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SUSTAINABLE PUBLIC PROCUREMENT MANUAL OF GEORGIA

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Table of Contents

1.	Introduction.....	5
2.	Objectives of the Manual.....	5
3.	What is Sustainable Public Procurement?.....	6
4.	Why Sustainable Public Procurement?.....	7
5.	Sustainable Public Procurement and Sustainable Development Goals.....	7
6.	Legal Framework of Sustainable Public Procurement.....	9
7.	Sustainable Public Procurement Elements in the Basic Principles of Public Procurement.....	9
7.1.	Implementation of Sustainable Public Procurement.....	10
7.2.	Use of Sustainability Criteria in Public Procurement Procedures.....	10
7.3.	Monitoring and Control of Sustainable Public Procurement.....	12
8.	Defining the Terms of Procurement.....	12
8.1.	Defining the Subject Matter of Procurement.....	12
8.2.	Defining Technical Specifications.....	12
8.3.	Description of Materials, Conditions of Production and Delivery.....	13
8.4.	Means of Verification.....	14
9.	Selecting the Economic Operator.....	15
9.1.	Overview of Criteria for Selection of Economic Operator.....	15
9.2.	Environmental Technical Capacities.....	15
9.3.	Quality Assurance and Environmental Management Standards.....	16
9.4.	Supply Chain Management.....	17
10.	Award Criteria.....	17
10.1.	Environmental Award Criteria.....	17
10.2.	Where to include sustainability criteria in the Technical Specifications or in the Award Criteria?.....	18
10.3.	Life-cycle Costing.....	18
11.	Performance of the Sustainable Public Procurement Contract.....	19
11.1.	Supervision over the Implementation of the Contract.....	19
12.	Green Criteria for Imaging Equipment, Consumables and Cleaning Products.....	20
12.1.	Core and Comprehensive Criteria.....	20
12.2.	Green Criteria for Cleaning Products.....	21
12.3.	Green Criteria for Printers, Plotters, Toner and Ink Cartridges.....	24
13.	Case Studies of application Sustainable Public Procurement in different countries.....	28
14.	Conclusion.....	31
15.	Bibliography.....	32
16.	Useful Sources.....	33
	Appendix I – Sustainable Public Procurement in the Pan-European Region.....	34
	Appendix II – Sustainable Public Procurement Achievements/Indicator.....	35

Abbreviations and Acronyms

CA – Contracting Authority

CPV – Common Procurement Vocabulary provided by the respective legal act of EU which establishes united nomenclature to be used in public procurement

Draft Decree – Draft Decree of the Government of Georgia “On the Necessary Measures to be Taken in Order to Achieve the Goal of Sustainable Development in Public Procurement”

EECCA – Eastern Europe, Caucasus and Central Asia

EEV – Enhanced Environmentally Friendly Vehicles

EMAS – Eco-Management and Audit Scheme

EO – Economic Operator

EU – European Union

EU4Environment Programme – European Union for Environment

EaP GREEN – The “Greening Economies in the EU’s Eastern Neighbourhood” Programme

GPP – Green Public Procurement

ILO – International Labour Organization

NGO – Non-profit Organization

OECD – Organisation for Economic Co-operation and Development

PIN – Prior Information Notice

PP – Public Procurement

PPL – Law of Georgia “On Public Procurement”

SDGs – the United Nations Sustainable Development Goals

SME – Small and Medium Enterprise

SPP – Sustainable Public Procurement

The Agency – Legal Entity of Public Law State Procurement Agency of Georgia

The Association Agreement – The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part

UNDA – United Nations Development Account

UNECE – United Nations Economic Commission for Europe

UNEP – United Nations Environment Programme

UNIDO – United Nations Industrial Development Organization



1. INTRODUCTION

This Sustainable Public Procurement Manual of Georgia have been developed for the effective **implementation and enforcement of the legal provisions related to Sustainable Public Procurement (SPP)**, introduced by the legislation of Georgia, in particular by the Law of Georgia “On Public Procurement” (PPL) and Draft Decree on SPP.



By signing the Association Agreement with the European Union, Georgia has undertaken the obligation to **promote sustainable development for the benefit of present and future generations and stressed the importance of labour and environmental issues related to trade**. This commitment includes, inter alia, promoting the development of international trade to meet the key goals and objectives of sustainable development. In order to foster sustainable development, the Government of Georgia approved by its Decree¹ the National Document on Sustainable Development Goals (SDGs)² in November 2019.

In order to fulfil the abovementioned obligations and to ensure that sustainable development aspects are implemented *via* public procurement (PP) legislation, the **specific articles and provisions related to SPP were developed and suggested for the PPL**. These legal provisions are based on Directive 2014/24/ EU of the European Parliament and of the Council of 26 February 2014 (repealing Directive 2004/18/EC) and they are in line with the best international practices.

Overall, in order to adjust Georgian PP landscape to obligations under the Association Agreement and to introduce the SPP into real politics/practice, the PPL has cardinally updated the conceptual approaches and practical provisions related to PP in order to:

- optimize the overall operational and performance costs of the Contracting Authority (CA);
- achieve long-term sustainability;
- create a diverse market for SPP targeted goods, works and services in the future.

This manual is mainly aimed at CAs, although the approaches discussed in them are equally important for EOs (Economic Operators) too. The document will help EOs - especially micro, small and medium-sized businesses – to better understand the environmental and social requirements, which will be used more and more frequently in PP procedures.

2. OBJECTIVES OF THE MANUAL

The purpose of the Manual is **to assist both CAs and (EOs), including small and medium enterprise (SMEs), in the successful implementation of SPP**. The document explains the possibilities offered by the PPL and by the Draft Decree on SPP. Sustainable Public Procurement Manual of Georgia aims, on the one hand, to raise awareness of CAs for improving the effective implementation of SPP and relevant policy, and on the other hand, to ensure the readiness of EOs to meet the needs of CAs to procure more sustainable goods, works and services in the future.

¹ By the Decree N2328 of the Government of Georgia “On the National Document on Sustainable Development Goals” of November 12, 2019, the Government of Georgia approved the National Document on Sustainable Development Goals, which aims to promote sustainable development and to introduce evidence-based national policies in accordance with the Agenda 2030. The decree is available at <https://matsne.gov.ge/ka/document/view/4732470?publication=0> [23.08.2021].

² The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as an instrument to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity (UNDP). For further information please see: <https://www.undp.org/sustainable-development-goals> [23.08.2021].

3. WHAT IS SUSTAINABLE PUBLIC PROCUREMENT?

Sustainable Public Procurement (SPP) is defined as a process whereby organizations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organization but also to society and the economy, whilst minimizing damage to the environment.³

In addition to the environmental dimension, SPP also considers social and economic aspects:

- **The economic aspect** is related to the use of the methodology for calculating the total life-cycle cost. Procurement must be efficient, which means accepting the most economically advantageous bid;
- **The social aspect** is related to the protection of social equity, various social groups, human rights and the principles of labour law;
- **Environmental aspect** includes air, water and soil emissions, climate change, biodiversity, and proper use of natural resources throughout the life cycle of the procured product.

SPP aims to strike the right balance between the three pillars of sustainable development⁴ - the economic, social, and environmental aspects.

Sustainable development requires CAs to take into account social, economic, and environmental aspects while exercising their rights and obligations. None of the mentioned aspects shall have priority over others; rather, the right balance is important. CAs have the opportunity to apply sustainability criteria at any stage of procurement, from market research to contract enforcement and monitoring. **Moreover, in the cases defined by the Draft Decree of SPP, application of the SPP will be mandatory for selected product categories.**

It should be noted that meanwhile SPP includes social, economic and environmental aspects, the concept of the Green Public Procurement (GPP) is mainly focused on environmental impact of the product. In the EU, GPP is defined as **“a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured.”**⁵

³ Source: *Procuring the Future – the report of the UK Sustainable Procurement Task Force, June 2006. The definition adopted by the Marrakech Task Force on Sustainable Public Procurement and One Planet Network SPP Programme.*

⁴ For further information please see: https://ec.europa.eu/environment/gpp/versus_en.htm [23.08.2021].

⁵ European Commission (2008), Communication “Public procurement for a better environment”, European Union, Brussels, available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0400:FIN:EN:PDF> [31.10.2021].

4. WHY SUSTAINABLE PUBLIC PROCUREMENT?

Each acquisition provides a potential opportunity to promote and encourage sustainable development. Rational, responsible, and sustainable spending of public funds by the CAs will serve as an example for EOs to pursue sustainable policies, environmental and social goals, and will motivate them to apply innovations and new technology.⁶ From an economic point of view, SPP has the potential to reduce costs and improve technologies, since whole life-cycle costs are taken into account and better quality products last longer. Thus, SPP may become the major driver of innovation and a real indicator in the formation of a market of sustainable products, goods, works and services.



5. SUSTAINABLE PUBLIC PROCUREMENT AND SUSTAINABLE DEVELOPMENT GOALS

It is worth mentioning that SPP is one of the efficient instruments for shifting to green economy patterns that Georgia aims at. It can support Georgia in achieving SDGs⁷, as well as fulfilling other commitments of Georgia defined under over 30 Multilateral Environmental Agreements⁸ where Georgia is a party too.

The United Nations (UN) SDGs, approved in 2015, are a set of 17 goals and 169 targets adopted by all United Nations Member States, in order to achieve a better and more sustainable future.⁹ SDGs combine the targets in order to respond to the challenges we face today.

⁶ For further information on dissemination of Sustainable Public Procurement in the Pan-European region and about its achievements/indicators, please see appendix I and II of the manual.

⁷ For further information please see: <https://sdgs.un.org/goals> [23.08.2021].

⁸ For further information please see: <http://www.eiec.gov.ge/NavMenu/Documents/International-Convention.aspx> [23.08.2021].

⁹ For further information please see: <https://sdgs.un.org/goals> [23.08.2021].



SUSTAINABLE DEVELOPMENT GOALS

17 GOALS TO TRANSFORM OUR WORLD



It should be noted that SDGs are directly linked to the SPP approach too. In line with this should be mentioned Goal 12 – **Ensure Sustainable Consumption and Production Patterns**. This goal is considered as an instrument to ensure energy efficiency, sustainable infrastructure, resource efficiency, and access to decent work conditions. Sustainable production and consumption are about doing more and better with less¹⁰ by increasing resource efficiency and promoting a sustainable lifestyle.¹¹ Target 12.7 aims at promoting sustainability-oriented PP in line with national policies and priorities.

It should be mentioned that after the introduction of the SPP approach, demand of CAs on sustainable goods, works or services will increase. This, in turn, will contribute to strengthening of green and sustainable production on the market and to the introduction and development of environmentally friendly, eco-innovative solutions by EOs during the process of manufacturing.¹²

The concept of the SPP also takes into account the social aspects of sustainable development during the procurement process. In this regard, attention is also paid to the provision of ensuring rights of vulnerable groups, people with disabilities, underrepresented sex as well as securing labour and social rights by EOs. Thus, SPP is also directly related to the SDG 5 (Gender Equality)¹³ and the SDG 8 (Decent Work and Economic Growth).¹⁴

Therefore, we can say that the **implementation of the target 12.7 of SDGs and, accordingly, the introduction of the sustainability-oriented PP in line with national policies and priorities, contribute to achievement of SDGs.** Thus, the introduction of the SPP in Georgia is crucial for the implementation of the 2030 Agenda for Sustainable Development¹⁵ at the national level.

¹⁰ <https://www.unep.org/explore-topics/resource-efficiency/what-we-do/sustainable-consumption-and-production-policies> [23.08.2021].

¹¹ For further information please see: <https://sdgs.un.org/goals/goal12> [23.08.2021].

¹² For further information about the links between Sustainable Public Procurement and Sustainable Development Goals (SDGs) please see: UNEP 2021, Sustainable Public Procurement: How to Wake the Sleeping Giant! Introducing the United Nations Environment Programme's Approach, p. 20-30, available at: <https://www.unep.org/resources/publication/second-edition-uneps-sustainable-public-procurement-guidelines> [04.11.2021].

¹³ For further information please see: <https://sdgs.un.org/goals/goal5> [23.08.2021].

¹⁴ For further information please see: <https://sdgs.un.org/goals/goal8> [23.08.2021].

¹⁵ For further information please see: <https://sdgs.un.org/2030agenda> [31.10.2021].

6. LEGAL FRAMEWORK OF SUSTAINABLE PUBLIC PROCUREMENT

The legal provisions related to sustainability are provided by the Constitution of Georgia, by the Association Agreement, by the PPL and by the Draft Decree on SPP.

In order to execute the legal obligations stemming from the Constitution of Georgia¹⁶ and to ensure the commitment to promote sustainable development, the PPL provides that in the cases defined by the Decree of the Government of Georgia, the achievement of the goal of sustainable development shall be mandatory when implementing PP.¹⁷

The Draft Decree defines the Common Procurement Vocabulary (CPV) codes of the procurement object, during the procurement of which it is obligatory to take into account the sustainability aspects. In this case, the CAs will be obliged to determine the sustainability attributes in the terms of procurement and to procure sustainable/environmentally friendly goods, works and services. However, it should be noted that CAs will have the right to procure other procurement objects using the characteristics of sustainability as well, if the imposition of such requirements ensures and complies with the general principles established by the PPL.



7. SUSTAINABLE PUBLIC PROCUREMENT ELEMENTS IN THE BASIC PRINCIPLES OF PUBLIC PROCUREMENT

SPP is not a parallel dimension to the existing procurement system, instead, it must be implemented through everyday procurement procedures. Therefore, **in order to implement SPP, the basic principles of PP, such as efficient and rational spending of PP funds, openness, and transparency, proportionality as well as non-discrimination and equal treatment must be observed.** SPP shall ensure rational spending of public funds and, at the same time, motivate the business sector for sustainable development.

Among the principles mentioned above, the principles of the effective and rational spending of public funds are particularly relevant to SPP. Procurement must be efficient, which means doing proper market research before procurement and accepting the most economically advantageous offer/bid. This does not necessarily mean choosing the bid with the lowest price. Rather, it means choosing a solution and means that meet the requirements of CAs, including taking into account environmental and social aspects. The best value does not always mean the monetary value of the procurement object only but also takes into account factors such as quality, sustainability, efficiency, effectiveness, and feasibility as well as environmental, economic and social concerns.

However, buying according to the lowest price or cost criteria should not be excluded as there are situations where it is the most feasible and rational approach. In case of applying the criterion of the lowest price or cost for the tender award, the sustainability-related requirements may be formulated in technical specifications (description of the subject matter of procurement). In this case, compliance with them will be mandatory, whereas non-compliance will result in the dismissal of the bid. When life-cycle costing is utilized, the award criteria could be the lowest life-cycle cost.

¹⁶ Such as obligations of protection of the environment, rational use of natural resources, social protection of people and development of free entrepreneurship and competition.

¹⁷ Article 2 of the Law of Georgia "On Public Procurement".

7.1. IMPLEMENTATION OF SUSTAINABLE PUBLIC PROCUREMENT

When implementing SPP, it is important to take into account the specifics, priorities and goals of the CAs. The coherent implementation of SPP includes consideration of all stages of procurement transactions - from the procurement planning, market research, publication of prior information notice (PIN), and drafting the terms of procurement to awarding the contract and monitoring of its implementation. In addition, in order to encourage the use of SPP, CA may set a specific goal, for instance, set up the percentage of the total tenders during the budget year that could be conducted with inclusive sustainability criteria.

In order to make PP more sustainable, it is advisable for the CAs to consider the costs associated with such procurement before making a decision on SPP, also, to assess whether there is a better alternative that saves both their time and costs and whether it achieves sustainability goal without using SPP. For example, if a CA plans to arrange a meeting that requires travel of passengers from one point to another, it is possible to determine that the passenger transportation services should be procured through SPP, taking into account the aspect of reduction of environmental impact of the vehicle. In this case, it is possible to procure the services of transportation via environmentally friendly transport and this kind of procurement could be considered as SPP. On the other hand, the CA should evaluate whether there is a more optimal solution in the remote, so-called online meeting. Conducting an online meeting is an even more environmentally friendly decision (it will no longer have to use a vehicle at all), and in turn, CA will save time and money as well.

According to the PPL, **CAs have the opportunity to enter into contracts not only on the basis of the lowest price of the procurement object (“today’s price”) but also according to entire life-cycle cost. Life-cycle costing includes the costs related to the production, delivery of goods, provision of services or execution of works, including costs related to procurement, utilization, consumption of energy and other resources, maintenance, recycling or disposal, as well as costs imputed to environmental externalities (provided their monetary value can be determined).**

7.2. USE OF SUSTAINABILITY CRITERIA IN PUBLIC PROCUREMENT PROCEDURES

The preparatory stage of the procurement procedure is crucial for the successful implementation of any procurement. CAs should be aware at what stage of a particular procurement procedure it is possible to use sustainability characteristics.

It should be noted that sustainability criteria shall be elaborated per each selected product groups (that are defined by the Draft Decree) and be available for the EOs. Sustainability criteria can be taken into account during the following stages of procurement procedure:

- Procurement planning;
- Establishing the selection criteria;
- Establishing technical specifications;
- Establishing tender award criteria;
- Drafting procurement contract.

A brief overview of PP procedures defined by the PPL is presented below to explain how sustainability criteria can be effectively used in PP.

- **Open Procedure**

Open Procedure is a one-stage procedure. A CA shall announce PP and publish terms of procurement containing all the information related to PP. Thus, in order to implement SPP via the open procedure, sustainability characteristics should have been taken into account while determining the terms of procurement. Sustainability requirements can be set for both EOs and for the subject matter of the contract. In this procedure, a CA simultaneously assesses the compliance of EOs as well as of the bids submitted by the EOs with the terms of procurement and subject matter of the contract.

- **Restricted Procedure**

Restricted Procedure is a two-stage procedure. At the first stage, CAs shall verify whether EOs are duly qualified. Only compliant EOs can be invited for the second round to submit bids. At the first stage of the procedure, SPP related requirements may be introduced via selection criteria. CAs also have the right to reduce the number of candidates in accordance with Article 60 of the PPL. For example, in addition to the minimum criteria, CAs can define specific sustainability criteria and indicate in the terms of procurement that the number of candidates will be reduced according to these criteria. In order to exercise this right, objective and non-discriminatory criteria shall be defined in the terms of procurement. In addition, while defining the terms of procurement CAs shall ensure genuine competition. When determining the number of candidates, a CA should take into account the specifications of the procurement object and the relevant market, including competition on that market. The minimum number of candidates in the restricted procedure must be 5.

Those EOs who are invited to submit bids at the second stage will have to submit technical and financial offers. In this stage of the procedure, SPP-related requirements may be included in technical specifications, tender award criteria and draft procurement contract.

- **Negotiated Procedure with prior publication and Competitive Dialogue**

Competitive dialogue and negotiated procedure with the prior publication are also two-stage procedures. These procedures may be used only in the cases explicitly provided by PPL, including where the procurement involves an innovative solution or where the needs of a CA cannot be met without adjustment of the solutions available at the marketplace.

Same rules apply to the competitive dialogue and negotiated procedure as those that apply to restricted procedure. However, in addition, the competitive dialogue and negotiated procedure involve a negotiation/dialogue phase. In this phase CAs and EOs may negotiate about technical and/or financial offer as well as the procurement contract conditions. These negotiations may include SPP requirements as well.

- **Innovation partnership**

When CAs want to procure innovative goods, services and/or works, or when there is a need for research and development, or where the goals of CAs cannot be achieved through procurement of goods, works and/or services already available at national or international marketplace, CAs have the possibility to start the procedure of innovation partnership by concluding individual contracts with one or several EOs. It should be noted that as in other procedures, sustainability criteria may also be used here. For instance, Innovation Partnership may be organized in order to achieve new innovations in the environmental area – new types of energy-saving approaches, green technologies etc.



7.3. MONITORING AND CONTROL OF SUSTAINABLE PUBLIC PROCUREMENT

According to the PPL and the Draft Decree, the Agency is the public entity responsible for studying and analysing the field of SPP in Georgia. Using the results of the monitoring, the Agency can identify the gaps and prepare recommendations for the Government on how to improve PP procedures as well as SPP practices.

According to the Draft Decree, in order to effectively control the implementation of SPP, the CA shall prepare and submit to the Agency the information on the implementation of SPP annually, and no later than November 1 of each year. The Agency, in turn, shall provide an annual assessment of the use of PP and determine the share of SPP in the total volume of PP. As a result, the Agency shall prepare and submit a report on the use of sustainable procurement to the Government of Georgia once a year.

The CAs shall keep the obligation to follow and monitor their own SPP transactions too, in order to ensure that they are in line with applicable legislation.

8. DEFINING THE TERMS OF PROCUREMENT

8.1. DEFINING THE SUBJECT MATTER OF PROCUREMENT

One of the key aspects of the SPP approach is that the decision not to buy anything can also be considered as a sustainable decision. For instance, instead of buying new cars for civil servants, the CA may decide to use public transport. If one public authority has a surplus furniture, perhaps it is possible to transfer it to another authority that needs new desks and chairs for equipping a new office. There might not be a need to buy bottled water, thus increasing the amount of plastics, if the tap water is fully suitable for drinking and etc.

If, however, it is established that the need to buy something exists, CA must assess the impact of the procurement subject on sustainability aspects (for example, the environmental impact) until the publication of the procurement notice and should consider having a consultation with proper authorities and end-users. Also, it should be desirable to be explained to the end-users why a CA decided to procure the object of the procurement exactly with concrete requirements and what was the reason for procuring, for example, paper different from the paper used before. This method also serves the goal of raising awareness on SPP principles through (throughout) the people employed in CAs.

As in any PP procedure, in the PP procedures with sustainability criteria, a CA shall be obliged to carry out all the necessary measures to determine requirements in the procurement terms, before commencing the procurement process. In order to define if there is an object of procurement with, for example, less environmental impact, a market consultation (market research) should be carried out prior to procurement, taking into account the consultations with proper authorities and proper normative act research at the same time.

8.2. DEFINING TECHNICAL SPECIFICATIONS

What a product is made of, also how it is produced and delivered, could be one of the criteria to define the environmental impact of an object of procurement. It must be noted that technical specifications include only mandatory requirements – non-compliance with them will result in the exclusion of the EO. Therefore, **CAs should consider the necessity of each requirement and ensure that only important and significant requirements are put into the specifications. That relates to SPP-related requirements as well.**

In accordance with the PPL, if a CA wishes to take into account environmental, social or other similar issues while describing the object of procurement, it can indicate in the specifications about the necessity of having particular labels¹⁸ such as the evidence that offered goods, works, or services comply with the specifications referred to in the PPL. Also, **if a CA does not request that the object of procurement meets all the label requirements, it shall indicate which requirement is mandatory to be satisfied.**¹⁹

It is noteworthy to mention that the clearer the technical specifications, the more chances are there for the EOs to define their own interests and – accordingly – the more opportunity for developing genuine competition. **SPP is a new concept that will be gradually introduced in Georgian PP practices, thus awareness of business and market players is essential for high-level competition on the market.**

Technical specifications must provide measurable requirements in order for the EOs to formulate clear offers that are in compliance with a CA's terms of procurement and in order for the CAs to assess the compliance of offers (bids submitted by EOs). Otherwise, the offer with sustainability criteria might not be awarded.

Technical specifications need to relate to specific characteristics of the particular product that is being purchased.²⁰ It must be considered that in any case, including implementation of SPP, if a CA determines the specifications of the procurement object by reference to the relevant standards, such reference shall be indicated in the following order: international standard; or when the standard referred to does not exist - regional standard; or when it does not exist – state standard applicable in Georgia on the bases of international treaties of Georgia; or when it does not exist either – Georgian standard. Each reference to the standard shall be accompanied by the words “or equivalent”.²¹ In turn, it means that if compliance of the offered procurement object with an “equivalent” standard is proved, such an offer will be considered compliant with the procurement terms.

If technical specifications are formed by CAs in the form of performance and/or functional specifications with reference to technical specifications the purpose of which is to check compliance with performance and/or functional specifications,²² CAs should describe their expectations towards the results and how the outputs of PP will be assessed. Determination of the procurement terms in this way gives more ability to EOs to have more innovative offers and respectively, somehow, it could be a challenge to the market and could promote the development of innovative solutions. It should be noted that when formulating technical specifications in this way, a CA must carefully take into account principles of transparency and equal treatment and must assess if the desired result will be achieved by the solutions offered by EOs in the manner that the relevant quality, specified in the procurement documents, is not breached. For example, notwithstanding the fact that an EO may offer the procurement object or solution with less environmental impact or submit the bid with the lowest price, this must not prejudice the quality required by a CA in the terms of procurement.

8.3. DESCRIPTION OF MATERIALS, CONDITIONS OF PRODUCTION AND DELIVERY

Methods of production and delivery process of the object of procurement could be one of the components of the technical specifications in the terms of procurement and description of these aspects can be taken into account when defining procurement terms. These cases may arise even when they are not the matter of the material substance of the object. For example, it may be required in the terms of public procurement that electricity shall be produced from renewable sources. At the same time,

18 Like “eco”, “bio”, “organic” and/or others.

19 In accordance with Sub-Paragraph 5 of Chapter II of the Draft Decree, information regarding environmental protection measures - the requirements and criteria used in public procurement to reduce the environmental impact of procurement objects must be precisely formulated and objectively measurable. Furthermore, appropriate conformity verification methods should also be taken into account in these requirements and criteria.

20 For example, if a contracting authority needs to procure an environmentally friendly lamp, it can determine the criteria for environmentally friendly requirements in the technical specifications but not requirements of having experience of delivering such an environmentally friendly goods. In turn, this issue could be defined in the selection criteria.

21 Sub paragraph “b” of Paragraph 5 of Article 49 of the Law of Georgia “On Public Procurement”.

22 Sub paragraph “c” of Paragraph 5 of Article 49 of the Law of Georgia “On Public Procurement”.

it is noteworthy to mention that any requirement, including requirements of the environmentally friendly production should bear a link to the procurement object and it must not be related to the operations and the policy of EOs. Certain requirements, including requirements of sustainability, might be determined with regard to the activities of the policy of an EO. However, these requirements should be defined not in the technical specification but in the requirements set for an EO.

As far as a CA defines technical specifications of the procurement object by taking into account its own needs, it might define, for example, what the goods to be delivered should be made of and/or determine the percentage of recycled or reused content of a product. The CA is entitled to determine that the goods should not consist of hazardous (toxic) substances. In such cases, the CA must indicate normative acts that restrict the use of hazardous substances or the goods containing thereof. In addition, in order to ensure reduction of the risk of non-equal treatment, it would be better that sustainability criteria are based on the requirements sustained by legal norms, labels and aspects acknowledged for sustainable development.

It should be emphasized that SPP-related requirements shall not be used in a way that may create unequal treatment and discrimination of EOs. CAs therefore should come up with SPP requirements that they are able to verify. When the CA is not sure on how it will verify the compliance with the related requirements, it shall not use the relevant requirement. Such situations may occur in cases when CA refers to the production or trading stage of the life cycle of the procurement object in question.

8.4. MEANS OF VERIFICATION

Use of international, regional (including, the EU-based), and national labels to verify environmental or social attributes are one of the successful ways of implementation of SPP. Ecolabels provide an opportunity to save time as they provide recourses for the CAs, as they already testify the compliance with particular requirements. Labels could be used for the following purposes:

- to define the characteristics of the goods or services, which are purchased;
- to check compliance of the tender with the requirements of sustainability set by the procurement terms.

It must be considered, that the **PPL establishes concrete clauses (cases) when a CA can indicate in specifications about the necessity of having particular labels (like “eco”, “bio”, “organic” and/or others).**²³ In such cases, it shall be necessary for the label to meet all of the following requirements:

- a) the label concerns only those criteria, which are linked with the object of procurement and are used as an established method for determining the specifications of such an object of procurement;
- b) the label requirements are based on objectively verifiable and non-discriminatory criteria;
- c) the label is established by the process in which all the stakeholders such as government bodies, consumers, entrepreneurs, manufacturers and non-profit organizations (NGOs) could participate;
- d) the label is accessible and available to all interested parties;
- e) the label requirements are set by a third party over which the EO applying for the label cannot exercise a decisive influence.

If a CA requires a label as a proof in order to verify that the product meets the tender criteria, it must also accept a certificate equivalent to this label. In addition, according to Paragraph 12 of Article 49 of the PPL, in the case where an EO proves the absence of possibility to obtain the label determined by a CA or its equivalent due to the reasons independent from it, a CA shall receive other, relevant evidence, including an official document issued by the manufacturer, which proves that the object of procurement offered by the EO fully meets the requirements indicated by the CA. Furthermore, if the label meets the requirements provided for in Sub-Paragraphs “b” – “e” of Paragraph 9 of Article 49 of the PPL, and at the same time there are other requirements that are not related to the object of procurement, a CA shall not be entitled to request such a label. In such cases, CA shall give a description of the specifications related to the object of procurement.

²³ Paragraph 9 of Article 49 of the Law of Georgia “On Public Procurement”.

9. SELECTING THE ECONOMIC OPERATOR

Selection criteria mainly focus on EO's ability to perform the PP contract. When assessing it, CAs are entitled to take into account specific experience and competence related to environmental aspects that are relevant to the subject matter of the PP contract. They may ask for evidence of the ability of EOs to apply environmental measures when carrying out the PP contract. **The CA is also authorized to require the EO to comply with social, environmental and labour law norms in order to promote sustainable development.**²⁴ However, it should be emphasized that the selection criteria should be linked with the subject matter of the contract.²⁵

9.1. OVERVIEW OF CRITERIA FOR SELECTION OF ECONOMIC OPERATOR

It is possible to introduce environmental elements in the selection criteria of an EO by laying down the provisions in the terms of procurement related to the technical and professional capabilities of an EO. In this regard, it should be borne in mind that in terms of technical and professional compliance, a CA is authorized to determine necessary requirements such as sufficient human and technical standing, as well as working experience of the EO.

9.2. ENVIRONMENTAL TECHNICAL CAPACITIES

In the process of conducting PP procedures, drafting selection criteria is a quite complex issue. Accordingly, **it is advisable for the CA to determine requirements regarding their previous working experience and about human and technical resources in order to confirm, that EOs have the necessary capacities to deliver such requirements.** Environmental technical capacity can include technical competence in minimizing waste creation, avoiding spillage/ leakage of pollutants, reducing fuel consumption or minimizing disruption of natural habitats.

In practical terms, it typically concerns questions such as:

- Does the EO have previous experience with executing contracts in a sustainable way?
- Does the EO employ the personnel with the required education and does the employed personnel have respective experience and/or professional qualifications in order to manufacture environmentally friendly products and suggest them for the PP tenders?
- Does the EO own or have access to the necessary technical equipment or facilities for environmental protection in order to fulfil obligations set by the PP contract while providing goods/services/works?
- Does the EO have the means to ensure the quality of performance assumed by the PP contract for the services to be delivered and/or works to be executed and/or goods to be supplied? For example, does the EO have products marked with the relevant label or certificate?

In this context, one of the useful instruments is the information/records of contracts carried out. This information can be required by defining, in the terms of procurement, a relevant provision regarding submission of the information related to previous experience of an EO.

²⁴ Sub-Paragraph "f" of Paragraph 1 of Article 12 of the Law of Georgia "On Public Procurement".

²⁵ For further information please see: ClientEarth (2011), Identifying Opportunities for Sustainable Public Procurement. Briefing No.4: Clarifying the Link to the Subject Matter for Sustainable Procurement Criteria, available at: <https://www.documents.clientearth.org/wp-content/uploads/library/2011-10-01-briefing-no-4-clarifying-the-link-to-the-subject-matter-for-sustainable-procurement-criteria-ce-en.pdf> [31.10.2021].

When checking technical and professional compliance of an EO, the PPL provides the maximum period of time to be taken into account. According to the PPL, technical and professional abilities defined in the terms of procurement may be verified by:²⁶

- a) the information about the supplies delivered or services performed over not more than the past three years with the data about their value, dates of delivery of goods or performance of services and about the recipient accompanied by certificates of satisfactory execution of the supplies or services.²⁷
- b) a list of the works carried out over not more than the past five years, with the data about their value, date of performance and recipient accompanied by the information of the satisfactory performance of works.²⁸

It should be mentioned that **in the process of determining provisions regarding environmental technical capacities in the terms of procurement, the following issues may be required:**²⁹

- a) an indication of the technicians or technical bodies involved, especially those responsible for quality control of the commitments assumed by the PP contract or who are carrying out the work;
- b) documents (for example certificate on eco-labelling) verifying qualification and experience of the manager or technical staff;
- c) a description of the technical facilities and measures used by the EO for ensuring quality;
- d) a description of the supply chain management and tracking systems to be used for fulfilling the commitments;
- e) a description of the environmental management measures related to the performance of commitments;
- f) an indication of the proportion of the PP contract which the EO intends possibly to subcontract.

It is crucial for the CA to define explicitly, distinctly and unambiguously what kind of required information/documentation will be relevant and by what means the submitted information/documentation will be evaluated. It should be noted that the EO is not requested to submit the information/documentation referred when the data can be checked through the Electronic Procurement System or through other open database in compliance with the procedures established by the bylaw, which ensures more flexibility for participation in the procurement procedure.³⁰

9.3. QUALITY ASSURANCE AND ENVIRONMENTAL MANAGEMENT STANDARDS

A CA is entitled to evaluate the capacities of an EO with the technical and professional compliance specified in the procurement terms by the following ways:

- a) by checking if the EO is registered in Eco-Management and Audit Scheme (EMAS)³¹;
- b) by checking if the EO has a certificate issued by an accredited body in compliance with procedures established by the legislation of Georgia or respective country which serves as evidence for conformity with European or international environmental standards;
- c) by equivalent evaluation of conformity of activities with environmental requirements which in Georgia corresponds to environmental management systems referred to in paragraphs “a” or “b” above.

²⁶ Paragraph 5 of Article 59 of the Law of Georgia “On Public Procurement”.

²⁷ In order to ensure an adequate level of competition, a contracting authority may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account.

²⁸ In order to ensure an adequate level of competition, a contracting authority may indicate that evidence of relevant works carried out more than five years before will be taken into account.

²⁹ Paragraph 5 of Article 59 of the Law of Georgia “On Public Procurement”.

³⁰ Paragraph 6 of Article 59 of the Law of Georgia “On Public Procurement”.

³¹ The EU Eco-Management and Audit Scheme (EMAS) is a premium management instrument developed by the European Commission for companies and other organizations to evaluate, report, and improve their environmental performance. EMAS is open to every type of organization eager to improve its environmental performance. It spans all economic and service sectors and is applicable worldwide. For further information please see: https://ec.europa.eu/environment/emas/index_en.htm [09.09.2021]

9.4. SUPPLY CHAIN MANAGEMENT

Environmental impact may arise not only in the delivery of a particular procurement object but also further back along the supply chain.³² For example, IT equipment generally has components sourced from many parts of the world, including metals and other substances which pose a high risk of environmental damage in their extraction and processing.

Therefore, when there are social and/or environmental risks involved in production, delivery and/or trading stages of the life cycle of the relevant product, it makes sense for CAs to look back at the complete chain of subcontractors (if any) presented by an EO in the stage of selection and evaluation and analyse whether required environmental criteria are met beyond the primary or first-tier contractor.³³ Furthermore, EOs should provide the relevant evidence that they are ensuring the respect of human rights and labour laws along the supply chain.

10. AWARD CRITERIA

10.1. Environmental Award Criteria

At the award stage, a CA evaluates the quality and costs of submitted tenders using award criteria, published in advance, to decide finally which tender is the best. Award criteria ensure to determine the most economically advantageous tender. This does not mean that only the lowest price should be the main award criteria.

According to the PPL, following the bylaw there might be cases defined when it shall be admissible or banned to set the lowest price criteria only.³⁴ However, according to the PPL, it is obligatory to use the best price-quality ratio criteria during several PP procedures such as during the innovation partnership, design contest and competitive dialogue.

According to the PPL, **the criteria for determining the best tender may be based on:**³⁵

- a) the lowest price;
- b) economic efficiency;
- c) the best price-quality ratio.

According to the PPL, the **best price-quality ratio shall be assessed on the basis of different criteria, including qualitative, environmental or social aspects.** Such criteria may comprise:

- a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
- b) organization, qualification and experience of staff assigned to performing the PP contract, where the quality of the staff assigned can have a significant impact on the level of performance of the PP contract;
- c) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

³² Sustainable Procurement concept/approach is widely used in other economy sectors too. A practical example of the more sustainable supplier chain management at the Georgian financial service sector is the ProCredit Bank which initiated a group-wide project to analyze the sustainability of supply chain nets and suppliers. Within the project framework, the criteria for "sustainable" suppliers was defined. General supplier analysis, sustainability analysis of current suppliers and the analysis of sustainability increased in the supply chain were conducted. It is noteworthy to mention that some of the positive criteria for suppliers are identified: (i) Certified environmental management system, (ii) Products comply with ProCredit Green Finance criteria, (iii) Ecologically and/or socially certified or regional products, (iv) Sustainable use of energy/resources, (v) Proper waste management, (vi) Products delivered in returnable/recyclable containers, (vii) Corporate Social Responsibility, (viii) Compliance with ILO standards. For further information, please see: ProCredit Bank, ProCredit Eco Sustainable suppliers, Newsletter, Q2/2021, available at: https://procreditbank.ge/sites/default/files/annual_report/q2_2021_newsletter_eng.pdf [24.08.2021].

³³ Buying green! A handbook on green public procurement. 3rd Edition. European Union, 2016, p.48, available at: <https://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf> [06.05.2021].

³⁴ Paragraph 3 of Article 51 of the Law of Georgia "On Public Procurement".

³⁵ Paragraph 2 of Article 51 of the Law of Georgia "On Public Procurement".

It is noteworthy to mention that if the best price-quality ratio criteria are used, a CA specifies in the terms of procurement the relative weighting that it gives to each of the criteria chosen. Where weighting is not possible for objective reasons, a CA is obliged to indicate the criteria in decreasing order of importance. In this way, the criteria for identifying the best bid is being brought under the control of the EOs, and, in case of a possible violation of their right, it is possible to be appealed in accordance with the rules defined by the PPL.

10.2. WHERE TO INCLUDE SUSTAINABILITY CRITERIA IN THE TECHNICAL SPECIFICATIONS OR IN THE AWARD CRITERIA?

A CA should take into account a number of considerations when deciding whether to indicate environmental criteria as mandatory requirements in the technical specifications or among the criteria for identifying the best tender. One of the basic factors conditioning consideration of environmental aspects in the criteria for identifying the best tender may, for example, be the case when a CA is not sure of the amount of costs and/or the readiness of a relevant market and availability of the environmentally friendly procurement object on the market.

A CA is entitled to set minimum environmental criteria in the technical specifications, and then allocate extra points in the award criteria for identifying the best tender, with reference to the best weighting. This approach will give more flexibility to CAs at the stage of identifying the EO as the winner. In such a case CA should ensure that the requirements of technical specifications and tender award criteria do not overlap.

10.3. LIFE-CYCLE COSTING

According to the PPL, **life cycle includes all consecutive and interconnected stages**,³⁶ including:

- a) Research and development to be carried out;
- b) Production;
- c) Trading and its conditions;
- d) Transportation;
- e) Use and maintenance;
- f) The whole period of existence of the product or execution of works and provision of services, from the moment of acquisition of raw material or generation of resources at disposal, through clearance and end of service or utilization.

Since the criteria for identifying the best tender can be based on the economic efficiency, in which the cost of the life cycle is considered in the first place, it is important to explain its concept.

Life-cycle costing includes the costs borne during a life cycle related to the delivery of goods, provision of services or execution of works, including costs related procurement, utilization, consumption of energy, and other resources, maintenance, recycling, as well as costs imputed to environmental externalities (provided their monetary value can be determined).³⁷

It is noteworthy to mention that if a CA assesses the costs using a life-cycle costing approach, it shall indicate in the procurement documentation the data to be provided by the EOs and the method which the CA will use to determine the life-cycle costs on the basis of those data.³⁸

³⁶ Sub-Paragraph "u" of Paragraph 1 of Article 3 of the Law of Georgia "On Public Procurement".

³⁷ Sub-Paragraph "v" of Paragraph 1 of Article 3 of the Law of Georgia "On Public Procurement".

³⁸ Paragraph 8 of Article 51 of the Law of Georgia "On Public Procurement".

The method used for the assessment of costs imputed to environmental externalities shall fulfill all of the following conditions³⁹:

- a) it shall be based on objectively verifiable and non-discriminatory criteria. In particular, where it has not been established for repeated or continuous application, it shall not unduly favor or disadvantage certain EOs;⁴⁰
- b) it shall be equally accessible to all interested parties;⁴¹
- c) the data required can be provided with reasonable effort by normally diligent EOs, including non-resident EOs.⁴²

Therefore, the criteria for identifying the best tender vary, depending on what kind of approach is chosen by the CA, taking into account the peculiarities of the procurement object. In the process of using sustainability criteria in PP, it is advisable for the CAs to rely only on the provisions defined by the primary or secondary legislation, regulating SPP, as much as possible. A structurally coherent and detailed system ensures that the transparency of evaluating and awarding process is a prerequisite for identifying an EO as a winner in accordance with the basic principles of PP.

11. PERFORMANCE OF THE SUSTAINABLE PUBLIC PROCUREMENT CONTRACT

In the contract execution phase, it is critically important that the CAs ensure that all aspects and requirements, especially SPP related, are fulfilled properly by EOs. In general, CAs should not accept – directly or tacitly - any derogation from SPP requirements and criteria provided for in the tender documents. If amendments are made in PP contract it might be said that it is possible to make the PP contract “stricter” in order to make PP more “sustainable”.⁴³

11.1. SUPERVISION OVER THE IMPLEMENTATION OF THE CONTRACT

According to Paragraph 1 of Article 69 of the PPL, a CA shall be obliged to perform supervision over the implementation of the procurement contract. This obligation relates, among others, to the performance of the requirements determined for the implementation of SPP and, in turn, plays an important role in PP procedures with sustainability criteria.

According to Paragraph 13 of Chapter IV of the Draft Decree, the CA is obliged to monitor and evaluate adherence of EOs to the SPP requirements through various methods, such as, but not limited to, review of documented evidence or independent specialist audits (if deemed relevant). Different forms of monitoring of the performance of the SPP contract can be applied:

- EOs can be requested to supply the evidence of compliance with the commitments assumed with the terms of SPP;
- CAs or third parties selected by them may supervise the fulfillment of the terms of the contract.

According to Paragraph 14 of the Chapter IV of the Draft Decree, control over the compliance of procurement objects to be supplied with the sustainability criteria specified in the law or the terms of procurement shall be performed periodically or at the ad hoc request of the CA.

Also, since a PP contract regulates contractual relationships between CAs and EOs, it might include appropriate penalties for non-compliance, including in case of breaching the sustainability terms. While carrying out supervision over the performance of the contract, CAs must take into account the time limits and resources given to EOs, in order to determine whether it is possible to fulfill the commitments related to sustainability along with other commitments. First of all, it must be assessed if performance of sustainability obligations by an EO is in compliance with sustainability rules prescribed by the legislation and EOs shall be required to fulfill such obligations unconditionally.

³⁹ Paragraph 8 of Article 51 of the Law of Georgia “On Public Procurement”.

⁴⁰ Sub-Paragraph “a” of Paragraph 8 of Article 51 of the Law of Georgia “On Public Procurement”.

⁴¹ Sub-Paragraph “b” of Paragraph 8 of Article 51 of the Law of Georgia “On Public Procurement”.

⁴² Sub-Paragraph “c” of Paragraph 8 of Article 51 of the Law of Georgia “On Public Procurement”.

⁴³ According to Subparagraph “e” of Paragraph 1 of Article 67 of the Law of Georgia “On Public Procurement”, public procurement contracts/framework agreements may be modified without a new procurement procedure in cases where the information regarding modification of a contract, including irrespective of its value, is explicitly determined in the terms of procurement and the modification is not substantial.

In addition, if the subcontractor is involved in the PP process, commitments related to sustainability must be fulfilled by the subcontractor too. It should be emphasized that permanent performance of supervision of a PP contract is one of the most important aspects in the process of achieving the purpose of SPP. Without right and comprehensive monitoring, SPP loses its meaning and moreover, there could arise the risk for a CA of violation of the principle of efficient and cost-effective use of funds.

Overall, it is important for a CA to perform supervision over the implementation of contractual obligations in order to determine whether sustainability terms are fulfilled and if there are any violation of sustainability commitments stipulated by the legislation, as well as by the contract concluded between the parties. According to Paragraph 15 of Chapter IV of the Draft Decree, this fact may lead to the termination of the PP contract.

12. GREEN CRITERIA FOR IMAGING EQUIPMENT, CONSUMABLES AND CLEANING PRODUCTS

Provisions in this chapter were developed based on analysis of European best practices, in particular, based on EU GPP criteria.⁴⁴ These recommendations have been developed in order to enable and encourage CAs to procure imaging equipment, consumables and cleaning products sustainably by taking into account one of the key aspects of sustainable development – environmental aspects and criteria - in compliance with the PPL and with the Draft Decree.⁴⁵

Based on the prioritization that was conducted according to the UNEP's methodology⁴⁶, several product categories were identified as the priority categories for the implementation of the SPP in Georgia. These products are:

- Toner cartridges (CPV 30125100);
- Ink cartridges (CPV 30192113);
- Printers and plotters (CPV 30232100);
- Cleaning and polishing products (CPV 39800000).

The provisions provided by this chapter are of a recommendatory nature and are formulated in such a way that they can, if deemed appropriate by the individual need, be (partially or fully) integrated into the CA's terms of procurement/procurement documentation with minimal editing after conducting its needs assessment.

12.1. CORE AND COMPREHENSIVE CRITERIA

During purchasing of procurement objects (goods) considering sustainability aspects, the criteria on which the CA may rely are conditionally divided into the core and comprehensive criteria.⁴⁷

- **Core criteria** – criteria that are designed to allow for easy application of GPP and are not related to large administrative (human and time) resources. These criteria are focused on the key area(s) of the environmental performance of a product and aimed at keeping administrative costs for companies to a minimum;

⁴⁴ For further information please see: https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm [06.05.2021].

⁴⁵ Draft Decree of the Government of Georgia "On the Necessary Measures to be taken in order to achieve the Goal of Sustainable Development in Public Procurement".

⁴⁶ For further information regarding the UNEP's approach please see: https://www.oneplanetnetwork.org/sites/default/files/sustainable_public_procurement_implementation_guidelines.pdf [27.09.2021].

⁴⁷ For further information on these issues please see: EU GPP criteria for indoor cleaning services, p.2, available at: https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf [06.05.2021]; EU green public procurement criteria for imaging equipment, consumables and print services, p.3, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

- **Comprehensive criteria** – criteria that take into account more aspects or higher levels of environmental performance, designed for CAs that want to go further in supporting environmental and innovation goals.

Within the framework of SPP of cleaning products, imaging equipment and consumables, the above-mentioned core and comprehensive criteria can be used at different stages of the PP procedure. Accordingly, the CA is entitled to determine these criteria:

- In the criteria for selection of an EO;⁴⁸
- In the specifications of the object of procurement;⁴⁹
- In tender award criteria;⁵⁰
- In the provisions of the PP contract.

These circumstances give discretion to the CA to decide for itself, by taking into account the characteristics of a particular procurement object, at what stage and what specific criteria to consider. Furthermore, when the CA intends to use the criteria suggested in this document it must do so in a manner that ensures compliance with the PP principles such as openness and transparency, non-discrimination, and equal treatment, proportionality, etc.⁵¹ This implies, *inter alia*, that selection criteria, technical specifications, tender award criteria or contract performance conditions shall not be chosen or applied in the way that discriminates directly or indirectly against EOs.⁵²

12.2. GREEN CRITERIA FOR CLEANING PRODUCTS

The maintenance of cleanliness and the permanent use of hygienic means serve the right to live in a healthy environment, although it may affect other components, such as the environment, in a negative manner.

The recommendations discussed in this chapter apply to the following list of procurement objects that were selected as priority products (goods) according to UNEP's prioritization methodology:

- Cleaning and polishing products (CPV 39800000);
- Odoriferous preparations and waxes (CPV 39810000);
- Organic surface-active agents (CPV 39820000);
- Cleaning products (CPV 39830000).

⁴⁸ According to Article 50 of the Law of Georgia "On Public Procurement".

⁴⁹ According to Article 49 of the Law of Georgia "On Public Procurement".

⁵⁰ According to Article 51 of the Law of Georgia "On Public Procurement".

⁵¹ Article 2 of the Law of Georgia "On Public Procurement".

⁵² For further information on these issues please see: 2016 Handbook on 'Buying green!', available at: <https://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf> [06.05.2021].

The environmental impacts of cleaning products should be determined in order to define the requested green criteria. Table 1 below shows cleaning products' impacts on the environment.⁵³

Table 1.

KEY ENVIRONMENTAL IMPACTS DURING THE LIFECYCLE OF A PRODUCT	WAYS OF SOLUTIONS
<ul style="list-style-type: none"> ● Cleaning product formulation and raw material use; ● Disposable cleaning accessories; ● Consumption of water and electricity; ● Waste generation. 	<ul style="list-style-type: none"> ● Require key competencies and the application of key environmental management measures and practices from the EO; ● Require adequate and frequent training for the staff from the EO; ● Require the use of cleaning products with reduced environmental impact from the EO; ● Require the use of energy-efficient cleaning power equipment from the EO.⁵⁴

When defining technical specifications for cleaning products it is important that CAs rely on the relevant EU criteria.⁵⁵ In their turn, EOs must be provided with an opportunity to acknowledge the compliance of the cleaning products they are offering by referring to an eco-label.

Table 2 below describes related choices of the CAs depending on if they decide to use the EU GPP core or comprehensive criteria for the description of relevant goods.⁵⁶

Table 2.

TECHNICAL SPECIFICATIONS	
Core criteria	Comprehensive criteria
<ul style="list-style-type: none"> ● Use of eco-labelling for only numerous products. <p>For example, the number of cleaning products to be supplied (to be used) (the CA must indicate the exact and exhaustive list of such cleaning products in the procurement documentation) must comply with the relevant EU criteria for the solid surface of the cleaning products.</p>	<ul style="list-style-type: none"> ● Use of eco-labelling for all products. <p>In such a case, it shall be indicated in the terms of the procurement document that all cleaning products supplied (to be used) must comply with the relevant EU criteria for the solid surface of cleaning products.</p>

During the contract management process, the EO may be required to periodically provide an information in order to determine compliance of a certain part of the delivered goods with the required standards. Besides, the PP contract may stipulate the obligation of the EO to gradually submit the documentation required in the terms of procurement (for example, a certificate) in order to determine compliance of certain parts of the delivered goods with the required standards.

53 EU GPP criteria for indoor cleaning services, p.6, available at: https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf [06.05.2021].

54 In this case, despite the fact that the mentioned procurement object is not on the list defined under this chapter (in particular, it does not combine under cleaning products), it was considered relevant to mention it in the section of the given table.

55 For further information please see: EU GPP criteria for indoor cleaning services, available at: https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf [06.05.2021].

56 For further information please see: EU GPP criteria for indoor cleaning services, p.8, available at: https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf [06.05.2021].

The EO may be required to permanently conduct trainings for employees (if the procurement object is a cleaning service) on the following issues:⁵⁷

- How to use the correct product dosage for each cleaning task (including the use of the correct dilution rate)?
- How to store cleaning products appropriately?
- How to minimize the range of cleaning products used in order to decrease the risk of intoxication?
- How to use unheated water for diluting products, unless otherwise specified by the product manufacturer?
- How to maintain the appropriate temperature for cleaning equipment?
- How to use durable and reusable cleaning accessories and minimize the use of single-use cleaning supplies (for instance gloves), in order to reduce the amount of waste?
- How to correctly dispose of any generated waste?

Therefore, in order to verify that an EO has fulfilled the above-mentioned activities, the CA is entitled to conduct monitoring and controlling actions. For instance, the CA is entitled to inspect the activities of the EO. However, if, the CA wishes to use these rights, it shall define the rules for such inspection in the terms of procurement, in such a way that the principle of free enterprise is not restricted and that there is no unjustified interference with universally recognized rights.⁵⁸



⁵⁷ EU GPP criteria for indoor cleaning services, p.23, available at: https://ec.europa.eu/environment/gpp/pdf/toolkit/cleaning_product/en.pdf [06.05.2021].

⁵⁸ It is advisable for the CA contracting authority to indicate the supervision mechanisms in advance in the draft contract (which in turn will be an integral part of the terms of procurement) so that the economic operators will be informed of the expected processes from the outset.

12.3. GREEN CRITERIA FOR PRINTERS, PLOTTERS, TONER AND INK CARTRIDGES

This chapter has been developed in accordance with the EU GPP criteria for imaging equipment, consumables, and print services.⁵⁹ These criteria are designed to make it easier for CAs to purchase procurement objects, in particular, printers and plotters, as well as toner and ink cartridges with reduced environmental impacts, using sustainability criteria. Before publishing the call for submission of tenders and/or participation in dialogue/negotiation, CAs are advised to check the availability of the imaging equipment and consumables with the specific details, determined in the terms of procurement.

The product group "imaging equipment and consumables" (i.e. printers, plotters, toner and ink cartridges) generally includes the following:

- **Imaging equipment**, such as printers that are marketed for office or domestic use, or both, and whose function is to produce a printed image in the form of a paper document or photo through a marking process either from a digital image, provided by a network/card interface or from a hardcopy through a scanning/copying process and/or to produce a digital image from a hard copy through a scanning/copying process;⁶⁰
- **Consumables**, such as replaceable products that are essential to the functioning of the imaging equipment product. They can be replaced or replenished by either the end-user or the service provider during the normal usage and life cycle of the imaging equipment product. Consumables covered under the scope of this chapter also include containers and cartridges. The container holds toner or ink that fits onto or into or is emptied into an imaging equipment product. Containers do not contain integrated components or moving parts integral to the imaging product's function.⁶¹

Excluded from the scope of the product group are⁶²:

- a) Digital duplicators;
- b) Mailing machines;
- c) Facsimile (fax) machines.

The recommendation guide discussed in this chapter applies to the following list of procurement objects:

- Printers and plotters (CPV 30232100);
- Toner cartridges (CPV 30125100);
- Ink cartridges (CPV 30192113).

⁵⁹ For further information please see: EU green public procurement criteria for imaging equipment, consumables and print services, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

⁶⁰ EU green public procurement criteria for imaging equipment, consumables and print services, p.4-5, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

⁶¹ EU green public procurement criteria for imaging equipment, consumables and print services, p.4-5, available at https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

⁶² EU green public procurement criteria for imaging equipment, consumables and print services, p.4-5, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

Based on available scientific evidence, from the life-cycle costing perspective, the main environmental impacts of printers and plotters and parts and accessories of photocopying apparatus, including cartridges are summarized in table 3 below.⁶³

Table 3 also presents the EU GPP approach to mitigate or reduce those impacts.⁶⁴

Table 3.

ENVIRONMENTAL ASPECTS	GPP APPROACH
<ul style="list-style-type: none"> • Use of electricity for printers, multifunctional devices and scanners; • Use of consumables, particularly paper and cartridges (for printers and multifunctional devices); • Manufacturing of printers, multifunctional devices and scanners, particularly for more energy efficient products (for example, laser technologies); • Generation of potential hazards from improper disposal of waste of such equipment; • Content of hazardous substances; • Emission during use; • The amount of paper the cartridge uses to deliver printouts with the desired quality; • Costs for disposing of any generated waste. 	<ul style="list-style-type: none"> • Procurement of energy-efficient printers, multifunctional devices and scanners; • Purchase equipment from the EOs who control of a restricted substance of hazardous constituents; • Procure equipment products with limited indoor emissions from the use phase and limited content of hazardous substances and, therefore its impact on the environment is minimized; • Purchase products designed in a way that the key components can be repaired; • In the framework of the life-cycle costing, the requirement of the information for each type of equipment about the end-of-life management practices to maximize the recovery of resources; • Procure equipment able to use remanufactured consumables and recycled paper; • Require the information regarding the environmental performance; • A request for information about the manufacturer of the equipment and its quality performance certificates; • Requirement about requesting from an EO to submit the sample of the consumables such as cartridges; • Requirement of the information about the quality test of consumables.

When procuring imaging equipment (printers, plotters, ink and toner cartridges), in order to achieve the goal of sustainable development, the above-mentioned core and comprehensive criteria can be used at different stages of the PP procedure.

63 For further information please see: EU green public procurement criteria for imaging equipment, consumables and print services, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

64 EU green public procurement criteria for imaging equipment, consumables and print services, p.8, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

It is noteworthy to mention that provisions related to energy efficiency can be considered both as core and comprehensive criteria. The CA is entitled to determine these provisions in the technical specifications of the procurement object and the EO is authorized to submit an equipment that meets the minimum requirements determined by the technical specifications. For example, the EO can submit the tender that meets the latest⁶⁵ ENERGY STAR specifications. The equipment registered in the ENERGY STAR database or holding a relevant Type I Eco-label (according to ISO 14024)⁶⁶ fulfilling the specified requirements will be deemed to comply. A statement from the manufacturer demonstrating that these requirements have been met is also accepted. Thus, the equipment that meets the requirements of the technical specifications and has the appropriate EU or equivalent label, which applies to the minimum requirements set out in technical specifications is accepted too.



⁶⁵ To ensure the availability of products for the tendering procedure, during the first year, since the publication of a new version of the ENERGY STAR, the new and the previous version of the ENERGY STAR is advisable to be allowed by the contracting authority. For further information please see: EU green public procurement criteria for imaging equipment, consumables and print services, p.16, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

⁶⁶ For further information please see: <https://www.iso.org/standard/72458.html> [31.10.2021].

The recommendations for the application of core or comprehensive sustainability criteria at each stage of the procurement procedure for printers and plotters are given in the following table 4.⁶⁷

Table 4.

PRINTERS AND PLOTTERS	N	CRITERION	CORE	COMPREHENSIVE
CRITERIA FOR SELECTION OF AN EO	1	PROVISION RELATED TO THE RESTRICTED SUBSTANCE CONTROL.		X
Technical Specifications of Object of Procurement	1	Provision related to the minimum energy efficiency.	X	X
	2	Requirement of duplex imaging capability.	X	X
	3	Provision related to the n-up printing function capability.	X	X
	4	Capability to use recycled paper.	X	X
	5	Capability to use remanufactured cartridges.	X	X
	6	Provision related to the reduced number of the materials to be used.		X
	7	Provision regarding submission of the information on post-consumer recycled plastic used.		X
	8	Availability of spare parts.	X	X
	9	Design of the equipment for disassembly and repair.	X	X
	10	Design for the possibility of recycling.	X	X
	11	Substance emissions.	X	X
	12	Noise emissions.	X	X
	13	Substances of very high concern.		X
	14	Hazardous substances content.		X
	15	Provisions related to the firmware update control.		X
	16	Provisions related to the warranty and services agreements.	X	X
Award Criteria	1	Provisions related to the improvement in the imaging equipment's energy efficiency (beyond the provisions set by the N1 technical specifications of this table).	X	X
	2	Longer warranties.	X	X
	3	The longest warranty.	X	X
	4	Provisions related to the take-back system for imaging equipment.	X	
	5	In the framework of the life-cycle costing, provisions related to the end-of-life management of imaging equipment.		X
Provisions of the PP Contract	1	Provisions related to the supply of reused/remanufactured ink and/or toner cartridges.	X	X

67 EU green public procurement criteria for imaging equipment, consumables and print services, p.9-10, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_2020.pdf [06.05.2021].

The recommendations for the application of core or comprehensive sustainability criteria at each stage of the procurement procedure for Toner and Ink Cartridges are given in the following table 5.⁶⁸

Table 5.

TONER AND INK CARTRIDGES	N	CRITERION	CORE	COMPREHENSIVE
Technical Specifications of Object of Procurement	1	Provisions related to the cartridges/containers page-yield declaration.	X	X
	2	Provisions related to the mass resource efficiency of the consumables.		X
	3	Consumable hazardous substances.		X
	4	Provisions related to the design for reusing and/or remanufacturing.	X	X
	5	Provisions related to the consumable quality.	X	X
	6	Provisions related to the take-back system for cartridges and containers.	X	X
Award Criteria	1	Provisions related to the electro photographic consumables resource efficiency.	X	X
	2	Provisions related to the facilitating reusability and/or re-manufacturability of consumables.	X	X
	3	In the framework of the life-cycle costing, provisions related to the end-of-life management of consumables.	X	X
Provisions of the PP Contract	1	Provisions related to reporting on reuse/recycle activities of consumables.	X	X

13. CASE STUDIES OF APPLICATION OF SUSTAINABLE PUBLIC PROCUREMENT IN DIFFERENT COUNTRIES

1. Case Study No 1 – avoiding “greenwashing” – multi country⁶⁹

An increasing number of companies market themselves as being green or sustainable, not always with the evidence to back this up (that is considered as “greenwashing”). For example, suppliers may claim an exaggerated level of energy efficiency, or focus on a relatively minor environmental impact in claiming to be green. For this reason, it is important that:

- You familiarize yourself with the environmental impacts of your intended purchase, prior to issuing your tender;
- Your technical specifications are based on an assessment of environmental impacts across the life-cycle of the product (e.g. from a third-party environmental label);
- You ask for appropriate proof from the supplier for the environmental performance they claim.

2. Case Study No 2 – referring to Eco Label criteria- Kolding, Denmark⁷⁰

The City of Kolding, Denmark, incorporates the EU Ecolabel criteria together with other eco-labels into all its procurement actions for products covered by the labels, with considerable success. The applicable criteria from the eco-labels are inserted directly into technical specifications and/or award criteria. It is stated that a copy of the eco-label certificate is seen as a full verification that the criteria are met, but also that alternative documentation will be accepted. Recent tenders using eco-label criteria include cleaning products, copy paper, uniforms, laundry services (for the detergent used), printing services (for the paper used), tissue paper, and fleet management (for the lubricants used).

68 EU green public procurement criteria for imaging equipment, consumables and print services, p.11, available at: https://ec.europa.eu/environment/gpp/pdf/20032020_EU_GPP_criteria_for_imaging_equipment_220.pdf [06.05.2021].

69 Source: EC Guide “Buying Green! A Handbook on Green Public Procurement”, 3rd edition, p. 32.

70 Source: EC Guide “Buying Green! A Handbook on Green Public Procurement”, 3rd edition, p. 37.



3. Case Study No 3 – using social criteria in all stages of procurement procedure - Basque County, Spain⁷¹

The Basque Country Government has issued an ‘instruction’ on the incorporation of social, environmental and oalongside with other public policy criteria criteria in PP by its administration. This lays down which social and environmental criteria must be taken into account in all PP in the region and how.

The Main goal of the instruction: take into account social and environmental considerations (both of which are part of the sustainability approach) along with other aspects related to other public policies in PP by the administration and public entities in the Basque Country.

Assessment and monitoring: The Basque government departments for employment, social inclusion, social affairs and the environment periodically assess performance in contracting. The assessment includes the wording of the specifications, how they are applied in the award process and the performance of the contract.

Technical specifications: The instruction recommends incorporating Accessibility and Design for All requirements in the technical specifications.

Award criteria: Whenever there is more than one award criterion, these criteria have to include that the products and services must be well-suited for people with disabilities (whenever this adaptation is above the legal mandatory minimum). Whenever disadvantaged groups are amongst the beneficiaries of the services defined in the subject-matter of the contract, the characteristics related to the fulfilment of their social needs will be included in the award criteria.

Contract performance clauses: The Instruction calls for the contract to include special performance clauses: environmental, social and related to other public policies. The aims of the special contract performance clauses are to protect the environment, health and safety, to promote employment of disadvantaged groups, to remove gender inequality from the labour market and to fight unemployment.

⁷¹ Source: EC Guide “Buying Social: A Guide to Taking Account of Social Considerations in Public Procurement”, p.21.

Examples of contract performance clauses in the Basque Country:

- 1. Labour inclusion of unemployed people that are difficult to employ: For this purpose, the instruction states that the staff performing the contract must include a set percentage of disadvantaged people, such as unemployed people, people with disabilities, long-term unemployed women over 30, victims of household violence, people with mental illness, unemployed single parents, immigrants unemployed for at least six months, long-term unemployed (more than one year) and unemployed young people.*
- 2. Employment quality and basic labour rights: The contractor must guarantee compliance with the International Labour Organization (ILO), Core Labour Standards during the performance of the contract in relation to the workers who make the products (the subject-matter of the contract) along the supply chain.*
- 3. Health and safety in the performance of contracts for building works and services.*

4. Case Study No 4 – using life-cycle costing approach – Baia Mare, Romania⁷²

The City Council of Baia Mare tendered for the leasing of 30 new enhanced environmentally friendly vehicles (EEV) – standard buses and 8 trolleybuses. A life-cycle costing model was used, which accounted for acquisition price, fuel consumption, maintenance and operational costs. It should be noted that the total initial cost of procurement is higher than previous purchases, but this is partly compensated by lower lifetime costs of the new vehicles. The buses were the first EEV buses ordered in Romania, with greenhouse gas emissions considerably lower than previous diesel buses.



⁷² Source: EC Guide “Buying Green! A Handbook on Green Public Procurement”, 3rd edition, p. 56.

5. Case Study No 5 – fighting against abnormally low bids – Angers, France⁷³

The Ville d'Angers noticed that in the cleaning sector workers have tough work schedules. Thus, an offer that is economically extremely attractive because it proposes a lower number of workers than is appropriate to the surface area to be cleaned, based on average ratios, will be considered abnormally low and rejected if the economic operator is unable to explain how the company will be able to guarantee such a low price without infringing any applicable laws (such as laws regarding the maximum number of working hours per day).

14. CONCLUSIONS

To sum up, the Sustainable Public Procurement Manual of Georgia **intends to raise awareness of CAs on SPP and to ensure that public institutions exercise their powers in the implementation of SPP effectively.** Furthermore, SPP Manual of Georgia **will help EOs to meet environmental requirements whilst production of their goods and services in order to meet the needs of CAs during the public tenders.** It should be emphasized that SPP legal provisions indicated in the PPL as well as the draft decree will create legal basis for SPP implementation and thus will motivate CAs to launch sustainability oriented procurements.

We should mention that as a result of the prioritization, cleaning products, printers, plotters, ink and toner cartridges were identified as priority products for the implementation of SPP in Georgia. Therefore, implementation of the SPP of these products in practice (via SPP pilot tenders) will reveal the practical needs and necessities of Georgian CAs. Furthermore, after launching SPP pilot tenders we will have the opportunity to analyze results as well as identify possible shortcomings of the developed SPP guidelines. Result of such analysis will allow us to improve SPP manuals and recommendations as well as monitoring system for SPP tenders.

In addition, public authorities' increased demand on the "green" printers and plotters, consumables, as well as on cleaning products will encourage EOs to increase the manufacture of such sustainable products. These issues can be considered as another step towards „greening“ the country's economy.

Overall, CAs must document in detail and clearly the results achieved and the problems that have arisen during the implementation of SPP regulations, for further refinement of the necessary ways in order to achieve the goal of SPP and SDGs.

⁷³ Source: EC Guide "Buying Social: A Guide to Taking Account of Social Considerations in Public Procurement", p.41.

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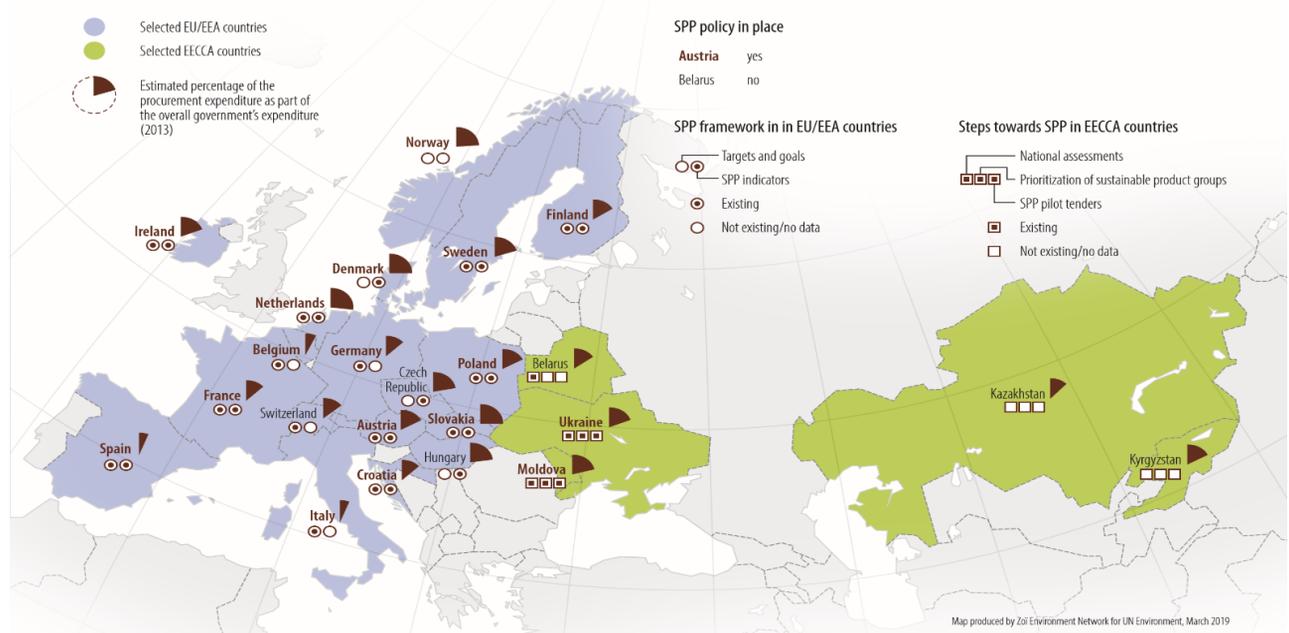
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APPENDIX I – SUSTAINABLE PUBLIC PROCUREMENT IN THE PAN-EUROPEAN REGION

Sustainable public procurement (SPP) in the Pan-European region



Priority product categories	Building equipment	Building materials	Buildings design and construction	Chemical products	Energy supply and energy services	Execution of work contracts	Food and catering	Furniture	Household appliances	Infrastructure design and construction	Cleaning products and services	Office IT equipment	Office paper and stationery	Vehicles	Textiles	Travel services	Waste collection
Austria																	
Belgium																	
Croatia																	
Czech Republic																	
Denmark																	
Finland																	
France																	
Germany																	
Hungary																	
Ireland																	
Italy																	
Netherlands																	
Norway																	
Poland																	
Slovakia																	
Spain																	
Sweden																	
Switzerland																	

Prioritization of sustainable product groups in EECCA countries (selected products)

Moldova	Organic fruits/vegetables, eco-efficient doors/windows
Ukraine	Thermal insulation materials, paints, household cleaning products, building materials, lighting/electronics, paper, textiles, cleaning services

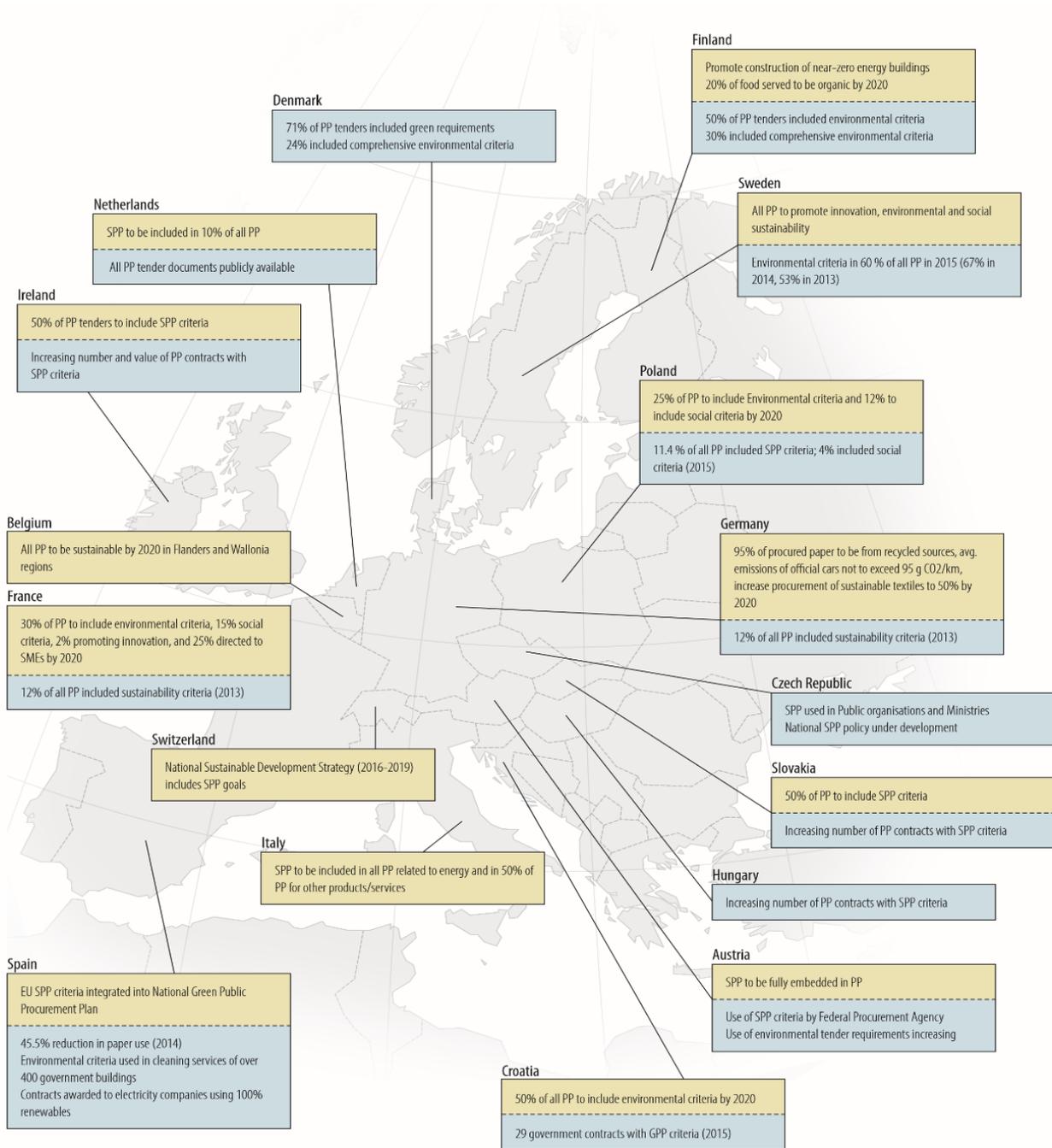
Source: 2017 Global Review on Sustainable Public Procurement (for EU/EEA); UN Environment's intelligence from implementation of the EaP GREEN*, UNDA SPP** and EU4Environment*** projects (for EECCA)

* European Union funded programme "Greening Economies in the European Union's Eastern Neighbourhood", (<http://www.green-economies-eap.org>)

** UN Development Account project "Enhancing sustainable public procurement for the regional transition to inclusive green economy in Eastern Europe, Caucasus and Central Asia (EECCA)

*** European Union for Environment programme

APPENDIX II – SPP ACHIEVEMENTS/INDICATORS



Country
Targets and goals
SPP achievements/indicators



ევროკავშირი
საქართველოსთვის
Project funded by the European Union

EU4Environment
Green Economy in Eastern Partner Countries



By signing the Association Agreement with the European Union, Georgia has undertaken the obligation to promote sustainable development for the benefit of present and future generations and stressed the importance of labor and environmental issues related to trade. This commitment includes, inter alia, promoting the development of international trade to meet the key goals and objectives of sustainable development.

In order to fulfill the abovementioned obligations a number of activities have been conducted in order to implement Sustainable Public Procurement into the national legislation and practice of Georgia since August 2020. This manual intends to raise awareness of the Georgian contracting authorities as well as economic operators for the effective implementation of Sustainable Public Procurement in the country. As a result of its application, rational, responsible, and sustainable spending of public funds by the contracting authorities will serve as an example for economic operators to pursue sustainable policies, environmental and social goals, and will motivate them to apply innovations and new technology.

This work is realized within the framework of the EU-funded EU4Environment Programme under the guidance of United Nations Environment Programme (UNEP), in close cooperation with the Environmental Information and Education Centre of the Ministry of Environmental Protection and Agriculture of Georgia and the State Procurement Agency, national and international experts.

Action implemented by:

