



**SAPIENS
NETWORK**

**CAN DATA MONITORING HELP THE UPTAKE OF
SUSTAINABLE PUBLIC PROCUREMENT IN THE EU MEMBER STATES?**

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Nadia-Ariadna Sava

**WP1 Sustainable Public Procurement: from the International Agenda to
Actual Buying Practices**



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Executive Summary

Currently, there is a shortage of data concerning sustainable public procurement in the EU. Data can refer to any information related to the procurement process, such as the entity that bought a product, the product that was purchased etc. With data, governments could monitor green and social practices and take better decisions that would lead to more sustainable public procurement. The current EU eForms might be the proper legal tool to address this issue, yet currently they do not make sustainable public procurement data collection mandatory. Therefore, coherent action is needed both from the EU and from Member States.

1. Target Stakeholders

The main stakeholders targeted by this policy brief are: public servants charged with digitalisation of public procurement; public servants charged with implementing the eForms; the European Commission and Member States' central governments and legislators.

2. Policy problem:

- In the EU, there is a shortage of sustainable public procurement data:
 - There is no EU legal obligation to monitor sustainable public procurement. The current eForms do not make sustainable public procurement data collection mandatory.¹
 - Existing data is flawed. Tenders Electronic Daily (TED) is the main EU public procurement data source. TED has multiple data quality issues that limit its usability.²

3. How does this research contribute?

- It describes the benefits of using data to monitor sustainable public procurement. This could contribute to an uptake of sustainable public procurement in Member States, contracting authorities could take better and more informed decisions.
- It presents the main pitfalls of the proposal (see point 6).

¹ Commission Implementing Regulation (EU) 2019/1780 of 23 September 2019 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation 2015/1986 (eForms) [2019] OJ L272/7; Commission Implementing Regulation (EU) 2022/2303 of 24 November 2022 Amending Implementing Regulation (EU) 2019/1780 Establishing Standard Forms for the Publication of Notices in the Field of Public Procurement' [2022] OJ L305/12.

² See, for example: Sebastian Halsbenning and Marco Niemann, 'The European Procurement Dilemma-First Steps to Introduce Data-Driven Policy-Making in Public Procurement' (2019 IEEE 21st Conference on Business Informatics); Eric Prier, Palina Prysmakova and Clifford P McCue, 'Analysing the European Union's Tenders Electronic Daily: Possibilities and Pitfalls' (2018) 11 International Journal of Procurement Management 722; Ahmet Soylu and others, 'Data Quality Barriers for Transparency in Public Procurement' (2022) 13 Information art 99.



4. Research methods

- 1. A literature review on the topic.
- 2. An analysis of relevant legal provisions and jurisprudence, mainly from the EU.
- 3. Two case studies of projects that already monitor sustainable public procurement.

5. Key relevant findings

1. In order to digitalise public procurement, any Member State needs: an e-procurement system and then a public procurement database; only afterwards, can it consider implementing other emerging technologies, such as artificial intelligence.³

2. Better monitoring means better and more sustainable public procurement. Member States could set sustainable public procurement indicators and verify if these indicators are achieved in practice, check which contracting authorities stagnate and take measures for their improvement.⁴ The current EU eForms might be the proper legal tool to address this issue, yet currently they do not make sustainable public procurement data collection mandatory.⁵

6. Discussion of perspectives on the findings and limitations

- Member States would have to define what qualifies as a sustainable public procurement so they can later collect data accordingly – there is a risk of greenwashing if the criteria are too lax.⁶
- Each Member State might use different definitions, which will lead to discrepancies between them.⁷
- Lack of digital skills and education, inadequate institutional organisation.⁸

7. Policy recommendation

*The EC should create a mandatory standard for sustainable public procurement data.
Each Member States should build a public procurement data infrastructure that integrates
sustainable public procurement, using the EU standard.*

³ Albert Sanchez-Graells, *Digital Technologies and Public Procurement: Gatekeeping and Experimentation in Digital Public Governance* (Oxford University Press, Oxford 2024) 149 and next.

⁴ Karolis Granickas, 'Going 100% Green in Lithuania' (*Open Contracting Partnership*, 17 October 2022), <<https://www.open-contracting.org/2022/10/17/going-100-green-in-lithuania>> accessed 12 March 2024.

⁵ European Commission, Directorate General for Internal Market, Industry, Entrepreneurship and SMEs, *EForms: Policy Implementation Handbook* (Publications Office 2020) 26.

⁶ Open Contracting Partnership, 'Green Flags: How open data can throw light on sustainable procurement' Guide [2021] <<https://www.open-contracting.org/resources/green-flags-how-open-data-can-throw-light-on-sustainable-procurement/>> accessed 12 March 2024 3.

⁷ Sanchez-Graells, 'Digital technologies' (n 3) 181.

⁸ See, for example: Sanchez-Graells, 'Digital technologies (n 3) 214 and next; Albert Sanchez-Graells, 'Competition Implications of Procurement Digitalisation and the Procurement of Digital Technologies by Central Purchasing Bodies' [2023] SSRN Electronic Journal 5 <<https://www.ssrn.com/abstract=4376037>> accessed 12 March 2024 9 and next.

