



Malta

COUNTRY PROFILE – Benchmarking of national policy frameworks for innovation procurement

This is the country profile of Malta in the 2024 Europe wide benchmarking of national policy frameworks for innovation procurement. It is based on the most recent available data: Indicators 1 to 10 reflect the status of national policies that support innovation procurement at the end of 2023. The part of indicator 10 that uses data from the EU single market scoreboard uses the 2022 data from that scoreboard.

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Malta



1. National policy framework for innovation procurement

Governance and legal framework

The Maltese 2016 regulations are S.L 601.03¹ (for public authorities), S.L 601.05² (for utilities), S.L 601.09³ (for concessions) and the 2011 the Public Procurement Regulations S.L. 601.07⁴ (for defence and security). Two additional local legislations are the Procurement of Property Regulations S.L 601.12⁵ and the Emergency Regulations S.L 601.08⁶.

The **Ministry for Finance and Employment (MFE)** sets the policy directions for public procurement. Its **Department of Contracts (DoC)** assists public buyers in implementing procurement processes efficiently and effectively. It provides guidance, conducts reviews and ensures compliance with procurement rules (e.g. through ex ante control of tenders). MFE and DoC focus mainly on green procurement and still need to catch up on promoting innovation procurement.

The **Ministry for Education, Sport, Youth, Research and Innovation (MR&I)** actively promotes innovation procurement from the research and innovation policy. The **Malta Council for Science and Technology – (MCST)**, an advisory in MR&I, has since many years recommended the government to boost innovation procurement⁷.

Malta Information Technology Agency (MITA) is an agency under the steer of the Prime Minister's office that provides ICT infrastructure, systems and services to the government. As a central purchasing body it has started to cooperate with the different ministry's CIOs for including innovation procurement in its procurement planning and processes.

Innovation Procurement Policy Framework Benchmarking (2024)

In the benchmarking of national innovation procurement policy frameworks across Europe, Malta is at the 24th position of the overall ranking with a total score of 18.35%. The country decreased both in the overall ranking and in the total score compared with the previous benchmarking when the country ranked 18th and the total score was 20.4%. Out of the 30 countries analysed, Malta is amongst the lowest performers. The country's performance is below European average of 33.05% in total and below the European average on all 10 indicators. As Malta has implemented just nearly one fifth (18.35%) of the policy measures to establish a comprehensive policy framework for innovation procurement, a strong reinforcement of the policy framework is still required in Malta for it to realize its full potential.



Strengths

Parts of the ICT policy are planning innovation procurement actions. R&I policy intends to start working on creating guidance, good practice cases, pilot actions and assistance on innovation procurement.

Weaknesses

Innovation procurement policy framework is still at an early stage, missing an action plan, spending target, monitoring system, incentives to mobilise public buyers, capacity building measures, national competence center etc. No sectoral policies support innovation procurement yet. There is a lack of IPR policy that fosters innovation in public procurement, and an underutilisation of value for money award criteria and preliminary market consultations. The publication rate and competition level in the public procurement market need to be increased. Reinforcing policies for strategic technologies and financial incentives for R&D procurements in key technologies and sensitive sectors could help boost strategic autonomy.

¹ <https://legislation.mt/eli/sl/601.3/eng/pdf>

² <https://legislation.mt/eli/sl/601.5/eng/pdf>

³ <https://legislation.mt/eli/sl/601.9/eng/pdf>

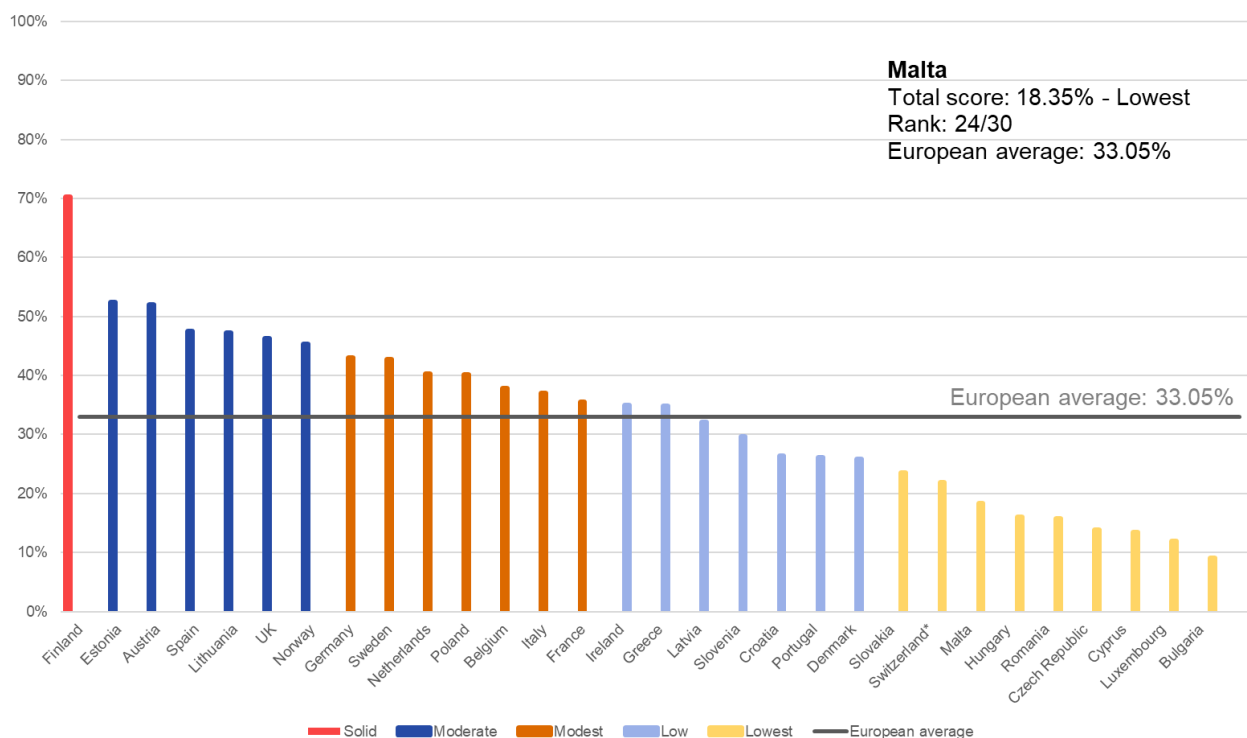
⁴ <https://legislation.mt/eli/sl/601.7/eng>

⁵ <https://legislation.mt/eli/sl/601.12/eng/pdf>

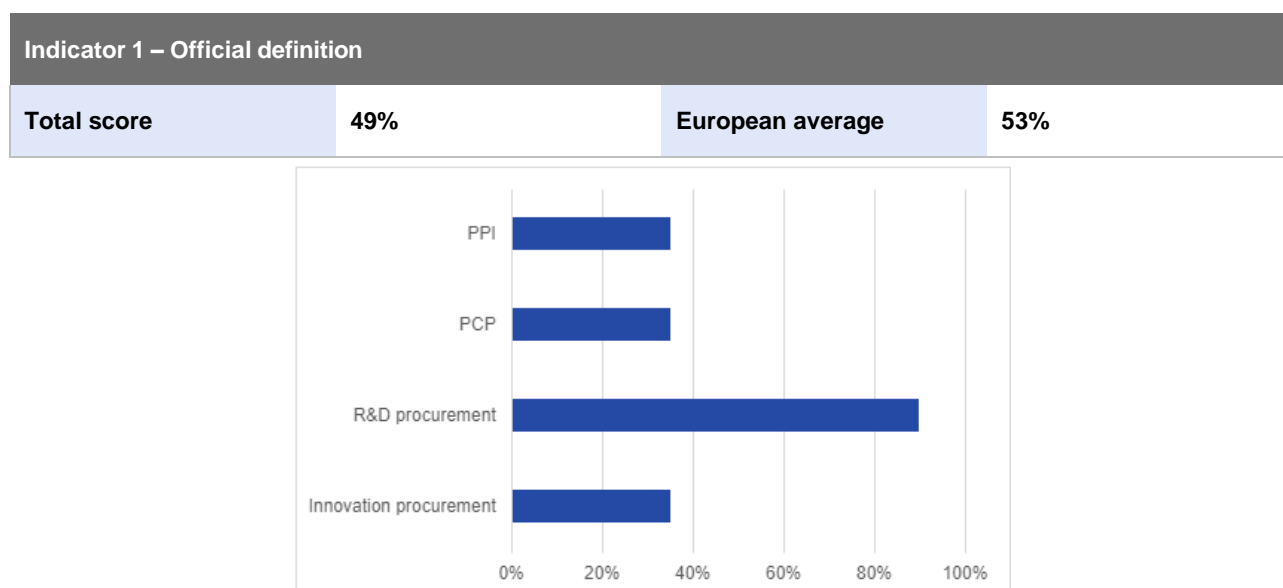
⁶ <https://legislation.mt/eli/sl/601.8/eng/pdf>

⁷ <https://timesofmalta.com/articles/view/mcst-seeks-innovation-element-in-government-procurement.180151>

Overall ranking



Overview per indicator



Official definitions of innovation procurement, Research and Development (R&D), Pre-Commercial Procurement (PCP), and Public Procurement of Innovative Solutions (PPI) do not exist in Malta, neither in the legislative framework, nor in guideline documents. However, the legal framework provides a legal basis for all procurers in the country to implement all types of innovation procurement, including R&D procurement, PCP and PPI.

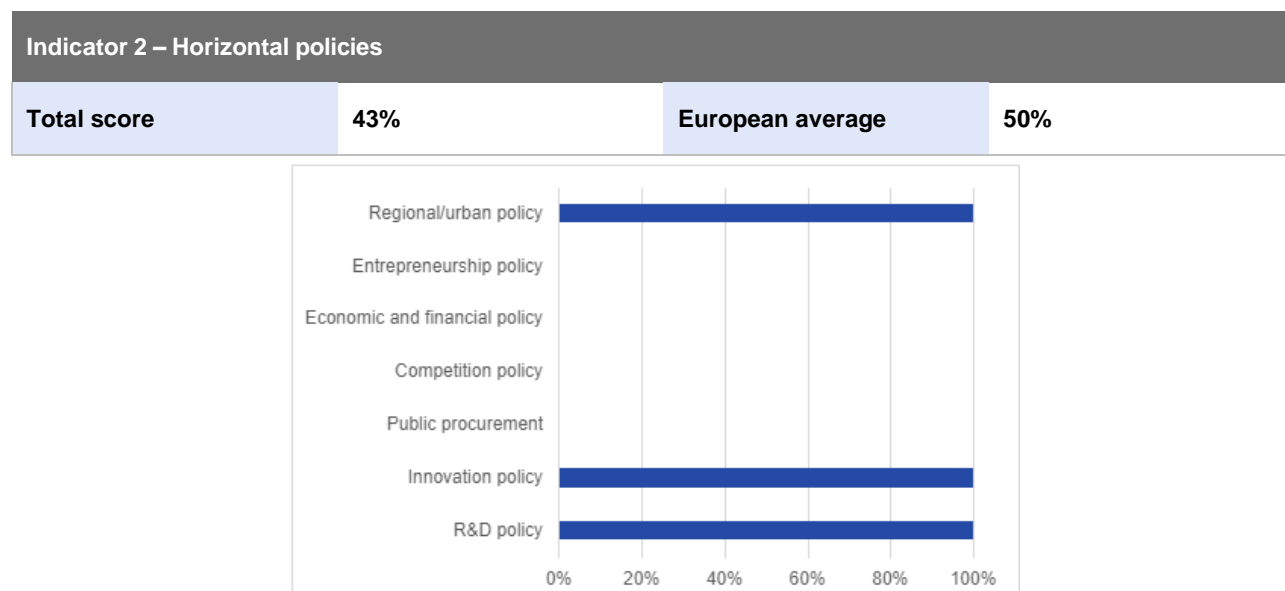
The Public Procurement Regulations S.L. 601.03 (for public authorities), S.L 601.05 (for utilities) and S.L 601.09 (for concessions) define **innovation** under the general provisions as follows: “*The implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices workplace organisation or external relations inter alia with the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth.*” As the legislation does not provide a definition of **innovation procurement**, but the definition of innovation is applicable to all public procurers in the country and in accordance with the EU official definition, the score for the sub-indicator innovation procurement definition is 35%.

In terms of **R&D procurement**, Article 7(1)(v) of S.L. 601.03, Article 18(1)(n) of S.L. 601.05 and Article (10) of S.L. 601.09 provide a legal basis for implementing R&D procurement in the civil sector via the CPV codes for basic research, industrial research and experimental development. Part I(2) of S.L. 601.07 for defence procurers contains a full sentence definition of R&D: “research and development means all activities comprising fundamental research, applied research and experimental development, where the latter may include the realisation of technological demonstrators, that is, devices that demonstrate the performance of a new concept or a new technology in a relevant or representative environment.” There is an official definition in legislation that is in line with the EU definition, but only applicable in defence sector. As a result, the score of this sub-indicator is 90%.

Article 7(1)(v) of S.L. 601.03, Article 18(1)(n) of S.L. 601.05, Article (10) of S.L. 601.09 and Article 14(j) in S.L. 601.07 establish the legal basis for implementing **PCP** in both civil and defence sectors. There is no official definition for PCP, but since this provision is applicable to all procurers countrywide and coherent with the EU definition, the score for this sub-indicator is 35%.

Article 164(6) of S.L. 601.03, Article 139(1) of S.L. 601.05 and Article 79(2) of S.L. 601.09 provide a clear legal basis for implementing **PPI**, by enabling to take into account innovative characteristics in the award of a public procurement procedure: “In relation to the award of contracts that are the subject of these regulations, contracting authorities may take into account the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, the specific needs of different categories of users, including disadvantaged and vulnerable groups, the involvement and empowerment of users and innovation...” There is no official definition for PPI, but this provision is in line with the EU definition and applicable to all procurers in the country. As a result, the score for this sub-indicator is 35%.

The total score for the indicator official definitions is 49%, which is an increase from the 35% score in the previous benchmarking. There is room for future improvement as the performance is still significantly below the European average (53%) and far below the top performing country on this indicator, Lithuania, which scores 76%.



Three out of seven horizontal policies in Malta promote innovation procurement: R&D, regional and innovation policy.

National Research and Innovation Strategic Plan 2023 - 2027⁸ for deploying innovation procurement more widely recommends “a stronger government-wide emphasis and investment in research and innovation in the public sector in the ratio of goods and services purchased that meet innovation criteria (e.g. purchased through PCP, first introduction into domestic market etc.)”. In order to achieve enhanced use of innovation public procurement government-wide, the Plan recommends “coordination between Ministries (jointly lead by the Ministry for Research and Innovation and the Ministry for Public Procurement) to ensure a holistic government approach.” As first steps, it proposes to create a guidance, good practice cases, pilot actions and assistance on innovation procurement for public procurers. As this strategic plan is applicable countrywide, the score for the sub-indicators **R&D policy** and **innovation policy** amounts to 100%.

Malta’s **Smart Specialisation Strategy 2021-2027⁹** includes a section on “Support for public procurement of innovation” which states that “Whilst the mechanisms for supporting the private sector to innovate through public procurement have been in place in Malta for a number of years, there seems to be very little use of this tool in practice. Malta should look

⁸ <https://mcst.gov.mt/wp-content/uploads/2023/01/%E2%80%A2RI-Report-Final.pdf>

⁹ <https://mcst.gov.mt/wp-content/uploads/2022/01/RIS3-Strategy-2020-2027.pdf>

into the barriers preventing the public sector from utilising this method to incentivise innovation, and promote its use especially in the selected smart specialisation areas.” As this strategic plan is applicable countrywide, the total score for the sub-indicator **regional policy** amounts to 100%.

Compared to the previous benchmarking, innovation procurement is now recognized under three instead of two horizontal policies, thus the total score for the indicator horizontal policies increases from 29% to 43%. There is room for future improvement as the performance is below the European average (50%) and far below the top performing countries, Norway, Estonia and Finland, which score 86% on this indicator.

Indicator 3 – ICT policies			
Total score	50%	European average	63%

Malta Digital 2022-2027¹⁰, the country's national strategy for digital transformation does not explicitly promote innovation procurement as a strategic tool to achieve the planned digital transformation of the public sector in Malta. The country's **Strategic Plan for the digital transformation of the public service 2019-2021**¹¹ has not been updated yet for the period from 2022 onwards. The **5-year strategy for the public service: Achieving a service of excellence**¹² mentions the importance of creating a culture of innovation in public administrations and mentions that the public sector is well placed to adopt AI type innovations, but it does not promote the use of innovation procurement specifically to modernise public services with innovations.

The **Malta Information Technology Agency (MITA)** developed the MITA Strategy for 2021 to 2023¹³ and the MITA Strategy for 2024 to 2026¹⁴, which set out its commitments as central purchasing body for the government. The 2021-2023 MITA strategy plans to “pursue investments in innovative technologies” and “innovate in procurement and work with contractors to get the greatest benefits from the talent and solutions available on the market.” The 2024-2026 MITA strategy states that “The possibility of establishing Innovation Procurement and Pre-Commercial Procurement shall be explored, with the aim of introducing new methods in the procurement process.”

For what regards encouraging the use of innovation procurement to accelerate the uptake and reinforce EU strategic autonomy for strategic ICT technologies:

Malta's **National AI Plan**¹⁵ does state that “The Government aims to stimulate and catalyse AI adoption in Malta and will implement a series of actions across the next three years to turn this vision into a reality, including: “Implementing policy actions to encourage procurement of smart technology-based solutions” and contains an objective for “Enacting a training and awareness programme to build capacity and knowledge and to equip public administration procurement teams with insight into AI technologies, AI procurement frameworks such as the one currently being developed by the World Economic Forum and pre-commercial procurement methods.”

Malta's **National Cyber Security Strategy 2023-2026**²⁰ states under “Actions - E. Support Research, Development and Innovation initiatives in cyber security” that “Through the potential use of pre-commercial procurement procedures, the Public Administration could become a first customer of Maltese cyber security RDI, kickstarting its growth.”

Malta's **semiconductor initiative**¹⁶ does not promote the use of innovation procurement.. Malta does not have a **national quantum strategy**.

While there are some initiatives, they are only partially introducing innovation procurement in some specific procurers (such as MITA) and some specific strategic technology sectors (such as AI, cyber). The overarching national digital policy only indirectly/partially endorse innovation procurement as strategic tool and objective: there is still a lack of an overall digital policy/action plan that promotes innovation procurements towards all public procurers in the country for all ICT sub-sectors. As a result, the score for this indicator is 50%, whereas in the previous benchmarking, the country scored 100%. The performance is below the European average (63%) and far below 15 top performing countries that score 100% on this indicator. Malta can further improve in the future by more actively and directly encouraging innovation procurement through its overarching national digital policy and by including it also in strategies for specific strategic ICT technologies where it is currently still missing.

¹⁰ <https://www.maltadigitali.mt/>

¹¹ https://publicservice.gov.mt/en/Documents/MappingTomorrow_StrategicPlan2019.pdf

¹² <https://publicservice.gov.mt/en/Documents/Achieving-A-Service-of-Excellence-2021.pdf>

¹³ <https://mita.gov.mt/wp-content/uploads/2021/02/MITA-Strategy.pdf>

¹⁴ <https://mita.gov.mt/wp-content/uploads/2023/12/MITA-Strategy-2024-2026.pdf>

¹⁵ https://malta.ai/wp-content/uploads/2019/11/Malta_The_Ultimate_AI_Launchpad_vFinal.pdf

¹⁶ <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2024/05/04/PR240753.aspx>

Indicator 4 – Sectoral policies

Total score	0%	European average	30%
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Malta does not have sectoral policies that recognise innovation procurement as a strategic tool within their sectoral strategy or action plan. Consequently, the total score for this indicator is 0%. Compared to the previous benchmarking, the final result decreased, as it was 10% in the previous benchmarking. There is room for future improvement as the score is still significantly below the European average (30%) and far below the top performing country, the UK, which scores 90% on this indicator.

Indicator 5 – Action plan

Total score	0%	European average	6%
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Malta does not have a stand-alone action plan for innovation procurement yet. Therefore, the result of this indicator is the same as in the previous benchmarking, i.e. 0%. The performance is below the European average (6%). There is room for future improvement as the performance is still significantly below the top performing country, Finland, which scores 69% on this indicator.

Indicator 6 – Spending target

Total score	0%	European average	14%
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There is no specific spending target for innovation procurement in Malta. Compared to the previous benchmarking, the total score remained unchanged, i.e. 0%. The performance is below the European average (14%). There is room for future improvement as the performance is still significantly below the top performing country, Poland, which scores 80% on this indicator.

Indicator 7 – Monitoring system

Total score	0%	European average	15%
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Malta does not have a structured system for measuring innovation procurement expenditure and evaluating the impacts of completed innovation procurements.

Compared with the previous benchmarking, the result of this indicator remained unchanged, i.e. 0%. The performance is below the European average (15%). There is room for future improvement as the performance is still significantly below the top performing countries: Estonia and Poland which score highest (100%) on the first sub-indicator for having the most comprehensive expenditure measurement systems and Finland and Austria which score highest (50%) on the second sub-indicator for their impact evaluation systems.

Indicator 8 – Incentives

Total score	0%	European average	27%
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There are no financial or other types of personal incentives to encourage public procurers to undertake more innovation procurements in Malta. Although Malta's Smart Specialisation Strategy is recognising the need for more innovation procurement, it is not planning any specific budgets for incentivising public buyers to undertake innovation procurements in specific areas of public sector activity.

Considering the previous benchmarking, the result of this indicator remained unchanged at 0%. significantly below the European average (27%). There is room for future improvement for developing both financial and personal incentives as the performance on this indicator is still significantly below the top performing countries Lithuania, Finland, Spain and Austria which all score more than 50% on the indicator.

Indicator 9 – Capacity building and assistance measures

Total score	0%	European average	28%
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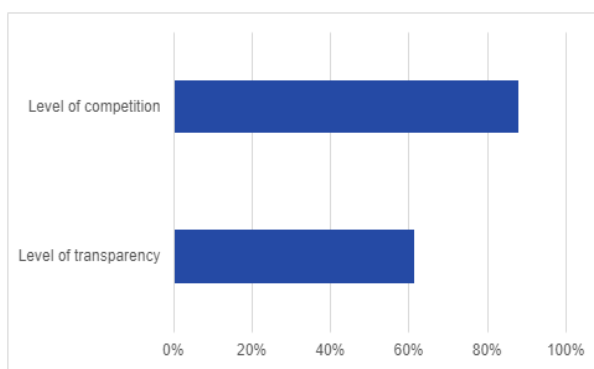
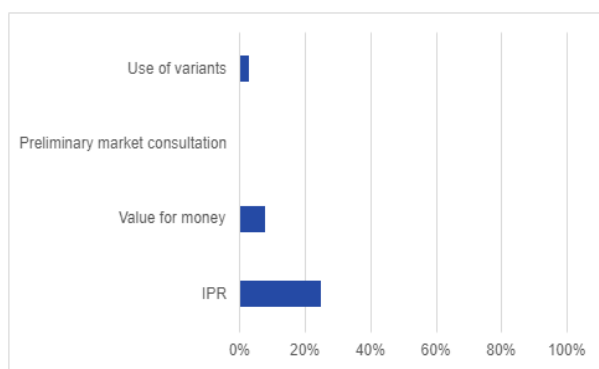
Malta has not put in place yet targeted capacity building or assistance measures to enhance the adoption of innovation procurement. Therefore, the total score for this indicator is 0%, same as in the previous benchmarking. There is room for future improvement as the performance is still significantly below the top performing countries Austria and Norway which both score 65% on the indicator.

Indicator 10 – Innovation friendly public procurement market

Total score	42%	European average	46%
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I - Specific techniques to foster innovation in public procurement

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



This indicator synthesises to what extent the national public procurement market encourages the implementation of Innovation procurement. It is composed by two sub-indicators measuring:

I. The use of specific techniques to foster innovation in public procurement in Malta

II. The openness of the national public procurement market to innovations from across the EU single market

With regard to the **sub-indicator I**, Malta shows the following evidence:

- IPR default regime:** The score for this sub-indicator is 25%, which is below the 40% European average, because there is no default scenario for the distribution of IPR rights between procurers and suppliers in Malta. Maltese law, general terms and conditions for government contracts and guidelines on public procurement do not define how IPR allocation is best dealt with in public procurement. It is left to the individual responsibility of each Maltese procurer to specify clearly the IPR allocation for the procurement in its tender documents so that it stimulates innovation and is compliant with applicable IPR/copyright law. The Maltese Copyright Law¹⁷ determines that copyrights belong in an inalienable way to the creator even after transfer or licensing of economic rights. The economic rights can be transferred, assigned or licensed by the creator to another person/entity. If a public procurer wants to use the commissioned work in a specific way, the procurer needs to clearly specify in the tender documents which economic rights (e.g. licensing, publication, modification, reproduction rights) owned by the creator ((sub)contractors in his procurement) he wants to obtain. Copyright Law protects also scientific work, software and database rights.
- Use the value for money award criteria:** According to the Single Market Scoreboard, in Malta, merely 8% of public procurements published in TED have been awarded not solely on the basis of the lowest price. This is far below the European average 43.87% and very far below the satisfactory level of 80% set in EU Single Market

¹⁷ <https://www.mta.com.mt/en/file.aspx?f=31935>

Scoreboard. Malta is among the poorest performers concerning the utilization of value for money award criteria in the EU Member States, alongside Cyprus, Greece, Lithuania, Bulgaria, Romania, and Slovakia.

- c. **Use of variants**: Malta has allowed tenderers to submit variant offers in 3.01% of the public procurement procedures published on TED. This percentage is slightly below the 3.28% European average.
- d. **Use of Preliminary Market Consultations**: Malta has used Preliminary Market Consultations in only 0.42% of the procurement procedures published on TED. This is below the European average of 1.39%.

Based on this evidence, the score for the sub-indicator I is 9.11%, which is far below the European average of 22.13%. This is mainly due to significant underutilization of value for money award criteria and the lack of IPR default regime to foster innovation in public procurement.

With regard to the **sub-indicator II**, Malta shows the following evidence (based on the Single Market Scoreboard):

- e. **Level of competition**: The level of competition is 88%, which is above the European average 82.37% but still below the 92.5% satisfactory level set by the EU single market scoreboard. The percentage of procurements conducted with a call for bids (91%) is slightly below the average and below the satisfactory level (95%), the percentage of procurements with more than one bidder (85%) is above the average (71%) but still below the satisfactory level (90%).
- f. **Level of transparency**: The level of transparency is 61.47%, which is above the European average of 58.14% but below the 66.33% satisfactory level set by the EU single market scoreboard. This is due to the percentage of procurements without missing buyer registration numbers (82%) that is below the satisfactory level (97%) and the TED publication rate (4%) which is below the European average (6%) and below the satisfactory level. The percentage of procurements without missing call for bids information (98%) reaches the satisfactory level (97%).

Based on this evidence, the total score for the sub-indicator II is 74.73%, which is slightly above the European average of 70.25% but still below the satisfactory level of 79.4% set by the EU Single Market Scoreboard. This is due to the need to improve further both the level of competition and the level of transparency on the Maltese public procurement market.

Based on the scores for the sub-indicators I and II, the **total score for the indicator "Innovation friendly public procurement market"** is 42%, which is **slightly below the 46% European average**. Compared to the previous benchmarking, the total score on this indicator has significantly increased from 31% to 42%, due to the level of transparency of the Maltese procurement market that has improved a lot. However, significant efforts are still needed to improve the use of all four techniques to foster innovation in public procurement. Indeed, the country has not yet adopted a default IPR regime in public procurement that fosters innovation, value for money criteria and preliminary market consultations are seriously underused in public procurements. In addition, both the TED publication rate and the level of competition of the procurement market still need to be improved, to enable innovative companies to find and compete for innovation procurement business opportunities.

