

# Greece



## Governance and legal framework

The field of innovation procurement in Greece is regulated by the Law no. 4412/2016 on “public works, supplies, and service contracts” entered into force on 1 August 2016 (transposing the Directives 2014/24 and 2014/25/EU) and by the Law 4413/2016 on “award and execution of concessions” in transposition of Directive 2014/23/EU.

Public Procurement in the fields of Defence and Security are governed by law 3978/2011, which transposed the Directive 2009/81/EC.

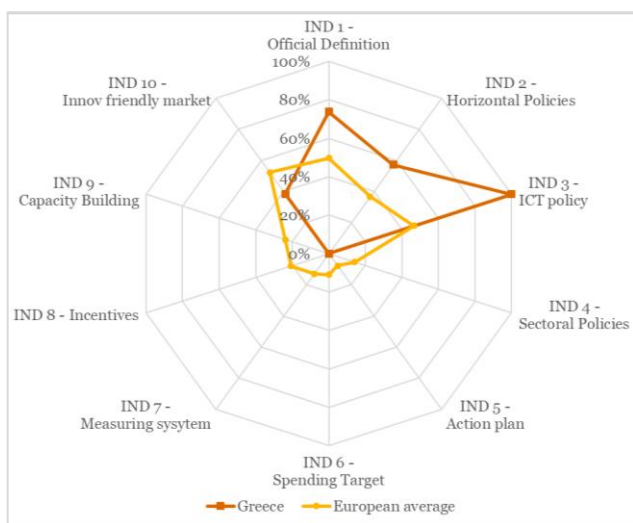
In Greece the main actors in the field of public procurement are:

- The **Government Council for Economic Policy** approves, monitors and evaluates the Action Plan for National Procurement Strategy and any possible revisions;
- The **National Central Purchasing Bodies**;
- The **General Directorate of Public Procurements** (within the Ministry of Economy and Development) owns and coordinates the national e-procurement system and is responsible for public supplies and services, including a specific focus on green and innovation procurement;
- the **General Secretariat of Infrastructure** (within the Ministry of Infrastructure and Transport), responsible for works procurement and public services contracts relating to public works;
- **National Central Authority for Procurements in Health “EKAPI”**, responsible for procurements in the health sector;
- The **Hellenic Single Public Procurement Authority (SPPA)**, established by the Government in 2011, which is responsible for the development and promotion of the national strategy in the field of public procurements, provision of policy advice to the legislature, provision of guidance to awarding authorities on the application of procurement law and regulation, and authorisation of the use of special procedures, such as negotiated procedure without publication notice. The SPPA also plays a supervisory role by monitoring and evaluating awarding authorities’ decisions.

Innovation procurement is enabled and promoted by a number of policy documents and programmes such as the Greek National Strategy for R&D&I and the Greek Smart Specialization Strategy. Law 4310/2014 on “**Research, Technological Development, Innovation and other provisions**”, introduces definition of Pre-Commercial Procurement (PCP). However, the Greek innovation procurement framework is still at an early stage. The commitment to set up a competence centre within the General directorate of public procurement can be considered as a first crucial step to mainstream innovation procurement at national level.

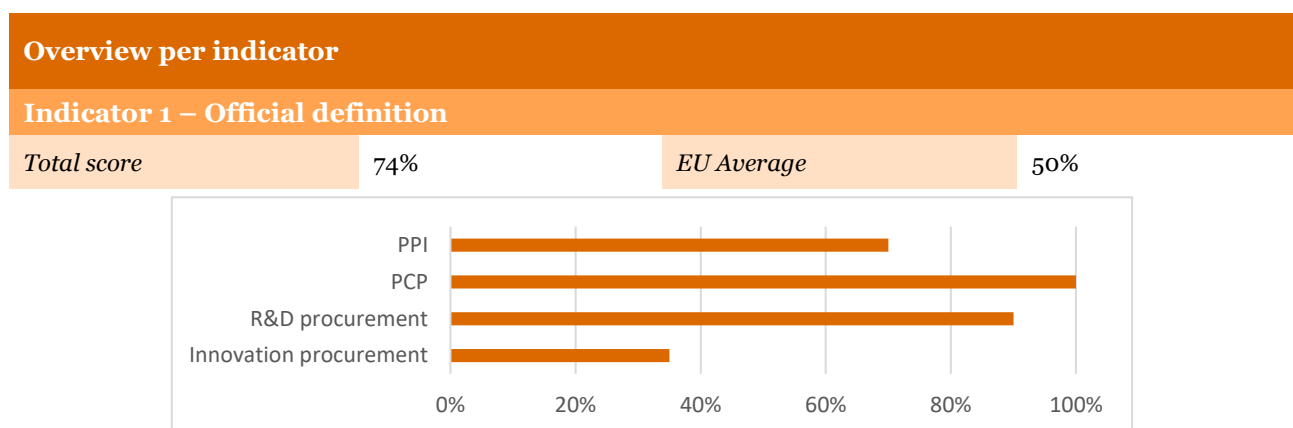
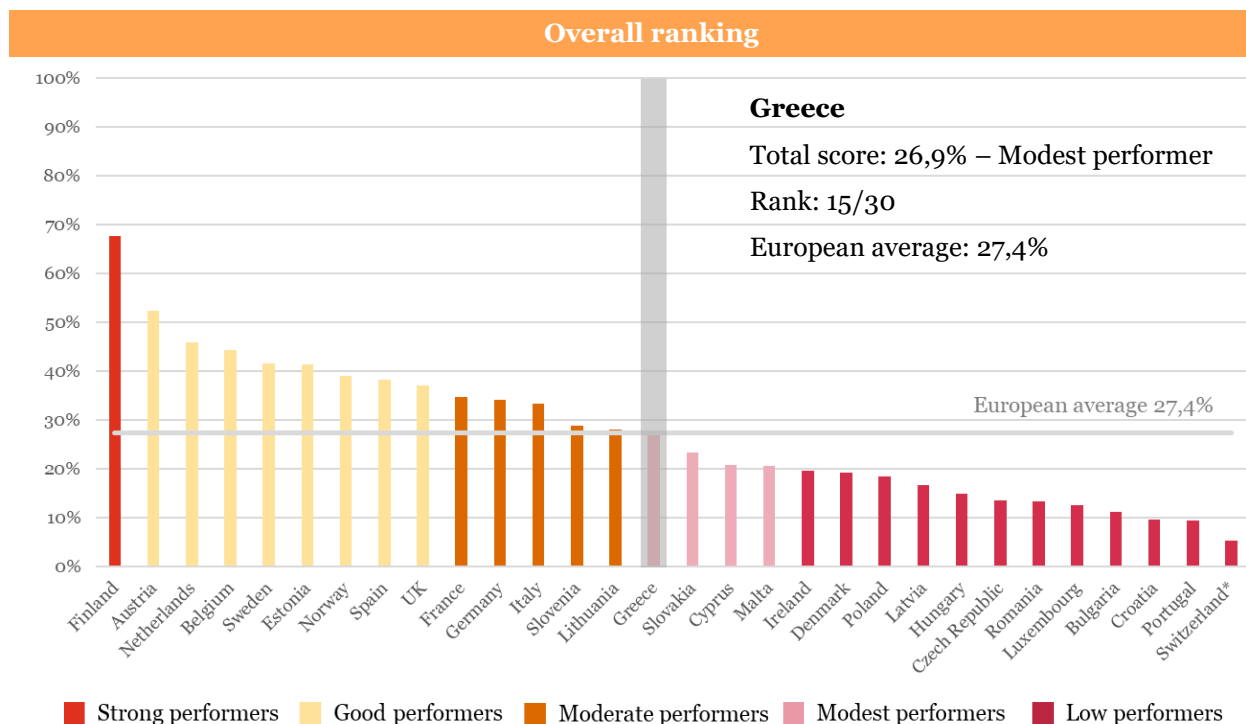
## Innovation Procurement Policy Framework Benchmarking (2018)

In the benchmarking of national innovation procurement policy frameworks across Europe, Greece is at the 14<sup>th</sup> position of the overall ranking with a total score of 26,9%. From the 30 countries analysed, Greece is among the group of modest performing countries in implementing a mix of policy measures that are conducive for mainstreaming innovation procurement. Having implemented 26,9% % of the policy measures to roll-out a comprehensive policy framework for innovation procurement, there is however still a strong reinforcement of the policy framework needed in Greece to reach its full 100% potential.



**Strength:** In the Greek procurement legal framework there is a definition of PCP that is in line with the EU definition. The commitment to set up a competence centre within the General directorate of public procurement can be considered as a first crucial step to mainstream innovation procurement at national level.

**Weaknesses:** Innovation procurement in Greece is at an early development stage, and most important elements to foster its development are still missing (e.g. capacity building and assistance, action plan, monitoring system, spending target, financial and other incentives for public procurers, etc.). Lack of IPR policy in public procurement that encourages innovation.



In Greece, there is an official definition for R&D, PCP and PPI procurement, while the legal framework only provides a legal basis for “innovation procurement”. Therefore the total score of this indicator is 74%.

Law 4412/2016 introduces the definition of **innovation** as “the realisation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, new marketing methods or new organizational methods to business practices, workplace organization or external relations, inter alia, to contribute to addressing societal challenges or supporting the Europe 2020 Strategy for smart, sustainable and inclusive growth”. This definition is applicable countrywide and coherent with the EU definition, therefore the score for this sub-indicator is 35%.

Although there is no definition of **R&D**, Law 4413/2016 provides a reference to the CPV codes in the article 24. In addition, a definition of R&D is provided in the Defence Procurement Law (Greece Defence law 3978/2011). Article 73.3 provides a definition of Research and development that is coherent with the EU definition. This definition is only applicable in the defence sector (i.e. not countrywide applicable) but is coherent with the EU definition, therefore the total score for this sub-indicator is 90%.

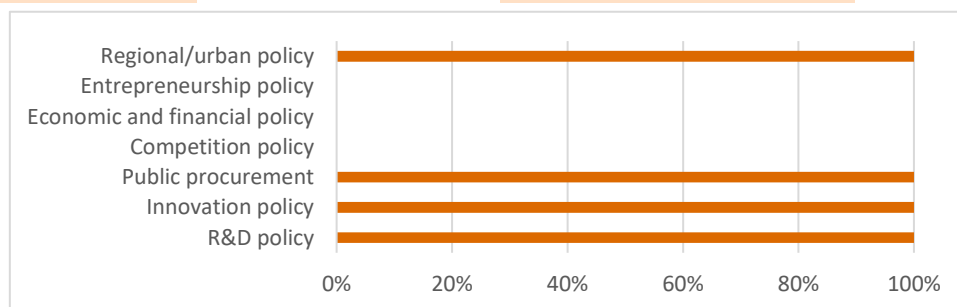
Law 4310/2014, article 2, paragraph 41 defines **PCP** as “buying research services in case the contracting authority or entity does not assume all risks, the results and use benefits in the conduct of its activities, but shares them with the providers under market conditions. The object of the contract falls within one or more categories of research and development defined in the present context. The contract is of limited duration. With the exception of prototype or a limited set of first test/validation data, the purchase of goods or services, which are developed within the framework of a pre-commercial procurement, should not be subject of the same contract”. This definition is fully in line with EU definition and applicable country wide, therefore the total score of this sub-indicator is 100%.

A **PPI** definition is not available in the legal framework. However, the 4413/2016 provides the legal basis to implement PPI. In particular, article 86 p.2(a) allows procurers to award contracts and monitor contract performance based also on innovation criteria). On 10/9/2018 the Hellenic Single Public Procurement Authority (SPPA) published a technical

guidance document that provides definitions of PCP and PPI as well as description of their procedural framework<sup>1</sup>. This technical guidance document contains also some case examples of PCPs and PPIs implemented in Europe as well as a comparative analysis between PCP/PPI and innovation partnerships. As a result the total score of the sub-indicator is 70%.

### Indicator 2 – Horizontal policies

Total score	57%	EU Average	36%
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In Greece innovation procurement is embedded in the regional policy, public procurement policy, innovation policy and R&D policy. Hence the total score for this indicator is 57%.

Under **public procurement** policy, the evidence is provided by the Action Plan for National Procurement Strategy, adopted by the Government Council for Economic Policy in 2017, which foresees specific actions to promote innovation procurement: conducting a special study to promote innovation in the sectors of health, energy, environment and transport; informing / building knowledge for the Public Sector and for economic operators regarding the new legislative framework for promoting innovation procurement; developing support actions and promoting clusters in the relevant field e.t.c (Actions 33, 34 and 68 of the Action plan).<sup>2</sup>

In 2015, PCP was also added under the objectives of the Greek National Strategy for **R&D&I**. PCP was included under the article 4 of the Law 4386/2016 that amended Law 4310/2014. In particular, Article 4 of the Law 4310/2014 on Research, Technological Development, Innovation and other provisions states that “the National Strategy on Research, Technological Development, Innovation aims at the development of [...] every mean for funding Research, Technological Development, Innovation (such as [...] pre-commercial public procurement [...])”.

Specific PCP references are also foreseen under the **regional policy** in Thematic Objectives 2 (ICT) and 3 (Competitiveness) of the Greek Smart specialization strategy (RIS3) 2014-2020.<sup>3</sup> The strategy is implemented by the Greek regions and local authorities which have their own smart specialization strategies. The RIS3 foresees the implementation of an action on Pre-Commercial Procurement (PCP) with an estimated budget of 40 million euros. According to the description, this action might address the development of applications in sectors such as culture (museums), education and tourism<sup>4</sup>. So far, however, there is no progress as regards its actual realisation.

### Indicator 3 – ICT policies

Total score	100%	EU Average	47%
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Actions to develop a framework for innovation procurement and PCP in the digital policy area are also envisaged in the **National Digital Strategy 2016-2021**. The strategy, prepared by **General Secretariat for Digital Policy** of the Ministry of Digital Policy, Telecommunications and Information, reports in its Priority 4.1 a “Support for research and development Research and Technological Development (ETA) includes among its objectives: “a framework for the procurement of innovative services and pre-commercial procurement (Priority 4.1)”.<sup>5</sup>

### Indicator 4 – Sectorial policies

Total score	0%	EU Average	14%
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In Greece no sectorial policy explicitly recognises the role of innovation procurement within its strategy.

### Indicator 5 – Action plan

Total score	0%	EU Average	8%
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<sup>1</sup> <https://diageia.gov.gr/doc/7%CE%9D%CE%A1%CE%9F%CE%9E%CE%A4%CE%92-%CE%9C%CE%A1%CE%A8?inline=true>

<sup>2</sup> [http://www.opengov.gr/aads/wp-content/uploads/downloads/2016/02/02\\_STRATEGY\\_partB.pdf](http://www.opengov.gr/aads/wp-content/uploads/downloads/2016/02/02_STRATEGY_partB.pdf)

<sup>3</sup> [http://www.gsrt.gr/Financing/Files/ProPeFiles19/RIS3V.5\\_21.7.2015.pdf](http://www.gsrt.gr/Financing/Files/ProPeFiles19/RIS3V.5_21.7.2015.pdf)

<sup>4</sup> Operational Program for Competitiveness, Entrepreneurship and Innovation, available at:

[https://www.espa.gr/elibrary/Antagonistikotita\\_2014GR16M2OP001\\_1\\_3\\_el.pdf](https://www.espa.gr/elibrary/Antagonistikotita_2014GR16M2OP001_1_3_el.pdf)

<sup>5</sup> [http://www.opengov.gr/digitalandbrief/wp-content/uploads/downloads/2016/11/digital\\_strategy.pdf](http://www.opengov.gr/digitalandbrief/wp-content/uploads/downloads/2016/11/digital_strategy.pdf)

Greece does not have a stand-alone Action Plan for innovation procurement. However, as explained in Indicator "Horizontal policies", the Government Council for Economic Policy adopted in 2017 the **Action Plan for National Procurement Strategy** which includes three actions towards promoting innovation procurement in the public sector.

### Indicator 6 – Spending target

Total score	0%	EU Average	11%
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In Greece there is no specific spending target for innovation procurement.

### Indicator 7 – Monitoring system

Total score	0%	EU Average	13%
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Greece does not have structured monitoring and evaluating systems of innovation procurement.

### Indicator 8 – Incentives

Total score	0%	EU Average	22%
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In Greece there are no financial or other types of incentives to encourage public procurers to undertake more innovation procurements.

### Indicator 9 – Capacity building and assistance measures

Total score	0%	EU Average	24%
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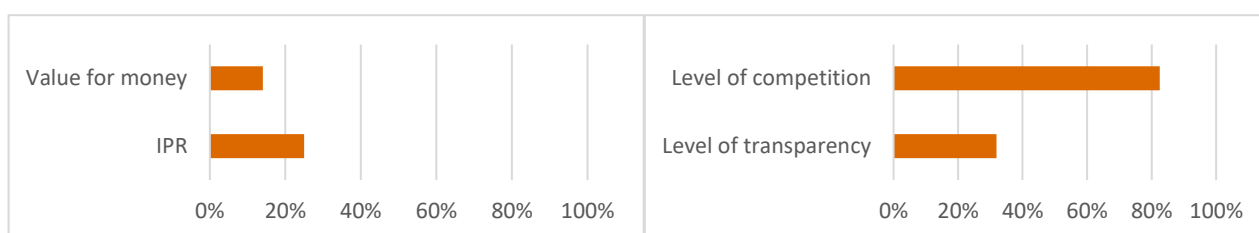
So far, Greece has not developed yet targeted capacity building and assistance measures to enhance the adoption of innovation procurement but an evolution in this sense is likely to occur in the near future. There are, indeed, sporadic initiatives on innovation procurement to increase awareness of innovation procurement among local public procurers. For example the Region of Central Macedonia in Greece in collaboration with DG CNECT and S3 Platform organized an event in 2014 in Thessaloniki on Innovation Procurement in the Regional Policy.<sup>6</sup> Furthermore, in October 2016, the General Directorate of Public Procurements (Ministry of Economy and Development) co-organised with DG CNECT the second major eafip in Athens and in 2017 participated in the CSA action called "Mutual Learning Exercise on Innovation Procurement". At present there is a formal commitment by the Minister of Economy and Development to set up a competence centre for innovation procurement in the General Directorate of Public Procurements in the context of the EU funded project Procure2Innovate. The General Directorate is a national CPB for procurement of goods and services in Greece and belongs to the General Secretariat of Commerce and Consumer Protection.

### Indicator 10 – Innovation friendly public procurement market

Total score	38%	EU Average	52%
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I - Specific techniques to foster innovation in public procurement

II – Openness of national public procurement market to innovations from across the EU single market



This indicator synthesises to what extent the national public procurement market encourages the implementation of Innovation procurement. The indicator is composed of two sub-indicators that show evidence on:

(I) the use of specific techniques to foster innovation in public procurement Greece<sup>7</sup>

(II) the openness of the national public procurement market to innovations from across the EU single market

<sup>6</sup> <https://ec.europa.eu/digital-single-market/news/digital-innovation-regional-growth-innovation-procurement-29-april-2014-thessaloniki-greece>

<sup>7</sup> The current version of the factsheets takes into consideration only two sub-indicators "IPR default regime" and "Use of value for money instead of lowest price award criteria". In the final version of the factsheets, that are expected to be available in 2019, two additional sub-indicators will be included "Frequency of allowing submission of variant offers" and "Frequency of use of preliminary market consultations".

With regard to the first indicator (I), Greece shows the following evidence:

- a. **IPR default regime:** The score for this sub-indicator is 25%, which is below the 38% EU average, because in Greece there is no default regime for the distribution of IPR rights between procurers and suppliers. The Greek law, general terms and conditions for government contracts and guidelines on public procurement do not define how allocation of IPRs is best dealt with in procurement contracts. It is left to the individual responsibility of each Greek procurer to specify clearly the IPR allocation for the procurement in its tender documents so that it stimulates innovation and is compliant with applicable IPR/copyright law. The Greek public procurement law foresees that procurers can require in the tender specifications the transfer of IPR rights to the procurer. The Greek copyright law<sup>8</sup> 2121/1993 however determines that copyright (moral rights) belong in an inalienable way to the creator. Only the economic rights can be transferred, assigned or licensed by the creator to another person/entity. If the procurer wants to use copyright produced by the contractor during his procurement he must require in the tender specifications the transfer, assignment or a license of the economic rights (e.g. usage, licensing, publication, modification, reproduction rights) at equitable payment. Copyright law protects also scientific creations, software and database rights. Templates for public procurements in Greece refer (in the preamble) to the above mentioned Copyright law 2121/1993.<sup>9</sup>
- b. **Use of value for money award criteria:** According to the Single Market Scoreboard, only 14% of the procedures were not awarded on the basis of lowest price only. This is significantly below the EU average of 42% and below the 80% satisfactory level set out in the EU single market scoreboard. Greece is among the Member States with the highest underutilization of value for money award criteria.

Based on this evidence, the score for sub-indicator I is 20% which is significantly below the EU average of 40% and below the satisfactory level set by the EU single market scoreboard. This is due to the below average performance on adopting an IPR default regime that fosters innovation and underutilization of value for money award criteria.

For the second sub-indicator (II) Greece shows the following evidence (based on the EU single market scoreboard):

- c. **Level of competition:** The level of competition of the national public procurement market is 83% which is just below the EU average 84% and below the 92,5% satisfactory level set by the EU single market scoreboard. This is mainly because the proportion of procurements where there was more than one bidder is below EU average (66%). The proportion of the procurements where a call for bids was used (99%) is above EU average and reaching the satisfactory level defined by the EU single market scoreboard
- d. **Level of Transparency:** The level of transparency of the public procurement market is 32% which is below the EU average 45% and the 66% satisfactory level set by the EU single market scoreboard (2015 data). This result is affected by the very low TED publication rate (1,8%) and by the low proportion of procurements without missing buyer registration numbers (9%). The proportion of procurements without missing call for bids information (85%) is above EU average. All three subindicators are below the satisfactory level set by the EU single market scoreboard.

Based on this evidence, the score for sub-indicator II is 57% which is below the EU average of 65% and below the satisfactory level 79% set by the EU single market scoreboard. Both the level of competition and transparency are below the EU average and the satisfactory level set by the EU single market scoreboard.

Based on the scores for sub-indicators I and II, the total score for the indicator "innovation friendly public procurement market" is 38% which is below the 52% EU average and below the satisfactory level for the total of the EU single market indicators. This score is explained firstly by the fact that both the use of specific techniques to foster innovation in the country and the openness of the Greek procurement market to innovations from across the EU single market is below the EU average. Indeed, the country has not yet adopted a default IPR regime in public procurement that fosters innovation and value for money criteria are still seriously underused in public procurements. In addition, both the level of competition and transparency are below the EU average. It is to be noted that since 2017 additional efforts have been undertaken in Greece to improve transparency that don't appear yet in the EU single market scoreboard data. On the national portal (ESHDHS) it is since 2017 compulsory to publish all public procurements above 60.000 euro. This includes not only the publication of prior information notices, contract notices and contract award notices but also the publication of all procurement stages (including contracts and payment orders). This measure has significantly helped companies identify interesting public procurement opportunities and enhanced the level of transparency.

<sup>8</sup> <https://www.opi.gr/index.php/en/library/law-2121-1993>

<sup>9</sup> <http://www.eaadhsy.gr/index.php/m-foreis/m-protypa>