  | 5                               | 9.79%  | 88.3                | 9.79%  | 9.79%    | 25                              | 10.79% | 94.3                | 10.79% | 10.79%   | 3                               | 32.39% | 411.2               | 32.39% | 32.39%   |
| 2  | 5                               | 4.48%  | 40.4                | 4.48%  | 14.27%   | 6                               | 7.06%  | 61.7                | 7.06%  | 17.84%   | 1                               | 4.99%  | 63.4                | 4.99%  | 37.38%   |
| 3  | 18                              | 4.43%  | 40                  | 4.43%  | 18.70%   | 38                              | 6.18%  | 54                  | 6.18%  | 24.02%   | 2                               | 1.86%  | 23.6                | 1.86%  | 39.24%   |
| 4  | 3                               | 2.44%  | 22                  | 2.44%  | 21.14%   | 24                              | 5.96%  | 52.1                | 5.96%  | 29.98%   | 12                              | 1.65%  | 20.9                | 1.65%  | 40.88%   |
| 5  | 36                              | 2.01%  | 18.2                | 2.01%  | 23.15%   | 1                               | 2.70%  | 23.6                | 2.70%  | 32.69%   | 3                               | 1.48%  | 18.8                | 1.48%  | 42.37%   |
| 6  | 17                              | 1.81%  | 16.4                | 1.81%  | 24.96%   | 7                               | 2.21%  | 19.3                | 2.21%  | 34.90%   | 2                               | 1.30%  | 16.5                | 1.30%  | 43.67%   |
| 7  | 24                              | 1.50%  | 13.5                | 1.50%  | 26.46%   | 10                              | 1.30%  | 11.4                | 1.30%  | 36.20%   | 15                              | 1.25%  | 15.8                | 1.25%  | 44.91%   |
| 8  | 1                               | 1.47%  | 13.3                | 1.47%  | 27.93%   | 11                              | 1.07%  | 9.3                 | 1.07%  | 37.26%   | 4                               | 1.21%  | 15.4                | 1.21%  | 46.13%   |
| 9  | 15                              | 1.39%  | 12.5                | 1.39%  | 29.32%   | 6                               | 1.05%  | 9.2                 | 1.05%  | 38.31%   | 3                               | 1.21%  | 15.3                | 1.21%  | 47.34%   |
| 10   | 4                               | 1.03%  | 9.3                 | 1.03%  | 30.35%   | 13                              | 0.84%  | 7.3                 | 0.84%  | 39.15%   | 6                               | 1.20%  | 15.2                | 1.20%  | 48.53%   |
| 11   | 9                               | 0.82%  | 7.4                 | 0.82%  | 31.17%   | 3                               | 0.77%  | 6.7                 | 0.77%  | 39.92%   | 7                               | 1.17%  | 14.9                | 1.17%  | 49.71%   |
| 12   | 2                               | 0.80%  | 7.2                 | 0.80%  | 31.97%   | 4                               | 0.75%  | 6.6                 | 0.75%  | 40.67%   | 8                               | 1.09%  | 13.9                | 1.09%  | 50.80%   |
| 13   | 38                              | 0.76%  | 6.8                 | 0.76%  | 32.73%   | 5                               | 0.72%  | 6.3                 | 0.72%  | 41.38%   | 3                               | 1.09%  | 13.8                | 1.09%  | 51.89%   |
| 14   | 1                               | 0.72%  | 6.4                 | 0.72%  | 33.44%   | 18                              | 0.70%  | 6.1                 | 0.70%  | 42.08%   | 49                              | 0.74%  | 9.4                 | 0.74%  | 52.63%   |
| 15   | 1                               | 0.72%  | 6.4                 | 0.72%  | 34.15%   | 2                               | 0.67%  | 5.8                 | 0.67%  | 42.75%   | 51                              | 0.73%  | 9.2                 | 0.73%  | 53.36%   |
| 16   | 41                              | 0.71%  | 6.4                 | 0.71%  | 34.86%   | 1                               | 0.64%  | 5.6                 | 0.64%  | 43.39%   | 37                              | 0.69%  | 8.7                 | 0.69%  | 54.05%   |
| 17   | 2                               | 0.70%  | 6.3                 | 0.70%  | 35.56%   | 19                              | 0.63%  | 5.5                 | 0.63%  | 44.02%   | 27                              | 0.68%  | 8.7                 | 0.68%  | 54.73%   |
| 18   | 10                              | 0.70%  | 6.3                 | 0.70%  | 36.25%   | 3                               | 0.60%  | 5.3                 | 0.60%  | 44.62%   | 6                               | 0.60%  | 7.6                 | 0.60%  | 55.33%   |
| 19   | 9                               | 0.69%  | 6.2                 | 0.69%  | 36.94%   | 2                               | 0.59%  | 5.2                 | 0.59%  | 45.21%   | 9                               | 0.59%  | 7.4                 | 0.59%  | 55.91%   |
| 20   | 29                              | 0.65%  | 5.9                 | 0.65%  | 37.59%   | 13                              | 0.59%  | 5.1                 | 0.59%  | 45.80%   | 18                              | 0.58%  | 7.4                 | 0.58%  | 56.49%   |
| 21   | 49                              | 0.65%  | 5.8                 | 0.65%  | 38.24%   | 3                               | 0.58%  | 5                   | 0.58%  | 46.37%   | 3                               | 0.55%  | 7                   | 0.55%  | 57.04%   |
| 22   | 6                               | 0.61%  | 5.5                 | 0.61%  | 38.85%   | 30                              | 0.55%  | 4.8                 | 0.55%  | 46.93%   | 8                               | 0.47%  | 5.9                 | 0.47%  | 57.51%   |
| 23   | 2                               | 0.61%  | 5.5                 | 0.61%  | 39.46%   | 5                               | 0.54%  | 4.7                 | 0.54%  | 47.47%   | 2                               | 0.46%  | 5.9                 | 0.46%  | 57.97%   |
| 24   | 1                               | 0.58%  | 5.3                 | 0.58%  | 40.04%   | 8                               | 0.52%  | 4.5                 | 0.52%  | 47.98%   | 10                              | 0.46%  | 5.8                 | 0.46%  | 58.43%   |
| 25   | 6                               | 0.54%  | 4.9                 | 0.54%  | 40.58%   | 1                               | 0.50%  | 4.4                 | 0.50%  | 48.49%   | 1                               | 0.42%  | 5.3                 | 0.42%  | 58.85%   |
| 26   | 1                               | 0.54%  | 4.9                 | 0.54%  | 41.12%   | 4                               | 0.42%  | 3.7                 | 0.42%  | 48.91%   | 5                               | 0.41%  | 5.2                 | 0.41%  | 59.26%   |
| 27   | 12                              | 0.49%  | 4.4                 | 0.49%  | 41.60%   | 6                               | 0.42%  | 3.7                 | 0.42%  | 49.33%   | 2                               | 0.39%  | 5                   | 0.39%  | 59.65%   |
| 28   | 7                               | 0.48%  | 4.4                 | 0.48%  | 42.09%   | 8                               | 0.42%  | 3.7                 | 0.42%  | 49.75%   | 3                               | 0.38%  | 4.9                 | 0.38%  | 60.04%   |
| 29   | 21                              | 0.48%  | 4.3                 | 0.48%  | 42.57%   | 1                               | 0.40%  | 3.5                 | 0.40%  | 50.16%   | 27                              | 0.37%  | 4.7                 | 0.37%  | 60.41%   |
| 30   | 1                               | 0.42%  | 3.8                 | 0.42%  | 42.99%   | 1                               | 0.40%  | 3.5                 | 0.40%  | 50.56%   | 31                              | 0.37%  | 4.7                 | 0.37%  | 60.78%   |
| Rank of winning company  | 2022, Number of companies: 1697 |        |                     |        |          | 2023, Number of companies: 1673 |        |                     |        |          |                                 |        |                     |        |          |
|  | Contracts                       |        | Contract values     |        | CI index | Contracts                       |        | Contract values     |        | CI index |                                 |        |                     |        |          |
|  | Number                          | Share  | Total (HUF billion) | Share  |          | Number                          | Share  | Total (HUF billion) | Share  |          |                                 |        |                     |        |          |
| 1  | 17                              | 10.79% | 182                 | 10.79% | 10.79%   | 42                              | 9.64%  | 94.5                | 9.65%  | 9.65%    |                                 |        |                     |        |          |
| 2  | 1                               | 8.18%  | 138                 | 8.18%  | 18.97%   | 13                              | 9.07%  | 88.8                | 9.07%  | 18.72%   |                                 |        |                     |        |          |
| 3  | 1                               | 7.94%  | 133.9               | 7.94%  | 26.91%   | 2                               | 8.74%  | 85.7                | 8.75%  | 27.47%   |                                 |        |                     |        |          |
| 4  | 17                              | 6.58%  | 110.9               | 6.58%  | 33.48%   | 1                               | 2.62%  | 25.6                | 2.62%  | 30.08%   |                                 |        |                     |        |          |
| 5  | 3                               | 3.17%  | 53.5                | 3.17%  | 36.66%   | 1                               | 2.62%  | 25.6                | 2.62%  | 32.70%   |                                 |        |                     |        |          |
| 6  | 16                              | 2.02%  | 34.1                | 2.02%  | 38.68%   | 4                               | 2.12%  | 20.8                | 2.12%  | 34.82%   |                                 |        |                     |        |          |
| 7  | 4                               | 1.89%  | 31.8                | 1.89%  | 40.56%   | 15                              | 1.78%  | 17.4                | 1.78%  | 36.60%   |                                 |        |                     |        |          |
| 8  | 7                               | 1.77%  | 29.8                | 1.77%  | 42.33%   | 2                               | 1.22%  | 12                  | 1.22%  | 37.83%   |                                 |        |                     |        |          |
| 9  | 22                              | 1.32%  | 22.3                | 1.32%  | 43.65%   | 2                               | 1.18%  | 11.5                | 1.18%  | 39.00%   |                                 |        |                     |        |          |
| 10   | 9                               | 1.32%  | 22.3                | 1.32%  | 44.97%   | 18                              | 1.09%  | 10.7                | 1.09%  | 40.09%   |                                 |        |                     |        |          |
| 11   | 5                               | 1.30%  | 21.9                | 1.30%  | 46.27%   | 5                               | 0.99%  | 9.7                 | 0.99%  | 41.09%   |                                 |        |                     |        |          |
| 12   | 2                               | 1.21%  | 20.5                | 1.21%  | 47.49%   | 1                               | 0.96%  | 9.4                 | 0.96%  | 42.04%   |                                 |        |                     |        |          |
| 13   | 36                              | 1.13%  | 19.1                | 1.13%  | 48.62%   | 89                              | 0.85%  | 8.3                 | 0.85%  | 42.89%   |                                 |        |                     |        |          |
| 14   | 2                               | 1.10%  | 18.5                | 1.10%  | 49.71%   | 44                              | 0.84%  | 8.3                 | 0.84%  | 43.74%   |                                 |        |                     |        |          |
| 15   | 6                               | 1.08%  | 18.1                | 1.08%  | 50.79%   | 17                              | 0.71%  | 6.9                 | 0.71%  | 44.44%   |                                 |        |                     |        |          |
| 16   | 8                               | 0.93%  | 15.7                | 0.93%  | 51.72%   | 2                               | 0.66%  | 6.4                 | 0.66%  | 45.10%   |                                 |        |                     |        |          |
| 17   | 1                               | 0.80%  | 13.4                | 0.80%  | 52.51%   | 9                               | 0.65%  | 6.3                 | 0.65%  | 45.74%   |                                 |        |                     |        |          |
| 18   | 6                               | 0.76%  | 12.8                | 0.76%  | 53.27%   | 31                              | 0.64%  | 6.3                 | 0.64%  | 46.38%   |                                 |        |                     |        |          |
| 19   | 1                               | 0.68%  | 11.5                | 0.68%  | 53.96%   | 1                               | 0.62%  | 6.1                 | 0.62%  | 47.01%   |                                 |        |                     |        |          |
| 20   | 53                              | 0.67%  | 11.3                | 0.67%  | 54.63%   | 1                               | 0.62%  | 6.1                 | 0.62%  | 47.63%   |                                 |        |                     |        |          |
| 21   | 16                              | 0.66%  | 11.2                | 0.66%  | 55.29%   | 22                              | 0.51%  | 5                   | 0.51%  | 48.14%   |                                 |        |                     |        |          |
| 22   | 47                              | 0.65%  | 10.9                | 0.65%  | 55.94%   | 56                              | 0.50%  | 4.9                 | 0.50%  | 48.64%   |                                 |        |                     |        |          |
| 23   | 12                              | 0.64%  | 10.8                | 0.64%  | 56.58%   | 80                              | 0.49%  | 4.8                 | 0.49%  | 49.12%   |                                 |        |                     |        |          |
| 24   | 34                              | 0.63%  | 10.6                | 0.63%  | 57.21%   | 55                              | 0.43%  | 4.2                 | 0.43%  | 49.55%   |                                 |        |                     |        |          |
| 25   | 6                               | 0.61%  | 10.3                | 0.61%  | 57.82%   | 10                              | 0.41%  | 4.1                 | 0.41%  | 49.97%   |                                 |        |                     |        |          |
| 26   | 28                              | 0.61%  | 10.3                | 0.61%  | 58.44%   | 4                               | 0.41%  | 4                   | 0.41%  | 50.38%   |                                 |        |                     |        |          |
| 27   | 8                               | 0.61%  | 10.3                | 0.61%  | 59.05%   | 18                              | 0.41%  | 4                   | 0.41%  | 50.79%   |                                 |        |                     |        |          |
| 28   | 1                               | 0.56%  | 9.5                 | 0.56%  | 59.61%   | 41                              | 0.39%  | 3.8                 | 0.39%  | 51.18%   |                                 |        |                     |        |          |
| 29   | 3                               | 0.56%  | 9.4                 | 0.56%  | 60.16%   | 47                              | 0.38%  | 3.7                 | 0.38%  | 51.56%   |                                 |        |                     |        |          |
| 30   | 3                               | 0.55%  | 9.3                 | 0.55%  | 60.71%   | 41                              | 0.37%  | 3.6                 | 0.37%  | 51.93%   |                                 |        |                     |        |          |

The Concentration Index (CI) shows high values for the Hungarian national public procurement market. Considering all procedures, in 2023, the most successful participant won approximately 1/12 of the total contract value, over 8%, with 455 awarded contracts. The combined success of the 5 most successful participants accounts for more than 1/5 of the total contract value (22.6%), while the top 30

largest winners claim 44.9% of the total contract value. This represents an increase compared to 2022 for the largest winners (CI1 was 4.1%, and CI5 was 18.0% in 2022), while the share of the top 30 participants (47.1%) shows a slight decrease. The CI indicators (CI1, CI5, and CI30) for public procurements involving EU funds were generally slightly higher in 2023 (9.6%, 32.7%, and 51.9%, respectively). However, this marks a slight decrease compared to the 2022 data (10.8%, 36.7%, and 60.7%, respectively). According to internationally accepted methodology, a CI4 indicator exceeding 50% signals a concentrated market. The CI4 index for both the total market and the public procurement procedures involving EU funding has been below this threshold in each of the past years (ranging from 15.1% to 19.7% for the total market, and from 21.1% to 40.9% for EU-funded contracts over the past 5 years).

We also examined the 'stability' of the 30 companies with the largest contract portfolios, and the results are presented in the following tables.

**Table 9**

| <b>Number of occurrences of the top winners in the TOP30 list for the 2019-2023 period</b> |   |   |
|--|---|---|
| <b>Occurrences between 2019-2023 (calendar year)</b>                                       | <b>Number of companies in the total public procurement market</b> | <b>Number of companies in the public procurement market with EU funding content</b> |
| 5  | 2   | 1   |
| 4  | 5   | 6   |
| 3  | 11  | 13  |
| 2  | 24  | 16  |
| 1  | 39  | 50  |
| <b>Total:</b>  | <b>81</b>   | <b>86</b>   |

As the table shows, the list of the 30 most successful companies cannot be considered stable. The number of companies that appeared in the top 30 by contract portfolio in all five or even four years is small. The majority of companies appeared on the list only in a single year (their share of the total market approaches 50% (48.1%), while in public procurements involving EU funding this share was 58.1%).

**4.6. Comparative concentration analysis based on Herfindahl-Hirschman Index (HHI) values**

The most widely used concentration indicator for the comprehensive examination of the public procurement market and its segments is the Herfindahl-Hirschman

Index (HHI). This indicator considers not only the largest winners but also all the market participants: the index value is the sum of the squared market shares of the individual companies, meaning that the higher a company's market share, the stronger its impact on the index compared to the same share being distributed among multiple companies.

In our analysis, we use the normalised value of the indicator, which can range from 0 (a perfectly balanced market) to 1 (a monopoly market). This normalisation is necessary because the HHI value is also dependent on the number of competing companies; fewer players result in a higher value even in the case of equal concentration (e.g. perfectly balanced competition). This makes it suitable for comparative analysis of markets of different sizes. A normalised HHI value above 15% already indicates a concentrated market, while values exceeding 25% signal strong concentration.

The reasons for the formation of market concentration can be quite diverse, and therefore, there is no generally reliable method for uncovering them. The HHI, for the total market of a given calendar year, even when filtered for contracts with EU funding content, rarely indicated strong concentration. The index is also strongly influenced by the individual product and service markets, the varying price segments within them, and regional specificities. The Contract Award Notices database provides reliable information on these aspects for the analysis.

**4.6.1. Examination of the overall concentration of all product groups**

The HHI values measured for the total market and procedures covered by EU funds over the last 5 years are as follows:

**Table 10**

**Concentration in the total / EU-funded public procurement market (2019-2023)**

| Year | Hirschman-Herfindahl index value based on the |                |  |                |
|------|---|----------------|--|----------------|
|      | number of all winning procedures              | contract value | number of procedures with EU funding content | contract value |
| 2019 | 0.08%   | 0.99%          | 0.08%  | 1.66%          |
| 2020 | 0.14%   | 1.14%          | 0.13%  | 2.64%          |
| 2021 | 0.16%   | 1.66%          | 0.12%  | 10.98%         |
| 2022 | 0.12%   | 1.16%          | 0.20%  | 3.28%          |
| 2023 | 0.14%   | 1.55%          | 0.18%  | 2.85%          |

For the analysed years, the HHI only indicates a concentrated market in only one case: the contract values of the public procurement procedures involving European

Union funding in 2021. This is consistent with the results observed with the CI indicator, where market concentration is determined by the outstanding contract value of the largest player.

This is further supported by the analysis of price segments, which also shows that the HHI indicates a concentrated market only in the upper price segment (10th decile) for the profits achieved by the procedures involving EU funding in 2021. Furthermore, the results also indicate in general that concentration is highest in the upper price segment (10th decile).

**Table 11**

**Concentration indicators (HHI values) of price segments (deciles) of the Hungarian public procurement market in 2019-2023**

| Decile | Year 2019          |                    | Year 2020          |                    | Year 2021          |                    | Year 2022          |                    | Year 2023          |                    |
|--------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|        | Contract value HHI |                    | Contract value HHI |                    | Contract value HHI |                    | Contract value HHI |                    | Contract value HHI |                    |
|        | Entire market      | EU funding content | Entire market      | EU funding content | Entire market      | EU funding content | Entire market      | EU funding content | Entire market      | EU funding content |
| 1      | 0.38%              | 0.51%              | 1.33%              | 0.58%              | 1.27%              | 1.05%              | 0.58%              | 0.82%              | 0.57%              | 0.68%              |
| 2      | 0.14%              | 0.23%              | 0.29%              | 0.45%              | 0.25%              | 0.55%              | 0.24%              | 0.73%              | 0.31%              | 0.58%              |
| 3      | 0.10%              | 0.16%              | 0.16%              | 0.32%              | 0.15%              | 0.49%              | 0.23%              | 0.46%              | 0.36%              | 0.54%              |
| 4      | 0.08%              | 0.12%              | 0.16%              | 0.32%              | 0.10%              | 0.23%              | 0.18%              | 0.35%              | 0.39%              | 0.42%              |
| 5      | 0.08%              | 0.09%              | 0.18%              | 0.18%              | 0.15%              | 0.23%              | 0.24%              | 0.31%              | 0.45%              | 0.26%              |
| 6      | 0.10%              | 0.13%              | 0.15%              | 0.26%              | 0.20%              | 0.22%              | 0.25%              | 0.25%              | 0.52%              | 0.28%              |
| 7      | 0.10%              | 0.11%              | 0.17%              | 0.23%              | 0.26%              | 0.36%              | 0.34%              | 0.32%              | 0.74%              | 0.26%              |
| 8      | 0.15%              | 0.11%              | 0.19%              | 0.37%              | 0.39%              | 0.54%              | 0.45%              | 0.44%              | 0.87%              | 0.21%              |
| 9      | 0.17%              | 0.21%              | 0.34%              | 0.35%              | 0.55%              | 0.44%              | 0.71%              | 0.47%              | 1.00%              | 0.21%              |
| 10     | 1.60%              | 3.44%              | 1.72%              | 4.49%              | 2.45%              | 17.71%             | 1.61%              | 4.63%              | 2.09%              | 4.98%              |

Thanks to the similar methodology, the CI indicator, which shows the market share of the largest players, and the HHI, which evaluates the entire market, show a correlation. Therefore, the concentration analysis of product categories in the following will be based on the HHI values.

#### 4.6.2. Concentration of main product and service categories

In contrast to the entire market or price segments, when examining the main product and service categories, the use of HHI reveals significant concentration values and differences. In the presentation of the data the following notations are used:

- No shade: Normalised HHI < 10%. Does not indicate a concentrated market.
- Light shade: 10% <= normalised HHI < 15%. Although not yet indicative of a concentrated market, it is close to the lower limit.
- Medium shade: 15% <= normalised HHI < 25%. Indicates a concentrated market.
- Dark shade: normalised HHI >= 25%. Indicates a highly concentrated market.

Table 12

## Concentration of product and service markets in 2022

| CPV division   | ENTIRE PUBLIC PROCUREMENT MARKET |                      |                                      |                     |                    | PUBLIC PROCUREMENTS WITH EU FUNDING CONTENT |                      |                                      |                     |                    |
|--|----------------------------------|----------------------|--------------------------------------|---------------------|--------------------|---|----------------------|--------------------------------------|---------------------|--------------------|
|  | Number of winners                | Number of contracts* | Total contract value (HUF billion)** | Contract number HHI | Contract value HHI | Number of winners                           | Number of contracts* | Total contract value (HUF billion)** | Contract number HHI | Contract value HHI |
| (3) Plant cultivation, animal breeding, fishing, forestry, and related products  | 21                               | 65                   | 1.3                                  | 6.06%               | 9.01%              | 3   | 3                    | 0.3                                  | 0.00%               | 35.45%             |
| (9) Petroleum products, fuels, electricity and other energy sources  | 28                               | 265                  | 287.9                                | 48.68%              | 27.79%             | 1   | 4                    | 0.1                                  | 100.00%             | 100.00%            |
| (14) Mining, basic metals, and related products  | 4                                | 17                   | 1                                    | 22.49%              | 37.34%             | -   | -                    | -                                    | -                   | -                  |
| (15) Food, beverages, tobacco, and related products  | 133                              | 674                  | 21.1                                 | 2.03%               | 2.80%              | 6   | 2                    | 2.8                                  | 0.00%               | 13.58%             |
| (16) Agricultural machinery  | 34                               | 87                   | 3.1                                  | 4.06%               | 11.40%             | 22  | 52                   | 1.9                                  | 4.92%               | 16.87%             |
| (18) Clothing, footwear, luggage, and travel goods and accessories   | 51                               | 96                   | 6.8                                  | 4.14%               | 20.20%             | 4   | 4                    | 0.1                                  | 0.00%               | 46.52%             |
| (19) Leather and textile fabrics, plastics and rubber  | 7                                | 23                   | 0.9                                  | 17.96%              | 48.05%             | 1   | 1                    | 0                                    | 100.00%             | 100.00%            |
| (22) Printed materials and related products  | 20                               | 52                   | 3.9                                  | 4.82%               | 6.52%              | 4   | 5                    | 0.9                                  | 4.00%               | 86.46%             |
| (24) Chemical products   | 44                               | 187                  | 6                                    | 8.50%               | 5.79%              | 5   | 15                   | 0.1                                  | 26.67%              | 31.62%             |
| (30) Office and computing machines, equipment and supplies, excluding furniture and software packages                    | 150                              | 434                  | 52.7                                 | 1.13%               | 9.45%              | 99  | 182                  | 40.6                                 | 0.67%               | 11.57%             |
| (31) Electrical machinery, equipment, appliances, and consumables; lighting  | 49                               | 90                   | 5.3                                  | 2.21%               | 4.62%              | 8   | 9                    | 1.5                                  | 1.23%               | 45.71%             |
| (32) Radio, television, telecommunications, and related equipment  | 119                              | 125                  | 14.5                                 | 0.67%               | 2.28%              | 90  | 56                   | 10.5                                 | 0.59%               | 1.63%              |
| (33) Medical equipment, pharmaceuticals, and personal care products  | 336                              | 2 542                | 122.4                                | 1.00%               | 1.57%              | 135   | 310                  | 23.2                                 | 0.59%               | 4.69%              |
| (34) Transport equipment and supplementary transport items   | 252                              | 640                  | 148.2                                | 0.55%               | 5.27%              | 48  | 66                   | 6.8                                  | 0.72%               | 9.96%              |
| (35) Security, firefighting, police, and defense equipment   | 24                               | 44                   | 1.7                                  | 4.28%               | 6.77%              | 5   | 5                    | 0.4                                  | 0.00%               | 52.40%             |
| (37) Musical instruments, sports equipment, toys, games, handicraft, art materials and accessories                       | 49                               | 90                   | 2.4                                  | 3.56%               | 4.76%              | 19  | 35                   | 0.4                                  | 11.59%              | 8.93%              |
| (38) Laboratory, optical, and precision equipment (excluding spectacles)   | 170                              | 470                  | 18.2                                 | 1.44%               | 2.98%              | 84  | 195                  | 6.2                                  | 3.67%               | 3.19%              |
| (39) Furniture (including office furniture), furnishings, household equipment (excluding lighting) and cleaning products | 126                              | 350                  | 13.4                                 | 1.93%               | 2.59%              | 54  | 145                  | 4                                    | 5.86%               | 5.55%              |
| (41) Collected and purified water  | 2                                | 2                    | 0.3                                  | 0.00%               | 75.40%             | -   | -                    | -                                    | -                   | -                  |
| (42) Industrial machinery  | 135                              | 249                  | 12.6                                 | 1.15%               | 1.88%              | 30  | 38                   | 1.3                                  | 0.56%               | 8.04%              |
| (43) Mining, quarrying, and construction machinery   | 32                               | 61                   | 3.9                                  | 2.41%               | 8.35%              | 14  | 22                   | 0.7                                  | 3.43%               | 11.14%             |
| (44) Construction structures and materials; construction accessories (excluding electrical equipment)                    | 95                               | 251                  | 20.8                                 | 2.23%               | 4.56%              | 7   | 9                    | 0.2                                  | 2.06%               | 19.97%             |
| (45) Construction works  | 1634                             | 4 772                | 2 800.90                             | 0.30%               | 2.20%              | 789   | 1924                 | 1 423.10                             | 0.24%               | 4.52%              |
| (48) Software packages and information systems   | 147                              | 185                  | 33.3                                 | 0.67%               | 1.94%              | 107   | 75                   | 25.3                                 | 0.60%               | 2.37%              |
| (50) Repair and maintenance services   | 256                              | 474                  | 51.1                                 | 0.44%               | 5.38%              | 4   | 6                    | 0                                    | 3.70%               | 7.39%              |
| (51) Installation services (excluding software)  | 22                               | 30                   | 8.6                                  | 1.65%               | 19.15%             | 4   | 6                    | 7.1                                  | 4.17%               | 10.82%             |
| (55) Hotel, restaurant, and retail services  | 36                               | 59                   | 47.7                                 | 1.61%               | 7.67%              | -   | -                    | -                                    | -                   | -                  |
| (60) Transport services (excluding refuse collection)  | 53                               | 151                  | 198.8                                | 3.31%               | 84.27%             | 3   | 3                    | 0                                    | 0.00%               | 19.24%             |
| (63) Transport support and auxiliary services; travel agency services  | 16                               | 21                   | 4.2                                  | 2.77%               | 20.80%             | 1   | 1                    | 0.1                                  | 100.00%             | 100.00%            |
| (64) Postal and telecommunications services  | 10                               | 26                   | 9                                    | 9.27%               | 26.51%             | 1   | 2                    | 3.2                                  | 100.00%             | 100.00%            |
| (65) Public utilities, public services   | 9                                | 13                   | 19.8                                 | 5.80%               | 43.39%             | -   | -                    | -                                    | -                   | -                  |
| (66) Financial and insurance services  | 21                               | 151                  | 31.1                                 | 10.64%              | 9.55%              | 1   | 1                    | 0.1                                  | 100.00%             | 100.00%            |
| (70) Real estate services  | 3                                | 4                    | 0.7                                  | 6.25%               | 40.79%             | -   | -                    | -                                    | -                   | -                  |
| (71) Architectural, construction, engineering, and inspection services   | 311                              | 1 175                | 121.8                                | 1.91%               | 2.31%              | 130   | 630                  | 43.6                                 | 3.54%               | 3.58%              |
| (72) IT services: consultancy, software development, internet, and support   | 296                              | 643                  | 127.1                                | 0.52%               | 3.41%              | 164   | 205                  | 63.7                                 | 0.42%               | 5.01%              |
| (73) Research and development services and related consultancy services  | 4                                | 5                    | 0.1                                  | 4.00%               | 40.39%             | 3   | 4                    | 0                                    | 6.25%               | 7.77%              |
| (75) Administrative, defense, and social security services   | 3                                | 3                    | 0.1                                  | 0.00%               | 6.28%              | 2   | 2                    | 0.1                                  | 0.00%               | 3.99%              |
| (76) Oil and gas industry services   | 7                                | 116                  | 8.1                                  | 58.89%              | 70.26%             | -   | -                    | -                                    | -                   | -                  |
| (77) Agricultural, forestry, horticultural, beekeeping, and aquaculture services   | 111                              | 225                  | 31.9                                 | 2.65%               | 10.70%             | 12  | 24                   | 1.2                                  | 1.89%               | 22.83%             |
| (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services                      | 277                              | 998                  | 207.9                                | 4.47%               | 8.88%              | 71  | 151                  | 6.2                                  | 1.49%               | 9.36%              |
| (80) Educational and training services   | 43                               | 77                   | 6.6                                  | 1.91%               | 50.11%             | 30  | 51                   | 5.1                                  | 1.74%               | 77.23%             |
| (85) Health and social care services   | 51                               | 113                  | 6.9                                  | 5.26%               | 4.18%              | 4   | 17                   | 0.2                                  | 19.72%              | 14.52%             |
| (90) Sewage and waste treatment and environmental protection services  | 244                              | 899                  | 84.4                                 | 1.45%               | 4.13%              | 9   | 12                   | 4.8                                  | 2.42%               | 15.69%             |
| (92) Services related to leisure, culture, and sport   | 17                               | 22                   | 1.8                                  | 3.41%               | 7.04%              | 5   | 5                    | 0.7                                  | 0.00%               | 23.72%             |
| (98) Other community, social, and personal services  | 41                               | 52                   | 15.5                                 | 1.26%               | 16.50%             | 10  | 8                    | 0.6                                  | 0.00%               | 19.61%             |

\* Due to consortium bidders, the value may be lower than the number of winners.

\*\* It only includes contract values associated with identifiable winners, and in the case of consortium winners, the proportional amounts. Therefore, the data may differ from those presented elsewhere. The displayed "0.0 billion HUF" contract value is greater than 0 and is less than 50 million HUF, but due to rounding, it is not an exact representation.

Table 13

| Concentration of product and service markets in 2023   |                                  |                       |                                      |                     |                    |   |                       |                                      |                     |                    |
|--|----------------------------------|-----------------------|--------------------------------------|---------------------|--------------------|---|-----------------------|--------------------------------------|---------------------|--------------------|
| CPV division   | ENTIRE PUBLIC PROCUREMENT MARKET |                       |                                      |                     |                    | PUBLIC PROCUREMENTS WITH EU FUNDING CONTENT |                       |                                      |                     |                    |
|  | Number of winners                | Number of contracts * | Total contract value (HUF billion)** | Contract number HHI | Contract value HHI | Number of winners                           | Number of contracts * | Total contract value (HUF billion)** | Contract number HHI | Contract value HHI |
| (3) Plant cultivation, animal breeding, fishing, forestry, and related products  | 46                               | 91                    | 1.1                                  | 1.00%               | 2.95%              | 6   | 7                     | 0.1                                  | 2.04%               | 13.15%             |
| (9) Petroleum products, fuels, electricity and other energy sources  | 30                               | 556                   | 520.4                                | 63.75%              | 31.89%             | -   | -                     | -                                    | -                   | -                  |
| (14) Mining, basic metals, and related products  | 4                                | 15                    | 0.6                                  | 11.11%              | 54.02%             | -   | -                     | -                                    | -                   | -                  |
| (15) Food, beverages, tobacco, and related products  | 138                              | 890                   | 20.3                                 | 2.38%               | 3.09%              | -   | -                     | -                                    | -                   | -                  |
| (16) Agricultural machinery  | 30                               | 48                    | 2.5                                  | 2.21%               | 4.62%              | 17  | 22                    | 1.6                                  | 3.41%               | 5.32%              |
| (18) Clothing, footwear, luggage, and travel goods and accessories   | 38                               | 102                   | 8                                    | 5.12%               | 27.33%             | 7   | 8                     | 0.1                                  | 1.56%               | 3.12%              |
| (19) Leather and textile fabrics, plastics and rubber  | 7                                | 24                    | 0.6                                  | 37.62%              | 16.92%             | -   | -                     | -                                    | -                   | -                  |
| (22) Printed materials and related products  | 10                               | 20                    | 2.4                                  | 3.89%               | 17.44%             | -   | -                     | -                                    | -                   | -                  |
| (24) Chemical products   | 49                               | 220                   | 8.5                                  | 2.88%               | 10.31%             | 4   | 5                     | 0                                    | 4.00%               | 32.62%             |
| (30) Office and computing machines, equipment and supplies, excluding furniture and software packages                    | 144                              | 462                   | 32.2                                 | 1.41%               | 3.29%              | 100   | 229                   | 26.5                                 | 0.73%               | 4.10%              |
| (31) Electrical machinery, equipment, appliances, and consumables; lighting  | 67                               | 169                   | 9.3                                  | 4.56%               | 6.01%              | 11  | 18                    | 4                                    | 5.62%               | 25.06%             |
| (32) Radio, television, telecommunications, and related equipment  | 99                               | 150                   | 16.2                                 | 0.62%               | 0.85%              | 81  | 89                    | 13.5                                 | 0.67%               | 0.92%              |
| (33) Medical equipment, pharmaceuticals, and personal care products  | 337                              | 3 025                 | 191.4                                | 0.84%               | 2.78%              | 156   | 602                   | 52.1                                 | 1.25%               | 12.88%             |
| (34) Transport equipment and supplementary transport items   | 223                              | 554                   | 59.9                                 | 0.57%               | 5.08%              | 47  | 75                    | 2                                    | 1.33%               | 6.59%              |
| (35) Security, firefighting, police, and defense equipment   | 21                               | 31                    | 1.9                                  | 1.01%               | 7.32%              | 1   | 1                     | 0                                    | 100.00%             | 100.00%            |
| (37) Musical instruments, sports equipment, toys, games, handicraft, art materials and accessories                       | 44                               | 99                    | 3.9                                  | 1.90%               | 9.18%              | 21  | 38                    | 0.8                                  | 4.02%               | 15.95%             |
| (38) Laboratory, optical, and precision equipment (excluding spectacles)   | 172                              | 430                   | 26.5                                 | 0.89%               | 2.41%              | 102   | 166                   | 15.2                                 | 0.75%               | 5.31%              |
| (39) Furniture (including office furniture), furnishings, household equipment (excluding lighting) and cleaning products | 170                              | 566                   | 18.6                                 | 1.99%               | 1.81%              | 104   | 328                   | 6.1                                  | 2.65%               | 3.02%              |
| (41) Collected and purified water  | 1                                | 1                     | 0.3                                  | 100.00%             | 100.00%            | -   | -                     | -                                    | -                   | -                  |
| (42) Industrial machinery  | 105                              | 183                   | 5.5                                  | 0.58%               | 2.68%              | 33  | 45                    | 2.2                                  | 0.59%               | 13.02%             |
| (43) Mining, quarrying, and construction machinery   | 23                               | 33                    | 2                                    | 3.77%               | 11.68%             | 10  | 13                    | 0.2                                  | 4.76%               | 5.40%              |
| (44) Construction structures and materials; construction accessories (excluding electrical equipment)                    | 97                               | 299                   | 27.4                                 | 1.88%               | 7.36%              | 17  | 39                    | 3.5                                  | 7.65%               | 18.37%             |
| (45) Construction works  | 1516                             | 4 531                 | 1 257.90                             | 0.16%               | 3.03%              | 806   | 2 265                 | 623.5                                | 0.25%               | 6.46%              |
| (48) Software packages and information systems   | 133                              | 263                   | 84.3                                 | 0.80%               | 1.31%              | 89  | 161                   | 75                                   | 0.58%               | 1.06%              |
| (50) Repair and maintenance services   | 259                              | 475                   | 72.6                                 | 0.41%               | 3.38%              | 1   | 1                     | 0.1                                  | 100.00%             | 100.00%            |
| (51) Installation services (excluding software)  | 24                               | 33                    | 3.3                                  | 2.51%               | 4.84%              | -   | -                     | -                                    | -                   | -                  |
| (55) Hotel, restaurant, and retail services  | 27                               | 55                    | 31.8                                 | 4.78%               | 12.73%             | 2   | 3                     | 0.4                                  | 11.11%              | 84.99%             |
| (60) Transport services (excluding refuse collection)  | 82                               | 241                   | 17.6                                 | 3.78%               | 5.01%              | -   | -                     | -                                    | -                   | -                  |
| (63) Transport support and auxiliary services; travel agency services  | 12                               | 21                    | 3.7                                  | 7.98%               | 16.01%             | 1   | 1                     | 0.1                                  | 100.00%             | 100.00%            |
| (64) Postal and telecommunications services  | 10                               | 41                    | 15.8                                 | 13.41%              | 48.74%             | 3   | 10                    | 0.9                                  | 49.00%              | 68.77%             |
| (65) Public utilities, public services   | 16                               | 24                    | 19.7                                 | 3.53%               | 16.15%             | -   | -                     | -                                    | -                   | -                  |
| (66) Financial and insurance services  | 22                               | 125                   | 104.2                                | 7.55%               | 13.25%             | 2   | 1                     | 51.3                                 | 0.00%               | 0.00%              |
| (70) Real estate services  | 4                                | 6                     | 0.1                                  | 3.70%               | 3.54%              | -   | -                     | -                                    | -                   | -                  |
| (71) Architectural, construction, engineering, and inspection services   | 249                              | 680                   | 52.3                                 | 1.19%               | 2.81%              | 103   | 301                   | 11.8                                 | 3.20%               | 3.05%              |
| (72) IT services: consultancy, software development, internet, and support   | 263                              | 699                   | 165.7                                | 0.56%               | 1.44%              | 138   | 271                   | 80.3                                 | 0.56%               | 2.76%              |
| (73) Research and development services and related consultancy services  | 3                                | 6                     | 0.5                                  | 8.33%               | 73.26%             | -   | -                     | -                                    | -                   | -                  |
| (75) Administrative, defense, and social security services   | 1                                | 1                     | 0.1                                  | 100.00%             | 100.00%            | 1   | 1                     | 0.1                                  | 100.00%             | 100.00%            |
| (76) Oil and gas industry services   | 8                                | 134                   | 8.4                                  | 40.03%              | 61.70%             | -   | -                     | -                                    | -                   | -                  |
| (77) Agricultural, forestry, horticultural, beekeeping, and aquaculture services   | 86                               | 230                   | 19.7                                 | 4.60%               | 3.68%              | 6   | 6                     | 0.1                                  | 0.00%               | 7.93%              |
| (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services                      | 271                              | 815                   | 217.3                                | 3.11%               | 8.39%              | 72  | 136                   | 2.8                                  | 0.85%               | 4.59%              |
| (80) Educational and training services   | 35                               | 51                    | 8.8                                  | 4.45%               | 8.92%              | 16  | 28                    | 4.3                                  | 5.21%               | 13.63%             |
| (85) Health and social care services   | 44                               | 94                    | 13.6                                 | 2.96%               | 8.67%              | 4   | 10                    | 0.2                                  | 36.00%              | 7.45%              |
| (90) Sewage and waste treatment and environmental protection services  | 207                              | 741                   | 57                                   | 1.71%               | 7.26%              | 5   | 12                    | 0.1                                  | 9.72%               | 15.47%             |
| (92) Services related to leisure, culture, and sport   | 17                               | 35                    | 1.7                                  | 16.73%              | 13.03%             | 6   | 6                     | 0.8                                  | 0.00%               | 59.27%             |
| (98) Other community, social, and personal services  | 34                               | 58                    | 4.3                                  | 1.97%               | 14.32%             | -   | -                     | -                                    | -                   | -                  |

\* Due to consortium bidders, the value may be lower than the number of winners.

\*\* It only includes contract values associated with identifiable winners, and in the case of consortium winners, the proportional amounts. Therefore, the data may differ from those presented elsewhere. The displayed '0.0 billion HUF' contract value is greater than 0 and is less than 50 million HUF, but due to rounding, it is not an exact representation.





companies (for instance, postal and telecommunications services in 2023). The activities of companies operating in monopolistic or oligopolistic markets are primarily determined by legal entitlements, so high concentration can be considered a given (e.g. the energy carriers' market). However, it may be worthwhile to review the processes in these public procurement market segments from an efficiency perspective in the future.

The public procurement market for projects involving EU funding in 2023 saw a significant decrease in available funds, mainly due to funds frozen due to the conditionality procedure. Last year, there was a notable increase in the number of CPV divisions where no procurement took place at all (for example, research and development services). Otherwise, last year's trends do not show any significant deviation from previous years.

#### **4.7. Participation indicators of public procurement procedure participants and concentration-related deviations**

Market balance is intended to be ensured through the diverse nature of public procurement procedures, supplier competition, and different supplier profiles. However, the existence of a balanced market may be significantly threatened – beyond what has been described earlier – by potential cooperation between competing contracting authorities or tenderers, or those with conflicting interests in the contractual price. The concentration of participants in procurement procedures might be indicative of possible cooperation, but this may be influenced by many other factors as well. Therefore, concentration among the participants in the procedures, by itself, does not necessarily suggest malpractice, but should rather be considered as a preliminary signal necessitating further investigation.

The following forms of concentration processes in public procurement procedures will be examined:

- The average number of tenders and their distribution.
- The distribution of winning and losing tenders by tendering companies/institutions.
- The occurrence of the same winning and losing organisations in different procedures, the number of procedures, outliers, and the occurrence of 'reversed' situations where the winning and losing roles are reversed.
- Contracting authority/successful tenderer 'economic operator pairs', number of occurrences, typical values and outliers, mutual exposure data.

The structure of the data in the EPPS Contract Award Notices database, which contains information on the winning tenderers and is publicly accessible, differs slightly from the Tenderers' Database provided at the Authority's request (the latter also serving as information source for 'losers'). Therefore, in about 6-7% of the contracts, it was not possible to match the winning and losing tenderers, meaning that the results presented in this chapter may slightly differ from the previous ones.

**4.7.1. Trends in the number of tenders**

The distribution of the number of contracting authorities in 2022 and 2023, considering the total portfolio and the contracts involving EU funds, is shown in the following tables<sup>70</sup>.

Table 15

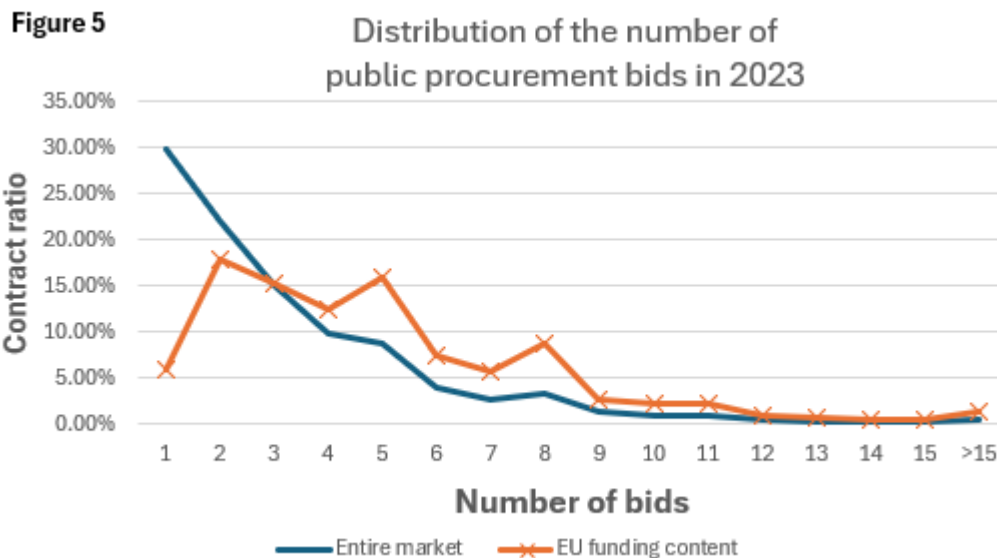
| Distribution of the number of bidders for the full range of public procurement procedures (2022-2023) |            |            |                |            |           |            |            |            |                |            |           |            |
|---|------------|------------|----------------|------------|-----------|------------|------------|------------|----------------|------------|-----------|------------|
| Number of bidders   | Year 2022  |            |                |            |           |            | Year 2023  |            |                |            |           |            |
|   | Procedures |            | Procedure lots |            | Contracts |            | Procedures |            | Procedure lots |            | Contracts |            |
|   | Number     | Percentage | Number         | Percentage | Number    | Percentage | Number     | Percentage | Number         | Percentage | Number    | Percentage |
| 1   | 2 339      | 31.07%     | 4 889          | 31.44%     | 5 746     | 33.20%     | 1 785      | 24.43%     | 4 450          | 27.91%     | 5 338     | 29.85%     |
| 2   | 2 291      | 30.44%     | 3 967          | 25.51%     | 4 053     | 23.42%     | 2 107      | 28.83%     | 3 812          | 23.91%     | 3 919     | 21.92%     |
| 3   | 1 785      | 23.71%     | 2 723          | 17.51%     | 2 883     | 16.66%     | 1 654      | 22.63%     | 2 621          | 16.44%     | 2 679     | 14.98%     |
| 4   | 1 081      | 14.36%     | 1 519          | 9.77%      | 1 532     | 8.85%      | 1 121      | 15.34%     | 1 677          | 10.52%     | 1 754     | 9.81%      |
| 5   | 735        | 9.76%      | 1 111          | 7.14%      | 1 388     | 8.02%      | 857        | 11.73%     | 1 318          | 8.27%      | 1 547     | 8.65%      |
| 6   | 335        | 4.45%      | 433            | 2.78%      | 446       | 2.58%      | 469        | 6.42%      | 643            | 4.03%      | 689       | 3.85%      |
| 7   | 258        | 3.43%      | 329            | 2.12%      | 335       | 1.94%      | 352        | 4.82%      | 460            | 2.89%      | 485       | 2.71%      |
| 8   | 177        | 2.35%      | 283            | 1.82%      | 334       | 1.93%      | 289        | 3.95%      | 410            | 2.57%      | 580       | 3.24%      |
| 9   | 120        | 1.59%      | 154            | 0.99%      | 156       | 0.90%      | 171        | 2.34%      | 241            | 1.51%      | 241       | 1.35%      |
| 10  | 66         | 0.88%      | 94             | 0.60%      | 94        | 0.54%      | 142        | 1.94%      | 169            | 1.06%      | 169       | 0.95%      |
| 11  | 50         | 0.66%      | 61             | 0.39%      | 61        | 0.35%      | 112        | 1.53%      | 141            | 0.88%      | 159       | 0.89%      |
| 12  | 32         | 0.43%      | 47             | 0.30%      | 59        | 0.34%      | 66         | 0.90%      | 72             | 0.45%      | 72        | 0.40%      |
| 13  | 22         | 0.29%      | 28             | 0.18%      | 28        | 0.16%      | 61         | 0.83%      | 66             | 0.41%      | 66        | 0.37%      |
| 14  | 19         | 0.25%      | 48             | 0.31%      | 89        | 0.51%      | 35         | 0.48%      | 38             | 0.24%      | 38        | 0.21%      |
| 15  | 15         | 0.20%      | 16             | 0.10%      | 16        | 0.09%      | 36         | 0.49%      | 40             | 0.25%      | 40        | 0.22%      |
| >15   | 45         | 0.60%      | 82             | 0.53%      | 88        | 0.51%      | 87         | 1.19%      | 105            | 0.66%      | 105       | 0.59%      |
| Distribution pattern  |            |            |                |            |           |            |            |            |                |            |           |            |
| Average number of bidders:  | 4.01       |            | 3.00           |            | 2.95      |            | 4.90       |            | 3.38           |            | 3.28      |            |

<sup>70</sup> The values presented in the table may differ from those published by other organisations due to the different methodology applied by the Authority, as detailed in Chapter 4.2.

Table 16

| The distribution of the number of bidders for public procurement procedures involving European Union funding (2022-2023) |            |            |                |            |           |            |            |            |                |            |           |            |
|--|------------|------------|----------------|------------|-----------|------------|------------|------------|----------------|------------|-----------|------------|
| Number of bidders  | Year 2022  |            |                |            |           |            | Year 2023  |            |                |            |           |            |
|  | Procedures |            | Procedure lots |            | Contracts |            | Procedures |            | Procedure lots |            | Contracts |            |
|  | Number     | Percentage | Number         | Percentage | Number    | Percentage | Number     | Percentage | Number         | Percentage | Number    | Percentage |
| 1  | 252        | 12.17%     | 496            | 12.79%     | 528       | 11.92%     | 127        | 5.57%      | 266            | 5.99%      | 297       | 5.91%      |
| 2  | 627        | 30.28%     | 992            | 25.58%     | 1 003     | 22.65%     | 533        | 23.39%     | 889            | 20.01%     | 892       | 17.75%     |
| 3  | 494        | 23.85%     | 714            | 18.41%     | 728       | 16.44%     | 509        | 22.33%     | 743            | 16.73%     | 762       | 15.16%     |
| 4  | 361        | 17.43%     | 509            | 13.13%     | 513       | 11.58%     | 406        | 17.81%     | 600            | 13.51%     | 625       | 12.44%     |
| 5  | 287        | 13.86%     | 512            | 13.20%     | 771       | 17.41%     | 340        | 14.92%     | 585            | 13.17%     | 795       | 15.82%     |
| 6  | 159        | 7.68%      | 207            | 5.34%      | 219       | 4.94%      | 273        | 11.98%     | 345            | 7.77%      | 369       | 7.34%      |
| 7  | 122        | 5.89%      | 154            | 3.97%      | 154       | 3.48%      | 209        | 9.17%      | 267            | 6.01%      | 289       | 5.75%      |
| 8  | 93         | 4.49%      | 172            | 4.44%      | 218       | 4.92%      | 169        | 7.42%      | 265            | 5.97%      | 434       | 8.64%      |
| 9  | 59         | 2.85%      | 83             | 2.14%      | 83        | 1.87%      | 109        | 4.78%      | 135            | 3.04%      | 135       | 2.69%      |
| 10   | 30         | 1.45%      | 45             | 1.16%      | 45        | 1.02%      | 95         | 4.17%      | 114            | 2.57%      | 114       | 2.27%      |
| 11   | 20         | 0.97%      | 29             | 0.75%      | 29        | 0.65%      | 74         | 3.25%      | 94             | 2.12%      | 112       | 2.23%      |
| 12   | 13         | 0.63%      | 26             | 0.67%      | 38        | 0.86%      | 47         | 2.06%      | 50             | 1.13%      | 50        | 0.99%      |
| 13   | 6          | 0.29%      | 6              | 0.15%      | 6         | 0.14%      | 35         | 1.54%      | 39             | 0.88%      | 39        | 0.78%      |
| 14   | 8          | 0.39%      | 21             | 0.54%      | 62        | 1.40%      | 22         | 0.97%      | 25             | 0.56%      | 25        | 0.50%      |
| 15   | 5          | 0.24%      | 5              | 0.13%      | 5         | 0.11%      | 21         | 0.92%      | 24             | 0.54%      | 24        | 0.48%      |
| >15  | 11         | 0.53%      | 21             | 0.54%      | 27        | 0.61%      | 52         | 2.28%      | 64             | 1.44%      | 64        | 1.27%      |
| Distribution pattern   |            |            |                |            |           |            |            |            |                |            |           |            |
| Average number of bidders:   | 4.88       |            | 4.02           |            | 4.13      |            | 6.94       |            | 4.95           |            | 4.99      |            |

The following graph shows the number of tenders per contract for the year 2023.



Due to methodological and comparison reasons, the number and proportion of tenderers is given not only by contract but also by procedure and by procedure part. The three approaches yield different results, because, as already mentioned above, data for multiple contracts may be found within a procedure, and in rarer cases, within a procedure part. (That is, several contracts have been awarded based on several tender invitations within a procedure or procedure part.) If the

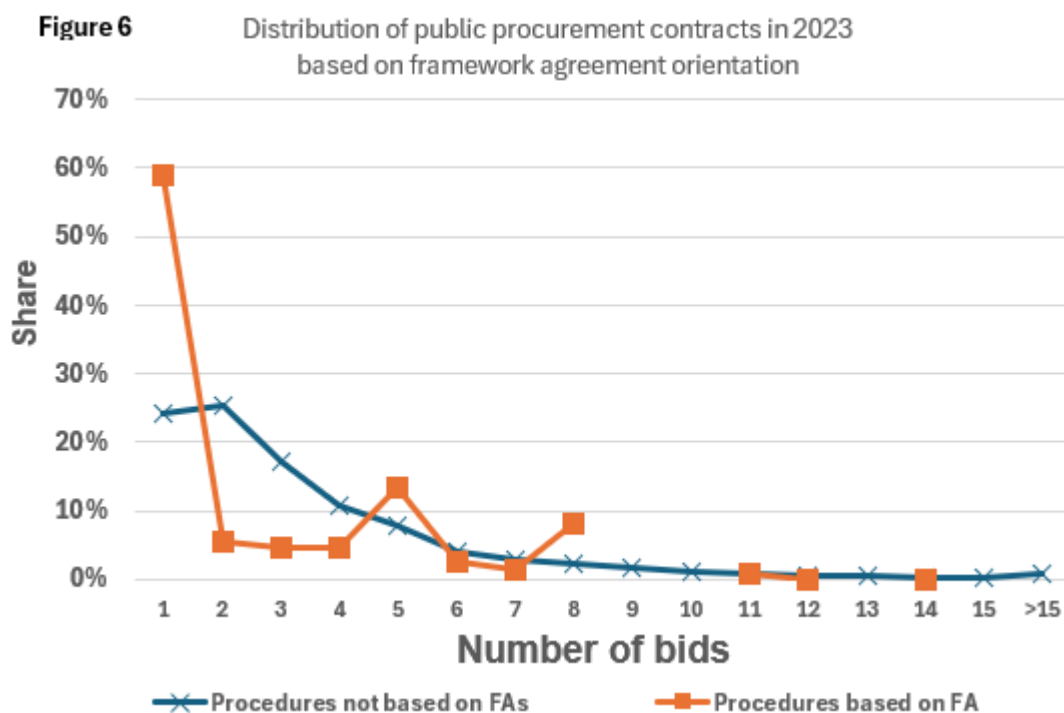
number of tenders differs for contracts within a procedure or procedure part, the classification is not straightforward and can be handled using different methods.

In the methodology applied in this analysis, for example, if a double bid and a triple bid contract were awarded within a procedure, the procedure is counted as both a double-bid and a triple bid procedure. This way, all information is utilised, although this approach inevitably distorts the results slightly, because if the number of tenders is added up, the total will exceed the number of contracts. However, among the possible approaches, this one is considered to be the most accurate, given that it considers all observed tender numbers (compared, for example, to classifying by the highest tender number within a procedure). Overall, however, the approach based on the number of contracts is the most accurate and correct.

When comparing the data from the two tables, the most significant discrepancy is observed in the number of single bid procedures, which is clearly and significantly lower for procedures involving EU funding (5.9% in 2023 vs 29.9% in 2022).

In terms of the average number of tenders, stronger competition is seen in procedures with EU funding content. In 2022, the average number of tenders was one, while in 2023, it was approximately two tenders higher.

The following figure shows the distribution of tender numbers for 2023 procedures by framework agreement (FA2).



The number of tenders in procedures initiated under framework agreements (FA2) is significantly lower, as clearly visible. This is because in such procedures, only the companies that have concluded a framework agreement are eligible to submit tenders. As a result, considering FA2 procedures decreases the average number of tenders and significantly increases the number of single bid procedures, especially considering that, under the PPA the contracting authority can choose to conclude a framework agreement (FA1) with just one tenderer.

The discrepancies in the number of tenders are also significant for certain product categories. The following tables show the data calculated for the entire market and for public procurements with European Union funding content for the year 2023, focusing on the top 10 product categories with the largest contract portfolios.

**Table 17**  
**Distribution of the number of bids for the CPV divisions with the 10 largest contract portfolios in 2023 across the total public procurement portfolio (1-10 bid contracts as a ratio of the total number of contracts)**

| CPV division  | Number of bids |        |        |        |        |       |       |        |       |       |
|---|----------------|--------|--------|--------|--------|-------|-------|--------|-------|-------|
|   | 1              | 2      | 3      | 4      | 5      | 6     | 7     | 8      | 9     | 10    |
| (45) Construction works   | 5.87%          | 16.86% | 20.30% | 15.80% | 12.76% | 7.11% | 5.43% | 4.08%  | 3.13% | 2.36% |
| (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services | 50.48%         | 9.55%  | 8.47%  | 6.44%  | 7.04%  | 7.40% | 3.22% | 1.79%  | 1.43% | 0.84% |
| (9) Petroleum products, fuels, electricity and other energy sources                                 | 66.01%         | 21.82% | 4.65%  | 0.36%  | 7.16%  | -     | -     | -      | -     | -     |
| (33) Medical equipment, pharmaceuticals, and personal care products                                 | 42.09%         | 28.59% | 13.47% | 7.14%  | 3.36%  | 2.20% | 1.29% | 0.68%  | 0.29% | 0.13% |
| (72) IT services: consultancy, software development, internet, and support                          | 30.90%         | 13.26% | 9.81%  | 9.02%  | 20.29% | 6.23% | 3.18% | 6.50%  | 0.66% | 0.13% |
| (34) Transport equipment and supplementary transport items  | 40.93%         | 29.19% | 16.58% | 8.12%  | 3.45%  | 1.04% | 0.69% | -      | -     | -     |
| (71) Architectural, construction, engineering, and inspection services                              | 20.26%         | 9.77%  | 7.73%  | 7.29%  | 24.34% | 4.81% | 5.69% | 5.98%  | 4.08% | 2.77% |
| (90) Sewage and waste treatment and environmental protection services                               | 47.20%         | 18.07% | 14.38% | 6.11%  | 2.67%  | 1.65% | 1.53% | 1.78%  | 1.15% | 1.15% |
| (48) Software packages and information systems  | 7.95%          | 15.53% | 9.09%  | 6.06%  | 34.47% | 1.52% | 2.65% | 20.45% | 0.38% | 0.76% |
| (50) Repair and maintenance services  | 50.41%         | 25.41% | 9.30%  | 7.64%  | 2.89%  | 1.86% | 0.83% | 1.24%  | 0.41% | -     |

Table 18

**Distribution of the number of bids for the CPV divisions with the 10 largest contract portfolios in 2023  
across the public procurement portfolio with EU funding content  
(1-10 bid contracts as a ratio of the total number of contracts)**

| CPV division  | Number of bids |        |        |         |        |        |       |        |       |       |
|---|----------------|--------|--------|---------|--------|--------|-------|--------|-------|-------|
|   | 1              | 2      | 3      | 4       | 5      | 6      | 7     | 8      | 9     | 10    |
| (45) Construction works   | 0.53%          | 11.96% | 15.28% | 15.14%  | 12.63% | 10.73% | 8.43% | 6.71%  | 4.33% | 3.80% |
| (79) Business services: legal, marketing, consultancy, recruitment, printing, and security services | 2.21%          | 8.09%  | 16.91% | 14.71%  | 19.12% | 11.76% | 8.82% | 3.68%  | 4.41% | 2.21% |
| (33) Medical equipment, pharmaceuticals, and personal care products                                 | 20.36%         | 42.02% | 22.31% | 7.98%   | 2.44%  | 2.28%  | 0.81% | 0.98%  | 0.49% | 0.16% |
| (72) IT services: consultancy, software development, internet, and support                          | 10.63%         | 3.99%  | 14.95% | 2.99%   | 34.88% | 12.96% | 4.32% | 14.95% | -     | 0.33% |
| (34) Transport equipment and supplementary transport items  | 20.00%         | 34.67% | 26.67% | 10.67%  | 6.67%  | -      | 1.33% | -      | -     | -     |
| (71) Architectural, construction, engineering, and inspection services                              | 0.33%          | 5.96%  | 2.98%  | 6.62%   | 50.33% | 4.30%  | 5.63% | 5.30%  | 4.30% | 4.64% |
| (90) Sewage and waste treatment and environmental protection services                               | 84.62%         | -      | -      | -       | -      | 7.69%  | -     | -      | 7.69% | -     |
| (48) Software packages and information systems  | 1.85%          | 6.79%  | 9.26%  | 3.70%   | 44.44% | 1.23%  | 1.85% | 30.25% | -     | 0.62% |
| (50) Repair and maintenance services  | -              | -      | -      | 100.00% | -      | -      | -     | -      | -     | -     |
| (55) Hotel, restaurant, and retail services   | -              | -      | 66.67% | -       | 33.33% | -      | -     | -      | -     | -     |

The data in the tables clearly confirm and elaborate on the information presented in Tables 15–16 and Figure 5, which indicate that public procurements involving EU funds have a higher number of tenders, and also in particular that the number of single bid contracts is much lower.

The differences in the number of tenders across product and service categories, while noticeable, can often be traced back to obvious reasons. As previously mentioned and shown in the *'Number of Winners'* column in Tables 12–13, some product categories represent specialised markets. According to the rules of these markets, products or services can only be provided by operators with specific qualifications. Examples of such markets include energy carriers or wastewater and waste treatment categories, which fall under this definition. Additionally, there are areas where the number of single bid public procurement procedures is high, but these are not reflected in procurements involving EU funding, as they are usually not funded through European Union sources (for example, crude oil products, business services, or IT services).

The data for the tenderers in non-open procedures are presented in the following tables.

Table 19

| Distribution of the number of bidders for the full range of non-open public procurement contracts (2019-2023) |                        |            |                        |            |                        |            |                        |            |                        |            |
|---|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|------------|
| Number of bidders   | Year 2019<br>Contracts |            | Year 2020<br>Contracts |            | Year 2021<br>Contracts |            | Year 2022<br>Contracts |            | Year 2023<br>Contracts |            |
|   | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage |
| 1   | 698                    | 13.02%     | 332                    | 12.13%     | 424                    | 15.86%     | 370                    | 21.11%     | 273                    | 18.58%     |
| 2   | 1 930                  | 36.01%     | 869                    | 31.74%     | 744                    | 27.83%     | 397                    | 22.65%     | 325                    | 22.12%     |
| 3   | 1 814                  | 33.84%     | 971                    | 35.46%     | 877                    | 32.81%     | 557                    | 31.77%     | 422                    | 28.73%     |
| 4   | 553                    | 10.32%     | 345                    | 12.60%     | 374                    | 13.99%     | 286                    | 16.31%     | 236                    | 16.07%     |
| 5   | 349                    | 6.51%      | 199                    | 7.27%      | 237                    | 8.87%      | 132                    | 7.53%      | 190                    | 12.93%     |
| 6   | 8                      | 0.15%      | 5                      | 0.18%      | 13                     | 0.49%      | 9                      | 0.51%      | 13                     | 0.88%      |
| 7   | 4                      | 0.07%      | 4                      | 0.15%      | 4                      | 0.15%      | 2                      | 0.11%      | 7                      | 0.48%      |
| 8   | 0                      | 0.00%      | 2                      | 0.07%      |                        |            |                        |            | 3                      | 0.20%      |
| 9   | 1                      | 0.02%      | 5                      | 0.18%      |                        |            |                        |            |                        |            |
| 10  | 2                      | 0.04%      | 5                      | 0.18%      |                        |            |                        |            |                        |            |
| 11  | 0                      | 0.00%      | 0                      | 0.00%      |                        |            |                        |            |                        |            |
| 12  | 0                      | 0.00%      | 0                      | 0.00%      |                        |            |                        |            |                        |            |
| 13  | 0                      | 0.00%      | 0                      | 0.00%      |                        |            |                        |            |                        |            |
| 14  | 0                      | 0.00%      | 0                      | 0.00%      |                        |            |                        |            |                        |            |
| 15  | 0                      | 0.00%      | 0                      | 0.00%      |                        |            |                        |            |                        |            |
| >15   | 1                      | 0.02%      | 1                      | 0.04%      |                        |            |                        |            |                        |            |
| Distribution pattern  |                        |            |                        |            |                        |            |                        |            |                        |            |
| Average number of bidders:  | 2.63                   |            | 2.76                   |            | 2.74                   |            | 2.69                   |            | 2.88                   |            |

Table 20

| Distribution of the number of bidders for the non-open public procurement contracts with EU funding content (2019-2023) |                        |            |                        |            |                        |            |                        |            |                        |            |
|---|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|------------|------------------------|------------|
| Number of bidders   | Year 2019<br>Contracts |            | Year 2020<br>Contracts |            | Year 2021<br>Contracts |            | Year 2022<br>Contracts |            | Year 2023<br>Contracts |            |
|   | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage | Number                 | Percentage |
| 1   | 198                    | 7.31%      | 64                     | 4.80%      | 22                     | 2.49%      | 13                     | 56.52%     | 7                      | 87.50%     |
| 2   | 1 156                  | 42.69%     | 546                    | 40.93%     | 329                    | 37.18%     | 2                      | 8.70%      | 0                      | 0.00%      |
| 3   | 1 010                  | 37.30%     | 512                    | 38.38%     | 373                    | 42.15%     | 8                      | 34.78%     | 1                      | 12.50%     |
| 4   | 213                    | 7.87%      | 139                    | 10.42%     | 104                    | 11.75%     |                        |            |                        |            |
| 5   | 124                    | 4.58%      | 62                     | 4.65%      | 56                     | 6.33%      |                        |            |                        |            |
| 6   | 2                      | 0.07%      | 2                      | 0.15%      | 1                      | 0.11%      |                        |            |                        |            |
| 7   | 2                      | 0.07%      | 1                      | 0.07%      |                        |            |                        |            |                        |            |
| 8   | 0                      | 0.00%      | 1                      | 0.07%      |                        |            |                        |            |                        |            |
| 9   | 1                      | 0.04%      | 3                      | 0.22%      |                        |            |                        |            |                        |            |
| 10  | 1                      | 0.04%      | 4                      | 0.30%      |                        |            |                        |            |                        |            |
| 11  | 0                      | 0.00%      |                        |            |                        |            |                        |            |                        |            |
| 12  | 0                      | 0.00%      |                        |            |                        |            |                        |            |                        |            |
| 13  | 0                      | 0.00%      |                        |            |                        |            |                        |            |                        |            |
| 14  | 0                      | 0.00%      |                        |            |                        |            |                        |            |                        |            |
| 15  | 0                      | 0.00%      |                        |            |                        |            |                        |            |                        |            |
| >15   | 1                      | 0.04%      |                        |            |                        |            |                        |            |                        |            |
| Distribution pattern  |                        |            |                        |            |                        |            |                        |            |                        |            |
| Average number of bidders:  | 2.61                   |            | 2.74                   |            | 2.83                   |            | 1.78                   |            | 1.25                   |            |

According to the data in these tables, the number of tenderers in non-open procedures typically ranges from two to four. (The procedures from 2022 and 2023

involving EU funds cannot be considered significant exceptions due to the low number of procedures.)

#### **4.7.2. Outliers in the ratio of tenders from the same winning and losing economic operators<sup>71</sup>**

In a balanced market, it is a basic requirement that when a market participant is 'tested' in public procurement procedures, the outcomes should vary. Even in exceptional cases where a particular company, due to its workforce or experience, surpasses its competitors in a specific market segment, only a portion of its numerous tenders can be successful. This is due to factors such as the specialisation of expertise and capacity constraints. If contrary to this, it is justified to review the factors that may explain deviations from the typical indicators of a competitive market with multiple participants.

Consequently, a disparity in the number of winning and losing bids for a given company may also be an indication of concentration. It may be particularly noteworthy if the winning or even losing results come from significantly different sectors or product/service groups.

The following tables show the key data (number of tenders, contract value) for tenderers whose every tender was successful ('always winners'). The results are presented for the years 2022 and 2023, for the total public procurement market and the one involving EU funding, with the average number of winning/losing tenders also shown in the top row of the table.

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<sup>71</sup> We would like to note that, in this section, contrary to the general practice indicated in the methodological guide, we have included contracts with a value of less than one thousand forints for the sake of completeness.



Table 21

## Parameters of the bidders with the highest win ratios in the total public procurement market (2022-2023)

| Rank | 2022, average number of winning/losing bids: 1.898 / 5.486 |                       |                            |                                       | 2023, average number of winning/losing bids: 1.808 / 6.501 |                       |                            |                                      |
|------|--|-----------------------|----------------------------|---------------------------------------|--|-----------------------|----------------------------|--------------------------------------|
|      | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF)* | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |
| 1    | 14   | 0                     | 100.00%                    | 254                                   | 20   | 0                     | 100.00%                    | 14.6                                 |
| 2    | 12   | 0                     | 100.00%                    | 742                                   | 12   | 0                     | 100.00%                    | 59.5                                 |
| 3    | 12   | 0                     | 100.00%                    | 46.7                                  | 12   | 0                     | 100.00%                    | 59.5                                 |
| 4    | 12   | 0                     | 100.00%                    | 46.7                                  | 11   | 0                     | 100.00%                    | 506.2                                |
| 5    | 12   | 0                     | 100.00%                    | 0                                     | 11   | 0                     | 100.00%                    | 455.6                                |
| 6    | 10   | 0                     | 100.00%                    | 404.5                                 | 11   | 0                     | 100.00%                    | 97.9                                 |
| 7    | 10   | 0                     | 100.00%                    | 111.7                                 | 9  | 0                     | 100.00%                    | 738.8                                |
| 8    | 10   | 0                     | 100.00%                    | 107                                   | 8  | 0                     | 100.00%                    | 126                                  |
| 9    | 10   | 0                     | 100.00%                    | 63.9                                  | 8  | 0                     | 100.00%                    | 83.6                                 |
| 10   | 8  | 0                     | 100.00%                    | 623.1                                 | 8  | 0                     | 100.00%                    | 32.9                                 |
| 11   | 8  | 0                     | 100.00%                    | 70.8                                  | 7  | 0                     | 100.00%                    | 577.3                                |
| 12   | 8  | 0                     | 100.00%                    | 16.9                                  | 7  | 0                     | 100.00%                    | 577.3                                |
| 13   | 7  | 0                     | 100.00%                    | 848.7                                 | 7  | 0                     | 100.00%                    | 464.1                                |
| 14   | 7  | 0                     | 100.00%                    | 244.6                                 | 7  | 0                     | 100.00%                    | 412.1                                |
| 15   | 7  | 0                     | 100.00%                    | 237.6                                 | 7  | 0                     | 100.00%                    | 282.7                                |
| 16   | 7  | 0                     | 100.00%                    | 86.4                                  | 7  | 0                     | 100.00%                    | 244.7                                |
| 17   | 7  | 0                     | 100.00%                    | 53.7                                  | 7  | 0                     | 100.00%                    | 58                                   |
| 18   | 7  | 0                     | 100.00%                    | 28.6                                  | 7  | 0                     | 100.00%                    | 41.7                                 |
| 19   | 6  | 0                     | 100.00%                    | 215.1                                 | 6  | 0                     | 100.00%                    | 722.1                                |
| 20   | 6  | 0                     | 100.00%                    | 146.9                                 | 6  | 0                     | 100.00%                    | 254.3                                |
| 21   | 6  | 0                     | 100.00%                    | 60.1                                  | 6  | 0                     | 100.00%                    | 198.2                                |
| 22   | 6  | 0                     | 100.00%                    | 23.5                                  | 6  | 0                     | 100.00%                    | 83.6                                 |
| 23   | 6  | 0                     | 100.00%                    | 8.9                                   | 6  | 0                     | 100.00%                    | 78.6                                 |
| 24   | 5  | 0                     | 100.00%                    | 1 750.00                              | 6  | 0                     | 100.00%                    | 63.5                                 |
| 25   | 5  | 0                     | 100.00%                    | 326.5                                 | 6  | 0                     | 100.00%                    | 47.1                                 |

\* In 2022, the 5th company had a total of 12 winning public procurement contracts, with a total value of exactly 25,425 HUF (the company won three car repair service contracts worth 5,850 HUF each, and nine contracts worth 875 HUF each).

| Parameters of the bidders with the highest win ratios in the public procurement market with EU funding content (2022-2023) |  |                       |                            |                                      |  |                       |                            |                                      |
|--|--|-----------------------|----------------------------|--------------------------------------|--|-----------------------|----------------------------|--------------------------------------|
| Rank   | 2022, average number of winning/losing bids: 0.976 / 3.952 |                       |                            |                                      | 2023, average number of winning/losing bids: 0.977 / 5.649 |                       |                            |                                      |
|  | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |
| 1  | 12   | 0                     | 100.00%                    | 742                                  | 7  | 0                     | 100.00%                    | 464.1                                |
| 2  | 8  | 0                     | 100.00%                    | 70.8                                 | 7  | 0                     | 100.00%                    | 244.7                                |
| 3  | 8  | 0                     | 100.00%                    | 16.9                                 | 7  | 0                     | 100.00%                    | 172.7                                |
| 4  | 7  | 0                     | 100.00%                    | 237.6                                | 7  | 0                     | 100.00%                    | 58                                   |
| 5  | 7  | 0                     | 100.00%                    | 53.7                                 | 7  | 0                     | 100.00%                    | 41.7                                 |
| 6  | 6  | 0                     | 100.00%                    | 23.5                                 | 6  | 0                     | 100.00%                    | 43.2                                 |
| 7  | 6  | 0                     | 100.00%                    | 8.9                                  | 5  | 0                     | 100.00%                    | 634.4                                |
| 8  | 5  | 0                     | 100.00%                    | 1 750.00                             | 5  | 0                     | 100.00%                    | 210.3                                |
| 9  | 5  | 0                     | 100.00%                    | 326.5                                | 5  | 0                     | 100.00%                    | 203.9                                |
| 10   | 5  | 0                     | 100.00%                    | 221.9                                | 5  | 0                     | 100.00%                    | 109.7                                |
| 11   | 5  | 0                     | 100.00%                    | 220.2                                | 5  | 0                     | 100.00%                    | 93                                   |
| 12   | 5  | 0                     | 100.00%                    | 197.1                                | 4  | 0                     | 100.00%                    | 205.7                                |
| 13   | 5  | 0                     | 100.00%                    | 186.5                                | 4  | 0                     | 100.00%                    | 205.7                                |
| 14   | 5  | 0                     | 100.00%                    | 143.4                                | 4  | 0                     | 100.00%                    | 112.2                                |
| 15   | 4  | 0                     | 100.00%                    | 362.5                                | 4  | 0                     | 100.00%                    | 37.4                                 |
| 16   | 4  | 0                     | 100.00%                    | 225.7                                | 4  | 0                     | 100.00%                    | 12                                   |
| 17   | 4  | 0                     | 100.00%                    | 204.7                                | 4  | 0                     | 100.00%                    | 2.7                                  |
| 18   | 4  | 0                     | 100.00%                    | 174.2                                | 3  | 0                     | 100.00%                    | 1 917.10                             |
| 19   | 4  | 0                     | 100.00%                    | 130.5                                | 3  | 0                     | 100.00%                    | 547.3                                |
| 20   | 4  | 0                     | 100.00%                    | 130.5                                | 3  | 0                     | 100.00%                    | 440.3                                |
| 21   | 4  | 0                     | 100.00%                    | 97.5                                 | 3  | 0                     | 100.00%                    | 283                                  |
| 22   | 4  | 0                     | 100.00%                    | 80.9                                 | 3  | 0                     | 100.00%                    | 207.5                                |
| 23   | 4  | 0                     | 100.00%                    | 35.2                                 | 3  | 0                     | 100.00%                    | 145                                  |
| 24   | 4  | 0                     | 100.00%                    | 11.8                                 | 3  | 0                     | 100.00%                    | 122.9                                |
| 25   | 3  | 0                     | 100.00%                    | 786.1                                | 3  | 0                     | 100.00%                    | 79                                   |

As shown in the table, when considering the entire market, the number of contracts for 'always winning' tenderers in a given year cannot be considered extremely high (e.g. 14 in 2022, 20 in 2023), although these values significantly exceed the average number of wins for a company (1.9 in 2022, 1.8 in 2023). For public procurements with EU funding content, the highest number of contracts awarded to a tenderer with exclusively successful tenders decreased from 12 to 7.

As the following tables show, the annual number of winning tenders can be much higher. The winning ratios of those who submitted the most successful tenders are quite varied. The following tables present the key data (number of tenders, contract value) for those tenderers who, unlike in the previous tables, had both successful and unsuccessful tenders. (As with the previous tables, the average number of winning/losing tenders is also provided in the top row of the tables).

Table 23

## Parameters of the bidders with the highest number of winning bids in the total public procurement market (2022-2023)

| Rank | 2022, average number of winning/losing bids: 1.898 / 5.486 |                       |                            |                                      | 2023, average number of winning/losing bids: 1.808 / 6.501 |                       |                            |                                      |
|------|--|-----------------------|----------------------------|--------------------------------------|--|-----------------------|----------------------------|--------------------------------------|
|      | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |
| 1    | 139  | 75                    | 64.95%                     | 1 356.80                             | 196  | 16                    | 92.45%                     | 35 622.30                            |
| 2    | 85   | 84                    | 50.30%                     | 493                                  | 115  | 89                    | 56.37%                     | 1 166.90                             |
| 3    | 76   | 32                    | 70.37%                     | 3 458.90                             | 97   | 79                    | 55.11%                     | 453.8                                |
| 4    | 70   | 11                    | 86.42%                     | 216.3                                | 77   | 58                    | 57.04%                     | 3 631.60                             |
| 5    | 69   | 32                    | 68.32%                     | 851.7                                | 77   | 85                    | 47.53%                     | 387.6                                |
| 6    | 63   | 65                    | 49.22%                     | 464.4                                | 71   | 153                   | 31.70%                     | 305                                  |
| 7    | 56   | 63                    | 47.06%                     | 623                                  | 68   | 37                    | 64.76%                     | 857.7                                |
| 8    | 55   | 48                    | 53.40%                     | 391.2                                | 65   | 56                    | 53.72%                     | 521.3                                |
| 9    | 54   | 58                    | 48.21%                     | 246.7                                | 65   | 160                   | 28.89%                     | 656.7                                |
| 10   | 53   | 1                     | 98.15%                     | 135.1                                | 58   | 54                    | 51.79%                     | 848.2                                |
| 11   | 52   | 14                    | 78.79%                     | 9 956.90                             | 58   | 55                    | 51.33%                     | 974.3                                |
| 12   | 49   | 9                     | 84.48%                     | 2 173.90                             | 58   | 79                    | 42.34%                     | 1 432.80                             |
| 13   | 49   | 63                    | 43.75%                     | 939.6                                | 56   | 76                    | 42.42%                     | 1 239.70                             |
| 14   | 44   | 68                    | 39.29%                     | 2 925.10                             | 54   | 9                     | 85.71%                     | 428.2                                |
| 15   | 42   | 10                    | 80.77%                     | 83.8                                 | 51   | 17                    | 75.00%                     | 1 854.00                             |
| 16   | 42   | 33                    | 56.00%                     | 938                                  | 51   | 19                    | 72.86%                     | 880                                  |
| 17   | 41   | 93                    | 30.60%                     | 245.9                                | 47   | 35                    | 57.32%                     | 1 477.20                             |
| 18   | 41   | 136                   | 23.16%                     | 722.7                                | 46   | 59                    | 43.81%                     | 869                                  |
| 19   | 40   | 154                   | 20.62%                     | 12 826.10                            | 45   | 62                    | 42.06%                     | 163.5                                |
| 20   | 39   | 44                    | 46.99%                     | 165.3                                | 45   | 63                    | 41.67%                     | 1 485.60                             |

Table 24

| Parameters of the bidders with the highest number of winning bids<br>in the public procurement market with EU funding content (2022-2023) |  |                       |                            |                                      |  |                       |                            |                                      |
|---|--|-----------------------|----------------------------|--------------------------------------|--|-----------------------|----------------------------|--------------------------------------|
| Rank  | 2022, average number of winning/losing bids: 0.689 / 3.830 |                       |                            |                                      | 2023, average number of winning/losing bids: 0.679 / 5.451 |                       |                            |                                      |
|   | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) | Number of winning bids                                     | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |
| 1   | 46   | 33                    | 58.23%                     | 354                                  | 52   | 110                   | 32.10%                     | 405.4                                |
| 2   | 22   | 11                    | 66.67%                     | 1 072.20                             | 44   | 61                    | 41.90%                     | 1 436.60                             |
| 3   | 21   | 9                     | 70.00%                     | 65                                   | 36   | 29                    | 55.38%                     | 1 107.40                             |
| 4   | 20   | 32                    | 38.46%                     | 114.8                                | 33   | 136                   | 19.53%                     | 284.9                                |
| 5   | 17   | 39                    | 30.36%                     | 4 974.20                             | 30   | 88                    | 25.42%                     | 4 468.20                             |
| 6   | 17   | 57                    | 22.97%                     | 1 794.90                             | 29   | 79                    | 26.85%                     | 852.9                                |
| 7   | 15   | 15                    | 50.00%                     | 186.1                                | 26   | 47                    | 35.62%                     | 212.7                                |
| 8   | 15   | 18                    | 45.45%                     | 54.8                                 | 25   | 26                    | 49.02%                     | 988.8                                |
| 9   | 15   | 41                    | 26.79%                     | 650.8                                | 21   | 18                    | 53.85%                     | 454.8                                |
| 10  | 14   | 3                     | 82.35%                     | 35.8                                 | 21   | 46                    | 31.34%                     | 175.6                                |
| 11  | 14   | 18                    | 43.75%                     | 1 362.90                             | 20   | 21                    | 48.78%                     | 337.2                                |
| 12  | 14   | 38                    | 26.92%                     | 5 797.90                             | 20   | 30                    | 40.00%                     | 636.2                                |
| 13  | 12   | 0                     | 100.00%                    | 742                                  | 19   | 37                    | 33.93%                     | 581.4                                |
| 14  | 12   | 8                     | 60.00%                     | 10 811.20                            | 18   | 90                    | 16.67%                     | 330.2                                |
| 15  | 12   | 14                    | 46.15%                     | 270.6                                | 17   | 94                    | 15.32%                     | 64.4                                 |
| 16  | 11   | 9                     | 55.00%                     | 8.1                                  | 16   | 36                    | 30.77%                     | 153.5                                |
| 17  | 11   | 39                    | 22.00%                     | 127.5                                | 16   | 58                    | 21.62%                     | 95.9                                 |
| 18  | 11   | 67                    | 14.10%                     | 133.3                                | 15   | 13                    | 53.57%                     | 1 061.60                             |
| 19  | 10   | 8                     | 55.56%                     | 2 767.50                             | 14   | 21                    | 40.00%                     | 469.9                                |
| 20  | 10   | 24                    | 29.41%                     | 39.6                                 | 14   | 63                    | 18.18%                     | 144.2                                |

In 2023, the market participant submitting the most winning tenders in the Hungarian public procurement market achieved a success rate of 92.5% for all their tenders. In procedures involving European Union funding, the participant with the greatest number of successful tenders had a much lower success rate of 32.1%, meaning that almost one-third of their tenders were announced as winners.

The above tables confirm the concentration phenomena present in Hungarian public procurement, which are even more evident when looking at the combined results of the previous five years (i.e. all tenders submitted by tenderers from 2019 to 2023).

Table 25

## Parameters of the bidders with the highest win ratios in the public procurement market, 2019-2023

| Rank | Total public procurement market, 2019-2023            |                       |                            |                                      | Public procurements with EU funding content, 2019-2023 |                       |                            |                                      |
|------|---|-----------------------|----------------------------|--------------------------------------|--|-----------------------|----------------------------|--------------------------------------|
|      | Average number of winning/losing bids: 3.818 / 11.193 |                       |                            |                                      | Average number of winning/losing bids: 2.030 / 7.741   |                       |                            |                                      |
|      | Number of winning bids                                | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) | Number of winning bids                                 | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |
| 1    | 59  | 0                     | 100.00%                    | 187                                  | 12   | 0                     | 100.00%                    | 1 198.50                             |
| 2    | 59  | 0                     | 100.00%                    | 187                                  | 12   | 0                     | 100.00%                    | 191.4                                |
| 3    | 38  | 0                     | 100.00%                    | 584                                  | 11   | 0                     | 100.00%                    | 42.6                                 |
| 4    | 32  | 0                     | 100.00%                    | 631.3                                | 10   | 0                     | 100.00%                    | 516.8                                |
| 5    | 21  | 0                     | 100.00%                    | 1 478.90                             | 10   | 0                     | 100.00%                    | 326.7                                |
| 6    | 18  | 0                     | 100.00%                    | 1 025.60                             | 10   | 0                     | 100.00%                    | 299.8                                |
| 7    | 18  | 0                     | 100.00%                    | 187.5                                | 10   | 0                     | 100.00%                    | 273.6                                |
| 8    | 17  | 0                     | 100.00%                    | 348.9                                | 10   | 0                     | 100.00%                    | 62.8                                 |
| 9    | 14  | 0                     | 100.00%                    | 1 102.50                             | 9  | 0                     | 100.00%                    | 228.1                                |
| 10   | 14  | 0                     | 100.00%                    | 65.6                                 | 9  | 0                     | 100.00%                    | 141.6                                |
| 11   | 13  | 0                     | 100.00%                    | 116 089.50                           | 9  | 0                     | 100.00%                    | 97.3                                 |
| 12   | 13  | 0                     | 100.00%                    | 443.5                                | 9  | 0                     | 100.00%                    | 21.8                                 |
| 13   | 13  | 0                     | 100.00%                    | 283.8                                | 8  | 0                     | 100.00%                    | 1 835.70                             |
| 14   | 12  | 0                     | 100.00%                    | 191.4                                | 8  | 0                     | 100.00%                    | 1 751.90                             |
| 15   | 12  | 0                     | 100.00%                    | 177.3                                | 8  | 0                     | 100.00%                    | 262.3                                |
| 16   | 12  | 0                     | 100.00%                    | 30.3                                 | 8  | 0                     | 100.00%                    | 239.7                                |
| 17   | 12  | 0                     | 100.00%                    | 0                                    | 8  | 0                     | 100.00%                    | 143.4                                |
| 18   | 11  | 0                     | 100.00%                    | 470.9                                | 8  | 0                     | 100.00%                    | 118.5                                |
| 19   | 11  | 0                     | 100.00%                    | 318.8                                | 8  | 0                     | 100.00%                    | 81.9                                 |
| 20   | 11  | 0                     | 100.00%                    | 284                                  | 8  | 0                     | 100.00%                    | 70.8                                 |

For example, among the 'always winning' tenderers, two (which participated as part of a consortium in all cases) had all 59 of their tenders successful between 2019 and 2023.

Table 26

| Parameters of the bidders with the highest number of winning bids in the procurement market, 2019-2023 |   |                       |                            |                                      |  |                       |                            |                                      |  |
|--|---|-----------------------|----------------------------|--------------------------------------|--|-----------------------|----------------------------|--------------------------------------|--|
| Rank   | Total public procurement market, 2019-2023            |                       |                            |                                      | Public procurements with EU funding content, 2019-2023 |                       |                            |                                      |  |
|  | Average number of winning/losing bids: 3.818 / 11.193 |                       |                            |                                      | Average number of winning/losing bids: 2.030 / 7.741   |                       |                            |                                      |  |
|  | Number of winning bids                                | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) | Number of winning bids                                 | Number of losing bids | Percentage of winning bids | Value of contracts won (million HUF) |  |
| 1  | 570   | 601                   | 48.68%                     | 2 057.10                             | 224  | 416                   | 35.00%                     | 1 768.20                             |  |
| 2  | 563   | 413                   | 57.68%                     | 7 761.00                             | 129  | 337                   | 27.68%                     | 1 195.00                             |  |
| 3  | 383   | 176                   | 68.52%                     | 81 353.80                            | 119  | 408                   | 22.58%                     | 1 183.40                             |  |
| 4  | 321   | 249                   | 56.32%                     | 2 991.20                             | 114  | 326                   | 25.91%                     | 534.5                                |  |
| 5  | 319   | 218                   | 59.40%                     | 2 137.30                             | 102  | 279                   | 26.77%                     | 1 306.40                             |  |
| 6  | 291   | 350                   | 45.40%                     | 4 155.10                             | 85   | 147                   | 36.64%                     | 523                                  |  |
| 7  | 284   | 197                   | 59.04%                     | 4 157.60                             | 80   | 202                   | 28.37%                     | 11 231.30                            |  |
| 8  | 281   | 313                   | 47.31%                     | 2 801.40                             | 77   | 151                   | 33.77%                     | 800.5                                |  |
| 9  | 277   | 695                   | 28.50%                     | 1 649.20                             | 73   | 211                   | 25.70%                     | 1 013.20                             |  |
| 10   | 275   | 146                   | 65.32%                     | 10 989.20                            | 67   | 79                    | 45.89%                     | 725.5                                |  |
| 11   | 263   | 283                   | 48.17%                     | 1 276.90                             | 65   | 58                    | 52.85%                     | 401.3                                |  |
| 12   | 262   | 538                   | 32.75%                     | 2 198.40                             | 65   | 88                    | 42.48%                     | 259                                  |  |
| 13   | 240   | 541                   | 30.73%                     | 3 306.80                             | 62   | 337                   | 15.54%                     | 637.5                                |  |
| 14   | 222   | 164                   | 57.51%                     | 3 074.20                             | 60   | 216                   | 21.74%                     | 5 934.50                             |  |
| 15   | 216   | 466                   | 31.67%                     | 695.4                                | 55   | 44                    | 55.56%                     | 4 140.80                             |  |
| 16   | 215   | 53                    | 80.22%                     | 676.5                                | 55   | 131                   | 29.57%                     | 167                                  |  |
| 17   | 214   | 718                   | 22.96%                     | 2 088.10                             | 55   | 156                   | 26.07%                     | 383.5                                |  |
| 18   | 207   | 97                    | 68.09%                     | 7 018.20                             | 49   | 82                    | 37.40%                     | 1 810.90                             |  |
| 19   | 207   | 266                   | 43.76%                     | 5 246.90                             | 49   | 181                   | 21.30%                     | 267.4                                |  |
| 20   | 200   | 319                   | 38.54%                     | 7 258.80                             | 48   | 123                   | 28.07%                     | 332.9                                |  |

In the overall public procurement market, the win rates of the TOP 20 most frequent winners are extremely high (49.5% on average in 2023, meaning they won roughly every second procurement procedure). The same is true for public procurements involving EU funding (31.9%), where they won almost one in every three public procurement procedures on average in 2023. However, the biggest winners in terms of contract value are generally not among those with the highest win rates or the most procurements won. This leads to the conclusion that having the largest contract volume share often relies on a small number of successful tenders.<sup>72</sup>

#### 4.7.3. Concentration of joint appearances of winning and losing tenderers<sup>73</sup>

It can be observed in many cases, that the same companies repeatedly appear as both winners and losers in public procurement procedures. This phenomenon, in itself, does not necessarily indicate collusion among the involved parties. It could

<sup>72</sup> An important methodological note for the tables is that there is no distinction between whether the companies achieved the winning or losing result individually or as part of a consortium. This distinction is not possible due to the structure of the data for losing tenderers. Therefore, duplications in the number of winning/losing tenders cannot be ruled out due to consortium tenders. However, this is not an issue for contract values, as the table provides the proportional amount per consortium member for winning consortium bids.

<sup>73</sup> We would like to note that, in this section, contrary to the general practice indicated in the methodological guide, we have included contracts with a value of less than one thousand forints for the sake of completeness.

stem from the fact that in a particular product category, few actors have the legal authorisation required for task fulfilment, or some participants may stand out due to their professional competence. To answer this question comprehensively, a thorough investigation of the sector and additional information, such as tender prices, which are currently unavailable at the database level, would be required.

However, even considering the complex causes, it is an interesting phenomenon when a significant portion of a company's winning tenders is paired with the same losing tenderer, or when a large portion of its losing tenders has the same winner. This becomes even more noteworthy if 'role reversal' is a frequent occurrence, meaning the involved economic players (COMPANY 1 and COMPANY 2) appear together in several tenders not only in the 'winner-loser' but also in the 'loser-winner' position.

The following tables contain data on the joint appearances of winning and losing companies over the past two years in both the total public procurement market and for the procedures involving EU funding.

Table 27

**Winning-losing company pairs' joint appearance data for the total public procurement market; sorted by the number of occurrences (2022, 2023)**

| Rank | Year 2022   |                                    |                                     |                                    |   | Year 2023   |                                    |                                     |                                    |   |
|------|---|------------------------------------|-------------------------------------|------------------------------------|---|---|------------------------------------|-------------------------------------|------------------------------------|---|
|      | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company |
|      | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   |
| 1    | 53  | 135.1                              | 53                                  | 135.1                              | 56  | 54  | 19 371.70                          | 196                                 | 35 622.30                          | 56  |
| 2    | 36  | 64.7                               | 42                                  | 83.8                               | 58  | 38  | 993                                | 40                                  | 1 064.10                           | 50  |
| 3    | 34  | 41.2                               | 70                                  | 216.3                              | 34  | 37  | 143.7                              | 71                                  | 305                                | 115   |
| 4    | 32  | 82.3                               | 85                                  | 493                                | 90  | 36  | 227.1                              | 77                                  | 387.6                              | 75  |
| 5    | 30  | 853.6                              | 42                                  | 938                                | 55  | 34  | 673.6                              | 42                                  | 844.4                              | 180   |
| 6    | 30  | 772.3                              | 42                                  | 938                                | 52  | 33  | 275.9                              | 33                                  | 275.9                              | 160   |
| 7    | 27  | 143.6                              | 139                                 | 1 356.80                           | 89  | 33  | 125.7                              | 77                                  | 387.6                              | 65  |
| 8    | 26  | 32.9                               | 85                                  | 493                                | 52  | 31  | 147.2                              | 71                                  | 305                                | 121   |
| 9    | 25  | 317.9                              | 85                                  | 493                                | 136   | 31  | 95.4                               | 39                                  | 138.6                              | 135   |
| 10   | 25  | 112.9                              | 85                                  | 493                                | 70  | 31  | 78.7                               | 77                                  | 387.6                              | 76  |
| 11   | 24  | 82.8                               | 36                                  | 200                                | 75  | 30  | 1 374.80                           | 34                                  | 1 475.10                           | 50  |
| 12   | 24  | 46.1                               | 85                                  | 493                                | 49  | 30  | 800.8                              | 37                                  | 878.7                              | 43  |
| 13   | 23  | 2 860.60                           | 26                                  | 2 903.50                           | 154   | 30  | 483.2                              | 42                                  | 844.4                              | 187   |
| 14   | 23  | 97                                 | 63                                  | 464.4                              | 131   | 30  | 173.2                              | 71                                  | 305                                | 154   |
| 15   | 22  | 1 072.20                           | 22                                  | 1 072.20                           | 24  | 30  | 112.4                              | 77                                  | 387.6                              | 73  |
| 16   | 22  | 1 072.20                           | 22                                  | 1 072.20                           | 45  | 28  | 4 306.10                           | 43                                  | 6 676.90                           | 187   |
| 17   | 22  | 76.7                               | 85                                  | 493                                | 76  | 27  | 714.7                              | 58                                  | 1 432.80                           | 130   |
| 18   | 21  | 73.7                               | 37                                  | 148.3                              | 115   | 27  | 107.6                              | 40                                  | 129.9                              | 56  |
| 19   | 20  | 1 878.50                           | 40                                  | 12 826.10                          | 47  | 26  | 289.9                              | 42                                  | 844.4                              | 42  |
| 20   | 20  | 918.5                              | 49                                  | 2 173.90                           | 56  | 26  | 169.3                              | 71                                  | 305                                | 56  |
| 21   | 20  | 258.9                              | 22                                  | 264.9                              | 21  | 25  | 880.2                              | 40                                  | 1 064.10                           | 45  |
| 22   | 19  | 3 512.60                           | 26                                  | 4 297.90                           | 51  | 25  | 562.9                              | 45                                  | 1 485.60                           | 38  |
| 23   | 19  | 267.9                              | 56                                  | 623                                | 131   | 25  | 508.7                              | 58                                  | 848.2                              | 130   |
| 24   | 19  | 60.1                               | 37                                  | 148.3                              | 124   | 25  | 263                                | 42                                  | 844.4                              | 50  |
| 25   | 19  | 41.7                               | 85                                  | 493                                | 30  | 25  | 263                                | 42                                  | 844.4                              | 59  |

Table 28

**Winning-losing company pairs' joint appearance data for the public procurement market with EU funding content;  
sorted by the number of occurrences (2022, 2023)**

| Rank | Year 2022   |                                    |                                     |                                    |   | Year 2023   |                                    |                                     |                                    |   |
|------|---|------------------------------------|-------------------------------------|------------------------------------|---|---|------------------------------------|-------------------------------------|------------------------------------|---|
|      | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company |
|      | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   |
| 1    | 22  | 1 072.20                           | 22                                  | 1 072.20                           | 45  | 25  | 562.9                              | 44                                  | 1 436.60                           | 38  |
| 2    | 22  | 1 072.20                           | 22                                  | 1 072.20                           | 24  | 21  | 175.6                              | 21                                  | 175.6                              | 110   |
| 3    | 15  | 186.1                              | 15                                  | 186.1                              | 26  | 16  | 508.6                              | 19                                  | 581.4                              | 46  |
| 4    | 15  | 186.1                              | 15                                  | 186.1                              | 15  | 16  | 130.9                              | 52                                  | 405.4                              | 136   |
| 5    | 15  | 186.1                              | 15                                  | 186.1                              | 19  | 14  | 627.6                              | 29                                  | 852.9                              | 27  |
| 6    | 14  | 55.1                               | 21                                  | 65                                 | 25  | 14  | 322.1                              | 20                                  | 636.2                              | 44  |
| 7    | 14  | 55.1                               | 21                                  | 65                                 | 21  | 14  | 141.9                              | 52                                  | 405.4                              | 47  |
| 8    | 13  | 31.1                               | 14                                  | 35.8                               | 19  | 14  | 72                                 | 26                                  | 212.7                              | 110   |
| 9    | 12  | 949.9                              | 14                                  | 1 362.90                           | 57  | 13  | 202.4                              | 44                                  | 1 436.60                           | 25  |
| 10   | 11  | 10 552.30                          | 12                                  | 10 811.20                          | 16  | 13  | 143.4                              | 52                                  | 405.4                              | 46  |
| 11   | 11  | 5 242.90                           | 14                                  | 5 797.90                           | 41  | 13  | 110.1                              | 16                                  | 153.5                              | 40  |
| 12   | 11  | 2 881.90                           | 17                                  | 4 974.20                           | 50  | 13  | 65.3                               | 52                                  | 405.4                              | 34  |
| 13   | 11  | 38.6                               | 21                                  | 65                                 | 15  | 13  | 59.7                               | 17                                  | 64.4                               | 90  |
| 14   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 13  | 36.6                               | 17                                  | 64.4                               | 49  |
| 15   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 12  | 981.2                              | 15                                  | 1 061.60                           | 88  |
| 16   | 11  | 38.6                               | 21                                  | 65                                 | 13  | 12  | 410.3                              | 36                                  | 1 107.40                           | 16  |
| 17   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 12  | 341.1                              | 29                                  | 852.9                              | 20  |
| 18   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 12  | 51                                 | 17                                  | 64.4                               | 63  |
| 19   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 12  | 33.3                               | 17                                  | 64.4                               | 61  |
| 20   | 11  | 38.6                               | 21                                  | 65                                 | 11  | 11  | 2 395.50                           | 30                                  | 4 468.20                           | 61  |
| 21   | 11  | 8.1                                | 11                                  | 8.1                                | 26  | 11  | 729.8                              | 12                                  | 742.8                              | 104   |
| 22   | 11  | 8.1                                | 11                                  | 8.1                                | 27  | 11  | 485.5                              | 29                                  | 852.9                              | 24  |
| 23   | 11  | 8.1                                | 11                                  | 8.1                                | 16  | 11  | 408.4                              | 29                                  | 852.9                              | 30  |
| 24   | 11  | 8.1                                | 11                                  | 8.1                                | 29  | 11  | 361.6                              | 29                                  | 852.9                              | 32  |
| 25   | 11  | 8.1                                | 11                                  | 8.1                                | 24  | 11  | 321.1                              | 29                                  | 852.9                              | 34  |

In 2023, a pair of winning and losing companies that participated in the same public procurement procedures was observed together in 54 cases, which is the highest number in this regard. The winning firm participated in a total of 196 procedures, while the losing firm was involved in 56, with 54 of these procedures being the same. For procurements involving EU funding, the highest number of simultaneous tenders from both the winning and losing firms in the same procedure was 25.

More information can be found in the tables on joint appearances, not broken down by year, but for the last five years for these series of data. The following table shows the joint appearance data for winning-losing firm pairs from 2019 to 2023, without a yearly breakdown.



Table 29

**Winning-losing company pairs' joint appearance data for the total public procurement market;  
sorted by the number of contracts, 2019-2023**

| Rank | Entire public procurement market                                  |                                    |                                     |                                    |   | Public procurements with EU funding content                       |                                    |                                     |                                    |   |
|------|---|------------------------------------|-------------------------------------|------------------------------------|---|---|------------------------------------|-------------------------------------|------------------------------------|---|
|      | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company |
|      | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   |
| 1    | 220   | 802.3                              | 570                                 | 2 057.10                           | 466   | 69  | 296.1                              | 114                                 | 534.5                              | 494   |
| 2    | 191   | 487.7                              | 570                                 | 2 057.10                           | 556   | 56  | 245.7                              | 114                                 | 534.5                              | 302   |
| 3    | 178   | 56 250.20                          | 383                                 | 81 353.80                          | 336   | 55  | 240.1                              | 114                                 | 534.5                              | 389   |
| 4    | 171   | 3 511.00                           | 197                                 | 3 884.50                           | 316   | 55  | 232.9                              | 85                                  | 523                                | 416   |
| 5    | 163   | 1 122.40                           | 277                                 | 1 649.20                           | 1016  | 53  | 220.2                              | 114                                 | 534.5                              | 361   |
| 6    | 140   | 816.1                              | 277                                 | 1 649.20                           | 639   | 51  | 606.4                              | 102                                 | 1 306.40                           | 337   |
| 7    | 139   | 273                                | 570                                 | 2 057.10                           | 350   | 51  | 242.5                              | 114                                 | 534.5                              | 410   |
| 8    | 138   | 430.1                              | 216                                 | 695.4                              | 601   | 49  | 180.6                              | 114                                 | 534.5                              | 281   |
| 9    | 132   | 1 084.40                           | 277                                 | 1 649.20                           | 757   | 42  | 477.9                              | 102                                 | 1 306.40                           | 408   |
| 10   | 129   | 869.5                              | 277                                 | 1 649.20                           | 760   | 42  | 312.2                              | 224                                 | 1 768.20                           | 147   |
| 11   | 125   | 306.5                              | 156                                 | 363.8                              | 249   | 42  | 248.6                              | 224                                 | 1 768.20                           | 135   |
| 12   | 124   | 29 763.80                          | 383                                 | 81 353.80                          | 335   | 41  | 401.5                              | 224                                 | 1 768.20                           | 123   |
| 13   | 119   | 1 609.20                           | 291                                 | 4 155.10                           | 585   | 41  | 381.6                              | 224                                 | 1 768.20                           | 151   |
| 14   | 113   | 439.8                              | 148                                 | 720.2                              | 413   | 41  | 352.3                              | 129                                 | 1 195.00                           | 408   |
| 15   | 109   | 740.1                              | 277                                 | 1 649.20                           | 736   | 41  | 286.5                              | 55                                  | 383.5                              | 337   |
| 16   | 109   | 645.4                              | 277                                 | 1 649.20                           | 560   | 41  | 272.1                              | 224                                 | 1 768.20                           | 337   |
| 17   | 101   | 510.1                              | 570                                 | 2 057.10                           | 718   | 38  | 170.4                              | 114                                 | 534.5                              | 174   |
| 18   | 97  | 277.6                              | 216                                 | 695.4                              | 556   | 37  | 368.9                              | 129                                 | 1 195.00                           | 279   |
| 19   | 97  | 215.9                              | 570                                 | 2 057.10                           | 279   | 36  | 162.4                              | 114                                 | 534.5                              | 205   |
| 20   | 96  | 280.7                              | 570                                 | 2 057.10                           | 218   | 35  | 171.7                              | 102                                 | 1 306.40                           | 153   |
| 21   | 95  | 516.5                              | 277                                 | 1 649.20                           | 416   | 34  | 74.5                               | 65                                  | 259                                | 408   |
| 22   | 91  | 16 333.60                          | 197                                 | 28 032.60                          | 593   | 32  | 258.5                              | 48                                  | 332.9                              | 416   |
| 23   | 81  | 1 815.50                           | 207                                 | 5 246.90                           | 585   | 32  | 47.9                               | 55                                  | 167                                | 337   |
| 24   | 79  | 253.4                              | 148                                 | 720.2                              | 541   | 31  | 191.6                              | 224                                 | 1 768.20                           | 389   |
| 25   | 79  | 230.6                              | 570                                 | 2 057.10                           | 265   | 30  | 208.5                              | 119                                 | 1 183.40                           | 337   |

As shown, during the five-year period, a winning-losing firm pair appeared in 220 tenders in these roles on the market as a whole. Although the top row of this table showing the overall public procurement market shows outstanding values, the two firms listed there are dominant players in the energy market and possess the necessary legal authorisation to operate within it. However, at the top of the list, there are also several firm pairs that are dominant players in the open market, such as in the pharmaceuticals and medical devices markets.

For the market for procedures involving EU funding, the winning-losing firm pair appeared together 69 times.

Further analysis is warranted by the exceptionally high values in these cases, as the identical total number of winning tenders for each market refers to a single company in both markets.

An important additional consideration could be that for the winning and losing firms, instead of the number of 'joint' procurements, the total contract value achieved in these tenders is used as the starting point for ranking. In this respect, we present data from the two previous years; again for the total procurement market and for the procurement market for procedures involving EU funds.

Table 30

Winning-losing company pairs' joint appearance data for the total public procurement market; *sorted by contract value* (2022, 2023)

| Rank | Year 2022   |                                    |                                     |                                    |   | Year 2023   |                                    |                                     |                                    |   |
|------|---|------------------------------------|-------------------------------------|------------------------------------|---|---|------------------------------------|-------------------------------------|------------------------------------|---|
|      | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company |
|      | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   |
| 1    | 4   | 24 205.40                          | 8                                   | 24 436.00                          | 11  | 54  | 19 371.70                          | 196                                 | 35 622.30                          | 56  |
| 2    | 4   | 24 205.40                          | 8                                   | 24 436.00                          | 29  | 17  | 14 309.30                          | 18                                  | 14 394.10                          | 43  |
| 3    | 4   | 24 205.40                          | 8                                   | 24 436.00                          | 8   | 8   | 13 614.20                          | 18                                  | 14 394.10                          | 28  |
| 4    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 2   | 10  | 8 581.20                           | 18                                  | 14 394.10                          | 40  |
| 5    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 5   | 11  | 7 248.00                           | 18                                  | 7 361.90                           | 14  |
| 6    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 5   | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 4   |
| 7    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 6   | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 2   |
| 8    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 23  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 4   |
| 9    | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 6   | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 14  |
| 10   | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 21  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 21  |
| 11   | 2   | 21 705.40                          | 8                                   | 24 436.00                          | 33  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 55  |
| 12   | 3   | 19 247.40                          | 3                                   | 19 247.40                          | 26  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 24  |
| 13   | 6   | 19 099.80                          | 35                                  | 22 009.90                          | 33  | 2   | 6 023.60                           | 13                                  | 7 492.90                           | 45  |
| 14   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 5   | 2   | 5 763.40                           | 2                                   | 5 763.40                           | 5   |
| 15   | 2   | 16 575.40                          | 3                                   | 19 247.40                          | 5   | 4   | 5 699.20                           | 13                                  | 7 492.90                           | 83  |
| 16   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 3   | 2   | 5 654.30                           | 3                                   | 5 726.90                           | 2   |
| 17   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 8   | 2   | 5 447.60                           | 13                                  | 7 492.90                           | 20  |
| 18   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 26  | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 3   |
| 19   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 16  | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 4   |
| 20   | 2   | 16 575.40                          | 2                                   | 16 575.40                          | 2   | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 8   |
| 21   | 2   | 16 575.40                          | 3                                   | 19 247.40                          | 3   | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 4   |
| 22   | 2   | 16 575.40                          | 3                                   | 19 247.40                          | 2   | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 22  |
| 23   | 2   | 16 575.40                          | 3                                   | 19 247.40                          | 8   | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 21  |
| 24   | 2   | 16 575.40                          | 3                                   | 19 247.40                          | 16  | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 6   |
| 25   | 4   | 15 569.40                          | 12                                  | 16 247.00                          | 11  | 1   | 5 200.00                           | 13                                  | 7 492.90                           | 11  |

Table 31

Winning-losing company pairs' joint bidding occurrence data for the public procurement market with EU funding content; *sorted by contract value* (2022, 2023)

| Rank | Year 2022   |                                    |                                     |                                    |   | Year 2023   |                                    |                                     |                                    |   |
|------|---|------------------------------------|-------------------------------------|------------------------------------|---|---|------------------------------------|-------------------------------------|------------------------------------|---|
|      | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company | Appearances of winning-losing company pairs in public procurement |                                    | Winning bids by the winning company |                                    | Total number of losing bids by the losing company |
|      | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   | Total number  | Total contract value (million HUF) | Total number                        | Total contract value (million HUF) |   |
| 1    | 11  | 10 552.30                          | 12                                  | 10 811.20                          | 16  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 12  |
| 2    | 2   | 10 466.20                          | 4                                   | 16 780.50                          | 5   | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 18  |
| 3    | 2   | 10 466.20                          | 4                                   | 16 780.50                          | 16  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 20  |
| 4    | 10  | 10 299.00                          | 12                                  | 10 811.20                          | 42  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 45  |
| 5    | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 1   | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 2   |
| 6    | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 13  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 2   |
| 7    | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 19  | 1   | 6 059.70                           | 1                                   | 6 059.70                           | 3   |
| 8    | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 80  | 6   | 2 398.20                           | 6                                   | 2 398.20                           | 35  |
| 9    | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 4   | 11  | 2 395.50                           | 30                                  | 4 468.20                           | 61  |
| 10   | 1   | 9 387.40                           | 4                                   | 16 780.50                          | 4   | 4   | 2 309.10                           | 6                                   | 2 398.20                           | 57  |
| 11   | 2   | 8 053.70                           | 2                                   | 8 053.70                           | 45  | 4   | 2 309.10                           | 6                                   | 2 398.20                           | 6   |
| 12   | 2   | 8 053.70                           | 2                                   | 8 053.70                           | 7   | 4   | 2 309.10                           | 6                                   | 2 398.20                           | 88  |
| 13   | 2   | 8 053.70                           | 2                                   | 8 053.70                           | 15  | 4   | 2 309.10                           | 6                                   | 2 398.20                           | 11  |
| 14   | 7   | 6 856.30                           | 12                                  | 10 811.20                          | 36  | 4   | 2 309.10                           | 6                                   | 2 398.20                           | 45  |
| 15   | 5   | 6 840.80                           | 6                                   | 10 328.80                          | 42  | 4   | 1 574.00                           | 30                                  | 4 468.20                           | 7   |
| 16   | 3   | 6 783.40                           | 6                                   | 10 328.80                          | 19  | 4   | 1 513.70                           | 30                                  | 4 468.20                           | 57  |
| 17   | 5   | 6 725.00                           | 5                                   | 6 725.00                           | 80  | 3   | 1 491.60                           | 30                                  | 4 468.20                           | 11  |
| 18   | 5   | 6 725.00                           | 5                                   | 6 725.00                           | 42  | 3   | 1 491.60                           | 30                                  | 4 468.20                           | 45  |
| 19   | 5   | 6 725.00                           | 5                                   | 6 725.00                           | 36  | 3   | 1 491.60                           | 30                                  | 4 468.20                           | 35  |
| 20   | 5   | 6 725.00                           | 5                                   | 6 725.00                           | 23  | 3   | 1 491.60                           | 30                                  | 4 468.20                           | 21  |
| 21   | 2   | 6 314.40                           | 4                                   | 16 780.50                          | 9   | 2   | 1 476.00                           | 30                                  | 4 468.20                           | 99  |
| 22   | 8   | 5 715.20                           | 8                                   | 5 715.20                           | 38  | 2   | 1 460.60                           | 2                                   | 1 460.60                           | 11  |
| 23   | 8   | 5 715.20                           | 8                                   | 5 715.20                           | 17  | 2   | 1 460.60                           | 2                                   | 1 460.60                           | 5   |
| 24   | 8   | 5 715.20                           | 8                                   | 5 715.20                           | 37  | 2   | 1 460.60                           | 2                                   | 1 460.60                           | 2   |
| 25   | 8   | 5 715.20                           | 8                                   | 5 715.20                           | 19  | 2   | 1 460.60                           | 2                                   | 1 460.60                           | 2   |

While in 2022, the joint participation of firms in four public procurement procedures resulted with the highest total contract value, in 2023, the highest total contract

value came from the winning-losing firm pairs that participated in 54 public procurement procedures (see Table 30).

Although not widespread, the phenomenon where the 'reverse' outcome of the frequent joint tendering by winners and losers is also significant. In this case, this may suggest that the joint presence of the two firms involved could contribute to an increase in their share of the public procurement market.

When broken down by year, very few firm pairs had both members submit at least six successful tenders in the presence of the other tendering firm. Therefore, the following table presents the combined data for the five-year period from 2019 to 2023.

Table 32

**Key data on winning-losing company pairs and their significant reverse roles (2019-2023 combined)**

| Rank (based on the number of winning contracts of COMPANY 1) | Entire public procurement market   |                              |                                    |                              | Public procurements with EU funding content |                              |                                    |                              |
|--|------------------------------------|------------------------------|------------------------------------|------------------------------|---|------------------------------|------------------------------------|------------------------------|
|  | COMPANY 1 winner - COMPANY 2 loser |                              | COMPANY 2 winner - COMPANY 1 loser |                              | COMPANY 1 winner - COMPANY 2 loser          |                              | COMPANY 2 winner - COMPANY 1 loser |                              |
|  | Number of contracts                | Contract value (million HUF) | Number of contracts                | Contract value (million HUF) | Number of contracts                         | Contract value (million HUF) | Number of contracts                | Contract value (million HUF) |
| 1  | 220                                | 802.3                        | 138                                | 430.1                        | 69  | 296.1                        | 10                                 | 92.4                         |
| 2  | 191                                | 487.7                        | 46                                 | 554                          | 56  | 245.7                        | 20                                 | 188.3                        |
| 3  | 178                                | 56 250.20                    | 34                                 | 4 329.00                     | 55  | 240.1                        | 6                                  | 17.1                         |
| 4  | 171                                | 3 511.00                     | 78                                 | 1 681.80                     | 55  | 232.9                        | 42                                 | 312.2                        |
| 5  | 163                                | 1 122.40                     | 24                                 | 118.4                        | 53  | 220.2                        | 7                                  | 13.6                         |
| 6  | 140                                | 816.1                        | 29                                 | 227.2                        | 51  | 606.4                        | 37                                 | 368.9                        |
| 7  | 139                                | 273                          | 51                                 | 31.1                         | 51  | 242.5                        | 20                                 | 138.5                        |
| 8  | 132                                | 1 084.40                     | 39                                 | 269.5                        | 42  | 477.9                        | 27                                 | 201.6                        |
| 9  | 129                                | 869.5                        | 26                                 | 177.8                        | 42  | 248.6                        | 26                                 | 72.9                         |
| 10   | 125                                | 306.5                        | 59                                 | 617.1                        | 41  | 401.5                        | 32                                 | 258.5                        |
| 11   | 124                                | 29 763.80                    | 35                                 | 4 739.90                     | 41  | 352.3                        | 30                                 | 208.5                        |
| 12   | 119                                | 1 609.20                     | 32                                 | 165.5                        | 41  | 286.5                        | 8                                  | 151.9                        |
| 13   | 113                                | 439.8                        | 46                                 | 346.9                        | 41  | 272.1                        | 9                                  | 117.9                        |
| 14   | 109                                | 740.1                        | 11                                 | 34.3                         | 35  | 171.7                        | 12                                 | 36.8                         |
| 15   | 109                                | 645.4                        | 14                                 | 193.3                        | 34  | 74.5                         | 15                                 | 59.4                         |
| 16   | 101                                | 510.1                        | 50                                 | 139                          | 32  | 47.9                         | 11                                 | 43.3                         |
| 17   | 97                                 | 277.6                        | 7                                  | 47                           | 30  | 58.2                         | 18                                 | 119.1                        |
| 18   | 97                                 | 215.9                        | 23                                 | 22.4                         | 27  | 372.5                        | 22                                 | 87.4                         |
| 19   | 96                                 | 280.7                        | 75                                 | 591.6                        | 27  | 231.5                        | 11                                 | 245                          |
| 20   | 95                                 | 516.5                        | 12                                 | 58.6                         | 26  | 108.3                        | 15                                 | 176.6                        |
| 21   | 91                                 | 16 333.60                    | 60                                 | 8 652.30                     | 26  | 83.9                         | 25                                 | 55.4                         |
| 22   | 81                                 | 1 815.50                     | 21                                 | 60.1                         | 26  | 61.7                         | 19                                 | 63.2                         |
| 23   | 79                                 | 253.4                        | 9                                  | 67                           | 25  | 757.6                        | 10                                 | 421                          |
| 24   | 79                                 | 230.6                        | 14                                 | 40.4                         | 25  | 189.1                        | 13                                 | 401                          |
| 25   | 78                                 | 248.7                        | 29                                 | 55.4                         | 25  | 148.5                        | 15                                 | 139.2                        |

Over the past five years, among the economic operators appearing together in different roles, there was one firm in the entire Hungarian market that won 220 times, while the other firm won 138 times. On the EU-funded procurement market, one

company won the procurement procedure in 69 cases, and the other company was the winner in 10 cases when both submitted tenders.

Although some rows in the table show a significant number of contracts, it may still be necessary to examine several other factors to assess the actual effects on market competition and to determine any potential collusion. These factors may include determining the share of the two companies with 'reversed roles' within product and service groups or subgroups. Additionally, comparing the tender prices and contract values of the relevant losing company on a procurement-by-procurement basis could be an important consideration.

#### **4.7.4. Concentration data of contracting authorities and winners<sup>74</sup>**

Although the successful implementation of a procurement task is in the joint interest of the contracting authority and the winning tenderer, these two entities have opposing interests in terms of the contract price. The interest of the tenderer is to secure the highest possible contract value, while the contracting authority's objective when issuing a call for tenders is to achieve the lowest possible cost through market competition.

The concentration of the 'market' of procurements issued by a given contracting authority can manifest in several ways. For example, frequent occurrences of one (or even two or three) winning tenderers, but also or independently, if a company wins a large proportion of the tenders related to a contracting authority, or if a significant portion of the total contract value of the procurements is awarded to them. A key factor in these market concentration processes can also be the specific legal requirements applicable to the organisations in this field. However, in the absence of such regulations, the exceptionally high concentration indicators in this area could also suggest potential collaboration between organisations or the circumvention of laws that ensure fair competition.

The following tables show the outliers for the joint occurrence of contracting authorities and winning organisations.<sup>75</sup> The data showing the trends in 2022 and 2023 are again presented separately for the overall public procurement market and the part of the market that involves EU funding, focusing this time on the number of contracts.

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<sup>74</sup> We would like to note that, in this section, contrary to the general practice indicated in the methodological guide, we have included contracts with a value of less than one thousand forints for the sake of completeness.

<sup>75</sup> Due to technical and consideration reasons, only those procedures were taken into account where there was a single contracting authority.

Table 33

Contracting authority-winner pairs' joint appearance data for the total public procurement market; sorted by the number of occurrences (2022, 2023)

| Rank | Year 2022  |                                    |                                     |                                    |   |                                    | Year 2023  |                                    |                                     |                                    |   |                                    |
|------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|
|      | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    |
|      | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) |
| 1    | 170  | 37 159.50                          | 173                                 | 37 470.00                          | 470   | 199 911.10                         | 122  | 37 241.90                          | 123                                 | 37 273.30                          | 290   | 143 495.40                         |
| 2    | 157  | 2 839.10                           | 157                                 | 2 839.10                           | 470   | 199 911.10                         | 91   | 8 455.10                           | 127                                 | 14 997.40                          | 762   | 357 053.00                         |
| 3    | 155  | 2 831.20                           | 155                                 | 2 831.20                           | 470   | 199 911.10                         | 89   | 6 782.10                           | 90                                  | 6 936.00                           | 214   | 79 768.50                          |
| 4    | 97   | 8 925.20                           | 98                                  | 9 271.30                           | 199   | 84 381.20                          | 77   | 4 577.60                           | 101                                 | 5 363.90                           | 762   | 357 053.00                         |
| 5    | 88   | 43 328.50                          | 88                                  | 43 328.50                          | 470   | 199 911.10                         | 73   | 26 036.50                          | 73                                  | 26 036.50                          | 290   | 143 495.40                         |
| 6    | 80   | 769.3                              | 80                                  | 769.3                              | 257   | 7 330.60                           | 66   | 2 300.40                           | 66                                  | 2 300.40                           | 290   | 143 495.40                         |
| 7    | 80   | 656.3                              | 87                                  | 3 037.40                           | 901   | 184 367.50                         | 65   | 6 739.00                           | 81                                  | 7 990.30                           | 762   | 357 053.00                         |
| 8    | 80   | 656.3                              | 82                                  | 726.1                              | 901   | 184 367.50                         | 61   | 304.6                              | 61                                  | 304.6                              | 254   | 3 051.30                           |
| 9    | 70   | 18 518.80                          | 117                                 | 39 829.90                          | 901   | 184 367.50                         | 59   | 607.7                              | 59                                  | 607.7                              | 254   | 3 051.30                           |
| 10   | 68   | 43 906.70                          | 87                                  | 50 327.90                          | 901   | 184 367.50                         | 56   | 367                                | 56                                  | 367                                | 254   | 3 051.30                           |
| 11   | 60   | 551.6                              | 60                                  | 551.6                              | 257   | 7 330.60                           | 55   | 4 769.30                           | 58                                  | 4 886.00                           | 762   | 357 053.00                         |
| 12   | 58   | 994.1                              | 77                                  | 2 407.80                           | 901   | 184 367.50                         | 54   | 4 188.60                           | 67                                  | 4 671.90                           | 762   | 357 053.00                         |
| 13   | 58   | 994.1                              | 65                                  | 2 607.20                           | 901   | 184 367.50                         | 53   | 3 169.20                           | 79                                  | 3 724.20                           | 762   | 357 053.00                         |
| 14   | 57   | 578                                | 63                                  | 1 907.50                           | 901   | 184 367.50                         | 52   | 4 538.30                           | 71                                  | 6 545.00                           | 762   | 357 053.00                         |
| 15   | 55   | 639                                | 56                                  | 987                                | 901   | 184 367.50                         | 50   | 373.3                              | 54                                  | 428.2                              | 232   | 8 389.50                           |
| 16   | 55   | 639                                | 85                                  | 8 842.20                           | 901   | 184 367.50                         | 46   | 2 845.00                           | 58                                  | 3 494.10                           | 762   | 357 053.00                         |
| 17   | 55   | 545.4                              | 55                                  | 545.4                              | 901   | 184 367.50                         | 46   | 2 493.70                           | 53                                  | 2 593.60                           | 762   | 357 053.00                         |
| 18   | 55   | 400.9                              | 55                                  | 400.9                              | 257   | 7 330.60                           | 46   | 1 103.60                           | 46                                  | 1 103.60                           | 397   | 60 181.90                          |
| 19   | 54   | 20 883.00                          | 156                                 | 60 441.10                          | 901   | 184 367.50                         | 46   | 1 103.60                           | 46                                  | 1 103.60                           | 397   | 60 181.90                          |
| 20   | 53   | 625.1                              | 69                                  | 3 725.70                           | 901   | 184 367.50                         | 42   | 3 910.60                           | 47                                  | 4 320.60                           | 762   | 357 053.00                         |
| 21   | 53   | 135.1                              | 54                                  | 233.3                              | 81  | 2 346.00                           | 42   | 2 469.40                           | 47                                  | 2 568.50                           | 762   | 357 053.00                         |
| 22   | 49   | 19 301.80                          | 49                                  | 19 301.80                          | 470   | 199 911.10                         | 42   | 1 316.20                           | 42                                  | 1 316.20                           | 290   | 143 495.40                         |
| 23   | 48   | 3 629.70                           | 50                                  | 3 690.20                           | 470   | 199 911.10                         | 41   | 3 645.20                           | 43                                  | 3 772.60                           | 762   | 357 053.00                         |
| 24   | 39   | 2 476.10                           | 106                                 | 18 036.40                          | 269   | 93 962.70                          | 41   | 526.4                              | 44                                  | 743.1                              | 71  | 2 192.10                           |
| 25   | 37   | 197.5                              | 37                                  | 197.5                              | 44  | 294.8                              | 39   | 2 239.80                           | 40                                  | 2 244.60                           | 762   | 357 053.00                         |
| 26   | 36   | 16 129.30                          | 37                                  | 32 011.60                          | 901   | 184 367.50                         | 39   | 1 909.10                           | 54                                  | 2 679.40                           | 762   | 357 053.00                         |
| 27   | 35   | 147.5                              | 35                                  | 147.5                              | 39  | 574                                | 39   | 213.7                              | 39                                  | 213.7                              | 254   | 3 051.30                           |
| 28   | 33   | 743.9                              | 45                                  | 14 611.20                          | 53  | 46 547.40                          | 38   | 3 081.50                           | 47                                  | 3 984.30                           | 762   | 357 053.00                         |
| 29   | 33   | 743.9                              | 37                                  | 1 255.90                           | 53  | 46 547.40                          | 35   | 3 363.00                           | 47                                  | 3 832.10                           | 762   | 357 053.00                         |
| 30   | 31   | 1 216.30                           | 56                                  | 10 726.50                          | 269   | 93 962.70                          | 35   | 2 356.70                           | 44                                  | 5 800.30                           | 762   | 357 053.00                         |

The table not only shows exceptionally high contract numbers, but also often highlights the associated 'high exposure' of the contracting authority and/or the winner, mostly in open markets not restricted by law. In this context, high exposure refers to the significant connection between a contracting authority's tenders and a specific winning party, or when the winning tenderer's submissions are largely successful with one contracting authority. For example, in 2023, out of 290 public procurement procedures conducted by a specific contracting authority, 122 were won by a single tenderer, who had a total of 123 successful tenders.

The market for procurements involving EU-funding shows a somewhat similar pattern.

Table 34

**Contracting authority-winner pairs' joint appearance data for the public procurement market with EU funding content;  
sorted by the number of occurrences (2022, 2023)**

| Rank | Year 2022  |                                    |                                     |                                    |   |                                    | Year 2023  |                                    |                                     |                                    |   |                                    |
|------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|
|      | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    |
|      | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) |
| 1    | 75   | 642.1                              | 77                                  | 749.2                              | 456   | 48 398                             | 82   | 7 910.20                           | 89                                  | 8 325.50                           | 668   | 298 155                            |
| 2    | 75   | 642.1                              | 75                                  | 642.1                              | 456   | 48 398                             | 72   | 4 378.50                           | 80                                  | 4 786.10                           | 668   | 298 155                            |
| 3    | 56   | 965.6                              | 56                                  | 965.6                              | 456   | 48 398                             | 54   | 4 686.40                           | 56                                  | 4 875.90                           | 668   | 298 155                            |
| 4    | 56   | 965.6                              | 57                                  | 984.6                              | 456   | 48 398                             | 53   | 4 168.80                           | 55                                  | 4 176.40                           | 668   | 298 155                            |
| 5    | 53   | 603.5                              | 60                                  | 2 905.50                           | 456   | 48 398                             | 51   | 3 132.30                           | 55                                  | 3 195.00                           | 668   | 298 155                            |
| 6    | 53   | 603.5                              | 53                                  | 603.5                              | 456   | 48 398                             | 48   | 3 463.70                           | 48                                  | 3 463.70                           | 668   | 298 155                            |
| 7    | 52   | 609.7                              | 52                                  | 609.7                              | 456   | 48 398                             | 46   | 3 711.00                           | 47                                  | 3 719.80                           | 668   | 298 155                            |
| 8    | 52   | 501.6                              | 54                                  | 611.9                              | 456   | 48 398                             | 46   | 2 845.00                           | 52                                  | 3 062.10                           | 668   | 298 155                            |
| 9    | 52   | 501.6                              | 52                                  | 501.6                              | 456   | 48 398                             | 46   | 2 493.70                           | 46                                  | 2 493.70                           | 668   | 298 155                            |
| 10   | 38   | 2 445.30                           | 53                                  | 11 311.20                          | 241   | 85 907                             | 46   | 1 103.60                           | 46                                  | 1 103.60                           | 159   | 26 326                             |
| 11   | 29   | 1 111.40                           | 42                                  | 9 246.90                           | 241   | 85 907                             | 46   | 1 103.60                           | 46                                  | 1 103.60                           | 159   | 26 326                             |
| 12   | 25   | 1 720.70                           | 29                                  | 4 420.70                           | 241   | 85 907                             | 41   | 3 827.60                           | 41                                  | 3 827.60                           | 668   | 298 155                            |
| 13   | 24   | 1 054.20                           | 31                                  | 1 110.00                           | 241   | 85 907                             | 41   | 3 645.20                           | 41                                  | 3 645.20                           | 668   | 298 155                            |
| 14   | 24   | 596.6                              | 25                                  | 1 446.60                           | 456   | 48 398                             | 40   | 2 427.10                           | 40                                  | 2 427.10                           | 668   | 298 155                            |
| 15   | 22   | 5 644.00                           | 31                                  | 7 022.10                           | 456   | 48 398                             | 39   | 2 239.80                           | 39                                  | 2 239.80                           | 668   | 298 155                            |
| 16   | 22   | 1 072.20                           | 23                                  | 1 861.80                           | 26  | 1 316                              | 39   | 1 909.10                           | 40                                  | 1 911.80                           | 668   | 298 155                            |
| 17   | 22   | 688.4                              | 23                                  | 868.4                              | 456   | 48 398                             | 35   | 2 919.50                           | 35                                  | 2 919.50                           | 668   | 298 155                            |
| 18   | 21   | 1 235.40                           | 33                                  | 9 448.70                           | 241   | 85 907                             | 35   | 2 356.70                           | 37                                  | 2 371.80                           | 668   | 298 155                            |
| 19   | 21   | 693.1                              | 26                                  | 970.5                              | 241   | 85 907                             | 34   | 3 323.80                           | 39                                  | 3 612.20                           | 668   | 298 155                            |
| 20   | 19   | 908.9                              | 20                                  | 947.5                              | 241   | 85 907                             | 33   | 1 673.60                           | 41                                  | 1 764.60                           | 668   | 298 155                            |
| 21   | 19   | 735.9                              | 28                                  | 6 981.80                           | 241   | 85 907                             | 32   | 2 147.60                           | 33                                  | 2 288.70                           | 668   | 298 155                            |
| 22   | 19   | 324.7                              | 21                                  | 1 066.50                           | 456   | 48 398                             | 32   | 2 136.90                           | 35                                  | 2 150.60                           | 668   | 298 155                            |
| 23   | 18   | 679.6                              | 28                                  | 1 196.00                           | 241   | 85 907                             | 31   | 6 253.70                           | 31                                  | 6 253.70                           | 668   | 298 155                            |
| 24   | 17   | 1 411.50                           | 22                                  | 6 095.90                           | 241   | 85 907                             | 30   | 3 262.00                           | 31                                  | 3 264.60                           | 668   | 298 155                            |
| 25   | 17   | 635.5                              | 25                                  | 1 133.10                           | 241   | 85 907                             | 28   | 2 261.80                           | 28                                  | 2 261.80                           | 668   | 298 155                            |
| 26   | 16   | 11 192.20                          | 16                                  | 11 192.20                          | 456   | 48 398                             | 27   | 1 262.70                           | 28                                  | 1 269.30                           | 668   | 298 155                            |
| 27   | 16   | 787.8                              | 21                                  | 1 175.30                           | 241   | 85 907                             | 25   | 2 769.10                           | 25                                  | 2 769.10                           | 668   | 298 155                            |
| 28   | 16   | 718.9                              | 19                                  | 3 306.60                           | 241   | 85 907                             | 25   | 2 331.40                           | 25                                  | 2 331.40                           | 668   | 298 155                            |
| 29   | 16   | 255.1                              | 19                                  | 295.1                              | 241   | 85 907                             | 23   | 1 631.40                           | 23                                  | 1 631.40                           | 668   | 298 155                            |
| 30   | 15   | 1 006.40                           | 20                                  | 1 699.20                           | 241   | 85 907                             | 22   | 1 536.10                           | 22                                  | 1 536.10                           | 668   | 298 155                            |

Although the data for public procurement involving EU funding are less striking, high values can also be observed in significant numbers. What stands out, however, is the high exposure of the winning companies to a specific contracting authority, which is almost invariably the case for the 30 contracting authority-winner pairs with the highest number of occurrences. Compared to the number of public procurement procedures issued by a contracting authority, this table shows even less exposure to contracting authorities than the total market. This can partly be explained by the fact that a significant portion of the contracting authorities listed are central purchasing organisations (which are also present in the total market dataset in smaller numbers, though at a much lower percentage).

As a summary of this topic, a table showing the trends of the joint appearances of the past 5 years is provided, together with the ranking of contracting authority-winner pairs by contract value during this period.



We also examined the data on the joint occurrences of contracting authorities and winners for procedures that are not open to all participants – typically restricted tendering procedures. The results are presented in the following tables.

Table 37

Contracting authority-winner pairs' joint appearance data for the non-open public procurements market; sorted by the number of occurrences (2022, 2023)

| Rank | Year 2022  |                                    |                                     |                                    |   |                                    | Year 2023  |                                    |                                     |                                    |   |                                    |
|------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|
|      | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    |
|      | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) |
| 1    | 35   | 147.5                              | 35                                  | 147.5                              | 37  | 148.5                              | 22   | 162                                | 22                                  | 162                                | 25  | 493.7                              |
| 2    | 14   | 254                                | 14                                  | 254                                | 14  | 254                                | 18   | 144.1                              | 19                                  | 186                                | 31  | 1 822.40                           |
| 3    | 11   | 137.7                              | 12                                  | 207.6                              | 20  | 1 087.00                           | 13   | 695.1                              | 13                                  | 695.1                              | 28  | 1 805.50                           |
| 4    | 11   | 53.8                               | 17                                  | 209.1                              | 16  | 359.2                              | 11   | 506.2                              | 11                                  | 506.2                              | 31  | 2 081.10                           |
| 5    | 11   | 0                                  | 11                                  | 0                                  | 11  | 0                                  | 11   | 97.9                               | 11                                  | 97.9                               | 11  | 97.9                               |
| 6    | 11   | 0                                  | 11                                  | 0                                  | 11  | 0                                  | 10   | 328.8                              | 10                                  | 328.8                              | 23  | 632.2                              |
| 7    | 10   | 63.9                               | 11                                  | 206                                | 10  | 63.9                               | 10   | 16.5                               | 11                                  | 136.5                              | 30  | 142                                |
| 8    | 9  | 404                                | 9                                   | 404                                | 24  | 1 325.10                           | 10   | 1.7                                | 11                                  | 285.7                              | 10  | 1.7                                |
| 9    | 8  | 623.1                              | 8                                   | 623.1                              | 24  | 1 325.10                           | 9  | 738.8                              | 9                                   | 738.8                              | 31  | 2 081.10                           |
| 10   | 8  | 34.4                               | 8                                   | 34.4                               | 24  | 108.5                              | 9  | 128.9                              | 10                                  | 140.4                              | 14  | 564.9                              |
| 11   | 7  | 95.4                               | 8                                   | 318                                | 11  | 215.9                              | 8  | 183.4                              | 18                                  | 1 229.00                           | 11  | 216.8                              |
| 12   | 7  | 94.3                               | 8                                   | 120.4                              | 10  | 463.4                              | 8  | 169.1                              | 8                                   | 169.1                              | 10  | 223.9                              |
| 13   | 7  | 86.4                               | 8                                   | 180.2                              | 7   | 86.4                               | 8  | 126                                | 8                                   | 126                                | 8   | 126                                |
| 14   | 7  | 6.9                                | 7                                   | 6.9                                | 24  | 108.5                              | 8  | 32.9                               | 8                                   | 32.9                               | 13  | 77.9                               |
| 15   | 6  | 389.8                              | 10                                  | 1 054.90                           | 15  | 1 330.90                           | 8  | 0                                  | 8                                   | 0                                  | 10  | 1.7                                |
| 16   | 6  | 301.9                              | 6                                   | 301.9                              | 6   | 301.9                              | 7  | 529.4                              | 14                                  | 1 717.80                           | 7   | 529.4                              |
| 17   | 6  | 122.7                              | 9                                   | 491.3                              | 18  | 1 068.30                           | 7  | 497.5                              | 7                                   | 497.5                              | 15  | 1 091.20                           |
| 18   | 6  | 75.6                               | 6                                   | 75.6                               | 6   | 75.6                               | 7  | 249.3                              | 11                                  | 455.6                              | 7   | 249.3                              |
| 19   | 5  | 312.1                              | 7                                   | 522.2                              | 13  | 1 098.00                           | 7  | 125.8                              | 7                                   | 125.8                              | 8   | 832                                |
| 20   | 5  | 285.5                              | 5                                   | 285.5                              | 5   | 285.5                              | 7  | 113.9                              | 7                                   | 113.9                              | 7   | 113.9                              |
| 21   | 5  | 198.3                              | 5                                   | 198.3                              | 5   | 198.3                              | 7  | 30.8                               | 9                                   | 182.7                              | 30  | 142                                |
| 22   | 5  | 162.7                              | 12                                  | 358.1                              | 5   | 162.7                              | 6  | 533.2                              | 7                                   | 830.8                              | 15  | 1 368.10                           |
| 23   | 5  | 149.4                              | 18                                  | 488.4                              | 5   | 149.4                              | 6  | 147.3                              | 6                                   | 147.3                              | 23  | 532.3                              |
| 24   | 5  | 143.5                              | 12                                  | 358.1                              | 5   | 143.5                              | 6  | 111.7                              | 6                                   | 111.7                              | 12  | 346.2                              |
| 25   | 5  | 135.7                              | 5                                   | 135.7                              | 9   | 356                                | 6  | 78.6                               | 6                                   | 78.6                               | 6   | 78.6                               |
| 26   | 5  | 122                                | 5                                   | 122                                | 5   | 122                                | 6  | 51.1                               | 14                                  | 936.5                              | 23  | 632.2                              |
| 27   | 5  | 109.9                              | 5                                   | 109.9                              | 10  | 282.5                              | 6  | 34.1                               | 6                                   | 34.1                               | 19  | 627.6                              |
| 28   | 5  | 102.7                              | 5                                   | 102.7                              | 6   | 176.8                              | 5  | 614.6                              | 5                                   | 614.6                              | 31  | 2 081.10                           |
| 29   | 5  | 80                                 | 18                                  | 488.4                              | 5   | 80                                 | 5  | 421.5                              | 5                                   | 421.5                              | 15  | 1 091.20                           |
| 30   | 5  | 62.9                               | 5                                   | 62.9                               | 5   | 62.9                               | 5  | 126                                | 5                                   | 126                                | 5   | 126                                |

Table 38

Contracting authority-winner pairs' joint appearance data for the non-open public procurement market with EU funding content; sorted by the number of occurrences (2022, 2023)

| Rank | Year 2022  |                                    |                                     |                                    |   |                                    | Year 2023  |                                    |                                     |                                    |   |                                    |
|------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|
|      | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    |
|      | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) |
| 1    | 5  | 102.7                              | 5                                   | 102.7                              | 5   | 103                                | 2  | 269                                | 2                                   | 269                                | 3   | 326                                |
| 2    | 2  | 178                                | 2                                   | 178                                | 2   | 178                                | 1  | 207.5                              | 1                                   | 207.5                              | 1   | 208                                |
| 3    | 1  | 2 498.90                           | 2                                   | 3 825.30                           | 2   | 2 519                              | 1  | 193.3                              | 1                                   | 193.3                              | 1   | 193                                |
| 4    | 1  | 1 599.80                           | 3                                   | 2 135.80                           | 1   | 1 600                              | 1  | 118.9                              | 1                                   | 118.9                              | 1   | 119                                |
| 5    | 1  | 1 326.40                           | 2                                   | 3 825.30                           | 1   | 1 326                              | 1  | 57.2                               | 1                                   | 57.2                               | 3   | 326                                |
| 6    | 1  | 300                                | 1                                   | 300                                | 1   | 300                                | 1  | 47.7                               | 1                                   | 47.7                               | 1   | 48                                 |
| 7    | 1  | 300                                | 3                                   | 2 135.80                           | 1   | 300                                | 1  | 9.4                                | 1                                   | 9.4                                | 1   | 9                                  |
| 8    | 1  | 236                                | 3                                   | 2 135.80                           | 1   | 236                                |  |                                    |                                     |                                    |   |                                    |
| 9    | 1  | 220                                | 1                                   | 220                                | 1   | 220                                |  |                                    |                                     |                                    |   |                                    |
| 10   | 1  | 151                                | 1                                   | 151                                | 1   | 151                                |  |                                    |                                     |                                    |   |                                    |
| 11   | 1  | 72.1                               | 1                                   | 72.1                               | 1   | 72                                 |  |                                    |                                     |                                    |   |                                    |
| 12   | 1  | 47.9                               | 1                                   | 47.9                               | 1   | 48                                 |  |                                    |                                     |                                    |   |                                    |
| 13   | 1  | 20                                 | 1                                   | 20                                 | 2   | 2 519                              |  |                                    |                                     |                                    |   |                                    |
| 14   | 1  | 10                                 | 1                                   | 10                                 | 1   | 10                                 |  |                                    |                                     |                                    |   |                                    |
| 15   | 1  | 6.2                                | 1                                   | 6.2                                | 1   | 6                                  |  |                                    |                                     |                                    |   |                                    |
| 16   | 1  | 3.8                                | 1                                   | 3.8                                | 1   | 4                                  |  |                                    |                                     |                                    |   |                                    |

In the table presenting the data for the entire market, what stands out most is that, in the case of non-open procedures, alongside the phenomenon of high winner exposure to the contracting authority also observed here, the 'reverse' case is also often high. That is, it is not only common for winning companies that most of their successful tenders are tied to a single contracting authority, but in many cases, most of the contracting authority's tenders result in the success of the same



company. For tenders involving EU funding, the number of non-open procedures was very limited in the past two years, making the data less meaningful.

The data for the past five years concerning company pairs in non-open procedures also confirm the previous findings.

Table 39

| Contracting authority-winner pairs' joint appearance data sorted by the number of contracts; non-open procedures (2019, 2023) |  |                                    |                                     |                                    |   |                                    |  |                                    |                                     |                                    |   |                                    |
|---|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|--|------------------------------------|-------------------------------------|------------------------------------|---|------------------------------------|
| Rank  | Entire public procurement market                         |                                    |                                     |                                    |   |                                    | Public procurements with EU funding content              |                                    |                                     |                                    |   |                                    |
|   | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    | Contracting authority-winner pairs in public procurement |                                    | Winning bids by the winning company |                                    | Public procurements issued by the contracting authority |                                    |
|   | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) | Number of occurrences                                    | Total contract value (million HUF) | Number of occurrences               | Total contract value (million HUF) | Number of occurrences                                   | Total contract value (million HUF) |
| 1   | 57   | 309.6                              | 59                                  | 676.4                              | 63  | 681                                | 19   | 588.7                              | 19                                  | 588.7                              | 30  | 1 154                              |
| 2   | 36   | 1 380.40                           | 79                                  | 2 669.50                           | 65  | 3 647                              | 18   | 379.9                              | 18                                  | 379.9                              | 23  | 477                                |
| 3   | 33   | 3.2                                | 35                                  | 429.5                              | 34  | 255                                | 17   | 969                                | 25                                  | 1 662.20                           | 34  | 1 965                              |
| 4   | 32   | 126.5                              | 33                                  | 398.2                              | 34  | 255                                | 13   | 104.3                              | 27                                  | 321                                | 13  | 104                                |
| 5   | 31   | 1 350.40                           | 32                                  | 1 374.70                           | 98  | 5 200                              | 12   | 450.6                              | 20                                  | 1 575.90                           | 20  | 946                                |
| 6   | 30   | 2 217.70                           | 30                                  | 2 217.70                           | 114   | 5 383                              | 12   | 240.2                              | 17                                  | 500.2                              | 23  | 1 054                              |
| 7   | 30   | 751                                | 31                                  | 756.5                              | 114   | 5 383                              | 12   | 51.8                               | 18                                  | 429                                | 20  | 283                                |
| 8   | 29   | 281.8                              | 31                                  | 393.6                              | 59  | 3 572                              | 11   | 659.7                              | 36                                  | 2 006.80                           | 13  | 1 015                              |
| 9   | 24   | 781.1                              | 29                                  | 1 674.20                           | 38  | 2 113                              | 11   | 608.4                              | 13                                  | 757.3                              | 18  | 1 074                              |
| 10  | 24   | 164.5                              | 79                                  | 2 669.50                           | 80  | 2 647                              | 11   | 575.8                              | 12                                  | 618.3                              | 11  | 576                                |
| 11  | 23   | 1 411.10                           | 47                                  | 2 974.20                           | 23  | 1 411                              | 11   | 136.5                              | 44                                  | 1 115.40                           | 11  | 136                                |
| 12  | 23   | 1 377.30                           | 39                                  | 3 225.70                           | 98  | 5 200                              | 10   | 773.1                              | 15                                  | 1 039.20                           | 17  | 1 815                              |
| 13  | 20   | 1 496.40                           | 21                                  | 1 533.20                           | 81  | 6 153                              | 10   | 159.9                              | 10                                  | 159.9                              | 16  | 500                                |
| 14  | 20   | 910.2                              | 20                                  | 910.2                              | 114   | 5 383                              | 10   | 114.3                              | 27                                  | 321                                | 12  | 186                                |
| 15  | 19   | 756.2                              | 19                                  | 756.2                              | 80  | 2 647                              | 10   | 62.8                               | 10                                  | 62.8                               | 10  | 63                                 |
| 16  | 19   | 588.7                              | 19                                  | 588.7                              | 37  | 1 763                              | 9  | 238.2                              | 44                                  | 1 115.40                           | 10  | 258                                |
| 17  | 18   | 379.9                              | 18                                  | 379.9                              | 26  | 716                                | 9  | 187.2                              | 27                                  | 919.7                              | 9   | 187                                |
| 18  | 18   | 276.5                              | 92                                  | 5 935.10                           | 40  | 1 739                              | 9  | 159                                | 12                                  | 240.6                              | 10  | 215                                |
| 19  | 17   | 969                                | 27                                  | 1 775.90                           | 42  | 2 590                              | 9  | 135.2                              | 10                                  | 209.6                              | 12  | 245                                |
| 20  | 16   | 1 498.90                           | 21                                  | 1 793.00                           | 60  | 4 641                              | 9  | 129.2                              | 22                                  | 651.5                              | 9   | 129                                |
| 21  | 16   | 805.3                              | 16                                  | 805.3                              | 60  | 4 641                              | 9  | 117.5                              | 10                                  | 165.3                              | 18  | 325                                |
| 22  | 16   | 300.9                              | 18                                  | 1 395.20                           | 21  | 800                                | 9  | 71.9                               | 12                                  | 427.9                              | 16  | 254                                |
| 23  | 16   | 179.7                              | 16                                  | 179.7                              | 17  | 240                                | 9  | 41.3                               | 9                                   | 41.3                               | 11  | 53                                 |
| 24  | 15   | 3 230.10                           | 32                                  | 5 081.50                           | 49  | 6 388                              | 8  | 720                                | 14                                  | 1 416.80                           | 15  | 1 461                              |
| 25  | 15   | 1 244.90                           | 15                                  | 1 244.90                           | 114   | 5 383                              | 8  | 630                                | 36                                  | 2 006.80                           | 13  | 1 142                              |
| 26  | 15   | 1 086.20                           | 15                                  | 1 086.20                           | 81  | 6 153                              | 8  | 404.7                              | 9                                   | 510.8                              | 12  | 548                                |
| 27  | 15   | 948.9                              | 18                                  | 1 371.60                           | 67  | 3 317                              | 8  | 343.6                              | 8                                   | 343.6                              | 28  | 995                                |
| 28  | 15   | 934.1                              | 20                                  | 1 716.10                           | 17  | 1 077                              | 8  | 262.3                              | 9                                   | 569                                | 10  | 431                                |
| 29  | 15   | 624.1                              | 32                                  | 2 516.80                           | 41  | 2 322                              | 8  | 235.6                              | 12                                  | 473.2                              | 14  | 452                                |
| 30  | 15   | 577.1                              | 23                                  | 1 320.00                           | 40  | 1 739                              | 8  | 189.3                              | 8                                   | 189.3                              | 12  | 404                                |

#### 4.8. Discrepancy between the contract values and the estimated values of public procurement contracts

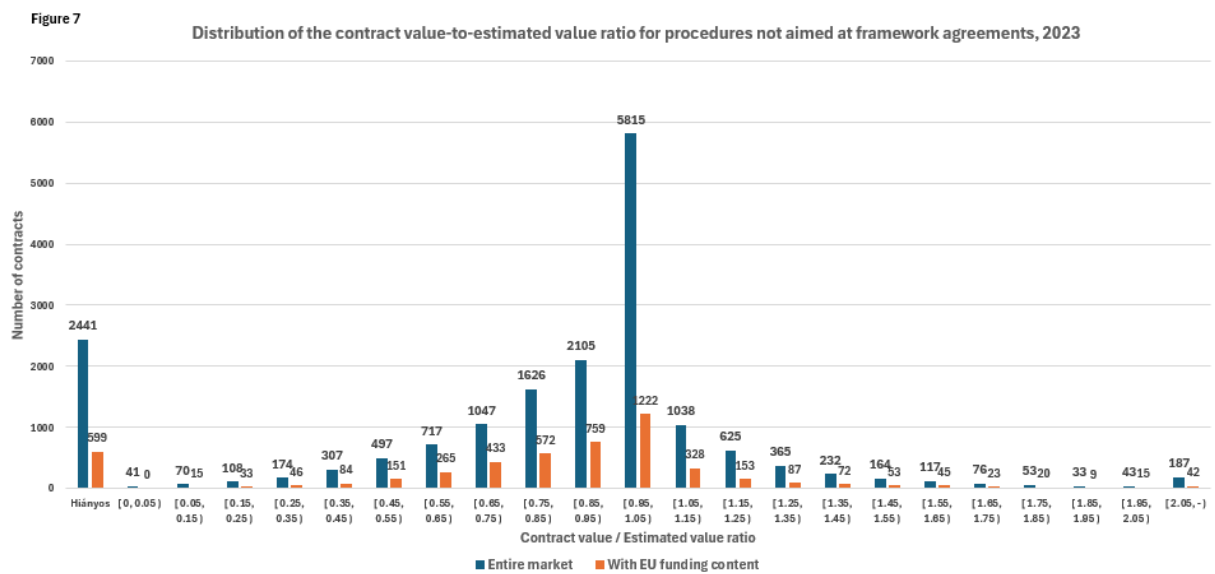
In a public procurement procedure, the basis for determining the estimated value is formed by market and other relevant information concerning the price of products and services. The ratio of the contract value to the estimated value theoretically indicates whether the contracting authority has succeeded in asserting its interest and, through market competition amongst tenderers, achieved savings compared to the realistically achievable price.

However, in current public procurement practice, there are a number of other factors that influence the ratio of contract value to estimated value. Considering this, it is not only a contract value higher than the estimated value that carries important information, but also, with particular significance, a contract value that is equal to or lower than the estimated value.

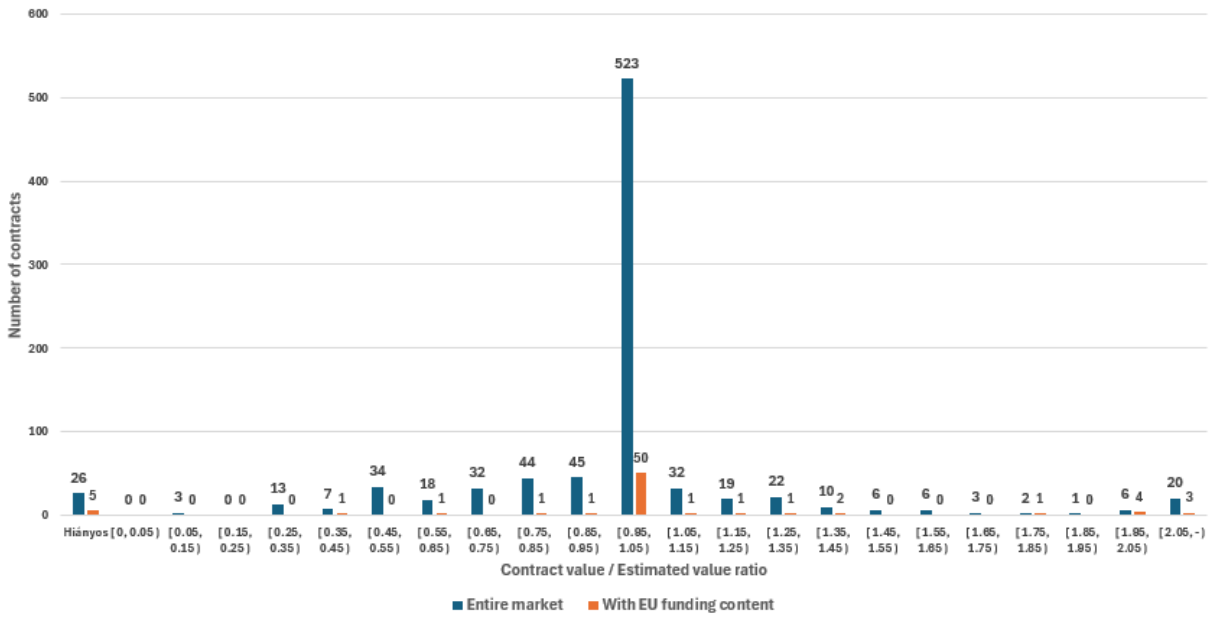
The analysis of the contract value/estimated value ratio was partly based on the EPPS Contract Award Notices database, supplemented by information from the so-

called Preparatory Files made available at the Authority's request. Using the database, we were able to identify about half of the estimated values of the contracts, which was supplemented to about 86% by the content of the Preparatory Files, and to 88% in the case of procedures involving EU funding (again, due to the differing structure of the data, full coverage could not be achieved.)

The histogram below shows the distribution of the contract value-to-estimated value ratio, and this time, separate charts are also provided for framework agreement procedures. Note that outliers (below 1/100 and above 100) have not been classified, and these are listed under the 'Incomplete' category.



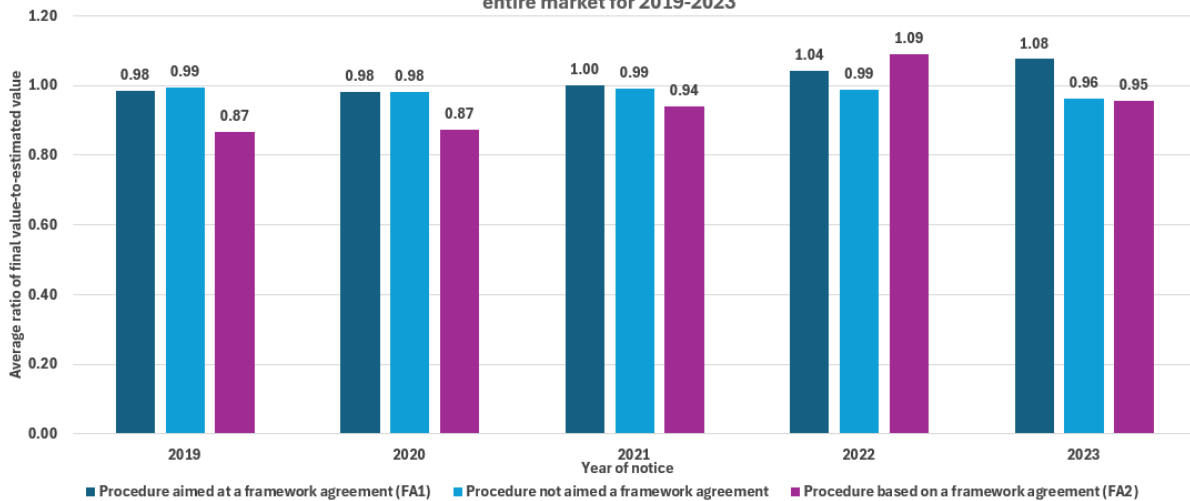
**Figure 8** Distribution of the contract value-to-estimated value ratio for framework agreement procedures (FA1), 2023



There is no significant difference in the structure of the histograms, but in both charts, there is a notable presence of contract values that are equal to or close to the estimated value.

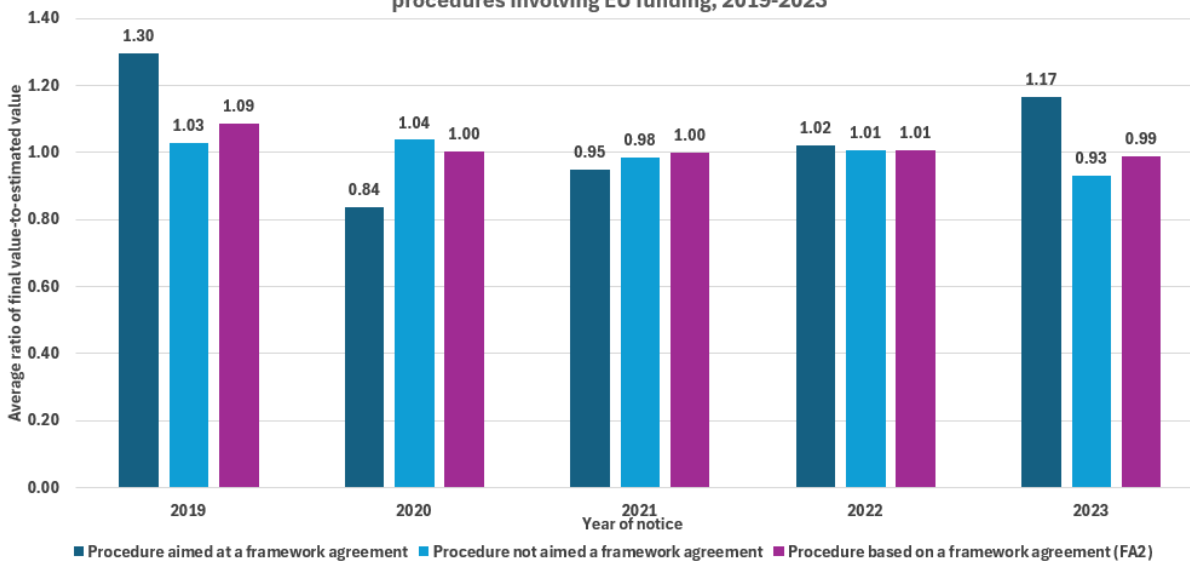
We have examined the average ratio from several perspectives (e.g. by CPV divisions, framework agreement procedures), and we observed a meaningful difference specifically in the case of framework agreement procedures, as shown in the charts below. A significant difference was found only among procedures not aimed at framework agreements on the entire public procurement market, in terms of data related to procedures initiated based on or not based on a framework agreement, with the exception of 2023. The time series of these data for the past five years is shown in the following graph.

**Figure 9** Average ratio of contract value-to-estimated value, by framework agreement status, entire market for 2019-2023



In the case of public procurement procedures involving EU funding, which are of lower scale compared to the total market, significant differences are only visible in the framework agreements (FA1) group, where the ratio of contract value to estimated value steadily increased between 2020 and 2023.

**Figure 10** Average ratio of contract value-to-estimated value, by framework agreement status, procedures involving EU funding, 2019-2023



However, across the market as a whole, significant discrepancies have been identified within procedures that are not aimed at framework agreements. It is clearly visible, that between 2019 and 2021 the ratio of contract value to estimated value in framework agreement-based procedures (FA2) was consistently lower than that of non-framework agreement-based procedures. The starting point of the FA2 procedures, i.e. that the contract value should not exceed the estimated value based on the framework agreement, has therefore been validated. In fact, in

a significant number of FA2 procedures, the tenderer made a more favourable offer compared to the framework agreement price.

In 2022, this situation changed, and the contract value in FA2 procedures became higher when considering the average ratio. The reason for this was that, due to the inflationary environment, it was no longer realistic to maintain the contract values fixed in the framework agreements. Higher contract values, if the contracting authority had the appropriate funding, were likely secured through special contractual clauses. In 2023, the contract value to estimated value ratio for FA2 procedures fell again (slightly) below that of non-framework agreement-based procedures.

It is also important to examine the high proportion of tender or contract values that are equal to or very close to the estimated value. This is a clear sign that the contracting authority has not succeeded in 'driving down' the contract price in these cases. The obvious reason for this in the case of FA2 procedures has been indicated above, but in the case of procedures not based on a framework agreement, this may be due to several factors. These include the possibility that the contracting authority discloses the estimated value in the call for tenders, thereby giving the tenderer access to this information. Furthermore, the alignment of these values could be facilitated by the fact that the contracting authority and the tenderer often use the same calculation software in public works procurement procedures. The use of the Hungarian State Treasury's Construction Standards Collection (ÉNGY) by beneficiaries of the Rural Development Programme when conducting public procurements may also have the same effect. In addition, based on the estimated value available to the contracting authority, it is also easy to calculate a tender price that is essentially equal to the estimated value by applying the quantitative parameters of the public procurement.

Further analysis of the relationship between the contract value and the estimated value, particularly with regard to the institution of preliminary market consultations, seems warranted.

## 5. Analysis of the asset declaration system

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In its previous reports<sup>76</sup> the Authority has already discussed in detail the strengths and weaknesses of the Hungarian asset declaration system and has made several recommendations for its development. In light of this, it is welcome that the NACS 2024–2025 action plan aims at reviewing and improving the asset declaration system in several areas (1.3, 1.4 and 1.5), including:

- (i) the establishment of the possibility of completing and managing asset declarations in electronic, digital form throughout the public sector;
- (ii) the examination of expanding the obligation to declare assets in respect of senior officials and certain key positions in public bodies; and
- (iii) the proposal for the introduction of an effective, proportionate, and deterrent system of administrative and criminal sanctions for material breaches of obligations subject to the asset declaration system.

Although the deadline for the latter was 30 April 2024, no proposals regarding the review of the sanction system have been published by the time of finalising this report.

However, in the Authority's view, the above-mentioned measures in the NACS 2024–2025 action plan do not provide a comprehensive and realistic solution to the current problems of the Hungarian national asset declaration system, as the substantive verification of asset declarations remains unresolved.

In line with the recommendations made in its previous reports, the Authority suggests the designation of a dedicated central independent supervisory body to carry out the verification tasks related to asset declarations. This body would examine the content of asset declarations using direct data connections and applying an annually reviewed and updated risk classification. Our detailed recommendations can be found in the previously referenced reports, as well as in the summary table in the annex.

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<sup>76</sup> 2022 Annual Analytical Integrity Report ([https://integritashatosag.hu/wp-content/uploads/2023/06/Integritas\\_Hatosag\\_Eves\\_Elemzo\\_Integritasjelentes\\_20220629.pdf](https://integritashatosag.hu/wp-content/uploads/2023/06/Integritas_Hatosag_Eves_Elemzo_Integritasjelentes_20220629.pdf)) and 2023 Case Report on Asset Declarations ([https://integritashatosag.hu/wp-content/uploads/2023/12/Integritas\\_Hatosag\\_Vagyonyilatkozatok\\_Eseti\\_Jelentes\\_2023-1.pdf](https://integritashatosag.hu/wp-content/uploads/2023/12/Integritas_Hatosag_Vagyonyilatkozatok_Eseti_Jelentes_2023-1.pdf))

# Annex no. 1 – Applicable legislation

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## **The Public Procurement Act and other related laws, public law regulatory instruments:**

Act CXLIII of 2015 on Public Procurement

Act XXX of 2016 on Procurement for Defense and Security Purposes

Government Decree no. 168/2004 (25 May) on the Centralised Public Procurement System and the Functions and Powers of the Central Purchasing Body

Government Decree no. 16/2012 (16 February) on the Specific Regulations for the Public Procurement of Medications and Medical Devices

Government Decree no. 109/2012 (1 June) on the Detailed Regulations for Procurements within the NATO Security Investment Program

Government Decree no. 317/2013 (28 August) on the Selection of the Public Service Provider and on the Waste Management Service Contract

Government Decree no. 307/2015 (27 October) on the Specific Regulations Relating to the Public Procurement of Contracting Entities Operating in the Utilities Sector

Government 308/2015 no. (27 October) on the Public Procurement Authority's Control of the Performance and Amendment of Public Contracts Concluded Based on Public Procurement Procedures

Government Decree no. 310/2015 (28 October) on the Rules Governing Design Competition Procedures

Government Decree no. 321/2015 (30 October) on the Way of Certifying Suitability and the Non-Existence of Exclusion Grounds as well as the Definition of Public Procurement Technical Specifications in Contract Award Procedures

Government Decree no. 322/2015 (30 October) on the Detailed Rules of Public Works Contracts and the Related Design and Engineering Services

Government Decree no. 323/2015 (30 October) on the Modification of Certain Government Decrees Relating to Public Procurement

Government Decree no. 226/2016 (29 July) on the Specification of the Detailed Parameters of Military Equipment and Services Subject to Act XXX of 2016 on Procurement for Defense and Security Purposes

Government Decree no. 424/2017 (19 December) on the Detailed Rules of Electronic Public Procurement

Government Decree no. 257/2018 (18 December) on the Activities of Accredited Public Procurement Consultants

Government Decree no. 301/2018 (27 December) on the National Council for Telecommunications and Information Technology, the Digital Government Agency Private Limited Company and the Centralized Public Procurement System for IT Procurements of the Government

Government Decree no. 162/2020 (30 April) on the Legal Status of the National Office of Communications and Government Procurement relating to Communications

Government Decree no. 676/2020 (28 December) on the Special Rules Applicable to Public Catering Procurement Procedures

Government Decree no. 396/2023 (24 August) on Government Procurement Relating to Training and Education

Decree no. 44/2015 (2 November) of the Minister of the Prime Minister's Office on the Rules of the Dispatch, Control and Publication of Public Procurement and Design Contest Notices, on Standard Forms and Their Certain Content Items and on the Annual Statistical Summary

Decree no. 45/2015 (2 November) of the Minister of the Prime Minister's Office on the Administrative Service Fee to be Paid for the Procedure of the Public Procurement Arbitration Board

Decree no. 19/2016 (14 September) of the Minister of Defence on contract notices applicable to defence and security procurement, on the rules for their dispatch and publication, on the models of assessment summaries, and on the annual statistical summary of procurements

Government Decision no. 1082/2024 (28 March) on the revision of the action plan for measures aiming to increase the level of competition in public procurement (2023–2026)



**Other applicable legal regulations, public law regulatory instruments:**

Act CLII of 2007 on Certain Obligations Related to Asset Declaration

Act CLXXXI of 2007 on the Transparency of Subsidies Awarded from Public Funds

Act CXXII of 2009 on the More Economical Operation of Publicly Owned Companies

Act CXXX of 2010 on Legislation

Act CXXXI of 2010 on Social Participation in the Preparation of Legislation

Act LXVI of 2011 on the State Audit Office of Hungary

Act CXII of 2011 on the Right to Informational Self-Determination and on the Freedom of Information

Act CLXXXIX of 2011 on Local Governments in Hungary

Act CXCV of 2011 on Public Finances

Act CXCIX of 2011 on Public Service Officials

Act I of 2012 on the Labour Code

Act XXXVI of 2012 on the National Assembly

Act C of 2012 on the Criminal Code (Criminal Code)

Act CL of 2016 on the Code of General Administrative Procedure

Act XC of 2017 on the Code of Criminal Procedure

Act CVII of 2019 on Bodies of Special Legal Status and on the Legal Status of their Employees

Act XXVII of 2022 on the Control of the Use of European Union Budget Funds

Act XLIV of 2022 on the Directorate-General for Audit of European Funds and Amending Certain Acts Adopted at the Request of the European Commission to Ensure the Successful Conclusion of the Conditionality Procedure

Act LXV of 2022 on the Procedure for Agricultural Support from the Common Agricultural Policy and the National Budget

Act LXIX of 2023 on the Order of State Public Works

Government Decree no. 293/2010 (22 December) on the designation of the police agency performing internal crime prevention and detection tasks and the detailed rules of the performance of such tasks, the lifestyle monitoring and integrity checks

Government Decree no. 355/2011 (30 December) on the Government Control Office

Government Decree no. 370/2011 (31 December) on the Internal Control System and Internal Audit of Budgetary Bodies

Government Decree no. 50/2013 (25 February) on the System of Integrity Management at Public Administration Bodies and the Procedural Rules of Receiving Lobbyists

Government Decree no. 60/2014 (6 March) on the Central Monitoring and Registration of Development Projects Financed from Aid

Government Decree no. 255/2014 (10 October) on State Aid Rules Concerning the Financial Resources Allocated to the 2014–2020 Programming Period under EU Competition Law

Government Decree no. 272/2014 (5 November) on the Rules Governing the Use of Grants from Certain European Union Funds in the 2014–2020 Programming Period

Government Decree no. 75/2016 (5 April) on the Use of Resources of Connecting Europe Facility

Government Decree no. 339/2019 (23 December) on the Internal Control System of Publicly Owned Companies

Government Decree no. 258/2021 (20 May) on State Aid Rules Concerning the Financial Resources Allocated to the 2021–2027 Programming Period under EU Competition Law

Government Decree no. 256/2021 (18 May) on the Rules Governing the Use of Grants from Certain European Union Funds in the 2021–2027 Programming Period

Government Decree no. 373/2022. (30 September) on the Basic Rules and Responsible Institutions for the Implementation of Hungary's Recovery and Resilience Plan

Government Decree no. 590/2022 (28 December) on the regulation of the use of chapter and centrally managed appropriations under the chapter of Union developments

Government Decree no. 601/2022 (28 December) on the organisation and institutions for the implementation of the Common Agricultural Policy and agricultural subsidies from the national budget

Government Decision no. 1328/2020 (19 June) on the Adoption of the Medium-Term National Anti-Corruption Strategy for 2020–2022 and the Related Action Plan

Government Decision no. 1025/2024 (14 February) on the adoption of the Medium-Term National Anti-Corruption Strategy for 2024–2025 and the Action Plan for its implementation

**European Union directives and regulations:**

Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law

Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law

Regulation (EU) 2020/2092 of the European Parliament and of the Council on a general regime of conditionality for the protection of the Union budget

Regulation (EU) No 1300/2013 of the European Parliament and of the Council on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006

Regulation (EU) No 1301/2013 of the European Parliament and of the Council on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006

Regulation (EU) 2021/1058 of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund

Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund and repealing Council Regulation (EC) No 1081/2006

Regulation (EU) 2021/1057 of the European Parliament and of the Council establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013

Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural

Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

Regulation (EU) 2021/1060 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

Regulation (EU) 2021/1058 of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund

Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC

Directive 2014/25/EU of the European Parliament and of the Council of on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/E

Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

Council Implementing Decision – Proposal on the approval of the assessment of the recovery and resilience plan for Hungary {SWD(2022) 686 final}

Commission Notice – Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01

Commission Decision on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement (C(2019) 3452 final, 14 May 2019)

## Annex no. 2 – Summary of Proposals and Recommendations

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| No. | Integrity Report Chapter                                   | Area  | Proposals and Recommendations  |
|-----|--|---|--|
| 1.  | 2. Assessment of the Audit System for European Union Funds | Expansion of the scope of data to be sent to the ARACHNE risk scoring tool  | <p>The scope of data to be submitted to the Arachne Risk Scoring Tool – following its introduction in 2022 – was expanded in 2023 to include the fact of contract amendments, the amount and number of contract amendments, the number of service providers, consortium partners, and valid offers. Additionally, for financing-related data, it now includes the type of cost and the date of invoice settlement.</p> <p>The fact that a contract amendment has been made becomes a real risk indicator when the number, subject, and justification of the amendments are also disclosed and thus subject to scrutiny.</p> <p>With regard to the number of valid tenders, examining their amounts, dates and subjects can also provide essential complementary information, which in the course of analysis may also be connected to the type of the cost included in the funding data.</p> |
| 2.  |  | Inclusion of planning-related activities in government decrees <sup>77</sup> and linking them to conflict-of-interest rules | Within the Hungarian national allocation system for EU funds, in relation to calls for tenders drafted within particular programmes, the planning (policy assessment) function holds similar significance in relation to tasks carried out within the confines of decision preparation, contract management, funding, oversight, irregularity, and maintenance.  |
| 3.  |  | Inclusion of pre-qualification activities in government decrees and linking them to conflict-of-interest rules              | Within the Hungarian national allocation system of European Union funds, the pre-qualification (a kind of pre-evaluation) phase performed for individual projects plays a similar role to activities related to decision preparation, contract management, funding, monitoring, irregularities, and maintenance.   |

<sup>77</sup> Government Decree no. 272/2014 (5 November) and Government Decree no. 256/2021 (18 May)

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|     |                          |   | For a given project, it is also necessary for individuals performing tasks in the pre-qualification phase to submit conflict-of-interest declarations, and in the same context, to examine the existence of any potential conflict-of-interest situations.   |
| 4.  |                          | Commission Notice 2021/C 121/01 6.4. Incorporation of the risk indicators listed in the 'Other Measures' section into government decrees <sup>78</sup> regarding contractor independence                        | In addition to the legal provisions of point b) of section 38/B and section 39(8) of Government Decree no. 272/2014 (5 November), as well as point b) of section 43/A and section 52/A(6) of Government Decree no. 256/2021 (18 May), the legislator should consider incorporating the referenced periodical legal provisions into the aforementioned regulations, particularly those related to sections 2.3.2.5 and 2.3.2.5b of Annex 5 to Government Decree no. 272/2014 (5 November), and sections 2.3.2.4 and 2.3.2.8 of the Accounting Instructions, as well as section 215(2)b) of Government Decree no. 256/2021 (18 May), in order to ensure that the rules regarding independence are interpreted together with the risk indicators outlined in the Commission Notice. |
| 5.  |                          | Commission Notice 2021/C 121/01 6.4. Incorporation of the risk indicators listed in the 'Other Measures' section into the monitoring practices of the managing authority with regard to contractor independence | To achieve a higher success rate in detecting fraudulent projects, we recommend reducing the number of pre-announced on-site audits and increasing the proportion of extraordinary audits.   |
| 6.  |                          | Centralised public procurement  | The Authority continues to advocate for the development of methods and standards that enable the objective assessment of prices achieved under centralised public procurement, as well as the evaluation of their cost-effectiveness.  |
| 7.  |                          | Centralised public procurement  | The Authority recommends the development of a system for measuring user feedback in order to improve the effectiveness of the centralised public procurement system.   |

<sup>78</sup> Government Decree no. 272/2014 (5 November) and Government Decree no. 256/2021 (18 May) / Accounting Instructions

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| 8.  | 3. Evaluation of the effectiveness of public procurement rules | Centralised public procurement | The market for centralised public procurement is fragmented, with data held in several places across multiple larger subsystems. The Authority recommends conducting an analysis to determine how to ensure the availability of the data in one place and its automatic integration with the data recorded in the EPPS.  |
| 9.  |  | Centralised public procurement | For the centralised product categories, the Authority proposes conducting targeted impact assessments to analyse the effectiveness of centralised public procurement, taking into account the experiences of the relevant institutions and presenting both the benefits and drawbacks.   |
| 10. |  | Centralised public procurement | The Authority recommends the elimination of the mandatory participation requirement in centralised public procurement procedures, regardless of the value threshold, while also enhancing the monitoring of compliance with the aggregation obligation.  |
| 11. |  | Dynamic procurement            | The Authority recommends surveying practical experiences related to the use of dynamic procurement systems, raising awareness of the use of this legal instrument amongst contracting authorities and tenderers alike, and, as part of this, the targeted development of the electronic public procurement system.   |
| 12. |  | Centralised public procurement | The Authority recommends reviewing the justification for maintaining so-called mixed-model framework agreements that allow both direct ordering and reopening of competition. The Authority also recommends analysing and reviewing the justification of the practice followed by central purchasing bodies, which allows for the conclusion of framework contracts based on framework agreements – without a specific order being placed. |
| 13. |  | Centralised public procurement | The Authority recommends reviewing the regulatory framework for central purchasing bodies in a way that shifts the practice of framework agreements towards genuine competitive tendering.   |

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| 14. |                          | Low level of competition in public procurement procedures | <p>The Authority proposes that, in 2024, the Performance Measurement Framework should examine, collectively and in context</p> <ul style="list-style-type: none"> <li>• the number of expressions of interest received for single or double bid procedures,</li> <li>• whether additional requests for information were made for single or double bid procedures, or if preliminary dispute resolution was initiated, and whether this concerned the restrictive nature of the technical specifications or other requirements of the procurement procedure,</li> <li>• whether the preliminary dispute resolution was successful,</li> <li>• finally, the number of tenders submitted in the procedure. (Chapter 3.5)</li> </ul>  |
| 15. |                          | Low level of competition in public procurement procedures | <p>The Authority recommends further analysis to understand the reasons behind the significant differences in market behaviour regarding single bid procedures, depending on the funding source. The Authority also suggests that the solutions (including, where appropriate, stricter controls) that lead to greater competition in the case of EU funds should also be applied to domestic funds. The Authority recommends a focused examination to verify whether the more favorable values are indeed the result of competitive tenders, and (at least in part) not merely due to the practice of ‘supporting bids’. (Chapter 3.5.2.)</p>   |
| 16. |                          | Low level of competition in public procurement procedures | <p>Further analysis is required to assess the impact of the legal amendments implemented in 2023 regarding the institution of preliminary market consultation on competition – specifically, setting a minimum deadline for participation in preliminary market consultations, extending the minimum duration of the consultations, expanding the scope of information to be disclosed, and imposing a stricter obligation on contracting authorities to justify their decisions.</p> <p>The Authority recommends that, in addition to analysing the impact of the action plan for measures aiming to increase the level of competition in public procurement (2023–2026) outlined in section 7(c) of Government Decision no. 1082/2024 (28 March), which are based on section 5 of Government Decree no. 63/2022 (28 February), on single bid public procurement procedures, the effectiveness of the additional</p> |



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|     |                          |   | measures introduced to address the issue of single bid procedures (in particular, preliminary market consultation) be analysed in 2024. (Chapter 3.5.5.)  |
| 17. |                          | Low level of competition in public procurement procedures | In order to discourage the practice of 'supporting bids', the Authority proposes that the possibility of reverse evaluation in double or triple bid public procurement procedures be excluded, at least temporarily, by the PPA and that any failure to signal to the HCA be subject to increased scrutiny by the control bodies. (Chapter 3.5.2.)  |
| 18. |                          | Low level of competition in public procurement procedures | To increase the number of effective indications, as defined under section 36(2) of the PPA, the Authority recommends creating and sharing document templates, as well as publishing information on decisions related to public procurement cartels on the Public Procurement Authority's website. (Chapter 3.5.2.)  |
| 19. |                          | Low level of competition in public procurement procedures | The Authority recommends that the methodology documents related to ensuring partial tendering be published on the Public Procurement Authority's website, along with the information that the provisions contained therein are also applicable to public procurement procedures financed with domestic funding. (Chapter 3.5.1.)  |
| 20. |                          | Low level of competition in public procurement procedures | The Authority recommends that the Framework examine in more detail the typical errors found in tenders declared invalid under section 73(1)e) of the PPA, in order to identify further measures that could help ensure that valid tenders are made, which may, if necessary, involve expanding the functions of the EPPS. (Chapter 3.5.3.)  |
| 21. |                          | Low level of competition in public procurement procedures | Given the potentially competition-restricting nature of the contract award and performance conditions, the Authority recommends that the Public Procurement Authority, as well as other supervisory bodies, increase their monitoring of these conditions, in addition to the eligibility requirements. In this regard, it is also justified to strengthen monitoring during the contract performance period to ensure that contracting authorities only establish warranted and consistently enforced requirements related to contract performance. (Chapter 3.5.4.) |

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| 22. |                          | Low level of competition in public procurement procedures  | The Authority considers it important to provide practical, free training specifically aimed at assisting with the use of the EPPS for tenderers in public procurement procedures, as well as for economic operators interested in public procurement procedures. The Authority also recommends the creation of a freely and continuously accessible EPPS practice platform. (Chapter 3.5.6.)  |
| 23. |                          | Low level of competition in public procurement procedures  | No data is available on public procurements excluded from the scope of the PPA due to emergency regulations or exceptions under the Act. In order to ensure that comprehensive information is available on publicly announced public procurements, the Authority recommends that the Performance Measurement Framework also examine the scale of procurements excluded from the scope of the PPA. (Chapter 3.5.7.)  |
| 24. |                          | Low level of competition in public procurement procedures  | The Authority recommends that the supervisory bodies specifically conduct procurement targeted reviews and, in the course of these reviews, give special attention to investigating the unlawful disregard of public procurement. (Chapter 3.5.7.)  |
| 25. |                          | Low level of competition in public procurement procedures  | Based on its experience with the use of grants, the Authority sees merit in bringing procurements financed by EU and Hungarian national funds back under the scope of the PPA, applying Hungarian national procedural rules once a specified support threshold is reached. The Authority also recommends the preparation and publication of a methodological document clarifying the public procurement implications of Corporate Tax Donation (TAO) grants. (Chapter 3.5.7.)                                       |
| 26. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | Following an examination of the cost implications of the planned and proposed developments, the Authority recommends improving the EPPS as soon as possible to enable economic operators who have expressed interest in procurements under specific CPV codes to automatically receive notifications about preliminary market consultations and subsequent public procurement procedures related to those CPV codes. The proposed development could significantly increase the level of competition. (Chapter 3.6.) |

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| 27. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | The Authority recommends that economic operators registered in the EPPS be directly notified by the EPPS about system developments that may support their more effective participation in public procurement procedures. (Chapter 3.6.)   |
| 28. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | The Authority recommends that communications and methodological materials issued by the Minister responsible for public procurement should not be published exclusively in the News section of the EPPS, but also in a separate submenu. (Chapter 3.6.)   |
| 29. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | To increase the level of competition, the Authority recommends developing a feature in the EPPS – if possible, as a priority – that makes the current ('open') Dynamic Procurement Systems (DPS) specifically visible to economic operators. This would support later participation in DPSs and, in turn, increase the number of economic operators involved in them. (Chapter 3.6.)  |
| 30. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | The Authority recommends empowering the tenderer to decide whether to exercise the right to inspect documents in person or through an electronic public procurement system (such as the EPPS), and to amend the provisions of the PPA and Government Decree no. 424/2017 (19 December) accordingly. (Chapter 3.6.)  |
| 31. |                          | Proposals for improvements to the EPPS to increase the level of competition and transparency of the system | The Authority recommends the implementation/activation of an EPPS feature that automatically transfers previously submitted content from earlier tenders – both in terms of the registration of the economic operator's data and the forms (excluding the fiche) as well as the ESPD (European Single Procurement Document) –, thus reducing the administrative burden, the possibility of errors, and the costs associated with submitting tenders. (Chapter 3.6.) |
| 32. |                          | High proportion of unsuccessful and conditional public procurement procedures, duration of procedures      | In the Authority's view, it is extremely important to increase the proportion of successful public procurement procedures, which requires proper preparation of the procedures – including the definition and securing of financial frameworks, as well as the clear definition of the subject matter of the procurement and the proportional design of the contractual terms. (Chapter 3.7.1.)   |

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| 33. |                          | High proportion of unsuccessful and conditional public procurement procedures, duration of procedures | <p>The Authority continues to consider it warranted to clarify the regulatory provisions related to conditional public procurement, at a minimum by establishing that:</p> <ul style="list-style-type: none"> <li>• a public procurement procedure cannot be initiated before the submission of the grant application, and</li> <li>• considering the realities of the economic environment, a significantly shorter deadline (maximum 90 days) for the entry into force should be set, compared to current practice. (Chapter 3.7.2.)</li> </ul>  |
| 34. |                          | High proportion of unsuccessful and conditional public procurement procedures, duration of procedures | <p>To allow tenderers to submit tenders under more predictable conditions, the Authority continues to consider it justified to establish a maximum evaluation deadline in the PPA, differentiated by procedure type and procurement process. Exceptions may be allowed in specific cases, subject to conditions. Such a differentiated approach could contribute to achieving the goal referenced in the Government's response to the previous year's Integrity Report, namely, to prevent contracting authorities from abusing the extension of the evaluation period. (Chapter 3.7.3.)</p>   |
| 35. |                          | Discontinuing procedure type under section 115 of the PPA   | <p>The Authority continues to consider it a priority to abolish the procedure type referred to in section 115 of the PPA in order to enhance the integrity of public procurement. In the Authority's view, it is not justified for national public procurement procedures to apply a different approach from that used for EU-funded projects; the concerns raised in the case of EU funds are equally relevant for domestic funding. Given that procedures under section 115 of the PPA can only apply to public works projects, the Authority believes it is important to examine the significance and impact of this procedure type within the context of public works projects. The application of procedures under section 115 of the PPA also leads to a higher risk of irregular solutions in terms of the application of the prohibition of demolition by instalments (the procedure can only be tendered up to a net threshold of HUF 300 million). It is also worrying that there is practically no control in these procedures (in contrast to other procedures without prior publication of a contract notice). (Chapter 3.7.4.)</p> |

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| 36. |                          | Preliminary dispute resolution  | <p>In the Authority's opinion, it could increase the significance of preliminary dispute resolution and the willingness of contracting authorities to cooperate if the PPA made it obligatory to impose fines also in cases where the contracting authority fails to respond completely or within the specified time frame to the request for preliminary dispute resolution, or if it submits its position on the infringement but does not take any other action, and the economic operator that is initiating preliminary dispute resolution in connection with the illegality serving as the basis for the dispute resolution request turns to the Arbitration Committee, which subsequently confirms the infringement. The Authority recommends reviewing the regulations in respect of the previous points as well. (Chapter 3.8.1.)</p>   |
| 37. |                          | <p>Legal remedy before the Public Procurement Arbitration Board</p> <p>Setting the administrative service fee</p> | <p>In regard to the determination of administrative service fees, the Authority proposes the following amendments:</p> <ol style="list-style-type: none"> <li>1. The Authority recommends analysing the impact of the fee reduction introduced by the 2023 amendment to the PPA on applications for review, based on data from 2024.</li> <li>2. As the fees remain high, the Authority recommends introducing a differentiated regime that, at the most, applies a minimum fee before the tender/participation deadline in the event of a challenge to public procurement documents within the prescribed period.</li> <li>3. In cases involving illegalities beyond those mentioned in subpoint 2, the Authority considers it warranted to further reduce legal fees, for example, in line with the tiered tariffs defined in Austria, while also seeing merit in considering the setting of a fixed fee.</li> <li>3. As the tasks carried out by the Public Procurement Arbitration Board do not differ depending on the estimated value of the public procurement, it is warranted to make the amount of the administrative service fee independent from the procurement's estimated value.</li> </ol> |

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|     |                          |      | <p>4. The Authority continues to propose the abolition of the regulation depending on the number of application elements. However, the current approach could potentially be sustainable with the following two guarantee changes:</p> <ul style="list-style-type: none"> <li>• on the one hand, it is warranted to increase the number of application elements in the 'basic' category to five elements; many applicants are prevented by the three elements from identifying further relevant violations,</li> <li>• on the other hand, it is warranted to clarify in the interpretative provision on the element of application in the PPA, but at least to stipulate in a general council's decision that violations alleged in connection with the same act of assessment (e.g. the assessment of an disproportionately low price) constitute one application element (irrespective of the number of grounds on which the applicant claims that the act of assessment is unlawful).</li> </ul> <p>If the contracting authority has ensured tendering for parts in the procedure, and if the identical regulations, regarded as unlawful, in contract notices initiating public procurement procedures and related procurement documents have been prescribed in identical terms for all or several parts, the Authority maintains it is unwarranted to charge legal fees multiple times for applications for review intended to challenge the regulations concerning all contested parts.</p> <p>The Authority also proposes to set out a specific rule for framework agreements, dynamic procurement systems, and framework contracts (both for the documents initiating the procedure and for legal remedies against violations during the evaluation and assessment) that the basis for the legal fee should not be the estimated value provided by the contracting authority but only the value subject to the obligation to call down/provide the service (and indicated as such in the call for tenders) (if this is not indicated in the calls for tenders, only the basic fixed fee should be applied).</p> <p>7. According to the Public Procurement Arbitration Board, chambers and advocacy groups have not submitted an application for review procedure since 2019, including the year 2023. As there is no interpretative provision in the PPA regarding the term advocacy groups, it would be advisable to define it in</p> |

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|     |                          |  | such a way as to ensure CSOs' right to legal remedy. Section 150(2) of the PPA only exempts chambers from the obligation to pay the administrative service fee. The Authority proposes expanding this exemption to advocacy groups and CSOs (we believe that the budgetary impact would be minimal, and so the measure would not jeopardise the balance of the budget). (Chapter 3.8.2.)   |
| 38. |                          | Legal remedy before the Procurement Arbitration Board Hearings                             | Public The Authority proposes to stipulate in the PPA that, in line with the previous regulation, if the applicant or initiator requested a hearing, the Arbitration Board would be bound to hold one. In other cases, it would be possible to maintain the current regulatory approach: that is, to leave it to the discretion of the Arbitration Board to decide whether it is warranted to call a hearing. (Chapter 3.8.2.)                             |
| 39. |                          | Legal remedy before the Procurement Arbitration Board Representation in remedy proceedings | Public The Authority recommends the expedited extension of the scope of individuals entitled to provide representation at least to accredited public procurement consultants, public procurement lawyers, and other professionals with a higher education degree or professional qualification in public procurement, who may not hold a degree in law (including, for example, public procurement officers and procurement specialists). (Chapter 3.8.2.) |
| 40. |                          | Legal remedy before the Procurement Arbitration Board Imposition of penalties              | Public It is advisable to review the legal provisions on fines for priority infringements and to return to the regulatory approach of minimum rather than maximum penalties. (Chapter 3.8.2.)  |
| 41. |                          | Legal remedy before the Procurement Arbitration Board Imposition of penalties              | Public It is advisable to review the legal provisions on fines for priority infringements and to return to the regulatory approach of minimum rather than maximum penalties. The Authority recommends that the Public Procurement Arbitration Board publish a prospectus setting out the principles on the imposition of penalties. (Chapter 3.8.2.)   |
| 42. |                          | Legal remedy before the Procurement Arbitration Board                                      | Public 1. The Authority upholds its proposal for improving the searchability of the decisions of the Public Procurement Arbitration Board in order to enable reliable searches for certain attributes of decisions and judgements (subject matter, violated legal provisions, etc.). In 2023, the Captcha application was added to   |

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|     |                          | Availability and searchability of the decisions of the Public Procurement Arbitration Board     | <p>the search interface of the Public Procurement Arbitration Board's decisions too, making it difficult to gain access to the decisions. The Authority recommends the application of other, less restrictive solutions, which can also help reduce information security risks.</p> <p>2. The Authority recommends that violated or investigated legal provisions be designated on the data sheets published in connection with the search interface of public procurement remedy proceedings, facilitating efficient searching through decisions. Making it easier to review the emerging legal practice in the decisions could, on the one hand, promote law-abiding behaviour and, on the other hand, further strengthen trust in remedies forums. (Chapter 3.8.2.)</p> |
| 43. |                          | Legal remedy before the Public Procurement Arbitration Board<br>Decision of the general council | The Authority recommends modifying the rules in a way that the Public Procurement Arbitration Board's position is the sole prevailing one in the decisions of the general council. (Chapter 3.8.2.)  |
| 44. |                          | Judicial review   | The Authority recommends that the judicial review allows for the option to request the suspension of the ongoing public procurement procedure and seek an appeal against the court's decision related to this matter. (Chapter 3.8.3.)   |
| 45. |                          | Judicial review   | It is warranted to create a separate database on the Public Procurement Authority's website (the Authority's suggestions for improving the search interface for arbitration decisions also apply to the related search interface). (Chapter 3.8.3.)  |
| 46. |                          | Judicial review   | According to the information received, committees that are not specialised in public procurement are involved in the review of public procurement cases in the courts. In this respect, the Authority recommends exploring if specialised councils could facilitate a quicker conclusion to legal proceedings. (Chapter 3.8.3.)  |
| 46. |                          | Risk associated with transforming the public procurement profession                             | <p>Following adequate assessment and preparation, the Authority proposes to:</p> <ol style="list-style-type: none"> <li>1. transform the institution of accredited public procurement consultants instead of discontinuing it;</li> </ol>  |



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|     |                          |   | <ol style="list-style-type: none"> <li>2. review the legislative amendments relating to the abolition of the institution of accredited public procurement consultants;</li> <li>3. support the professionalisation of the public procurement profession;</li> <li>4. expand the circle of experts authorised to carry out expert activities, while amending the regulations concerning the required practice and upholding training and advance training obligations; and</li> <li>5. investigate whether it is warranted, and if so, in which cases it is warranted, to require the involvement of an expert independent of the contracting authority in public procurement procedures to ensure public procurement expertise. (Chapter 3.9.)</li> </ol>  |
| 48. |                          | Applying conflict of interest rules   | <ol style="list-style-type: none"> <li>1. The Authority continues to consider it necessary to amend the provisions of the PPA in order to clarify the obligations. The Authority does not propose the legal codification of all possible and accepted methods for verifying conflict-of-interest declarations, but rather the clarification of the obligation to conduct such checks, and considers it necessary to list the solutions that are deemed particularly appropriate, as outlined in the ministerial motivations for the November 2022 amendment to the PPA.</li> <li>2. The Authority continues to attach high priority to providing training on conflict of interest issues with a practical approach.</li> <li>3. In view of the significance of conflict of interest regulations, the Authority recommends supplementing the list of priority infringements under section 137(1) of the PPA with the cases of violation of conflict of interest rules. (Chapter 3.10.)</li> </ol> |
| 49. |                          | Practical trends jeopardising the effective and responsible use of public funds | <p>Fixing the tender price, or some of its elements, at fixed value: The Authority considers that if the contracting authority excludes price competition entirely or to a significant extent from the public procurement procedure without appropriate justification, it violates the principle of the responsible use of public funds. In light of this, the Authority recommends amending the provision under section 76(4) of the PPA, or at least, the exclusion of its application in the case of procurements using European Union funds. (3.12.1.)</p>   |

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| 50. |                          | Practical trends jeopardising the effective and responsible use of public funds | Setting a maximum tender price, or a maximum tender price that may be offered for each element of the tender: On the one hand, capping the tender price or some of its elements can have a price-inflating effect as well (since it reveals to the tenderers the tender price which the contracting authority considers reasonable and for which the contracting authority ideally has already set the financial coverage). On the other hand, if the contracting authority sets an unrealistically low price, it could render the contract awarded at that price unfeasible. The Authority recommends monitoring the legal practice forming in connection to the amended legal regulations. (3.12.2.)  |
| 51. |                          | Practical trends jeopardising the effective and responsible use of public funds | Classifying priced bill of quantities including unit prices as trade secrets in procedures involving framework agreements and in the case of framework contracts: Since, in the case of framework agreement procedures and framework contracts – where specific quantities are not provided – tenderers do not submit a tender price in the traditional sense (as they would, for instance, in the case of a lump-sum contract), but rather compete on the basis of unit prices, which the contracting authority typically aggregates to determine the ranking of the tenders, the Authority recommends clarifying that, in these cases, even if the unit prices are not included on the fiche, they constitute offers that cannot be classified as trade secrets. (3.12.3.)  |
| 52. |                          | Reviewing certain exclusion grounds   | The practice of applying exclusion grounds regarding material breach of contract: Given that, in line with current practice, the tenderer can be exempted from the legal consequences of a material breach of contract announced by the contracting authority through a formal declaration – where the tenderer only need to state that they dispute the fact of the breach – the exclusion ground, in its current form, is unable to serve its intended purpose. The root of the problem is that the economic operators concerned are not even listed in the referenced official registry. For the proper application of the exclusion ground under section 63(1)c) of the PPA, we continue to consider it important to review the regulations based on consultations with the relevant parties and take necessary measures on this basis. (3.13.1.) |
| 53. |                          | Reviewing certain exclusion grounds   | Specification and expansion of grounds for exclusion concerning offshore:<br>1. The beneficial owner is not disclosed in public procurement procedures involving cases of trust.  |

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|     |                          |  | <p>2. The PPA does not include provisions regarding the disclosure of the beneficial owner of private equity funds either. Considering the significance of assets managed in private equity funds, the Authority considers it appropriate to extend the legislative requirements for identifying the beneficial owner to include private equity funds.</p> <p>3. It also needs to be considered whether the regulation needs to be supplemented in relation to preference shares, in light of the referenced provisions of the Fundamental Law.</p> <p>The Authority recommends amending the provisions of the PPA in relation to the issues listed in points 1 to 3. (3.13.2.)</p>  |
| 54. |                          | Managing disproportionately low prices | <p>The Authority recommends closely monitoring whether the issuance of guidelines proves to be an effective tool in correcting legal practices that deviate from regulatory objectives.</p> <p>In addition, the Authority continues to maintain the following recommendations from its 2022 report (which were not explicitly addressed in the Government’s response from the previous year):</p> <ol style="list-style-type: none"> <li>1. it is warranted to issue supporting materials for all types of public procurement – with a level of detail similar to that previously used in the cleaning and security sector – which allow tenderers to familiarise themselves with relevant cost elements for disproportionately low prices, as well as their generally accepted percentage ratios and amounts, prior to submitting tenders, thus ensuring that tenders submitted in public procurement procedures are already in line with these considerations.</li> <li>2. The publication of templates for contracting authorities’ requests for justification and supplementary price justification requests in relation to disproportionately low prices, to facilitate the examination of price justifications. (3.14.)</li> </ol> |
| 55. | Asset declaration system | Electronic declaration system          | <p>Currently, Hungary still has a paper-based asset declaration system in place, and only declarations from Members of Parliament and politically appointed senior officials are digitised after submission and published as searchable PDF files, primarily on the parliament’s website. There is also an option to fill out</p>  |

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|     |                          |      | <p>and submit the forms electronically, but this process does not take place through a dedicated electronic platform, system, or database.</p> <p>The Authority recommends the development of an electronic declaration system for the entire public sector, where:</p> <ul style="list-style-type: none"> <li>- All persons obligated to submit declarations must complete the unified form via the electronic platform at regular intervals (upon taking and leaving office, and annually while in position).</li> <li>- The otherwise time-consuming, cumbersome, and error-prone reporting process can be facilitated and accelerated through automatic pre-filling, enabled by direct data links with external databases. The declarants will only need to fill in missing information, verify pre-filled data, make corrections where necessary, and then approve the submission.</li> <li>- All declarations will be automatically retained until the person's tenure in the relevant position ends, as well as until the statute of limitations expires.</li> <li>- Unified, centralised, and as automated (and depersonalised) as possible monitoring, managed by a designated inspection body, which will have unlimited access to all declarations.</li> <li>- Ensuring a consistent and enforced verification methodology, where (i) the risk classification of positions and job roles will ensure that the frequency and depth of asset declaration checks are proportional to the risk level of the positions involved, (ii) high-risk events (e.g. opening, changing, or closing a high-risk position) will trigger automatic checks, (iii) direct data links play a crucial role not only in automatic filling but also in subsequent automatic audits, and (iv) the system will flag any unexplained asset accumulation in case of discrepancies that cannot be justified by income.</li> <li>- By regulating access rights to the electronic system, appropriate levels of access and information can be provided to the public (e.g. declarations of close relatives will be visible only to the inspection body).</li> </ul> |

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|     |                          |  | <p>- The electronic declaration system can handle asset declarations and conflict-of-interest declarations in a standardised manner.</p>   |
| 56  |                          | Sanctions                                | <p>The sanctions for violating asset declaration obligations are not adequately deterrent, efficient, or proportionate. The Authority recommends strengthening the legal consequences for breaching the obligation to declare assets in order to ensure that the sanctions imposed are truly deterrent, effective and proportionate.</p> <p>The Authority recommends that the sanctions applied be diversified, proportional to the violation, and that the legislation explicitly define the sanctions for failing to comply with the obligations related to declarations, at least for the following cases: (i) failure to submit a declaration, (ii) delayed submission, (iii) incomplete declaration, (iv) false information.</p> <p>The Authority suggests that the dedicated inspection body be authorised to impose fines in the case of minor violations (e.g. delayed submission, incomplete declarations, or total failure to submit a declaration), while more serious violations (e.g. false information or failure to submit a declaration despite multiple reminders) should lead to legal consequences through a court procedure.</p> |
| 57  |                          | Investigation of asset growth            | <p>In Hungary, asset accumulation investigations are not applied in the context of corruption offences (Chapter XXVII of the Criminal Code), except in certain exceptional cases. As the scope for the imposition of asset accumulation investigations is relatively limited under the current regulatory framework, their impact on the fight against corruption is currently minimal.</p> <p>The Authority recommends extending the current scope of asset accumulation investigations to include suspected commission of corruption-related crimes regulated in Chapter XXVII of the Criminal Code.</p>   |
| 58  |                          | Establishing a dedicated inspection body | <p>In Hungary, the verification process of asset declarations is highly fragmented. At present, neither the National Tax and Customs Administration (NTCA), nor the police, nor the public prosecutor's office have the power to carry out automatic and centralised checks of asset declarations.</p>   |

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|     |                          |                       | <p>Non-public asset declarations are handled, recorded and possibly controlled by the custodian (typically the employer). For members of parliament, these tasks are handled by the Immunity Committee, while for local government representatives, they are carried out by a committee designated in the municipal bylaws.</p> <p>In practice, this means that, at present, hundreds of 'registration and control bodies' operate in parallel, but independent from each other in Hungary.</p> <p>The Authority recommends (i) the designation of a dedicated central independent inspection body (or bodies) to carry out the inspection tasks related to asset declarations, and (ii) the organisational separation of the functions of management and monitoring of the declarations. <sup>3</sup>This could be easily implemented in the electronic declaration system outlined in Recommendation no. 55, with appropriate rights of access granted.</p>   |
| 59  |                          | Oversight and control | <p>In the current regulatory environment, there is no provision for the automatic comparison of asset declarations with external databases.</p> <p>The Authority recommends that the dedicated inspection body mentioned in Recommendation no. 58 examine the contents of asset declarations using at least the following data links:</p> <ul style="list-style-type: none"> <li>• NTCA personal income tax and beneficial owner databases,</li> <li>• Ministry of the Interior's Integrated Portal-based Query System (IPL) providing access to the registers managed by the Deputy State Secretariat for the Management of Registers</li> <li>• Data services from the account-holding bank (securities account, savings deposit account, financial institution account receivable, liabilities towards financial institutions and individuals),</li> <li>• Civil status data for the identification of relatives,</li> <li>• Direct access to all real estate owned by the obligor from the Takarnet property registry,</li> <li>• National Company Registry and Company Information System (OCCR),</li> <li>• Prime Minister's Office EPPS (Electronic Public Procurement System) public procurement database and EUPR (European Union Programmes Register) database</li> </ul> |

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|     |                          |                       | <ul style="list-style-type: none"> <li>• Integrated Administration and Control System (IACS) of the Hungarian State Treasury,</li> <li>• Insolvency registers.</li> </ul>   |
| 60  |                          | Risk classification   | <p>Based on communication from the Ministry of Interior, with respect to positions held by public officials, a corruption risk assessment involving state administration bodies was first conducted in Hungary in 2015. Subsequently, the mapping of positions and job roles particularly vulnerable to corruption and integrity risks was conducted again as part of the medium-term NACS 2020–2022. Additionally, the NACS 2024–2025 (4.1) also includes risk classification. Based on the information received, the results of the previous surveys have not yet been used for conflict of interest and asset declaration checks.</p> <p>I. The Authority considers the use of a regularly reviewed and updated risk classification, at least annually, as one of the cornerstones of a well-functioning asset declaration system. This risk classification may be used to: (1) define the scope of individuals required to submit declarations, (2) determine the publication of declarations, and (3) select individuals for checks.</p> <p>II. The Authority maintains that an effective audit methodology should be tailored to each country, as the risk criteria used in the verification process differ from country to country. An important basis for a national audit methodology could be the assessment of the risks associated with job roles and positions in all state administrative bodies which will also be included in the NACS 2024–2025 with a deadline of 30 November 2025. The Authority maintains that this measure should be prioritised so that the assessment can be completed as soon as possible and assist in the development of an asset declaration verification methodology. It is also recommended to support and accelerate the risk assessment by electronic means, which could ensure that the results of the assessment are contained in a centralised electronic database, updated at regular intervals (at least annually) or whenever changes occur.</p> |
| 61  |                          | Oversight and control | <p>As there is no single central database (except for asset growth investigations) where data/information related to the checks conducted on asset declarations, discovered omissions, or imposed sanctions is available in a standardised manner, the Authority could not ascertain that: (i) in practice, how regularly</p>   |

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|     |                          |      | <p>checks are initiated either based on a report or automatically within one year following the closure of the given position, and (ii) in the latter case, whether any risk-based approach is applied.</p> <p>I. The Authority recommends the creation of a central database for monitoring the checks on asset declarations, which would ensure both the traceability and accountability of the checks. This could easily be achieved with the introduction of the electronic system outlined in Recommendation no. 56, as checks initiated in the electronic system would be automatically trackable and retrievable.</p> <p>II. The Authority recommends applying a risk-based approach when determining which declarations should be checked, meaning that for asset declarations of individuals in high-risk positions, sectors, or institutions, more frequent and in-depth audits should be conducted. This requires the risk classification of all public sector positions (see Recommendation no. 60). In this regard, the Authority recommends the combined use of the following risk criteria in the design of the audit methodology, with different weightings for each employee groups, as varying risks may arise within different employee groups: (i) random selection, (ii) selection from high-risk sectors, (iii) selection from high-risk positions, (iv) selection based on hierarchy, (v) selection based on discovered discrepancies/inconsistencies ('red flags'), (vi) referral from another authority, (vii) complaint-based selection, (viii) selection based on media reports.</p> <p>III. The Authority recommends that, within a certain time frame (4 years), the entire population required to submit declarations should undergo at least one check. This would be easily and quickly achievable with the electronic declaration system outlined in Recommendation no. 55, and with appropriate technical support (e.g. automatic access to databases).</p> <p>IV. The Authority recommends that the submission of the final asset declaration for positions with high risk automatically trigger a full inspection procedure, possibly within the framework of an asset accumulation investigation.</p> |



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| 62  |                          | Audit methodology                      | <p>Since there is currently no unified audit methodology for asset declarations, these are carried out at the discretion of the responsible custodians, the Immunity Committee, or other designated bodies for inspections.</p> <p>I. It is also proposed to establish much more detailed and binding public law procedural and enforcement rules than the current ones, as more comprehensive procedural regulations could lead to a more consistent legal practice (and deterrence).</p> <p>II. The Authority recommends standardising the audit methods applied during inspections, as well as the combined use of the audit methods outlined in Chapter 3.6 of the Case Report on Asset Declarations (specifically, the 'Audit Methodology' subsection).</p>   |
| 63  |                          | The Authority's audit responsibilities | <p>The Authority's successful fulfillment of its audit responsibilities related to asset declarations requires ensuring that it has access to all relevant data. At present, this data is either unavailable or only accessible in a limited manner to the Authority.</p> <p>The Authority recommends that, for the effective performance of tasks related to asset declarations, it should at a minimum have direct and automatic access to the databases listed in Chapter 3.6 of the Asset Declaration Case Report, specifically in the 'Audit Methodology' subsection.</p> <p>A proposal for a legislative amendment to clarify and, where necessary, extend the powers necessary for the performance of this task has been prepared by the Authority and submitted to the Ministry of Justice and the Ministry of European Affairs.</p> |
| 64  |                          | Disclosure                             | <p>Although the asset declarations of local government representatives are public, the Privacy Act does not stipulate that these declarations must be made public. However, practice shows that the majority of local governments do publish them.</p>   |

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|     |                          |                                   | <p>The Authority recommends the establishment of a uniform practice regarding the publication of asset declarations, using a risk-based classification of positions. This could be easily achieved through the introduction of the electronic asset declaration system outlined in Recommendation no. 55.</p>   |
| 65  |                          | Retention period for declarations | <p>The asset declarations of local government representatives are kept on record and checked by the asset declaration review committee. Under current Hungarian regulations, after the submission of the asset declaration for the current year, the committee returns the previous year's asset declaration to the local government representative, making the representative the data controller from that point onward, and the asset declaration can only be requested from them. In practice, this significantly hinders the ability to perform ex-post verifications and comparisons.</p> <p>The Authority recommends establishing a uniform asset declaration retention period of at least five years for all individuals required to submit asset declarations (including local government representatives), which would ensure that retrospective checks can be carried out.</p> <p>This could be easily implemented with the introduction of the electronic asset declaration system outlined in Recommendation no. 55.</p> |
| 66  |                          | Declaration frequency             | <p>The declaration of assets must, as a general rule, be made before the establishment of the legal relationship that creates the obligation, and after its termination, and in certain cases must be repeated annually, biennially, or every five years during the duration of the legal relationship.</p> <p>The Authority considers an annual asset declaration, with an emphasis on changes to be appropriate, and that these should be highlighted and explained in order to ensure that any increase in assets is properly substantiated.</p> <p>The introduction of a unified electronic reporting system, as outlined in Recommendation no. 55, would facilitate the widespread extension of the annual declaration obligation across the entire public sector. Furthermore, the automatic completion of forms via data links would simplify the process for those required</p>   |

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|     |                          |                                    | to submit declarations. The unified electronic system could even be used to report any changes during the year.  |
| 67  |                          | Standardisation of content         | <p>The content of asset declarations varies among those required to submit them in Hungary. The most significant differences are in the reporting of income and real estate, as the asset declarations that must be made public only include income ranges and do not require the declaration of real estate reserved for exclusive use. In contrast, both public and non-public declarations must list all real estate and an exact income value must be given.</p> <p>In the Authority's view, consideration should be given to standardising the three different types of asset declarations in Hungary, noting that the current regulations (National Assembly Act, Asset Declaration Act, Act on Local Governments in Hungary) already require certain key elements in each type of declaration, which in the Authority's view is correct. Examples of such key elements in the declaration of assets include the precise determination of income, the listing of all real estate, the inclusion of free benefits and gifts received.</p> <p>In addition, it is also recommended that all domestic and foreign interests and assets be declared, including interests which may have an influence on the declarant (e.g. external activities).</p> |
| 68  |                          | Declaration of all other interests | <p>At present, the asset declaration forms do not include a standardised section where all 'relevant interests' which affect the declarant's activities, work, and decisions are to be disclosed.</p> <p>The Authority recommends that, in addition to closed (multiple-choice) questions, the asset declaration form include semi-open or open-ended questions as well, where the declarant is able and obliged to declare any other interests not listed in the predefined categories.</p>   |
| 69  |                          | Disclosure                         | At present, the asset declarations that must be made public are fully disclosed, primarily on the Parliament's website.  |

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|     |                                     |   | <p>The Authority agrees with the approach that, in some cases, the right to privacy and the protection of personal data may override the public interest in disclosure. Therefore, it is worth considering the summarisation of the published asset declarations – based on uniform rules – in such a way that the aforementioned rights are ensured, while the informational content remains accessible to the public. However, this limited accessibility should not apply to the dedicated body responsible for verifying the asset declarations, which should have automatic access to all data and declarations, including those of family members.</p> |
| 70  | Analysis of Public Procurement Data | Application and limitations of concentration analyses | <p>We recommend the application of concentration indicators in the automated, risk-based audit system of the public procurement market. In doing so, it is justified to consider the ownership stakes acquired by competing companies, as well as the practice in recent years involving dividend preference shares and private equity funds. The concentration indicators within the audit system should be interpreted and applied in conjunction with other market competition metrics – including those related to profitability, profit margins, as well as market entry and exit indicators.</p>   |
| 71  | Analysis of Public Procurement Data | Using eForms  | <p>We recommend expanding the use of eForms data to all procedures (not just for ones involving EU funding) so that contracting authorities can provide more accurate and reliable data in a standardised format. This would ensure, amongst other things, that in the future, the entire set of public procurements would include the complete list of tenderers in the publicly available Contract Award Notices database.</p>   |
| 72  | Analysis of Public Procurement Data | Consortium data                                       | <p>We recommend reviewing how to ensure that, in accordance with the legal requirement concerning the distribution of the contract amount among consortium members [under point d) of section 8 of Government Decree no. 424/2017 (19 December)], meaningful information is available regarding the intended share of the joint tenderers at the time of contract conclusion and their actual share after contract execution. The data currently recorded under the legal provision are largely incomplete or inconsistent and therefore not suitable for further use.</p>   |

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| 73  | Analysis of Public Procurement Data | EPPS data content and data linking | <p>In the Contract Award Notices database, instead of using the contract part (which does not provide clear identification), the contract itself and the corresponding tender notice should be considered as the 'basic unit'. It is recommended to assign a separate code to the contract (and tender notice), which would significantly facilitate contract-based identification and analysis.</p> <p>To identify the data of winners and tenderers accurately, we suggest verifying the technical validity of the tax numbers provided. Appropriate synchronisation should be ensured so that the correct (registered) names of economic operators are entered into the EPPS.</p> <p>A more precise procedure should be developed for recording contract amounts listed in currencies other than the Hungarian forint, ensuring that in these cases, the original currency value should be recorded, not the converted forint amount.</p> <p>When determining contract values, it is recommended to apply realistic ranges to prevent the entry of unrealistic values – e.g. very low, very high, or values in an uninterpretable format.</p> <p>In the Contract Award Notices database, we recommend publishing the estimated values based on the content of the preparatory files – at the contract level, rather than at the procedure level. This would allow for an analysis of the difference between the estimated value and the contract amount, using data from the entire (or nearly complete) contract portfolio.</p> |
| 74  |                                     | Framework agreements               | <p>We propose reviewing how to ensure that data on all contracts based on framework agreements (FA2) are included in the EPPS. To achieve this, we consider it necessary to review the relevant procedural rules for contracting authorities and, if necessary, amend them.</p> <p>In the Contract Award Notices database, we suggest clearly indicating whether a given contract was based on a framework agreement, including a reference to the relevant framework agreement data.</p>   |

