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The Netherlands

**Public procurement distance: analysing European  
public procurement policy implementation in 27 EU  
member states**

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**Citation**

Schermerhorn, A. E. (2025, October 7). *Public procurement distance: analysing European public procurement policy implementation in 27 EU member states*. Eburon Academic Publishers, Utrecht. Retrieved from <https://hdl.handle.net/1887/4262551>

Version: Publisher's Version

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**Note:** To cite this publication please use the final published version (if applicable).

# Public Procurement Distance

*Analysing European public procurement policy implementation  
in 27 EU member states*

Alexander Edgar Schermerhorn



ISBN 978-94-6301-571-4

Eburon Academic Publishers  
Vredenburg 40  
NL-3511 BD Utrecht  
The Netherlands  
[www.eburon.nl](http://www.eburon.nl)

Cover design: Textcetera, The Hague  
Graphic design: Dolna Elija, Kostandenets, Bulgaria

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# Public Procurement Distance

*Analysing European public procurement policy implementation  
in 27 EU member states*

Proefschrift

ter verkrijging van de graad van Doctor aan de Universiteit Leiden,  
op gezag van Rector Magnificus prof. dr. ir. H. Bijl,  
volgens besluit van het College voor Promoties  
te verdedigen op dinsdag 7 oktober 2025,  
klokke 14.30 uur

door

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# TABLE OF CONTENTS

Tables

Boxes

Sources of the images

Acknowledgements

Chapter 1

Introduction: European public procurement policy	13
1.1 Central problem	13
1.2 Research question and objectives	16
1.3 Relevance of this study	17
1.4 Scope and research design	18
1.4.1 Scope	18
1.4.2 Research design	19
1.5 Chapter outline	21

Chapter 2

In perspective: European public procurement policy	23
2.1 Introduction	23
2.2 Context of European public procurement policy	23
2.2.1 Numerical importance of European public procurement policy	24
2.2.2 Mandatory European public procurement policy	25
2.3 Non-mandatory European policies	26
2.3.1 Discretionary policy instruments	26
2.3.2 Strategic policy instrument	29
2.4 Policy instruments in more detail	30
2.4.1 Sustainable public procurement	30
2.4.2 Innovation	31
2.4.3 SMEs	32
2.4.4 Cross-border public procurement in a harmonised market	33
2.5 Conclusion	35

<b>Chapter 3</b>	
<b>Theoretical framework: Public procurement distance</b>	<b>37</b>
3.1 Introduction	37
3.2 From policy formulation to policy implementation	37
3.3 The concept of ‘public procurement distance’	39
3.4 Possible causes of procurement distance	41
3.4.1 Administrative organisation	42
3.4.2 Professionalism: Practical experience and training	44
3.4.3 Professionalism: Ideology, intrinsic motivation and serving the public interest	47
3.4.4 Leeway for action: Policy discretion	47
3.4.5 Public administration culture and segmentation	55
3.5 Overview of approaches and expectations	61
3.6 Conclusion	63
<b>Chapter 4</b>	
<b>Methodology: From theory to empirics</b>	<b>65</b>
4.1 Introduction	65
4.2 Research design	65
4.3 Selection of respondents	66
4.3.1 Response data by country	67
4.3.2 Representativeness	69
4.4 Measurement instrument used	70
4.4.1 Testing the draft questionnaire	71
4.4.2 Validity	71
4.4.3 Reliability	73
4.5 Public procurement distance	74
4.6 Making potential causes of public procurement distance measurable	75
4.7 Conclusion	81
<b>Chapter 5</b>	
<b>Respondents: Describing public procurement in Europe</b>	<b>83</b>
5.1 Introduction	83
5.2 Characteristics of the examined units	83
5.3 Mandatory European procurement policy	91
5.4 Discretionary strategic procurement policy	98
5.5 Discretionary cross-border procurement	99
5.6 Conclusion	100

Chapter 6		
Distance: Analysing European public procurement policy		103
6.1 Introduction		103
6.2 Measurement values		103
6.3 Measurements for mandatory European public procurement policy		104
6.4 Measurements of discretionary use of instruments		112
6.5 Measurements for cross-border awarding		118
6.6 Conclusion: Factors affecting public procurement distance		122
Chapter 7		
Conclusions: Public procurement distance explained		127
7.1 Introduction		127
7.2 Answering the central research question		127
7.3 From initial declarations towards full implementation		130
7.4 Policy recommendations to bridge public procurement distance		137
7.5 In conclusion: Agenda for future research		139
Appendices		
Appendix A	Letter to respondents	145
Appendix B	Questionnaire	147
Appendix C	Frequency tables	155
Appendix D	Indicators multivariate analysis	169
Appendix E	Measuring European public procurement policy	173
Samenvatting	Aanbestedingsafstand	181
Summary	Public Procurement Distance	185
References		189
Index		203
Author's index		213
Curriculum vitae		216

## Tables

<b>Chapter</b>	<b>Table</b>	<b>Title</b>	<b>Page</b>
3	1	Theoretical perspectives and expectations	62
4	2	Response data per member state	68
5	3	Distribution of respondents by professional group	85
	4	Further training	86
	5	Job duties by professional group	88
	6	Stakeholder influence on project effects	89
	7	Literal application of the rules	91
	8	Why apply public procurement rules	92
	9	Project effects	93
	10	Procurement segment and project effects	93
	11	Extra costs of project effects	94
	12	Policy influence by actors	96
	13	Satisfaction with procurement outcome	98
	14	Deployment of instruments	98
	15	Cross-border awarding	100
6	16	Influence of professionalism on mandatory public procurement policy	107
	17	Influence of policy discretion on mandatory public procurement policy	108
	18	Influence of professionalism on discretionary instruments	114
	19	Influence of policy discretion on discretionary instruments	115
	20	Influence of culture on cross-border public procurement policy	120
	21	Overview of expectations	123
7	22	Explanations of public procurement distance	130

## Boxes

<b>Chapter</b>	<b>Box</b>	<b>Title</b>	<b>Page</b>
2	1	Green public procurement	31
	2	Procuring fresh foods through SMEs	33
	3	Cross-border participation	35

## *Sources of the images*

- Page 12:** Bids for carpentry work on the new kitchen at the Castle of Tervuren, dated 1545.  
(ARA, ARK, Administrative files, 132/2). With thanks to Merlijn Hurx (Hurx, 2012: 122).
- Page 22:** Specifications for the delivery of Namur stone for the elevation of the Oude Kerk (Old Church) in Amsterdam, dated 1564 (Stadsarchief Amsterdam 5058. Archive of the Burgomasters: charters from churches and monasteries, inv. no. 16; Van Tussenbroek, 2009: 22).
- Page 36:** Public notice of tender for the repair of the road from Brussels to Charleroi, dated 1796 (Stadsarchief Antwerpen inv. 289#207).
- Page 64:** Public notice of tender for fuel supply to military hospitals, dated 1795 (Stadsarchief Antwerpen inv. 289#64).
- Page 82:** Specifications for infrastructural works around the Waal dike in Dalem. Ministerie van Binnenlandse Zaken: Afdeling Waterstaat (Afdeling III), dated 1814 (Nationaal Archief inv. 2.04.07, no. 5782).
- Page 102:** Specifications for the lighthouse construction on Sumatra. Departement van Kolonien.  
Archive Ministerie van Marine: Afdeling Loodswezen (Afdeling IV), dated 1878 (Nationaal Archief inv. 2.12.10 no. 323; 10.4).
- Page 126:** Specifications for foundation and housing related to the lighthouse on Ameland.  
Archive Ministerie van Marine: Afdeling Loodswezen (Afdeling IV), dated 1880 (Nationaal Archief inv. 2.12.10 no. 323; 11.4).
- Page 142:** Official report of the tender procedure. Specifications for infrastructural works around the Waal dike in Dalem. Ministerie van Binnenlandse Zaken: Afdeling Waterstaat (Afdeling III), dated 1814 (Nationaal Archief inv. 2.04.07, no. 5782).



## *Acknowledgements*

The idea for this study arose in the procurement practice where I have worked for years. I regularly see discrepancies between the intended European procurement policy and its implementation, prompting questions about how and why these discrepancies arise and whether they can be explained. It was my curiosity and quest for answers that drove this doctoral study.

My supervisors, Bernard Steunenberg and Rik de Ruiter, provided sharp, critical input and acted as a sounding board. Their comments were highly appreciated. They prompted me to elevate the thought process and thus this study to an ever-higher level. Thanks to Chris Bovis and Brendan Carroll for their willingness to take a seat on the opposition committee.

The willing help of many colleagues has provided me with essential information from the practice of European tender procedures, for which I am grateful. A big thank you also goes to the respondents who took the trouble to complete an extensive questionnaire and – in a number of cases – were even willing to provide me with often colourful stories from their procurement practice. My thanks also go to members of contracting teams who answered my questions and gave me a glimpse behind the scenes of their practices. I am also indebted to Anke, Arnold, Hein, Gert and many other colleagues from the field who read the first drafts of my work and provided critical but constructive comments.

No quantitative research is possible without IT. Thanks to Olaf and Dustin, who helped me to collect and digitise the necessary data. All the data then had to be organised in such a way that statistical analyses could be carried out, and Foeke has been invaluable in this regard.

I dedicate this book to my late parents, who always followed my efforts with great interest and shared my hopes and dreams. Without the unconditional support of Gerda and Tessa, this project would not have been possible. You always kept faith in a good outcome, and that has been so important!

Innestellen vanden Overste vanden  
Ongewonen wetten der vanden heeren  
v. m. m. v. v. v.

Wen den van Oudvader  
op — m. l. karolus

Mr. Bouke de roek — m. l. karolus

Gezondheids van Gerecht met  
Een soene op — m. l. karolus

Wet der heeren met E. v. mede  
gestellen op — m. l. karolus

Good boek getiteld v. v. v. — m. l. karolus

Van de Donkere met E. v. v. v.  
op — m. l. karolus

## Chapter 1

# INTRODUCTION: EUROPEAN PUBLIC PROCUREMENT POLICY

### 1.1 Central problem

*Policy is only finally made when laws or regulations are fully implemented through subsequent processes that cascade from the initial declarations (Michael Lipsky, 2010: 213)*

If European procurement policy is not implemented to the letter, a discrepancy arises between the intended policy and its implementation. This is called *public procurement distance*. This primarily concerns the mandatory public procurement policy to which contracting organisations must adhere. Discretionary public procurement policies also exist, which – in principle – contracting organisations implement on a voluntary basis. They cover topics such as socially responsible procurement, innovation, and encouraging participation in public contracts by small to medium-sized enterprises (SMEs). There are also public procurement policies that may be implemented at one's discretion regarding cross-border procurement, promoting purchases in member states other than one's own country to stimulate the use of the harmonised European market. In all of these policies, implementation is problematic. The aim of this research is to identify possible explanations for this distance between intended European public procurement policy and its implementation.

The first policy component to be discussed is mandatory procurement policy. The aim of this policy is to create a uniform legal framework for all member states within which governments can manage the execution of infrastructural works, services, and supply of goods in a common market (hereafter referred to as works, services and supplies).<sup>1</sup> Where this policy is con-

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<sup>1</sup> Regulation of government contracts has always taken place. For example, according to Verkerk (1992: 233); King (2000: 1); Hurx (2012: 116-117), for there were tender procedures with bids in writing in the Middle Ages and Renaissance. Until the sixteenth century, a burning candle determined the duration of the bidding, whereby the person who had bid the lowest when the candle was extinguished was awarded the assignment (Janse, 1965: 27). The earliest purchase

cerned<sup>2</sup>, there are persistent complaints about excessive administrative burdens, a lack of transparency, and overly complex regulations, meaning that the implementation of mandatory European public procurement policy is experienced as problematic (Csáki, 2006; Maandag, 2007; European Commission<sup>3</sup>, 2008c; 2011a: 3; 2017a: 5-6; Volker, 2010; European Court of Auditors, 2015; Arrowsmith, 2012: 96; 2015). A lack of knowledge and professionalism plays a role when it comes to the implementation (Commission, 2017a; 2021a: 5). Procurement practitioners also have to consider that a variety of external stakeholders from politics, social groups, business, and media influence their work (Gordon et al., 1993: 832-833; Commission, 2021a: 5). The result is that fair competition is sometimes lacking, and contracts are not always awarded to parties that should have won the government contract based on their tender (European Court of Auditors, 2015: 8).

Furthermore, several problems are linked with the implementation of the mandatory public procurement policy. For instance, 5% of public contracts are awarded directly after negotiations, without any tender procedure. Between 2006 and 2016, the number of tenders with one bidder increased from 17% to 30%, and the average number of bids per tender procedure declined from five to three (Commission, 2017a: 5). This means that competition between interested suppliers falls short. Mutual cooperation between contracting authorities to share knowledge and capacity is also limited, occurring in only 11% of the relevant tender procedures. Therefore, possible economies of scale are not always realised. Tender procedures are also highly susceptible to improper behaviour (European Court of Auditors, 2015; Commission, 2017a: 2, 5-6, 11). These shortcomings in the implementation of mandatory European public procurement policy mean that there is regularly a significant distance between this policy's intentions and its implementation.

Secondly, regarding discretionary policies the aim is for procurement officers to voluntarily address a variety of policy themes such as sustainability and social return, innovation, and encouraging participation in public contracts by SMEs. There are also persistent problems in this regard. Rather than a lack of European policies, member states do not implement them or only do so partially. The Commission (2017a: 3) comments that "*Member States are not using to their full extent the possibilities of public procurement as a strategic tool to support sustainable, social policy objectives and innovation.*" For example, SMEs win only 45% of

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order ever discovered was for "50 pots of oil in exchange for 600 small weights of grain," which stemmed from Syria and dated from the period between 2400 and 2800 BC, according to Coe (1989: 87) in Thai (2001: 11).

<sup>2</sup> The terms procurement policy, European public procurement policy, tendering, contracting, purchasing and public procurement in this study refer to European procurement policy.

<sup>3</sup> Subsequently referred to as the "Commission."

contracts (Commission, 2017a: 5), even though 99% of enterprises in the European Union fall into this segment (Commission, 2003). Innovation is hindered by aspects such as a lack of knowledge about the subject, risk aversion, and resistance to change (Commission, 2021a: 10). This leads to the intended optional procurement policy frequently falling short in its implementation. The causes might stem – for example – from risk avoidance, insufficient management direction and coordination, a lack of financial resources and adequately skilled staff, insufficient political support and involvement, and restrictive regulations (OECD, 2017: 42-45). Moreover, the focus is often placed on economic (Kingston, 2016: 30) or legal aspects (Semple, 2016).

The third element of the European public procurement policy is the promotion of cross-border procurement by member states on the common European market. Further expansion of this market is an important objective of European procurement policy (Cox, 1993: 9), although this is a discretionary rather than mandatory policy. Concerning cross-border procurement, contracting authorities should use the available possibilities more than at present (Commission, 2017a: 12-13). If member states pay little attention to the common market, this hinders further European integration (Cox, 1993: 9; Börzel, 2016). The Commission already highlighted the importance of breaking down internal borders and promoting cross-border public procurement in 1985, while also noting that this happens to a very limited extent (Commission, 1985: 23-24). This situation has remained over the years; for example, between 2009 and 2015, the share of direct cross-border awards compared to the total number of awards was 1.7% (Commission, 2017b: 29).

The Commission has made several attempts to revise its public procurement policy to address the issues surrounding the poor implementation of mandatory and discretionary policies, albeit without leading to solutions.<sup>4</sup> This raises questions

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4 In 2004, a revision of the guidelines in force since 1992 was published (Commission, 2004a; b). The main objectives of this revision were to strengthen the functioning of the internal market, realise savings in public expenditure, improve transparent understanding of available public contracts, make procedures less administratively burdensome for both public authorities and market parties, allow more strategic policy objectives to be included in tenders and fight corruption (Commission, 1998; 2001: 12, 29). However, the review solved little, as complaints about administrative burdens, a lack of transparency, and regulatory complexity did not disappear. The Commission was aware of the continuing shortcomings. Therefore, in 2014, revised guidelines were issued again to improve the 2004 version. The main objectives of the 2014 revision were to increase the effectiveness of public expenditure by generating more value for money, improve the implementation of strategic policy objectives, and combat corruption as well as preventing the favouring of certain parties (Commission, 2011a). This new set of guidelines was expected to strongly reduce the problem, although the exact same complaints largely persisted (Arrowsmith, 2012; 2015; European Court of Auditors, 2015; Semple, 2016; Commission, 2017a: 6; Andhov et al., 2022: 11, 55-61). In 2024, the Commission expressed the desire to review the guidelines again, given the continuing shortcomings.

about how the issues surrounding the implementation of European public procurement policy are so persistent that they remain so prominently present despite their intentions and numerous attempts at adjustment and revision. Is the failure to align supply and demand because public procurement policy is too complex to understand, or do people not understand each other because they reason and act from different rules or standards? Do the regulations allow insufficient or excessive leeway? What is the role of the member states in the implementation of public procurement policy? Can possible causes of the persistent distance between intention and implementation be found in employees' lack of professional knowledge and motivation? Do they possibly arise from governments' organisational limitations in terms of people and resources? Alternatively, do they lie elsewhere?

## 1.2 Research question and objectives

This study refers to the difference between the intended European public procurement policy and its implementation in practice as 'public procurement distance'. The intended European public procurement policy ('law in the books') is the policy as prepared beforehand. Implementation means 'law in action,' that is the practical or administrative application of converted European guidelines in practice. This extends beyond the idea that implementation refers only to the formal or legal application of guidelines in the sense of conversion into national legislation (Pound, 1910; Pressman & Wildavsky, 1984: xxi; Versluis, 2007: 53).

This study aims to investigate and explain possible causes of the emergence of distance between the prior intentions of European public procurement policy and its implementation in the 27 member states.

The problems with the implementation of public procurement policy leads to the following problem definition: earlier research has shown that there is a distance between the intended European public procurement policy and its implementation. Due to this distance, supply and demand are not – or only partially – aligned, meaning that European public procurement policy is not implemented according to prior expectations. This means that the procurement outcomes fall short in social, political, policy, and economic terms.

The problem definition is examined based on the following central question:

*What can explain the distance between pre-established European public procurement policy and its implementation in the 27 EU member states?*

This question will be answered through four research questions:

1. How can the distance between the intended European public procurement policy and its implementation be conceptualised?
2. Which factors potentially influence the emergence of a distance between intended policy and its implementation?
3. Which factors have exerted influence on European public procurement policy (namely the public procurement distance)?
4. What recommendations can be formulated to increase the effectiveness of European public procurement policy?

To analyse procurement distance and formulate an answer to the central question, a theoretical framework is developed based on scientific literature on policy implementation with a focus on the public procurement process. This process often comprises two steps, namely specifying the demand for works, services and supplies, and choosing from the bids received (Van Weele, 2010: 29, 117-120; Van der Horst & Schenk, 2016: 105-106). In each of these steps, deviations might arise between the intentions behind the policy and its implementation, making the procurement process part of the analysis.

### 1.3 Relevance of this study

This study seeks to increase knowledge about the implementation of European public procurement policy in daily practice. While relatively little is currently known about this (Csáki, 2006: 872; Fazekas, 2017: 2), the workplace is where policy is ultimately created (Lipsky, 2010: 213). According to Knight et al. (2007: 1), it is surprising that so little country comparative and country-specific research has been conducted on the realisation of potential savings in public procurement, especially given that public procurement is an important aspect of national economies. While understanding the quality of procurement processes and their outcomes remains in its infancy (Fazekas, 2017: 2), this study aims to provide an impetus to fill these gaps.

The professional implementation of public procurement policy is typically regarded as a predominantly legal and regulatory process (Telgen et al., 2007: 18-19; Treumer, 2014: 10; Hoezen & Volker, 2015: 2; Van der Horst & Schenk, 2016: 33). However, a lack of insight into the practical organisation of public procurement and the optimal mix of control mechanisms to implement procurement objectives in practice might play a more significant role than the increasing legalisation (Jansen, 2018: 5). This public administration study contributes to this intended broadening, will potentially also helping the Commission and member states to answer the question of why distance exists between the intended policy and its implementation.

When there are discretionary policy objectives in public procurement policy, it is claimed that a stronger emphasis is placed on achieving economic objectives rather than sustainability objectives (Kingston, 2016: 30). Use of government procurement to achieve social policy objectives is lagging behind. Also, little research has been conducted on the use of public procurement towards achieving these objectives (Koszevska & Ligte, 2023: 152-153). Cross-border procurement – the third component of European public procurement policy – is not at all common (Sylvest et al., 2011: 10; Commission, 2017a: 4). This study can help to understand why certain discretionary components of European public procurement policy might not be used as frequently as others, and thus promote change in this area.

By gaining more insights into the implementation of discretionary procurement policies related to topics such as sustainability and social return, this policy can be more effectively tailored to address major societal issues such as mitigating climate change, reducing unemployment, and countering social inequality. The stronger involvement of SMEs in executing public contracts can lead to greater economic growth. Encouraging the development of innovative products and services can lead to even more citizen-focused public services, reflecting the interest of the European Union as a whole.

## 1.4 Scope and research design

This section will focus on the target groups that fall within the scope of this research, while the research design will also be discussed.

### 1.4.1 Scope

This study examines the implementation of public European procurement policy in public sectors and utility sectors. Public sectors comprise non-utility-oriented public organisations,<sup>5</sup> while utility sectors include organisations that provide services of general interest, such as gas, water, or public transport (Bovis, 2007: 49-50; Van Weele, 2010: 109; Commission, 2014b; c).<sup>6</sup> Procurement is all about the actions of procurement officers, as buyers, lawyers and contract managers. Separate regulations exist for special procurement situations such as grant and state aid schemes (European Union, 2012: art. 107.1 TFEU), defence and security (Commission, 2009), concessions (Commission, 2014a), or procurement by the Commission itself (O'Connor, 2010). Such procurement situations lie beyond the scope of this study.

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5 Also known as classical sectors.

6 Also known as special sectors.

All member states use the same European public procurement guidelines, which they have converted into national legislation and apply them in their procurement practice. This means that member states have the same principles of European law regarding public procurement, which offers opportunities for a broad comparative study into the implementation of European purchasing policy in the 27 EU member states.<sup>7</sup> Country comparative research provides an opportunity to identify possible differences or similarities between member states concerning the implementation of European public procurement policy, as well as reflecting a basis for further research into the possible causes of such differences in keeping with the public administrative tradition and previous research on implementation processes. For example, Versluis (2003) investigated differences among four member states in the implementation and enforcement of a guideline for chemical substances, while Falkner et al. (2005) and Falkner and Treib (2007) explored the implementation of European social policy in nineteen member states and proposed a typology concerning conversion and implementation on this basis.

#### 1.4.2 Research design

This study seeks to find explanations for the distance between the intended European public procurement policy and its implementation in the workplace. Accordingly, this study is explanatory in nature, drawing on the literature to establish expectations about the causes of the possible distance in implementation. These expectations are then tested quantitatively using data collected through a digital survey, aiming to gain insights into why public procurement distance can emerge.

The survey will be distributed among procurement officers within publicly contracting organisations in the 27 member states that publish their calls for tenders on the central European procurement website, Tenders Electronic Daily (TED). This is the website of the European Union where new public contracts within the Union are published daily. The responses provide a large dataset that is subsequently analysed using multivariate techniques.

To interpret these analyses, based on Selznick (1984: 5), two theoretical approaches are selected to explain 'public procurement distance.' The first approach adopts the perspective of an administrative organisation in which administrative capacity and possibilities for collaboration play a role in the ability to implement policy, and the

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<sup>7</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. The United Kingdom was a member of the European Union at the time of data collection, while Croatia was not.

second takes the perspective of organisations being regarded as institutions in which various normative ideas and task perceptions are leading in achieving goals.

The administrative organisation approach was mainly developed by Tallberg (2002), who argues that non-compliance in the European Union is not the result of a conscious choice but arises under the influence of a lack of capacity and unclear rules. This can best be tackled through a strategy of capacity strengthening, rule interpretation, and transparency (2002: 613-614). In the context of answering the central research question, this means considering solving capacity shortages by deploying more expertise, people, or resources. This can lead to better policy implementation and resulting in bridging the procurement distance and is therefore included in the theoretical framework.

The other way to give substance to the administrative organisation approach is network oriented. The idea is that contracting authorities can better implement the European public procurement policy by working together. The Commission (2016a: 5-6) believes that this approach to public contracts creates efficiency and economies of scale, while a lack of resources can also drive organisations to collaborate with other organisations (Aiken & Hage, 1968: 927-929). Accordingly, collaboration can reduce public procurement distance and is therefore included in the theoretical framework.

The second perspective is normative. The first theoretical approach addressed here focuses on professionalism as used by Freidson (2004), who considered it from two angles: first, from skills acquired in practice and formal knowledge, and second, from the intrinsic motivation to perform tasks qualitatively well based on a sense of responsibility. This author fits into this study because he approached the issue of professionalism from both practice and training as well as intrinsic motivation, justifying the inclusion of this line of thinking in the theoretical framework.

In addition to values summarised in professionalism, the degree of discretion that the policy leaves to various actors to add and include certain components – if desired – during their performance of their procurement tasks is also examined. Here, the freedom to further implement policy at one's discretion can also be influenced by the environment. This is inspired by Lipsky's (2010) classic work on civil servants shaping public policy implementation at the street level within the discretionary leeway available to them.<sup>8</sup> Given that policy discretion can affect public procurement distance, it is also incorporated into the theoretical framework.

A final perspective addressed within the normative approach assumes values that might play a role in the implementation of European public procurement policy in terms of possible cultural differences between member states, public

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<sup>8</sup> Originally from 1980.

administration tiers, sectors, types of guidelines, compliance, and geographical location. Culture is understood in this study as a bundle of values, assumptions, and judgements that influence the behaviour of groups of professionals. Evidence in the literature suggests that culture can play a role in how policies are implemented in diverse groups (Le Galès, 1998; Pollitt & Bouckaert, 2000; Falkner et al. 2005; Falkner & Treib, 2007). As the cultural aspect might affect the degree of public procurement distance, it is also included as part of this study.

## 1.5 Chapter outline

This introductory chapter has highlighted the issues surrounding the implementation of European public procurement policy, forming the basis for the research question and problem. Moreover, it has discussed the importance of targeted European procurement policy, as well as the scientific and social relevance of this research.

In the coming chapters, European procurement policy as applied in practice will be discussed in further detail. The theoretical framework developed in this regard will subsequently be tested and analysed based on the results of the empirical research, with conclusions and recommendations drawn, leading to the following composition of this dissertation:

In chapter 2, the distance between intended European public procurement policy and its implementation will be conceptualised. The context of European public procurement policy will be discussed, whereby mandatory policy will be scrutinised, as well as discretionary policies regarding socially responsible procurement, innovation, and participation in public contracts by SMEs. Discretionary policy on cross-border procurement in the common market will also be discussed. In chapter 3, public procurement distance will be further conceptualised by constructing a theoretical framework on the factors that potentially influence the emergence of a distance between intended policy and its implementation. Based on this framework, expectations about the implementation practice will be formulated. Chapter 4 will concentrate on the operationalisation of the variables from the theoretical framework that could potentially influence the emergence of a distance between intended policy and its implementation. Chapter 5 will describe the results of the data analysis, after which the outcomes of the data testing will be presented in chapter 6. Finally, chapter 7 will focus on the insights gathered and conclusions that emerge from this research. Together with chapters 5 and 6, these three chapters will form the answer to the question concerning which factors exert influence on public procurement distance. Several policy recommendations will also be formulated in the closing chapter.



## Chapter 2

# IN PERSPECTIVE: EUROPEAN PUBLIC PROCUREMENT POLICY

### 2.1 Introduction

Central to this chapter are the background and importance of the mandatory and discretionary European public procurement policies. Together with Chapter 3, this section addresses the first research question of how the distance between the intended European public procurement policy and its implementation may be conceptualised, hereinafter to be referred to as “public procurement distance”.

First, the policy context of European public procurement policy will be described.<sup>9</sup> Following this, a detailed and in-depth discussion will focus on the mandatory and discretionary European public procurement policies, in particular the discretionary policies regarding socially responsible procurement, innovation and participation in public contracts by SMEs. Discretionary policies on cross-border procurement in the common market will also be addressed, before the concluding paragraph will look ahead to the next chapter.

### 2.2 Context of European public procurement policy

The European Union has a strong interest in the implementation of European public procurement policy in line with its intentions, owing to several reasons. Smoothly running procurement processes demonstrate that there is a functioning common market without internal borders and trade barriers between the member states (Cox, 1993: 9; Bovis, 2007: viii-ix; Panagopoulos, 2016: 269). This means that – for example – a supplier from Finland can supply a municipality in Cyprus without any problem. The second reason is the economic importance of tender procedures, which arises

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<sup>9</sup> Only public contracts above the thresholds have been examined. In principle, public contracts with a value below the thresholds come under the member states’ national policies and do not have to be put out to public tender at the European level. As examples of some threshold amounts for the 2022/23: the tender threshold for works in both the utility and the public sectors is €5,382,000, central governmental authorities have a threshold for supplies and services of €431,000 for the utility sectors, and a threshold of €140,000 if provided by the public sectors. For decentralised governmental authorities, the threshold is €215,000 (source: Commission, 2021d: 2021/1952 (classical/public); 2021e: 2021/1953 (utilities)).

from the fact that European governments at all administrative levels procure goods and services and have works carried out with taxpayers' money. This involves major economic interests for both government and business (Wiesbrock & Sjøfjell, 2016: 230). Third, there is a social interest: public procurement may be a way of assuring high-quality public services (Commission, 2017a), as reflected in effective infrastructure or adequate educational facilities, for example. The fourth reason concerns procurement, as the common market functions as a large cross-border trading platform that offers plenty of opportunities for supply and demand to meet on the best terms (Cox, 1993: 259). Businesses from different member states can compete on this platform across borders for the public contract in another member state, so that the taxpayers' money goes to the best offer. A policy interest is the fifth reason, which manifests itself in the desire to implement policies in areas such as environmental protection, innovation, support for certain groups in society and industrial politics through public procurement, as well as fighting corruption (Nunes de Almeida, 2016: 4; Wiesbrock & Sjøfjell, 2016: 230-231). A common element in the above reasons is that if the European policy is not implemented as intended, it can have major societal and economic consequences.

This makes public procurement an important instrument for the Commission to manage policy implementation. According to the Commission, "*the management of public procurement is a matter of primary public policy importance – particularly in the context of fiscal consolidation and retrenchment in which member states must now manage public resources*" (Commission, 2011c: iii). Public procurement can also be a flexible policy instrument. For example, in 2015 and in 2020, public procurement was used as a control instrument to combat the refugee crisis and the COVID-19 pandemic, respectively, by using highly accelerated procurement procedures (Commission, 2015b; 2020), making it possible for relief supplies and medical equipment to be purchased at very short notice. Public procurement is also important in terms of numbers, as will be illustrated in the next paragraph.

### 2.2.1 Numerical importance of European public procurement policy

Procurement by governments based on European regulations has boomed and is still growing. Over 163,000 calls for tenders above the threshold values were published in 2010. By 2013, this had increased to almost 170,000 (Commission, 2015a: 8), and in 2020, more than 250,000 public contracts were awarded according to the TED website. In other words, public procurement represents a major financial interest, comprising approximately 16% of a country's gross domestic product (Van Weele, 2010: 123). The volume of all EU public procurement *above* the thresholds was around €450 billion in 2015 (Commission, 2016b). A more recent indication of the amount spent annually by governments on procurement above

the threshold values is €800 billion (Commission, 2024). Member states have over 250,000 contracting and purchasing governmental entities, 35,000 of which put up contracts for European tenders. The others are too small to publish calls for tenders under the European procurement guidelines (Commission, 2011b: 8). The United Kingdom (UK), France, Spain, Germany, Poland and Italy are responsible for 75% of all procurements in terms of both the number of contracts and their monetary value. The UK tops the list in terms of the highest value<sup>10</sup> and France ranks highest for the number of contracts each year (PwC et al., 2011: 4). The average contract value (mean value) of all measured contracts together – regardless of the procedure used – is €3.1 million, with €390,000 as the median. Many contracts have a relatively low value, and they may run into billions (PwC et al., 2011: 18). An average of three potential suppliers tender for each contract (Commission, 2017a: 5). A tender process takes 108 days on average, and potential suppliers spend about €3,800 and governments €5,500 per tender procedure (PwC et al., 2011: 6, 87).

### 2.2.2 Mandatory European public procurement policy

European public procurement policy is intended to ensure public services to citizens. To do so lawfully and effectively, it is important that the procurement regulations are implemented effectively. This is based on four underlying basic principles of public procurement (Van Weele, 2010: 10): non-discrimination, whereby the market for public contracts must be accessible to every supplier, and the contracting authority may not impose requirements that exclude certain suppliers; equality, meaning that all (potential) suppliers competing for a public contract should be treated equally; transparency, so that business owners should be able to easily inform themselves about upcoming public contracts, and procurement processes must be unambiguous, visible and verifiable; and proportionality, reflecting that contracting authorities may only impose requirements and wishes that are reasonably proportionate to the public contract in question.

Violation of these principles will result in public procurement distance, with several examples to be found in the literature. For example, regarding the purchase of two speedboats for about one million euros by the Dutch Ministry of Public Works and Water Management, the requirements in the invitation to tender were formulated in such a way that the boats had to be able to operate at high speed and in heavy seas, but not that they had to be able to do both at the same time in rough seas. Even though the chosen supplier met both requirements separately as per the specifications, the boats were still unusable as operating at high speed in heavy seas was not possible (Nauticlink.com, 21-08-2018). It is conceivable that there are

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10 Brexit plays no role in this.

suppliers in the market that meet the combination of both requirements, so that the principle of non-discrimination may have been violated. Another example of public procurement distance concerns transport-related infrastructure projects, with nine out of ten projects costing on average 28% more than budgeted. Underestimating costs upfront is many times more common than overestimating them and seems to be a global phenomenon according to Flyvbjerg et al. (2003: 78, 85; 2016: 31). It is apparently quite common for the requirements and preferences for these types of public contracts to significantly mismatch with their actual scope due to such disproportionate underestimation of the costs. In IT projects, governments systematically exceed the predefined budget and scope. The involvement of actors also increases as a project progresses, leading to intransparency in the execution of public contracts in IT (Groen, 2015).

### 2.3 Non-mandatory European policies

Not all regulations relating to European procurement policy must be adhered to, as some are discretionary. As discussed in Chapter 1, there may be strategic reasons to adopt non-mandatory policy.<sup>11</sup>

The discretionary aspect of its policy instruments will now first be discussed, before zooming in on their strategic dimension.

#### 2.3.1 Discretionary policy instruments

The European Commission has long held the position that the use of discretionary policy instruments is left to its member states, thereby applying the principles of subsidiarity and proportionality. Implementation of discretionary European policy is consequently largely determined by the national policy of member states, making it possible to procure more nationally or locally than in the common European market (Commission, 2011c: 155). According to the Commission, the use of policy instruments also varies excessively by market and industrial sector to demand their implementation (Commission, 2014b, consideration 95 and 2014c, consideration 100). The Commission usually limits itself to making recommendations to member states (Commission, 2016a). For example, in the area of sustainability, since 2003 it recommends developing national action plans for green public procurement (Commission, 2008b: 2). One of the few current exceptions to this rule is the

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<sup>11</sup> This policy is also referred to in the literature by a wide range of other terms, such as 'horizontal policy' and 'secondary procurement policy' (Arrowsmith & Kunzlik, 2009: 9-10), and 'flanking policy' (Grin, 2003: 7). This study has adopted the term as used by the Commission, i.e. 'strategic policy' (Commission, 2017a: 3).

directive on clean and energy efficient vehicles, whose implementation is mandatory (Semple, 2023: 113). However, under the influence of the social debate on climate change, the Commission's attitude is gradually shifting. It is particularly less inclined to leave policy implementation in the area of sustainability to member states and increasingly encourages its active deployment in public procurement, as reflected in the 'Green Deal' initiative – for example – which includes numerous proposals to make compliance with regulations in the area of sustainability and improvement of the living environment mandatory rather than leaving their implementation to the discretion of member states. This is intended to lead to more sustainable economies and market models (Commission, 2019). Given the large volume and financial value public procurement is a powerful tool to achieve behavioural change (Andhov & Muscaritoli, 2023: 21). There have long been pleas in the literature for the Europe-wide mandatory inclusion of certain discretionary policy instruments in tender procedures. For example, Wiesbrock (2016) argues for the mandatory inclusion of minimum standards in social and employment law in procurement procedures (2016: 77, 95-96). Trybus (2016) makes a different assessment and emphasises economic interests, believing that sustainability policies and encouraging SME participation in tender procedures have become so important that they are in fact no longer secondary objectives of public procurement but rather primary ones. Social objectives however still are secondary objectives according to him (Trybus, 2016: 11). There could be some ambiguity in determining which policy belongs to which instrument. For example, support for SMEs can be considered as part of a member state's economic policy, but also as part of social policy due to its potential impact on unemployment (Piga & Tátrai, 2016: 15). Regarding the application of discretionary policy, rulings of the Court of Justice of the European Union (CJEU) have supported the cross-border application of discretionary targets. The CJEU has hereby played a vital role in the Union-wide harmonisation of these policies (Weale et al., 2000: 33-34; Edward, 2003: 490-491). The resulting case law has been codified in procurement directives and used in the member states.

In principle, public procurement officers have the freedom to determine which instrument they use in which tender procedure. As described in Chapter 1, the use of discretionary policy is problematic because member states do not implement this policy or only part of it. It is therefore interesting to consider the aspect of freedom of choice because it may raise certain implementation questions related to the use of such policy. In this regard, Zuckerman et al. (1978) found that people's motivation increases with their degree of control over their environment, whereby having many choices is a contributing factor. On the other hand, Iyengar and Lepper (2000) found that having too many options leads to demotivation: if someone cannot choose, they are inclined to leave the decision to others, such

as somebody who is considered to be an expert on the topic. Likewise, Schwartz (2000) comments that as freedom increases, so does uncertainty, dependence on institutions and on other people. In relation to this research this can negatively affect the use of policy instruments under the influence of third parties. One relevant issue here may be that the European Commission has not made clear distinctions regarding the instruments to be used. For instance, the sustainability instrument has the same policy weight as promoting SME participation in tender procedures, even though they concern different policy areas. This may lead to competition in use between the different policy areas (Fuchs, 2011: 343), which in turn may lead to instruments being used very little or not at all due to indecision. It is also important that market players cooperate in implementing the intended policy, which is not always self-evident. For instance, Brazilian research among 30 construction engineers found that implementing sustainability requirements is obstructed by regulations in this area being perceived as burdensome, not always corresponds well to practice and can cause delays and higher construction costs (de Souza Dutra et al., 2017). Consequently, this may restrict the use of intended policy.

The literature suggests that primary economic objectives often prevail over secondary discretionary objectives (Kingston, 2016; Trybus, 2016: 10; OECD, 2022). Therefore, it is not unrealistic to ask whether achieving these objectives has some added value in the eyes of executive staff. Kahlenborn et al. (2011) used a survey commissioned by the European Commission to investigate the experiences in the member states with integrating discretionary policy in tender procedures. According to almost 38% of the respondents, the inclusion of sustainability requirements leads to higher procurement costs: procurement costs remain the same in just over 32% of cases. Over 21% of the respondents said that the inclusion of aspects of social policy leads to an increase in costs. Those costs stay the same according to almost 32% of respondents. As for innovation, the increase is almost 23% according to the respondents, while more than 22% of respondents believed that the costs remain the same. According to 55% of respondents, the application of discretionary policies leads to an increase in the complexity of tender procedures, whereas 42% claimed not to experience any change in this respect. Over 43% said that incorporating sustainability leads to an increase in the duration of tender procedures, while 54% experienced no increase in duration (Kahlenborn et al., 2011: XVII-XVIII). This study thus presents a mixed picture of respondents who perceived discretionary policies as either expensive, time-consuming and complex or not at all. Van Orden and Kreeft (2020: 33) examined almost 500 Dutch public contracts for the inclusion of social conditions, which was only the case in one-third of the contracts. Research by Yu et al. (2020: 7) found that green award

criteria play a role in less than 10% of contracts. The cited literature shows that the rate of their use is low, and the exact causes are the subject of this study.

The Commission provides some direction for the decision-making process regarding the rating of primary and secondary objectives in tender procedures. Depending on the type of product and the importance of other non-sustainability-related award criteria, a 15% weighting for sustainability criteria can be considered meaningful according to the Commission (2008b: 5). The remaining 85% can be used to score primary objectives. If this Commission's rule of thumb is indeed applied, is there any public procurement distance if instruments *count for less than 15%*? There is some friction here. As secondary objectives carry more weight in the scoring, primary objectives such as price and quality carry less weight, which may lead to higher purchasing prices because suppliers need more money to implement secondary policies. On the government's side, a higher purchase price could mean that there is less taxpayers' money left to fund secondary objectives. This could affect the effectiveness of the discretionary policy since no one wants to pay too much, and it may well be possible that price awareness leads to governments being less prepared to use it.

### 2.3.2 Strategic policy instrument

Objectives pursued through discretionary policies are referred to as strategic for several reasons, first because they are often intended to achieve certain effects in the areas of politics, the economy, humanity and society in the long term (Kahlenborn et al., 2011; Commission, 2011c; 2017a; Panagopoulos, 2016: 269). In politics, this is the case because they are about maximising the effectiveness of the use of policy instruments, in economics and society because their use can lead to a boost in the participation of SMEs in public contracts, more employment, the improvement of the quality of the living environment, innovation and digitalisation. Given its volume and financial value, public procurement is an important strategic supporting instrument for implementing discretionary sustainability policies, according to Andhov and Muscaritoli (2023: 21). One point of attention here is the current regulations, given that policy objectives included in tender procedures must always be related to what is being procured. This may limit efforts somewhat, but makes those objectives more targeted (Commission, 2014, b; c; Semple, 2016: 50).

Especially when strategic policy objectives have a cross-border nature, such as measures in the field of sustainability, they touch on the common market. This means that collaboration and coordination between member states are crucial for the effectiveness of the discretionary policy. In this sense, this policy is also strategic. An important aspect of using instruments is that their use often coincides with the duration of the relevant public contract (the contract term). This period usually

only covers a few years and is therefore predominantly short cyclical in nature. This complicates the realisation of longer-term objectives through strategic deployment.

## 2.4 Policy instruments in more detail

In the remainder of this chapter, the policy instruments that are part of this study will be discussed, further defining and outlining the discretionary policy in terms of content as part of answering the first research question. For each instrument, the relevant European policy is briefly discussed. Certain practical aspects of the implementation of these instruments will also be addressed.

### 2.4.1 Sustainable public procurement

Sustainable public procurement encompasses two policy themes, namely themes related to the quality of the living environment – ‘green’ procurement’ – and those in socially responsible procurement (Steurer et al., 2007: 3; Commission, 2016a). The latter is referred to in this study as ‘social return’. Both topics will be discussed in this paragraph.

Sustainability policies aim to "*regulate the use of energy and natural resources, or the environmentally harmful emissions from consumptive and productive behaviour or both*" (Haverland, 2003: 204). Haverland places an emphasis on regulating the use of natural resources and hazardous emissions. As discussed earlier in this chapter, the Commission sets the policy but often leaves implementation to the member states, which makes regulating a national policy issue. If it has a cross-border interest such as combating air pollution, agreements should be made between member states. This necessitates a level of coordination that extends beyond the scope of a mere public contract.

Another aspect to consider when implementing sustainable public procurement is the concept of chain responsibility. While an end product can be labelled ‘green,’ to what extent is the underlying production process environmentally friendly? This aspect of a sustainable life cycle and supplier chain – which holds significant importance for public procurement – has received considerable attention in European and member states’ national politics (OECD, 2022: 7-9). The question here is how the chain might be verified by procurement officers. It is not realistic to ask the estimated 35,000 purchasing entities that announce one or more tender procedures each year (Commission, 2011b: 8) to trace the chain of production and distribution after each public tender.

To achieve the successful implementation of European sustainability policies, it may be necessary to include detailed implementation requirements and technical procedures in national legislation to bridge the distance between European policy

intentions through national implementation. European benchmarks thus have a direct influence on the deployment and enforcement within individual member states. This also comes to the fore in the literature by Falkner et al. (2005: 18), as illustrated in Box 1. Latvia has developed specific regulations to translate European sustainability policies into practice in this country.

#### BOX 1

##### GREEN PUBLIC PROCUREMENT

Latvia has developed procedures on implementing green public procurement. For certain categories of products, using green public procurement is obligatory, with examples including the procurement of cars with certain emission norms. In the procurement of food, norms for avoiding unwanted additives and the usage of unnecessary packaging material are implemented. In the category of cleaning, norms exist for cleaning products that are used. These provisions are supported by an extensive methodology and guidelines to enable procurement people to implement them in practice. They also provide a legal certainty for contracting authorities and tenderers (Interview Latvian public procurement consultant, 30<sup>th</sup> January 2018).

Socially responsible procurement (social return) aims to fulfil social policy objectives through the procurement process and mitigate any negative social impacts that may arise from contract execution (Commission, 2021c: 4).

Social return policies often deal with issues such as working conditions, employment and supporting the socially disadvantaged: "*any purposeful action intended to improve the social welfare of the whole or part of the same population*" (Fernandez Martin 1996: 39 in Erridge, 2003: 97). Topics in this area can be included in calls for tenders so that market players are for example encouraged (or obliged) to involve people with a certain distance to the labour market in the execution of the relevant public contract. They may create internships or work experience places, for instance. Realising accessible facilities that cater for people with disabilities is also a component of social return, whereby policy intentions are effectively transformed into practical execution. It is a predominantly short cycle instrument whose effect can become visible quickly.

#### 2.4.2 Innovation

In this study, the Commission's definition of innovation procurement (hereafter referred to as 'innovation') is adopted: innovation is the procurement of a new

process through research and development, or a particular outcome related to a product, service or process that is yet unavailable in the market (Commission, 2021b: 5).

To implement policies to stimulate innovation in practice, a public contract that involves research and development or aims to develop or significantly improve a new or existing product or service might be considered a topic for innovation procurement. This makes innovation a broad concept, which also emerges in the literature. For example, according to Evan (1993: 114), innovation is “*the implementation of a new idea, whether a product of invention or discovery*”. On the other hand, Iossa et al. (2016: 8-9) approach innovation from a more economic perspective in which procurement is a demand-side instrument to solve market failure issues by asking the market for certain products and services. When the public sector calls for innovative products and services, it encourages businesses to invest in innovation, partly because governments often provide funding for a project. According to Telgen et al. (2007: 22) and Nyiri et al. (2007: 12), governments have the ability to leverage their significant buying power to promote the development of innovative products or procedures. Governments can hereby become a ‘launching customer’ to boost demand (Kahlenborn et al., 2011: 2).

#### 2.4.3 SMEs

The Commission wishes to promote the participation of SMEs in public contracts through public procurement. Here, the principle of subsidiarity applies (Commission, 2008a: 2). Because SMEs are limited in size and often operate locally, they know the local situation well and can quickly respond to it. The local aspect and limited size of this types of businesses may also lead to lower transport costs, faster decision-making and less administration. SMEs can thus tackle sustainability and social objectives more quickly (Schoenmaekers, 2016: 168). SME participation may be a secondary policy instrument, although it is very important in supporting the Commission’s primary economic policy objectives given that more than 99% of businesses in the Union are small to medium-sized according to the European definition, which means that they employ a maximum of 250 people and have a maximum turnover of 50 million euros or a maximum balance sheet total of 43 million euros (Commission, 2003; Panagopoulos, 2016: 270). However, there are signs that this policy tool is not being utilised to its full potential. Between 2006 and 2008, SMEs won only 58% to 61% of the public contracts subject to a tender procedure, corresponding to 31% to 38% of the value of all contracts (GHK/DG Enterprise and Industry, 2010: 114). SMEs have disproportionately lower levels of access to markets and public contracts relative to their size and economic impact, as noted by Bovis (1998: 224) and Hatzis (2009: 345).

At the same time, the number of calls for tenders is still increasing (Commission, 2015a: 8).<sup>12</sup>

Box 2 is an example of a discrepancy between the intended policy to promote the deployment of SMEs and its implementation. Risk aversion possibly also plays a role in the division of contracts between large and smaller businesses, whereas the Commission encourages some risk-taking in the deployment of SMEs (Commission, 2008a: 3). The SMEs referred to in Box 2 supply when the large supplier is unable to, as emphasised in the literature: SMEs are flexible and serve that part of the market that is not of sufficient business interest to larger companies (Bovis, 1998: 234; Schoenmaekers, 2016: 168).

#### BOX 2

##### **PROCURING FRESH FOODS THROUGH SMES**

In Sweden a city wanted to procure fresh food for local schools and elderly homes. The contract up for bids was divided into fifteen different lots of product groups. The idea was to award 80% of the assignment to a single large supplier and 20% to two SMEs to fulfil government policy on SME participating in the bidding for public tenders. The smaller ones would also serve as a backup for the large supplier.

This goal was achieved, and all lots were awarded as planned. One positive side effect that emerged was that these SMEs subcontracted local groceries to help them to supply fresh food. At the beginning, the city feared that deliveries and quality would be jeopardised due to the size of the suppliers, although this proved not to be the case. SMEs were given time to grow into the agreement and nowadays delivery takes place with 98% accuracy and supplies are of continuous high freshness.

Dialogues between all stakeholders resulted in largely increased mutual understanding, satisfaction with this way of dividing the markets, increased trust with happy suppliers, procurers and end users as a result (Interview Swedish procurement manager, 5<sup>th</sup> January 2017).

#### 2.4.4 Cross-border public procurement in a harmonised market

Cross-border public procurement means that a supplier from one country makes a bid for a European public contract that is issued out for tender by a contracting

<sup>12</sup> Encouraging SMEs' participation in public contracts has been a policy focus for the Commission since the 1980s (Commission, 1989: 15; Commission, 2014b: consideration 2 & 124; 2014c: consideration 4). This policy is still in effect after the 2014 revision of the guidelines (Schoenmaekers (2016: 160-161).

authority from another country.<sup>13</sup> It is a discretionary policy instrument that supports one of the European Commission's key strategic economic policy objectives, i.e. promoting cross-border trade in a common market without internal borders. A fragmented market makes European industries less competitive, reducing their ability to compete in other markets (Martin, et al., 1999: 388). Cross-border procurement also supports the implementation of other policy instruments such as the sustainability instrument, because their deployment is often only effective across borders (Liberatore, 1991: 286).

Cross-border public procurement has been encouraged since the creation of the first procurement directives in the 1970s and 1980s. At that time, 0.14% of EU countries' gross domestic product was procured cross-border from other EU countries (Cecchini, et al., 1988: 16). In 1999, according to Martin et al. (1999: 400), less than 0.32% of the total number of contracts were awarded to companies from other EU member states. In a study conducted by the Commission in 2004, cross-border awards accounted for 3% of contracts (Commission, 2004c: 9-10), while over the 2009-2015 period this percentage was 1.7%, according to the Commission (2017b: 29). It is conceivable that there are sufficient national businesses available in national markets for works, services and supplies, which reduces the necessity for cross-border transactions. It may also be an indication of the limited degree of success of European policies to promote the deployment of 'cross-border procurement' as a policy instrument. There is also evidence suggesting that larger member states utilise this tool less frequently than smaller member states (Sylvest et al., 2011: 8). It is therefore imaginable that larger member states have a greater degree of influence on the emergence of public procurement distance than smaller member states. According to the same authors, language, geographical location and the type of directive could also play a role. Countries that share a language are more likely to award each other contracts compared to those with different languages. For example, contracting authorities from Malta regularly award public contracts to market operators in the UK as well as the Irish, and Austrians are more likely to award to Germans (Sylvest et al., 2011: 11-13, 78-80).<sup>14</sup> The percentage of cross-border public procurement among utility sectors is also higher than for public sectors, i.e. 4.3% compared to 1.3%, according to Sylvest et al. (2011: 12). Cross-border purchasing could theoretically rise to over 18%, according to the same authors (2011: 8-9), caused in

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13 In this study, cross-border public procurement refers to direct public procurement by a governmental buyer in one member state from a supplier in another member state as opposed to indirect procurement sourcing from a local branch of a foreign organisation. In the words of the Commission (2017a: 4), the percentage of the latter happening in public procurement is "above 20%."

14 When this study was conducted, the UK was still a member of the European Union.

part by the further globalisation of production processes as this leads to an increasing spread of production chains across countries.

The example of Luxembourg in Box 3 brings together multiple aspects of cross-border procurement policy. According to the guidelines, the use of the national language in tender procedures is permitted. This case prescribed hiring a person who was proficient in the local language to overcome a possible language barrier, which is usually the case for bidders who are not from Luxembourg. The policy of promoting the cross-border public procurement instrument is hereby implemented and public procurement distance is avoided, although on the other hand the requirement to employ such a person may be a barrier to tendering for a Luxembourgish public contract and result in public procurement distance.

### BOX 3

#### **CROSS-BORDER PARTICIPATION**

Given that Luxembourg finds itself in between three larger member states, many cross-border companies participate in tender processes in this country. Like in many other countries, procurement above thresholds will be published on a central website in an official language.

If published in another language than Luxembourgish, the obligation to hire somebody who speaks Luxembourgish can be included in the specifications to overcome possible language hurdles. This can also be a constraint towards foreign companies to tender for a contract in this country (Interview Luxembourgish public procurement officer, 22<sup>nd</sup> March 2018).

## 2.5 Conclusion

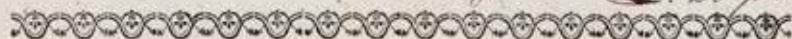
This chapter has discussed the importance of the mandatory and discretionary European public procurement policy against the background of the common market between the member states of the Union. The discretionary strategic policy instruments that passed review in this study were presented. This chapter also explained why these instruments were not only discretionary but also strategic. The discretionary policy on cross-border awarding was also addressed.

The next chapter will elaborate on the concept of public procurement distance. Using the literature as the point of departure, a theoretical framework will be developed to identify the potential influence of wide-ranging factors on the emergence of disparity between intended policies and their implementation.

FRATERNITÉ.

L'ADMINISTRATION de l'Arrondissement du Brabant, fait savoir qu'à l'intervention de l'Inspecteur - Général des Chaussées, *Loicq*, et en présence d'un de ses Commissaires, elle fera procéder à la Maison du Peuple à Bruxelles, le 24 Floréal, 13 Mai (vieux style), à dix heures du matin, à l'Entreprise et Passement au Rabais de la main-d'œuvre pour la réparation de la Chaussée de Bruxelles vers Libre-sur-Sambre, (ci-devant Charleroy) ainsi que des bras de Chaussées qui y aboutissent, aux conditions déclarées par le Procès-Verbal de criée et adjudication qui se trouvent déposées au sixième Bureau de cette Administration, où les Amateurs s'adresseront pour prendre inspection, tous les jours, le matin depuis 10 heures jusqu'à midi, et l'après-midi, depuis 4 jusqu'à 6 heures.

*Miché D'Anters le  
23. flor: 5. à 5. P. J. J. J. J. J.*

VRYHEYD,GELYKHEYD,BROEDERLYKHEYD.

DE Bestiering van den Omtrek van Brabant maakt kenbaer, dat ter bevoorderinge van den Opper-Toezigter der Steen-Wegen, *Loicq*, in het bywezen van een haerder Leden, men op het Brood-Huys tot Brussel, den 24sten. der Bloem-Maend, 13 May, (ouden stiel) ten 10 ueren s'morgens, zal aenbesteden ten leegsten pryse de hermaeking der Baene van Brussel naer Vrye-op-de-Zamber, (hier te voren Charleroy) als ook der Zy-Steenwegen tot de zelve geleydende, op de voorwaarden verklaert by het mondelings bespreek der Oproeping ende Palm-slag, welke men ten sesden Bureele dezer Bestiering zal vinden, alwaer, die gaeding heeft, de zelve zal konnen naerzien alle daegen s'morgens van 10 ueren tot den middag, ende naer middag van 4 tot 6 ueren.

*Voor gelykvormige vertaeling in het Nederduytsch A. G. REYNACKX.*

## *Chapter 3*

# **THEORETICAL FRAMEWORK: PUBLIC PROCUREMENT DISTANCE**

### **3.1 Introduction**

The execution of European public procurement policy may present challenges across all three components (mandatory policy, discretionary strategic policy and discretionary policy concerning cross-border procurement), as outlined in Chapters 1 and 2. In this chapter, a theoretical framework is constructed to address this issue, thereby formulating answers to research question 1 concerning how the distance between the intended European public procurement policy and its implementation can be conceptualised and research question 2 regarding what factors potentially influence the emergence of a distance between intended policy and its implementation.

The first part of this chapter places public administration literature on policy implementation in the context of possible differences between pre-implementation policy objectives and their actual execution. This is followed by an elaboration on the concept of public procurement distance, i.e. the difference between the intended European procurement policy and its implementation in practice. The next step is to use different theoretical perspectives to discuss the factors that may directly contribute to the emergence of such a distance.

### **3.2 From policy formulation to policy implementation**

The literature on policy implementation emphasises that intended policy objectives give rise to all kinds of unexpected and undesirable situations in implementation. Policy implementation is delayed and modified while each of the many actors involved play their part (Carroll, 2014: 26). Classical public administration studies by Pressman and Wildavsky (1984) and Bardach (1979) explored this issue. In Pressman and Wildavsky's view (1984: 143-146), implementing a policy intention can only be successful if all actors who are deemed relevant play a role in it. Bardach (1979: 55-57) considers policy implementation to be a situation in which those involved each play their own game. He emphasises the significance of being able to modify elements of that game to achieve the desired outcome, in a process that he terms 'fixing'

(1979: 274). This makes it possible to ‘win’ the implementation game in execution. ‘Winnings’ must be interpreted as the result of the policy’s implementation that corresponds to the original intention’s gist (Bardach, 1979: 274).

By analogy with Von Clausewitz (1989: 87), for Bardach (1979: 85) and Pressman and Wildavsky (1984: 175) policy implementation is the continuation of the political game of give-and-take by actors who primarily pursue their own interests. This means that policy implementation may substantially deviate from what political actors had in mind when making a formal decision on legislation or regulations. It is also impossible to anticipate every conceivable situation in regulation (Shavell, 2012: 3, 8-9). Sabatier et al. (1995: 234-235) comment that in these kinds of processes within the U.S. Forest Service, local coalitions of advocates have a greater impact on the policies of this government agency than the formal hierarchical control mechanisms of the governmental authorities that have a stake in this agency. Mazmanian and Sabatier (1989: 5) also think along these lines when observing that implementation analyses have gradually shifted their focus on determining the degree to which policy outcomes align with the initial policy objectives. They also speculate about the possible influence of these results on amendments to legislation and further policymaking, thereby establishing a relationship between the implementation and initiatives to amend the legal framework once again.

Going a step further, the question emerges concerning how the formulated policies can actually be applied. This is more likely when intended policy adjustments are small and actors largely agree on the objectives to be achieved (Van Meter & Van Horn, 1975: 461). This also addresses the content of the policy, alongside the ideas of policy implementers about how they can put it into practice in the workplace. This is particularly relevant to the success of discretionary policies within public procurement, since it strongly depends on the goodwill of those involved. Telgen et al. (2007: 21-22) also consider it important for successful public procurement with the implementation of intended policies to choose an incremental path. For this purpose, they present a seven-step plan that takes a step-by-step approach to public procurement with the application of discretionary strategic policies. It allows actors involved to agree on the steps before proceeding to the next step. For Telgen et al. (2007: 21-22), the point of departure is reactive basic procurement, and the ultimate goal to be achieved is an active procurement function with the realisation of broader policy objectives beyond procurement, such as social objectives and inclusiveness, innovation objectives, sustainability objectives, securing long-term contracts and providing opportunities for small and medium enterprises (SMEs). This mostly comes down to behaviour and behavioural change in the procurement process, which may affect public procurement distance and will be further discussed in the next section.

### 3.3 The concept of ‘public procurement distance’

European public procurement policy includes mandatory and discretionary policies, which are converted into national procurement legislation by the individual member states and subsequently implemented in the workplace. Hence, policy is finally established when legislation and regulations are implemented through sequential processes arising from pre-formulated policy intentions (Lipsky, 2010: 213). This will be discussed here using the formal procurement process as applied in public procurement implementation practices (Van Weele, 2010: 29, 117-120; Van der Horst & Schenk, 2016: 105-106). This process involves two steps: initially identifying the needs and outlining specifications (specifying), then selecting and contracting appropriate suppliers (selecting). No public procurement distance arising in one of these steps means that there is public procurement parity, i.e. the intended policies are implemented as expected beforehand.

In the first step of *specifying*, the required functionalities of the items, services or work to be procured are identified. With this information, potential suppliers know which specifications they must meet. This allows matching supply and demand without public procurement distance. However, distance can already arise at this stage due to the usually differing interests of the parties involved, necessitating compromises, concessions, and strategic manoeuvres to successfully guide a procurement project through the decision-making process. Solutions are overvalued or oversimplified, descriptions made ambiguous, conflicting objectives masked and compromises made to reach the desired consensus in the political arena (Brodkin, 2000: 3; Flyvbjerg et al., 2003; 2016). The next step is to still achieve the initially intended objective by expanding the project in all its aspects after approval. This may bring unforeseen costs to the surface, increase the duration, and cause projects to encompass increasingly more elements (Flyvbjerg et al., 2003; 2012; 2016; Capka 2004; Cantarelli et al., 2012). Adjusting the scope of a procurement project this manner is referred to as ‘project effects’ in this study. As they are often discussed in conjunction in the literature, three of these effects will be used to examine whether and how they can explain why public procurement regulations are not applied to the letter. First, ‘optimism bias’ can arise, which is the deliberate underestimation of project expenses and an overly positive outlook of the intended project results (Cantarelli et al., 2012: 55). Second, there is the possibility of a ‘scope creep,’ where the scope, size, and complexity of a project keep continuously growing (Capka, 2004: 6; Cantarelli, et al. 2012: 55). The third effect is ‘planning fallacy,’ reflecting the deliberate underestimation of lead time and other project planning aspects to influence decision-making (Lovallo & Kahneman, 2003: 3; Flyvbjerg, 2012).

The next step is *selecting*, during which technical, economic and financial qualifications serve as bases for determining whether a potential supplier is suitable to perform the relevant public contract (Voda & Justice, 2016: 124). This covers topics like the interested tenderers' level of experience in previous similar assignments, employees' qualifications and training or financial data. If the selection is based on unclear characteristics of a specific market player or the product, service or work being procured, it could result in engaging with a supplier who lacks the necessary qualities, which might have been available in that market (Dellarocas et al., 2011: 446). This phase also involves determining which supplier will be awarded the contract based on which agreements. It is important that the choice is made as intended beforehand so that the outcome of the procurement process corresponds to it.

Public procurement distance can arise in respect of not only mandatory policy but also discretionary strategic policy. Unlike the procurement process outlined earlier, implementation is – in principle – not required for discretionary policies. However, despite their predominantly discretionary nature, these instruments are so important to society that their implementation is inextricably linked to a successful procurement process, according to certain authors. For example, Telgen et al. (2007: 21-22) believe that public procurement should contribute to the use of discretionary policy instruments. Cross-border discretionary policies are important for promoting free cross-border trade in the common market and the economic development of the Union (Cox, 1993: 9; Bovis, 2007: viii). The significant economic and societal importance that can be served through the use of discretionary strategic instruments is why public procurement distance is measured for both mandatory and discretionary regulations.

The remainder of this chapter will explore possible causes of procurement distance, with certain expectations. Discretionary policies on the use of instruments and cross-border procurement are closely linked to the success of a procurement process. Therefore, the principle is that the expectations to be established are valid in terms of both mandatory regulations and discretionary regulations. The question is whether the factors creating distance are the same for mandatory and discretionary policies. Given the non-prescriptive nature of the discretionary instruments, it is quite conceivable that other issues could also have an impact.

### 3.4 Possible causes of procurement distance

The question concerning the causes of public procurement distance is discussed based on four theoretical perspectives, which will be briefly introduced below.

First is the perspective of *administrative organisation*. The basic principle here is that governmental organisations must have the necessary administrative capacity to comply with laws and regulations (Selznick, 1984: 5). This idea was extensively elaborated primarily by Tallberg (2002). Given that a lack of resources can also drive organisations to collaborate with other organisations (Aiken & Hage, 1968), collaboration can thus reduce public procurement distance.

The second perspective is *professionalism*, which focuses on the performance of individual policy implementers within organisations and their practices (Freidson, 2004). It is expected that professionalism can contribute to task performance in such a way that it supports the implementation of the intended policy and thus serves the public good. Freidson (2004) also refers to ideology in relation to professionalism. Central to this concept is motivation related to task performance. Professional practices and motivation can influence public procurement distance.

The third perspective is *policy discretion*, referring to the leeway that procurement officers have to interpret and implement their own policy in certain areas. Procurement officers believe that reducing policy discretion could hinder their ability to execute the prevailing policies effectively (Lipsky, 2010). Various actors can play a role in limiting policy discretion, each wishing to realise their own agenda (Wilson, 1989; Kelman, 1990; Phillips et al. 2007; Goldman et al., 2010; Steller, 2019). The actors that will be discussed alongside procurement officers are the own organisation meaning the contracting authority, politics, market players and media.

The fourth perspective analyses European public procurement policy implementation at the group level. This means that the ‘*culture*’ with which the decision-makers identify may not necessarily be the same across regions, countries or areas, given that public procurement – as examined in this study – is embedded in the tiered structure of the public administration system in which it is executed. While public procurement policy is established at the European level, the actual procurement is executed at various levels of government, such as by local, regional and national government organisations. There is evidence in the literature that the culture of public administration varies across groups and may therefore have an effect on public procurement (Le Galès, 1998; Pollitt & Bouckaert, 2000; Falkner et al.; 2005, 2007; Fazekas, 2017).

These theoretical perspectives will be examined in further detail based on the literature, with expectations formulated for each perspective.

### 3.4.1 Administrative organisation

This section concentrates on the inward-looking perspective of the administrative organisation by addressing the role that available expertise can play in realising sufficient administrative capacity to bring a public contract to market. It also discusses the possible role of collaboration between governmental organisations to gather the necessary capacity to implement the intended policy.

#### Capacity

Capacity is expected to be a key issue in the public procurement world, where issues such as the deployment of suitable people, collaboration between contracting authorities and deadlines can play a major role. In a public procurement context, lack of capacity means that procuring organisations cannot comply with directives – or not in full – due to a certain lack of expertise, people or resources, which might result in public procurement distance.

Tallberg (2002: 612-613) has found that political and economic capacity constraints can play a major role in non-compliance with European treaties. When there are political capacity constraints, a government lacks the ability to persuade private and public actors to comply with international obligations. Capacity constraints in the economic sphere arise when a government has financial constraints that prevent the (full or partial) implementation of international agreements. According to Tallberg, capacity constraints in the political sphere with no or partial fulfilment of obligations are not the result of a conscious political choice but arise under the influence of unexpectedly occurring capacity shortages in public administration and through unclear rules leading to misinterpretation. Such constraints can best be tackled through a strategy of capacity strengthening in terms of technical expertise, bureaucratic capacity and financial resources. The interpretation of rules is another important factor. There should be transparency concerning how the capacity will be strengthened as this enables actors to know where they stand and helps them to convince each other that they can implement regulations. Furthermore, a certain degree of enforcement as part of capacity strengthening is also required (Tallberg, 2002: 614).

Radin (2009: 371) approaches capacity strengthening from a public administration perspective in which central governments can support lower-level governments with knowledge strengthening to implement policy programmes. As for procurement, additional knowledge on implementing public procurement policies may come from outside one's own organisation, such as from other contracting authorities, although external experts can also be recruited to fill a capacity gap. These consultants may have certain competences and expertise that are unavailable within the organisation (Ylönen & Kuusela, 2019: 254). Such

measures to fill certain capacity gaps can be expected to help bridge public procurement distance.

More generally, it can be said that although there is a willingness to apply regulations and policies correctly, unforeseen constraints hinder the ability to do so. A note for consideration here is whether strengthening capacity as anticipated by Tallberg will indeed help to clarify the policy to be implemented. Would the deviation from the intended policy indeed be caused by ambiguities on how to implement the policy or in fact be due to a staff shortage? Whatever the reason, does it actually necessitate hiring external consultants or is the issue rather an organisational problem?

The foregoing indicates that there could be a mechanism at work where effective procurement involves deploying individuals and resources with expertise that may not be equally available to all staff within the contracting authority. This creates a risk that work cannot – or only partially – be performed. This gap must be filled to bridge any potential public procurement distance, from either within or outside the organisation. This leads to the following expectation:

Expectation 1a: As a government organisation's procurement expertise increases, public procurement distance decreases.

### **Collaboration**

A second aspect of administrative organisation assumes the possibility of collaboration between contracting authorities to collate additional capacity and thus human and financial resources. This alternative network-oriented approach is expected to be used more often, especially in complex procurement processes. The extent to which an organisation succeeds in acquiring scarce human and other resources in a competitive environment is a measure of its effectiveness, according to Yuchtman and Seashore (1967: 891). Although Evan (1993: 8) argues that this entails uncertainties and dependencies, scarcity in available people and resources can also encourage organisations to collaborate with other organisations that have the necessary capacity. It leads to obtaining more specific knowledge for lower costs (Aiken & Hage, 1968: 927-929). The question here is whether organisations are willing to use their scarce people and resources to collaborate with another contracting authority if this might mean that they can no longer be deployed elsewhere in their own organisation. Leenders et al. (2002: 69) pose that working together in procurement consortia of two or more organisations has its advantages in the sense that it is possible to obtain more value for money, better service and more technology from suppliers than when an organisation procures independently.

Bovis (2016: 7) identifies advantages in terms of planning, execution, and delivery, in addition to the economies of scale that are already mentioned. Nieland and Schreiber (2013: 33) observe a trend in public procurement to increasingly combine procurement power to bundle available knowledge and combine volumes to reach better agreements with market parties. This should lead to greater procurement efficiency.

This literature suggests that collaboration can generate additional capacity in terms of people, resources and specific knowledge. This is expected to have a positive impact on bridging public procurement distance because collaborating contracting authorities will collectively have greater capacity in the form of people and resources than sole operators. This leads to the following expectation:

Expectation 1b: As collaboration between contracting authorities increases, public procurement distance decreases.

### 3.4.2 Professionalism: Practical experience and training

The second perspective of public procurement distance focuses on the professionalism of the individual, defined by Freidson (2004: 179) as the professional control over the work. This will be discussed here from two angles: first, in terms of the skills and experience acquired through practice, and second, by considering the knowledge acquired through formal education. Professional interventions based on intrinsic motivation grounded in ‘ideology’ will also be addressed. The recurring question in both approaches concerns the possible impact on public procurement distance. Both methodologies together constitute what Freidson (2004: 127) refers to as the ‘ideal model of professionalism.’

Ideology will be defined and elaborated in the following section (3.4.3) as a different (but related) outlook on public procurement distance.

The rest of this section is structured in such a way that it will first discuss what professionals’ occupational control over the work entails in practice, before exploring the potential influence of experience and training in this context.

#### Tacit knowledge

Professionalism in the performance of duties is important because professionals – as Parsons argues (1999: 469) – play a key role in ensuring the performance of policy and its implementation. Public service professionals are largely independent in the performance of their duties and are able to influence the policies that they implement (Walsh, 1995: 14). In this view, professionalism is primarily defined by the specialist experience and qualifications that employees possess rather than the

institution for which they work (Blau & Meyer, 1971: 72-73). Accordingly, Freidson (2004: 33-35) views professional action based on practical knowledge and professional skills ('savoir faire') as a form of specialisation, while knowledge acquired through training is another form. This section will discuss these forms of specialisation in relation to public procurement distance.

Freidson (2004) differentiates between two types of specialisation based on practical knowledge and technical expertise: 'mechanical specialisation' and 'discretionary specialisation.' He regards 'mechanical specialisation' as routine work that can be done somewhat more manually and with minimal individual discretion, learned through experience but also practical training (Freidson, 2004: 32). According to Freidson, 'discretionary specialisation' involves tasks that require more mental effort. These duties require some discretion or new judgement as well as special training to perform the work successfully. Both forms of specialisation play a role in procurement, and distinguishing between the two types of specialisation in procurement practice is challenging as they are both required to ensure proper task performance. As Freidson (2004: 23) put it, it is important to consider the variance in individual instances to make such a distinction. This is not feasible in the European procurement practice with thousands of new public contracts every year. Furthermore, it remains considerably doubtful whether a distinction between the two types of specialisation in each tender procedure would contribute to bridging public procurement distance. Freidson (2004: 31) also discusses the importance of tacit practical knowledge and skills. This is internalised knowledge based on experience and intuition, as opposed to expertise in the sense of factual concrete knowledge acquired through practice as referred to in Expectation 1a. Tacit knowledge is neither articulated nor recorded but essential for performing duties effectively within both forms of specialisation (Freidson, 2004: 31).

Given that both forms come together in the performance of duties in procurement practice, mechanical specialisation and discretionary specialisation are combined and internalised as 'tacit knowledge.' As tacit knowledge is increasingly applied more efficiently, the distance between the intended policy and its implementation diminishes, which leads to the following expectation:

Expectation 2a: As procurement officers' tacit knowledge about procurement increases, public procurement distance decreases.

### **Formal knowledge**

The final form of specialisation follows from formal knowledge accumulated through education and training, which Freidson (2004: 24, 34) refers to as 'mental

discretionary specialisation.’ Here, the assumption is that this ‘mental discretionary specialisation’ can have a positive impact on the work performance as expected beforehand. For public procurement policy, this is a relevant factor as various authors suggest that the training for public procurement officers should be enhanced. The following is a brief summary of some views on training as they emerge in the literature.

As a result of the continuously evolving European procurement regulations, a need for specialised and professional development programmes arose to meet the rapidly developing professional requirements, according to Callender and McGuire (2007: 317-320). Freidson (2004: 17, 84) also emphasises the importance of training by arguing that work performed by professionals is so specialised that it cannot be done properly without the necessary education, skills and experience. Nonetheless, according to multiple authors, procurement education receives limited attention from training institutes. In this regard, Matthews (2005: 392) has found that many procurement officers hold no relevant diploma and apparently do not feel a need for any training to do their job. It is therefore unsurprising that procurement training courses are somewhat limited in what they offer, according to this author. In their study among American public procurement officers on the value of certification of procurement and contract management professionals, Abutabenjeh and Gordon (2015) found indications that some of the respondents did not consider certification necessary to perform the work properly because they felt they already had sufficient practical experience and education. Snider and Rendon (2012: 334) highlight that it is not attractive for training institutes to develop programmes that are specific to the field because public procurement is often considered a routine administrative task that does not contribute to any of an organisation’s strategic success criteria. Thai (2001: 40-41) suggests that while the need exists for education and training among procurement professionals, it is not always recognised by training institutions, while a form of certification can increase professionalism in implementation and contribute to improving the quality of public organisations write Streib and Kim (2010).

This literature suggests that for some procurement professionals, training may play a role when it comes to implementing procurement in line with policy. From this perspective, there may be a need for the education and training of (prospective) procurement professionals to reduce public procurement distance, which leads to the following expectation:

Expectation 2b: As procurement officers are better trained, public procurement distance decreases.

### 3.4.3 Professionalism: Ideology, intrinsic motivation and serving the public interest

Ideology is the second approach to professionalism at the level of the implementing individual. According to Freidson (2004: 127), this is a “*greater commitment to doing good work than to economic gain and to quality rather than the economic efficiency of work.*” In this sense, ideology is about professionals wanting to exercise their profession well and to a high standard based on a certain degree of responsibility.

The importance of ideology as Freidson describes also comes to the fore in other literature. People want to work in the public sector from a certain intrinsic motivation to serve the public interest and achieve better service delivery to the citizens, specifically in public administration. This idea has become known as public service motivation (Perry & Wise, 1990) and distinguishes public sector employees from those in the business world (Steijn & Leisink, 2009: 10). March and Olsen (2009) explain this type of human action from the belief among actors that the established rules are good, self-evident, legitimate and fit for purpose, and they term this the ‘logic of appropriateness.’ Obligations, expectations and identities associated with a particular role are seen as being logical and intended for that role and as such form part of procurement officers’ personal value system. This implies that procurement officers must have some inner ‘drive’ to implement mandatory policies as formulated in advance. A similar mechanism is expected to also occur in the implementation of discretionary instruments. The more procurement officers are affectively committed to implement sustainable procurement, the more willing they are to procure sustainable (Grandia, 2015: 138-139).

Based on this literature, it is conceivable that a certain degree of instinctive commitment to and belief in certain policy themes may lead to increased implementation of European public procurement policies from personal considerations of the individual procurement officers involved. This leads to the following expectation:

Expectation 3: As procurement officers’ intrinsic motivation to serve the public interest increases, public procurement distance decreases.

### 3.4.4 Leeway for action: Policy discretion

The third perspective used to investigate public procurement distance is the possible influence of policy discretion on the implementation of public procurement policy and the actors’ role in this. The premise of this study is that the implementation of regulations to the letter results in public procurement without public procurement distance. The analysis in this section focuses on the implementation

of legal policy, whereas the illegal implementation of policy – for example, under the influence of corruptive practices – lies beyond this research.

### **Discretionary leeway**

Various actors are involved in public procurement, each with their own particular interests. To serve these interests, they sometimes want to discreetly deviate from the rules. Under the influence of the actors involved, policy discretion can lead to various unexpected and sometimes even undesirable situations in implementation (Bardach, 1979; Pressman & Wildavsky, 1984). For instance, Beunen et al. (2009: 66) found that during the implementation of some European environmental directives in the Netherlands, the emphasis among actors was primarily on adhering to the formal process<sup>15</sup>, which pushed the actual realisation of the environmental objectives to the background. The literature refers to a variety of actors involved in public procurement policy implementation, such as procurement officers, own organisation, politics, market and media (Gordon et al., 1993: 831-835; Thai, 2001: 30; Tátrai, 2006: 37). They are placed in the perspective of the implementation problems surrounding European public procurement policy in the remainder of this section.

Given that all member states operate with the same public procurement policy frameworks, in principle there should be no difference between the intended mandatory public procurement policy and its implementation. Policy discretion primarily concerns the mandatory part of procurement policy. In principle, policy instruments are used on a voluntary basis. However, from the moment when one or more policy instruments are actually used, the regulatory framework applies similarly as for the mandatory part of procurement policy. Nonetheless, it is conceivable that there are various incentives that encourage actors to deviate from the intended policy, resulting in procurement distance. This may lead to different implementation choices: for example, one contracting authority could decide to use one or more discretionary policy instruments in each and every tender procedure, while the other could choose not to use any instruments. Given that they have the discretionary freedom to do so or not, policy discretion is therefore defined as ‘the leeway that the policy leaves to actors to, if desired, interpret and implement certain parts of the policy within a given regulatory framework during the performance of their activities.’

When it comes to motivation, the expectation formulated based on the theory formation around ideology is used (Expectation 3). This assumes that when public procurement officers are intrinsically motivated, their procurement is in line with policy. When it comes to policy discretion, this study mainly addresses potential

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15 Water Directive and Bird and Habitat Directive (Beunen et al., 2009).

differences in choices that different actors might make. Under the influence of the environment, the leeway to implement desired policies according to their own judgement can be expanded or limited (Lipsky, 2010).

It is possible that discretionary leeway does not lead to deviation from the intended mandatory and discretionary policy. However, based on the literature, the assumption is that actors indeed experience a certain degree of leeway to move public contracts in a certain desired direction. It is expected that this will lead to a public procurement distance between the intended policy and the way in which it is implemented, which leads to the following expectation:

Expectation 4a: As policy discretion increases, public procurement distance increases.

### **Public procurement officers**

The public procurement officers examined who implement procurement policy in practice include the professional groups of procurement staff, lawyers, contract managers and consultants (Thai, 2001: 30; Tátrai, 2006: 37), including part-time public procurement officers, i.e. people who occasionally supervise a tender procedure in addition to their other daily duties. The question now is what the impact on public procurement distance could be if public procurement officers want to steer the procurement process in a specific direction to enhance its implementability in their view. This is an important issue as it involves the convergence of various aspects of European public procurement policy within this particular actor. One example is the possibility of public procurement officers allowing bidders to correct minor – unintentional – errors in their bid (Stellingwerff Beintema, 2012: 6-7).

The literature mentions progressive legalisation as an undesirable effect of the implementation of European public procurement policy. This arises because – according to some authors – regulations are so extensive, complex and strict that lawyers are required to realise policy implementation to the letter. The reason for this is that it has become too complicated for procurement officers to know how to apply the law, hence underlining the reason why public procurement is sometimes referred to in the literature as a “*lawyer’s paradise*” (Telgen et al., 2007: 18-19; Treumer, 2014: 10). According to Van der Horst and Schenk (2016), legalisation has indeed significantly increased under the influence of the European public procurement directives, better enforcement and the increased assertiveness of market players. Consequently, the role of lawyers has significantly grown, according to the authors. They even refer to “*a significant error*” (2016: 33) in this context, as a result of which policy intentions and their implementation may conflict as a result of overly complicated legislation.

The purpose of placing public contracts in the market is to extract from that market the offer that best matches the relevant demand, through competition. Chapter 1 described that the number of bidders in tender procedures is decreasing, with some calls receiving tenders from only one bidder. However, public services must be continued even if policy intentions and their implementation are not quite in sync. This raises the question of what should prevail: policy implementation to the letter or successful completion of the public contract? As is evident from the above, it is necessary to achieve effective execution of the relevant public contract within the existing framework of the regulations. This can give rise to local ingenuity and improvisation (Boskeljon-Horst et al., 2022: 3), which are often invisible to the outside world. This occurs spontaneously and unprepared if the parties involved believe that regulations applicable at that moment should be made better implementable at the ‘street level’ where front-line workers discretely interact directly with the public (Lipsky, 2010: 3). However, this ‘discrete rule interpretation’ may create distance between the intended policy and its implementation. The above examples of differences between the intended regulations and how they are implemented leads to the following expectation:

Expectation 4b: As procurement officers’ influence on the procurement process increases, public procurement distance increases.

The environment is expected to be important for the leeway that policies allow public procurement officers. Widely varying actors can play a role here, such as procurement staff (see previous paragraph), although their own organisation, politics, market parties, and the media could also potentially have an impact. These actors will be discussed in the remainder of this section.

### **Own organisation**

The own organisation is the contracting authority within which European public procurement policy is implemented in the form of tender procedures. Safeguarding the organisational boundaries and avoiding risk-taking are often pivotal here to limit discreet deviation from the set frameworks as much as possible. Standardisation of processes and written accountability on policy implementation is one way to reduce the likelihood of non-compliance (Wilson, 1989: 133; Schneider, 2001: 86). The presence of a formal hierarchical relationship within public services is also a means of limiting discreet action and policy discretion (Weber, 1984: 126-127; Schneider, 2001: 86). However, in practice, non-compliance seems to occur often despite these mechanisms to prevent discrete deviation from the rules. This is underlined by the assumed increasing legalisation

of government procurement under the influence of supposedly overly complex regulations.

Governments, according to Kelman (1990), also have a certain degree of ‘fear’ of allowing employees to discreetly search for the best supplier and deviate from existing policies in order to extract the most value from procurement. This has led to extensive regulations and administrative procedures due to the fact that governments do not want to lose grip on their procurement processes and are afraid of promoting favouritism and improper behaviour if they allow employees too much autonomy (1990: 1, 3). This means that public procurement cannot be used to its full potential to achieve the intended policy. Another factor is that services are publicly accountable for the expenditure of public money and expected to comply with legislation. Contracting authorities are consequently mainly procedure-driven and less focused on results, according to Van Weele (2010: 106-107). However, in practice, avoiding all risks of non-compliance is unfeasible because regulations cannot anticipate every conceivable situation (Shavell, 2012: 3, 8-9). This implies that there is always a certain risk of non-compliance – and thereby public procurement distance – embedded in the rules. It is conceivable that contracting authorities against better judgment might still try to close all possible loopholes in laws and regulations and strictly monitor implementation to prevent deviation from the intended policy.

The above literature shows that procuring organisations consider risk aversion extremely important and actively focus on it. Drafting regulations that anticipate all practical situations in advance is impossible. Governments tend to focus on strict compliance regardless, for fear of losing control over implementation, which leads to increased supervision but is not expected to increase adherence because employees may need and actively seek a certain degree of autonomy to implement the intended policy as they deem the most appropriate. Therefore, it is conceivable that the effect of steering for strict compliance may actually be counterproductive, namely that public procurement distance will remain the same or increase rather than decrease. From this, the following expectation emerges:

**Expectation 4c:** As the own organisation’s influence on the procurement processes increases, public procurement distance increases.

### **Politics**

We will now zoom in on politics as a possible influencing actor in the environment of procuring organisations. Politics refers to the democratically elected public administrations at the central, regional and local levels. Politics initiates European procurement policy, which is successfully deployed, as evidenced by the

many contracts awarded each day. However, given that the interests around procurement processes may not be the same for every stakeholder, this section focuses on process influence from politics, as it can impose restrictions on procurement.

Bureaucracies are susceptible to political influence (Hedge & Scicchitano, 1994: 149-150 Whitford, 2005: 44). For example, through direct orders (Chaney & Saltzstein, 1998: 763). Regarding procurement Goldman et al. (2010: 36) observe that if in the United States there are contacts with the winning political party, the likelihood of being awarded a public contract is greater than when the contacts are predominantly with the losing party. Chong et al. (2012) examined the motivation of French municipal procurement officers to award public works contracts through auctions or negotiations, finding that procurement officers' choice between a negotiation procedure or auction as a procurement procedure is partly determined by avoiding the impression of subjective influence. The greater the political majority, the weaker the pressure from political opponents and the lower the likelihood that an auction will be chosen (Chong et al., 2012: 23-24). Van Silfhout and Van den Berg (2014) examined plans to privatise the Dutch high-speed rail network through a public tender procedure, which led to heated discussions among actors involved, such as the Dutch railway company that wanted to operate the rail concession itself, the responsible ministry that wanted to call for tenders, government parties that were divided on the privatisation, and the national parliament that was considering awarding the contract to the Dutch railway company. The outcome was that the Dutch railway company would operate the high-speed network, albeit without a public bidding process. Politics had a major impact on the procurement process in the force field of the actors involved, with the result that the intended European public procurement policy to acquire public services in a supply-and-demand market was not implemented with public procurement distance as a consequence.

The cited literature shows that the actor of politics can exert influence on public procurement policy. It is possible that such influence can lead to the selection of a politically favourable rather than the best supplier. If so, the intended competition policy is not properly implemented and public procurement distance arises, prompting the emergence of the following expectation:

Expectation 4d: As the influence of politics on the procurement processes increases, public procurement distance increases.

### **Market parties**

The next actor that can have an impact is market parties, namely the commercial contractors that carry out public contracts and collaborate with their

client – the relevant government organisation – for this purpose. If this is done as expected beforehand, the policy will be properly implemented, and there will be no public procurement distance. However, the latter will arise if the predetermined policy is not – or not fully – followed, which could even be considered improper conduct. This will be discussed in further detail in the remainder of this section.

In a study of the Brazilian situation in construction, De Souza Dutra et al. (2017) found that market parties may be reluctant to implement discretionary sustainability policies if they feel that legislation does not sufficiently align with practice. This means that parties must find each other so that the market can do its work and pre-formulated policies are implemented. In other words, a good relationship between clients and contractors is essential to fully utilise market knowledge in policy implementation, according to Steller (2019). He also observes that equality in the relationship between clients and contractors is key to an outcome that meets both parties' expectations (2019: 231-232). Macaulay (1963: 61, 63) also reasons along these lines when stating that arguments over non-compliance with agreements are often resolved through mutual consultation rather than in court. On the other hand, Schooner et al. (2008: 22) observe that market parties want to influence procuring organisations to buy from them instead of from a competitor, which might lead to improper conduct. According to Arnáiz (2009: 107), procurement is even one of the most susceptible government activities to corruption. Implementing policy as specified in advance is extremely important to prevent such corruption, although improper influencing of governments by market parties occurs for instance through price-fixing agreements or dividing the market between them. This happened in the Netherlands in a large-scale construction fraud (Van der Horst & Schenk, 2016: 41). However, when government staff suspect an improper practice, they want proof before taking any action. Because it is often difficult and time-consuming to find this evidence, procurement officers regularly keep their suspicions to themselves, according to Heimler (2012: 12-13). It is conceivable that they do so because they prefer to reach a workable solution by mutual agreement with the relevant market parties to avoid aborting an ongoing procurement process.

The studies cited suggest that the role of market parties in public contracts can lead to divergence between policy intentions in advance and their implementation, resulting in public procurement distance. This raises the following expectation:

**Expectation 4e:** As the influence of market parties on procurement processes increases, public procurement distance increases.

## Media

Finally, the media can also influence procurement practices. Media refers to the various channels of communication through which information is conveyed to the public. Schooner et al. (2008) acknowledge the role of the media as a watchdog on public procurement and state that the media exists to provide information to the public, albeit motivated by certain interests (2008: 20). Dzur (2008: 149-150) agrees, while also stating that the media make certain normative choices about what they believe audiences want to know. Under the influence of these normative choices, certain important information about procurement practice can be withheld or adapted to be less vulnerable to criticism from media. Tátrai (2006: 34) has established that the Hungarian press mainly writes about the outcomes of court proceedings, which leads to the development of the procurement profession primarily from a legal perspective. These elements not only have an impact on public opinion but can also influence policy. This could result in a daily practice that is aimed at strict rule following instead of procuring the best goods, works and services possible for tax payer's money, resulting in procurement distance.

Other literature also shows that political pressure and attention of media can influence policy implementation. Professionals sometimes apply 'blame-avoiding policy implementation' (Hinterleitner & Wittwer, 2023: 760). This means that government employees adjust the intended policy during the implementation to reduce the influence of possible scandals and media criticism. However, this can affect the quality and effectiveness of public services (Hinterleitner & Wittwer, 2023: 760). This may lead to procurement practices that focus more on responding to the daily front page headlines rather than effectively meeting societal goals (Phillips et al., 2007: 147). After all, according to Knight et al. (2007: 1), procurement frequently garners negative attention in the media due to issues such as fraud, corruption, and mismanagement of projects, resulting in public procurement distance.

The literature indicates that the media has the potential to exert influence on public procurement policies. They can do this by prompting governments implicated in misconduct, to address the issue to mitigate negative publicity swiftly. However, this may have the effect that the root causes of the misconduct that should actually be tackled will not be addressed. It is thus conceivable that the media influence the implementation of procurement policy, although the underlying causes persist so that the existing public procurement distance remains or even increases rather than decreases. This leads to the following expectation:

Expectation 4f: As the media's influence on procurement processes increases, public procurement distance increases.

### 3.4.5 Public administration culture and segmentation

This section will focus on the fourth and final perspective regarding possible causes for the emergence of public procurement distance. This perspective is based on differences between member states, sectors and public administration tiers at the aggregation level of these segments as a whole. While public procurement policy is established at the European level, it is executed by governmental organisations operating at either the local, regional or national level. This means that ‘culture’ in the sense of collections of values, assumptions and judgements that can influence the behaviour of groups of professionals does not necessarily have to be the same in different regions, countries, areas or public administration levels. This assertion is supported by the literature (Le Galès & Lequesne, 1998; Pollitt & Bouckaert, 2000; Falkner et al., 2005; Falkner & Treib, 2007; Fazekas, 2017) and is used in this study following the notion that potential differences in values, assumptions and judgements may be characteristic of a particular common implementation practice. If this is the case, a certain culture exists within or between contracting organisations. This section aims to identify potentially relevant segmentations at the collective level based on the literature to verify this, addressing sectors, administration levels, compliance, geographical regions and administration systems.

#### Sectors

The classification to be examined first involves a segmentation based on public sectors –encompassing works, services and supplies procured by non-utility public organisations focused on specific government service provision<sup>16</sup> – and utility sectors, encompassing works, services and supplies procured by organisations providing services for the general good of the population, such as gas, water or railways (Bovis, 2007: 49-50).<sup>17</sup> The question is whether respondents show differences based on other assumptions or values between public and utility sectors in their responses and what emerges as potential influencing factors on public procurement distance. Under the influence of the liberalisation of the utility sectors, the directive for these sectors is no longer as strict as for the public sectors (Bovis, 2016: 21). This leads to the expectation that because the public sectors are more regulated than the utility sectors, the likelihood of public procurement distance occurring within the public sectors is weaker than in the utility sectors. Hence, the following expectation emerges:

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<sup>16</sup> Also known as classical sectors.

<sup>17</sup> Also known as special sectors.

Expectation 5a: Within the public sectors, public procurement distance is smaller compared to the utility sectors.

### **Public administration tier**

Public contracts can also be segmented by tier of government, whereby a distinction can be made between national, regional and local authorities.<sup>18</sup> Given that a division by administration level can reveal differences in the implementation of the procurement process, this segmentation is also included in the analyses as a possible influencer of public procurement distance.

This study is based on the premise that policy implementation does not always align with the original intentions. Pressman and Wildavsky (1984) analysed the implementation of a federal employment programme at a local level and concluded that the centrally formulated policy had been delayed and changed during the implementation under the influence of local actors who each represented their own interests. The part of this chapter that focused on capacity referred to Radin (2009), who explored the provision of knowledge by central governments to assist lower-level governments in implementing policies more effectively. Telgen and De Boer (1997) surveyed 211 Dutch municipalities to examine procurement practices and compliance with European directives, finding that the implementation of the public procurement policies in the included municipalities left much to be desired. The main reasons for this were the expected high administrative burdens due to complex and time-consuming procedures with excessive paperwork and a preference for local suppliers.

Traces of implementation differences at the various administration levels can also be found in more recent literature. Guccio et al. (2014) examined the execution of 9,622 Italian public works at various levels of public administration to determine whether they were completed within the agreed time. They found that local authorities were less efficient in this regard than other contracting governments, particularly in comparison with central governments and regional governments (2014: 246-249). A contributing factor was the often small size of the municipalities studied, resulting in a local lack of capacity in terms of substantive professional expertise and available people. Moreover, another relevant factor was that if an infrastructural project was mainly funded by the central government, local governments would try to make the amount received as high as possible, even if this came at the expense of efficient planning (Guccio et al., 2014: 248-249). Sylvest et al. discovered that local governments engaged in less cross-border procurement than central governments (2011: 77-78).

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18 Government agencies are excluded from this study.

Based on the above literature, it is conceivable that there is a culture-based difference between various administration levels in the implementation of public procurement policies. Lower-level governments may have less interest in using public resources efficiently because they want to serve interests other than those of higher levels of government. Such interests may – for example – lie in their preference for awarding contracts to companies from the same region. Another reason why it is conceivable that the procurement policy at municipal level is less well implemented compared to other administrative levels might also lie in a lack of capacity in terms of professional knowledge and available resources. This could potentially result in a situation where European procurement policy is not as effectively implemented at the local level. It is possible that no such self-imposed restriction is felt at the higher administration levels, resulting in a greater willingness to execute procurement policy compared to the local administration level. This leads to the following expectation:

Expectation 5b: Public procurement distance is greater at the municipal level compared to the regional or national level.

### **Compliance by member states**

Compliance with transposed regulations may be subject to different emphases from one member state to another, as various reports in the literature indicate. An example from the public procurement world is Portugal, where a relative evaluation method for tenders is not allowed<sup>19</sup> (Mateus et al., 2010: 208), whereas it is permitted in other member states, such as the Netherlands. Versluis (2003: 13) provides another example, characterising Spain as the most lenient enforcer in her research on enforcing a directive for chemical substances. The United Kingdom and the Netherlands have a moderate level of enforcement, while Germany has a legalistic enforcement style. Falkner et al. (2005) and Falkner and Treib (2007) also discuss different enforcement styles between countries from a slightly different perspective. Based on the results of their study into the implementation of social policy, they propose four possible compliance cultures that might exist in Europe. They operationalised the potential differences between countries in transposing directives in the social domain by classifying them according to the degree of transposition and compliance. This resulted in a division of nineteen member states into four different groups of countries, which they called the ‘worlds of compliance.’

<sup>19</sup> That is to say that scores are related to another tender to arrive at a ranking of bidders.

A first 'world' distinguished by Falkner et al. (2005) and Falkner and Treib (2007) is that of 'law observance.' These countries (Denmark, Finland and Sweden) promptly transpose directives into national legislation and implement them successfully. In their grouping of countries, Falkner et al. (2005) mainly explored the extent to which implementation obligations are carried out procedurally in line with national legislation (Falkner et al., 2005: 321). This is undertaken most dutifully in countries belonging to the world of law observance compared to the other countries studied (Falkner et al., 2005: 321-323). If implementation is not going well, immediate adjustments are made, so the likelihood of public procurement distance occurring in these countries is expected to be small. This does not mean that during implementation no discretion can be sought to make procurement regulations better implementable in the opinion of procurement professionals.

A second group is that of 'domestic politics.' In these countries (Austria, Belgium, Germany, Netherlands, Spain, and the United Kingdom), implementation and adjustment are also successful after a difficult transition phase influenced by the political preferences of national actors and interest groups. For procurement distance, this means that the likelihood of its occurrence is expected to be higher in this group of countries compared with the first group.

In the 'transposition neglect' world, implementation and adjustment regularly fall short (France, Greece, Luxembourg and Portugal), although this is not the significant differentiator. With these countries, the differentiating factor is negligence in transposition into national regulations under the influence of strong domestic bureaucratic traditions.

A fourth world is that of the 'dead letters.' Although these countries (Czech Republic, Hungary, Ireland, Italy, Slovak Republic and Slovenia) transpose directives into national legislation in accordance with agreements, they stand out for deficiencies in national institutions in enforcing compliance and application of transposed directives. This is expected to lead to a higher chance of public procurement distance occurring in this world than in the other groups of countries.

The above shows that the chance of public procurement distance is expected to be lowest in the world of law observance. The division found by Falkner et al. (2005) and Falkner and Treib (2007) is used to explore the possible emergence of corresponding patterns of member states that may confirm that this division by member states also exists in a public procurement context. This leads to the following expectation:

Expectation 5c: In countries that belong to the world of law observance, public procurement distance is smaller compared to countries that belong to other worlds.

### **Geographical regions**

In the literature, there are differences between regions on various professional areas. Regarding the quality of government, Charron and Lapuente (2013: 567) highlight differences between regions in the field of corruption, the extent to which the rule of law functions, the effectiveness of public administration, and the protection of property rights. These authors explain this based on historical legacies of clientelism, the degree of trust in people who do not come from their own region, and economic inequality between regions (Charron & Lapuente, 2013: 580-581). In the field of healthcare, Weziak-Bialowolska (2014) notes a difference in the health of the population between West, East and Central Europe. In his research into 'good governance' in government procurement, Fazekas (2017) finds striking differences between European regions.

Bubbico et al. (2017) find that in European regions, the quality of public administration improves when regions compete with each other, predominantly because they fear losing investments. The authors investigate the intensity of this geographical effect separately for Northern and Southern Europe, finding that this effect is stronger at a more local level in the south of Europe. By contrast, in the north competing regions are more dispersed across Europe as a whole, which means that this competitive pressure is spread over a larger geographical area.

The cited literature clearly shows that there are regional differences in the quality of public administration. Because the present research has government procurement as a subject, in the remainder of this section the research conducted by Fazekas (2017) will be further discussed.

Fazekas examined the quality of regional administrations using data on public procurement from the central European procurement website Tenders Electronic Daily (TED) from 2006-2015 (2017: 2-3). His study focused on possible differences in the implementation of European policies between European regions. If this ran as expected beforehand, there was what he referred to as 'good governance.' This was assessed against four components derived from the 2016 European Commission's annual procurement monitor: 1) 'transparency' in the sense of publicly accessible information about public procurement; 2) 'competition' in the sense of the number of bidders and optimal procurement outcome; 3) 'administrative efficiency' in the sense of minimising costs to achieve the desired procurement outcome; and 4) 'no corruption,' to be achieved through open and fair competition for a public contract, without favouring any particular tenderer over others. Fazekas (2017: 19) found significant differences in these components between regions within and between member states.

Strikingly, Fazekas found that for the transparency indicator, the Scandinavian countries scored lower than countries with an expected high risk of a lack of transparency, such as Greece, Poland and Romania, although these countries have domestic differences in this respect. Baltic states had an average to good score. Western European countries such as the United Kingdom, Belgium, Netherlands and France also scored low, albeit with regional differences (Fazekas, 2017: 19, 23). In terms of competition, the picture presented is that Scandinavian countries scored well, likewise certain regions in Spain, Greece, Ireland and the United Kingdom. The Baltic states also scored well on this component, while some regions in Germany, Benelux, France and Eastern Europe scored average (Fazekas, 2017: 19, 25). Where the administrative efficiency component was concerned, regions in countries like Spain, Italy and France emerged as performing well (Fazekas, 2017: 19, 26). According to Fazekas (2017: 19, 22), the risk of corruption was high in regions in Italy, Greece, Bulgaria and Romania, while high institutional quality was found for regions in Spain, Portugal and western Europe, Scandinavia and the Baltic states.

For the purpose of this study, the 27 member states have been grouped into several geographical areas to determine whether there are certain patterns of member states that emerge in relation to public procurement distance. Based on the literature the northern states Denmark, Finland and Sweden will serve as a reference category to explore this possibility (Falkner et al., 2005). The chosen geographical areas are North (Denmark, Finland and Sweden), West (Austria, Belgium, France, Germany, Ireland, Luxembourg, the Netherlands and United Kingdom), South (Cyprus, Greece, Italy, Malta, Portugal, Slovenia and Spain), Central (Bulgaria, Czech Republic, Hungary, Poland, Romania and the Slovak Republic) and East (Estonia, Latvia and Lithuania). The above raises the following expectation:

Expectation 5d: In Northern European countries, public procurement distance is smaller compared to Eastern, Western, Southern and Central European countries.

### **Public administration systems in general**

In the concluding chapter of a book on the state of regional public administration in an ever-integrating Europe, Le Galès (1998: 244-245) argues that European regions' influence is to some extent driven by the administration system of a member state. According to this author, in centrally governed countries such as the Scandinavian countries, Portugal, Ireland, and Greece, regions are relatively weak in terms of autonomy, disposal of resources, policy capacity, and legitimacy. In federal countries such as Belgium, Germany and Spain, regions have strong control over their own government and therefore these countries' regions are a decisive political factor in their administration system. It is thus conceivable that due to their different cultural backgrounds, federally governed EU member states (Austria, Belgium, Germany, and Spain) deal with public procurement implementation practices in different ways than centrally governed member states (the other member states). Because the steering and decision-making power in unitary, centrally organised administration systems is to some extent concentrated in the central government (Pollitt & Bouckaert, 2000: 41-43), policy implementation may be easier, making the intended policy more likely to be better executed.

The underlying mechanism might be that procurement processes are predominantly centrally controlled. This could restrict the leeway to deviate from the intended policy and means that steering from a unitary or federal system may influence the occurrence of public procurement distance. This raises the following expectation:

Expectation 5e: In countries with unitary administration systems, public procurement distance is smaller compared to countries with federal administration systems.

### **3.5 Overview of approaches and expectations**

In this chapter, a theoretical framework regarding public procurement distance has been developed and the possible influences of various theoretical perspectives on its formation have been argued, with expectations set for each component. In summary, the overview below shows the corresponding expectation for each theoretical perspective:

TABLE 1

**Theoretical perspectives and expectations**

<b>No.</b>	<b>Perspective</b>	<b>Indicator</b>	<b>Expectation</b>
1a	Administrative organisation	Capacity	As a government organisation's procurement expertise increases, procurement distance decreases
1b		Collaboration	As collaboration between contracting authorities increases, public procurement distance decreases
2a	Professionalism	Tacit knowledge	As procurement officers' tacit knowledge about procurement increases, procurement distance decreases
2b		Formal knowledge	As procurement officers are better trained, procurement distance decreases
3		Intrinsic motivation	As procurement officers' intrinsic motivation to serve the public interest increases, procurement distance decreases
4a	Policy discretion	Discretionary leeway	As policy discretion increases, public procurement distance increases
4b		Public procurement officers	As procurement officers' influence on the procurement processes increases, public procurement distance increases
4c		Own organisation	As the own organisation's influence on the procurement processes increases, public procurement distance increases
4d		Politics	As the influence of politics on the procurement processes increases, public procurement distance increases
4e		Market parties	As the influence of market parties on the procurement process increases, public procurement distance increases
4f		Media	As the media's influence on the procurement processes increases, public procurement distance increases
5a	Public administration culture	Sector	Within the public sectors, public procurement distance is smaller compared to the utility sectors
5b		Public administration tier	Public procurement distance is greater at the municipal level compared to the regional or national level
5c		Compliance	In countries that belong to the world of law observance, public procurement distance is smaller compared to countries that belong to other worlds
5d		Geography	In Northern European countries, public procurement distance is smaller compared to Eastern, Western, Southern and Central European countries
5e		Public administration system	In countries with unitary administration systems, public procurement distance is smaller compared to countries with federal administration systems

### 3.6 Conclusion

In this chapter, a theoretical framework has been constructed to explain the potential emergence of public procurement distance in mandatory European procurement policy, discretionary policy regarding the use of strategic instruments, and cross-border procurement practices. Sixteen associated expectations have been established.

The next chapter will present the methodology and analysis framework to test these expectations against the results of this study among European procurement officers.

TRANSLAET van eenen Brief, van den Commiffaris van Oórlóg GOBIN, aen HET MAGISTRAET VAN ANTWERPEN, de Dato :9 Germinal, derde Jaer der Fransche Republiek.

*H*Et warmen voór de Hospitaelen deézer Stad, moettende by afslag aenbesteed worden, noodige ik U uyt van te willen doen aenplakken, zoo in deéze Stad, als in de omliggende Dorpen, dat men tot deéze Aenbesteedinge zal overgaen den 23 van deéze loopende Maend Germinal, (12 April, O. S.) ten 10 ueren 's morgens, op eene der Zaelen van het Stad-huys, die U zullen aenwyzen, de Aenneéners, of die 'er toe genegen zouden zijn, zullen van de Conditiën diesaen gaende kunnen onderrigt worden, op mynen Bureau.

*Heyl en Broederlykheyd*

Geteekent

G O B I N.

Voór Cope conform by Translaet

M. E. SOLVYNS, Sec.

## WAERSCHOUWINGE.

**I**ngevolge den bovenstaenden Brief van den Commiffaris van Oórlóg GOBIN, laet HET MAGISTRAET DEEZER STAD een-iegelyk weeten, dat men tot de Aenbesteedinge van den Band in de Militaire Hospitaelen op den 12 deézer Maend April, (O. S.) zal overgaen, ten 10 ueren voór Middag, op den Raed-huyze, op de groote Staete-kamer, waer naer een-ieder zig kan reguleeren.

Actum in Collegio den 19 Germinal, derde Jaer der Fransche Republiek, Eene ende Onverdeelbaer.

D E H A A N, Vr.

M. E. SOLVYNS, Sec.

## Chapter 4

# **METHODOLOGY: FROM THEORY TO EMPIRICS**

### **4.1 Introduction**

The subject of this chapter is the development of an instrument to measure public procurement distance and identify its possible causes. Together with the previous chapter, it will answer research question 2 into the factors that potentially influence the emergence of a distance between intended policy and its implementation.

The research design will be discussed first, followed by the selection of the respondents. Next, the focus will be on the measurement instrument that was used and the indicators of public procurement distance. The chapter will conclude with a brief summary and look ahead to the results of the measurements.

### **4.2 Research design**

Using the scientific literature as point of departure, expectations were established in the previous chapter with regard to administrative organisation, professionalism, policy discretion and administrative culture & segmentation. These expectations will be evaluated using a digital survey, which was distributed among procurement officers within publicly contracting organisations in the 27 member states. They publish their calls for tenders on the central European procurement website, Tenders Electronic Daily (TED). They form the lowest unit of analysis. Higher up in terms of analysis are the administration tiers: the local, regional and national governments. The second highest level of analysis is formed by the member states, and the highest is the European Union as a whole.<sup>20</sup>

To test the expectations as established with regard to administrative culture and segmentation, cross-sections are used at all levels of analysis of the new dataset.<sup>21</sup> This ensures that the possible influence of the independent variables on public procurement distance (the dependent variable) can be examined from different

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<sup>20</sup> When this study was conducted, the UK was still a member of the European Union and Croatia was not.

<sup>21</sup> Dataset available via [doi.org/10.34894/UKGIUR](https://doi.org/10.34894/UKGIUR) on dataverseNL.

perspectives. The following paragraph will discuss how the respondents were selected and what this might mean for the representativeness of this study.

### 4.3 Selection of respondents

Collected from TED were 204,575 email addresses of public procurement officials of 27 member states' contracting governments. These officials were contacted electronically via the email system of Leiden University with an invitation to participate. The invitation came with an accompanying email in which the study and the researcher were introduced. This email also explained the purpose of the study (Appendix A). The questionnaire was also attached (Appendix B). Participation in the survey was voluntary and anonymous. Respondents had the option to cancel their completion of the survey at any time and not return it to the researcher. Furthermore, the responses were separated from the respondents' email addresses, and the email address data were deleted. This made it impossible to trace which respondent gave which responses. The voluntariness and anonymity were explained in the email accompanying the survey.

From the file of email addresses used, it was not possible to determine whether they were personal addresses, project email addresses or general addresses for departments or organisations, for instance. Therefore, the questionnaire inquired about the position held by the respondent. For the same reason, it asked whether respondents were mainly active in public contracts in the field of works, services, supplies or utility sectors. The member state of the respondents was known, so that the completed responses could be linked to the corresponding state. This allowed for respondents whose member state was missing or incorrect, who were not employed by the government or whose sector of work was unclear to be excluded from the responses.

One point of consideration that arose from involving 27 countries in this study was the variety of languages. Creating the survey only in English could have led to differences in interpretation because assuming that everyone would have sufficient proficiency in the English language was risky, potentially resulting in a lower response rate. For that reason, the survey was translated from Dutch into the 20 languages of the member states.<sup>22</sup> The translation agency responsible for the translations had expertise in the languages used and was accredited and certified

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22 Bulgarian, Czech, Danish, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish.

under the quality standard NEN-EN 15038:2006 that was applicable at that time. It was also decided to provide translators with a list of technical terms to ensure they pay extra attention to them during the translation process. To gain further insight into implementation practices, the respondents were asked if they were willing to share an interesting case with the researcher and if they would like to be interviewed (by telephone) about the case in question. This resulted in a number of narratives illustrating the difference between theory and practice, which are included in Chapter 2.

To achieve the highest possible response rate, questions on procurement practices were asked from various angles. The respondents were not only asked which components were included in their job responsibilities, for instance, but also about specific procurement situations such as the impact of the number of suppliers in the procurement process and the role of contract extensions in policy implementation. This may have led to greater recognition of their own daily duties, which could prompt respondents to answer the questions posed. To increase the likelihood of spontaneous, not overly reasoned and not mutually agreed-upon answers between respondents, no option was provided to go back and revise responses.

Respondents had the opportunity to leave an email address to receive a summary of the research results in due course.<sup>23</sup> To further increase the response rate, 3 reminders were emailed to the respondents.

#### 4.3.1 Response data by country

Of the questionnaires sent (204,575, 'Sent'), a total of 172,434 did not reach the recipients ('not delivered'). This number was made up of emails that ended up in spam filters, were undeliverable or arrived somewhere but not with the intended recipients as their email addresses were no longer in use, for example. A number of email addresses turned out not to be unique (122); they received the survey 2 or 3 times. On balance, this resulted in 32,141 responses ('gross response'), including 15,327 recipients opening the questionnaire but not completing it, and 81 surveys being left unread and deleted. The total number of uncompleted questionnaires was 15,408 ('nothing filled in'). Thus, the net response was 32,141 minus 15,408 i.e. 16,733 ('net response'). This broke down into and 7,401 fully completed surveys ('complete response') and 9,332 partially completed surveys ('partial response'). The response rate ('net response' divided by 'gross response') for the 27 member states combined was 52%.

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23 Ninety-eight participants used this opportunity.

The table below shows the response data per member state:

TABLE 2

## Response data per member state

Member state	Sent	Not delivered	Gross response	Nothing filled in	Net response	Complete response	Partial response	Response rate
Austria	3,875	3,019	856	403	453	218	235	53%
Belgium	8,056	6,524	1,532	866	666	345	321	44%
Bulgaria	1,884	1,497	387	182	205	76	129	53%
Cyprus	520	376	144	38	106	51	55	74%
Czech Republic	5,068	4,023	1,045	338	707	289	418	68%
Denmark	5,072	3,859	1,213	738	475	244	231	39%
Estonia	823	604	219	57	162	92	70	74%
Finland	5,250	4,448	802	271	531	362	169	66%
France	43,622	38,497	5,125	3,171	1,954	731	1,223	38%
Germany	26,000	20,746	5,254	2,110	3,144	1,245	1,899	60%
Greece	3,483	2,872	611	242	369	144	225	60%
Hungary	3,515	3,065	450	242	208	82	126	46%
Ireland	2,833	2,351	482	240	242	125	117	50%
Italy	17,251	15,196	2,055	1,181	874	350	524	43%
Latvia	1,683	1,484	199	74	125	63	62	63%
Lithuania	2,273	1,855	418	132	286	173	113	68%
Luxembourg	435	321	114	68	46	18	28	40%
Malta	180	154	26	7	19	10	9	73%
Netherlands	8,484	6,446	2,038	932	1,106	598	508	54%
Poland	13,018	10,958	2,060	810	1,250	430	820	61%
Portugal	2,103	1,661	442	178	264	102	162	60%
Romania	4,701	3,665	1,036	584	452	166	286	44%
Slovakia	1,719	1,361	358	116	242	93	149	68%
Slovenia	2,296	1,608	688	207	481	242	239	70%
Spain	8,137	6,896	1,241	508	733	302	431	59%
Sweden	6,842	5,382	1,460	647	813	449	364	56%
United Kingdom	25,452	23,566	1,886	1,066	820	401	419	44%
<b>Total and %</b>	<b>204,575</b>	<b>172,434</b>	<b>32,141</b>	<b>15,408</b>	<b>16,733</b>	<b>7,401</b>	<b>9,332</b>	<b>52%</b>

To ensure that only respondents working for governments were included in the analyses, the respondents were asked whether they worked for commercial rather than public organisations. The 288 respondents who ticked the commercial box were filtered out of the data and deducted from the net response of 16,733, while 4,649 respondents did not answer the question on their specific sectors or member state. This number was also deducted from the net response, resulting in 11,796 observations (N). This number was used to conduct the empirical analyses.

#### 4.3.2 Representativeness

According to the European Commission, there are over 35,000 contracting and purchasing government entities in the member states that publish a European call for tenders at least once a year (Commission, 2011b: 8). Public contracts above European threshold values must be published on the European website (TED).<sup>24</sup> Previous studies do not provide much data on the performers of these contracts.

A large number of respondents (16,733) returned the survey in part or in full by email. The assumption is that the survey results are representative of the entire research population. By using all the email addresses found, the risk of potentially overlooking a group of respondents was minimised. Yet, it is conceivable that under the influence of a number of factors, the actual extent of the public procurement distance reported by respondents differed from reality. This could be due to the fact that it was impossible to verify whether all procuring entities at all levels of government indeed published all their announcements regarding public contracts. Certain procuring entities may not have been aware of the existence of a publication requirement, as a result of which this group could not be approached. Procuring entities could, for example, also choose not to publish a call for tenders in certain situations but, for reasons best known to them, award the contract directly to their preferred supplier. Any non-publication could also be due to contract splits so that the separate amounts remained below the European thresholds and did not have to be put out to tender. The percentage of undelivered and unopened emails could also be a result of email addresses having only been used once for a specific procurement project and subsequently closed. Alternatively, the recipient might no longer be working in the relevant position or changed email addresses without closing the former. Staff could have been absent and unable to read emails. Recipients could also discard the message unopened. This could potentially have resulted in an underestimation of the public procurement distance as measured in this study, resulting in less variation in the dependent variable in the sample compared to the variation in the population.

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24 See footnote 9 in Chapter 2 for the thresholds.

#### 4.4 Measurement instrument used

To investigate public procurement distance and measure variation in the independent variables, a questionnaire was used as a measurement instrument. Its design was based on the theoretical framework developed in Chapter 3.

The perspective of the respondents and the avoidance of any confusion about the content of the questions were prioritised in its design (Neuman, 2000: 251). This led to the decision to use a closed anonymous questionnaire. Respondents might be more willing to answer questions about potentially sensitive subjects such as their job performance with this particular type of questionnaire. It was also considered that this type of questions would be simpler and quicker to answer, with responses being easier to process and analyse than answers to open-ended questions about procurement practices. It could be that respondents answered questions on topics they knew little or nothing about. It is also conceivable that a topic they considered important did not appear in the questionnaire or that certain practical situations were oversimplified in the questionnaire or incorrectly interpreted, which could also influence the responses (Neuman, 2000: 260-261). To avoid this problem as much as possible, the measurement instrument comprised different types of closed questions with scales, categorical questions and questions in the form of statements. Moreover, the issue of public procurement distance was approached from multiple angles, using the different theoretical perspectives as presented in Chapter 3 as a starting point. This was also expected to reduce the likelihood that respondents would lose their attention. The diverse question types also served to mitigate the potential impact of straight-lining (Cole et al., 2012: 2).

The respondents' opinions were measured using questions on a 5-point Likert scale ranging from 'Strongly disagree' to 'Strongly agree', with the middle option on the scale being 'Neutral'. One question, concerning the use of discretionary policy instruments, had to be answered on a 4-point Likert scale. The use of a scale gave the opportunity to translate complex theoretical perspectives into response options understandable to respondents. It also created the possibility of unlocking respondents' opinions with precision (DeVellis, 2003: 9-10). Having five answer options was expected to allow for properly nuanced responses without overcomplication. This could have negatively affected the quality of the responses (Krosnick & Fabrigar, 1997: 144). The scales also ensured that the relevant responses could be analysed at an interval measurement level. This made it possible to apply multivariate regression analysis using ordinary least squares (OLS). This approach was chosen because it was assumed, based on the literature and on the domain knowledge of the researcher, that the relevant variables which

may influence public procurement distance were included in the regression model (Majka, 2024).

Several questions were measured on a nominal scale. These were included in the analyses as dummy variables. As for the three potential project effects measured in this study, it will be determined whether they can be transformed into a single factor.<sup>25</sup>

#### 4.4.1 Testing the draft questionnaire

The questionnaire was tested three times before it was sent to all respondents. The very first draft questionnaire was submitted to four Dutch procurement experts with extensive practical experience in tender procedures. It was modified based on their feedback, particularly in terms of unclear language and content.

A second draft was implemented by mailing the questionnaire to 25 Dutch and 25 Flemish respondents. This not only tested the survey, but also whether the software chosen to collect the data with was useful for this study. Of these test surveys, 20% did not arrive, and 40% arrived but were never opened. The test response was approximately 20%. Based on the respondents' answers, the wording of the questions was further honed.

The following test was carried out by writing to 50 email addresses across all EU member states. The aim of this international test was to check the accuracy of the translations in terms of the clarity of the language used, to assess the comprehensibility of the procurement-technical aspects and to evaluate the effectiveness of the questionnaire's composition. The test respondents received the survey as well as two reminders by email; 40% did not reach the recipients. The response rate across the 27 member states was about 30%. The most important adjustments following this international test were further refinement of the questionnaire, adding a third reminder and adjusting the accompanying letter. It was also decided to include the estimated completion time in the digital questionnaire by adding the sentence *"This survey will take a maximum of 20 minutes of your time"* and a progress bar running along checking the respondent's advancement through the questions.

#### 4.4.2 Validity

Where the internal validity was concerned (Yin, 2014: 239), four distinct perspectives were identified based on the literature that might explain the emergence of public procurement distance: administrative organisation, professionalism, policy discretion, and culture and segmentation. These perspectives can be interpreted as

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<sup>25</sup> These effects are optimism bias, scope creep, and planning fallacy.

potential alternative explanations for public procurement distance. If one explanation shows no effect while another does, conclusions can be drawn about the possible causes of public procurement distance and to what extent European procurement policy actually leads to the desired effect. This addresses the central research question of this study. The perspectives are described in paragraph 4.6.

A questionnaire was compiled to measure such possible causes. Moreover, the researcher incorporated his practical experience into the questionnaire. For example, by asking respondents whether they drafted contractual terms more broadly than necessary for the tender. The regulations do not allow this, but the researcher has found it to be a regular occurrence in practice. All the email addresses of public procurement officers within the EU available during a certain period were collected. The list was tested and further refined based on the findings. This was described earlier in this chapter.

For each theoretical perspective, questions were asked from different angles in order to make valid statements about the cause of public procurement distance based on the opinion of the research population from across Europe. This broad design also meant that socially desirable answers were avoided as much as possible, and no relevant aspects were overlooked. The survey was also anonymous, meaning that answers could not be traced back to individual respondents. This might have also contributed that socially desirable answers were avoided as much as possible. In section 5.3, this point is further elaborated based on the survey results.

As for *administrative organisation*, the questionnaire inquired into both the use of procurement and legal consultants as well as whether these consultants worked inside or outside the relevant procuring organisation. The extent to which contracting authorities cooperate was also asked. Where *professionalism* was concerned, not only the level of experience in the field was examined, but also whether education played a role in influencing public procurement distance. As for *policy discretion*, it was measured not only whether respondents experienced leeway to be able to steer tender procedures in the desired direction in terms of content, but also whether they sometimes allowed minor errors in tenders to be rectified without immediately excluding suppliers from further participation in the procurement process. *Culture* was approached from various cross-sections of the dataset in order to reveal how this might affect the dependent variable.

Regarding external validity (Yin, 2014: 238), factors contributing to public procurement distance may also offer valuable insights for a broader range of policy areas beyond public procurement. The dynamics observed in public procurement policy can support implementation strategies and governance models across the policy spectrum. Elements such as administrative organisation, public administration culture, policy discretion and levels of professionalism can play a role. For

example, in the implementation of healthcare in different parts of Europe (Weziak-Bialowolska, 2014), quality of public administration (Charron & Lapuente, 2013; Bubbico et al., 2017), the way in which technological innovations are translated into the economy (Rosenberg, 1985), social programmes (Pressman & Wildavsky, 1984), and even international politics (Varoufakis, 2017).

Based on the literature, various cross-sections of the dataset were made for the cultural perspective. One of these cross-sections was based on compliance with the guidelines. Falkner et al. (2005) and Falkner & Treib (2007) found four cultures of compliance with a directive in the social domain. Based on this, they made a classification of 19 member states<sup>26</sup>. Perhaps a similar pattern of countries will emerge for procurement. If this is indeed the case, a general statement can be made about possible compliance patterns in the EU.

The timing of the survey (2015) in relation to the publication date of this study may affect the validity of the results. Will the same results be found when the study is repeated for a different group, over time, for instance? There will probably be no difference. This is because there is clear evidence that the nature and persistence of distance issues in European public procurement policy have changed little over the years (see also the overview in Chapter 1). The bottlenecks in public procurement have been a consistent topic of discussion in publications by the European Commission (Commission, 1989; 1998, 2001; 2008c; 2011a; 2011c; 2017a, b), specialised organisations (Sylvest et al., 2011; European Court of Auditors, 2015; OECD, 2017) and in scientific literature (Liberatore, 1991; Csáki, 2006; Maandag, 2007; Van Weele, 2010; Volker, 2010; Arrowsmith, 2012; 2015; Semple, 2016; Andhov et al., 2022) since the 1980s. Therefore, the results are still relevant, useful and reproducible in new research. This does, incidentally, raise the question of why that is still the case, which will be answered in the upcoming chapters.

#### 4.4.3 Reliability

Where the degree of reliability of the measuring instrument was concerned (Yin, 2014: 240), several questions were asked about the different theoretical perspectives used to maximise the knowledge about the underlying concept. The measurement instrument comprised different types of closed questions with scales, categorical questions and questions in the form of statements. The aim was to achieve adequate refinement in the responses without the answer options leading to too much complexity for respondents.

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26 Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

By introducing sufficient variation into the questionnaire, respondents were stimulated to answer the questions. It also minimised the risk of straight-lining (Cole et al., 2012: 2). This could negatively affect the response rate as this could lead to sloppy answers with a negative impact on the degree of reliability of the survey.

#### 4.5 Public procurement distance

During the procurement process, which covers the specifying of the procurement needs and selecting the most suitable tender (Van Weele, 2010: 29, 117-120; Van der Horst & Schenk, 2016: 105-106), public procurement distance may arise in relation to the mandatory procurement policy.

The said distance can also emerge with regard to discretionary policy on the deployment of the strategic instruments and cross-border procurement. Therefore, it is important to use separate analyses to determine whether different circumstances play a role in the emergence of procurement distance in the implementation of mandatory policy and discretionary policy. The expectations and the associated questions used to make this part of the theory measurable are presented in summarising table D1 in Appendix D.

Point of departure in mandatory European public procurement policy as examined in this study is that the regulations are applied to the letter. The assumption was, therefore, that the conditions and obligations of the intended policy would be implemented as formulated in advance. To make this key point measurable, the respondents were asked whether they indeed always applied the procurement regulations to the letter.

In the first stage of the procurement process, varying types of effects may occur that contribute to explaining why public procurement distance arises because of which the procurement regulations are no longer strictly applied. This study tested 3 possible effects referred to in the project literature: optimism bias, scope creep and planning fallacy (Brodkin, 2000: 3; Flyvbjerg et al., 2003, 2012; 2016; Lovallo & Kahneman, 2003; Capka 2004; Cantarelli, et al., 2012). To gain insight into this regard, the respondents were asked whether they indeed experienced that the costs and risks of projects to be tendered were stated too low and too optimistically, their scope was made more extensive than necessary or the lead times of projects to be tendered were deliberately estimated lower than necessary in advance. The responses to these three questions were considered to further delineate the issues surrounding the implementation of procurement policy.

According to the literature, these three effects often occur simultaneously (see also Chapter 3), suggesting the presence of a specific underlying latent construct

that comes to the fore upon the realisation of a project. Through exploratory factor analysis (EFA), it was measured whether this underlying construct might be made visible based on the collected data (Fabrigar & Wegener, 2012: 19-21). If so, a 'project effects' factor would be defined.

The second step in the procurement process centres on selecting the winning tender. If respondents would indicate in their responses that they did 'not get what they expected to procure in advance' and were 'not satisfied with the result of the procurement', the selection process had not functioned properly, resulting in distance.

Secondly, indicators for the discretionary strategic instruments (sustainability, social return, innovation, participation in government contracts of small to medium-sized enterprises) were tested by asking the respondents about the extent of their use of these instruments and to what extent they applied them in their tender procedures. The instruments differ too much in terms of intended policy objective to be able to turn them into a single factor, so that they were measured separately.

As for the discretionary policy for cross-border awarding, it was important to establish the extent of purchases abroad so as to make visible to what extent this played a role in public procurement. To raise this issue in the responses, the question was to what extent the respondents ever awarded a contract to a supplier in another member state. They were also asked whether they ever awarded contracts to suppliers from outside the European Union. This would give an even sharper picture of whether cross-border awarding to non-national suppliers had any influence on the emergence of public procurement distance within European procurement policy.

#### **4.6 Making potential causes of public procurement distance measurable**

This paragraph highlights the independent variables used to identify possible causes of public procurement distance. This will be done, firstly, for administrative organisation by addressing available capacity and collaboration between contracting authorities, and, secondly, for professionalism. Here, a distinction will be made between tacit knowledge and training, and intrinsic motivation. Thirdly, the independent variables that may influence policy discretion will be discussed, followed by a final presentation of possible causes of distance in a cultural clarification. The responses to most questions were measured using a Likert scale. If questions were not measured on this scale, this will be specified in the discussion below. A table of summarising statistics is included as Table C21 in Appendix C.

The expectations formulated in Chapter 3 and the questions used to make the expectations measurable are presented in summarising table D2 in Appendix D.

### **Administrative organisation: capacity and collaboration**

If a government organisation lacks procurement or legal expertise on how to apply regulations and policies as intended in advance, it may call on consultants with the necessary knowledge. These consultants may come from within or outside the organisation. Expectation 1a suggests that as an organisation has more procurement expertise, public procurement distance is likely to decrease because it is assumed that the specific knowledge brought by consultants has a positive influence on bridging such distance. To gain insight into this part of the study, the survey inquired about the extent of deploying internal and external legal and procurement consultants to reveal how this affects public procurement distance.

Where collaboration is concerned, contracting organisations can join forces to compensate for a lack of expertise, thereby reducing distance as expected (expectation 1b). To capture this, the respondents were asked if and to what extent they collaborated with other contracting authorities. This was expected to provide insight into whether collaboration affects the dependent variable.

### **Professionalism: tacit knowledge and formal knowledge**

Occupational control over procurement actions from the perspective of professionalism was examined through two approaches – firstly, based on practical experience in the form of tacit knowledge. Secondly, occupational control over procurement actions was measured based on formally acquired knowledge through training.

As for tacit knowledge, it is expected that extensive experience in supervising tender procedures and working in the field of expertise (seniority) leads to more knowledge among the respondents as to how to run these procedures, resulting in less distance (Expectation 2a). The response options were converted into dummy variables. It will now be discussed how both points were made measurable.

To gain insight into the impact of the number of tender procedures to be supervised on the public procurement distance, the number of contracts concluded each year were used as a benchmark. Research has brought to the fore that this annual number decreases as the contract value increases (PwC, 2011: 69). It is conceivable that this is due to tender procedures becoming more complex as the contract value increases. This can lead to increasingly more time being spent on supervision, meaning that increasingly fewer tenders can be implemented each year. To gain more insight in this respect, the respondents were presented with

a question to be scored on a scale where the intervals between the measurement points became progressively larger. The point of reference is set at supervising 2 or fewer procurements per year. The questions ranging from 3 to 5 up to more than 20 supervised tenders per year formed the dummy variables.

Regarding seniority (the other aspect of tacit knowledge to be measured), it is assumed, based on Freidson (2004), that the more years of service respondents have, the better they are familiar with the sector and the organisation where they work. This makes tacit knowledge increase and distance decrease. Involvement in European tenders for 1 year or less becomes the point of reference, and the other possibilities form the dummy variables. This was the way of measuring whether the degree of seniority affected public procurement distance. To gain proper insight, the dummy variables were to be scored on a scale where the intervals between the measurement points became progressively larger, as it was conceivable that an additional unit of experience would not lead to a proportional increase in tacit knowledge and, therefore, to a proportionally greater influence on the dependent variable as well.

A second approach within professionalism focused on formal knowledge. This is knowledge in the form of education and training. Expectation 2b suggests that the better educated the respondents say they are, the better they knew how to perform procurement tasks. This is expected to reduce the distance between policy intentions on paper and their implementation. Several authors consider specific professional training to be important to successfully perform work activities (Freidson, 2004, Callender & McGuire, 2007) but there are also authors who observe that a certain amount of practical experience suffices (Matthews, 2005; Abutabenjeh & Gordon, 2015). For that reason, a distinction is made in the questions in terms of the respondents' learning through specific public procurement training, general procurement training or practice without training. The response options were converted into dummy variables. Only having practical experience became the point of reference and the other options formed the dummy variables. This was the way of measuring whether the training affected public procurement distance.

### **Professionalism: intrinsic motivation**

Intrinsic motivation to serve the public interest was the last aspect of professionalism to be examined. In the public administration literature, it is known as public sector motivation (Perry & Wise, 1990). The expectation is that intrinsic motivation has a positive effect on reducing public procurement distance (expectation 3). To measure this, the respondents are asked to what extent they agreed with the question of whether they considered that they served the public interest. The

more respondents said they considered the public interest, the more intrinsically motivated they were.

### **Policy discretion**

Policy discretion is the leeway that the policy leaves to actors to, if desired, interpret and implement certain parts of that policy within a given regulatory framework. It is expected that as the scope to manage the details of tender procedures increases, public procurement distance also increases (expectation 4a). To gain insight in this regard, two questions were put to the respondents. The first was to measure the policy discretion aspect by asking whether procurement officers had the leeway to control the details of a tender procedure or, in fact, experienced that procurement regulations left little room for their own input. This helped assess whether the two extreme aspects of policy discretion, namely experiencing a great or, in fact, little freedom, influenced public procurement distance.

Tender procedures are performed by procurement staff who exercise a certain profession in procurement (buyer, lawyer, contract manager or part-timer). They face complex regulations and diverse, often conflicting, interests of actors. In practice, these interests must be combined into a successful procurement process. This may lead to the need to bend rules to make them better implementable in the eyes of procurement officers, thereby increasing public procurement distance (expectation 4b). To gain insight into the possible influence of the occupational groups on public procurement distance, these were converted into dummy variables. Part-timers became the point of reference, and the other possible occupational groups form the dummy variables. This was the way of measuring whether the profession affected public procurement distance.

Actors other than public procurement officers may also influence public procurement distance. They may affect the degree of policy discretion available to procurement officers in practice. To measure this, the respondents were presented with statements in which it was examined for various actors why a contract could not be awarded to a winning bidder. The actors being measured were the organisation itself (expectation 4c), politics (expectation 4d), market parties (expectation 4e) and media (expectation 4f). A statement was formulated for each actor about the influence of stopping the award of a contract to the winning bidder: because their own employer wanted it that way, or because there was certain political pressure to stop a tender procedure. To reveal this where the market was concerned, the proposition was put forward whether the threat of a complaint or legal action affected the procurement process. For the media actor, it was stated that a publication influenced whether a contract could be awarded. The statements were not included in the regression analyses because

they represent a certain procurement situation with a dependent variable already linked to an independent variable in the statement. The results will be presented in Chapter 5 and 6, in which the outcomes of the measurements will be described. The statements form a further exploration of the theoretical perspective of policy discretion.

### **Public administration culture and segmentation**

The final theoretical perspective is that of the public administration culture and segmentation. Public procurement can be embedded in multiple administration tiers or segments that may play a role in implementation. To provide more clarity, the respondents were asked which member state they came from. The responses from these countries were then segmented by sectors, compliance, administration tiers, geography and general system of governance based on what emerges from the literature. This would provide insight into whether there are compliance patterns that originate from a particular shared culture. Statements in this regard would be based on the outcomes.

An initial segmentation is made based on a breakdown by public or utility sectors since, according to Bovis (2007: 49-50), the guideline for the utility sectors is less strict than for the public sectors. This may affect public procurement distance (expectation 5a). To make this clear, the respondents were asked for which sectors they supervised tender procedures – for the public or the utility sectors. These response options were converted into dummy variables. ‘Utility sectors’ became the point of reference and the public sectors the dummy variable. This was the way of measuring whether the sector affected public procurement distance.

A second classification took as its starting point a segmentation by tier of administration. There might be a difference between levels of government in the implementation of the procurement process. This is based, among other things, on Pressman & Wildavsky (1984) and Guccio et al. (2014) who identify differences in the way centrally formulated policy is translated into implementation at the regional and local levels of public administration. This may affect public procurement distance (expectation 5b). To make this measurable, the question posed to respondents was segmented into national, regional and local governments. The response options were converted into dummy variables. ‘Local’ became the point of reference and the other options formed the dummy variables. This was the way of measuring whether the level of government affected public procurement distance.

In the third segmentation of member states, the four cultures of compliance (expectation 5c) found by Falkner et al. (2005) and Falkner & Treib (2007) – law

observance, domestic politics, transposition neglect and dead letters – were the point of departure for the classification of 19 member states. These groups of member states were tested to see if a corresponding response pattern as found by Falkner et al. (2005) and Falkner & Treib (2007) emerged. If so, there could be a certain European compliance culture. The response options were converted into dummy variables. ‘Law observance’ became the point of reference. This was the way of measuring whether compliance affected public procurement distance.

The fourth segmentation is based on geographical regions. The question here was whether the geographical division of 27 member states into the regions North, West, South, East and Central<sup>27</sup> would reveal possible differences in administrative culture (expectation 5d). The response options were converted into dummy variables. Based on the theory (Fazekas, 2017; Falkner et al., 2005), ‘North’ became the point of reference, and the other regions formed the dummy variables. This was the way of measuring whether geographical region affected procurement distance.

The last classification by general systems of government was established based on literature by Le Galès (1998) and Pollitt & Bouckaert (2000). These authors analyse – among other things – differences in administrative cultures between unitary and federal systems of government (expectation 5e). These may have an influence on distance. To measure this, the dataset was divided into unitary governed member states and federally governed member states. The response options were converted into dummy variables. According to these authors, in unitary systems, governance and decision-making power is somewhat concentrated in central governments. In federal systems, governance is more distributed across the tiers, which may result in greater public procurement distance than with centrally managed systems, so that ‘Federal’ became the point of reference.<sup>28</sup>

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27 North: Denmark, Finland, Sweden. West: Austria, Belgium, France, Germany, Ireland, Luxembourg, the Netherlands, United Kingdom. South: Cyprus, Greece, Italy, Malta, Portugal, Slovenia, Spain. Central: Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovak Republic. East: Estonia, Latvia, Lithuania.

28 Unitary: Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, United Kingdom. Federal: Austria, Belgium, Germany, Spain.

## 4.7 Conclusion

This chapter has constructed the research design to measure the theoretical model of public procurement distance through the distribution of an electronic survey to European procurement officers of contracting organisations. The questionnaire that formed the basis of the survey was tested and adjusted before it was sent, and 16,733 surveys were fully or partially completed and returned. This corresponds to a response rate of 52%.

The results of these analyses will be presented in the following chapters, followed by conclusions and recommendations linked to the outcomes of the measurements.

**BESTEK EN CONDITIEN**, volgens welke, in het openbaar, op nadere approbatie in Massa zal worden aanbeleeft:

*Alle leverantien en arbeids-loonen, met den aankleve van dien, tot het aanleggen en opwerken van een Aarden-Buitendam, benevens het weder digt maken van het oude Binnen Vingerling, voor en achter de groote Inundatie Hulpfluisen in den Waaldijk te Dalem.*

*Mitsgaders het droog maken, en gedurende den tijd van drie achtereenvolgende maanden drooghouden, van de ruimte tusschen dezelve dammen of vingerlingen, tot herstelling en vernieuwing der voormelde sluisen.*

Art. 1.

*Hoofd-Bepalingen der Damwerken en Drooghouding.*

De juiste plaats, en strekking van den geheel nieuw te maken Buiten Dam, is door Bakens op het terrein bepaaldelijk te zien.

Alle bepalingen van hoogte en diepte moet worden vergeleken aan de Peilschaal buiten de Waterpoort te Gorinchem, die verdeeld is in Rijnlandsche voeten en duimen, de eenige maatstaf met welke gemeten mag worden.

De kruins hoogte van den Buitendam moet zijn gelijk elf voeten aan het voormelde Peil, en moet, des noodig, bij onverhoopt hoog water, zoo veel worden verhoogd en opgekist, als de omstandigheden zouden kunnen vorderen, om de Sluis-put en Werken droog te houden.

De kruins breedte van denzelfden Dam moet zijn 12 voeten; de wederzijdsche Dofseringen één en één halve voet op den voet; en bijaldien door schuiving of andere omstandigheden, er Bermen noodig waren, moeten die buiten en binnen zoodanig aangelegd en opgetrokken worden, als de soliditeit en volkomene zekerheid des Waterkeerings vordert.

Langs de buitenzijde dezes Dams moet een laag rijzen Zinkstukken, lang 12 roeden, breed 3 roeden, dik 3 voeten, komende ééne roede onder den tée des Dams, gezonken worden.

Tot gemak en veiligheid der pasfagie met Rijnvuisen over den Dam, moeten de noodige Oprellen gemaakt, en ten wederzijden de Kruin, gelijk langs de buitenzijde van het Oprel van den Dijk afkomende, behoorlijke afheiningen worden gesteld.

De voornoemde Kruin en Oprellen moeten vervolgens met Rijs belegd, en daar over 6 à 8 duimen dikte Zand onderhouden worden, gedurende den geheelon tijd des werks.

De Coupures in het oude Vingerling, binnen om de sluisen, moeten ter volkomene zwaarte en hoogte van het oude werk, met Klei-aarden gedigt; en vervolgens zal deze binnen atdamming, gedurende de drooghouding, digt, en in voldoende staat gehouden worden.

De Klei, en Aardspecien, zoo tot den Buitendam, als tot het voormelde Vingerling, zullen, volgens aanwijzing gestoken, en door Kruiwagens, Kar of Vletfchuit, getransporteerd moeten worden.

## Chapter 5

# **RESPONDENTS: DESCRIBING PUBLIC PROCUREMENT IN EUROPE**

### **5.1 Introduction**

This chapter revolves around the question of who the respondents are and how they implement European public procurement policy. This descriptive analysis is based on the data from the survey. Together with Chapters 6 and 7, this chapter forms part of the answer to research question 3 on the factors that influence European public procurement policy, i.e. public procurement distance.

It first zooms in on procurement officers based on their work-related data, before shifting focus to the implementation of European procurement policy. The emphasis here will be placed on the views and actions during the procurement process. The chapter will conclude with a brief final reflection and a look ahead to the following chapters.

### **5.2 Characteristics of the examined units**

The first question is what the professional field and the primary work activities of procurement personnel exactly entail. This will be outlined in a description detailing certain features of daily implementation practices as identified in the dataset. Not much is known about this from either scientific research or practice (Csáki, 2006: 872; Fazekas, 2017: 2; Koszewska & Ligte, 2023: 152-153).

#### **Profile**

Regarding the occupational content in the professional field and the core job duties of procurement staff within the procurement segments (infrastructure, services and the supply of goods), respondents are most often employed to procure services (over 39%), followed by supplies (over 29%) and infrastructure (25%). When looking at the distribution between public sectors and utility sectors, it is striking that by far the smallest number of respondents work in the utility sectors, with approximately 7% (see also Table C1 in Appendix C). The respondents were also queried about their primary sector, whereby the infrastructure sector ranks first with almost 22%, followed by utilities with 11% and I(C)T with almost 11% (for more information, see Table C2 in Appendix C).

Zooming in on the profile reveals that the majority (over 64%) of the respondents were male. Over 90% of the overall respondents were aged above 35, with nearly half of this group being 50 years or older. A majority of 86% had completed higher professional or academic education.<sup>29</sup>

In terms of their experience in procurement, two-thirds of the respondents executed a maximum of ten tender procedures per year, while one-third conducted eleven or more. 69% of the respondents had been working in the procurement field for at least five years. Where the public administration tier was concerned, almost 39% of the respondents were employed by a local government. This is largely understandable because there are more municipal than other governments, and consequently there are also more contracting authorities and procuring officers at this administration level.

### **Professional group**

Apart from procurement segments, sectors and administration tiers, the range of tasks of procurement officers is an interesting aspect in profiling the units under study. The respondents were asked what role they personally played in the procurement process.

A summary is included in Table 3, highlighting that public procurement staff indicated that they are predominantly general procurement staff or part-time public procurement officers.<sup>30</sup> The latter group is relatively strongly represented with more than 40% of the respondents. This is also a high percentage compared to the European average of 19% in the age group of twenty- to sixty-four-year-olds who are employed part-time (Eurostat, 2016: 2). The respondents who classified themselves as legal staff were not as strongly represented as the other professional groups, which is noteworthy given the trend towards the legalisation of public procurement as identified in the literature (Telgen et al., 2007: 18-19; Treumer, 2014: 10; Van der Horst & Schenk, 2016: 33), as well as the fact that they were involved in all aspects of the procurement process, as reflecting in Table 5 below. However, the percentages of externally hired consultants were even lower, as shown in Table 3 below. This is striking because tender procedures are commonly experienced as complex processes, which can be a reason to hire external knowledge to oversee a procurement process.<sup>31</sup> Consultants also performed tasks throughout all stages of the procurement process (Table 5).

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29 The tables not included in this chapter are listed in Annex C – Frequency tables.

30 'Part-timers' being respondents who also deal with all the occupational aspects of procurement, in addition to their other duties.

31 External consultants with an email address in TED received a questionnaire.

TABLE 3<sup>32</sup>**Distribution of respondents by professional group (n= 6,923)**

<b>Professional group</b>	<b>Percentage</b>
General procurement officer	37
Legal staff	7
Contract manager	12
Part-time public procurement officer	40
Externally hired procurement consultant	3
Externally hired legal consultant	1
<i>Total</i>	<i>100</i>

**Education and training**

In terms of education and training, Table 4 shows over one-quarter of the respondents had job-specific training and almost half had mastered the procurement profession in practice, without taking any procurement-specific training. The fact that professionals have not always had specific procurement training yet can still perform their jobs well is also highlighted in the literature. Matthews (2005: 392) finds that practical experience is often considered sufficient for procurement officers. Similarly, among a proportion of the procurement professionals who Abutabenjeh and Gordon (2015) surveyed, additional certification was not necessary to perform their work well. Training institutions that question the need for training and educating professionals in public procurement (Thai, 2001: 40-41) might have a valid point, considering the large number of respondents who claimed to have mastered European public procurement in practice. The responses and certain literature could point in the direction of public procurement as a rather routine administrative process without a clear strategic added value. If this is valid, public procurement presumably requires less extensive knowledge acquisition but rather practical experience.

32 Tables rounded to whole numbers. Rounding differences may have occurred when adding percentages. n = number of responses. Measurements based on procurement officers within publicly contracting organisations in the 27 member states that publish their calls for tenders on the central European procurement website, Tenders Electronic Daily (TED).

TABLE 4

**Further training (n= 6,874)**

<b>Specific training</b>	<b>Percentage</b>
Procurement training or a course specific to European public procurement	28
Procurement training but not specific to European public procurement	25
European public procurement mastered without procurement training	48
<i>Total</i>	<i>100</i>

**Task division**

Table 5 shows the division of tasks of public procurement staff over all steps of the public procurement process, showing that about 75% of the time is spent on the specification stage in relation to the overall procurement process. In both the specification and selection stages, externally hired workers spend about the same amount of time on the tasks as the other professional groups.

In the specification stage, legal staff are slightly more concerned with applying rules and case law and less concerned with answering questions from the market compared with other professional groups. Externally hired procurement consultants together with procurement staff are slightly more concerned with providing answers to market questions in summaries of additional information and changes at this stage compared with the other professional groups.

With more than 10% of the time spent, externally hired legal consultants are more concerned with legal procedures in the selection stage compared with the other professional groups. Indeed, they may possibly be hired for this specific task at this stage. In-house legal staff spend over 9% of their time on procedures. External consultants are deployed more in the specification stage than in the selection stage and they participate in every step of the procurement process alongside their in-house counterparts. Hiring external consultants – possibly influenced by this broad deployment – entails substantial annual costs for contracting authorities. 69% of respondents spend up to 100,000 Euros and 7% of respondents even spend more than 100,000 Euros on hiring (table C16 in Appendix C). These percentages and amounts illustrate the frequent use of consultants from outside one's own organisation to perform procurement tasks throughout the procurement process.

The various professional groups spend at least 10% of their time concluding the contract with the winning supplier(s). Along with the follow-up of contractual agreements, this lies more within the professional domain of contract managers but is handled by other public procurement officers to an almost equal extent in percentage terms. Contract managers are more concerned with closing than

performance. This corresponds with Gutman (2014: 13-14, 21), who states that more attention is paid to closing than to following up on agreements as part of contract management. It is also remarkable that the rate of part-timers following up on contractual agreements is 10%, which is just as high for contract managers. Contract managers do not really stand out when it comes to contract-related tasks, which possibly indicates that the field of contract management is still developing.

In summary, the demarcation of activities between the professional groups in both stages of the tender procedure is less clear-cut than might be expected based on the job titles. Externally hired consultants also play a clear role throughout the entire process, likewise part-time public procurement officers. Table 3 reveals that there are comparatively few hired staff members among the respondents, although they are active throughout the procurement process to the same extent as their in-house counterparts. Since all the professional groups surveyed are involved in all aspects of the procurement process, this may also indicate that the team responsible for the relevant procurement collaborates and coordinates extensively among themselves on the tasks at hand (for more information, see Table 5 below).

The measurements revealed that legal professionals are involved at every stage of the procurement process (see Table 5 above). It is conceivable that the tasks and division of roles within the field have not yet fully crystallised, giving the impression of legalisation, precisely because legal professionals are involved in every stage of the procurement process. The literature also mentions progressive legalisation as one of the not-so-positive consequences of the wide involvement of legal professionals in the public procurement process (Telgen et al., 2007: 18-19; Treumer, 2014: 10; Van der Horst & Schenk, 2016: 33). In this respect, the field is young and has only really been on the map as an independent discipline since the Maastricht Treaty (1992). Until then, procurement was not as strongly subject to European regulations, and it was more common to buy from one's own national industry. Accordingly, cross-border procurement in the European market was given less thought. In other words, this is an evolving field that is searching to ascertain what works and what does not in terms of the regulatory framework. This regularly leads to case law that is eventually codified into the guidelines. Jansen (2018: 5) also shares this perspective when suggesting that rather than legalisation, deficiencies in understanding the practical organisation of public procurement and gaps in knowledge and experience among procurement officers play a role when procurement processes do not proceed as expected. However, a lack of knowledge and experience did not clearly emerge from the measurements carried out for this thesis as having a direct negative impact on the literal application of the rules. Besides the still developing field, the need to interpret rules perceived as ambiguous and possibly not yet fully developed in certain respects might also play a significant role. If this is not done within the regulatory framework,

public procurement distance arises, and dissatisfied market parties may decide to go to court at the selection stage of the procurement process to seek redress. This results in case law and codification and could promote the idea of the increasing legalisation of the field. An example is the now codified standstill period between the provisional and final award of a public contract. This comes from case law and was not previously included in the regulations.<sup>33</sup> Regulations are thus clarified in court and made more effectively enforceable to be subsequently included in the European directives, with less public procurement distance in implementation as an outcome.

TABLE 5

## Job duties by professional group (n= 42,899)

<b>Job duties x Professional group (percentage)</b>	<b>Procurement officer</b>	<b>Legal staff member</b>	<b>Contract manager</b>	<b>Part-timers</b>	<b>Externally hired procurement consultant</b>	<b>Externally hired legal consultant</b>
<b>Specification stage</b>						
Preparing tender documentation	14	13	14	16	14	13
Preparing draft contracts	10	11	11	9	11	13
Hiring external procurement and legal consultants	4	5	5	5	3	3
Preparing selection criteria	12	11	13	14	14	11
Preparing award criteria	12	11	11	13	13	12
Answering market parties' questions	10	9	10	9	12	11
Applying public procurement regulations, case law	12	14	10	10	12	12
<b>Total Specification stage</b>	<b>75</b>	<b>74</b>	<b>73</b>	<b>75</b>	<b>79</b>	<b>75</b>
<b>Selection stage</b>						
Overseeing legal procedures	5	9	5	3	4	11
Concluding contract with winner	12	11	13	12	10	9
Following up on contractual agreements suppliers	8	6	10	10	7	5
<b>Total Selection stage</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>25</b>	<b>21</b>	<b>25</b>
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

33 Alcatel judgement: 28 October 1999, C-81/98, Alcatel (Alcatel Austria AG et al., Siemens AG Österreich & Sag-Schrack Anlagentechnik AG/Bundesministerium für Wissenschaft und Verkehr).

## Environment

The environment in which purchases are made is crucial for successfully procuring a public contract, with a variety of actors as possible influencers. This leads to a complex force field in which all kinds of players try to realise their goals.

Public procurement staff appreciate a certain degree of autonomy in the workplace because it allows them to personally manage specific aspects of the procurement process as they carry out their duties. Examples include allowing a bidder to correct an unintentional error in its bid, with over 45% of respondents agreeing fully or partially, allowing variants with which more than 38% fully or partially agreed, or having a solution for a current procurement issue presented orally as part of the selection process, with which 25% of the respondents fully or partially agreed.

If we zoom in further on autonomy, the responses show that more than 35% of the respondents fully or partially agreed with the statement that written procedures limited such autonomy. Nearly 49% of respondents believed – fully or in part – that procurement regulations leave little room for manoeuvre.

Contracting authorities may choose to collaborate with other contracting authorities to use scarce resources efficiently or share knowledge, as expressed by more than 41% of the respondents (see also Table C17, 18 and 19 in Appendix C).

Actors in the environment of public procurement staff can influence the procurement process. In the reported data, it is noticeable that the organisation itself played a significant role in the emergence of project effects (over 50%).<sup>34</sup> Politics is considered an influencing factor by just over 20% of the respondents. It is an actor that might not be in the immediate vicinity of public procurement staff but wants to influence the public procurement process nonetheless (see Table 6 below).

TABLE 6

### Stakeholder influence on project effects (n= 4,154)

Stakeholders	Percentage
People from within the public procurement officer's own organisation	50
Politics	20
Market parties/suppliers	18
Public procurement officers themselves	11
Media (Radio, TV, newspaper, internet, social media)	1
<i>Total</i>	<i>100</i>

34 Project effects that fall within the scope of this study are: 'costs and risks are stated too low and too optimistically'; 'scope is made more extensive than is actually necessary' and 'lead times are deliberately underestimated'.

Almost 6% of the respondents agreed fully or partially with the statement that procurement rules are applied to avoid difficulties with the employer (Table 8 below). Assuming that one's own employer divides the tasks among the employees, more than 32% fully or partially agree with the statement that they sometimes must perform work that is *not* part of their duties. This shows the directing role of one's own employer in the procurement process, if only because not all the work to be performed is always perceived as being part of the public procurement officers' duties.

Regarding politics as an influencing actor, the measurements revealed that over 42% of the respondents said they take full or partial account of what a member state's national politics want to see reflected in a tender (politics refers to the democratically elected administration at the central, regional and local levels (see also Table C18 in Appendix C). This percentage may send mixed signals as it could indicate that some of the public procurement officers subscribe to the politicians' views, although it may also indicate that not so much what should be procured is central to the public procurement process, but rather what the politicians wish to achieve. This latter is also consistent with the literature: if politics engages with the form and content of a tender, it can influence the procurement process (Goldman et al, 2010; Chong et al., 2012; Van Silfhout & Van den Berg, 2014). The Commission has also observed that politics can exert pressure to realise a result that it desires (Commission, 2021a: 5).

As for politics as a potentially influencing actor in the environment of procuring organisations, the respondents sometimes experienced some exertion to discontinue a tender procedure (see Table 12 below). If it was indeed stopped, it was out of 'favouritism' according to almost 35% of the respondents. Approximately 38% indicated that a relationship between the winning supplier and politicians formed the basis for discontinuation, and almost 26% stated that the contract was directly awarded to the preferred supplier (see also Table C12 in Appendix C). A politician is unlikely to approach an operational staff member directly with the instruction to stop a tender procedure, but rather this kind of signal is likely to trickle down to the workplace in a more subtle way. The percentages are a sign that the actor of politics exerts influence on the implementation of the procurement process in an indirect way, as illustrated by the acquisition process of a high-speed train in the Netherlands (Van Silfhout & Van den Berg, 2014).

Other actors can also play an influential role. Where market parties are concerned, almost 43% of the respondents indicated that they fully or partially agreed with the statement that they took the market parties' opinions into account (see also Table 18 in Appendix C). This may carry a potential risk of improper conduct by public procurement officers and confirms the finding in the literature that suppliers try to influence procuring organisations to buy from them instead of a competitor (Schooner et al., 2008: 22). Hence, this echoes Arnáiz's (2009: 107)

observation that procurement is one of the government activities that is most susceptible to corruption.

### 5.3 Mandatory European procurement policy

While the above discussion concentrated on the job-related characteristics of procurement staff, mandatory and discretionary policies will be discussed next.

#### Literal application of the rules

The first component of the dependent variable to be discussed is ‘to apply public procurement regulations literally.’ This means that the rules as conceived on paper are put into practice to the letter, so that there is no public procurement distance, reflecting the starting point of this study. In the survey, 73% of respondents said they agreed with this completely or in part, while only 10% said they disagreed completely or in part (see Table 7 below).

TABLE 7  
Literal application of the rules (n=9,210)

Literal application	Percentage
Fully disagree	2
Partially disagree	8
Neither agree nor disagree	18
Partially agree	37
Fully agree	36
<i>Total</i>	<i>100</i>

Considering the validity of the high percentage (73%), the question emerges concerning the extent to which it reflects how the respondents think about the literal application of rules. It is quite imaginable that the respondents in their role of law-abiding public servants would not readily admit not to follow the rules to the letter, which is presumably not in their nature. If so, this is reflected in the high percentage. However, since much goes wrong in the implementation of mandatory policies (see Chapter 1), the question is whether this high rate warrants further nuance.

Multiple questions touched upon the topic of the application of rules. The responses show that the motivation to follow the rules literally not only stems from a form of obedience to authority, but that several other reasons clearly play a role.

If the percentages in Table 8 below are taken into consideration, it emerges – for example – that only 46% of the respondents indeed applied the rules to implement the intended policy by obeying the law and implementing government policies, and 36% applied the law to avoid difficulties with actors in the judiciary system, market parties and their own organisation. Professional procurement was chosen by a meagre 18% of the respondents. Based on the literature, it was expected that professionalism would be a significant driving force in the implementation of the policy. However, the literal application of rules is rather a mix of policy implementation, influence from various actors and a certain degree of craftsmanship, and clearly not simply the literal execution of the policy.

TABLE 8  
Why apply public procurement rules (n= 25,844)

Reason	Percentage
Because the law must be obeyed	37
Because it helps me avoid legal procedures and lawsuits	19
Because it allows me to procure professionally and effectively	18
Because it allows me to avoid difficulties with market parties	11
Because it allows me to help implement government policies	9
Because it helps me avoid difficulties with my employer	6
<i>Total</i>	<i>100</i>

Looking more closely at the literal application of the rules, it is noticeable that public procurement officers sometimes choose to apply the regulations more strictly or flexibly depending on the number of tenders, probably to avoid running the risk of a tender procedure failing due to a lack of tenders. More than 19% partially or fully agreed with the statement that they are more flexible in applying the regulations with a single submission, while 63% fully or partially disagreed. As for the statement that ‘more submissions means applying the rules more strictly,’ 27% of the respondents fully or partially agreed and 54% fully or partially disagreed (see Table C9 in Appendix C for further details). ‘Literally’ is apparently not always entirely literal, as public procurement officers exercise some degree of policy discretion in their implementation decisions. It is plausible that the successful completion of the procurement process takes precedence over fostering competition to obtain the best offer from the market as a form of *procurement pragmatism*. Accordingly, the conclusion to the question of what extent the high percentage reflects the majority’s thoughts about the literal application of rules is that the picture is much more nuanced than appears.

### Project effects

Project effects (Brodkin, 2000: 3; Flyvbjerg et al., 2003, 2012; Lovallo & Kahneman, 2003; Capka, 2004: 6; Cantarelli, et al., 2012: 55) are regarded as a further nuance of the literal implementation of mandatory policy. If rules are not followed to the letter, project effects can arise as early as in the specification phase of a public contract. ‘Stating costs and risks too low and too optimistically’ was recognised in full or part by 46% of the respondents. ‘Extending the scope’ was selected by 25%, and 22% of the respondents agreed with ‘underestimating lead times’ (see also Table 9 below).

TABLE 9  
Project effects (n= 7,419)

Project effects (percentage)	Costs and risks are stated too low and too optimistically	Scope is made more extensive than necessary	Lead times are deliberately underestimated
Fully disagree	15	22	32
Partially disagree	16	23	21
Neither agree nor disagree	23	30	26
Partially agree	38	22	18
Fully agree	8	3	4
<i>Total</i>	<i>100</i>	<i>100</i>	<i>100</i>

Infrastructure (works) is the most sensitive to potential project effects (see Table 10 below), according to 50% of the respondents, which is in line with the literature (Flyvbjerg, et al., 2003, 2016; Cantarelli, et al., 2012).

TABLE 10  
Procurement segment and project effects (n= 3,044)

Works/services/supplies	Percentage
This usually occurs when tendering out for works	50
This usually occurs when tendering out for services	36
This usually occurs when tendering out for supplies	14
<i>Total</i>	<i>100</i>

It is also notable that according to the respondents project effects can add substantially more costs to the relevant procurement process. Indeed, over 40% of the

respondents indicated that the extra costs could be as high as 25% (see Table 11 below).

TABLE 11

**Extra costs of project effects (n= 3,215)**

<b>Extra costs due to project effects</b>	<b>Percentage</b>
Between 1% and 10%	53
Between 11% and 25%	40
More than 25%	7
<i>Total</i>	<i>100</i>

The measurements also show that project effects can involve some implementation effects. For example, more than 60% of the respondents found they could lead to extra work and almost 19% claimed to have less influence on the award outcome. Over 45% of respondents reported experiencing higher costs. Almost 50% saw a risk of lawsuits and complaints arising and nearly 38% of respondents indicated that the occurrence of project effects led to lower quality of the procured work, service or supply. Influenced by a variety of factors, not following the rules to the letter leads to the emergence of public procurement distance with an array of effects on implementation (see also Table C13 in Appendix C).

**Avoidance**

Another aspect of not or partially implementing mandatory regulations is the desire to cancel or delay a tender procedure. Some mechanisms that might achieve this will be briefly discussed here. To avoid or delay the tender procedure, a contract can be split into different lots so that the amounts of the separate lots remain below the European thresholds. Almost 23% of the respondents partially or fully agreed with this. Nearly 21% partially or fully agreed with direct awarding to the preferred supplier, which is also a way to avoid a formal process. Close to 31% partially or fully agreed with ordering just before the end of a term; for example, to have a little more stock so that a European tender procedure can be postponed at least for a while. More than 37% partially or fully agreed with negotiating instead of conducting a public or non-public tender procedure, perhaps because negotiation is perceived as easier than going through a formal written European tender procedure. Procuring directly without a mandatory tender procedure was found to be a strategy for 19% of the respondents, but over 70% said they did not. Furthermore, some respondents were sometimes inclined to

postpone or avoid a tender procedure, if possible, even if it was not allowed. They thus exercised a degree of policy discretion beyond the limits of the legal framework, which also raises questions about the degree to which these respondents act professionally in the execution of their public procurement duties. There can be no doubt about the distance between the intended policy and its implementation here.

It is sometimes possible for procurement officers to steer the outcome of a procurement process in a desired direction. The most common and perfectly legitimate is prescribing the national language as the official language in tender documents, with which almost 54% of the respondents partially or fully agreed. This might be a way to ensure that tendering market parties are based in their language area or perhaps to avoid translation by creating a language threshold (see also box 3 in Chapter 2). ‘Consult with certain suppliers’ ranks second with almost 30%, which is on the verge of what is permissible or not. Too much consultation with a party can create inequality with other bidders and may go against regulations, but sometimes it is necessary to gain the necessary clarification regarding the tender from a particular supplier.

The reasoning may push or even cross the boundaries of what is acceptable by ‘adjusting the terms after the deadline,’ ‘awarding extra points to a preferred supplier’ or ‘sending out the summary of additional information and changes as late as possible,’ for instance. However, the responses reveal that using this kind of trickery to influence the outcome is rarely applied in practice.

The results presented above show that respondents generally wish to apply the rules and do not want to steer the outcome in a certain direction, although they want to prescribe the national language and be able to negotiate (an overview of the measurements mentioned in this paragraph is included in Appendix C, Tables C10, C11, and C20).

### **Influence**

The possible influence on the purchasing process was also measured for the employer, politics, supplier and media actors by presenting the following statement to respondents: ‘You call for tenders but you cannot award it to a winning bidder – why?’ This is set against the dependent variable in Table 12 below. To keep the amount of data to be presented manageable, the table only includes the respondents who partially or fully agreed with the actor in question being an influencer.<sup>35</sup> If 10% of the respondents fully or partially agreed with a particular actor being of influence on the dependent variable, this is considered relevant. It makes the

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35 For this reason, the sum is not 100%.

difference in outcomes between the highest percentages for employer and supplier and the lowest percentages for politics and media clearly visible. The data in the table will also be used in the next chapter when assessing the possible influence of actors on European procurement policy.

TABLE 12  
Policy influence by actors

Dependent variable ⇔ ⇓ Independent variables	Always apply pro- curement regulations literally	Costs and risks stated too low and too optimistically	Scope made more extensive than necessary	Lead times deliber- ately underestimated	Satisfaction with the procurement result	Sustainability	Social return	Innovation	SME participation	Cross-border awarding
<b>n-total&gt;</b>	8,050	7,419	7,419	7,419	8,050	7,988	7,988	7,988	7,988	6,943
<b>Partially or fully agree<sup>36</sup> (percentage)</b>										
<b>Expectation 4c</b> Because my employer wanted it that way	10	8	5	4	10	11	8	10	9	5
<b>Expectation 4d</b> Because of political pres- sure to stop the tender procedure	7	6	4	3	7	8	6	7	7	3
<b>Expectation 4e</b> Because of the potential supplier's threat of a com- plaint or legal proceedings	13	11	6	5	13	14	10	13	12	5
<b>Expectation 4f</b> Because of publication in the media	2	2	1	1	2	2	1	2	2	1

Regarding the employer, the 10% figure in Table 12 above shows that respondents fully or partially agreed with the statement that their own employer has some degree of influence on the literal application of procurement regulations. It is conceivable that procurement distance increases under the influence of one's own employer. Given that the result is also deemed important by 10%, it is imaginable that employers also believe that the outcome should prevail over a procedurally correct path towards the end result.

36 For the instruments, this is 'always' or 'sometimes'.

The data in Table 6 – included earlier in this chapter – could also point in this direction since it reveals that more than half of the respondents experienced that individuals from within their own organisation had an influence on the emergence of project effects. Where discretionary policies are concerned, sustainability and innovation in procurement hold some importance to their employers. It is imaginable that employers exercise influence in these respects due to government policy that they aim to adhere to, for instance.

In terms of suppliers, the literal application of the rules is important, as is understating costs and risks. This may provide some advantage over the competition. Moreover, a good procurement result is important for a supplier because it is an indicator that they have properly matched their supply to the demand. What is striking is the importance that employers attach to the deployment of discretionary strategic instruments according to the respondents. This is an interesting point because the literature also shows traces of employers perceiving sustainability as a cost-increasing, complexity-raising and project-delaying concept (De Souza Dutra et al., 2017). Innovation also stands out as a topic perceived as important by the market. The threat of a complaint or legal proceedings may lead to additional motivation for procurement officers to implement both mandatory and discretionary public procurement policies regarding the use of the instruments in such a way that market parties can agree with it. It is plausible that this form of monitoring the implementation process could lead to a better implementation of the rules and fewer complaints or procedures. Threatening with a complaint or procedure has no visible influence on discretionary policy regarding cross-border awarding.

Regarding politics and media as possible influencers of the procurement process, it appears that politics plays no visible direct role in the procurement process at all. The actor of politics as an indirect influencer behind the scenes of procurement has been discussed in the environment section in paragraph 5.2. Media play no significant role in the procurement process.

### **End result**

Whether respondents are satisfied with the outcome of the tender procedure and achieve what they expected to procure beforehand is also part of the dependent variable. Over 8% of the respondents were fully or partially dissatisfied and more than 70% were satisfied with the end result, with the latter have felt they had acquired what they expected to procure. This indicates that mandatory European public procurement policy is generally well applicable according to the respondents. However, the high percentage may partly also be due to socially desirable answers, although it cannot be ascertained whether and to what extent this is the case.

TABLE 13

**Satisfaction with procurement outcome (n=9,210)**

<b>Satisfaction</b>	<b>Percentage</b>
Fully disagree	2
Somewhat agree	6
Neither agree nor disagree	21
Partially agree	55
Fully agree	16
<i>Total</i>	<i>100</i>

**5.4 Discretionary strategic procurement policy**

Central to this section is discretionary strategic instruments, whose deployment is presented in Table 14 below. Sustainability – in the sense of environmental related issues – emerges as the most frequently applied instrument compared with the others, while social return is used the least. The percentages of respondents who indicated never to pay attention or never to have experienced to the deployment of instruments is striking, reaching more than 44% of respondents for social return.

TABLE 14

**Deployment of instruments (n= 7,988)**

<b>Instruments (percentage)</b>	<b>Sustainability</b>	<b>Social return</b>	<b>Innovation</b>	<b>SME* participation</b>
Always	41	17	20	24
Sometimes	39	39	53	40
Never	5	13	7	11
Not experienced yet	16	31	20	24
<i>Total</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

\* Small to medium-sized enterprises

Table C14 in Appendix C reveals that according to 42% of the respondents, the inclusion of discretionary instruments in the areas of sustainability, social return, innovation, and the participation of small- to medium-sized enterprises increases costs. It also leads to more complex tender procedures, according to almost 53% of the respondents. Interestingly, 15% indicate that including discretionary strategic instruments is eventually a waste of time. According to 54% of respondents, it leads to a better society, 44% believe that the inclusion of the instruments results in more satisfied end users, and 43% think that it leads to a better procurement outcome.

A related topic is the weight of each individual discretionary policy instrument in the policy. The Commission considers the instruments equivalent while they are meant to achieve different policy objectives. This makes it difficult to understand what Commission policy aims to achieve regarding mutual coordination and alignment between policy areas and where it wants to place emphasis in the implementation of its policy. This seems to be a reason for a form of deployment competition in which policy instruments compete with each other – as it were – to be used in tender procedures (Fuchs, 2011: 343). Iyengar and Lepper (2000) found that when decision-makers are presented with choices, they may believe that they can no longer decide without expert assistance and are more inclined to defer decision-making to others rather than making choices themselves. Having too many options actually leads to demotivation in operational staff. Herein lies a paradox, namely that increased freedom of choice to make a decision as an individual leads to a greater dependence on institutions and other people (Iyengar & Lepper, 2000: 1004). Indeed, this suggests that the public procurement distance can perhaps only be bridged when other procurement officers assist in deploying instruments. Since capacity does not directly increase voluntary policy implementation in general, the individual will have to be sufficiently intrinsically motivated to implement discretionary policies. This means that intrinsic motivation is part of the answer to the central research question.

### 5.5 Discretionary cross-border procurement

Implementing the – not mandatory – European policy on cross-border procurement is important for promoting the use of the harmonised market between member states (Commission, 1985: 23-24; Cox, 1993: 9, 259; Bovis, 2007: viii-ix; Panagopoulos, 2016: 269). Therefore, the respondents were questioned about the frequency of cross-border procurement in relation to their awarding contracts. For ‘awarding *within* the EU,’ more than 25% of the respondents said they partially or fully agreed with the statement about occasionally accepting a tender from a supplier from another member state. For ‘awarding *outside* the EU,’ more than 14% of the respondents said they partially or fully agreed with the statement about occasionally accepting a tender from a supplier from outside the EU (see Table 15). The measured percentages are substantial, whereas this was not expected in advance based on figures from other sources. For instance, measurements for the extent of cross-border awarding within range from 1.6% between 2007 and 2009 as found by Sylvest et al. (2011: 10) to 1.7% of the contract value in the period between 2009 and 2015 as ascertained by the European Commission (Commission, 2017b).

TABLE 15

**Cross-border awarding (n= 6,943)**

<b>Cross-border awarding (percentage)</b>	<b>Occasionally awarding to supplier from other member state</b>	<b>Occasionally awarding to supplier from outside the EU</b>
Fully disagree	30	37
Somewhat agree	8	9
Neither agree nor disagree	38	41
Partially agree	12	7
Fully agree	13	7
<i>Total</i>	<i>100</i>	<i>100</i>

Motivation to make cross-border purchases can mostly be traced back to substantive technical aspects of public procurement, due to the better quality according to almost 39% of the respondents, the lower price according to more than 40%, and the specific knowledge according to almost 40%. In such purchases, almost 39% of the respondents said that they fully or partially agreed with the statement about experiencing language problems. This may be why almost 22% of the respondents said that they fully or partially agreed with the statement that English is the main language for cross-border procurement and almost 19% said that they did not speak or write English. The levels of these percentages indicate that both the relevant main language and the proficiency in English play significant roles in the degree of cross-border procurement. Delivery issues were also referred to by over 20% of respondents and quality issues by nearly 13% (for further details, see Table C15 in Appendix C). Overall, it is striking that cross-border procurement in the harmonised market appears to mainly happen when it is deemed more beneficial for procurement-related reasons.

## 5.6 Conclusion

This chapter has described the field of work and main activities of procurement officers in the procurement process, zooming into some key features of the implementation of mandatory and discretionary European procurement policies. It is striking that all professional groups are involved in all aspects of the procurement process. According to many respondents, practical experience plays a greater role than professional training. Regarding the implementation of mandatory policy, the majority of respondents claimed to implement the regulations to the letter.

Further analysis of this percentage revealed that this is not simply because the policy needs to be implemented, but rather that a variety of actors influence it. Several mechanisms play a role to occasionally avoid or postpone the implementation of mandatory tender procedures, such as division into small parcels, negotiation or direct awarding. Discretionary instruments are not deployed very frequently because procurement officers do not always see the benefit, and according to the respondents they come with higher costs. As for discretionary cross-border procuring, one-quarter of the respondents indicated that they do so occasionally, mainly for procurement-related reasons, such as a foreign supplier offering better quality, lower prices or specific knowledge.

The next chapter will look into the independent variables that may influence the dependent variable and why. The findings will help to decide whether and which of the expectations about implementation practices specified in Chapter 3 will be upheld or rejected.

# DEPARTEMENT VAN KOLONIEN.

## BESTEK EN VOORWAARDEN,

waarnaar, onder nadere goedkeuring van Zijne Excellentie den Minister van Kolonien, in het gebouw van het Departement van Marine te 's Gravenhage, op dinsdag, den 16 April 1878, bij inschrijving zal worden aanbesteed:

het maken en leveren van een IJZEREN KUST-LICHTTOREN, bestemd voor den VLAKKENHOEK, Z.-W. punt van SUMATRA;

met den aanleve van dien, zoo als hierna is omschreven.

Aangenomen door  
L. J. Enthoven en Co  
voor f 53975.-  
volgens konink. goedkeuring  
door Kolon. bijres. van  
2 mei 1878 n<sup>o</sup> 41

### EERSTE AFDEELING.

#### MAKEN VAN DEN TOREN.

##### ART. 1.

##### *Voornaamste afmetingen.*

De toren heeft de gedaante van eene afgeknotte zestienhoekige piramide. Het ondervlak komt op 0,50 meter en het bovenvlak op 57,00 meter boven het peil, zoodat de loodrechte hoogte des torens is 56,50 meter.

De middellijn van het zestienhoekig grondvlak is 10,60 meter; die van een gelijk vlak op eene hoogte van 56,00 meter uit het grondvlak 3,90 meter, en die van het zestienhoekig bovenvlak 4,20 meter.

De middellijnen zijn die van den ingeschreven cirkel der veelhoeken, genomen op het buitenvlak der wanden.

De wanden ter dikte van minstens 0,035 meter aan het grondvlak en geleidelijk verminderende tot op 0,023 meter aan den top des torens.

In den toren komt eene kuip in de gedaante van een afgeknotten kegel. Het grondvlak komt op 0,50 meter en het bovenvlak op 51,18 meter boven het peil, zoodat de loodrechte hoogte der kuip is 50,68 meter.

## Chapter 6

# **DISTANCE: ANALYSING EUROPEAN PUBLIC PROCUREMENT POLICY**

### 6.1 Introduction

While the description of the data collected on the implementation of European public procurement policy was central to the previous chapter, this chapter will focus on explaining the public procurement distance in this policy. Expectations in this regard were set and described earlier and will now be tested based on the data collected. Together with the previous and concluding chapters, this chapter will answer research question 3 concerning the factors influencing European public procurement policy, which has three components. The first is the mandatory public procurement policy to be implemented, whereby the aim is to create a uniform regulatory framework for all member states within which governments can procure infrastructural works, services and supply of goods. The second component involves promoting the use of discretionary strategic policy instruments (sustainability, social policy, innovation, SME participation<sup>37</sup>), and the third pertains to policy to increase cross-border procurement to stimulate member states' use of the harmonised European market.

In the following, first the principles of the conducted measurements will be discussed, before presenting the outcomes of the analysis for each of the three components of European public procurement policy, providing an overview of the factors that play a role in explaining public procurement distance. Finally, the concluding section will summarise these factors. A summary of the indicators used for the dependent and independent variables is included in Appendix D, while Appendix E contains the measurement results and test values.

### 6.2 Measurement values

The direct influence measured of the independent variables on the dependent variable will form the basis for a statement concerning whether the formulated expectations are confirmed, employing regression and descriptive analyses. For the regression analysis, the standardised regression coefficient  $b^*$  will be used for

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37 Small to medium-sized enterprises.

the measurements (holding the other predictors constant). In this study, these are statistically significant at a 99% confidence interval, divided into two significance categories of  $**p < .01$  and  $***p < .001$ . This level has been chosen in light of the large number of observations because it significantly reduces the chance of incorrectly identifying an independent variable as having a certain effect on the dependent variable (false positives). A number of tables are included in this chapter to illustrate some striking measurements. The coefficients in these tables are coloured grey if this is the case. The full tables for the three policies are presented in Tables E1, E2 and E3 in Appendix E. For the descriptive analysis, statements have been used to explain actors' influence on European public procurement policy.

It has been assessed whether there is a strong correlation between the predictors used and thus whether multicollinearity exists. This is not the case, as the analysis shows,<sup>38</sup> with the values found for the variance explained indicating that various intervening effects might play a role in further explaining reality. The project effects<sup>39</sup> measured often occur together and therefore have been converted into a factor with an eigenvalue greater than 1 ( $EV = 2$ ) and an explained variance of 66.8%. This is a valid scale where a higher value leads to stronger project effects, and the scale is reliable ( $\alpha = 0.75$ ). This factor has been included in the model to identify which independent variables might influence these effects. A correlation table has been created for the dependent variable, showing that the questions used each relate to a different aspect of the public procurement distance phenomenon (see Table E4 in Appendix E for an overview of all the correlation coefficients).

### 6.3 Measurements for mandatory European public procurement policy

In this paragraph the results of the measurements concerning mandatory public procurement policy are presented. The analysis is based on a framework that incorporates several explanatory factors. These factors draw on various theoretical perspectives, such as administrative organisation, professionalism, and policy discretion. Attention is also given to potential differences in administrative culture, where variation within administrative segments—such as different levels of government—may be relevant.

To properly account for administrative culture in the analysis, dummy variables are used. This allows room for alternative explanations alongside the more

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<sup>38</sup> The variance inflation factor (VIF) for each independent variable is less than 2.

<sup>39</sup> These are: optimism bias, whereby the costs and risks are stated too low and too optimistically; scope creep, in which the scope is made greater than is necessary; and planning fallacy, where lead times are deliberately estimated too low.

general ones. Based on this framework, ordinary least squares (OLS) regression is applied, as it is a suitable method for simultaneously testing the influence of multiple explanatory variables.

This approach ensures that the independent variables that might have a direct influence on the dependent variable – based on the literature – can be incorporated into a model. The model has been estimated in its entirety, although its results will be introduced step by step. However, application to the letter is leading in determining whether the measurement results say anything about the distance between the intended mandatory public procurement policy and its implementation in practice. If significant measurements have been found on project effects and on the extent of the satisfaction with the end result of the procurement process, this will also be mentioned. These outcomes are considered supportive of the measurement of literal rule application.

This section will elaborate on the various independent variables included in the models. To facilitate the understanding of the results, an overview of the main results will follow first. More than 13% of the variance in the literal application of procurement regulations is explained by variance in tacit knowledge, serving public interest, policy discretion, compliance, geography and the administration system. Table 1 in Appendix E provides an overview of the measurement discussed in this section.

### **Administrative organisation**

The perspective of administrative organisation will be discussed first, comprising two indicators: *capacity* and *collaboration*. In terms of capacity, the expectation based on the literature is that the deployment of sufficient people in the form of advisers from within or outside the organisation leads to a greater ability for governments to meet policy obligations. For example, through specific knowledge development and increased expertise (expectation 1a) (Tallberg, 2002: 612-614; Radin, 2009: 371). This does not emerge from the results, as there are no significant outcomes to support the expectation that public procurement distance decreases as a government organisation has more capacity. Expectation 1a is therefore not confirmed for mandatory public procurement policy.

Concerning collaboration, the Commission encourages contracting authorities to increase their mutual collaboration rather than call for tenders individually (Commission, 2014b: recital 71, 73; 2014c: recitals 78, 80, 82). Joint tendering is also mentioned in the literature as one of the tools to compensate for a shortage of people and resources (expectation 1b) (Aiken & Hage, 1968: 927-929). No significant effects are found for literal rule application, and thus this expectation is also not confirmed.

However, limited positively significant results are found for ‘collaborating with other contracting authorities’ on the project effects factor. This signifies that procurement staff strive to implement public procurement policies, although the environment influences the procurement process, as described earlier in chapter 5. The model also reveals that when procurement staff collaborate more, satisfaction with the end result significantly increases.

When delving deeper into ‘collaboration’, it is noticeable that the Commission has observed that mutual collaboration between contracting authorities to share knowledge and capacity has remained limited. According to the Commission (2017a: 5), it only occurs in 11% of procurement procedures. Notably, over 40% of the respondents in this study claim to pay attention to collaboration, whereby the measured percentage significantly differs from that presented by the European Commission. Regarding this discrepancy, it is plausible that the Commission has an interest in increasing collaboration in procurement between member states to demonstrate that the harmonised market is being utilised increasingly successfully. European data might be influenced to some extent by political motives, which is also observed in the literature (Falkner et al., 2005: 19-20).

### Professionalism

The next theoretical perspective to be discussed is professionalism, which comprises *tacit knowledge* (internalised knowledge based on experience and intuition) *formally acquired knowledge* through training and *intrinsic motivation*. It is expected here that as procurement officers’ tacit knowledge about procurement increases, the procurement distance decreases (expectation 2a). Two questions have been included to measure this, whereby two dummy variables have been created. First, the influence of the annual number of tender procedures is measured, and the reference category for this question is ‘supervising two or fewer tender procedures per year’. The second question concerns the influence of ‘how long a procurement officer has worked in the field’ (seniority). This question has the reference category of ‘working in the field for less than one year’.

Another dummy variable has been created to measure the possible influence of ‘training’. The reference ‘learned in practice without training’ is used to measure the possible influence of ‘general procurement training’ and ‘industry-specific procurement training’ on public procurement distance in comparison to respondents without procurement training.

Table 16 presents the effects of the independent variables on the dependent variable for professionalism. This table with partial measurements is included to highlight some measurements for public procurement distance that stand out with respect to this theoretical perspective.

TABLE 16

## Influence of professionalism on mandatory public procurement policy

	Literal applica- tion of the rules	Project effects	End result
Dependent variable ⇨ ⇩ Independent variables	Always apply procurement reg- ulations literally	Project effects factor	Satisfaction with the procurement result
Professionalism	<i>b</i> *	<i>b</i> *	<i>b</i> *
<b>Tacit knowledge (expectation 2a)</b>			
3-5 tenders dummy	-.032	.056**	-.004
6-10 tenders dummy	-.043**	.046**	-.009
11-20 tenders dummy	-.029	.039	.008
More than 20 tenders dummy	.005	.102***	.011
1-3 years' seniority dummy	-.005	.013	.034
3-5 years' seniority dummy	-.011	-.009	.045
5-10 years' seniority dummy	.006	.003	.064
More than 10 years' seniority dummy	.019	-.018	.089**
<b>Formal knowledge (expectation 2b)</b>			
Procurement training dummy	.029	-.032	.060***
Solely procurement training dummy	-.023	-.013	.034
<b>Professionalism and intrinsic motivation</b>			
<b>Serving the public interest (expectation 3)</b>			
Serving the public interest	.113***	.003	.080***

Regarding tacit knowledge, this table shows that respondents who execute six to ten tender procedures per year and thereby have accumulated a relatively high degree of tacit knowledge apply the rules significantly less literally than respondents with less tacit knowledge and who supervise a maximum of only two tender procedures per year. However, this negative effect is limited, and thus the results do not confirm that public procurement distance decreases under the influence of increasing tacit knowledge (expectation 2a). This outcome is striking because almost half of the population studied was 50 years or older, which points towards a certain degree of seniority (see also Table C4 in Appendix C). Based on the theory, the assumption was that more experience would lead to greater implementation of public procurement policy, thereby increasing the degree of 'specialisation' (Freidson, 2004) and reducing public procurement distance. In practice, this does not emerge from the results. It is notable in the table that project effects have an impact on procurement processes. This provides further indication that certain actors – such as individuals from within the organisation, politics, and market parties – have an underlying influence on the procurement process, as extensively discussed in Chapter 5.

The table above also shows that a decrease in public procurement distance under the influence of an increase in mental discretionary specialisation (Freidson, 2004: 28, 34) in the sense of more specialist professional knowledge through training (expectation 2b) cannot be demonstrated. Specific training does not seem as necessary as practical experience to execute public procurement policy to the letter.

Intrinsic motivation to serve the public interest is an important item in the literature explaining why people want to work for the government (Perry & Wise, 1990; Freidson, 2004: 127; March & Olsen; 2009). In line with expectation 3, the model shows that if procurement staff take into account the need to serve the public interest, this has a clearly significant positive effect on their literal rule application. Therefore, 'taking into account the need to serve the public interest' promotes the implementation of mandatory public procurement policy as intended in advance, which reduces distance, while the end result also positively increases. Accordingly, expectation 3 is confirmed for the mandatory procurement policy.

### Policy discretion

The third theoretical perspective for which a significant effect on literal rule application is measured is policy discretion. For this purpose, expectation 4a stated that as policy discretion increases, public procurement distance increases. The perspective of policy discretion comprises a number of indicators, namely *discretionary leeway* and *actors*. Dummy variables have been created for the 'procurement staff' actor. The professional group of part-timers has the largest number of observations and therefore has been used as the reference category (Grace-Martin: <https://www.theanalysisfactor.com/strategies-dummy-coding/#more-3224>). Table 17 shows the impact of discretionary leeway on mandatory public procurement policy.

TABLE 17

Influence of policy discretion on mandatory public procurement policy

	Literal applica- tion of the rules	Project effects	End result
<b>Dependent variable</b> ⇔ ⇓ <b>Independent variables</b>	Always apply procurement reg- ulations literally	Project effects factor	Satisfaction with the procurement result
<b>Policy discretion actors</b>	<b>b*</b>	<b>b*</b>	<b>b*</b>
<b>Discretionary leeway (expectation 4a)</b>			
Being allowed to steer tender procedures in terms of content	-.085***	.094***	.077***
Public procurement regulations allow little discretionary leeway	.032	.106***	-.079***

The table reveals that as tenders are steered more in terms of content, literal rule application decreases. This leads to the confirmation of expectation 4a, namely that as the leeway to manage the details of tender procedures increases, public procurement distance also increases.

Project effects are also visible in this model. Again, this indicates that the environment of procurement staff influences the emergence of public procurement distance. It is also striking in the table above that respondents believe that more leeway to manage tenders in terms of content leads to better procurement outcomes, although this means that they apply the rules less literally and vice versa.

Next, expectation 4b is discussed: as procurement officers' influence on the procurement process increases, public procurement distance also increases for mandatory policy. However, the measurements do not confirm this expectation, as procurement officers do not have a significant influence on the implementation of mandatory policy.

### **Environment**

It is possible that other actors influence the implementation of mandatory public procurement policy. To gain better insights in this respect, respondents were presented with the following statement: 'You call for tenders but you cannot award it to a winning bidder: why?' Because these are statements in which the dependent variable is included and linked to independent variables, they are not included in the regression analysis. The responses to the statements are included in Table 12 in Chapter 5. The results below are derived from the descriptive analysis, whereby the findings for the actors concerning their own organisation, politics, market parties, and media are successively discussed.

One's own organisation is found to have some influence on mandatory public procurement policy, thus confirming expectation 4c. No direct positive influence is found for the actor of 'politics', although there are indications that political influence is exerted indirectly on the procurement process behind the scenes, prior to the actual tendering and less so during the tender procedure where it can be seen by other actors (as further discussed in Chapter 5). It might be the case that this sets the direction of the procurement process beforehand, resulting in public procurement distance. This leads to the confirmation of expectation 4d for mandatory procurement policy.

According to the respondents, market parties presumably have the strongest influence on the use of the instruments among all measured actors by threatening with a complaint or legal procedure (expectation 4e). The literature shows that market parties can experience the policy regarding the instruments as difficult to apply, causing delays and increasing costs (De Souza Dutra et al., 2017). The

market is in principle also the actor with the most direct visible relationship with respondents during the procurement process, from the specification phase up to and including the selection phase in which the winning supplier is determined. The influence of market parties is further indicated by 18% of the respondents answering affirmatively to the question of whether they believe this actor exerts an influence on project effects (Table 6 in Chapter 5). Based on these data, expectation 4e is confirmed for mandatory public procurement policy.

The media as an actor plays virtually no direct role in influencing public procurement policy (expectation 4f), meaning that this expectation is not confirmed. The above discussion of actor influence is based on descriptive analysis, whereby the outcomes presented in the continuation of this paragraph are again derived from multivariate analysis.

### **Public administration culture and segmentation**

The fourth theoretical perspective for which significant results are found for implementing mandatory policy is the public administration culture and segmentation. This approach covers several indicators, i.e. *sector*, *public administration tier*, *compliance*, *geography* and *administration system*. Dummy variables are created to measure them. 'Utility sectors' is used as a reference for sector and 'local authorities' for the public administration tier. For compliance, the countries in the world of 'law observance' (Denmark, Finland, Sweden) are used as the reference group. In terms of geographical classification, the countries in the 'North' group (Denmark, Finland, Sweden) are used as the reference category. Countries with a 'federal administration system' (Austria, Belgium, Germany, Spain) are chosen as the reference category to measure the impact of segmentation by administration system on the implementation of mandatory procurement rules.

#### *Sectors and public administration tier*

Based on the literature (Bovis, 2016: 21), the expectation was formulated regarding sectors that respondents from the public and utility sectors might show a difference in influence on the development of public procurement distance in their responses based on certain values or ideas (expectation 5a). However, no results in this direction are found, and thus this expectation is not confirmed.

Concerning the levels of government, the prior assumption was that a culture-based difference could exist between the various public administration tiers in implementing the procurement process (expectation 5b). However, this is not supported, and thus this expectation cannot be confirmed for mandatory public procurement policy.

### *Compliance by member states*

Regarding the compliance by nineteen member states, the expectation based on the literature (Falkner et al., 2005 and Falkner & Treib, 2007) was that in countries belonging to the compliance world of law observance (Denmark, Finland, Sweden, the reference), public procurement distance for mandatory policies was smaller than in countries belonging to other worlds (expectation 5c). There is a clear significant negative effect of countries from the world of ‘domestic politics’ (Austria, Belgium, Germany, the Netherlands, Spain and the United Kingdom) on the implementation of public procurement policies. Respondents from these countries apply the rules significantly less literally and deploy the instruments significantly less than respondents from the world of ‘law observance’. There is also a significant negative effect of countries from the world of ‘dead letters’ (Czech Republic, Ireland, Italy, Hungary, Slovakia, Slovenia) on public procurement policy, albeit less strong than for the world of domestic politics. Both of these results lead to expectation 5c being confirmed for mandatory public procurement policy, as the three Scandinavian countries implement the mandatory public procurement policy better than the other sixteen member states in this country-based segmentation.<sup>40</sup>

### *Geographical regions*

Regarding the segmentation by geographical regions, which includes all 27 member states, it was expected that for mandatory policies in countries from the ‘North’ region (Denmark, Finland, Sweden), procurement distance would be smaller compared to member states in the West, East, South and Central European countries (expectation 5d). However, a highly significant positive effect is measured among respondents in West (Austria, Belgium, France, Germany, Ireland, Luxembourg, the Netherlands and the United Kingdom), South (Cyprus, Greece, Italy, Malta, Portugal, Slovenia and Spain) and Central (Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia) regions regarding the implementation of mandatory public procurement policy. Respondents from these regions apply such policy significantly less than respondents from the North geographical region (the reference region). The only region that applies the mandatory regulations slightly less to the letter than the three Scandinavian member states is the East geographical group (Estonia, Latvia and Lithuania). The expectation (5d) that

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40 Falkner et al. (2005) and Falkner and Treib (2007) examined the nineteen member states at the time: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. The European Union has since expanded to 27 member states.

public procurement distance for the mandatory policy in Northern European countries would be smaller compared to Eastern, Western, Southern, and Central European countries is not confirmed, given the strong positive measurements for the Western, Southern, and Central groups.

The geographical division including all 27 member states does not lead to confirmation of the expectation, although the breakdown by compliance in nineteen member states does. The eight member states that make a difference here are Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta, Poland and Romania. This indicates that in analyses of public procurement distance in mandatory policy, all member states should be involved to reach a complete and balanced judgement on implementing mandatory public procurement policy in the European Union as a whole.

#### *Public administration systems in general*

In countries with unitary administration systems, the public procurement distance was expected to be smaller than in countries with federal administration systems (expectation 5e). A significant effect is measured on the implementation of public procurement policy by respondents from member states politically structured according to a unitary administration system. These respondents indicated that they apply the rules significantly less literally than those from member states with a federal administration system. Based on the literature (Le Galès, 1998: 244-245; Pollitt & Bouckaert, 2000: 41-43), the expectation was that public procurement distance would actually be smaller in unitary-governed countries<sup>41</sup> than in federal states.<sup>42</sup> However, the results do not confirm this, and thus expectation 5e is not demonstrated concerning mandatory policy.

## 6.4 Measurements of discretionary use of instruments

This section will discuss how the independent variables might influence the use of discretionary strategic policy instruments (sustainability, social return, innovation and SME participation). The variance explained in this model ranges from 13% for the social return instrument to 8% for the innovation instrument, and is explained by variance in capacity, collaboration, tacit knowledge, training, intrinsic motivation, discretionary leeway, procurement staff, public administration tier,

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41 Unitary: Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, the United Kingdom and Sweden.

42 Federal: Austria, Belgium, Germany and Spain.

compliance, geography, and administration system. Table 2 in Appendix E provides an overview of the measurements.

### **Administrative organisation**

The administrative organisation is the first theoretical perspective for which significant outcomes are found for the instruments. This approach includes two indicators: capacity and collaboration. In terms of capacity, it was expected that public procurement distance decreased as a government organisation had more procurement expertise (expectation 1a). However, the model shows that when consultants are involved, the deployment of the ‘sustainability’, ‘innovation’, and ‘SME participation’ instruments somewhat decreases. Although the effects are not significant, it leads to the conclusion that expectation 1a – as a government organisation possesses more procurement expertise, the public procurement distance decreases – is not confirmed for discretionary policy regarding the use of the instruments.

Expectation 1b concerns mutual collaboration between contracting authorities to build knowledge and capacity. Limited statistically negative significant results are found for social return and innovation, and thus this expectation is also not confirmed for discretionary policy.

### **Professionalism**

The second theoretical perspective for which significant outcomes are found is professionalism. This comprises a number of indicators, i.e. tacit knowledge, training and intrinsic motivation. Table 18 presents the effects of the independent variables on the dependent variable. This table is included as there are a notably large number of measurements in the negative direction affecting the deployment of the instruments.

For tacit knowledge, it was expected that as procurement officers’ tacit knowledge about procurement increased, public procurement distance would decrease (expectation 2a). However, experience in terms of the number of tenders and years of employment in procurement (seniority) does not have a direct positive impact on the deployment of the instruments. Accordingly, no support is found for expectation 2a within discretionary policy.

As for formal knowledge, it was expected that public procurement distance would decrease as procurement officers were better trained (expectation 2b). However, this is not demonstrated for discretionary policy, and thus this expectation is not confirmed.

For intrinsic motivation, the expectation was that as procurement officers’ intrinsic motivation to serve the public interest increased, public procurement distance would decrease (expectation 3) (Grandia, 2015: 138-139). However, according

to the measurements, more motivation to serve the public interest actually leads to less use of discretionary instruments. On this basis, expectation 3 is not confirmed for discretionary policy.

TABLE 18

## Influence of professionalism on discretionary instruments

<b>Discretionary policy instruments</b>				
<b>Dependent variable</b> ⇨ ⇩ <b>Independent variables</b>	Sustainability	Social return	Innovation	SME participation
<b>Professionalism</b>	<b>b*</b>	<b>b*</b>	<b>b*</b>	<b>b*</b>
<b>Tacit knowledge (expectation 2a)</b>				
3-5 tenders dummy	-.043**	-.036	-.030	-.057***
6-10 tenders dummy	-.028	-.041**	-.021	-.090***
11-20 tenders dummy	-.018	-.052**	-.011	-.069***
More than 20 tenders dummy	-.001	-.026	.004	-.134***
1-3 years' seniority dummy	-.040	-.009	-.029	-.011
3-5 years' seniority dummy	-.060	-.011	-.033	-.010
5-10 years' seniority dummy	-.081**	-.025	-.047	.017
More than 10 years' seniority dummy	-.089**	-.021	-.056	.003
<b>Formal knowledge (expectation 2b)</b>				
Procurement training dummy	-.055***	-.049**	-.055***	-.033
Solely procurement training dummy	-.034	-.024	-.028	.002
<b>Professionalism and intrinsic motivation</b>				
<b>Serving the public interest (expectation 3)</b>				
Serving the public interest	-.083***	-.113***	-.051***	-.035

### Policy discretion

Policy discretion is the third theoretical perspective for which significant results are found. This approach comprises several indicators, namely discretionary leeway and actors. Table 21 shows that there are only two limited positively significant measurements.

TABLE 19  
Influence of policy discretion on discretionary instruments

Discretionary policy instruments				
Dependent variable ⇨ ⇩ Independent variables	Sustainability	Social return	Innovation	SME participation
Policy discretion actors	<i>b</i> *	<i>b</i> *	<i>b</i> *	<i>b</i> *
Discretionary leeway (expectation 4a)				
Being allowed to steer tender procedures in terms of content	-.010	.004	-.025	-.031
Public procurement regulations allow little discretionary leeway	.040**	.029	.043**	.015

The table reveals that the deployment of the sustainability instrument somewhat increases – likewise the deployment of ‘innovation’ – when actors experience limited discretionary leeway. Based on these results, it is conceivable that less leeway (more rules) will lead to some increased implementation of the instruments, although the effect will be limited (expectation 4a). This expectation is not confirmed for discretionary policy.

For the ‘buyer’ as an actor, the effects are found to be similarly positive. Procurement officers apply the sustainability and innovation instruments significantly more than part-time procurement staff, and the SME tool slightly less so. Coincidentally, this is not a major effect. It emerges that in relative terms, procurement officers pay the most consideration to instruments in comparison with the other professional groups within the procurement staff group. Based on both positive measurements, the measurement regarding ‘sustainability’ in this model does not lead to confirmation of expectation 4b, i.e. that as the influence of procurement officers on the procurement process increases, the public procurement distance also increases for discretionary policy.

### Environment

Thus far, the results presented are based on multivariate analysis. For expectations 4c to 4e regarding the possible influence of certain actors from the environment of procurement staff, the descriptive analysis in Chapter 5, Table 12 is used again. This reveals that the organisation itself has some influence on the use of the instruments, thus confirming expectation 4c. No direct significant influence is found for the actor of ‘politics’. However, other measurements demonstrate that politics influences the procurement process, and thus expectation 4d is still confirmed. According to the respondents, market parties have the most

influence on the use of the instruments among all measured actors by threatening with a complaint or legal procedure. The literature shows that market parties can experience the policy regarding the instruments as difficult to apply, causing delays and increasing costs (De Souza Dutra et al., 2017). Therefore, it is imaginable that market parties indeed try to influence the implementation of sustainability policies through complaints and procedures. This leads to expectation 4e being confirmed for discretionary sustainability policies.

The final actor measured is media, which does not play a significant role in influencing the deployment of the instruments, whereby expectation 4f is not supported where discretionary instruments policy is concerned. The above results are derived from the descriptive analysis, while the results presented in the remainder of this section will be based on multivariate analysis.

### **Public administration culture and segmentation**

The fourth theoretical perspective for which significant outcomes are found is the administrative culture and segmentation. This approach covers the indicators sector, public administration tier, compliance, geography and administration system.

#### *Sectors and public administration tier*

For the indicators sector and public administration tier, no measurements in this model point significantly in a particular direction, and thus expectations 5a and 5b are not supported for the discretionary instruments policy.

#### *Compliance by member states*

Regarding compliance by nineteen member states, the expectation was that public procurement distance in countries belonging to the compliance world of law observance would be smaller than in countries belonging to other worlds (expectation 5c).

There is a very significant negative effect of ‘domestic politics’ (Austria, Belgium, Germany, the Netherlands, Spain and the United Kingdom) on the use of the ‘sustainability’ and ‘innovation’ instruments. Respondents from countries of ‘domestic politics’ clearly deploy both instruments significantly less than those from the world of ‘law observance’ (Denmark, Finland, Sweden). A significant effect of ‘dead letters’ (Czech Republic, Ireland, Italy, Hungary, Slovakia, Slovenia) is also found regarding both of these instruments. Respondents from these ‘dead letter’ countries deploy the sustainability and innovation instruments significantly less than respondents from the world of ‘law observance’ (Denmark, Finland,

Sweden). This means that expectation 5c is confirmed for the nineteen member states examined for the use of the policy instruments.

### *Geographical regions*

Regarding geographical regions made up of all 27 member states, it was expected that in Northern European countries, public procurement distance would be smaller compared to Eastern, Western, Central and Southern European countries (expectation 5d).

Where geography is concerned, the region has a significant effect on the deployment of the instruments. Respondents from the South (Cyprus, Greece, Italy, Malta, Portugal, Slovenia and Spain), Central (Bulgaria, Czech Republic, Hungary, Poland, Romania and the Slovak Republic) and West (Austria, Belgium, France, Germany, Ireland, Luxembourg, the Netherlands and the United Kingdom) regions deploy 'sustainability' significantly less than respondents from the North reference region. Expectation 5d proves not to be supported in the segmentation by geography for 27 member states.

In terms of mandatory policies, it is striking that once all 27 member states are included in the analysis under the geographical classification, the expectation is not confirmed where the use of the instruments is concerned. This is in contrast to the analysis based on nineteen member states, as included in the segmentation by compliance (see footnote 4). Again, this is a sign that analysing public procurement policies requires the inclusion of all member states to gain a representative picture.

### *Public administration systems in general*

In countries with unitary administration systems, the public procurement distance was expected to be smaller compared to those with federal administration systems (expectation 5e). Respondents from unitary countries deploy instruments significantly less often than countries with a federal system of governance. This differs from the expectation raised by Pollitt and Bouckaert (2000: 41-43), according to whom central regulation leads to more control and less deviation from the rules. However, in the results from the model in this study, public procurement distance in unitary governed countries is greater than in federally governed states. This means that expectation 5e – that in countries with a unitary administration system, public procurement distance would be smaller than in countries with federal administration systems – is not supported for the deployment of policy instruments.

## 6.5 Measurements for cross-border awarding

This section will discuss whether the independent variables influence European policy regarding cross-border awarding to a supplier from a different country. The analysis reveals that in this model, 11% of the variance in cross-border awarding is explained by capacity, tacit knowledge, training, intrinsic motivation, actors, sector, public administration tier, compliance and geographical location. Table 3 in Appendix E provides an overview of the measurements regarding this policy component.

### Administrative organisation

This theoretical perspective comprises a number of indicators, namely capacity and collaboration. For capacity, it was expected that public procurement distance would decrease as a government organisation had more procurement expertise (expectation 1a). The model showed that if procurement officers want to fill a capacity need by deployment of 'internal legal consultants', cross-border awarding increases very little. This supports expectation 1a, albeit minimally. Expectation 1b concerns mutual collaboration between contracting authorities to build the knowledge and capacity for cross-border awarding. No significant influence from greater procurement expertise is found in this model, and thus support for this expectation is not demonstrated.

### Professionalism

The second theoretical perspective for which significant outcomes are found within the model is professionalism, which comprises several indicators, that is tacit knowledge, training and intrinsic motivation. Expectation 2a suggests that as tacit knowledge about procurement increases among procurement officers, public procurement distance decreases for cross-border award policies. Indeed, a small significant positive effect of the degree of tacit knowledge on 'cross-border awarding' is measured. More experienced procurement staff might have accumulated more tacit knowledge and consequently might award slightly more cross-border tenders, leading to confirmation of expectation 2a. In terms of formal knowledge, it was expected that public procurement distance would decrease as procurement officers were better trained (expectation 2b). A small positive significant measurement has been found for this expectation in this model, so this expectation is upheld for cross-border awarding.

Where intrinsic motivation is concerned, the expectation was that as procurement officers' intrinsic motivation to serve the public interest increases, public procurement distance would decrease (expectation 3). The outcome of the analysis

is indeed that if procurement staff exhibits more intrinsic motivation by considering that they serve the public good, 'cross-border awarding' increases. Respondents are probably mainly motivated to do so for cross-border tenders if they expect to find better products and services for their public abroad, as described earlier in chapter 5. Expectation 3 is therefore confirmed for the discretionary policy regarding cross-border awarding.

### **Policy discretion**

Policy discretion is the third theoretical perspective for which significant results are found. This approach comprises a number of indicators, namely discretionary leeway and actors. For expectation 4a – that as policy discretion increases, public procurement distance also increases – no significant results are found, and thus this expectation is not supported. Expectation 4b suggests that as procurement officers' influence on the procurement process increases, public procurement distance also increases. Only one significant predictor is measured for the 'procurement staff' actor that has a limited significantly positive influence on cross-border awarding, that is 'internal legal staff member'. They apply the policy regarding cross-border awarding slightly more significantly than part-time procurement staff, whereby this minor difference confirms expectation 4b.

### **Environment**

Thus far, the results presented are based on multivariate analysis, while the results below again are derived from descriptive analysis. As for the other actors, based on the measurements as shown in Table 12 of the descriptive analysis from Chapter 5, no outcomes are found indicating a direct influence on public procurement distance for the actors of 'own employer', 'political pressure', 'potential market party', and 'media'. Therefore, expectations 4c, 4d, 4e and 4f are not confirmed for discretionary policy regarding cross-border awarding. From the measurements regarding potential reasons to procure across the border, it emerges that procurement-related reasons mainly play a role in the awarding decision, such as expected better quality and greater knowledge of a party abroad. The outcomes presented in the continuation of this section are again derived from multivariate analysis.

### **Public administration culture and segmentation**

The fourth theoretical perspective for which significant results are found is the administrative culture and segmentation. This approach covers several indicators, i.e. sector, public administration tier, compliance, geography and governance system. Table 20 shows the effects of the independent variables on the dependent variable, whereby significant effects can be seen, especially for compliance and geography.

TABLE 20

## Influence of culture on cross-border public procurement policy

<b>Discretionary cross-border procurement</b>	
<b>Dependent variable</b> ⇨ ⇩ <b>Independent variables</b>	Cross-border awarding
<b>Culture and segmentation</b>	<b>b*</b>
<b>Sector (expectation 5a)</b>	
Public sectors dummy	-.083***
<b>Public administration tier (expectation 5b)</b>	
National dummy	.055***
Regional dummy	.018
<b>Compliance (expectation 5c)</b>	
Domestic politics dummy	.101
Transposition neglect dummy	.151***
Dead letters dummy	-.078**
<b>Geography (expectation 5d)</b>	
West dummy	.098
Oost dummy	.052**
South dummy	.108**
Central dummy	.019
<b>Public administration system (expectation 5e)</b>	
Unitary countries dummy	-.054

*Sectors*

Regarding sectors, the expectation was that respondents from the public and the utility sectors might show a difference in influence on the development of public procurement distance in their responses based on certain values or ideas (expectation 5a). However, the respondents working in the public sectors deploy 'cross-border awarding' significantly less than their counterparts in the utility sectors. Therefore, expectation 5a is rejected for cross-border awarding.

*Public administration tiers*

Concerning the levels of government, it is conceivable that a culture-based difference might exist between the various public administration tiers in

implementing the procurement process (expectation 5b). The respondents working at the national level of government deploy ‘cross-border awarding’ somewhat significantly more than those in local government, as shown in Table 20. However, no significant measurement is found for the regional level. It might be the case that procurement at the national level involves a little more cross-border procedures than procurement at the local level, where staff might be slightly more focused on purchasing locally, regionally or nationally rather than from a – perhaps perceived as far and distant – foreign country. Expectation 5b that the public procurement distance is greater at the municipal level than at the regional or national level is thus confirmed for the discretionary policy regarding cross-border awarding.

#### *Compliance by member states*

As for member states’ compliance, the expectation was that for cross-border awarding, public procurement distance in countries belonging to the compliance world of law observance (Denmark, Finland, Sweden) would be smaller than in countries belonging to other worlds (expectation 5c). There is a clearly significant effect of ‘transposition neglect’ (France, Greece, Luxembourg, Portugal) on the application of ‘cross-border procurement’. Respondents belonging to this world clearly deploy this instrument significantly more than respondents from the world of ‘law observance’. Countries in the ‘dead letters’ group award fewer cross-border tenders than those in the ‘law observance’ group, although the effect is much weaker than for those in the ‘transposition neglect’ group. This differs from what was expected based on theory (Falkner et al., 2005; Falkner & Treib, 2007). Expectation 5c is therefore not supported for cross-border awarding in the group of nineteen member states.

#### *Geographical regions*

Regarding geographical regions, the expectation was that in Northern European countries, public procurement distance would be smaller than in Eastern, Western, Central, and Southern European countries (expectation 5d). When looking at the possible influence of groups of member states on cross-border awarding from a geographical classification, it is notable that geography has a significant effect on ‘cross-border awarding’. Respondents from the East region (Estonia, Latvia and Lithuania) deploy ‘cross-border awarding’ somewhat significantly more than those from the geographical region North (Denmark, Finland, Sweden), although the measured effect is small. It is imaginable that the countries in the East group traditionally rely more on foreign trade than other member states, given their relatively small size and geographical location. Especially countries from the South region (Cyprus, Greece, Italy, Malta, Portugal, Slovenia, and Spain) make

significantly more cross-border purchases than the North reference region. These countries might also be more focused on foreign countries for their trade contacts than the reference category. Based on these measurements, expectation 5d that public procurement distance would be smaller in Northern European countries compared to Eastern, Southern, Central and Western European countries is also not confirmed for cross-border procurement in the group of 27 member states.

#### *Public administration systems in general*

Where public administration systems are concerned, public procurement distance was expected to be smaller in countries with unitary governance systems than those with federal governance systems (expectation 5e). However, respondents from unitary-governed countries do not deploy 'cross-border procurement' significantly less than those from federally governed member states. Expectation 5e is therefore not confirmed for the discretionary policy regarding cross-border awarding.

### **6.6 Conclusion: Factors affecting public procurement distance**

In this chapter, the results of the survey conducted among procurement officers in the European Union have been assessed for the application of European public procurement policy. For each theoretical perspective, the independent variables affecting public procurement distance emerged. The first part of this section will summarise the results of these measurements for each component of European procurement policy in a table showing confirmed and unconfirmed expectations. The second part will summarise the main explanations found for public procurement distance.

The overview below comes with a few preliminary remarks. Regarding results confirming or not confirming expectations, it applies that if a result was not significant or coefficients were significant but did not point in the expected direction, the expectation was not confirmed since the finding did not match the theory. For discretionary policy regarding the use of the instruments, the decision on whether or not the outcomes confirmed the relevant expectation was based on the total number of negative or positive standardised regression coefficients for all policy instruments together. The results for each part of the European public procurement policy are shown in the table below.

TABLE 21  
Overview of expectations

Mandatory policy				C=Confirmed; N=Not confirmed
No.	Theoretical Perspective	Indicator	Expectation	Mandatory Policy
1a	Administrative organisation	Capacity	As a government organisation's procurement expertise increases, public procurement distance decreases	N
1b		Collaboration	As collaboration between government organisations increases, public procurement distance decreases	N
2a	Professionalism	Tacit knowledge	As procurement officers' tacit knowledge about procurement increases, public procurement distance decreases	N
2b		Formal knowledge	As procurement officers are better trained, public procurement distance decreases	N
3		Intrinsic motivation	As procurement officers' intrinsic motivation to serve the public interest increases, public procurement distance decreases	C
4a	Policy discretion	Discretionary leeway	As policy discretion increases, public procurement distance increases	C
4b		Public procurement officers	As procurement officers' influence on the procurement process increases, public procurement distance increases	N
4c		Own organisation	As one's own organisation's influence on the procurement process increases, public procurement distance increases	C
4d		Politics	As the influence of politics on the procurement process increases, public procurement distance increases	C
4e		Market parties	As the influence of market parties on the procurement process increases, public procurement distance increases	C
4f		Media	As the media's influence on the procurement process increases, public procurement distance increases	N
5a	Public administration culture	Sector	Within the public sectors public procurement distance is smaller compared to the utility sectors	N
5b		Public administration tier	Public procurement distance is greater at the municipal level compared to the regional or national level	N
5c		Compliance	In countries that belong to the world of law observance, public procurement distance is smaller compared to countries that belong to other worlds	C
5d		Geography	In Northern European countries, public procurement distance is smaller compared to Eastern, Western, Central and Southern European countries	N
5e		Public administration system	In countries with unitary administration systems, public procurement distance is smaller compared to countries with federal administration systems	N

TABLE 21 (CONTINUED)

Discretionary policy				C=Confirmed; N=Not confirmed	
No.	Theoretical Perspective	Indicator	Expectation	Instruments	Cross-Border Procurement
1a	Administrative organisation	Capacity	As a government organisation's procurement expertise increases, public procurement distance decreases	N	C
1b		Collaboration	As collaboration between government organisations increases, public procurement distance decreases	N	N
2a	Professionalism	Tacit knowledge	As procurement officers' tacit knowledge about procurement increases, public procurement distance decreases	N	C
2b		Formal knowledge	As procurement officers are better trained, public procurement distance decreases	N	C
3		Intrinsic motivation	As procurement officers' intrinsic motivation to serve the public interest increases, public procurement distance decreases	N	C
4a	Policy discretion	Discretionary leeway	As policy discretion increases, public procurement distance increases	N	N
4b		Public procurement officers	As procurement officers' influence on the procurement process increases, public procurement distance increases	N	C
4c		Own organisation	As one's own organisation's influence on the procurement process increases, public procurement distance increases	C	N
4d		Politics	As the influence of politics on the procurement process increases, public procurement distance increases	C	N
4e		Market parties	As the influence of market parties on the procurement process increases, public procurement distance increases	C	N
4f		Media	As the media's influence on the procurement process increases, public procurement distance increases	N	N
5a	Public administration culture	Sector	Within the public sectors public procurement distance is smaller than within the utility sectors	N	N
5b		Public administration tier	Public procurement distance is greater at the municipal level compared to the regional or national level	N	C
5c		Compliance	In countries that belong to the world of law observance, public procurement distance is smaller compared to countries that belong to other worlds	C	N
5d		Geography	In Northern European countries, public procurement distance is smaller compared to Eastern, Western, Central and Southern European countries	N	N
5e		Public administration system	In countries with unitary administration systems, public procurement distance is smaller compared to countries with federal administration systems	N	N

A number of independent variables emerged from the measurements that affect European public procurement policy as a whole. From the theoretical perspective of professionalism, particularly the intrinsic motivation to serve the public interest proves to be a significant factor in the overall policy. This motivation leads to better implementation of mandatory policy and promotes the degree of cross-border awarding. However, this factor has been found to have a negative impact on the deployment of discretionary instruments.

The next theoretical perspective that has a significant influence on public procurement policy is policy discretion. Having more leeway to direct tenders in terms of content ensures less literal rule application but a somewhat better end result, while less discretionary leeway leads to slightly more use of the instruments. Based on the statement scores, the descriptive analysis suggests that both procurement staff and other actors (own organisation, politics, market parties) measured are likely to exert some influence on procurement distance. However, this influence – particularly when it comes to ‘politics’ – is likely to be mostly indirect, making it either invisible or only partially visible.

Measurements of compliance and geography in 19 member states, which confirm the use of mandatory policy and the deployment of instruments, are notable within the theoretical perspective of culture. However, when the analysis is extended to all 27 member states, the expected patterns for these two policy components are not confirmed.

This indicates that, for a complete picture of how European procurement policy is implemented, all member states are important. It may also suggest a somewhat homogeneous implementation of European public procurement policy across the member states. Cross-border procurement appears to be of somewhat greater importance to higher tiers of government. This also applies to respondents from the Eastern and Southern regions.

The next chapter is the concluding chapter, in which the factors that hold relevance to public procurement distance will be used to answer the central research question. Based on the outcomes, recommendations will be made for bridging public procurement distance in European procurement policy, as well as offering suggestions for further research.

# DEPARTEMENT VAN MARINE.



## BESTEK EN VOORWAARDEN,

*waarnaar, onder nadere goedkeuring van Zijne Excellentie den Minister van Marine, in het gebouw van het Departement van Marine te 's Gravenhage, op den 1880,*

*bij inschrijving, in massa zal worden aanbesteed:*

*het uitvoeren van de hierna omschreven werken op AMELAND, als:*

*het maken van eene FUNDERING voor een ijzeren kustlichttoren; en*

*het bouwen van DRIE WONINGEN voor de dienst der verlichting;*

*alles met den aanleve van dien, zoo als nader in dit Bestek en de Voorwaarden is omschreven.*



### EERSTE AFDEELING.

#### MAKEN VAN EENE FUNDERING VOOR EEN IJZEREN KUSTLICHTTOREN.

##### ART. 1.

##### *Plaats en peil.*

De juiste plaats der fundering wordt bij den aanvang van het werk door de Directie bepaald. Zij zal komen in een duin, gelegen omstreeks Noordwest ten Noorden en op ongeveer 1800 Meter afstand van de kerk van *Hollum*.

Voor peil wordt aangenomen het bovenzvlak van een geplaatsten en gemerkten paal.

De eenheid der navolgende afmetingen is de Meter.

##### ART. 2.

##### *Gelijkmaken van het terrein.*

Het terrein van en om den toren wordt tot eene oppervlakte van ongeveer 140 M<sup>2</sup> gelijk geslecht, tot op de hoogte van het peil.

## Chapter 7

# CONCLUSIONS: PUBLIC PROCUREMENT DISTANCE EXPLAINED

### 7.1 Introduction

This chapter will answer the central research question: What can explain the distance between pre-established European public procurement policy and its implementation in the 27 EU member states? The results of the descriptive and quantitative analysis of European procurement policy as it is implemented in the workplace will be used to answer this question.

Together with Chapters 5 and 6, this chapter will form the answer to research question 3 on the factors that influence European public procurement policy (namely public procurement distance). This chapter will also provide the answer to research question 4 concerning what recommendations can be formulated to increase the effectiveness of European public procurement policy.

The first part of this chapter will answer the central research question, which will then be discussed against the literature background. The chapter will conclude with some policy recommendations and an agenda for future research.

### 7.2 Answering the central research question

The study identifies three relevant factors that influence procurement distance, namely intrinsic motivation, discretionary leeway, and actors.

It was expected that *intrinsic motivation to serve the public interest* would lead to less procurement distance. There is clear support for this expectation in terms of *mandatory* European procurement policy being implemented and the policy on encouraging cross-border awarding. However, for *discretionary* policies regarding the deployment of policy instruments (sustainability, social return, innovation, participation of SMEs in public contracts), the influence of intrinsic motivation to serve the public interest is negative. In terms of explaining this difference, mandatory public procurement policy must be implemented under the legal framework, which also applies regarding cross-border procurement, in which case the same regulations apply. The respondents are motivated to serve the public interest, although legislation provides an additional incentive in this regard.

For discretionary policy, public procurement staff indeed recognise the benefits of using discretionary policy instruments but are afraid of more complex tender procedures and increasing costs due to their deployment. As a result, the instruments are not used as much as they could be. Related aspects are playing an important role in cross-border awarding and the motivation to do so. If a higher-quality or more competitively priced supplier can be found abroad than nationally, this encourages selecting a foreign supplier. One striking point that emerges from the measurements is the sometimes poor command of the English language by respondents, which might also play a (partial) role in the motivation to favour a supplier from beyond one's own national borders. In summary, a lack of sufficient intrinsic motivation to implement European public procurement policy to serve the public interest partly explains why public procurement distance arises. A lack of legal obligation, need or usefulness, and insufficient language skills can also be influential.

Another explanatory factor contributing to procurement distance is the degree of policy discretion. From this perspective, *discretionary leeway* and *actors* have emerged as relevant influencers. In Chapter 3, policy discretion was defined as the leeway that the policy leaves to actors and specifically public procurement officers to – if desired – interpret and implement certain parts of the policy within a given regulatory framework while performing their activities. The measurements have shown that if there is leeway to manage tender procedures in terms of content, this leads to more public procurement distance within the mandatory policy, as well as a slightly better end result. On the other hand, limited discretionary leeway leads to a less favourable outcome for mandatory policy and slightly more deployment of policy instruments.

Some situations during the procurement process call for a pragmatic solution within the available *discretionary leeway* because the rules do not provide for it. For instance, the measurements show that the number of bidders affects the strictness with which the rules are applied. Public procurement officers tend to apply the rules more leniently when there is only one bidder and more rigidly when there are multiple bidders. If a bidder makes a minor mistake, a purchaser can decide at that point to have it rectified rather than exclude that market party from further participation. Acting pragmatically when an unforeseen situation arises ensures that the public procurement distance is limited because the procurement rules during the execution of the work are interpreted by public procurement staff in such a way that – in their view – they are more feasible as the sometimes unpredictable implementation practice requires creative solutions. Depending on the specific procurement situation, it leads to *ad-hoc pragmatic solution orientation*, reflecting a necessary form of local ingenuity and improvisation that occurs spontaneously and unprepared when European procurement policy subtly bends along with the

implementation at the ‘street level’ (Lipsky, 2010; Boskeljon-Horst et al., 2022: 3). Ad-hoc pragmatic solution orientation thus forms another part of the explanation of public procurement distance.

Actors reflect the second influencing factor that plays a role within the perspective of policy discretion in explaining public procurement distance. Actors are likely to regularly pursue the realisation of their own interests in procurement processes, whereby the emergence of project effects might be an indicator here. When these effects occur, the estimated project costs, lead times, planning, and project outcomes are deliberately over-optimistic. Size, scope and complexity also continuously increase (Lovallo & Kahneman, 2003: 3; Capka, 2004: 6; Cantarelli, et al., 2012: 55; Flyvbjerg, 2003; 2012; 2016). According to the respondents, these effects play a regular role in the procurement process and thus influence the outcome.

Thus far, the explanations of public procurement distance have mainly been based on the outcomes of regression analysis. On the other hand, the influence of actors is measured based on statements. These measurements indicate that certain actors can influence public procurement distance. This study particularly examined public procurement staff (procurement officers, lawyers, contract managers, procurement and legal advisers, and part-time procurement officers), one’s own organisation (contracting authority), politics (democratically elected public administrations at the central, regional, and local levels), market parties (commercial contractors who want to carry out public contracts) and media. The latter actor plays no significant role and will not be further discussed. Public procurement staff carry out the procurement process and thereby influence its progress. One’s own organisation is the actor that monitors the frameworks and distributes the tasks among the employees of the relevant contracting authority. Therefore, this authority influences decisions regarding the practical implementation of the procurement process.

Other indications from the statements are that the actor of politics has little visible direct influence on the implementation of European public procurement policy but might exert it indirectly behind the scenes, as the political arena in which policy frameworks for public procurement are determined. Later, politics influences the procurement process once again in the implementation. Indeed, when asked whether they considered political influence, 42% of the respondents responded positively. The influence of politics can lead to a positive procurement outcome but also to ‘favouritism’, a relationship between the winning supplier and politicians or direct awarding to the preferred supplier and even payment being made to certain stakeholders.

‘Market parties’ is the actor with the most direct relationship with public procurement staff *during* the procurement process, co-determining its success.

If market parties do not bid for a public contract, the procurement process fails. Moreover, if market parties disagree with the outcome of a procurement process, it can lead to complaints, legal proceedings and even retendering.

However, it has emerged from the descriptive analysis that the actors' interests can also conflict. Politics might have preference for a supplier other than the one emerging from a procurement process, while market parties might have difficulty with the award decision if a procurement officer chooses a supplier other than themselves. However, for public procurement officers, it generally holds that – above all – they want to successfully complete the procurement process with an end result that matches the set expectations. Based on the statements, the implementation of public procurement policy is marked by a tension of divergent interests that converge in the workplace. This means that based on the descriptive analysis, another part of the explanation of public procurement distance is formed by the actions of public procurement officers, one's own organisation, politics, and market parties.

In summary, insufficient intrinsic motivation to serve the public interest, inadequate ad-hoc pragmatic solution orientation and actors' influence on the procurement process are the explanations found for public procurement distance as it occurs within European public procurement policy, as summarised in Table 22 below:

TABLE 22  
Explanations of public procurement distance

Theoretical perspective	Indicator	Explanation
Professionalism	1. Serving the public interest	1. Insufficient intrinsic motivation – No legal obligation – No procurement-specific need – Poor language skills
Policy discretion	2. Discretionary leeway	2. Inadequate ad-hoc pragmatic solution orientation
	3. Actors	3. Influence of environment – Public procurement officers – Own organisation – Politics – Market parties

### 7.3 From initial declarations towards full implementation

This section will discuss the central findings in light of what is known about public procurement distance based on the literature. The aim is to identify where the results of this study reinforce existing or provide new insights into the

implementation of European public procurement policy and what this might mean for other public policies. Attention is also paid to possible influencers of public procurement distance for which no effect has been measured.

European procurement policy is used to achieve various political, economic, and societal goals (Kahlenborn et al., 2011; Commission, 2011c; 2017a; Panagopoulos, 2016: 269). In addition to procuring works, services, or supplies, it covers a range of issues such as reducing unemployment, environmental measures, innovation, or encouraging SMEs' participation in public contracts. The multitude of policy objectives to be pursued makes European public procurement policy a complex matrix, whereby unsurprisingly there are problems in its implementation. Below the surface, various mechanisms appear to influence the transparency of its implementation. Here, a parallel with other policies becomes visible, such as in the implementation of certain European environmental guidelines in the Netherlands in the areas of water, birds, and habitat. Actors were not only focused on complying with the formal process but also realising a variety of other interests, which pushed the actual realisation of the environmental objectives to the background (Beunen et al., 2009: 66). This also comes to the fore in other literature. For Pressman and Wildavsky (1984), policy implementation can only be successful if the relevant actors play their part, since policy implementation is delayed and modified under their influence (Bardach, 1979; Pressman & Wildavsky, 1984; Carroll, 2014: 26). Local coalitions of advocates emerge that can shift the emphasis of policy – as steered from practice – away from its original intent (Mazmanian & Sabatier, 1989: 5; Sabatier et al., 1995: 234-235). Policy implementation is thus a continuation of the political game of give and take by actors seeking to promote their own interests (Bardach, 1979: 85; Pressman & Wildavsky, 1984: 175; Von Clausewitz, 1989: 87).

European public procurement policy is aimed at a procurement process without public procurement distance. Tender procedures have been included in the regulations to provide for every imaginable procurement situation. Shavell (2012: 3, 8-9) states that anticipating every conceivable situation in the regulations is not possible, which implies that – despite detailed regulations – there will always be some degree of difference between intention and implementation. There are also a number of basic principles that underlie the regulation of European public procurement policy.<sup>43</sup> These principles are also intended to ensure transparency in the public procurement procedure without any public procurement distance, which is

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43 Such as non-discrimination, whereby the market for public contracts must be accessible to every supplier, and the contracting authority cannot impose requirements that exclude certain suppliers; equality, meaning that all (potential) suppliers competing for a public contract should be treated equally; transparency, so that business owners should be able to easily inform themselves about upcoming public contracts, and procurement processes must be unambiguous,

important because public procurement is very prone to corruption (Knight et al, 2007: 1; Nunes de Almeida, 2016: 4; Fazekas, 2017). In this detailed regulation of the process, European public procurement policy might differ from other public policies. Presumably, it is also the distinctions between mandatory, discretionary, and cross-border policies that make public procurement policy different from other European policies. Another notable point is that as soon as a discretionary instrument is used in a tender procedure or the procedure leads to cross-border procurement, the mandatory regulations apply from that moment onwards. However, until then, the deployment of discretionary policies is voluntary and mainly depends on the intrinsic motivation of the procurement officer concerned (Grandia, 2015: 138-139). Another difference compared with other policies is the short-cyclical nature of the public procurement policy implementation, whereby the term of an agreement is decisive here. In principle, the agreements between the market and the government established in the tender procedure also come to an end when the term lapses, likewise the execution of the policy. Moreover, every public contract is different in content, which leads to a distance between the use of discretionary instruments that are short-cyclical in nature and European public procurement policy that aims to achieve long-cyclical results.

Regarding the perspective of policy discretion, a well-known theme in the public administration literature is the adaptation of intended policies to align with daily practice, improving their feasibility as perceived by street-level staff (Lipsky, 2010; Boskeljon-Horst et al., 2022: 3). This study has shown that public procurement staff also do so in the form of ad-hoc pragmatic solution orientation. If a procurement professional suggests a pragmatic solution, it may or may not be accepted. Non-acceptance can lead to legal action with possible case law, which would have a direct effect on the implementation. Case law might also lead to codification in revised European public procurement directives. Decisions made by street-level bureaucrats thus become new policies for them to implement (Lipsky, 2010: xiii). The research results also show that individual public procurement officers are sometimes inclined to apply policy more flexibly when there is limited interest in a particular public contract. However, competition between interested market parties takes place in a market of supply and demand. By factoring in the number of bidders, procurement professionals are intervening in free market forces and thus influencing the way in which European public procurement policy is put into practice. In other words, the successful implementation of public procurement policy considerably depends on the actions of individuals. This can

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visible and verifiable; and proportionality, reflecting that contracting authorities can only impose requirements and wishes that are reasonably proportionate to the public contract in question.

lead to public procurement distance, even to the extent that if an individual procurement professional has no intrinsic motivation to include discretionary policies in a tender, those policies will not or only partially be included in the procurement process, and thus not be implemented or only to a lesser degree. This makes the role of individual implementers very important in developing generically applicable public procurement policy, reflecting a significant issue for literature on the implementation of policy processes in procurement.

According to certain authors, intrinsic motivation to serve the public interest is grounded in the will to hold significance for the general interest more than reflecting economic significance for society (Perry & Wise, 1990; Freidson, 2004; March & Olsen, 2009). Grandia (2015) claims that especially an inherent belief in the benefits of sustainable procurement and affective involvement in this subject leads to more sustainable behaviour (Grandia, 2015: 138-139). The measurements in this study partly confirm this, finding that intrinsic motivation plays a role, although legal obligation and pressure from the environment can also play a role in implementing European public procurement policy. Public procurement officers might initially want to serve the public interest, although this might be somewhat adjusted under the influence of the stubborn reality, thus also reducing the willingness to exhibit sustainable procurement behaviour. This might create another form of distance, namely between intrinsic motivation and the reality of daily practice, potentially even leading to alienation from the work due to a feeling of losing control over it (Lipsky, 2010: 75-80). The lack of intrinsic motivation to implement discretionary policies as revealed in this study might indicate this to be the case. Moreover, 35% of the respondents claim that they have no choice other than to accept project effects, while the same percentage of respondents believe that public procurement rules are overly complex. These are some examples supporting the assumption that alienation can arise among public procurement staff.

Based on the literature, the expectation was that training would play a role in implementing public procurement policy (Freidson, 2004: 17, 84; Thai, 2001: 40-41; Callender & McGuire, 2007: 317-320). However, somewhat surprisingly, the degree of training did not emerge as a direct influencer of public procurement distance, and therefore as a direct influencer of how intended policy is implemented. Respondents found practical experience more important in comparison to training. Presumably, training is *indirectly* important for the implementation of public procurement policy, given that such policy is complex, and its implementation requires a significant degree of knowledge beforehand. This indicates that distinguishing between indirect and direct influence by contracting authorities is important for better understanding the potential role of training in implementing public procurement policies.

This study indicates that there is little difference in the implementation of public procurement policy across public administration tiers and sectors, both within and between member states. This suggests that member states must support cooperation; for example, to utilise the sustainability instrument more effectively. Sustainability measures are more effective across borders, reflecting a point made as early as 1991 by Liberatore (1991: 286). Indeed, it is striking that this remains under discussion 35 years later. The European Commission is currently considering incorporating certain aspects of its sustainability policy into a mandatory legal framework to address the ongoing issue of much talk and little action (Commission, 2019; Andhov & Muscaritoli, 2023: 21). Furthermore, this study reveals that public procurement staff have limited motivation to voluntarily prioritise sustainability in public contracts.

The effectiveness of this discretionary policy in the longer term is also in question given the short-cyclical nature of public contracts discussed earlier in this section. It might be more effective to adopt a generally applicable legal European framework while abandoning the deployment of the sustainability instrument in procurement procedures rather than relying on a voluntary moral appeal to encourage actors to utilise the instrument.

The literature identifies several reasons why certain implementation problems can persist, with governments' risk-avoiding, hierarchical, and predefined way of working often cited as a reason. An example here is the desire to spend taxpayers' money prudently because governments can be publicly held accountable (Wilson, 1989: 133; Schneider, 2001: 86). This is why authors such as Selznick (1984: 5) and Tallberg (2002) consider adequate administrative capacity as a prerequisite for an efficient and reliable government that fulfils its obligations. Therefore, as Arrowsmith (2015) suggests, it is relevant to question whether compliance with procurement rules is technically currently more important than creating value for end users. The procurement rules provide guidance for creating value for taxpayers' money, but they can also be used as an excuse since "it's in the rules" (Wilson, 1989: 127). The deployment of consultants is regarded as necessary to avoid regulatory errors (Ylönen & Kuusela, 2019: 254). However, the measurements conducted do not reveal that administrative capacity increases under the influence of consultants with the implementation of European public procurement policy without public procurement distance as a result. Lipsky (2010: 33) also believes that a major cause of difference between intention and implementation lies in a chronic lack of people and resources, although the role of capacity in public procurement distance has not been demonstrated in the present study. More capacity does not automatically lead to better implementation of intended procurement policy. This might be due to the spontaneous nature of ad-hoc pragmatic solution

orientation during the procurement process, which requires rapid improvisation rather than more people and resources. The fact that capacity might not always be directly influential in an unexpected situation is a striking issue in the analysis of policy processes. It also means that the role of consultants in the literature on public procurement policy implementation warrants more attention, including questioning the purpose of advisers and their actual contributions to the improved implementation of procurement policy.

The previously noted focus on the technically correct implementation of regulations rather than pragmatic implementation in practice currently dominates the debate on procurement issues. This has led to the increasing legalisation and intensive involvement of legal professionals in the public procurement process often being mentioned in the procurement literature as a result of this emphasis on technically correct execution (Telgen et al., 2007: 18-19; Treumer, 2014: 10; Hoezen & Volker, 2015: 3; Van der Horst & Schenk, 2016: 33). The European Commission's desire to broadly use its public procurement policy to realise numerous objectives in addition to the acquisition of goods, services, and works has led to a complex set of mandatory and discretionary rules in which more rules are added – through both case law and revision of the European public procurement directives – to fill gaps and with only limited positive impact (Commission, 1998; 2001: 12, 29; Arrowsmith, 2012; 2015; European Court of Auditors, 2015; Semple, 2016; Commission, 2017a: 6; Andhov et al., 2022: 11). One point that deserves attention in relation to this issue is that public procurement based on European guidelines is a relatively young but rapidly developing field. This might give rise to the impression that the many rules lead to the legalisation of procurement and an ensuing increase in the administrative burden, while it might be more about a development process towards procurement maturity (Telgen et al., 2007: 21-22; Jansen, 2018). The European Court of Auditors (2015: 22) also believes that this is the case and – in addition to complex regulations, procedures, and prescriptions – refers to the “lack of expertise” as a cause of errors in implementation. The degree of practical experience can play a role in how rules and regulations are implemented, as the Commission also observed in 2017 (a: 6). The findings of this study also point in this direction, whereby ad-hoc pragmatic solution orientation is a co-determinant in limiting public procurement distance. Implementing the intended policy is only finalised when laws and regulations are applied in practice (Lipsky, 2010: 213). This implies that the evaluation of public procurement policy must be about more than merely the technically correct rule execution, as what happens in the workplace during the implementation is also an inseparable part of policy evaluation processes.

This study has rendered indications that project effects are also a recurring element in procurement, just as in implementing other policies. Follow-up research is needed to capture the exact context and magnitude of project effects in European public procurement policy. However, Kelman (1990: 1, 3) observes that governments have a certain degree of fear of allowing their employees discretionary leeway and – as a result – tend towards more rather than fewer rules. He believes that deregulation can lead to greater discretionary leeway to get the most out of suppliers, although this might lead to an increase in project effects. Therefore, the question is whether more discretion is desirable. The outcomes of this study in this respect (section 7.2) illustrate the difficult position of public procurement staff: on the one hand, they are supposed to ensure the technically correct implementation of the rules to avoid public procurement distance, while on the other hand, the environment exerts a certain degree of influence on the procurement process to interpret procurement rules generously in favour of the desired end result. There may well be a structural degree of public procurement distance when policy is implemented, which is a point of attention for analysing public procurement policy and the literature on this subject.

This study also indicates that the actor of politics does not directly interfere with the procurement process but is interested in its outcomes. It is suspected that this actor mainly has an *indirect* influence on the procurement process and therefore the implementation of the intended procurement policy. Literature supports this view (Goldman et al., 2010; Chong et al. 2012; Van Silfhout & Van den Berg, 2014). The Commission also identifies politics as a significant influencing actor (2021a: 5). For the analysis of public procurement policy, the influence of politics is a subject to consider, as it can lead to a better understanding of how policy implementation proceeds. Market parties sometimes experience discretionary policies as difficult, time-consuming, and cost increasing, according to De Souza Dutra et al. (2017). This is a point of concern because this actor is the final link in implementing public procurement policies. If suppliers do not cooperate in its implementation, the policy of governments to use the instruments through procurement is unsuccessful. However, according to Bovis (1998: 224) and Hatzis (2009: 345), SMEs have less access to markets and public procurement than might be the case. Based on the observations of De Souza Dutra et al. (2017) and the present study, it appears that while SMEs have access to public contracts, they are sometimes reluctant to participate, which is a point worth considering in the procurement literature regarding SMEs.

The final outcome of this study to be discussed is somewhat striking and deals with the role of the working language in the implementation of European public procurement policy, as some respondents reported a poor command of the English

language. Sylvest et al. (2011: 11-13, 78-80) found that the degree of cross-border awarding is higher between countries that share a native language than between countries with different languages. Accordingly, the national language can play a determining role in a procurement process, reflecting a practical topic that also holds relevance for the literature on European public procurement policy.

#### **7.4 Policy recommendations to bridge public procurement distance**

This section will answer research question 4 concerning which recommendations can be formulated to increase the effectiveness of European public procurement policy.

No evidence has been found of a significant difference between member states in the implementation practice of European public procurement policy. In this light, distinguishing between European regions or countries does not result in better policy implementation. This implies that the successful translation of the intended public procurement policy into implementation probably has a greater chance of success if there is support among all member states. Therefore, a first policy recommendation is directed at the Commission, namely, to agree with all member states on the public procurement policy before turning it into directives.

Capacity and collaboration have not been found to have a direct impact on the implementation of mandatory public procurement policy. However, the respondents mentioned hiring external consultants who are deployed for each stage of the procurement process, indicating the generic deployment of specialists. In this case, it may well be possible that – part of the – procurement work could just as well be carried out by temping staff instead of expensive consultants to save public money. Therefore, the recommendation to contracting authorities and underlying European policy makers and those in member states is to inventory and optimise the deployment and actual costs of external consultants in public procurement wherever possible.

One potentially socially highly impactful policy instrument is ‘sustainability’. It was discussed earlier in this chapter that it becomes more effective when its deployment crosses borders (Liberatore, 1991). In other words, improving the deployment of the instrument requires collaboration between member states, likewise the major social importance of the subject. The European Commission is probably the only body that can successfully initiate such cross-member state collaboration. This is in line with the current debate in the European Commission on whether or not to require the inclusion of certain sustainability measures in tenders (Commission, 2019; Andhov & Muscaritoli, 2023: 21). An – albeit small – positive effect of little discretionary leeway in the regulations on the deployment

of the sustainability instrument was measured in this study, whereby increased regulation might indeed mean slightly better implementation of this instrument. Based on this, the recommendation to the Commission is to determine which sustainability measures can best be encapsulated in a generally applicable European legal framework to achieve maximum deployment effectiveness.

Encouraging participation in public contracts by SMEs is also a policy instrument that can be used by procurement officers (Commission, 2008a). However, earlier in this chapter it was established that SMEs are sometimes reluctant to participate in public contracts. Given that local governments know the local situation best, steering for more deployment of the instrument at the lowest possible administrative level might be better than steering by national or European governments. Therefore, the European Commission and national governments are advised to start discussions with local authorities with an interest in (local) SMEs participating in public contracts on how to make their access as easy as possible by eliminating administrative obstacles and helping SMEs with tenders, for example.

The social return instrument is more short cyclical in nature than sustainability, which has advantages and disadvantages. One advantage is that social return can be used easily and quickly to involve a specific group or individual at a distance from the labour market in executing a public contract. This can be affected immediately upon the start of the contract period. The short-cyclical nature is also a disadvantage, as the social return measure often stops being effective immediately after the contract term ends and the public contract has been fulfilled. For this reason, authors such as Wiesbrock (2016: 77, 95-96) advocate embedding social return measures in legislation. Given its strong social importance, she proposes the mandatory inclusion of this instrument in tenders. However, social return covers many topics, prompting the question of whether they should all end up in a legal framework. There is also overlap with other instruments, such as the deployment of SMEs. The interests of governments that want to help as many people as possible to find work and SMEs that are often small in size and cannot create many suitable jobs can diverge. Anchoring a longer contract period in law might provide more scope to utilise social return measures to a greater extent than is currently the case. Hence, the recommendation to the European Commission is not to make the deployment of this instrument mandatory in whole or part, but rather to take procurement policy measures that can increase its use.

The instrument of innovation can be applied when there is a government contract for an innovative product, service, or work. The procurement legislation provides sufficient tools to successfully engage in innovation-oriented procurement, although procurement staff may lack adequate knowledge and experience to actually use this instrument. National, regional, and local governments are

advised to provide more educational information on innovation-oriented procurement and guide procurement officers in this respect to achieve more successfully executed innovation-oriented public contracts.

Language choice is perhaps the most important procurement management tool to allow foreign candidates to make a bid. Not all respondents reported a good command of the English language. Assuming that English is indeed the most common working language in tender procedures aimed at attracting foreign suppliers, more attention in member states to language training for procurement officers is a policy recommendation to increase foreign participation in public contracts. This can enhance the use of the harmonised market between member states, thus also serving a European interest.

25% of the respondents state that they sometimes grant to a supplier from another member state. However, the Commission assumes that approximately 3.5% of cases are cross-border awarded contracts (Commission, 2017a: 4). It is possible that the Commission publishes only those figures that it considers important, as observed by Falkner et al. (2005: 19-20). The advice to the Commission is therefore to evaluate its method of data collection and publication for effectiveness. This might lead to better tools to understand the true nature of public procurement distance and allow more purposeful management of the implementation of the European procurement policy.

## 7.5 In conclusion: Agenda for future research

The central research question of what can explain the distance between the pre-established European procurement policy and its implementation in the 27 EU member states has been investigated for both mandatory and discretionary European public procurement policies. The theoretical principles are predominantly based on previous academic research in the field of procurement and policy implementation. No new explaining variables have been introduced for the implementation of European procurement policy, which reflects an interesting topic for further research.

The chosen research design makes this research broad in scope yet limited in the sense that only the possible *direct* influence of independent variables on public procurement distance has been analysed. Direct influence is probably only one of the many mechanisms that play a role within the complex interplay of forces in implementing European public procurement policy. However, what makes direct influence so important is that it fully touches on the final steps of policy implementation. These steps are crucial for the successful implementation of policy in the workplace (Lipsky, 2010: 213). Furthermore, there might be indirect and not

immediately visible mechanisms influencing public procurement policy that help to shape the final outcome. The research agenda below is presented along these lines.

Intrinsic motivation to serve the public interest has emerged as an important influencing factor in this study. In the literature studied, Perry and Wise (1990), Freidson (2004) and March and Olsen (2009) express a certain idealism when it comes to reasons why people want to work for the government. This study has also found a sense of realism regarding how policies are implemented in practice as an influencing factor. Since both potentially influence the implementation of European public procurement policy, it is worthwhile to explore in follow-up research which values influence public procurement policy implementation even more. This is related to whether the use of policy instruments increases if it is partially or entirely made mandatory, which also deserves further investigation. The results can be used by governments to implement their public procurement policy in a more targeted manner. A topic that is also related to the motivation to implement European public procurement policy is the possible alienation that can occur if procurement officers in the workplace gain the idea that they are so influenced by their environment that they lose control over their work (Lipsky, 2010: 75-80). Indeed, this is a possible new explanatory variable for which further research is important.

No direct influence on public procurement distance has been measured for training. However, it is quite conceivable that procurement education plays a mediating or moderating role in public procurement. Some authors are in favour of training to improve procurement (Thai, 2001: 40-41; Freidson, 2004: 17, 84; Callender & McGuire, 2007: 317-320), while others think more in the direction of acquiring strong experience in practice as a success factor (Snider & Rendon, 2012: 334; Abutabenjeh & Gordon, 2015). Further research is important to learn more about the role of training and practical experience in European public procurement policy.

The possible role of actors in the emergence of public procurement distance has now been investigated through statements and questions to respondents. This has indicated that these actors play both direct and indirect roles in procurement processes. Follow-up research into the influence of actors on the development of public procurement distance should seek to shed further light on their role in this.

The emergence of project effects in procurement seems to be a regular phenomenon. Its effects on the outcomes of procurement processes, the possible role of actors involved, the possible costs for the taxpayer each year, and the extent to which these effects arise can be further identified through follow-up research. This would help to increase our understanding of procurement processes and organise

them more efficiently, thereby possibly promoting transparency in public procurement and reducing the risk of project effects and corruption.

A direct effect on public procurement distance has not been measured for capacity in terms of available people and resources, although this was expected based on the literature reviewed (Selznick, 1984: 5; Tallberg, 2002; Ylönen & Kuusela, 2019: 254). The measurements show that external consultants are used throughout the procurement process, whereas the assumption was that they would be hired for a specific task such as drafting tender documents. This might point to an underlying management issue, namely how a contracting authority best organises itself to effectively implement public procurement policy. Indeed, this is a topic that requires further research. It might be that consultants are hired to limit the risk of errors in execution and awarding as this might have legal implications, reflecting another topic for further research. The outcomes can help contracting authorities to implement European public procurement policy without public procurement distance.

The first sentences of this thesis stated that for European procurement policy to be successful, it must be implemented to the letter, otherwise a discrepancy arises between the intended policy and its implementation. This has indeed proven to be correct, although an important outcome of this study is that the implementation of public procurement policy is mainly driven by the degree of intrinsic motivation to serve the public interest and an ad-hoc pragmatic solution orientation. This takes place in a complex force field of frequently conflicting interests in which the emphasis on technically correct implementation of procurement rules often takes precedence over the importance of an optimal end result. This calls for a shift from the current policy focus on technically correct implementation of public procurement policy to a focus on more pragmatic implementation. This study has led to an interesting research agenda that is expected to provide useful starting points for scientific follow-up research into the practice of European public procurement policies, which is necessary for public procurement to further develop from a predominantly technocratic process to a mature and balanced government function with widely supported implementation of both mandatory and discretionary policies. This research is thereby expected to provide a strong impetus for the realisation of well-balanced public procurement across Europe – without any public procurement distance.

## PROCES VERBAAL VAN AANBESTEDING.

Op heden den \_\_\_\_\_ is ingevolge de daarvan in de Departement en der Monden van de Maas en van den Boven-IJssel, angeplakte Biljetten, en gedane Advertisfementen in de Nederlandsche Staats-courant, door den Directeur van den Waterstaat overgegaan, tot het openen der verzegelde inschrijvingen van de gegadigden, welke zich bereid hebben getoond, tot het aannemen der werken in het bovenstaande beftek vervat, en waar van de kosten zijn gefierd op eene Somma van

Bij de opening der voorsz. biljetten is bevonden dat dezelve behelsden inschrijvingen, waarvan is geformeerd de navolgende staat:

Namen der inschrijvers.	Aanwijzing van het werk.	Bedrag der begrooting van kosten.	Bedrag der gedane inschrijvingen.	Vermindering.

# Appendices



## *Appendix A*

### **LETTER TO RESPONDENTS**

Dear colleague,

I am a PhD student at Leiden University, the Netherlands, with Prof. Dr. Bernard Steunenberg as my supervisor. I am doing PhD research into procurement based on European legislation above the threshold values in the European member states and how it is applied in practice.

I am keen to find out whether our work becomes easier, or we can do our work better if we strictly observe procurement legislation or if it is easier/better if we don't stick to it too closely. Since this is a question that affects us all, the results are also of great importance to you. I would greatly appreciate it if you help me out by completing the attached questionnaire and participate in this unique project!

I guarantee that you will remain anonymous, and your responses will be handled with the utmost confidentiality. I will only use the assembled and accumulated results (not the individual answers) once. I found your e-mail address on the TED website of the European Union. By completing this survey, you give me express permission to use the results for this research. I will create a summary of the results in due course and will be happy to send this to you free of charge.

Why not take part? Completing the questions will only take twenty minutes or so!  
Click here to complete the questionnaire in your own language.  
Or copy and paste the following URL into the address bar of your Internet browser.

Thank you very much! I hope you enjoy completing the questionnaire!

drs. Alexander Schermerhorn  
PhD Student at Leiden University, the Netherlands

**NB:** All questions in this questionnaire are related to tenders above the European thresholds, when you answer the questions, you may ignore procurement projects with lower values.  
Click here to opt out of these e-mails



## Appendix B

# QUESTIONNAIRE

TABLE B1

### Survey public procurement European Union

Thank you for participating in my research into whether our work becomes easier, or we can do our work better if we strictly observe procurement legislation or if it is easier/better if we don't stick to it too closely. All questions in this questionnaire are related to tenders above the European thresholds. When answering the questions, you may ignore procurement projects with lower values. I hope you enjoy answering my questions! If you are interested in a free summary of the results, you can indicate this on the last page. Click the button to start the questionnaire.

#### Question

<b>1</b>	<b>Are you principally engaged in tenders focusing on: (more than 1 answer possible)</b>
1.1	Works
1.2	Services
1.3	Supplies
1.4	Utilities
<b>2</b>	<b>Which of the following subjects are part of your duties: (More than 1 answer possible)</b>
2.1	Drawing up tender documentation
2.2	Drawing up draught contracts
2.3	Application of procurement rules and case law
2.4	Drafting selection criteria
2.5	Drafting award criteria
2.6	Answering questions from interested market players in the Information Notice
2.7	Conclusion of the contract with the successful tenderer
2.8	Following up the contractual agreements with suppliers
2.9	Hiring external procurement consultants and legal advisers
2.10	Supporting legal procedures
<b>3</b>	<b>Please indicate which of each of the following statements applies to you:</b>
3.1	I apply the procurement rules more flexibly if only one interested supplier submits a tender.
3.2	The more submissions I get, the more strictly I will apply the procurement rules.
3.3	I use external (contracted) legal advisers
3.4	I use external (contracted) procurement consultants during the tendering process
3.5	I use internal (from my own organisation) legal advisers during the tendering process
3.6	I use internal (from my own organisation) procurement consultants during the tendering process

- 3.7 A tenderer has made an honest mistake, such as failing to submit one or more requested documents or a textual contradiction written in the tender which means this tenderer has not responded in accordance with the specifications. If this is the case, I contact the tenderer and give him the opportunity to correct the error.

**4 Indicate to what extent you agree or disagree with each of the following statements. Statements concerning your procurement activities:**

- 4.1 I am able to steer the content of tenders in the direction I require
- 4.2 I take the public interest into consideration
- 4.3 One or more tenders I have supervised have lead to a lawsuit at some point
- 4.4 I take the opinions of the market players into account
- 4.5 I take into account the preferences of national politics with regard to procurement
- 4.6 I always implement procurement legislation literally
- 4.7 Procurement legislation does not give me enough room to manoeuvre
- 4.8 I allow variants to give tenderers the chance to come up with alternative solutions
- 4.9 I let tenderers give an oral presentation of the solution as part of the award process
- 4.10 I work together with other contracting authorities as much as possible in order to be able to take advantage of joint procurement
- 4.11 I am generally satisfied with the procurement result ("The supplier delivered what I expected to receive when I purchased it")
- 4.12 I have to do work that is not part of my duties
- 4.13 European procurement rules are too complex
- 4.14 The mainly written procedures limit my freedom to manoeuvre

**5 Why do you apply the procurement rules: (More than 1 answer possible)**

- 5.1 Because the law must be observed
- 5.2 Because this way I help implement government policy
- 5.3 Because this way I avoid getting into trouble with my employer
- 5.4 Because this way I avoid problems with the market players
- 5.5 Because this way I avoid legal procedures and lawsuits
- 5.6 Because this way I can procure more professionally and efficiently

**6 Indicate to what extent you agree or disagree with each of the following statements. You release a tender but you cannot award it to a successful tenderer. This is because:**

- 6.1 Because my employer wanted this
- 6.2 Because there was a threat of a complaint or legal proceedings by a potential supplier
- 6.3 Because there was political pressure to stop the tender =>please answer question 6a
- 6.4 Because the media (radio, TV, newspaper, Internet, social media) published information about the relevant tender

**6a Indicate to what extent you agree or disagree with each of the following statements. What do you think was the underlying reason for this political pressure: (Referral from 6.3)**

- 6a.1 Favouritism
- 6a.2 There is a relationship between politicians and the successful supplier

6a.3 Stakeholders were paid money

6a.4 The preferred supplier was awarded the contract directly

**7 Do you pay attention to the following social objectives in your tenders:**

7.1 Sustainability

7.2 Social return

7.3 Innovation

7.4 SME participation

**8 Indicate to what extent you agree or disagree with each of the following statements. What, in your opinion, are the consequences of the inclusion of subjects relating to sustainability, innovation, social return and SME participation for your tenders:**

8.1 It results in high costs

8.2 It makes my tenders more complex

8.3 It improves society

8.4 It results in happier end users

8.5 It wastes time

8.6 It gives a better procurement result

**9 Indicate to what extent you agree or disagree with each of the following statements regarding avoiding tenders:**

9.1 If I can split things into lots to stay below the tendering threshold, I will do so

9.2 If I can directly award to my preferential supplier then I will do so

9.3 If I can keep ordering from my current supplier at the end of the term of the contract, I will do so

9.4 If I can draw up the contractual conditions broader than strictly required for the tender, I will do so

9.5 If I can order just before the end of the term, I will do so

9.6 If I can avoid a time-consuming public or restricted tender by choosing to award directly via a negotiation procedure, I will do so

**10 Indicate whether you recognise this from your own practice and your own experiences with tenders you have supervised:**

10.1 I sometimes buy from a supplier without first releasing an obligatory tender

**11 Indicate to what extent you agree or disagree with each of the following statements. In order to achieve the desired outcome of a tender have you ever:**

11.1 Consulted with certain suppliers

11.2 Made using the national language compulsory

11.3 Sent the Information Notice as late as possible

11.4 Unticked the GPA box

11.5 Given more points to your preferred supplier

11.6 Given the current supplier who you are happy with more points

11.7 Changed the award conditions after all tenders were received

<b>12</b>	<b>Indicate to what extent you agree or disagree with each of the following statements. In the tenders that you deal with, does the following ever occur:</b>
12.1	The costs and risks of the projects to be tendered are underestimated
12.2	The scope of the projects to be tendered is broader than necessary
12.3	The turnaround times of the projects to be tendered are deliberately underestimated
<b>13</b>	<b>If one of these issues (costs and risks underestimated, scope unnecessarily broad, turnaround times deliberately underestimated) occurs every now and then, who requests this and what kind of tenders are they: (More than 1 answer possible. Choose the answers most relevant to you)</b>
13.1	Persons from the organisation I work for
13.2	Market players/suppliers
13.3	Politicians/policymakers
13.4	The media (radio, TV, newspaper, Internet, social media)
13.5	I want this myself
13.6	This mostly occurs when procuring works
13.7	This mostly occurs when procuring services
13.8	This mostly occurs when procuring supplies
<b>14</b>	<b>Indicate to what extent you agree or disagree with each of the following statements If an issue from question 12 (Costs/risks greater; scope broader; turnaround times too short) occurs what does this mean for your work:</b>
14.1	This results in extra work for me
14.2	I have less influence on the award outcome
14.3	I am not able to serve the public interest properly
14.4	I have no choice in this and must accept it
14.5	This does not affect my work
14.6	This results in higher procurement costs
14.7	This increases my freedom to manoeuvre
14.8	I will apply the procurement rules even more strictly
14.9	This increases the risk of lawsuits and complaints
14.10	This decreases the quality of the procured supplies/works or services
14.11	This increases the quality of the end result
<b>15</b>	<b>Could you estimate how much higher the procurements costs are if a situation like that in question 12 (Cost/risks greater; scope broader; turnaround times too short) occurs:</b>
15.1	Between 1% and 10% higher
15.2	Between 11% and 25% higher
15.3	More than 25% higher
<b>16</b>	<b>Indicate to what extent you agree or disagree with each statement about procurement abroad: (across the borders of your own country but within the EU)</b>
16.1	I sometimes award a tender to a supplier from another EU member state rather than one from my own country

16.2	I sometimes award a tender to a supplier from a country that is not a member of the European Union
16.3	When I award a tender to a foreign supplier, I do this because the quality is better
16.4	When I award a tender to a foreign supplier, I do this because the price is lower
16.5	When I award a tender to a foreign supplier, I do this because they can offer a particular type of knowledge
16.6	I prefer suppliers from my own country
16.7	International tenders cause language issues
16.8	International tenders cause supply issues
16.9	International tenders cause quality issues
16.10	I do not speak or write English
16.11	When I procure from a foreign supplier I only do this because politicians/policymakers and/or my organisation tell me to do so
16.12	International tenders are conducted in English
<b>17 Are you:</b>	
17.1	Male
17.2	Female
<b>18 What is your profession: (Only 1 answer possible)</b>	
18.1	Purchaser employed by a contracting authority
18.2	External procurement consultant
18.3	Lawyer employed by the contracting organisation
18.4	External legal adviser
18.5	Contract manager
18.6	In addition to my usual daily activities, I sometimes deal with procurement through tendering (part time)
<b>19 For which public authorities do you work or consult most often: (Only 1 answer possible)</b>	
19.1	National government
19.2	Regional government
19.3	Local government
19.4	Utilities
19.5	Other
<b>20 What is your level of education: (Only 1 answer possible. Select highest level achieved)</b>	
20.1	Higher
20.2	Secondary
20.3	Primary
<b>21 In addition, I have also: (Only 1 answer possible)</b>	
21.1	Followed additional procurement training aimed specifically at European procurement

21.2	Followed additional procurement training but not specifically aimed at European procurement
21.3	Learned about European procurement in practice without procurement training
<b>22</b>	<b>How many tendering projects do you supervise on average each year: (Only 1 answer possible)</b>
22.1	2 or fewer tenders
22.2	3-5 tenders
22.3	6-10 tenders
22.4	11-20 tenders
22.5	More than 20 tenders
<b>23</b>	<b>Your age:</b>
23.1	Up to 35
23.2	Between 35 and 50
23.3	50+
<b>24</b>	<b>For which supplies, services and works do you mainly supervise tenders: (More than 1 answer possible. Choose that which most closely applies to your position)</b>
24.1	Infrastructure (Such as: road, water, construction, real estate)
24.2	I(C)T
24.3	Science and education
24.4	Healthcare, welfare, social services
24.5	Utilities (Such as: electricity, telecommunications, public transport, post)
24.6	Culture, sports, recreation
24.7	Agriculture, livestock farming, hunting, fishing, mining, nature management
24.8	Financial economic services
24.9	Defence
24.10	Uniformed services except for defence (Such as: police fire brigade, civil protection)
24.11	Employment services
24.12	Non-financial business services (such as: administration, organisational consultation, support, facilities)
24.13	Logistics and transport
24.14	Media
24.15	Judicial services (Such as judiciary, prosecution service)
<b>25</b>	<b>How long have you worked with European tenders: (Only 1 answer possible)</b>
25.1	1 year or less
25.2	1-3 years
25.3	3-5 years
25.4	5-10 years
25.5	Longer than 10 years

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<b>26</b>	<b>Please estimate the annual costs for contracting external advisers: (Only 1 answer possible)</b>
26.1	Up to 5,000 Euro a year
26.2	5,000 Euro to 10,000 Euro a year
26.3	10,000 Euro to 25,000 Euro a year
26.4	25,000 Euro to 50,000 Euro a year
26.5	50,000 Euro to 100,000 Euro a year
26.6	More than 100,000 Euro a year
26.7	I don't know

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**27** Thank you for answering my questions! Below you will find 2 general questions, could you please read these and respond to them?  
This survey is completely anonymous, the outcome cannot be traced back to individual persons. I do have a request however (without obligation): to further substantiate my research with individual interviews with people working in the field of tendering and procurement, I am looking for people to interview (in English, French or Dutch). People like you, for example. The answers will be processed anonymously. If you are happy for me to interview you, please enter your email address below. I will not mention your name in my research but only quote you anonymously within the relevant context, ensuring it cannot be traced back to you as an individual. Thank you very much for your cooperation, I really appreciate it! If yes: please enter your e-mail address below and I will contact you ASAP. If no: do not enter anything and continue to the next question.  
I am looking for case studies and stories that can substantiate and illustrate my research. Could you provide me (anonymously, of course) with a case study or story about a procurement case that appeals to the imagination? (It doesn't matter if it was successful or failed) I shall ensure that the story cannot be traced back to you as an individual. May I contact you for more information about your case? If you are happy for me to do this, please enter your e-mail address in the field below. If yes, could you give a brief 20-word summary of the case? If no, you may skip this question and go to the last question.  
Thank you very much for your cooperation! I would be happy to mail you a summary of the results of this research in due course. If you are interested, please enter your e-mail address or another e-mail address (which I will use only once for this purpose) where you wish to receive the document.

**Member states:**  
Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom

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## Appendix C

### FREQUENCY TABLES

This appendix contains the frequency tables that are referred to in Chapters 5 and 6. *n* is the total count of answers to the relevant question. Rounding differences may occur in the totals of the tables.

TABLE C1

Distribution of respondents per procurement segment (n= 21,874)

Segment	Percentage
Works	25
Services	39
Supplies	29
Utilities	7
<i>Total</i>	<i>100</i>

TABLE C2

Distribution by sector (n= 15,022)

Sector	Percentage
Infrastructure (such as road, water, construction, real estate)	22
Utilities (such as electricity, telecom, public transport, postal services)	11
I(C)T	11
Non-financial business services (such as administration, organisational consultation, support, facilities)	9
Healthcare, welfare, social services	9
Education and science	8
Culture, sports, recreation	7
Financial economic services	6
Logistics and transport	5

<b>Sector</b>	<b>Percentage</b>
Uniformed services except for defence (Such as: police fire brigade, civil protection)	3
Agriculture, livestock farming, hunting, fishing, mining, nature management	3
Media	2
Employment services	2
Judicial services (Such as judiciary, prosecution service)	1
Defence	1
<i>Total</i>	<i>100</i>

TABLE C3

**Sex (n= 6,923)**

<b>Sex</b>	<b>Percentage</b>
Male	64
Female	36
<i>Total</i>	<i>100</i>

TABLE C4

**Age (n= 6.923)**

<b>Age (in years)</b>	<b>Percentage</b>
Up to 35	9
Between 35 and 50	43
50+	48
<i>Total</i>	<i>100</i>

TABLE C5

**Highest level of education achieved (n= 6,874)**

<b>Education</b>	<b>Percentage</b>
Higher	86
Secondary	13
Primary	1
<i>Total</i>	<i>100</i>

TABLE C6

**Number of calls for tenders per year (n= 6,874)**

<b>Number of tenders</b>	<b>Percentage</b>
=< 2	26
3-5	24
6-10	16
11-20	13
> 20	21
<i>Total</i>	<i>100</i>

TABLE C7

**Seniority (n= 6,874)**

<b>Seniority in years</b>	<b>Percentage</b>
=< 1	6
1-3	7
3-5	18
5-10	34
>10	35
<i>Total</i>	<i>100</i>

TABLE C8

**Public administration tier (n= 6,713)**

<b>Administration tier</b>	<b>Percentage</b>
National government	17
Regional government	13
Local government	39
Utilities	12
Other	20
<i>Total</i>	<i>100</i>



**TABLE C11**  
**Adjustment of outcome in desired direction (n= 7,419)**

<b>Influence on outcome</b>							
	Consulted with certain suppliers	Made using the national language compulsory	Sent the Information Notice as late as possible	Unticked the GPA box	Given more points to your preferred supplier	Given the current supplier who you are happy with more points	Changed the award conditions after all tenders were received
Completely disagree	46	27	80	67	81	74	92
Partly disagree	11	6	9	5	9	12	4
Neutral	14	14	8	26	7	9	3
Partly agree	23	18	2	1	3	4	1
Completely agree	7	36	1	1	1	1	0
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

**TABLE C12**  
**Reason for political pressure to stop tender process (n= 754)**

<b>Reason (Percentage)</b>				
	Favouritism	There is a relationship between politicians and the successful supplier	Stakeholders were paid money	The preferred supplier was awarded the contract directly
Completely disagree	31	30	48	36
Partly disagree	9	9	9	11
Neutral	25	24	31	27
Partly agree	23	25	6	17
Completely agree	11	13	5	9
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>



TABLE C15

**Reason for cross-border procurement (n= 6,943)**

<b>Reasons and effects (Percentage)</b>										
	When I award a tender to a foreign supplier, I do this because the quality is better	When I award a tender to a foreign supplier, I do this because the price is lower	When I award a tender to a foreign supplier, I do this because they can offer a particular type of knowledge	I prefer suppliers from my own country	International tenders are conducted in English	International tenders cause language issues	International tenders cause supply issues	International tenders cause quality issues	I do not speak or write English	When I procure from a foreign supplier I only do this because politicians/policymakers and/or my organisation tell me to do so
Completely disagree	16	14	13	21	36	13	17	21	44	43
Partly disagree	5	7	5	10	8	10	14	16	15	12
Neutral	41	39	43	38	34	38	48	50	22	33
Partly agree	22	26	26	20	10	27	16	10	11	7
Completely agree	16	15	13	11	12	12	5	3	8	5
<i>Total</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

TABLE C16

**Costs of hiring external consultants (n= 3,774)**

<b>Costs per year in EUR</b>	<b>Percentage</b>
5,000 max	25
5,000-10,000	17
10,000-25,000	13
25,000-50,000	9
50,000-100,000	5
100,000+	7
Do not know	24
<i>Total</i>	<i>100</i>



TABLE C19

**Correction of unintentional error (n= 10,417)**

<b>Correction</b>	<b>Percentage</b>
Completely disagree	25
Partly disagree	12
Neutral	18
Partly agree	29
Completely agree	16
<i>Total</i>	<i>100</i>

TABLE C20

**Direct procurement without tender procedure (n= 8,380)**

<b>Direct procurement</b>	<b>Percentage</b>
Completely disagree	56
Partly disagree	14
Neutral	11
Partly agree	14
Completely agree	5
<i>Total</i>	<i>100</i>

TABLE C21

**Summarising statistics**

<b>Dependent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
I always implement procurement legislation literally	3.97	1.008	1	5	9,210
I apply the procurement rules more flexibly if only one interested supplier submits a tender	2.13	1.285	1	5	10,418
The more submissions I get, the more strictly I will apply the procurement rules	2.43	1.482	1	5	10,418
Costs and risks of the projects to be tendered are underestimated (project effect)	3.08	1.206	1	5	7,419
Scope of the projects to be tendered is broader than necessary (project effect)	2.62	1.143	1	5	7,419
Turnaround times of the projects to be tendered are deliberately underestimated (project effect)	2.41	1.213	1	5	7,419

<b>Dependent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
If project effect consequence – This results in extra work for me	3.65	1.067	1	5	7,178
If project effect consequence – I have less influence on the award outcome	2.70	1.063	1	5	7,178
If project effect consequence – I am not able to serve the public interest properly	3.16	1.096	1	5	7,178
If project effect consequence – I have no choice in this and must accept it	3.08	1.106	1	5	7,178
If project effect consequence – This does not affect my work	2.64	1.086	1	5	7,178
If project effect consequence – This results in higher procurement costs	3.33	1.026	1	5	7,178
If project effect consequence – This increases my freedom to manoeuvre	2.36	.968	1	5	7,178
If project effect consequence – I will apply the procurement rules even more strictly	3.06	1.079	1	5	7,178
If project effect consequence – This increases the risk of lawsuits and complaints	3.43	1.034	1	5	7,178
If project effect consequence – This decreases the quality of the procured supplies/works or services	3.18	1.053	1	5	7,178
If project effect consequence – This increases the quality of the end result	2.49	1.003	1	5	7,178
I am generally satisfied with the procurement result ("The supplier delivered what I expected to receive when I purchased it")	3.77	.863	1	5	9,210
Sustainability (discretionary policy instruments)	1.96	1.043	1	4	7,988
Social return (discretionary policy instruments)	2.26	.994	1	4	7,988
Innovation (discretionary policy instruments)	2.58	1.100	1	4	7,988
SME participation (discretionary policy instruments)	2.35	1.097	1	4	7,988
Discretionary policy instruments in tenders – It results in high costs	3.10	1.109	1	5	7,605
Discretionary policy instruments in tenders – It makes my tenders more complex	3.29	1.165	1	5	7,605
Discretionary policy instruments in tenders – It improves society	3.51	.995	1	5	7,605
Discretionary policy instruments in tenders – It results in happier end users	3.32	1.009	1	5	7,605
Discretionary policy instruments in tenders – It wastes time	2.41	1.101	1	5	7,605
Discretionary policy instruments in tenders – It gives a better procurement result	3.30	1.007	1	5	7,605

<b>Dependent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
I sometimes award a tender to a supplier from another EU member state rather than one from my own country	2.72	1.353	1	5	6,943
I sometimes award a tender to a supplier from a country that is not a member of the EU	2.37	1.233	1	5	6,943
When I award a tender to a foreign supplier, I do this because the quality is better	3.18	1.233	1	5	6,943
When I award a tender to a foreign supplier, I do this because the price is lower	3.21	1.188	1	5	6,943
When I award a tender to a foreign supplier, I do this because of a particular type of knowledge	3.21	1.144	1	5	6,943
I prefer suppliers from my own country	2.89	1.254	1	5	6,943
International tenders are conducted in English	2.53	1.374	1	5	6,943
International tenders cause language issues	3.15	1.167	1	5	6,943
International tenders cause supply issues	2.76	1.059	1	5	6,943
International tenders cause quality issues	2.57	1.024	1	5	6,943
I do not speak or write English	2.23	1.326	1	5	6,943
When I procure from a foreign supplier I only do this because politicians/policymakers and/or my organisation tell me to do so	2.18	1.201	1	5	6,943
<b>Independent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
I use external (contracted) legal advisers	2.45	1.424	1	5	10,417
I use internal (from my own organisation) legal advisers during the tendering process	3.45	1.514	1	5	10,417
I use internal (from my own organisation) procurement consultants during the tendering process	3.13	1.565	1	5	10,417
I use external (contracted) procurement consultants during the tendering process	2.22	1.384	1	5	10,417
I work together with other contracting authorities as much as possible in order to be able to take advantage of joint procurement	3.06	1.285	1	5	9,210
I take the public interest into consideration	3.96	1.089	1	5	9,210
I am able to steer the content of tenders in the direction I require	2.77	1.243	1	5	9,210
Procurement legislation does not give me enough room to manoeuvre	3.31	1.162	1	5	9,210
A tenderer has made an honest mistake, opportunity to correct the error	3.00	1.430	1	5	10,417
If I can split into lots to stay below the tendering threshold, I will do so	2.12	1.351	1	5	7,605

<b>Independent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
If I can directly award to my preferential supplier then I will do so	2.05	1.329	1	5	7,605
If I can keep ordering from my current supplier at the end of the term of the contract, I will do so	2.33	1.347	1	5	7,605
If I can draw up the contractual conditions broader than strictly required for the tender, I will do so	2.38	1.282	1	5	7,605
If I can order just before the end of the term, I will do so	2.65	1.324	1	5	7,605
If I can avoid a time-consuming public or restricted tender by choosing to award directly via a negotiation procedure, I will do so	2.69	1.442	1	5	7,605
I sometimes buy from a supplier without first releasing an obligatory tender	1.98	1.293	1	5	8,380
I have to do work that is not part of my duties	2.64	1.334	1	5	9,210
European procurement rules are too complex	3.44	1.202	1	5	9,210
One or more tenders I have supervised have led to a lawsuit at some point	2.24	1.592	1	5	9,210
I take the opinions of the market players into account	3.28	1.027	1	5	9,210
I take into account the preferences of national politics with regard to procurement	3.26	1.232	1	5	9,210
The mainly written procedures limit my freedom to manoeuvre	2.93	1.223	1	5	9,210
I allow variants to give tenderers the chance to come up with alternative solutions	2.89	1.252	1	5	9,210
I let tenderers give an oral presentation of the solution as part of the award process	2.34	1.309	1	5	9,210
Cannot award it to a successful tenderer – Because there was a threat of a complaint or legal proceedings by a potential supplier	2.19	1.239	1	5	8,051
Cannot award it to a successful tenderer – Because there was political pressure to stop the tender	1.88	1.140	1	5	8,051
Cannot award it to a successful tenderer – Because my employer wanted this	2.08	1.226	1	5	8,051
Cannot award it to a successful tenderer – Because the media (radio, TV, newspaper, Internet, social media) published information about the relevant tender	1.71	.986	1	5	8,051
Reason political pressure: Favouritism	2.75	1.398	1	5	754
Reason political pressure: Relationship between politicians and the successful supplier	2.82	1.412	1	5	754
Reason political pressure: Stakeholders were paid money	2.13	1.232	1	5	754

<b>Independent variable</b>	<b>Mean</b>	<b>sd</b>	<b>Min</b>	<b>Max</b>	<b>n</b>
Reason political pressure: Preferred supplier was awarded contract directly	2.51	1.356	1	5	754
To achieve desired outcome – Consulted with certain suppliers	2.32	1.408	1	5	7,419
To achieve desired outcome – Made using the national language compulsory	3.30	1.625	1	5	7,419
To achieve desired outcome – Sent the Information Notice as late as possible	1.35	.784	1	5	7,419
To achieve desired outcome – Unticked the GPA box	1.64	.969	1	5	7,419
To achieve desired outcome – Given more points to your preferred supplier	1.35	.801	1	5	7,419
To achieve desired outcome – Given the current supplier who you are happy with more points	1.45	.868	1	5	7,419
To achieve desired outcome – Changed the award conditions after all tenders were received	1.13	.501	1	5	7,419



## Appendix D

### INDICATORS MULTIVARIATE ANALYSIS

The table below contains the indicators for public procurement distance and the corresponding questions that are referred to in Chapters 4 and 6.

TABLE D1

#### Indicators dependent variable

Indicator	Nr	Question
<b>Mandatory policy</b>		
Literal application of the rules	<b>4</b>	<b>Statement concerning your procurement activities:</b>
	4.6	I always implement procurement legislation literally
Project effects	<b>12</b>	<b>Indicate to what extent you agree or disagree with each of the following statements. In the tenders that you deal with, does the following ever occur:</b>
	12.1	The costs and risks of the projects to be tendered are underestimated
	12.2	The scope of the projects to be tendered is broader than necessary
	12.3	The turnaround times of the projects to be tendered are deliberately underestimated
End result	<b>4</b>	<b>Indicate to what extent you agree or disagree with each of the following statement. Statement concerning your procurement activities:</b>
	4.11	I am generally satisfied with the procurement result ("The supplier delivered what I expected to receive when I purchased it")
<b>Discretionary policy</b>		
Policy instruments	<b>7</b>	<b>Do you pay attention to the following social objectives in your tenders:</b>
	7.1	Sustainability
	7.2	Social return
	7.3	Innovation
	7.4	SME participation

<b>Cross border policy</b> Cross-border awarding	<b>16</b>	<b>Indicate to what extent you agree or disagree with this statement about procurement abroad: (across the borders of your own country but within the EU):</b>
	16.1	I sometimes award a tender to a supplier from another EU member state rather than one from my own country

The table below shows the expectations and corresponding questions used for measuring influence on public procurement distance that are referred to in Chapters 4 and 6.

TABLE D2

## Expectations &amp; questions independent variables

Nr	Expectation (chapter 3)	Nr	Question
1a	As a government organisation's procurement expertise increases, procurement distance decreases (capacity)	<b>3</b>	<b>Please indicate which of each of the following statements applies to you:</b>
		3.3	I use external (contracted) legal advisers
		3.4	I use external (contracted) procurement consultants during the tendering process
		3.5	I use internal (from my own organisation) legal advisers during the tendering process
		3.6	I use internal (from my own organisation) procurement consultants during the tendering process
1b	As collaboration between contracting authorities increases, public procurement distance decreases (collaboration)	<b>4</b>	<b>Indicate to what extent you agree or disagree with each of the following statements:</b>
		4.10	I work together with other contracting authorities as much as possible in order to be able to take advantage of joint procurement
2a	As procurement officers' tacit knowledge about procurement increases, procurement distance decreases (tacit knowledge)	<b>22</b>	<b>How many tendering projects do you supervise on average each year?</b>
		22.1	2 or fewer tenders
		22.2	3-5 tenders
		22.3	6-10 tenders
		22.4	11-20 tenders
		22.5	More than 20 tenders
		<b>25</b>	<b>How long have you worked with European tenders (seniority)?</b>
25.1	1 year or less		

Nr	Expectation (chapter 3)	Nr	Question
		25.2	1-3 years
		25.3	3-5 years
		25.	5-10 years
		25.5	Longer than 10 years
2b	As procurement officers are better trained, procurement distance decreases (formal knowledge)	<b>21</b>	<b>I have:</b>
		21.1	Followed additional procurement training aimed specifically at European procurement
		21.2	Followed additional procurement training but not specifically aimed at European procurement
		21.3	Learned about European procurement in practice without procurement training
3	As procurement officers' intrinsic motivation to serve the public interest increases, procurement distance decreases (intrinsic motivation)	<b>4</b>	<b>Indicate to what extent you agree or disagree with the following statement:</b>
		4.2	I take the public interest into consideration
4a	As policy discretion increases, public procurement distance increases (discretionary leeway)	4.1	I am able to steer the content of tenders in the direction I require
		4.7	Procurement legislation does not give me enough room to manoeuvre
4b	As procurement officers' influence on the procurement processes increases, procurement distance increases (public procurement officers)	<b>18</b>	<b>What is your profession:</b>
		18.1	Purchaser employed by a contracting authority
		18.3	Lawyer employed by the contracting organisation
		18.5	Contract manager
		18.6	In addition to my usual daily activities, I sometimes deal with procurement through tendering (parttime)
4c	As the own organisation's influence on the procurement processes increases, public procurement distance increases (own organisation)	<b>6</b>	<b>You release a tender but you cannot award it to a successful tenderer. This is because:</b>
		6.1	Because my employer wanted this
4d	As the influence of politics on the procurement processes increases, public procurement distance increases (politics)	6.3	Because there was political pressure to stop the tender

Nr	Expectation (chapter 3)	Nr	Question
4e	As the influence of market parties on the procurement process increases, the public procurement distance increases (market parties)	6.2	Because there was a threat of a complaint or legal proceedings by a potential supplier
4f	As the media's influence on the procurement processes increases, public procurement distance increases (media)	6.4	Because the media (radio, TV, newspaper, internet, social media) published information about the relevant tender
5a	Within the public sectors, the public procurement distance is smaller compared to the utility sectors (sector)		<ul style="list-style-type: none"> <li>– Public sector</li> <li>– Utilities</li> </ul>
5b	Public procurement distance is greater at the municipal level than at the regional or national level (public administration tier)		<ul style="list-style-type: none"> <li>– National level</li> <li>– Regional level</li> <li>– Municipal level</li> </ul>
5c	In countries that belong to the world of law observance, procurement distance is smaller than in countries that belong to other worlds (compliance)		<ul style="list-style-type: none"> <li>– Law observance: Denmark, Finland, Sweden</li> <li>– Domestic politics: Austria, Belgium, Germany, the Netherlands, Spain, United Kingdom</li> <li>– Transposition neglect: France, Greece, Luxembourg, Portugal</li> <li>– Dead letters: Czech Republic, Ireland, Italy, Hungary, Slovakia, Slovenia</li> </ul>
5d	In Northern European countries, public procurement distance is smaller compared to Eastern, Western, Southern and Central European countries (geography)		<ul style="list-style-type: none"> <li>– North: Denmark; Finland; Sweden</li> <li>– West: Austria, Belgium, France, Germany, Ireland, Luxembourg, the Netherlands, United Kingdom</li> <li>– South: Cyprus, Greece, Italy, Malta, Portugal, Slovenia, Spain</li> <li>– Central: Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia</li> <li>– East: Estonia, Latvia, Lithuania</li> </ul>
5e	In countries with unitary administration systems, public procurement distance is smaller compared to countries with federal administration systems (public administration system)		<ul style="list-style-type: none"> <li>– Unitary: Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, United Kingdom</li> <li>– Federal: Austria, Belgium, Germany, Spain</li> </ul>

## Appendix E

# MEASURING EUROPEAN PUBLIC PROCUREMENT POLICY

This appendix contains the frequency tables that are referred to in Chapter 6.

TABLE E1  
Measuring mandatory public procurement policy

Dependent variable ⇔ ↓ Independent variables	Literal application of the rules			Project effects			End result		
	Always apply procure- ment regulations literally			Project effects factor			Satisfaction with the pro- curement result		
Administrative organisation	<i>b</i>	<i>b*</i>	(S.E.)	<i>b</i>	<i>b*</i>	(S.E.)	<i>b</i>	<i>b*</i>	(S.E.)
<b>Capacity (expectation 1a)</b>									
External legal advisors	.011	.016	.011	.004	.006	.011	-.009	-.016	.009
External procurement advisors	-.016	-.022	.011	.024	.034	.011	-.013	-.022	.010
Internal legal advisors	.016	.023	.010	-.016	-.024	.010	-.011	-.019	.009
Internal procurement advisors	.017	.026	.010	.020	.032	.010	.001	.002	.008
<b>Collaboration (expectation 1b)</b>									
collaboration between contracting authorities	-.007	-.008	.011	.045	.059***	.011	.079	.119***	.009
<b>Professionalism</b>									
<b>Tacit knowledge (expectation 2a)</b>									
3-5 tenders dummy	-.076	-.032	.037	.129	.056**	.037	-.008	-.004	.032
6-10 tenders dummy	-.119	-.043**	.043	.124	.046**	.043	-.022	-.009	.037
11-20 tenders dummy	-.085	-.029	.046	.113	.039	.046	.021	.008	.040
More than 20 tenders dummy	.011	.005	.042	.239	.102***	.042	.022	.011	.036
1-3 years' seniority dummy	-.018	-.005	.073	.048	.013	.074	.112	.034	.064
3-5 years' seniority dummy	-.029	-.011	.064	-.024	-.009	.065	.101	.045	.056
5-10 years' seniority dummy	.014	.006	.061	.006	.003	.061	.113	.064	.053
More than 10 years' seniority dummy	.041	.019	.061	-.037	-.018	.062	.157	.089**	.054

<b>Formal knowledge (expectation 2b)</b>									
Procurement training dummy	.065	.029	.034	-.070	-.032	.035	.113	.060***	.030
Solely procurement training dummy	-.053	-.023	.034	-.029	-.013	.034	.067	.034	.030
<b>Professionalism and intrinsic motivation</b>									
<b>Serving the public interest (expectation 3)</b>									
Serving the public interest	.109	.113***	.013	.003	.003	.013	.064	.080***	.011
<b>Policy discretion actors</b>									
<b>Discretionary leeway (expectation 4a)</b>									
Being allowed to steer tender procedures in terms of content	-.068	-.085***	.011	.073	.094***	.011	.052	.077***	.010
Public procurement regulations allow little discretionary leeway	.028	.032	.011	.088	.106***	.011	-.057	-.079***	.010
<b>Public procurement officers (expectation 4b)</b>									
Procurement officers dummy	.019	.009	.032	.040	.020	.032	.067	.038	.028
Lawyers (internal) dummy	-.107	-.028	.053	.122	.033	.053	-.077	-.024	.046
Contract managers dummy	.048	.016	.043	.033	.011	.044	-.054	-.021	.038
<b>Culture and segmentation</b>									
<b>Sector (expectation 5a)</b>									
Public sectors dummy	-.048	-.017	.039	.049	.018	.040	-.036	-.015	.034
<b>Public administration tier (expectation 5b)</b>									
National dummy	.030	.012	.035	.014	.006	.035	.002	.001	.030
Regional dummy	-.024	-.009	.038	-.012	-.005	.038	-.033	-.014	.033
<b>Compliance (expectation 5c)</b>									
Domestic politics dummy	-.812	-.400***	.091	.169	.086	.092	-.063	-.037	.079
Transposition neglect dummy	-.164	-.058	.086	.223	.081	.087	-.041	-.017	.075
Dead letters dummy	-.339	-.118***	.066	.297	.108***	.066	.017	.007	.057
<b>Geography (expectation 5d)</b>									
West dummy	.350	.174***	.091	-.129	-.067	.092	.070	.041	.080
East dummy	-.220	-.037**	.083	.166	.029	.084	.128	.026	.073
South dummy	.648	.238***	.084	-.407	-.155***	.084	-.032	-.014	.073
Central dummy	.554	.186***	.058	-.150	-.052	.059	-.185	-.074***	.051
<b>Public administration system (expectation 5e)</b>									
Unitary countries dummy	-.381	-.172***	.046	.091	.043	.047	-.001	.000	.040

(\*\*p&lt;.01, \*\*\*p&lt;.001)

TABLE E2  
Measuring discretionary strategic policy instruments

Dependent variable ⇨ ⇩ Independent variables	Discretionary policy instruments											
	Sustainability			Social return			Innovation			SME participation		
Administrative organisation	b	b*	(S.E.)	b	b*	(S.E.)	b	b*	(S.E.)	b	b*	(S.E.)
<b>Capacity (expectation 1a)</b>												
External legal advisors	-0.034	-0.047**	.011	-0.032	-0.040**	.012	-0.039	-0.056***	.011	-0.027	-0.035	.012
External procurement advisors	.004	.005	.011	-0.001	-0.001	.012	.012	.017	.011	-0.035	-0.044**	.012
Internal legal advisors	-0.020	-0.029	.010	-0.021	-0.029	.011	-0.045	-0.069***	.010	-0.001	-0.002	.011
Internal procurement advisors	-0.033	-0.051**	.010	-0.021	-0.030	.011	-0.014	-0.023	.010	-0.000	.000	.011
<b>Collaboration (expectation 1b)</b>												
collaboration between contracting authorities	-0.023	-0.029	.011	-0.043	-0.051***	.012	-0.033	-0.044**	.011	-0.033	-0.039**	.012
<b>Professionalism</b>												
<b>Tacit knowledge (expectation 2a)</b>												
3-5 tenders dummy	-0.102	-0.043**	.038	-0.093	-0.036	.040	-0.067	-0.030	.037	-0.146	-0.057***	.040
6-10 tenders dummy	-0.079	-0.028	.044	-0.125	-0.041**	.047	-0.056	-0.021	.042	-0.270	-0.090***	.047
11-20 tenders dummy	-0.055	-0.018	.047	-0.169	-0.052**	.050	-0.031	-0.011	.046	-0.220	-0.069***	.050
More than 20 tenders dummy	-0.003	-0.001	.043	-0.068	-0.026	.046	.010	.004	.041	-0.352	-0.134***	.045
1-3 years' seniority dummy	-0.155	-0.040	.075	-0.038	-0.009	.080	-0.110	-0.029	.073	-0.045	-0.011	.080
3-5 years' seniority dummy	-0.163	-0.060	.066	-0.032	-0.011	.070	-0.084	-0.033	.064	-0.029	-0.010	.070
5-10 years' seniority dummy	-0.172	-0.081**	.062	-0.057	-0.025	.066	-0.096	-0.047	.060	.040	.017	.066
More than 10 years' seniority dummy	-0.186	-0.089**	.063	-0.048	-0.021	.067	-0.112	-0.056	.061	.006	.003	.067
<b>Formal knowledge (expectation 2b)</b>												
Procurement training dummy	-0.123	-0.055***	.035	-0.120	-0.049**	.038	-0.119	-0.055***	.034	-0.079	-0.033	.037
Solely procurement training dummy	-0.080	-0.034	.035	-0.061	-0.024	.037	-0.062	-0.028	.034	.005	.002	.037
<b>Professionalism and intrinsic motivation</b>												
<b>Serving the public interest (expectation 3)</b>												
Serving the public interest	-0.080	-0.083***	.013	-0.117	-0.113***	.014	-0.047	-0.051***	.013	-0.036	-0.035	.014

<b>Policy discretion actors</b>												
<b>Discretionary leeway (expectation 4a)</b>												
Being allowed to steer tender procedures in terms of content	-.008	-.010	.011	.003	.004	.012	-.019	-.025	.011	-.027	-.031	.012
Public procurement regulations allow little discretionary leeway	.035	.040**	.011	.028	.029	.012	.036	.043**	.011	.014	.015	.012
<b>Public procurement officers (expectation 4b)</b>												
Procurement officers dummy	.104	.050**	.033	.020	.009	.035	.137	.068***	.032	-.107	-.048**	.035
Lawyers (internal) dummy	.122	.032	.054	.013	.003	.058	.090	.025	.052	.080	.020	.058
Contract managers dummy	.049	.016	.044	-.062	-.019	.047	.021	.007	.043	.009	.003	.047
<b>Culture and segmentation</b>												
<b>Sector (expectation 5a)</b>												
Public sectors dummy	-.004	-.001	.040	-.143	-.046**	.043	.067	.025	.039	-.080	-.026	.043
<b>Public administration tier (expectation 5b)</b>												
National dummy	.085	.034	.035	.140	.052***	.038	-.046	-.019	.034	-.051	-.019	.038
Regional dummy	.050	.018	.039	.049	.016	.041	-.063	-.024	.038	-.024	-.008	.041
<b>Compliance (expectation 5c)</b>												
Domestic politics dummy	-.406	-.200***	.093	-.925	-.419***	.099	-.333	-.171***	.090	-.457	-.209***	.099
Transposition neglect dummy	.119	.042	.088	-.210	-.068	.094	.211	.077	.085	-.087	-.029	.094
Dead letters dummy	-.329	-.114***	.067	-.365	-.117***	.072	-.262	-.095***	.065	-.159	-.051	.072
<b>Geography (expectation 5d)</b>												
West dummy	.183	.091	.093	.247	.113	.099	-.160	-.083	.090	.280	.129**	.099
East dummy	.333	.056***	.085	.017	.003	.091	-.073	-.013	.083	.288	.045**	.091
South dummy	.685	.251***	.086	.043	.014	.092	-.005	-.002	.083	.848	.289***	.091
Central dummy	.641	.215***	.059	.231	.071***	.064	.292	.102***	.058	.439	.137***	.063
<b>Public administration system (expectation 5e)</b>												
Unitary countries dummy	-.133	-.060**	.047	-.825	-.343***	.050	-.174	-.082***	.046	.021	.009	.050

(\*\*p&lt;.01, \*\*\*p&lt;.001)

TABLE E3  
Measuring discretionary cross-border policy

<b>Discretionary cross-border procurement</b>			
<b>Dependent variable</b> ⇔	Cross-border awarding		
↓ <b>Independent variables</b>	<b>b</b>	<b>b*</b>	<b>(S.E.)</b>
<b>Administrative organisation</b>			
<b>Capacity (expectation 1a)</b>			
External legal advisors	.005	.006	.015
External procurement advisors	-.018	-.019	.015
Internal legal advisors	.042	.046**	.014
Internal procurement advisors	.017	.020	.013
<b>Collaboration (expectation 1b)</b>			
collaboration between contracting authorities	.018	.017	.015
<b>Professionalism</b>			
<b>Tacit knowledge (expectation 2a)</b>			
3-5 tenders dummy	.019	.006	.051
6-10 tenders dummy	.081	.022	.059
11-20 tenders dummy	.062	.015	.063
More than 20 tenders dummy	.212	.064***	.057
1-3 years' seniority dummy	-.141	-.027	.101
3-5 years' seniority dummy	-.069	-.019	.088
5-10 years' seniority dummy	-.027	-.009	.083
More than 10 years' seniority dummy	-.028	-.010	.084
<b>Formal knowledge (expectation 2b)</b>			
Procurement training dummy	.095	.031	.047
Solely procurement training dummy	.131	.042**	.047
<b>Professionalism and intrinsic motivation</b>			
<b>Serving the public interest (expectation 3)</b>			
Serving the public interest	.111	.085***	.018
<b>Policy discretion actors</b>			
<b>Discretionary leeway (expectation 4a)</b>			
Being allowed to steer tender procedures in terms of content	.014	.013	.015
Public procurement regulations allow little discretionary leeway	-.005	-.004	.015

<b>Public procurement officers (expectation 4b)</b>			
Procurement officers dummy	.024	.009	.044
Lawyers (internal) dummy	.293	.057***	.072
Contract managers dummy	.061	.015	.060
<b>Culture and segmentation</b>			
<b>Sector (expectation 5a)</b>			
Public sectors dummy	-.317	-.083***	.054
<b>Public administration tier (expectation 5b)</b>			
National dummy	.183	.055***	.047
Regional dummy	.068	.018	.052
<b>Compliance (expectation 5c)</b>			
Domestic politics dummy	.278	.101	.125
Transposition neglect dummy	.577	.151***	.118
Dead letters dummy	-.304	-.078**	.090
<b>Geography (expectation 5d)</b>			
West dummy	.267	.098	.125
East dummy	.421	.052***	.115
South dummy	.398	.108**	.115
Central dummy	.077	.019	.080
<b>Public administration system (expectation 5e)</b>			
Unitary countries dummy	-.161	-.054	.063

(\*\*p<.01, \*\*\*p<.001)

TABLE E4

## Correlation coefficients European public procurement policy

	Always apply pro- curement regulations literally	Costs and risks stated too low and too optimistically	Scope made greater than actually necessary	Lead times are delib- erately estimated too low	Satisfaction with the procurement result	Sustainability	Social return	Innovation	SME participation	Cross-border awarding
Always apply pro- curement regulations literally										
Costs and risks stated too low and too optimistically	-.123**									
Scope made greater than actually necessary	-.120**	.521**								
Lead times are delib- erately estimated too low	-.122**	.468**	.518**							
Satisfaction with the procurement result	.090**	-.060**	-.052**	-.070**						
Sustainability	.050**	-.029*	-.010	-.004	-.069**					
Social return	-.013	.007	-.029*	-.004	-.054**	.445**				
Innovation	.029**	-.003	-.017	-.004	-.074**	.589**	.491**			
SME participation	.046**	-.056**	-.031**	-.012	-.074**	.410**	.350**	.368**		
Cross-border awarding	-.017	.066**	.052**	.038**	-.004	-.004	-.018	-.017	.022	

\*p&lt;.05, \*\*p&lt;.01



## Samenvatting

### AANBESTEDINGSAFSTAND

*Een analyse van de uitvoering van het Europese aanbestedingsbeleid in de 27 lidstaten van de Europese Unie*

Als het Europese inkoopbeleid niet naar de letter uitgevoerd wordt ontstaat er verschil tussen de beoogde beleidsdoelstellingen met uitvoering daarvan, dit wordt in deze studie *aanbestedingsafstand* genoemd. Het resulteert in aanbestedingsuitkomsten die niet overeenkomen met het beleid en daardoor leiden tot tekortkomingen op maatschappelijk, politiek, beleidsmatig en economisch gebied. Aanbestedingsafstand is een hardnekkig probleem ondanks diverse pogingen van de Europese Commissie om deze problematiek op te lossen. Het doel van dit onderzoek is om mogelijke verklaringen voor dit verschil tussen beoogd inkoopbeleid en uitvoering daarvan op te stellen.

Het Europese inkoopbeleid bestaat uit 3 onderdelen. Het eerste onderdeel is een *verplicht* uit te voeren uniform wettelijk inkoopkader waarmee overheden in de lidstaten goederen, diensten en werken kunnen aanschaffen. Voor wat betreft dit beleid zijn er hardnekkige klachten over te hoge administratieve lastendruk, gebrek aan transparantie en te grote complexiteit van de regelgeving. Ook speelt gebrek aan kennis en professionaliteit bij medewerkers van aanbestedende diensten een rol. Beïnvloeding door allerlei externe belanghebbenden afkomstig uit politiek, maatschappelijke groeperingen, zakenwereld en media, is eveneens van betekenis.

Daarnaast is er facultatief strategisch inkoopbeleid dat in principe op *vrijwillige basis* uitgevoerd wordt. Dit omvat onderwerpen op het gebied van duurzaamheid, social return, innovatie en het stimuleren van participatie in overheidsopdrachten van kleine tot middelgrote ondernemingen. Op dit gebied zijn er eveneens hardnekkige problemen omdat lidstaten dit beleid niet of maar ten dele inzetten.

Het derde onderdeel van het Europese inkoopbeleid is *grensoverschrijdend* aanbesteden. Dit heeft tot doel inkopen in andere lidstaten dan het eigen land op de geharmoniseerde Europese markt te stimuleren. Het slechten van handelsbarrières ten gunste van grensoverschrijdend inkopen is altijd een essentieel beleidsonderdeel van de Europese Commissie geweest. Grensoverschrijdend inkopen en contracteren gebeurt desondanks in maar enkele procenten van het

totale inkoop- en contractvolume. Ook voor dit onderdeel van het Europese inkoopbeleid is uitvoering dan ook problematisch.

Om deze problematiek te onderzoeken is de volgende centrale onderzoeksvraag opgesteld: *wat kan afstand tussen het vooraf vastgestelde Europese inkoopbeleid met uitvoering daarvan in de 27 lidstaten van de Europese Unie verklaren?*

Om deze vraag te beantwoorden zijn twee verschillende denkrichtingen gekozen die binnen de literatuur worden gehanteerd. De eerste is organisatiegericht. Hierbij vindt besluitvorming rationeel en gecoördineerd plaats. De tweede is een denkrichting waarbij organisaties als instituties beschouwd worden waarin allerlei normatieve menselijke interacties beleidsuitvoering beïnvloeden. Vanuit deze twee bredere denkrichtingen zijn verschillende verklaringen opgesteld over waarom aanbestedingsafstand kan ontstaan.

Op basis van de organisatiegerichte richting moeten inkopende organisaties om hun doelstellingen te realiseren de nodige capaciteit op het gebied van mensen en middelen ter beschikking hebben. Samenwerking met andere inkopende diensten is hierin een tweede manier om voldoende capaciteit te realiseren. Meer capaciteit en samenwerking kunnen leiden tot het verminderen van aanbestedingsafstand.

Vanuit de meer institutioneel normatieve richting zijn verschillende aspecten onderscheiden die relevant kunnen zijn. De eerste is *professionaliteit*. Dit richt zich op het functioneren van beleidsuitvoerders *binnen* organisaties vanuit hun manier van handelen. Daarbij wordt verwacht dat professionaliteit kan bijdragen aan het zodanig uitvoeren van de verschillende taken dat dit uitvoering van het vooraf beoogde beleid ondersteunt vanuit opgedane kennis en praktijkervaring. Het gaat in dit kader ook over ideologie, hierbij staat intrinsieke motivatie om de publieke zaak te willen dienen centraal.

Het tweede aspect binnen deze normatieve richting is *beleidsvrijheid*. Dit is de ruimte die actoren nemen om beleid op bepaalde onderdelen zelf in te vullen. In dit onderzoek zijn met name onderzocht: aanbestedingsmedewerkers (inkopers, juristen, contractmanagers, inkoop- en juridische adviseurs en parttime aanbestedingsmedewerkers), eigen organisatie (aangebestede dienst), politiek (democratisch gekozen bestuur op centraal, regionaal en lokaal niveau), marktpartijen (commerciële opdrachtnemers die overheidsopdrachten willen uitvoeren) en media.

Als laatste is binnen de normatieve denkrichting *cultuur en segmentering* onderzocht. Dit is gebaseerd op het feit dat inkoop ingebed is in een gelaagde structuur. Terwijl het inkoopbeleid op Europees niveau is geformuleerd, wordt de eigenlijke verwerving uitgevoerd door overheidsorganisaties die op nationaal, regionaal of lokaal niveau functioneren. Dit betekent dat met betrekking tot het

Europese inkoopbeleid de ‘uitvoeringscultuur’ niet noodzakelijkerwijs dezelfde hoeft te zijn in de verschillende segmenten, regio’s of landen.

Om de verwachtingen over hoe aanbestedingsafstand kan ontstaan te onderzoeken is gebruik gemaakt van een survey onder aanbestedingsmedewerkers binnen publieke inkopende organisaties. Het gaat hierbij om medewerkers uit 27 lidstaten die hun aanbestedingen hebben gepubliceerd op een centrale Europese publicatiewebsite voor overheidsopdrachten. Dit resulteerde in een dataset met in totaal 11.796 observaties die voor de empirische analyses is gebruikt. De response op deze survey was 52%. Uit het onderzoek komen drie onafhankelijke factoren die invloed hebben op aanbestedingsafstand. Deze zijn *intrinsieke motivatie* van inkopers, dit is een factor die gerelateerd is aan professionaliteit. Binnen het aspect van beleidsvrijheid zijn *handelingsruimte* en *actoren* eveneens van invloed.

*Intrinsieke motivatie* speelt een rol in de zin dat dit tot minder aanbestedingsafstand leidt voor wat betreft het *verplicht* uit te voeren Europese inkoopbeleid. Dat geldt ook voor het beleid ten aanzien van het stimuleren van grensoverschrijdend gunnen. Respondenten zijn in het algemeen gemotiveerd om de publieke zaak te dienen en het wettelijke kader stimuleert dit nog meer. Voor het *facultatieve* beleid is invloed van intrinsieke motivatie om de publieke zaak te willen dienen echter negatief.

Als de *handelingsruimte* aanwezig is om aanbestedingen inhoudelijk te kunnen sturen leidt dit weliswaar tot meer aanbestedingsafstand in de uitvoering van het verplichte beleid maar ook tot een enigszins beter gepercipieerd eindresultaat. Weinig handelingsruimte leidt daarentegen tot een minder goed eindresultaat voor het verplichte beleid en tot iets meer inzet van facultatief inkoopbeleid. Pragmatisch kunnen handelen op het moment dat een onvoorziene situatie zich voordoet zorgt ervoor dat aanbestedingsafstand beperkt wordt. Dit komt omdat inkoopregels tijdens de uitvoering zo geïnterpreteerd worden door inkopers dat zij volgens hen beter toepasbaar worden.

De derde factor betreft *actoren* die bij de inkoop betrokken zijn en daarmee met hun belangen een stempel op de inkoop kunnen plaatsen. Het gaat dan om aanbestedingsmedewerkers, eigen organisatie, politiek en marktpartijen. ‘Projecteffecten’ zijn daarvan een uitkomst en komen volgens de respondenten regelmatig voor. Hierbij gaat het vooral om het bewust onderschatten van projectkosten en te optimistisch zijn over het beoogde projectresultaat. Ook zijn steeds verder laten uitdijen van omvang, grootte en complexiteit en bewust onderschatten van doorlooptijd en andere planmatige aspecten van projecten relevant.

Uit het onderzoek komt verder naar voren dat uitvoering van het Europese inkoopbeleid in de lidstaten onderling niet wezenlijk verschilt. Een andere bevinding is dat implementatie van het inkoopbeleid niet anders is dan ander

overheidsbeleid in de zin dat oorspronkelijke beleidsdoelstellingen kunnen afwijken van de uitvoering daarvan. Een deel van het inkoopbeleid gaat uit van vrijwillige inzet door individuele aanbestedingsmedewerkers. Uitvoering is daardoor in zekere mate afhankelijk van degene die de inkoper instrueert, maar vooral van de intrinsieke motivatie van de betreffende individuele aanbestedingsmedewerker. Dit heeft tot gevolg dat de rol van het individu in de ontwikkeling van het inkoopbeleid van groot belang is.

## Summary

### PUBLIC PROCUREMENT DISTANCE

*Analysing European public procurement policy implementation in 27 EU member states*

If the European procurement policy is not implemented to the letter, a discrepancy arises between the intended policy objectives and their realisation, referred to in this study as *public procurement distance*. This means that the procurement outcomes do not align with policy and thus fall short in social, political, policy, and economic terms. Public procurement distance is a wicked problem despite several attempts by the European Commission to solve it. This study aims to identify possible explanations for this difference between intended public procurement policy and its implementation.

European procurement policy comprises three components. The first component is a *mandatory* and uniform statutory procurement framework whereby governments in the member states can purchase goods, services, and works. Where this policy is concerned, there are persistent complaints about excessive administrative burdens, a lack of transparency, and overly complex regulations. A lack of knowledge and professionalism among contracting authorities' employees also plays a role. Furthermore, an array of external stakeholders from politics, social groups, the business world, and the media exert considerable influence.

Next is discretionary strategic public procurement policy, which is essentially implemented on a *voluntary* basis. This covers topics in the fields of sustainability, social return, innovation, and encouraging small- to medium-sized companies to participate in public contracts. There are also wicked problems in this area because member states do not or only partially utilise these policies.

The third component of European public procurement policy is *cross-border* tendering, aiming to encourage procurement abroad in other member states in the harmonised European market. While breaking down trade barriers in favour of cross-border procurement has always been a key policy of the European Commission, only a small percentage of the total procurement and contracting volume can be said to result from cross-border tendering and contracting procedures. Implementation is clearly also problematic for this element of European public procurement policy.

To investigate these problems, the following central research question was formulated: *What can explain the distance between pre-established European public procurement policy and its implementation in the 27 EU member states?*

Two different lines of thought were selected from the literature to answer this question. The first is the perspective of administrative organisation, in which decisions are made in a rational and coordinated way. The second is a school of thought where organisations are considered as institutions in which various normative human interactions influence policy implementation. From these two broader lines of thought, various explanations were set out concerning why public procurement distance might arise.

From the perspective of administrative organisation, contracting organisations must have the necessary capacity in terms of people and resources available to achieve their objectives. Collaboration with other contracting authorities is another way to achieve sufficient capacity. Increased capacity and collaboration might lead to reducing public procurement distance.

From the more institutionally normative perspective, various aspects have been distinguished that could be relevant. The first is *professionalism*, focusing on the performance of policy implementers *within* organisations and their practices. It is expected that professionalism can contribute to the implementation of the various tasks in such a way that this is supportive of implementing the intended policy based on knowledge and practical experience. In this context, it also concerns ideology, with intrinsic motivation to serve the public interest taking centre stage.

The second aspect of this normative perspective is *policy discretion*, reflecting the leeway that actors use to interpret and implement their own policy in certain areas. This study in particular examines public procurement staff (procurement officers, lawyers, contract managers, procurement and legal advisers, and part-time procurement officers), one's own organisation (contracting authority), politics (democratically elected public administrations at the central, regional, and local levels), market parties (commercial contractors who want to carry out public contracts), and media.

The final aspect within the normative perspective is *culture and segmentation*, based on the fact that procurement is embedded in a layered structure. While public procurement policy is established at the European level, the actual procurement is executed by governmental organisations functioning at the local, regional, or national level. This means that regarding European procurement policy, the 'implementation culture' does not necessarily have to be the same across the different segments, regions, or countries.

A survey was conducted among procurement staff within publicly contracting organisations to investigate expectations about how public procurement distance

can arise. This involved employees from 27 member states who had published their calls for tenders on a central European publication website for public contracts, resulting in a dataset with a total of 11,796 observations (a response rate of 52%) that was subsequently used for the empirical analyses. The study reveals three independent factors that influence public procurement distance: the *intrinsic motivation* of procurement officers, which is a factor related to professionalism; as well as *discretionary leeway* and *actors*, which are both elements of policy discretion.

*Intrinsic motivation* plays a role in the sense that it leads to less public procurement distance when it concerns the *mandatory* European procurement policy to be implemented. The same applies to the policy on encouraging cross-border awarding. Respondents are generally motivated to serve the public interest, and the legal framework encourages this even more. However, for the *discretionary* policy, the influence of intrinsic motivation to want to serve the public interest is negative.

If there is *discretionary leeway* to manage tender procedures in terms of content, this leads to more public procurement distance in the implementation of mandatory policy, as well as a slightly better perceived end result. On the other hand, limited discretionary leeway leads to a less favourable outcome for the mandatory policy and slightly increased deployment of discretionary policy instruments. Being able to act pragmatically when an unforeseen situation arises ensures that the public procurement distance remains limited because procurement officers interpret procurement rules in such a way that they believe they become more applicable in implementation.

The third factor concerns *actors* who are involved in the procurement process and can therefore place their stamp on the contract in line with their own interests. These include procurement officers, one's own organisation, politicians, and market parties. 'Project effects' are a result of this and – according to the respondents – regularly occur. This mainly involves deliberately underestimating project costs and being overly optimistic about the intended project outcome. Projects' ever-expanding scope, size, and complexity, deliberately underestimating lead time, and other planning aspects are also relevant factors.

The study further reveals that the implementation of European procurement policy does not substantially differ across member states. Another finding is that implementing public procurement policy is no different from other government policies in the sense that original policy objectives might deviate from their realisation. Given that part of public procurement policy relies on voluntary efforts by individual procurement staff, implementation is somewhat dependent on the person who instructs the individual procurement officer concerned, and mostly the latter's intrinsic motivation. As a result, the role of the individual in developing public procurement policy holds strong importance.



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# INDEX

## A

---

- Administration system
  - Central government 23, 42, 56, 61, 80
  - Centrally governed countries 61
  - Federal administration system 61-62, 80, 110, 112, 117, 122-124, 172
  - Unitary administration system 61-62, 80, 112, 117, 120, 122-124, 172, 174, 176, 178
- Administrative organisation
  - Capacity 14, 19-20, 41-44, 56-57, 61-62, 75-76, 99, 105-106, 112-113, 118, 123-124, 134-135, 137, 141, 170, 173, 175, 177, 186
  - Capacity constraints 42
  - Capacity gap 42-43
  - Capacity strengthening 20, 42-43
  - Collaboration 19-20, 29, 41-44, 52-53, 62, 75-76, 87, 89, 105-106, 112-113, 118, 123-124, 137, 162, 170, 173, 175, 177, 186
  - Expertise 20, 42-43, 45, 56, 62, 66, 76, 105, 113, 118, 123-124, 135, 170
  - Financial resources 15, 42-43
  - Joint tendering 105, 165, 170
  - Network-oriented approach 20, 43
  - Non-compliance 20, 42, 50-51, 53
  - Procurement consortia 43
  - Resources 15-16, 20, 24, 30, 41-44, 57, 61, 89, 105, 134-135, 141, 186
  - Rule interpretation 20, 42, 50
  - Transparency 14-15, 20, 25-26, 42, 59-60, 131, 141, 185
  - Unclear rules 20, 42
- Alienation 133, 140
- Austria 19, 34, 58, 60-61, 68, 73, 80, 88, 110-112, 116-117, 153, 172

## B

---

- Basic principles
  - Equality 18, 25, 53, 59, 95, 131
  - Non-discrimination 25-26, 131
  - Proportionality 25-26, 132
  - Transparency 14-15, 20, 25-26, 42, 59-60, 131, 141, 185
- Belgium 19, 58, 60-61, 68, 73, 80, 110-112, 116-117, 153, 172
- Bulgaria 19, 60, 66, 68, 80, 111-112, 117, 153, 172

## C

---

- Central question 16-17, 20, 72, 127-130, 139, 186
- Compliance culture
  - Dead letters 58, 80, 111, 116, 120-121, 172, 174, 176, 178
  - Domestic politics 58, 80, 111, 116, 120, 172, 174, 176, 178
  - Enforcement 19, 31, 42, 49, 57
  - Enforcement styles 57
  - Law observance 58, 62, 79-80, 110-111, 116, 121, 123-124, 172
  - Transposition neglect 58, 80, 120-121, 172, 174, 176, 178
  - Worlds of compliance 57-58
- Concessions 18, 39
- Corruption
  - Favouritism 51, 90, 129, 148, 159, 166
  - Fraud 53-54
  - Misconduct 54
  - Price-fixing agreements 53
- Costs
  - Overestimating 26
  - Underestimating 26, 93, 187
- Court of Justice of the European Union (CJEU)
  - Case law 27, 86-88, 132, 135, 147

Codification 88, 132  
 Covid-19 pandemic 24  
 Croatia 19, 65  
 Cross border procurement  
   Competitive 34, 43, 59, 128  
   Country 13, 17, 19, 24, 31, 33-35, 67-68, 111, 118, 121, 150-151, 161, 165, 170  
   Cross border 13-15, 18, 21, 23-24, 27, 29-30, 33-35, 37, 40, 55-58, 74-75, 87, 96-97, 99-101, 103, 118-122, 124-125, 127-128, 132, 134, 137, 139, 150, 161, 170, 177, 179, 185, 187  
   Cross-border trading platform 24  
   Definition of 33-34  
   English language 66, 100, 128, 136, 139, 151, 161, 165  
   Free cross-border trade 40  
   Globalisation 35  
   Harmonised market between member states 13, 33-35, 99-100, 103, 106, 139, 185  
   Indirect 34  
   Integration 15  
   Language problems 100  
   Local branch 34

Member states 13-15, 19, 23-31, 34-35, 48, 55, 57-61, 65-67, 71, 73, 79-80, 85, 99, 103, 106, 111-112, 116-117, 121-122, 125, 127, 134, 137, 139, 145, 153, 185-187  
 Production chains 35  
 Type of directive 34  
 Culture  
   Areas 41, 55  
   Assumptions 21, 55  
   Common implementation practice 55  
   Countries 41, 55, 57-58, 60-62, 73, 79, 110-112, 116-117, 120-124, 137, 172, 174, 176, 178, 186  
   Cultural differences 20  
   Definition of 21, 55  
   Groups 21, 41, 55, 57-58, 80, 112, 121, 185  
   Judgements 21, 55  
   Segmentation 55-56, 65, 71, 79-80, 110-111, 116-117, 119-120, 174, 176, 178, 186  
   Values 20-21, 55, 110, 120  
 Cyprus 19, 23, 60, 68, 80, 111-112, 117, 121, 153, 172  
 Czech Republic 19, 58, 60, 68, 73, 80, 111-112, 116-117, 153, 172

## D

Defence 18, 152, 156  
 Denmark 19, 58, 60, 68, 73, 80, 110-112, 116, 121, 153, 172  
 Digitalization 29  
 Directives  
   Central governmental authorities 23  
   Classical 18, 23, 37, 55  
   Decentralised governmental authorities 23  
   European public procurement directives 27, 34, 49, 56, 88, 132, 135, 137  
   Infrastructural works 13, 56, 103  
   Services 13, 23-25, 34, 39, 55, 66, 83, 93, 103, 119, 131, 135, 147, 150, 152, 155-156, 160, 164, 185  
   Supplies 13, 17, 23-24, 33-34, 55, 66, 83, 93, 131, 147, 150, 152, 155, 160, 164  
   Public sectors 18, 23, 34, 55, 79, 83, 110, 120, 123-124, 172, 174, 176, 178  
   Utilities 18, 23, 34, 55-56, 62, 66, 79, 83, 110, 120, 123-124, 147, 151-152, 155, 157, 172  
   Works 13, 17, 23-24, 34, 52, 54-56, 66, 93, 103, 131, 135, 147, 150, 152, 155, 160, 164, 185  
 Discretionary public procurement

Burdensome 15, 28  
 Costs 28, 32, 101, 116, 128, 149-150, 160  
 Delays 28, 109, 116  
 Deployment 27, 33-34, 74, 97-99, 113, 115-117, 125, 127-128, 132, 134, 137-138, 187  
 Discretionary leeway  
   Discretionary policies 14-15, 21, 23, 28-29, 38-40, 91, 97, 99, 127, 132-133, 136, 141  
   Leeway 16, 20, 41, 47-50, 61-62, 72, 78, 108-109, 112, 114-115, 119, 123-125, 127-128, 130, 136-137, 171, 174, 176-177, 186-187  
   Limited discretionary leeway 115, 128, 187  
 Economic objectives 18, 28  
 Economy 29  
 Financial value 27, 29  
 Goodwill 38  
 Humanity 29  
 Inadequate ad-hoc pragmatic solution orientation 130  
 Insufficient political support 15  
 Lack of financial resources 15  
 Legal aspects 15  
 Policy weight 28-29, 99

Resistance to change 15  
 Restrictive regulations 15  
 Risk avoidance 15  
 Society 24, 29, 40, 98, 133, 149, 160, 164  
 Voluntary policy implementation 48, 99, 185

## Dummies

Dummy variables 71, 76-80, 104, 106-108, 110, 114, 120, 173-178  
 Nominal scale 71

## E

Estonia 19, 60, 66, 68, 80, 111-112, 121, 153, 172  
 European Commission  
 1992 15, 87  
 2004 15, 34  
 2014 15, 18, 26, 29, 33, 105  
 2024 15, 25  
 Commission 14-15, 17-20, 23-34, 59, 69, 73, 90, 99, 105-106, 134-139, 185  
 Europe 27, 57, 59-61, 72-73, 141  
 European procurement policy  
 Administrative burden 14-15, 56, 135, 185  
 Agenda for future research 127, 139  
 Competition 14, 28, 50, 52, 59-60, 92, 97, 99, 132  
 Complex regulations 14, 51, 78, 135, 185  
 Contracting authorities 13, 15, 19-20, 25, 31, 33-34, 43-44, 48, 50-51, 55-56, 62, 66, 69, 72, 76, 84-86, 89, 105-106, 113, 118, 129, 131-133, 137, 141, 148, 151, 153, 162, 165, 170-171, 173, 175, 177, 185-186  
 Country 13, 17, 19, 24, 31, 33-35, 67, 111, 118, 121, 150-151, 161, 165, 170  
 Demand 16-17, 24, 26, 32, 39, 50, 52, 97, 132  
 Educational facilities 24  
 Implementation of 14-21, 23, 26, 30, 32, 34, 38, 41-42, 47-49, 54, 56-57, 59, 73-75, 79, 83, 90-93, 97, 99-101, 103, 107-112, 115-116, 125, 129-141, 186-187  
 Implementation problems 48, 134  
 Insufficient language skills 128  
 Lack of legal obligation 128  
 Lack of transparency 14-15, 60, 185  
 Legalisation 17, 49-50, 84, 87-88, 135  
 Mandatory public procurement policy  
 13-14, 48, 103-105, 107-112, 127, 137, 173, 187

Market failure 32  
 Member states 13-17, 19, 23-31, 34-35, 39, 48, 55, 57-61, 65-69, 71, 73, 79-80, 85, 99, 103, 106, 111-112, 116-117, 121-122, 125, 127, 134, 137, 139, 145, 153, 185-187  
 National economies 17  
 National policies 23  
 Need 29, 39, 46, 51, 74, 78, 85, 87, 108, 118, 128, 130  
 Policy objectives 14-15, 18, 29, 31-32, 34, 37-38, 99, 131, 185, 187  
 Political arena 39, 129  
 Political support 15  
 Public organisations 18, 46, 55, 69  
 Purchasing 14, 19, 25, 29-30, 34, 69, 95, 121  
 Regulatory complexity 15  
 Regulatory process 17  
 Savings 15, 17  
 Secondary objectives 27, 29  
 Sectors 18, 21, 23, 34, 55-56, 62, 66, 69, 79, 83-84, 110, 116, 120, 123-124, 134, 172, 174, 176, 178  
 Short-cyclical nature 132, 134, 138  
 Shortcomings 14-15  
 Supply 13, 16, 23-24, 33, 39, 52, 83, 94, 97, 103, 132, 151, 161, 165  
 Tendering 14, 35, 93, 95, 105, 109, 130, 147, 149, 151-153, 158, 165, 170-171, 185  
 Trading platform 24  
 Usefulness 128  
 Value for money 15, 43  
 Volume 24, 27, 29, 44, 182, 185  
 European Union 15, 18-20, 23, 27, 32, 34, 65, 75, 111-112, 122, 145, 147, 151  
 Explanatory variable 105, 140

## F

Factor  
 Exploratory factor analysis (EFA) 75

Finland 19, 23, 58, 60, 68, 73, 80, 110-112, 116, 121, 153, 172

France 19, 25, 58, 60, 68, 73, 80, 111-112, 117, 121, 153, 172

Freedom of choice 20, 27, 48, 99, 150, 160

## G

### Geographical regions

Baltic states 60

Benelux 60

Central 13, 23, 51, 56, 59-62, 72, 80, 90, 111-112, 117, 120-125, 129, 172, 174, 176, 178, 186-187

Eastern 60, 62, 112, 117, 121-125, 172

Geographical location 21, 34, 118, 121

North 59-60, 62, 80, 110-112, 117, 121-124, 172

Regions 41, 55, 59-61, 80, 111, 117, 121, 125, 137, 186

Scandinavian countries 60-61, 111

South 59-60, 62, 80, 111-112, 117, 120-125, 172, 174, 176, 178

West 59-60, 62, 80, 111-112, 117, 120-124, 138, 172, 174, 176, 178

Germany 19, 25, 57-58, 60-61, 68, 73, 80, 110-112, 116-117, 153, 172

### Good governance

Administrative efficiency 59-60

Competition 14, 50, 59-60

No corruption 59

Transparency 59-60, 131, 141

Greece 19, 58, 60-61, 68, 73, 80, 111-112, 117, 121, 153, 172

### Green procurement

Action plans 26

Definition of 30

In Latvia 31

## H

### Harmonised European market

Common market 13, 15, 23-24, 26, 29, 34, 40

Harmonised market 13, 33-35, 99-100, 103, 106, 139, 185

Hungary 19, 58, 60, 68, 73, 80, 111-112, 116-117, 153, 172

## I

Infrastructure 13, 26, 56, 83, 93, 152, 155, 163

### Innovation

Buying power 32

Definition of 31-32

Lack of knowledge 15, 138

Launching customer 32

Research and development 32

Resistance to change 15

Risk aversion 15, 51

Ireland 19, 58, 60-61, 68, 73, 80, 111-112, 116-117, 153, 172

IT projects 26

Italy 19, 25, 58, 60, 68, 73, 80, 111-112, 116-117, 121, 153, 172

## L

Latvia 19, 31, 60, 66, 68, 80, 111-112, 121, 153, 172

Lithuania 19, 60, 66, 68, 80, 111-112, 121, 153, 172

### Logic of appropriateness

Definition of 47

### Lots

Parcels 101

Split into different lots 94

Luxembourg 19, 35, 58, 60, 68, 73, 80, 111-112, 117, 121, 153, 172

## M

Maastricht treaty 87

Malta 19, 34, 60, 68, 80, 111-112, 117, 121, 153, 172

### Mandatory public procurement

Contracting authorities 14-15, 20, 25, 31, 34, 42-44, 51, 56, 62, 72, 75-76, 84, 86, 89, 105-106, 113, 118, 132-133, 137, 141, 148, 151, 162, 165, 170, 173, 175, 177, 185-186

- Governments 13, 16, 24-26, 42, 51, 53, 56-57, 69, 79-80, 84, 103, 105, 134, 140, 185
- Implementation of mandatory policy 14-15, 21, 27, 40, 47-49, 74, 91, 93, 100, 105, 107-111, 125, 127, 134, 137, 140, 187
- Improper behaviour 14, 51
- Taxpayers 24, 29, 54, 134, 140
- Tenders 13-15, 19, 23-25, 27-31, 33, 35, 45, 48-50, 52, 57, 59, 65, 69, 71-72, 74-79, 84-85, 87-88, 90, 92, 94-99, 101, 105-109, 113-115, 118-119, 121, 125, 128, 131-133, 137-139, 145, 147-152, 157-167, 169-177, 185, 187
- Market parties
- Bidders 35, 49-50, 57, 59, 95, 128, 132
  - Commercial contractors 52, 129, 186
  - Definition of 52-53
  - Dividing the market 33, 53
  - Improper practice 53
  - Market players 28, 31, 41, 49, 147-148, 150, 162, 166
  - Price-fixing agreements 53
  - Relationship between clients and contractors 53
  - Suppliers 4, 23, 25-26, 29-30, 33-34, 39-40, 43, 51-52, 56, 67, 69, 72, 75, 86, 88-90, 94-97, 99, 118, 128-129, 130-131, 136, 139, 147, 149-151, 159, 161, 165, 167
  - Sustainability policies 27, 29-31, 53, 116
- Measurement instrument
- Categorical questions 70, 73
  - Closed questions 70, 73
  - Likert scale 70, 75
  - Open-ended questions 70
  - Questionnaire 66-67, 70-72, 74, 81, 84, 145, 147-153
  - Scales 70-71, 73, 75, 77, 104
- Statements 70, 72-73, 78-79, 89-90, 92, 95-96, 99-100, 102, 104, 109, 125, 129-130, 140, 147-150, 169-170
- Test surveys 71
- Media
- Blame-avoiding policy implementation 54
  - Definition of 54
  - Impact on public opinion 54
  - Media influence 14, 54
  - Normative choices 54
  - Role of the media 54
- Motivation
- Demotivation 27, 99
  - Idealism 140
  - Ideology 41, 44, 47-48, 186
  - Intrinsic motivation 20, 44, 47, 62, 75, 77, 99, 106-108, 112-114, 118-119, 122, 123-125, 127-128, 130, 132-133, 140-141, 171, 174-175, 177, 186-187
  - Public service motivation 47
  - Realism 140
- Multivariate regression analysis
- Correlation coefficient 104, 179
  - Descriptive analysis 83, 104, 109-110, 115-116, 119, 125, 130
  - Eigenvalue 104
  - False positives 104
  - Measurements 65, 79, 81, 85, 87, 90, 94-95, 99, 103-106, 109, 112-116, 118-119, 122, 125, 128-129, 133-134, 141
  - Multicollinearity 104
  - Multivariate analysis 110, 115-116, 119, 169
  - Ordinary least squares (OLS) 70, 105
  - Regression analysis 70, 78, 103, 109, 129
  - Test values 103
  - Variance 45, 104-105, 112, 118

---

## N

- Non-mandatory policy
- Flanking policy 26
  - Horizontal policy 26
- Secondary procurement policy 26
- Strategic policy 15, 26, 29, 35, 37, 40, 103, 112, 175

---

## O

- Own organization
- Comply with legislation 31
  - Contracting authorities 14-15, 20, 25, 31, 34, 42-44, 51, 62, 72, 75-76, 84, 86, 89, 105-106, 113, 118, 132-133, 137, 141, 148, 162, 165, 170, 173, 175, 177, 185-186
- Definition of 50
- Executive staff 28
  - Fear of discretion 51, 136
  - Non-compliance 20, 42, 50-51, 53
  - Organisational boundaries 50
  - Purchasing entities 30

## P

- Poland 19, 25, 60, 68, 80, 111-112, 117, 153, 172
- Policy discretion  
Definition of 13
- Policy instrument  
Instrument 24, 26-32, 34-35, 40, 47-48, 63, 65, 70, 73-75, 96-99, 101, 103, 109, 111-117, 121-122, 125, 127-128, 132, 134, 136-138, 140, 160, 164, 169, 175, 187  
Insufficient management 15  
National policy of member states 26  
Proportionality 25-26, 132  
Skilled staff 15  
Subsidiarity 26, 32  
Third parties 28
- Politics  
Auctions 52  
Definition of 51  
High-speed rail network 52  
Impact on procurement process 107  
Losing party 52  
National parliament 52  
Negotiations 14, 52  
Political majority 52  
Political party 52  
Privatisation 52
- Portugal 19, 57-58, 60-61, 68, 73, 80, 111-112, 117, 121, 153, 172
- Procurement pragmatism  
Definition of 92
- Procurement process  
Bids 13-14, 17, 33  
Choosing 17, 149, 158, 166  
Employees' qualifications and training 40  
Entities 25, 30, 47, 69  
Experience in previous similar assignments 40  
Financial data 40  
Invitation to tender 25  
Lawyer's paradise 49  
Oral presentation 148, 162, 166  
Prescribing the national language 35, 95, 149, 159, 166-167  
Public contracts 13-15, 18-21, 23-26, 28-29, 32-34, 45, 49-50, 52-53, 56, 66, 69, 127, 129, 131, 134, 136, 138-139, 185-187  
Publication requirement 69  
Relative evaluation method 57  
Savings in public procurement 17  
Selecting 39-40, 74-75, 128  
Selection stage 86, 88  
Specification stage 86, 88  
Specifying 17, 39, 74  
Standstill period 88  
Steps 17, 38-39, 86, 139  
Unintentional error 89, 163  
Variants 89, 148, 162, 166  
Written procedures 89, 148, 162, 166
- Professionalism  
Certification 46, 85  
Definition of 44  
Discretionary specialisation 45-46, 108  
Education 24, 44-46, 72, 77, 84-85, 139-140, 151-152, 155-156  
Experience 14, 28, 31, 40, 44-46, 49, 71-72, 74, 76-78, 84-85, 87, 90, 97-98, 100, 106-109, 113, 115-116, 118, 133, 135-136, 138, 140, 149, 186  
Formal education 44  
Formal knowledge 20, 45, 62, 76-77, 107, 113-114, 118, 123-124, 171, 174-175, 177  
Ideal model of professionalism 44  
Mechanical specialisation 45  
Mental discretionary specialisation 45-46, 108  
Number of tender procedures 76, 106  
Of the individual 44, 47, 187  
Practical experience 44, 46, 71-72, 76-77, 85, 100, 108, 133, 135, 140, 186  
Public service professionals 44  
Routine administrative task 46  
Seniority 76-77, 106-107, 113-114, 157, 170, 173, 175, 177  
Serving the public interest 47, 107, 114, 130, 174-175, 177  
Skills 20, 44-46, 128, 130  
Specialisation 45-46, 107-108  
Tacit knowledge 44-45, 62, 75-77, 105-107, 112-114, 118, 123-124, 170, 173, 175, 177  
Task division 86  
Task performance 41, 45  
Technical expertise 42, 45  
Training 2, 6, 8, 20, 40, 44-46, 75-77, 85-86, 100, 106-108, 112-114, 118, 133, 139-140, 151-152, 171, 174-175, 177  
Training institutions 46, 85
- Project effects  
Definition of 39  
Optimism bias 39, 71, 74, 104  
Planning fallacy 39, 71, 74, 104  
Scope creep 39, 71, 74, 104

- Public administration tier
  - Local authorities 56, 110, 138
  - Local government 56, 79, 84, 121, 138, 151, 157
  - Municipal level 57, 62, 121, 123-124, 172
  - Municipalities 56
  - Sectors 18, 21, 23, 34, 55-56, 62, 66, 69, 79, 83-84, 110, 116, 120, 123-124, 134, 172, 174, 176, 178
  - Tiered structure 41
- Public organisations
  - Public sectors 18, 55-56, 62, 79, 83, 120, 123-124, 172, 174, 176, 178
- Public procurement distance
  - Actors 7-8, 17, 20-22, 26, 35, 37-38, 40-42, 47-50, 52-53, 55-56, 58, 65, 69, 72, 78, 83, 89-90, 92, 94-96, 101, 103-104, 107-109, 114-116, 118-119, 122, 125, 127-131, 134, 140, 174, 176-177, 186-187
  - Ad-hoc pragmatic solution orientation 128-130, 132, 134-135, 141
  - Administrative application 16
  - Broader range of policy areas 72
  - Causes 15-16, 19, 29, 40-41, 54-55, 65, 72, 75
  - Compliance 20-21, 27, 42, 50-51, 53, 55-58, 62, 73, 79-80, 105, 110-113, 116-121, 123-125, 134, 172, 174, 176, 178
  - Compromises 39
  - Consensus 39
  - Converted European guidelines 16
  - Decision-making process 29, 39
  - Definition of 13
  - Desired outcome 37, 149, 167
  - Discrete rule interpretation 50
  - Distance 13-14, 16-23, 25-26, 29-31, 34-35, 37-58, 60-63, 65, 69-81, 83, 88, 91, 94-96, 99, 103-113, 115-125, 127-141, 169-172, 185-187
  - Explanations 13, 19, 72, 104, 122, 129-130, 185-186
  - Explanatory factor 104, 128
  - Formal decision 38
  - Formal hierarchical control mechanisms 17, 38
  - Formulated policies 38, 53
  - Front-line workers 50
  - Implementation 13-21, 23-24, 26-27, 30-35, 37-42, 44-51, 53-59, 61, 65, 67, 72-74, 77, 79, 83, 88, 90-95, 97, 99-101, 103, 105, 107-112, 115-116, 125, 127-141, 185-187
  - Implementation game 38
  - Implementation in practice 16, 37, 105, 135
  - Implementation to the letter 49-50
  - Improvisation 50, 128, 135
  - Initial policy objectives 38
  - Intended policy 13, 17-18, 21, 28, 33, 37-38, 41-43, 45, 48-51, 54, 61, 65, 74-75, 92, 95, 133, 135, 141, 185-186
  - Intended Procurement policy 134, 136
  - Intentions 14, 16-17, 23, 31, 39, 49-50, 53, 56, 77
  - Law in action 16
  - Law in the books 16
  - Legal framework 13, 38, 95, 127, 134, 138, 187
  - Legislation 16, 19, 30, 38-39, 49, 51, 53, 58, 127, 138, 145, 147-148, 162-163, 165, 169, 171
  - Local coalitions 38, 131
  - Local ingenuity 50, 128
  - Mutual cooperation 14
  - Policy adjustments 38
  - (Pre-)formulated policy 38, 39, 53, 56, 79
  - Pre-implementation policy objectives 37
  - Public procurement parity 39
  - Regulations 13-16, 18, 24-29, 31, 38-43, 46-47, 49-51, 57-58, 72, 74, 76, 78, 87-89, 91-92, 94-96, 100, 105, 107-108, 111, 115, 117, 127, 131-132, 135, 137, 138, 158, 173-174, 176-177, 179, 185
  - Regulatory framework 48, 78, 87, 103, 128
  - Strategic manoeuvres 39
  - Street level 20, 50, 129
  - Workplace 17, 19, 38-39, 89-90, 127, 130, 135, 139-140
- Public procurement officers
  - Buyers 18, 34, 78, 115
  - Consultants 42-43, 49, 72, 76, 84-88, 113, 118, 134-135, 137, 141, 147, 161, 165, 170
  - Contract managers 18, 49, 78, 85-88, 129, 151, 170, 171, 174, 176, 178, 186
  - Definition of 49
  - Direct awarding 94, 101, 129
  - Expert 20, 28, 42-43, 45, 56, 62, 66, 71, 76, 99, 105, 113, 118, 123-124, 135, 170
  - External experts 42
  - External procurement consultants 147
  - Internal legal consultants 118
  - Lawyers 18, 49, 78, 129, 151, 171, 174, 176, 178, 186
  - Part-time public procurement officers 49, 78, 84, 87, 108, 115, 118, 129, 176

Practitioners 14

Procurement staff 49-50, 78, 83-84, 86, 89, 91, 106, 108-109, 112, 115, 118-119, 125, 128-129, 132-134, 136, 138, 186-187

## R

Refugee crisis 24

Relevance 17, 21, 125, 137

Reliability 73-74

Representativeness

Publication requirement 69

Variation in the dependent variable 69

Variation in the population 69

Research design

Anonymity 66

Data collection 19, 139

Dataset 19, 65, 72-73, 80, 83, 183, 187

Language 34-35, 66, 71, 95, 100, 128, 130, 136-137, 139, 145, 149, 151, 159, 161, 165, 167

Multivariate techniques 19, 70, 110, 115-116, 119, 169

Respondents 28, 46, 55, 65-67, 69-79, 83-87, 89-101, 106-107, 109-112, 115-117, 119-122, 125, 127-129, 133, 136-137, 139-140, 145, 155, 187

Response rate 66-68, 71, 74, 81, 187

Responses 19, 55, 66-67, 70, 73-75, 79, 85, 89, 91, 95, 109-110, 120, 145

Survey 19, 28, 56, 65-67, 69, 71-74, 76, 81, 83, 85, 87, 91, 122, 145, 147, 153, 183, 186

Research questions 16-17, 20-21, 23, 30, 37, 65, 72, 83, 99, 103, 125, 127, 137, 139, 186

Romania 19, 60, 66, 68, 80, 111-112, 117, 153, 172

## S

Seven step plan

Active procurement 38

Basic procurement 38

Behavioural change in the procurement process 38

Inclusiveness 38

Incremental path 38

Long-term contracts 38

Social objectives 27, 32, 38, 149, 169

Slovakia 19, 68, 73, 80, 111-112, 116, 153, 172

Slovenia 19, 58, 60, 66, 68, 73, 80, 111-112, 116-117, 121, 153, 172

Small to medium-sized enterprises / SMEs

Contracts 13-15, 18, 21, 29, 32-33, 75, 127, 131, 136, 138, 185

Definition of 32

Economic growth 18

Enterprises 13, 15, 38, 75, 98, 103

Size 13, 32-33, 39, 56, 75, 98, 103, 121, 129, 138, 185, 187

Social return

Accessible facilities 31

Definition of 31

Disadvantaged 31

Employment 18, 27, 29, 31, 56, 113, 131, 152, 156

Inequality 18, 59, 95

Internship 31

Labour market 31, 138

Minimum standards 27

Short cycle instrument 30-31

Social conditions 28

Social objectives 27, 32, 38, 149, 169

Social policy 14, 18-19, 27-28, 31, 57, 103

Socially responsible procurement 13, 21, 23, 30-31

Unemployment 18, 27, 131

Welfare 31, 152, 155

Work experience places 31

Working conditions 31

Spain 19, 25, 57-58, 60-61, 68, 73, 80, 110-112, 116-117, 121, 153, 172

Speedboats 25

Stakeholders

Business 14, 24-25, 32-34, 47, 131, 152, 155, 185

Competition between 14, 132

Contracts 13-15, 18-21, 23-26, 28-29, 32-34, 38, 45, 49-50, 52-53, 56-57, 66, 69, 75-76, 88, 99, 127, 129, 131, 134, 136, 138-139, 147, 185-187

Social groups 14, 185

Tenders 14-15, 19, 23-25, 31, 33, 40, 49-50, 52, 57, 65, 69, 72, 76-77, 85, 92, 95, 105, 107, 109, 113-114, 118-119, 121, 125, 137-139, 147-152, 157-162, 164-167, 169-171, 173, 175, 177, 187

State aid 18

Sustainability

Air pollution 30  
 Award criteria 28-29, 88, 147  
 Behavioural change 27, 38  
 Chain responsibility 30  
 Clean vehicles 27  
 Climate change 18, 27  
 Compliance with regulations 27  
 Economic interests 24, 27  
 Energy efficient vehicles 27  
 Environment 20, 24, 27, 29-30, 43,  
 48-51, 89-90, 97-98, 106, 109, 115, 119,  
 130-131, 133, 136, 140  
 Environmental objectives 48, 131  
 Exceptions 26

Green deal 27  
 Hazardous emissions 30  
 Life cycle 30  
 Mandatory inclusion 27, 138  
 Market models 27  
 National action plans 26  
 Natural resources 30  
 Sustainability policies 27, 29-31, 53, 116,  
 134  
 Sustainable economies 27  
 Sustainable procurement 30, 47, 133  
 Sweden 19, 33, 58, 60, 68, 73, 80, 110-112,  
 116-117, 121, 153, 172

---

## T

The Netherlands 19, 48, 53, 57-58, 60, 68,  
 73, 80, 90, 111-112, 116-117, 131, 145, 153,  
 172  
 Theoretical framework

Theoretical perspectives 37, 41, 61-62,  
 70, 72-73, 79, 104, 106, 108, 110, 113,  
 114, 116, 118-119, 122-125, 130  
 Thresholds 23-24, 35, 69, 94, 145, 147

---

## U

United Kingdom 19, 25, 57-58, 60, 68, 73,  
 80, 111-112, 116-117, 153, 172  
 United States 46, 52  
 Utility sectors

General interest 18, 133  
 Liberalisation of the utility sectors 55  
 Special sectors 18, 55

---

## V

Validity  
 External validity 72  
 Internal validity 71, 91  
 Timing of the survey 73

Volume  
 Gross domestic product 24, 34  
 Monetary value 25



## AUTHOR'S INDEX

### A

---

Abutabenjeh, S. 46, 77,  
85, 140  
Aiken, M. 20, 41, 43, 105

Andhov, M. 15, 27, 29,  
73, 134, 135, 137  
Arnáiz, M.T. 53, 90

Arrowsmith, S. 14, 15,  
26, 73, 134, 135

### B

---

Bardach E. 37, 38, 48, 131  
Beunen, R. 48, 131  
Blau, P.M. 45  
Börzel, T.A. 15

Boskeljon-Horst, L. 50,  
129, 132  
Bouckaert, G. 21, 41, 55,  
61, 80, 112

Bovis, C.H. 18, 23, 32,  
33, 40, 44, 55, 79, 99,  
110, 136  
Brodkin, E.Z. 39, 74, 93  
Bubbico, A. 59, 73

### C

---

Callender, G. 46, 77, 133,  
140  
Cantarelli, C.C. 39, 74,  
93, 129  
Capka, J.R. 39, 74, 93,  
129

Carroll, B.J. 37  
Cecchini, P. 34  
Chaney, C.D. 52  
Charron, N. 59, 73  
Chong, E. 52, 90, 136  
Coe, C. K. 14

Cole, J.S. 70, 74  
Cox, A. 15, 23, 24, 40, 99  
Csáki, C. 14, 17, 73, 83

### D

---

De Boer, L. 56  
De Souza Dutra, C.T.  
28, 53, 97, 109, 116, 136

Dellarocas, C. 40  
DeVellis, R.F. 70  
Dzur, A.W. 54

### E

---

Edward, D. 27

Evan, W. M. 32, 43

### F

---

Fabrigar, L.R. 70, 75  
Falkner, G. 19, 21, 31, 41,  
55, 57, 58, 60, 73, 79,  
80, 106, 111, 121, 139  
Fazekas, M. 17, 41, 55,  
59, 60, 80, 83, 132

Fernandez Martin, J.M.  
31  
Flyvbjerg, B. 26, 39, 74,  
93, 129

Freidson, E. 20, 41, 44,  
45, 46, 47, 77, 107, 108,  
133, 140  
Fuchs, M. 28, 99

**G**


---

Goldman, E. 41, 52, 90, 136	Grace-Martin, K. 108	Groen, N.P. 26
Gordon, S. B. 14, 46, 48, 77, 85, 140	Grandia, J. 47, 113, 132, 133	Guccio, C. 56, 79
	Grin, G. 26	Gutman, J. 87

**H**


---

Hage, J. 20, 41, 43, 105	Hedge, D.M. 52	Hoezen, M. 17, 135
Hatzis, N. 32, 136	Heimler, A. 53	Hurx, M. 9, 13
Haverland, M. 30	Hinterleitner, M. 54	

**I**


---

Iossa, E. 32	Iyengar, S.S. 27, 99	
--------------	----------------------	--

**J**


---

Janse, H. 13	Jansen, C.E.C. 17, 87, 135	Justice, S. 40
--------------	----------------------------	----------------

**K**


---

Kahlenborn, W. 28, 29, 32, 131	Kim, H. 46	Kreeft, L. 28
Kahneman, D. 39, 74, 93, 129	King, R. 13	Krosnick, J.A. 70
Kelman, S. 41, 51, 136	Kingston, S. 15, 18, 28	Kunzlik, P. 26
	Knight, L. 17, 54, 132	Kuusela, H. 42, 134, 141
	Koszewska, M. 18, 83	

**L**


---

Lapuente, V. 59, 73	Lepper, M.R. 99	Lipsky, M. 13, 17, 20, 39, 41, 49, 50, 129, 132, 133, 134, 135, 139, 140
Le Galès, P. 21, 41, 55, 61, 80, 112	Liberatore, A. 34, 73, 134, 137	Lovallo, D. 39, 74, 93, 129
Leenders, M.R. 43	Ligte, J.S. 18, 83	
Leisink, P.L.M. 47		

**M**


---

Maandag, B. 14, 73	Martin, S. 34	McGuire, J. 46, 77, 133, 140
Macaulay, S. 53	Mateus, R. 57	Meyer, M.W. 45
Majka, M. 71	Matthews, D. 46, 77, 85	Muscaritoli, F. 27, 29, 134, 137
March, J.G. 47, 108, 133, 140	Mazmanian, D.A. 38, 131	

**N**


---

Neuman, W.L. 70	Nunes de Almeida, J. 24, 132	Nyiri, L. 32
Nieland, W. 44		

**O**


---

O'Connor, B. 18	Olsen, J.P. 47, 108, 133, 140	
-----------------	----------------------------------	--

## P

- 
- |   |   |   |
|---|---|---|
| Panagopoulos, S. 23, 29,<br>32, 99, 131 | Phillips, W. 41, 54                         | Pressman, J.L. 16, 37, 38,<br>48, 56, 73, 79, 131 |
| Parsons, W. 44                          | Piga, G. 27                                 |   |
| Perry, J.L. 47, 77, 108,<br>133, 140    | Pollitt, C. 21, 41, 55, 61,<br>80, 112, 117 |   |
|   | Pound, R. 16                                |   |

## R

- 
- |                         |                       |                  |
|-------------------------|-----------------------|------------------|
| Radin, B.A. 42, 56, 105 | Rendon, R. G. 46, 140 | Rosenberg, N. 73 |
|-------------------------|-----------------------|------------------|

## S

- 
- |   |                                   |  |
|---|-----------------------------------|--|
| Sabatier, P.A. 38, 131                          | Schwartz, B. 28                   | Snider, K.F. 46, 140                   |
| Saltzstein, G.H. 52                             | Scicchitano, M.J. 52              | Steijn, A.J. 47                        |
| Schenk, M-A. 17, 39, 49,<br>53, 74, 84, 87, 135 | Seashore, S.E. 43                 | Steller, F. P. 41, 53                  |
| Schneider, C.E. 50, 134                         | Selznick, P. 19, 41, 134,<br>141  | Stellingwerff Beintema,<br>A. 49       |
| Schoenmaekers, S. 32,<br>33                     | Semple, A. 15, 27, 29,<br>73, 135 | Steurer, R. 30                         |
| Schooner, S.L. 53, 54, 90                       | Shavell, S. 38, 51, 131           | Streib, G. 46                          |
| Schreiber, D. 44                                | Sjåfjell, B. 24                   | Sylvest, J. 18, 34, 56, 73,<br>99, 137 |

## T

- 
- |   |  |                                    |
|---|--|------------------------------------|
| Tallberg, J. 20, 41, 42,<br>43, 105, 134, 141     | Thai, K.V. 14, 46, 48, 49,<br>85, 133, 140                   | Treumer, S. 17, 49, 84,<br>87, 135 |
| Tátrai, T. 27, 48, 49, 54                         | Treib, O. 19, 21, 46, 55,<br>57, 58, 73, 79, 80, 111,<br>121 | Trybus, M. 27, 28                  |
| Telgen, J. 17, 32, 38, 40,<br>49, 56, 84, 87, 135 |  |                                    |

## V

- 
- |  |   |                               |
|--|---|-------------------------------|
| Van den Berg, A. 52, 90                              | Van Silfhout, M. 52, 90,<br>136                   | Verkerk, C.L. 13              |
| Van der Horst, H. 17, 39,<br>49, 53, 74, 84, 87, 135 | Van Tussenbroek, G. 9                             | Versluis, E. 16, 19, 57       |
| Van Horn, C.E. 38                                    | Van Weele, A.J. 17, 18,<br>24, 25, 39, 51, 73, 74 | Voda, P.O. 40                 |
| Van Meter, D.S. 38                                   | Varoufakis, Y. 73                                 | Volker, L. 14, 17, 73, 135    |
| Van Orden, C. 28                                     |   | Von Clausewitz, C. 38,<br>131 |

## W

- 
- |                                  |  |                                     |
|----------------------------------|--|-------------------------------------|
| Walsh, K. 44                     | Whitford, A.B. 52                                | Wise, L.R. 47, 77, 108,<br>133, 140 |
| Weale, A. 27                     | Wiesbrock, A. 24, 27,<br>138                     | Wittwer, S. 54                      |
| Weber, M. 50                     | Wildavsky, A. 16, 37, 38,<br>48, 56, 73, 79, 131 |                                     |
| Wegener, D.T. 75                 | Wilson, J.Q. 41, 50, 134                         |                                     |
| Weziak-Bialowolska,<br>D. 59, 73 |  |                                     |

## Y

- 
- |                         |           |                 |
|-------------------------|-----------|-----------------|
| Ylönen, M. 42, 134, 141 | Yu, C. 28 | Yuchtman, E. 43 |
|-------------------------|-----------|-----------------|

## Z

- 
- |                  |  |  |
|------------------|--|--|
| Zuckerman, M. 27 |  |  |
|------------------|--|--|

## CURRICULUM VITAE

Alexander Edgar Schermerhorn completed his pre-university secondary education at Christelijk Streeklyceum in Ede. In 1992, Alexander graduated from the HMSM Hotel Management School Maastricht. He worked in the hospitality industry for several years before continuing his studies at Erasmus University Rotterdam at the Faculty of Social Sciences, where he obtained his master's degree in Public Administration in 2003. While enrolled in this programme, Alexander also worked in the IT industry. He began his part-time PhD studies at the Institute of Public Administration of Leiden University in 2010.

In 2009, he completed a procurement course offered by the NEVI Netherlands Association for Procurement Management. Since then, he has held various positions in sales and procurement before joining the Ministry of Defence in 2018. In 2023, he graduated from the NLDA Netherlands Defence Academy in Breda. Alexander currently serves as a procurement officer for the Dutch Ministry of Defence, primarily focusing on ICT-related goods and services. He is also actively engaged in innovation-oriented procurement.

*Alexander Edgar Schermerhorn, October 2025*