



Exclusion System Summary Estonia

I. Government-Wide Legal and Institutional Framework:

Government-Wide Exclusion Framework? Yes.

- Exclusion decisions are made on a contract-by-contract basis as governed by national legislation or centralized regulations. Exclusions apply only to the procurement at issue.

Governing Policy:

- Secs. 95-97 of [the Public Procurement Act of 2017](#) (the "PPA") ([Unofficial English version](#)), which transpose Art. 57 of Directive 2014/24/EU of the European Parliament.

Primary Legal Foundation:

- Administrative/Regulatory Law.

Decision-Maker: Individual Contracting Officers; Not Functionally Independent from Senior Procurement Officials.

- Individual contracting authorities make exclusion decisions within each procurement procedure (contract-by-contract exclusion).

Qualification: None stated in the legal framework.

Independence: Not functionally independent from senior procurement officials.

II. Functioning and Enforcement of the Government-Wide Exclusion System:

General Provisions:

Type of Procedures: Administrative.

- The initial exclusion decision is made as part of the procurement process, which is an administrative process.
- Any subsequent proceedings are governed by administrative law.

Decision Deadline: No stated deadline for decision-maker to make a final determination.

Provisional Exclusions: None.

Initial Procurement Decision: Grounds for exclusion are reviewed by the contracting authority as part of the procurement decision on a contract-by-contract basis.

- Decision-maker can make an exclusion decision without a prior referral.
- Non-governmental parties can submit complaints and/or evidence to the decision-maker.
 - Interested parties (economic operators interested in participating in a tender) can also seek review of a contracting authority's exclusion decision (or decision not to exclude) before the Public Procurement Review Committee. (See PPA Sec. 185)

Note on Self-Cleaning: When submitting a bid for a tender, a supplier can include evidence showing that it has taken measures to restore its reliability. The contracting authority will evaluate this evidence when reviewing potential grounds for exclusion. (See PPA Sec. 97)

- *Note:* An amendment to the PPA has been proposed concerning the process and availability of self-cleaning.

Notice Requirements & Opportunity to be Heard: Yes & No.

Notice:

- Suppliers receive notice when the decision-maker decides that grounds exist. (See PPA Sec. 47)
- Notice must contain the grounds for exclusion. (See PPA Sec. 96(5))
- Decision-maker must make reasoning available to the supplier (not to the public), although the decisions of contracting authorities may become public knowledge.

Opportunity to be Heard:

- Not before the exclusion becomes effective, although bidders are generally required to include in their bids evidence regarding the absence of exclusion grounds. (See PPA Secs. 96, 104) The supplier can also challenge the decision before the Public Procurement Review Committee.

Appellate Review of Exclusion Decisions: Yes.

Nature and Forum of Review: Other.

- The Public Procurement Review Committee is an independent review body (PPA § 187 lg 2) which serves as a mandatory extrajudicial dispute adjudication body.

Means Available to the Supplier: As part of appellate review, suppliers may:

- Make a written submission to the appellate body;
- Request an in-person hearing with the appellate body;
- Call witnesses to an in-person hearing to testify on the supplier's behalf;
- Request suspension of the procurement process pending the appeal's resolution.

Duration of Appeal Process: Less than one month (within 30 days after receipt of the request).

Legal Representation:

- A supplier **may** be represented by counsel.

Subsequent Modification of Exclusion Decision: Yes (“Self-Cleaning”).

- Except through an appeal to the Public Procurement Review Committee, a supplier is **not** entitled to seek a modification of any decision to exclude it from a procurement process after it goes into effect.
- A supplier **may**, however, include evidence of “self-cleaning” with any subsequent bids submitted to a contracting authority.

III. Substantive Grounds for Government-Wide Exclusion:

Automatic Exclusion: Yes.

Based on a supplier’s conviction by final judgement, or a conviction by final judgement of a member of the supplier’s administrative, management, supervisory board, or other legal or contractual representative, for the following:

- Corruption;
- Fraud;
- Money laundering;
- Labor-related offenses & human trafficking;
- Terrorist offenses or offenses linked to terrorism;
- Violating the duty of integrity;
- Participating in a criminal group;
- Enabling an illegal alien to work in Estonia.

Based on an administrative finding that the supplier engaged in the following:

- Tax-related offenses;
- Subject to an international sanction.

Discretionary Exclusion: Yes.

Based on an administrative decision that the supplier engaged in the following:

- Fraud;
- Collusion and/or infringing competition;
- Tax-related offenses;
- Social harms (breach of environmental, social, or labor law);
- Grave professional misconduct;
- Poor performance, non-performance, and/or failure to perform on public contracts;
- Conflicts of interest.

Exclusion based on Bankruptcy and Cross-Debarment: Discretionary & Automatic.

Bankruptcy: A ground for discretionary exclusion per Sec. 95(4) of the PPA.

Cross-Debarment: International sanctions “within the meaning of the International Sanctions Act” are a basis for automatic exclusion. (See PPA Sec. 95(1))

IV. Scope and Effect of Government-Wide Exclusion:

Types of Excluded Suppliers:

- Individuals, Corporations, and Associations that are not legal persons.

Scope of Exclusion:

Extension to Other Agencies and Organizations:

- Exclusions do **not** prohibit the supplier from contracting with other federal agencies (exclusion decisions are contract-by-contract). However, the same facts could constitute an exclusion ground in every subsequent tender process.
- No known countries or international organizations that automatically recognize and apply exclusions from Estonia.

Effect on Ongoing Contracts:

- A supplier's ongoing contracts are **not** automatically cancelled.
- Subsequent modifications to ongoing contracts are subject to the restrictions set forth in Sec. 123 of the PPA and are **not** affected by a supplier's exclusion.

Effect on Subcontracting:

- Excluded suppliers **can** technically serve as subcontractors, but contracting authorities may have chosen in contract documents to evaluate, or may sometimes be required by the law to evaluate, whether any potential exclusion grounds apply to a bidder's proposed subcontractors. If any grounds exist, the contracting authority can ask or sometimes must ask to replace the subcontractor.

Effect on Excluded Individuals:

- Excluded individuals **may** be employed by a corporate supplier in any capacity.
- However, individual's conviction for certain offenses **may** be imputed to companies in which the individual served as a (i) member of the supplier's administrative, management, or supervisory board, or (ii) other legal or contractual representative. (See PPA Sec. 95)

Tailoring Exclusion:

- No option to tailor the exclusion to certain divisions, operating units, or business lines within a corporate supplier.

Effect on Affiliates:

- Exclusion does **not** extend to affiliated companies (controlling, controlled, under common control) or affiliated individuals.

Duration of Exclusions:

Duration Specified in Legal Framework:

- Exclusions must be based only on grounds that occurred in the previous three or five years.

Duration Depends on Applicable Exclusion Ground? Yes.

- Five years maximum for automatic grounds (from the date of final conviction).
- Three years maximum for discretionary grounds (from the ground's occurrence).

Discretion to Deviate?

- No, the decision-maker does not have discretion to consider any grounds that fall outside the above time limitations as a basis for exclusion.

Exceptions/Waivers to Exclusions:

- Yes, a contract may still be awarded to a supplier notwithstanding the existence of an automatic exclusion ground if necessary for the general interest, and the contract would not be awarded if the supplier were excluded. might still be awarded to an excluded supplier during the period of exclusion.

Other Sanctions:

- The contracting authority may terminate any public contract after finding that an automatic exclusion ground against the contractor existed at the time of the contract's award, which should have resulted in the contractor's exclusion from the procurement. (See PPA Secs. 123-124)

V. Government-Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? No.

Reporting on Exclusions:

Number of Exclusions: Figures unknown.

Regular Reporting: No.

Other Transparency Mechanisms: Decisions of contracting authorities are publicly available upon request absent a reason to withhold.

VI. Limited Scope Exclusion Systems:

Entity-Wide (e.g., Single-Agency) Exclusion? No.

Contract-By-Contract (e.g., Single-Tender) Exclusion? Yes. See above.

Subnational Exclusions: No.