

**Factual Summary report on the public consultation on
Evaluation of the Public Procurement Directives**

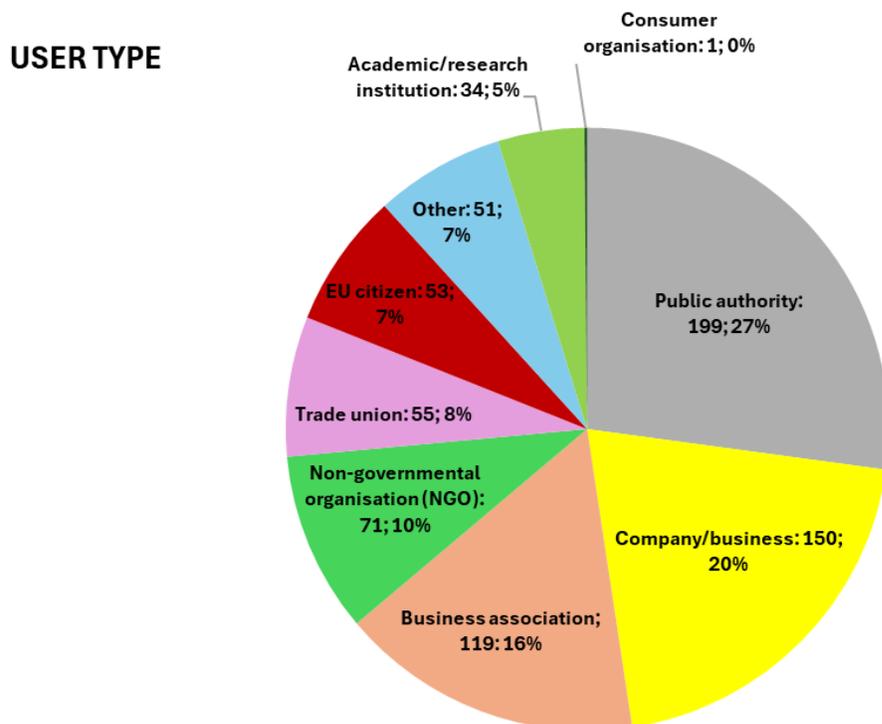
DG for Internal Market, Industry, Entrepreneurship and SMEs

The document does not assess the validity of the actual responses. The views expressed in the contributions received are those of the authors. Therefore, the content of this document cannot be regarded as reflecting the position of the Commission or its services.

Responses to the Public Consultation

Who responded to the consultation?

The public consultation received 733 replies with respondents representing diverse groups of stakeholders. The most replies we received from the public authorities (27% - 199 replies), followed by companies and businesses (20% - 150 replies) and business associations (16% - 119 replies). Other respondents included NGOs (10% - 71 replies), trade unions (8% - 55 replies), EU citizens (7% - 53 replies), academic/research institutions (5% - 34 replies) and consumer organizations (1 reply).



More than quarter of respondents were from Germany (26% - 193), followed by Belgium (14% - 102), France (10% - 75) and Spain (6% - 43). Besides the members states, the Commission received replies from the following countries: United States (5), Norway (4), Switzerland (4), Andorra (1), Algeria (1), Ukraine (1), United Kingdom (1), Israel (1).

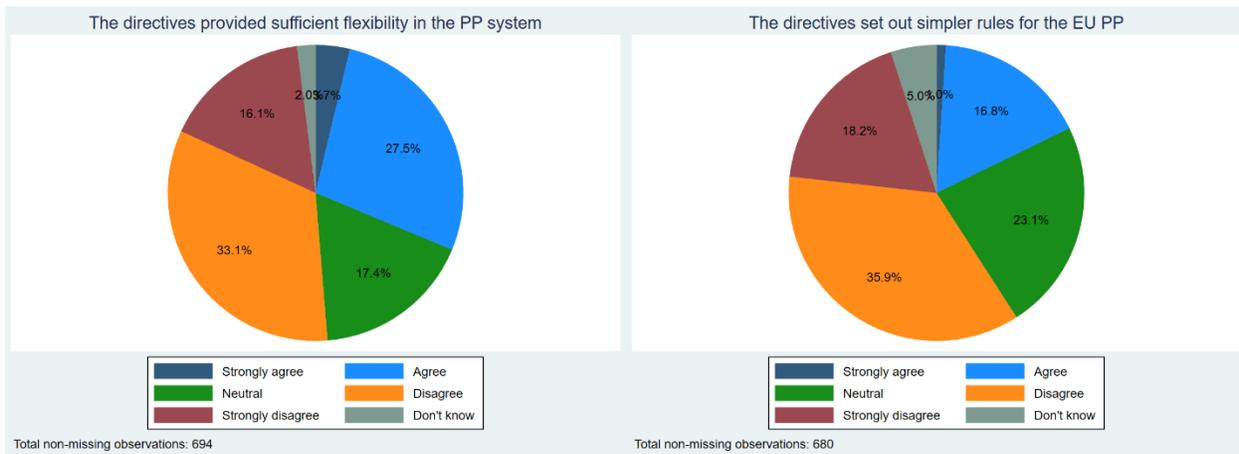
Out of the 199 replies from the public authorities (as the most represented type of stakeholder) 86 (43%) was from Germany, followed by 15 replies (8%) from the Dutch public authorities. Furthermore 91 (46%) replies were from local public authorities, 58 (29%) from national, 37 (19%) from regional and 13 (6%) from international public authorities.

As for the company/businesses (as the second most represented type of stakeholder), out of the 150 replies, 89 (60%) came from large businesses (250 employees or more), 24 replies (16%) from medium (50 to 249 employees), 14 (9%) from small (10 to 49 employees) and 23 (15%) from micro (1 to 9 employees) businesses.

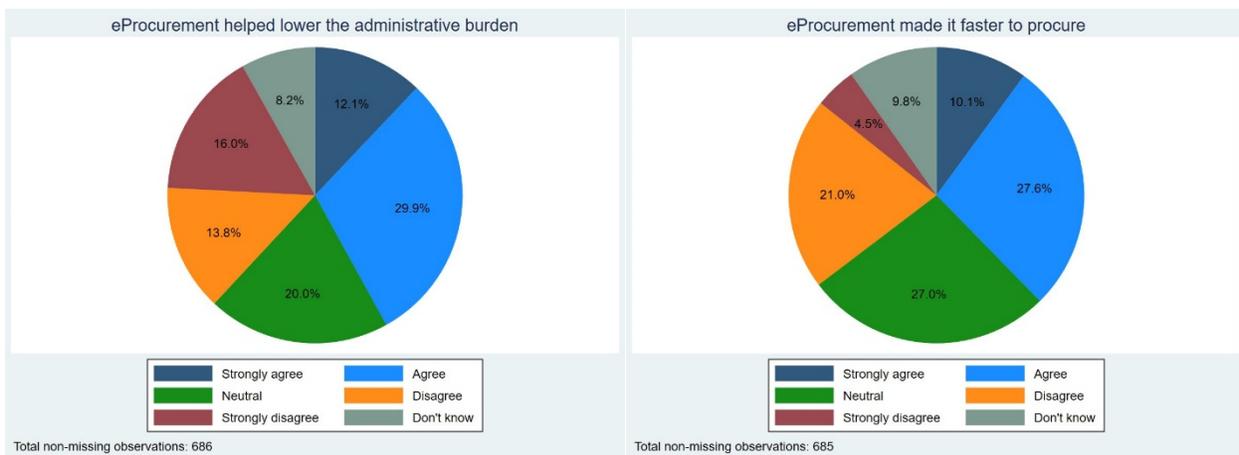
Preliminary findings of the public consultation

Simpler, more flexible rules, value for money, transparency, integrity

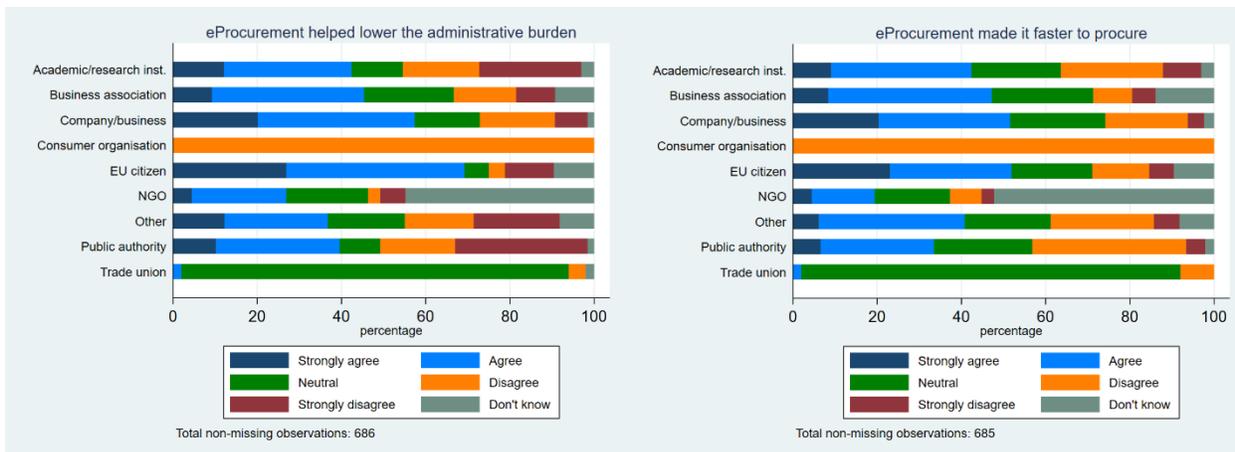
- Regarding the attainment of the Directives' objectives, 49% of respondents believe that they did not make the public procurement system flexible enough and 54% think that the Directives did not establish simpler rules for the public procurement system.



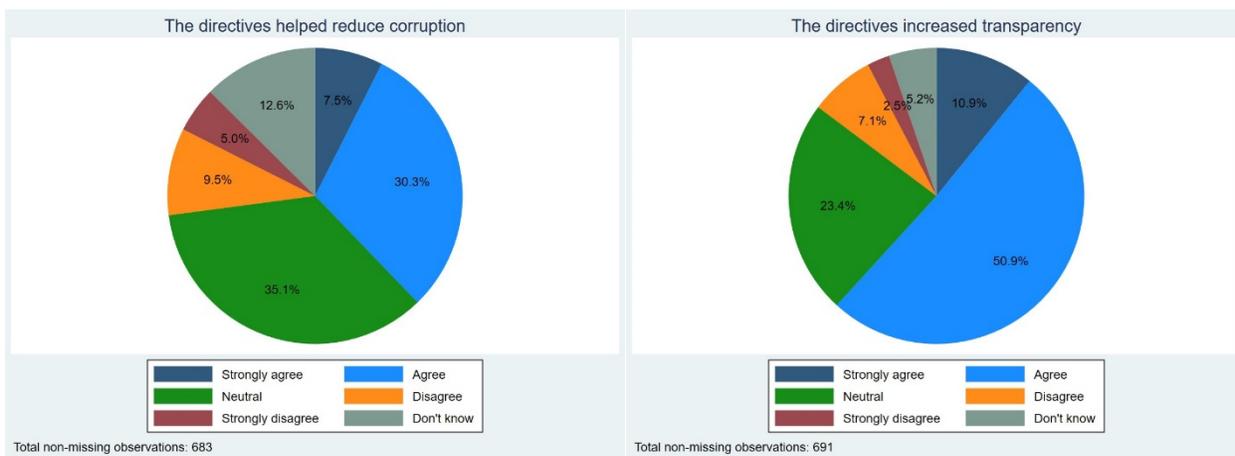
- Respondents tend to agree that the digitalisation of public procurement (eProcurement) has helped to lower the administrative burden (42% of respondents agree with this statement) and has made the procurement of works, goods and services faster (38% agree).



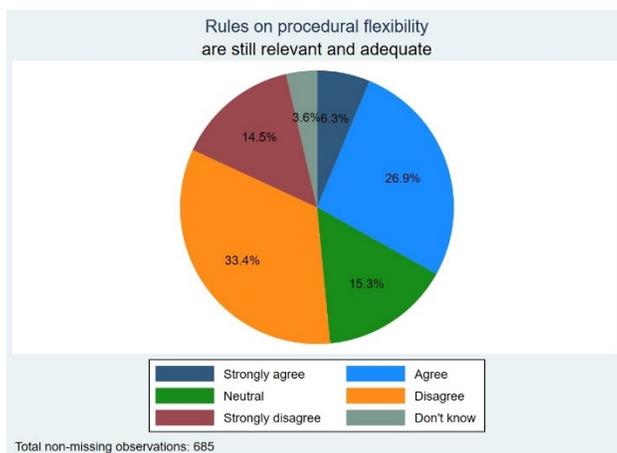
Companies/businesses are more positive than public authorities regarding the benefits of eProcurement. 57% of companies agree that eProcurement helped to reduce the administrative burden, compared to 40% of public authorities. On the speed of procedures, 52% of companies agree that digitalization had a positive impact, compared to 34% of public authorities.



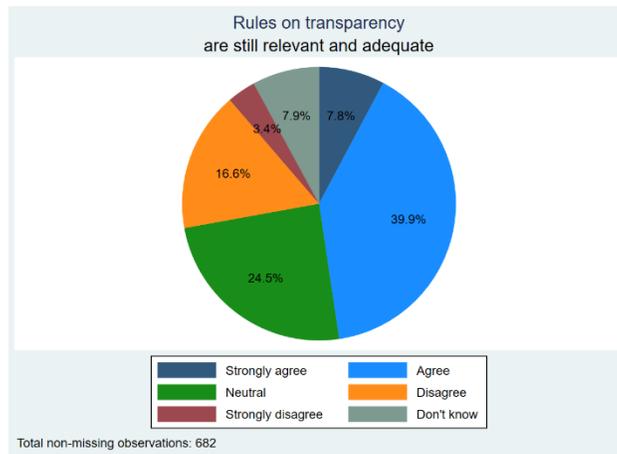
- 38% of respondents believe that the Directives have helped to reduce corruption (only 15% disagree), while 62% of them agree that the Directives have increased transparency by setting the proper framework for the publication of tenders at all stages of the public procurement procedure.



- With regard to the relevance of the rules set out in the Directives, most of respondents (48%) think that the rules aiming at increasing procedural flexibility (e. g. the choice of available procedures, time limits for submitting offers, contract modifications) are no longer relevant and adequate.

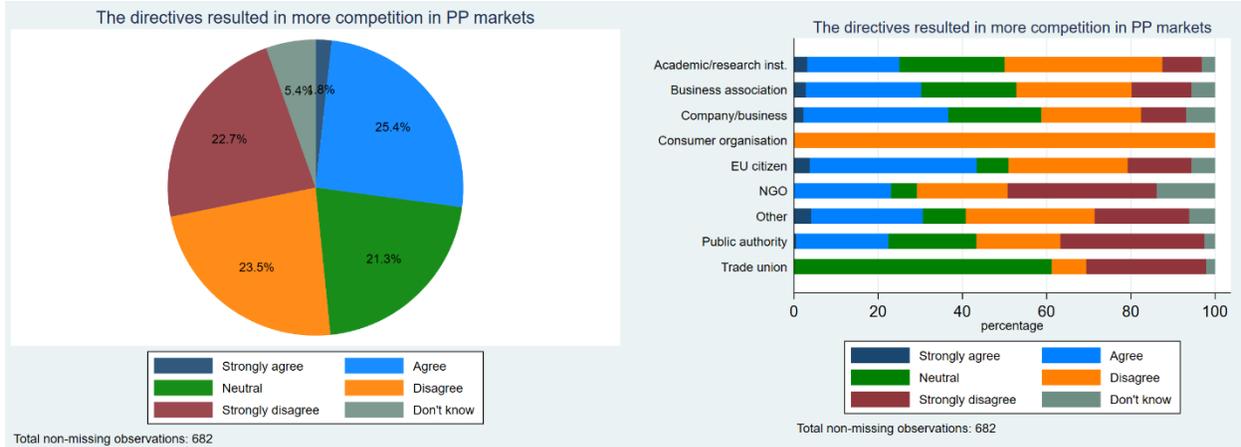


- In contrast, the same percentage of respondents (48%) consider the Directives' rules on transparency (e.g. EU-wide publication via Tenders Electronic Daily 'TED') to be still relevant and adequate.

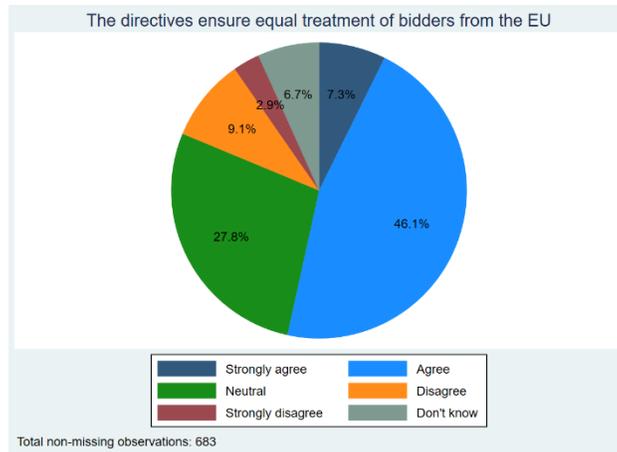


Easier market access, SMEs and cross-border participation

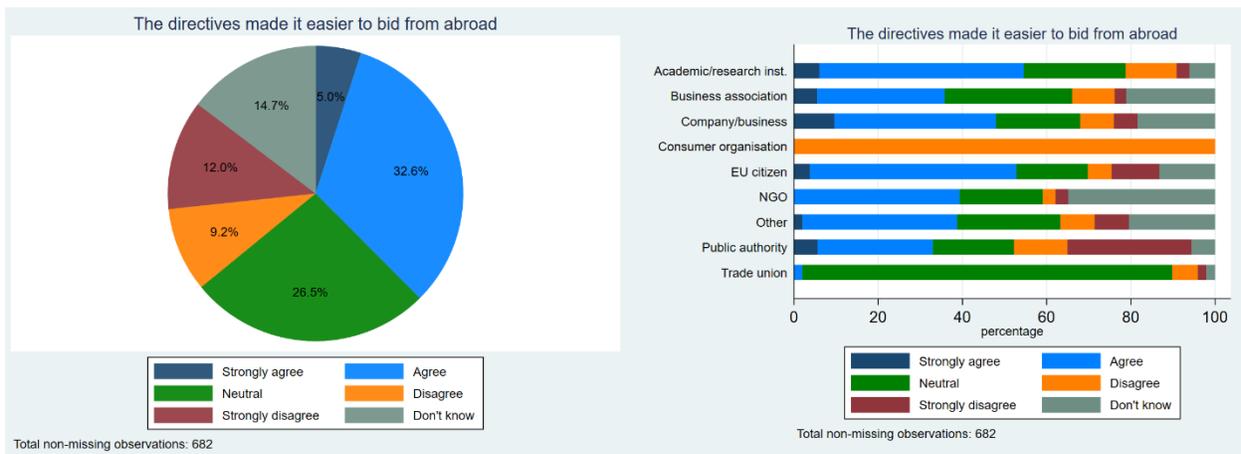
- When asked about the attainment of the market access objectives set by the Directives, most of respondents (46%) disagree that the Directives have resulted in more competition in public procurement markets. 54 % of public authorities are of this view, but only 34% of companies/businesses and 42% of business associations.



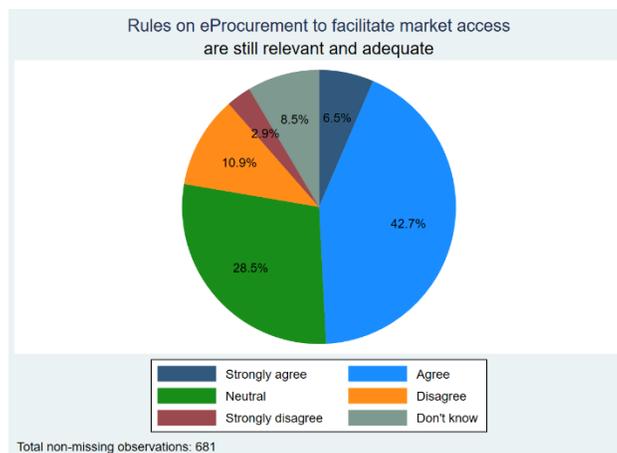
- Most respondents (53%) believe that the Directives ensure the equal treatment of bidders from other EU countries in all stages of the process and the objective evaluation of tenders. Only 12% disagree.



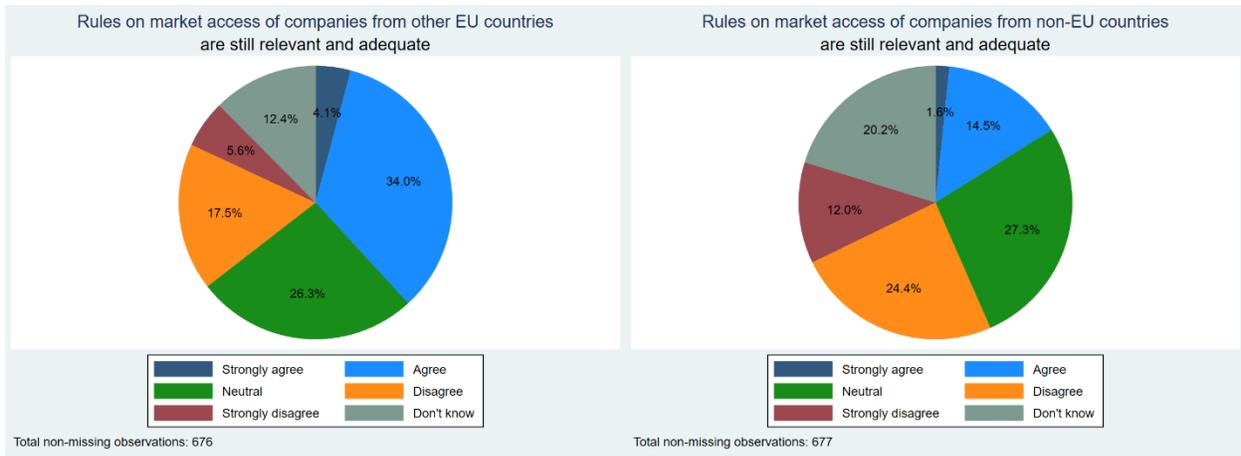
- 38% of respondents consider that the Directives have made it easier to bid on public contracts from abroad (e.g. through eProcurement). This majority opinion is not shared by public authorities - 42% disagree with it.



- Regarding the relevance of the Directives' rules, almost half of respondents (49%) consider that the rules on eProcurement are still relevant and adequate to facilitate market access.

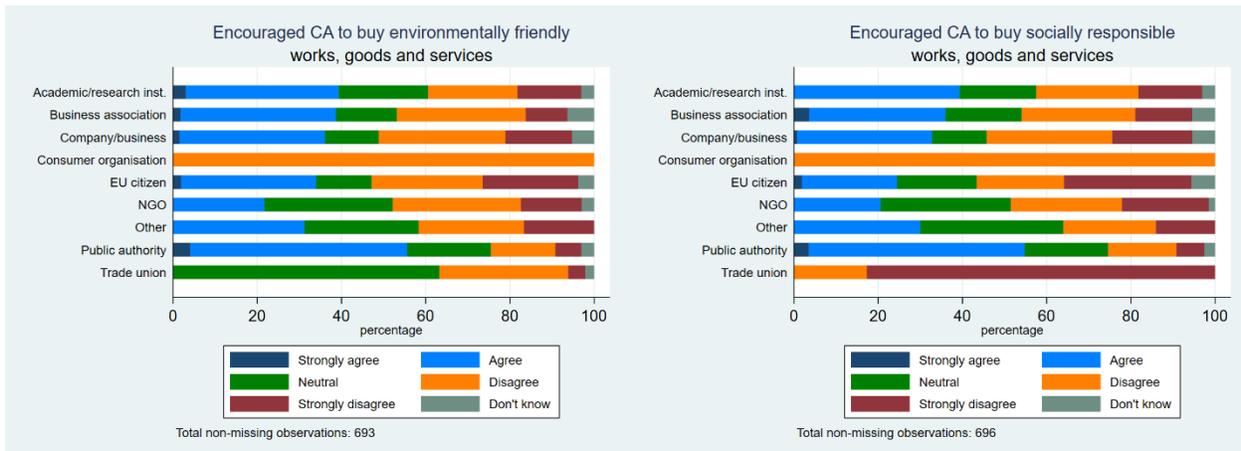


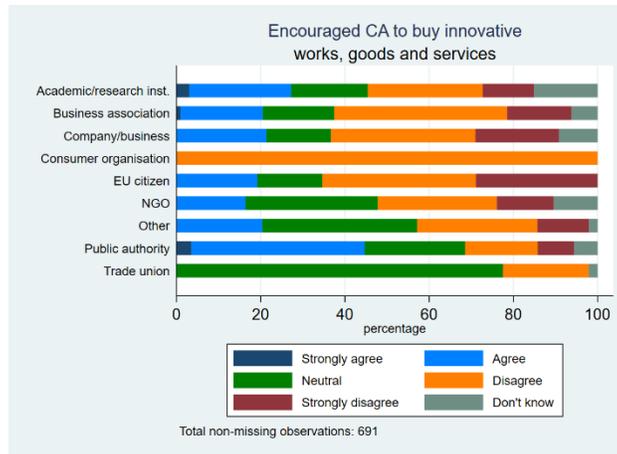
- While 38% of the respondents find the Directives' rules on market access of companies from other EU countries still relevant and adequate, only 16% consider relevant and adequate rules on market access applicable to companies from non-EU countries.



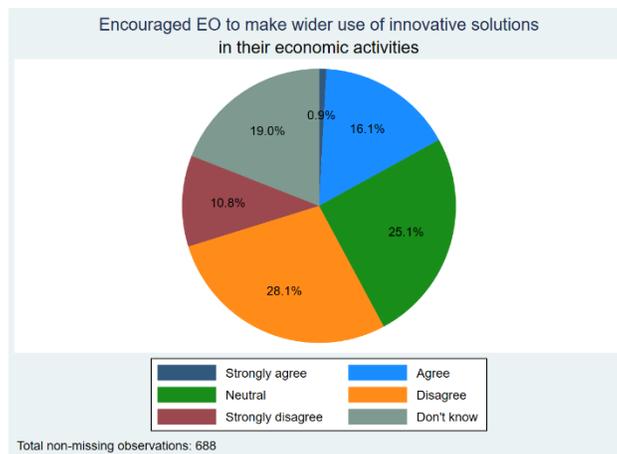
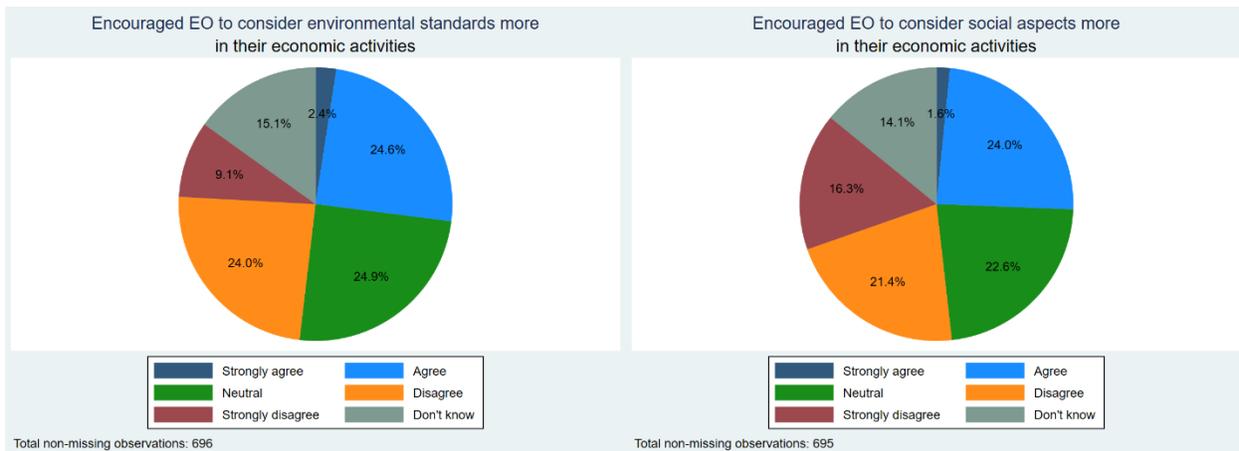
Addressing strategic challenges

- Public authorities agree that the Directives have encouraged contracting authorities to buy works, goods and services which are environmentally friendly (56%), socially responsible (55%), and innovative (45%). However, all other respondent groups are less positive. For instance, companies/businesses disagree that the Directives have encouraged contracting authorities to buy works, goods and services which are environmentally friendly (46%), socially responsible (50%), and innovative (54%).

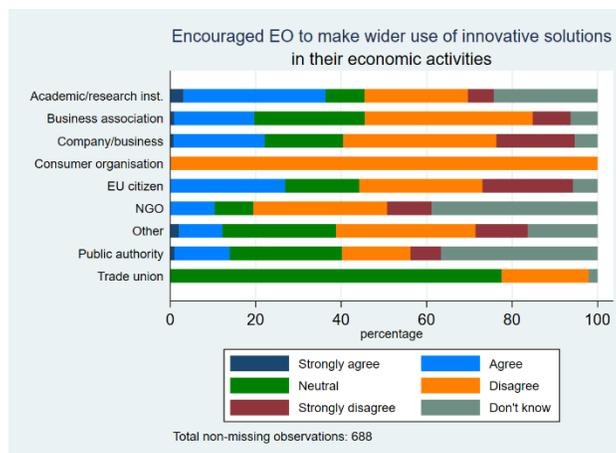
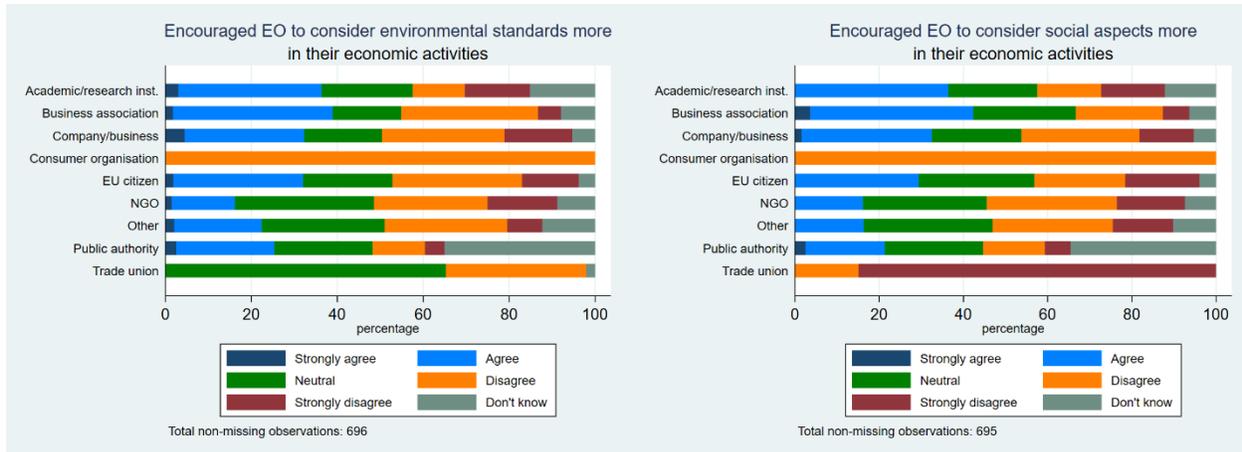




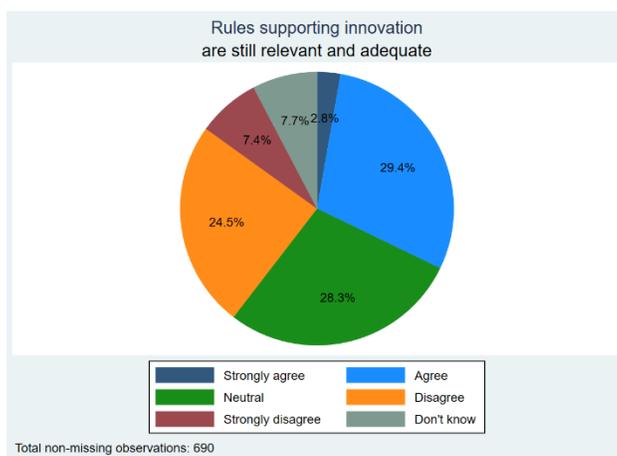
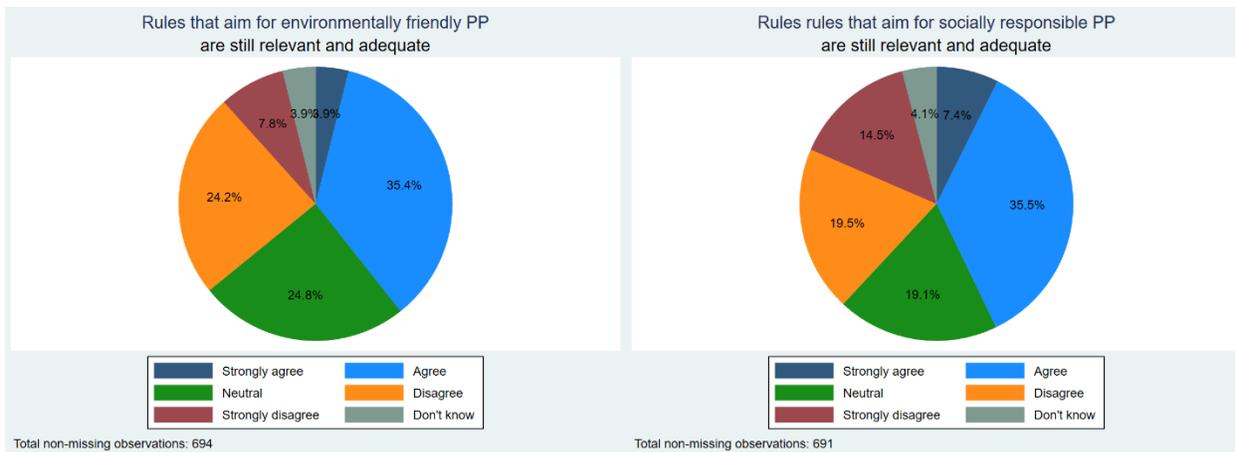
- Opinions on the impact of the Directives' objectives on suppliers are diverse. However, more respondents disagree than agree that the Directives encouraged companies to make greater efforts in meeting environmental standards, consider social aspects, and use innovative solutions in their economic activities. Specifically, 33 % of respondents feel that the Directives did not motivate companies to meet environmental standards, 38% believe they did not foster consideration of social aspects, and 39% think that they did not promote wider use of innovative solutions.



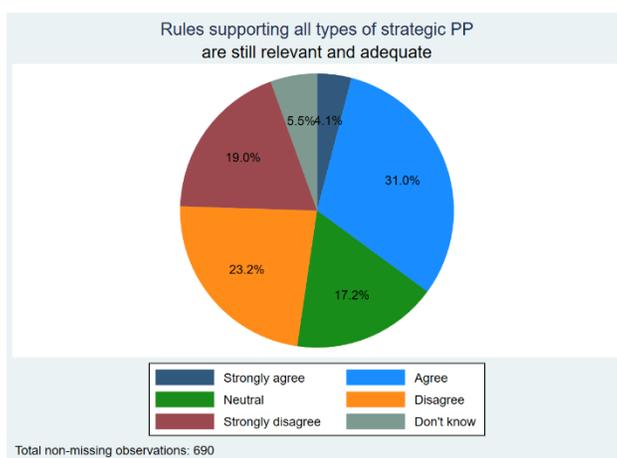
- These numbers are particularly high in responses provided by companies/businesses. 44% of them disagree that the Directives encouraged companies to make greater efforts in meeting environmental standards, 41 % disagree on social aspects, and 54% on innovative solutions. Noticeably, the number of public authorities who stated “don’t know” is higher than for other questions (40%).



- Furthermore, overall, there is some agreement that the Directives’ rules that aim for environmentally friendly procurement (e.g. quality assurance standards and environmental management standards) and for socially responsible procurement (e.g. reserved contracts, requirements on accessibility for people with disabilities and design for all users) are still relevant and adequate. 39% and 43% of respondents say so, respectively. Regarding the Directives’ rules on supporting innovation, the percentage of respondents who agree that these rules are still relevant and adequate is the same as the percentage of those who disagree (32%).

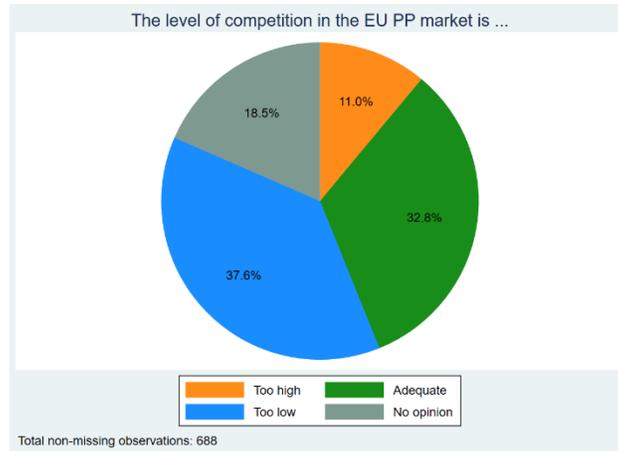


- Lastly, 35% of respondents said that they agree that the Directives' rules on supporting all types of strategic procurement (e.g. the use of the most economically advantageous tender) are still relevant and adequate, while 42% were of the opposite view.



Competition

- 38% of the respondents consider that the level of competition in the EU public procurement market is too low, compared to 11% who think that it is too high and 33% who say that it is adequate.



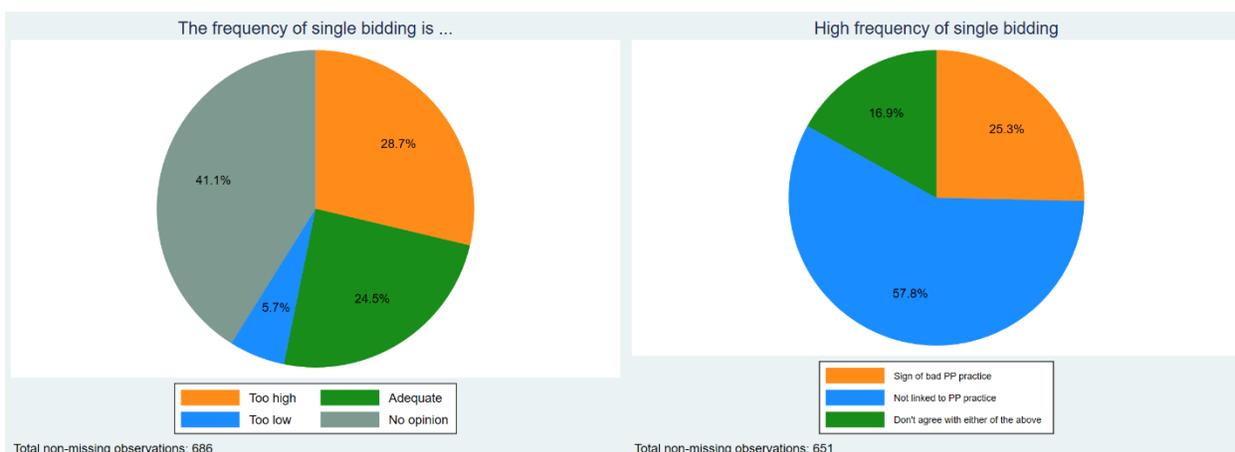
- No significant conclusion could be drawn on whether competition had increased, remained the same or decreased over the last 8 years: 25% of respondents think that it decreased, 21% that it remained the same, and 25% that it increased.



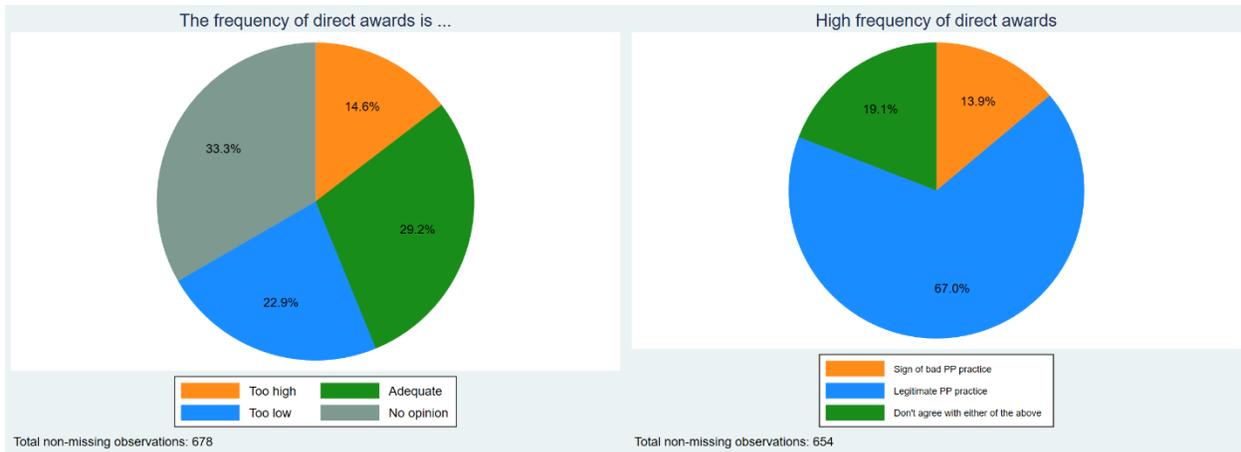
- Regarding the frequency of awards based on price only, nearly half of the respondents (49%) consider it to be too high, followed by 35% who believe that it is adequate and only 3% who think that it is too low. For 37% of the respondents the high frequency of price only awards is a sign of bad procurement practices (among which 57% of business associations and 40% of companies/businesses). 29% believe that high quality can be assured through technical requirements (in particular, 56% of public authorities) and 27% that price only awards may be more efficient in certain circumstances (e.g. a simpler and faster way to buy homogenous goods).



- The frequency of single bidding is considered too high by 29% of respondents, adequate for 25% but too low only for 6%. Interestingly, a high number of respondents (41%) do not have an opinion on this issue. An absolute majority of the respondents (58%) agree that the high frequency of single bidding is not linked to procurement practices but due to market structure or other factors unrelated to procurement, and only one quarter of respondents (25%) think that it is a sign of bad procurement practices.

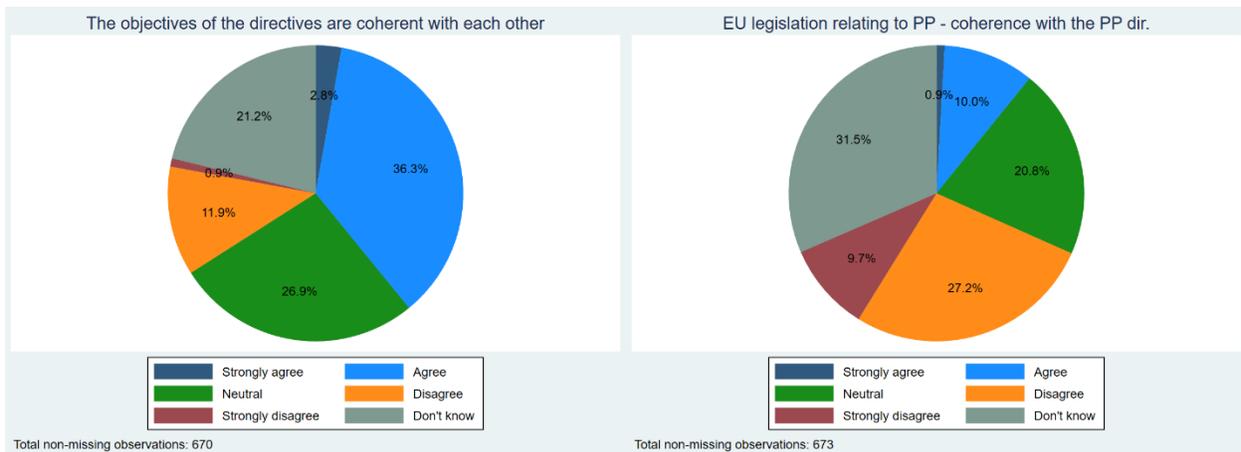


- The frequency of direct awards is considered adequate by 29% of respondents, too low by 23%, while only 15% respondents think that it is too high. 33% of respondents did not have an opinion on it. The high frequency of direct awards is not a sign of bad procurement practices for most respondents. Only 14% chose that response in the questionnaire, compared to 67% who answered that it is a legitimate procurement practice under certain circumstances and may facilitate the flexibility and timeliness of procedures.



Coherence

- Most respondents (39%) believe that the objectives of the three Public Procurement Directives are coherent with each other. However, EU legislation relating to public procurement (e.g. sectoral rules such as the Net Zero Industry Act or Clean Vehicles Directive) are not thought to be coherent with the Directives by the largest part of respondents (37% vs 11% who think that sectoral files are coherent).



Resilience

- Most respondents (49%) disagree that the Directives are fit for purpose to contribute to the EU's strategic autonomy (including the security of EU supply chains). 42% think that the Directives are not fit for purpose in urgent situations. 44% consider that they are not fit for purpose in case of major supply shortages (e.g. supply-chain disruptions during a health, energy or security crisis). 38% think that the Directives do not ensure that security considerations are properly addressed by the contracting authorities.



Below EU thresholds procurement

- Compared with procurement below thresholds, carrying out transactions under the Directives is rarely or never considered to be simpler (opinion expressed by 59% respondents), better value for money (opinion of 45% of respondents), faster (55% of respondents), more transparent and fairer (opinion of 36% of all respondents and 54% of public authorities), more professional opinion of 31% of all respondents (and 51% of public authorities), subject to more competition (38% of respondents), more environmentally friendly (38% of respondents), more socially responsible (42% of respondents), more supportive of innovation (43% of respondents), and better in preventing corruption (34% of respondents).

Private procurement

- Compared with private procurement, carrying out transactions under the Directives is rarely or never considered to be simpler (the view expressed by 49% of respondents), better value for money (32%), faster (49%), more professional (21%), subject to more competition (20%), more environmentally friendly (20%), more socially responsible (18%), and more supportive of innovation (31%).
- On the other hand, compared with private procurement, carrying out transactions under the Directives is considered as more transparent and fairer by 22% of all respondents and better in preventing corruption by 19%.