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The reasons for exclusion and the selection criteria in the awarding of public works contracts in Greece

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ABSTRACT

Public works contracts play a central role in infrastructure development, economic growth, and the provision of essential public services. In Greece, their award procedures are primarily governed by Law 4412/2016, which transposes the European Union Directives 2014/24/EU and 2014/25/EU into national law. These provisions establish detailed rules for the exclusion of economic operators and the selection criteria applied by contracting authorities.

The purpose of this thesis is to analyze the legal framework governing the grounds for exclusion and the selection criteria in the award of public works contracts, identifying key challenges and areas for improvement. The study employs a bibliographic and doctrinal research approach, drawing on Greek and foreign legal theory, relevant legislation, and case law from Greek courts, the European Court of Justice, and administrative bodies such as the Hellenic Single Public Procurement Authority (ΕΑΑΔΗΣΥ/HSPPA).

The findings reveal recurring practical issues, including ambiguities in the application of exclusion grounds, inconsistencies in the interpretation of selection criteria, and procedural inefficiencies that may hinder competition and transparency. Comparative insights from other EU Member States highlight potential best practices for addressing these challenges.

This research contributes to the ongoing debate on the effectiveness of the Greek public procurement framework, offering proposals for legislative amendments and procedural reforms aimed at enhancing legal certainty, fairness, and efficiency. The conclusions may serve as a useful reference for contracting authorities, policymakers, and economic operators involved in public works procurement.

Keywords: public procurement, public works contracts, Law 4412/2016, exclusion grounds, selection criteria, EU procurement law, Greece, transparency

Περίληψη

Πλαίσιο και Σημασία

Οι δημόσιες συμβάσεις έργων αποτελούν κεντρικό άξονα της πολιτικής υποδομών, απορροφώντας σημαντικούς δημόσιους πόρους και συμβάλλοντας στην οικονομική ανάπτυξη, την κοινωνική συνοχή και τη βιώσιμη ανάπτυξη. Στην Ελλάδα, διέπονται κυρίως από τον **Ν. 4412/2016**, με τον οποίο ενσωματώθηκαν οι **Οδηγίες 2014/24/ΕΕ και 2014/25/ΕΕ**. Το θεσμικό πλαίσιο περιλαμβάνει λεπτομερείς ρυθμίσεις για τους **υποχρεωτικούς** και **δυνητικούς λόγους αποκλεισμού**, καθώς και για τα **κριτήρια επιλογής**. Παρά την πληρότητα του νόμου, η πρακτική εφαρμογή αναδεικνύει δυσλειτουργίες: ερμηνευτικές ασάφειες, διαφορετικές προσεγγίσεις από τις αναθέτουσες αρχές, και τυπικά κωλύματα που υπονομεύουν τον ανταγωνισμό.

Σκοπός και Στόχοι

Η εργασία αποσκοπεί στη συστηματική ανάλυση του πλαισίου αποκλεισμού και επιλογής, με στόχους:

1. Την καταγραφή και ερμηνεία των διατάξεων του Ν. 4412/2016 σε συνάρτηση με το ενωσιακό δίκαιο.
2. Τον εντοπισμό προβλημάτων εφαρμογής και ερμηνείας.
3. Τη συγκριτική ανάλυση με άλλες χώρες της ΕΕ.
4. Τη διατύπωση προτάσεων νομοθετικής και διαδικαστικής βελτίωσης.

Μεθοδολογία

Ακολουθήθηκε **βιβλιογραφική και νομικο-δογματική** προσέγγιση, με μελέτη:

- Ελληνικής και ξενόγλωσσης θεωρίας.
- Κειμένου και τροποποιήσεων του Ν. 4412/2016 (ιδίως Ν. 4782/2021).
- Νομολογίας ελληνικών δικαστηρίων (ΣτΕ), **ΑΕΠΠ** και **ΔΕΕ**.
- Οδηγιών της **ΕΑΑΔΗΣΥ**.
- Συγκριτικών πρακτικών από κράτη-μέλη της ΕΕ.

Αυτή η πολυεπίπεδη μεθοδολογία επιτρέπει μια κανονιστική, πρακτική και συγκριτική προοπτική του ερευνητικού προβλήματος.

Κύρια Ευρήματα

1. **Υποχρεωτικοί λόγοι αποκλεισμού**

   Αυτοί ευθυγραμμίζονται στενά με το δίκαιο της ΕΕ, καλύπτοντας σοβαρά αδικήματα όπως η συμμετοχή σε εγκληματική οργάνωση, η διαφθορά, η απάτη και η

νομιμοποίηση εσόδων από παράνομες δραστηριότητες. Η κύρια πρακτική πρόκληση έγκειται σε αποδεικτικά ζητήματα - ιδίως όταν γίνεται επίκληση αλλοδαπών διοικητικών ή δικαστικών αποφάσεων ή όταν δεν υπάρχει τελεσίδικη απόφαση.

2. **Δυνητικοί λόγοι αποκλεισμού (Άρθρο 74)**

   Εδώ παρατηρείται μεγαλύτερη ερμηνευτική πολυπλοκότητα. Η ευρεία διακριτική ευχέρεια που παρέχεται στις αναθέτουσες αρχές οδηγεί συχνά σε άνιση εφαρμογή και πιθανή άνιση μεταχείριση. Οι ασυνεπείς πρακτικές μεταξύ των αναθετουσών αρχών δημιουργούν νομική αβεβαιότητα, επηρεάζοντας την εμπιστοσύνη των προσφερόντων.

3. **Αρχή αναλογικότητας & διάρκεια αποκλεισμού**

   Ενώ η αναλογικότητα αναγνωρίζεται θεωρητικά, η εφαρμογή της δεν είναι ομοιόμορφη. Ορισμένες αρχές υιοθετούν μια αυστηρά φορμαλιστική προσέγγιση, ενώ άλλες σταθμίζουν τη σοβαρότητα, το χρόνο και τη συνάφεια του παραπτώματος.

   Ειδικότερα, οι διατάξεις αυτοκάθαρσης (άρθρο 73 παράγραφος 7) δεν χρησιμοποιούνται επαρκώς, ενώ δεν υπάρχουν σαφείς οδηγίες για την αξιολόγηση των διορθωτικών μέτρων.

4. **Κριτήρια επιλογής**

   Οι τρεις κατηγορίες - καταλληλόλητα για την άσκηση της επαγγελματικής δραστηριότητας, οικονομική και χρηματοοικονομική επάρκεια και τεχνική και επαγγελματική ικανότητα - είναι εννοιολογικά ορθές, αλλά συχνά δεν έχουν μετρήσιμα σημεία αναφοράς. Οι ασάφειες στις απαιτήσεις τεκμηρίωσης οδηγούν σε απορρίψεις για τυπικούς λόγους.

5. **ΕΕΕΣ**

   Το ΕΕΕΣ προσφέρει μια τυποποιημένη δήλωση συμμόρφωσης, αλλά είναι επιρρεπές σε σφάλματα συμπλήρωσης. Τα σφάλματα αυτά, συχνά ήσσονος σημασίας, οδηγούν σε δυσανάλογους αποκλεισμούς, που έρχονται σε αντίθεση με τον στόχο της μεγιστοποίησης του ανταγωνισμού.

6. **Άρθρο 102 και τυπικότητα**

   Η τροποποίηση του άρθρου 102 με το νόμο 4782/2021 διεύρυνε τη δυνατότητα των αναθετουσών αρχών να ζητούν διευκρινίσεις, διορθώσεις ή συμπληρώσεις των εγγράφων του διαγωνισμού. Ενώ αυτό αποσκοπεί στη μείωση των αδικαιολόγητων αποκλεισμών, η νομολογία εξακολουθεί να αντανακλά διαφορετικές

ερμηνείες, με ορισμένες αρχές να διστάζουν να παρεκκλίνουν από την αυστηρή τυπικότητα.

7. **Συγκριτικά ευρήματα**

- Οι βέλτιστες πρακτικές που εντοπίστηκαν σε άλλες δικαιοδοσίες της ΕΕ περιλαμβάνουν:
    - Υποχρεωτική τυποποίηση των δικαιολογητικών μέσω κεντρικών ηλεκτρονικών μητρώων.
    - Ενισχυμένες διαβουλεύσεις με την αγορά πριν από τη διενέργεια διαγωνισμών.
    - Ενσωμάτωση δεικτών επιδόσεων στην αξιολόγηση της τεχνικής ικανότητας.
- Τα μέτρα αυτά συμβάλλουν σε μεγαλύτερη διαφάνεια, αποτελεσματικότητα και συμμετοχή των προσφερόντων.

Συμπεράσματα – Προτάσεις

Η έρευνα καταλήγει στο συμπέρασμα ότι ενώ η Ελλάδα διαθέτει ένα καλά δομημένο νομικό πλαίσιο στη θεωρία, η πρακτική εφαρμογή υπονομεύεται από την ασυνεπή ερμηνεία, τη διαδικαστική ακαμψία και την ανεπαρκή ψηφιοποίηση. Οι βασικές προτάσεις περιλαμβάνουν:

- Νομοθετική αποσαφήνιση δυνητικών λόγων αποκλεισμού.
- Υποχρεωτική τυποποίηση και ηλεκτρονική διαλειτουργικότητα (ΕΣΗΔΗΣ, ΚΗΜΔΗΣ, eCertis).
- Βελτιωμένη καθοδήγηση για το ΕΕΕΣ.
- Μείωση έμφασης σε τυπικά κωλύματα.
- Υιοθέτηση μεθοδολογιών ΜΕΑΤ (Πλέον Οικονομικά Συμφέρουσα Προσφορά-Most Economically Advantageous Tender - MEAT) που συνδυάζουν ποιότητα και τιμή.

Αξία της Μελέτης

Η εργασία παρέχει ένα τεκμηριωμένο πλαίσιο για βελτίωση της ελληνικής πρακτικής στις δημόσιες συμβάσεις έργων, με στόχο μεγαλύτερη διαφάνεια, δίκαιη μεταχείριση και αποδοτικότητα.

Summary

Context and Significance

Public works contracts are an essential component of modern infrastructure policy, representing a significant portion of public expenditure and acting as drivers for economic development, social cohesion, and environmental sustainability. In Greece, these contracts are primarily regulated by **Law 4412/2016**, which transposes **Directives 2014/24/EU and 2014/25/EU** into national law. The legal framework sets out detailed provisions for **mandatory and discretionary exclusion grounds** as well as **selection criteria** to ensure transparency, fair competition, and efficient use of public funds.

However, practical experience has revealed persistent issues: inconsistent interpretation by contracting authorities, procedural inefficiencies, and challenges in applying EU-level instruments (such as the **European Single Procurement Document – ESPD**) uniformly. These shortcomings affect the quality and fairness of procurement, potentially deterring economic operators and undermining public trust.

Aim and Objectives

This thesis aims to provide a systematic and critical analysis of the legal framework governing exclusion grounds and selection criteria in the award of public works contracts in Greece. The specific objectives are:

1. To map and explain the relevant provisions of **Law 4412/2016** and their interplay with EU law.
2. To identify legal and procedural issues that hinder effective and fair application.
3. To compare Greek practices with selected EU Member States, identifying best practices and innovative solutions.
4. To propose targeted legislative and procedural reforms to enhance legal certainty, efficiency, and fairness.

Methodology

The study adopts a **bibliographic and doctrinal legal research** approach, combining:

- Analysis of **Greek legal theory** and **foreign scholarly literature**.
- Examination of **Law 4412/2016** and its amendments (notably **Law 4782/2021**).
- Review of **case law** from Greek courts (including the Council of State), the **Authority for the Examination of Preliminary Appeals – HSPPA**, and the **Court of Justice of the European Union (CJEU)**.
- Assessment of administrative guidelines issued by the **Hellenic Single Public Procurement Authority – HSPPA (ΕΑΑΔΗΣΥ)**.

- Comparative analysis with practices from other EU Member States. This multi-layered methodology allows for a normative, practical, and comparative perspective on the research problem.

Key Findings

1. **Mandatory Exclusion Grounds (Art. 73 L. 4412/2016)**

   These align closely with EU law, covering serious offences such as participation in a criminal organization, corruption, fraud, and money laundering. The main practical challenge lies in evidentiary issues — particularly when relying on foreign administrative or judicial decisions, or when no final judgment exists.

2. **Discretionary Exclusion Grounds (Art. 74)**

   Greater interpretative complexity is observed here. The broad discretion given to contracting authorities often leads to **uneven application** and potential unequal treatment. Inconsistent practices across contracting authorities create legal uncertainty, affecting bidder confidence.

3. **Principle of Proportionality & Duration of Exclusion**

   While proportionality is recognized in theory, its application is not uniform. Some authorities adopt a strict formalist approach, while others weigh the severity, timing, and relevance of the misconduct.

   Notably, **self-cleaning provisions (Art. 73(7))** are underused, with a lack of clear guidance on assessing remedial measures.

4. **Selection Criteria (Arts. 75–78)**

   The three categories—**suitability to pursue the professional activity**, **economic and financial standing**, and **technical and professional ability**—are conceptually sound but often lack measurable benchmarks. Ambiguities in documentary requirements lead to rejections for formal reasons.

5. **Evidentiary Requirements and the ESPD**

   The **ESPD** offers a standardized declaration of compliance but is prone to completion errors. These errors, often minor, result in disproportionate exclusions, contradicting the goal of maximizing competition.

6. **Procedural Flexibility: Article 102 and Formalism**

The amendment of Article 102 by Law 4782/2021 broadened the ability of contracting authorities to request clarifications, corrections, or completions of tender documents. While this aims to reduce unjustified exclusions, case law still reflects varying interpretations, with some authorities reluctant to depart from strict formality.

7. **Comparative Insights**
    - **Best practices** identified in other EU jurisdictions include:
        - Mandatory standardization of supporting documents through centralized electronic registers.
        - Enhanced pre-tender market consultations.
        - Integration of performance indicators into technical capacity evaluation.
    - These measures contribute to greater transparency, efficiency, and bidder participation.

Conclusions and Proposals

The research concludes that while Greece has a well-structured legal framework in theory, practical application is undermined by inconsistent interpretation, procedural rigidity, and insufficient digitization. Key proposals include:

- Legislative clarification of discretionary exclusion grounds.
- Mandatory use of standardized forms and interoperable electronic registers (linking **ESIDIS**, **KIMDIS**, **eCertis**).
- Improved guidance on ESPD completion and verification.
- Reduced emphasis on formal defects in favor of substantive evaluation.
- Adoption of **Most Economically Advantageous Tender (MEAT)** approaches that balance quality and cost.

Value of the Study

This thesis provides contracting authorities, policymakers, and market participants with a structured, evidence-based framework for improving public works procurement in Greece. Its recommendations aim to enhance fairness, legal certainty, and efficiency, aligning national practice with EU objectives.

Abbreviations

Abbreviation	Full term	Ελληνική απόδοση
EU/ΕΕ	European Union	Ευρωπαϊκή Ένωση
OECD/ΟΟΣΑ	Organization for Economic Co-operation and Development	Οργανισμός Οικονομικής Συνεργασίας και Ανάπτυξης
HSPPA/ΕΑΑΔΗΣΥ	Hellenic Single Public Procurement Authority	Ενιαία Ανεξάρτητη Αρχή Δημοσίων Συμβάσεων
AEPP/ΑΕΠΠ	Authority for the Examination of Preliminary Appeals	Αρχή Εξέτασης Προδικαστικών Προσφυγών
EEES/ESPD	European Single Procurement Document	Ενιαίο Ευρωπαϊκό Έγγραφο Σύμβασης
ESIDIS/ΕΣΗΔΗΣ	National System of Electronic Public Procurement	Εθνικό Σύστημα Ηλεκτρονικών Δημοσίων Συμβάσεων (ΕΣΗΔΗΣ)
CERPC/ΚΗΜΔΗΣ	Central Electronic Registry of Public Contracts	Κεντρικό Ηλεκτρονικό Μητρώο Δημοσίων Συμβάσεων
CJEU/ΔΕΕ	Court of Justice of the European Union	Δικαστήριο της Ευρωπαϊκής Ένωσης
RoC/ΜΕΕΠ	Register of Contractors	Μητρώο Εργοληπτικών Επιχειρήσεων
ECLI/ΕΑΚΝ	European Case Law Identifier	Ευρωπαϊκός Αναγνωριστικός Κωδικός Νομολογίας
OGP/ΣΑΔ	Open Government Partnership	Σύμπραξη για Ανοικτή Διακυβέρνηση

1. Introduction

Public works contracts constitute a critical component of national infrastructure development, economic growth, and public service delivery. Their award and execution involve complex legal frameworks aimed at ensuring transparency, competition, and the efficient use of public resources. In Greece, the legislative framework governing public procurement – including public works – is primarily established by Law 4412/2016, which transposed into national law the European Union Directives 2014/24/EU and 2014/25/EU. This law sets out detailed rules on the award procedures, including the grounds for exclusion of economic operators and the selection criteria applied by contracting authorities.

1.1 Aim and Objectives

The aim of this thesis is to analyze the legal provisions on the grounds for exclusion and the selection criteria in the award of public works contracts in Greece, as regulated by Law 4412/2016. The objectives are:

- To present the relevant legal framework and its interpretation in Greek and EU case law.
- To identify key issues, ambiguities, and inefficiencies in the application of exclusion grounds and selection criteria.
- To compare Greek practice with approaches in other EU Member States.
- To propose potential improvements and reforms.

1.2 Research Questions

The study seeks to answer the following questions:

What are the mandatory and optional grounds for exclusion under Law 4412/2016, and how are they applied in practice?

What are the applicable selection criteria for public works contracts, and how do contracting authorities assess compliance?

What practical challenges arise during the application of these provisions, and how might they be addressed?

1.3 Scope and Limitations

The thesis focuses exclusively on public works contracts falling within the scope of Law 4412/2016. It does not address in detail procurement procedures for supplies or services, except where necessary for comparison or clarification. The analysis is primarily legal and doctrinal, drawing on legislation, academic literature, and judicial decisions.

1.4 Structure of the Thesis

The study is organized as follows: Chapter 2 presents the legal framework for public works procurement in Greece. Chapter 3 examines the grounds for exclusion of economic operators. Chapter 4 analyses the selection criteria and the evidentiary requirements for proving compliance. Chapter 5 addresses practical issues and case studies drawn from administrative and judicial practice. Chapter 6 concludes with the main findings and offers proposals for legislative and procedural improvements.

2. The legal framework of public works in Greece

Public works procurement in Greece is governed by a comprehensive legal framework designed to ensure transparency, equal treatment of economic operators, and efficient use of public resources. The framework is strongly influenced by European Union law, in particular Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement in the water, energy, transport, and postal services sectors. These directives were transposed into Greek law primarily through Law 4412/2016, which unified and modernised the rules for the award of public contracts for works, supplies, and services (HSPPA, 2020).

The legal regime defines the scope, principles, and procedures applicable to public works contracts, including the grounds for exclusion of economic operators and the selection criteria to be applied by contracting authorities. Understanding this framework is essential for interpreting and applying the rules that will be analysed in the subsequent chapters. This chapter outlines the key components of the Greek public procurement system, starting with the scope of Law 4412/2016 (section 2.1), followed by the categories of public contracts (section 2.2), and finally the main award procedures (section 2.3).

2.1 Law 4412/2016: Scope and application

Law 4412/2016 on Public Works, Supplies and Services Contracts (transposing Directives 2014/24/EU and 2014/25/EU) is the principal legislative instrument governing the award and execution of public contracts in Greece. It was enacted to harmonise national legislation with the updated EU procurement directives and to enhance transparency, competition, and administrative efficiency in public procurement (Sotiropoulos et al., 2020).

The law covers public works, supplies, and services contracts, and includes special provisions for procurement in the utilities sectors (water, energy, transport, and postal services) under Directive 2014/25/EU. Its scope is set out in Articles 1–3, which define the types of contracts, the contracting authorities and entities, and the financial thresholds above which the law's provisions apply (HSPPA, 2020).

According to Article 2, a public works contract is a contract for pecuniary interest concluded in writing between one or more contracting authorities and an economic operator, the object of which is either the execution, or both the design and execution, of a work, or the realisation of a work corresponding to the requirements specified by the contracting authority. Article 3 extends the law's application to certain contracts awarded by entities outside the traditional public sector, provided they pursue a public interest objective and are primarily publicly funded (Kaxiris, 2021).

In SIAC Construction (Case C-19/00), the CJEU confirmed that while contracting authorities enjoy discretion in evaluating tenders, such discretion is subject to judicial review to ensure that it is not exercised in a manifestly erroneous or discriminatory manner. The judgment reinforced the binding nature of the principles of equal treatment, transparency, and proportionality in public procurement (Court of Justice of the European Union, 2000a).

These principles bind contracting authorities at all stages of the procurement process, regardless of whether a contract is above or below the EU thresholds, where there is clear cross-border interest (Court of Justice of the European Union, 2000b).

Since its adoption, Law 4412/2016 has been amended several times, most importantly by Law 4782/2021, which modernised procurement procedures and introduced digitalisation measures but also substantially amended key provisions of Law 4412/2016—such as Article 102 on clarifications and completions of tender documents—introducing greater flexibility and aiming to accelerate contract award processes. Despite these reforms, challenges remain in implementation, particularly regarding interpretation of provisions, administrative capacity, and interoperability of electronic systems. (Kaxiris, 2021; Sotiropoulos et al., 2020).

Furthermore, Law 5218/2025 introduced a package of targeted amendments to Law 4412/2016: it reinforced ESIDIS as the default channel for competitive procedures (while retaining a limited exemption for certain direct awards up to €60,000 under transitional conditions), overhauled the KIMDIS provisions, required full publication of tender notices on Diavgeia, reorganised the examination of 'self-cleaning' under Article 73, clarified the validity of documentary evidence by adding Article 80(12A), and streamlined pre-contractual remedies and judicial review. Collectively, these measures aim to reduce administrative burden, increase transparency, and accelerate awards.

A clear understanding of the scope and application of Law 4412/2016 is a necessary foundation for analysing the exclusion grounds and selection criteria in subsequent chapters, as these rules apply only within the boundaries defined by the law.

2.2 Categories of public contracts (works, studies, services)

Under Law 4412/2016, public contracts are classified into three main categories: works contracts, supply contracts, and service contracts. This classification determines not only the applicable procedural rules but also the specific technical, financial, and qualitative criteria that contracting authorities must apply in each case (HSPPA, 2020).

Public works contracts involve either the execution, or both the design and execution, of works, or the realisation of a work meeting the contracting authority's specifications. Works are defined in accordance with Annex II of Directive 2014/24/EU and include construction, civil engineering, and building projects, as well as activities that result in a structure fulfilling an economic or technical function (Sotiropoulos et al., 2020).

Supply contracts relate to the purchase, lease, rental, or hire-purchase of products, with or without an option to buy. These contracts may include incidental siting and installation operations (Directive 2014/24/EU, Art. 2).

Service contracts cover the provision of services other than those related to works. In Law 4412/2016, they are divided into general services and specific categories (such as engineering, consultancy, and maintenance services), as listed in Annex XIV of Directive 2014/24/EU (Kaxiris, 2021).

In addition to the main categories, Law 4412/2016 recognises **mixed contracts**, which combine elements of works, supplies, and services. The rules applicable to mixed contracts

depend on the category representing the main subject matter and the highest estimated value (HSPPA, 2020).

For works contracts in particular, the Greek legal framework also includes **design contests** for the procurement of plans or designs, typically in the fields of architecture, engineering, or urban planning. These contests are subject to specific procedural rules aimed at ensuring anonymity and impartiality in the selection process (Sotiropoulos et al., 2020).

Understanding these categories is essential for correctly applying exclusion grounds and selection criteria, as the law allows for variations in documentation requirements, evaluation methods, and procedural steps depending on the type of contract.

2.3 Award procedures (open, restricted, negotiated, competitive dialogue, framework agreements)

Law 4412/2016 establishes several award procedures for public contracts, in line with the provisions of Directive 2014/24/EU, giving contracting authorities flexibility while safeguarding the principles of transparency, equal treatment, and competition (HSPPA, 2020).

Open procedure: In an open procedure, any interested economic operator may submit a tender in response to a contract notice. This is the most widely used procedure in Greece for public works contracts, as it ensures maximum competition and transparency (Directive 2014/24/EU, Art. 27). All tenders are evaluated according to the criteria set out in the procurement documents, and award is made to the most economically advantageous tender (Sotiropoulos et al., 2020).

Restricted procedure: In a restricted procedure, any economic operator may request to participate, but only those invited by the contracting authority following a pre-qualification stage may submit tenders (Directive 2014/24/EU, Art. 28). This procedure allows the contracting authority to limit participation to qualified candidates, potentially reducing evaluation workload and focusing on quality over quantity (Kaxiris, 2021).

Negotiated procedure with prior publication: This involves a process in which contracting authorities negotiate contract terms with selected tenderers after a call for competition has been issued. It is used when the contract specifications cannot be established with sufficient precision in advance or when innovative solutions are required (Directive 2014/24/EU, Art. 29).

Competitive dialogue: Designed for particularly complex contracts where the contracting authority is not objectively able to define the technical means capable of satisfying its needs or the legal/financial make-up of the project. During the dialogue, solutions are developed in collaboration with participants, after which final tenders are submitted based on the agreed solutions (Directive 2014/24/EU, Art. 30).

Framework agreements: These set out the terms for future contracts to be awarded during a given period, particularly regarding price and quantity. Framework agreements are used to streamline repetitive procurement needs and can be concluded with one or more economic operators (Directive 2014/24/EU, Art. 33).

Dynamic purchasing systems and **innovation partnerships** are also available under Law 4412/2016, though less common in public works procurement. Dynamic purchasing

systems are fully electronic processes for commonly used purchases, while innovation partnerships aim to develop innovative products, services, or works and subsequently purchase the resulting outputs (HSPPA, 2020).

The choice of award procedure depends on factors such as the contract's value, complexity, subject matter, and the need for flexibility in defining specifications. In all cases, the selected procedure must comply with the fundamental principles of EU procurement law, ensuring a fair, competitive, and transparent process (Court of Justice of the European Union, 2000b).

3. Exclusion grounds in public works contracts

The exclusion of economic operators from public procurement procedures is an essential mechanism to safeguard the integrity, reliability, and fairness of the contracting process. Exclusion grounds aim to prevent the participation of operators who have engaged in serious misconduct, criminal activities, or who fail to meet essential professional standards (Arrowsmith, 2014).

In Greece, the legal basis for exclusion grounds is primarily set out in Articles 73 and 74 of Law 4412/2016, in line with Articles 57 and 58 of Directive 2014/24/EU. Article 73 establishes **mandatory exclusion grounds**, where contracting authorities are required to exclude an operator if certain conditions are met. Article 74 sets out **discretionary exclusion grounds**, where the authority may decide whether exclusion is appropriate, based on the circumstances of the case (HSPPA, 2020).

The framework is complemented by rules on the **principle of proportionality** and the **duration of exclusion**, ensuring that measures are not excessive in relation to the seriousness of the offense (Kaxiris, 2021). In addition, the **self-cleaning mechanism** allows operators to demonstrate that they have taken sufficient remedial measures to regain reliability, even if an exclusion ground applies (Directive 2014/24/EU, Art. 57(6)).

This chapter analyses each category of exclusion grounds, the relevant legal provisions, and the underlying principles, with reference to both Greek and EU case law.

3.1 Mandatory exclusion grounds (Article 73)

Mandatory exclusion grounds are those for which the contracting authority must exclude an economic operator from participation in a procurement procedure, without discretion, when the relevant conditions are established.

Under Article 73(1) of Law 4412/2016, these include situations where the operator:

- Has been convicted by final judgment for participation in a criminal organization, corruption, fraud, terrorist offences, money laundering, or child labor and other forms of trafficking in human beings. These offences mirror those harmonized at EU level in Article 57(1) of Directive 2014/24/EU, which codifies prior policy and case law to establish a uniform minimum standard of exclusion across Member States (Arrowsmith, 2014).
- Has failed to fulfil obligations relating to the payment of taxes or social security contributions, where such failure has been established by a final judicial or administrative decision (HSPPA, 2020).

In addition to these grounds, the law provides that exclusion also applies where the conviction concerns any other offence affecting the professional integrity of the operator, provided that it is relevant to the specific procurement procedure (Kaxiris, 2021).

The application of mandatory exclusion grounds requires contracting authorities to verify the existence of the relevant convictions or decisions through official registers, certificates, or other equivalent means. This is typically done via the European Single Procurement Document (ESPD) in the initial stage, followed by the submission of documentary evidence before contract award (Directive 2014/24/EU, Art. 59).

While mandatory grounds leave no discretion as to whether exclusion should occur, the principle of proportionality still applies in certain respects. For example, exclusion may be avoided where the operator can demonstrate that the breach was minor, has been remedied, or is not relevant to the performance of the contract at hand (Court of Justice of the European Union, 2018).

The rationale behind mandatory exclusion is to ensure that contracting authorities do not inadvertently award contracts to entities whose past conduct poses a serious risk to the lawful and efficient performance of public works contracts.

3.2 Discretionary exclusion grounds (Article 74)

Discretionary exclusion grounds differ from mandatory ones in that contracting authorities have the power, but not the obligation, to exclude an economic operator if certain circumstances exist. This discretion is intended to allow a proportionate response to situations where exclusion may be justified to protect the integrity of procurement, but where a rigid automatic rule could unduly restrict competition. As Arrowsmith (2014) cautions, discretion must be exercised with transparent, evidence-based reasoning to avoid arbitrary or discriminatory outcomes and to withstand judicial scrutiny. (Arrowsmith, 2014).

Under Article 74 of Law 4412/2016, in alignment with Article 57(4) of Directive 2014/24/EU, discretionary exclusion grounds include cases where the economic operator:

- Is insolvent, bankrupt, or the subject of proceedings for declaration of bankruptcy or similar procedures.
- Has been found guilty of grave professional misconduct, which renders its integrity questionable. This includes conduct that violates ethical standards, breaches of contract in previous procurements, or behavior distorting competition (HSPPA, 2020).
- Has entered into agreements with other economic operators aimed at distorting competition.

- Has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, which led to early termination, damages, or other comparable sanctions (Kaxiris, 2021).
- Has provided misleading information in the procurement process or failed to supply required documentation.
- Has attempted to unduly influence the decision-making process or obtain confidential information that could confer an advantage in the procedure.

A key feature of discretionary grounds is the need for the contracting authority to assess the relevance, severity, and timing of the misconduct in relation to the contract at hand. The authority must balance the need to safeguard procurement integrity with the principle of proportionality, avoiding disproportionate restrictions on market access (Court of Justice of the European Union, 2018).

In practice, the use of discretionary exclusion grounds requires a detailed reasoning in the award decision, supported by documentary evidence. Contracting authorities must also consider any remedial measures taken by the economic operator under the self-cleaning provisions of Article 73(7) and Article 78 of Law 4412/2016 (Directive 2014/24/EU, Art. 57(6)).

The CJEU has clarified that discretionary exclusion grounds must be applied in a proportionate manner and only where objectively justified. In Assitur (Case C-538/07), the Court struck down national rules that automatically excluded companies with structural or cooperative links to other bidders, holding that such blanket prohibitions breached the principles of equal treatment and proportionality. Exclusion is permissible only where specific evidence shows that the link in question creates a genuine risk of collusion or distortion of competition (Court of Justice of the European Union, 2009). This judgment underlines the need for contracting authorities to carry out a case-by-case assessment rather than applying abstract prohibitions, thereby preserving fair competition while preventing anti-competitive practices.

While discretionary grounds can serve as a flexible tool to address risks to public procurement, inconsistent application can create uncertainty for economic operators. Comparative studies suggest that clearer guidance and standardized evaluation criteria could improve legal certainty and promote uniform application across contracting authorities (OECD, 2021).

Law 5218/2025 primarily amended Article 73 of Law 4412/2016: it replaced paragraph 9, established dedicated committees to examine self-cleaning submissions, and added a new paragraph 12 introducing a low-value threshold (€2,500–€30,000) under which paragraphs 4 and 5 do not apply. The law did not create a centralized national registry of exclusion decisions nor did it expand Article 74 to add new sustainability-specific grounds; those issues remain governed by the existing framework and general principles.

3.3 Principle of proportionality and duration of exclusion

The **principle of proportionality** is a fundamental concept in EU and Greek public procurement law, ensuring that measures taken by contracting authorities are appropriate, necessary, and not excessive in relation to the objectives pursued (Craig and de Búrca, 2021). In the context of exclusion grounds, proportionality requires that exclusion decisions reflect the seriousness of the misconduct, its relevance to the specific contract, and any mitigating factors.

Under Law 4412/2016, contracting authorities must consider whether the exclusion of an economic operator is proportionate, particularly in cases involving discretionary exclusion grounds (Article 74) and in certain situations under mandatory grounds (Article 73) where the impact of exclusion could be unduly harsh (HSPPA, 2020). For example, a minor breach of contractual obligations in the distant past might not justify exclusion from a current high-value procurement if the operator has since demonstrated reliability.

The **duration of exclusion** is also regulated to avoid indefinite or arbitrary disqualifications. Article 73(6) of Law 4412/2016, reflecting Article 57(7) of Directive 2014/24/EU, sets maximum exclusion periods:

- **Five years** from the date of conviction for offenses under the mandatory grounds.
- **Three years** from the date of the relevant event for discretionary grounds.

These time limits aim to balance deterrence against the need to allow rehabilitated operators to re-enter the market. The starting point of the exclusion period and the calculation of its end date must be clear and based on objective criteria (Court of Justice of the European Union, 2018).

Case law from the Court of Justice of the European Union emphasizes that contracting authorities must not automatically exclude operators for the maximum period without assessing whether a shorter duration would be sufficient to protect procurement integrity (CJEU, Case C-41/18, Meca Srl). Similarly, Greek case law underscores the need for a detailed justification whenever exclusion is applied, demonstrating consideration of both aggravating and mitigating circumstances (Kaxiris, 2021).

The combined application of proportionality and defined exclusion periods enhances legal certainty, protects competition, and ensures that exclusion remains a targeted, not punitive, measure in public procurement.

3.4 The "Self-Cleaning" Mechanism in Public Procurement

The "self-cleaning" mechanism constitutes a fundamental safeguard within the EU and Greek public procurement framework, striking a balance between the strict enforcement of exclusion grounds and the principle of proportionality by offering economic operators a second chance to demonstrate their reliability. Rooted in Article 57(6) of Directive 2014/24/EU, it enables operators who would otherwise be excluded to prove that they have adopted adequate remedial measures addressing issues such as compliance failures, organizational shortcomings, or integrity breaches. In the Greek legal order, the mechanism was introduced by Article 73(9) of Law 4412/2016 and further refined by subsequent reforms, notably Law 4782/2021 and Law 5218/2025. These successive amendments have gradually expanded the scope and procedural guarantees of self-cleaning, thereby enhancing legal certainty for both contracting authorities and economic operators.

3.4.1 Purpose and Scope

The rationale behind self-cleaning is to balance two competing objectives: the protection of the public interest and the promotion of fair competition on the one hand, and the reintegration of reformed economic operators into the market on the other (Arrowsmith, 2014; European Commission, 2018). It enables contracting authorities to consider whether the circumstances that led to a ground for exclusion have been adequately addressed, such that the economic operator should be permitted to compete despite the initial disqualifying condition.

It applies to both mandatory and discretionary exclusion grounds; however, certain mandatory exclusions – for instance, those arising from irrevocable criminal convictions for specific offences – may be of such gravity that no self-cleaning is possible (Court of Justice of the European Union, 2008; Law 4412/2016, art. 73).

3.4.2 Procedural Stages

The self-cleaning process involves the following stages:

1. **Submission of evidence** – The economic operator must provide comprehensive documentation demonstrating remedial measures taken. This includes:
    - Compensation for any damage caused;
    - Active cooperation with investigating authorities;
    - Concrete technical, organizational, and personnel measures to prevent future misconduct.
2. **Evaluation by the competent committee** – The contracting authority refers the documentation to a designated evaluation committee, which examines the sufficiency, credibility, and timeliness of the measures (Law 4412/2016, art. 73(9)).

3. **Issuance of a reasoned opinion** – The committee delivers a recommendation on whether the measures meet the legal standard for restoring reliability, considering proportionality and equal treatment (CJEU, 2000a; CJEU, 2000b).

4. **Final decision by the contracting authority** – The authority is not bound by the committee's recommendation but must justify any departure. The decision is subject to judicial review or appeal before the Authority for the Examination of Preliminary Appeals (AEPP) (Sotiropoulos et al., 2020).

3.4.3 Criteria for Assessment

The assessment focuses on:

- **Adequacy** – Measures must address the root causes of the misconduct;
- **Timeliness** – Measures should be implemented promptly after the incident;
- **Credibility** – Evidence must be verifiable and robust;
- **Effectiveness** – Organizational changes must be sufficient to prevent recurrence.

The evaluation is inherently fact-specific; minor procedural failings may be remedied, whereas systemic integrity breaches require extensive reform (CJEU, 1988; CJEU, 2009).

3.4.4 Interaction with Other Provisions

Self-cleaning interacts with procedural mechanisms such as Article 102 of Law 4412/2016, which allows for the clarification or completion of submitted documents within a fixed timeframe. Where a contracting authority identifies gaps in the documentation supporting self-cleaning claims, it may invoke Article 102 to request supplementary evidence, provided that doing so does not give the operator an undue advantage or alter the substance of the bid. The Council of State Decision 1894/2022 clarified the procedural significance of Article 102 of Law 4412/2016, holding that the contracting authority's failure to apply the mechanism for requesting clarifications or corrections may affect the admissibility of subsequent legal remedies. Although not directly addressing self-cleaning, the ruling underlines the importance of Article 102 as a safeguard for effective judicial protection and proper tender evaluation. (Council of State, 2022; Law 4782/2021, art. 42). Law 5218/2025 reorganized the examination of self-cleaning by entrusting it to designated committees under Article 73, and clarified procedural aspects; it did not establish a separate 'pre-assessment' phase. In addition, new Article 73(12) introduces a low-value threshold (€2,500–€30,000) that limits the application of certain exclusion paragraphs. This procedural innovation is intended

to minimize the dismissal of self-cleaning claims on purely formal grounds and to encourage timely corrective action by operators.

3.4.5 Practical Application in Greece

Greek procurement practice continues to be marked by strict formalism, administrative capacity constraints, and the lack of standardized evaluation templates (Sotiropoulos et al., 2020). These systemic issues indirectly limit the effective use of mechanisms such as self-cleaning, even though the law provides for their application. Nevertheless, European Commission guidance emphasizes that rejection should occur only where measures are manifestly inadequate (European Commission, 2018).

3.4.6 Recommendations for Improvement

To enhance the effectiveness of self-cleaning in Greece, the following reforms are suggested:

- Development of national guidelines with detailed criteria and examples of acceptable measures;
- Establishment of a central register of accepted/rejected self-cleaning cases to ensure consistency;
- Targeted training for procurement officials on assessing remedial measures;
- Encouraging early engagement between economic operators and contracting authorities prior to formal exclusion decisions.

3.5 Practical issues

The practical application of exclusion grounds under Law 4412/2016 reveals several recurring challenges for contracting authorities and economic operators. These include uncertainties in interpreting the concepts of “grave professional misconduct” and “significant deficiencies” in prior performance, inconsistent approaches to proportionality assessments, and variations in the evaluation of self-cleaning measures (Kaxiris, 2021).

Greek case law, particularly decisions of the Authority for the Examination of Preliminary Appeals (HSPPA), has clarified certain aspects. For example, HSPPA Decision 123/2020 emphasized that the contracting authority must provide a clear and specific justification for applying discretionary exclusion grounds, supported by documentary evidence, to withstand judicial review. Similarly, Council of State Decision 2021/1057 underlined that the principle of proportionality applies even in cases of mandatory exclusion when mitigating circumstances exist (HSPPA, 2020).

Recent jurisprudence has further clarified the scope and application of exclusion grounds under Articles 73 and 74 of Law 4412/2016. The Council of State (Decision 49/2025) clarified that an economic operator’s failure to disclose facts in the current procedure—

particularly when these facts had also been omitted in earlier tenders—can justify exclusion under Article 73(4)(g) of Law 4412/2016, provided that such facts are directly relevant to exclusion grounds or selection criteria. The ruling emphasizes the operator's duty of full disclosure in each tender, rather than establishing a separate exclusion ground. (Council of State, 2025).

The Ministry of Infrastructure's Circular No. 12054/11-02-2025 requires that self-cleaning measures be concrete, documented, and effectively implemented, explicitly rejecting generic or purely declaratory claims. Separately, CJEU case law (Vossloh Laeis, C-124/17; Delta Antrepriză de Construcții, C-267/18) has clarified that Member States retain discretion in assessing such measures, but this discretion is bounded by the principles of transparency, equal treatment, and proportionality.

The 2021 amendment of Article 102 L. 4412/2016 broadened the powers of contracting authorities to request clarifications and corrections, aiming to reduce exclusions based on purely formal errors. However, as Detsaridis (2024) notes, this flexibility must be exercised cautiously, since the principle of formalism remains deeply embedded in Greek procurement law and continues to restrict the scope of permissible corrections. (Detsaridis, 2024).

At the EU level, the Court of Justice has shaped the interpretation of exclusion grounds through landmark judgments. In Forposta SA (Case C-465/11), the Court confirmed that exclusion for "grave professional misconduct" may be justified without a prior judicial conviction, provided that the contracting authority can establish the facts on the basis of objective and reliable evidence. In Vossloh Laeis (Case C-124/17), the Court clarified that self-cleaning measures must be evaluated on an individual basis, taking into account the specific nature, gravity, and timing of the misconduct, as well as the adequacy of the corrective actions adopted.

These judicial developments highlight the importance of a consistent and well-documented approach by contracting authorities. They also reinforce the link between exclusion grounds and selection criteria: exclusion ensures that unfit operators are removed from the procedure, while selection criteria identify the most capable among those remaining (Arrowsmith, 2014). This connection provides a natural transition to the next chapter, which examines the qualitative requirements and evidentiary standards for the selection of economic operators.

3.6 Recent Case Law (2022–2025) on Exclusion Grounds and Selection Criteria

The application of Articles 73 and 74 of Law 4412/2016 in recent Greek and European jurisprudence reveals both consolidation of certain interpretative trends and the persistence of divergent approaches by contracting authorities.

At the national level, the **Council of State (ΣτΕ) Decision 49/2025** clarified that an economic operator's failure to declare specific facts in the current tender process—facts which had already been omitted in a previous tender—may lead to an exclusion ground under Article 73(4)(g) of Law 4412/2016, provided that these facts relate to an exclusion ground or the non-fulfilment of a selection criterion in the ongoing procedure (ΣτΕ 49/2025, Lawspot 2025). This ruling underlines the continuous duty of economic operators to make comprehensive declarations in each procedure, regardless of any prior proceedings.

Similarly, **Hellenic Single Public Procurement Authority (ΕΑΑΔΗΣΥ/HSPPA) (formerly AEPP), 4th Chamber, Decision 313/2024** reaffirmed that violations of labor law. Specifically, non-payment of wages was treated both as non-compliance with Article 18(2) (Art. 73(4)(a)) and, by virtue of Article 18(5), as potential 'serious professional misconduct' (Art. 73(4)(h)). The Authority also relied on false/incomplete ESPD declarations (Art. 73(4)(g)/(z)). As no self-cleaning was invoked, Article 73(7) was inapplicable and the exclusion decision was upheld; the decision further clarifies the three-year look-back under Article 73(10). In that case, the economic operator admitted in its ESPD the existence of a fine and a criminal conviction for wage arrears, but at the same time answered negatively to the question on 'serious professional misconduct' and declared that no self-cleaning measures had been taken. The Authority held that the inconsistency (admitting labour-law violations while answering 'No' to grave professional misconduct) confirmed the applicability of the discretionary exclusion grounds. Because no self-cleaning was invoked, the Article 73(7) review mechanism was not triggered; accordingly, the contracting authority's exclusion decision—taken under the binding terms of the tender—was upheld. (AEPP, 2024).

At the EU level, the Court of Justice of the European Union (CJEU) continues to uphold a strict interpretation of exclusion grounds, emphasizing the principles of transparency and equal treatment while allowing Member States some margin of discretion in assessing remedial measures (Vossloh Laeis GmbH, C-124/17; Delta Antrepriză de Construcții, C-267/18).

3.7 Impact of Law 4782/2021 on Article 102 L. 4412/2016

Before its amendment by Law 4782/2021, Article 102 of Law 4412/2016 allowed contracting authorities to request clarifications or completions of offers only in cases of minor irregularities or manifest errors, and the obligation to do so arose only when exclusion would otherwise result (Article 102(5)).

Following the amendment by Article 42 of Law 4782/2021, contracting authorities now have broader powers to request clarifications, completions, or corrections—including those in the ESPD—within 10 to 20 days from notification, as long as such requests do not alter the substantive elements of the offer or confer an unfair advantage. This change aligns more closely with Article 56(3) of Directive 2014/24/EU providing wider opportunities for clarifications and completions. Yet, Detsaridis (2024) stresses that this discretion cannot undermine the principle of formalism: contracting authorities may only accept clarifications

that do not alter substantive elements of the tender or grant an undue advantage.(Detsaridis, 2024).

In practice, post-2021 case law (e.g., AEPP decisions 2022–2024) shows a more flexible application of the provision, although contracting authorities remain cautious to avoid infringing the principles of equal treatment and transparency.

4. Selection criteria and supporting documents

Selection criteria in public procurement are designed to ensure that only economic operators with the necessary legal, financial, technical, and professional capacity are admitted to participate in a contract award procedure. While exclusion grounds remove operators deemed unfit due to past misconduct or legal impediments, selection criteria evaluate the suitability of the remaining candidates to perform the specific contract (Arrowsmith, 2014).

In the Greek legal framework, selection criteria are primarily regulated by Articles 75–78 of Law 4412/2016, which transpose the provisions of Articles 58–62 of Directive 2014/24/EU. These provisions allow contracting authorities to impose requirements relating to:

1. Suitability to pursue the professional activity;
2. Economic and financial standing; and
3. Technical and professional ability (HSPPA, 2020).

The assessment of selection criteria is closely linked to the documentation required from economic operators. Initially, the European Single Procurement Document (ESPD) serves as a self-declaration of compliance. Before the award decision, successful tenderers must provide supporting documents as proof (Directive 2014/24/EU, Art. 59).

This chapter examines each category of selection criteria in turn, along with the evidentiary requirements and the practical challenges associated with their application.

4.1 Suitability to pursue the professional activity

Suitability to pursue the professional activity refers to the legal authorisation or registration required for an economic operator to provide the works, services, or supplies in question. This criterion ensures that participants are legally entitled to perform the contract under the applicable national or EU laws (Arrowsmith, 2014).

Under Article 75(2)(a) of Law 4412/2016, contracting authorities may require economic operators to be enrolled in a professional or trade register in their Member State of establishment, or to meet any other authorisation requirements set by national legislation. In the case of public works contracts in Greece, this typically involves registration in the **Register of Contractors' Enterprises** (Μητρώο Εργοληπτικών Επιχειρήσεων – ΜΕΕΠ) maintained by the Ministry of Infrastructure and Transport (HSPPA, 2020).

For service providers, relevant sectoral legislation may require specific licences or memberships (e.g., engineering services requiring registration with the Technical Chamber of Greece – TCG). Similarly, in other EU Member States, professional registers or licensing authorities are listed in Annex XI of Directive 2014/24/EU, which contracting authorities may consult for verification (European Commission, 2021).

The requirement must be proportionate and relevant to the subject matter of the contract, in line with the principles of EU law. For example, the Court of Justice has held that a contracting authority may not impose excessive or unrelated registration requirements that would unduly restrict market access (Gebroeders Beentjes BV, Case 31/87).

Evidence of suitability is usually provided through official certificates of registration or licenses. Where a Member State does not maintain a specific register, a sworn declaration or equivalent certificate may be accepted, in accordance with Article 79 of Law 4412/2016. The ESPD allows economic operators to self-declare compliance with these requirements at the initial stage, but contracting authorities must verify the documentation before awarding the contract.

Practical issues in Greece include variations in the interpretation of what constitutes adequate professional registration for cross-border operators, and delays in verifying documents from foreign registers. The use of eCertis, the European Commission's online information system on certificates and attestations, is intended to facilitate mutual recognition and speed up verification (European Commission, 2021).

4.2 Economic and financial standing

Economic and financial standing is assessed to ensure that an economic operator has the necessary financial capacity to perform the contract without undue risk of non-performance. This criterion protects contracting authorities from engaging with operators who may lack the resources or stability to complete the works successfully. Nevertheless, these requirements must be relevant and proportionate to the subject-matter and risks of the contract; unduly onerous or non-pertinent thresholds may unlawfully restrict competition (Arrowsmith, 2014).

Under Article 75(2)(b) of Law 4412/2016, reflecting Article 58(3) of Directive 2014/24/EU, contracting authorities may impose requirements relating to:

- Minimum annual turnover, including a minimum turnover in the area covered by the contract.
- Information on annual accounts showing a sound financial position.
- Appropriate levels of professional risk indemnity insurance (HSPPA, 2020).

Turnover requirements must be proportionate to the subject matter of the contract. Article 75(3) of Law 4412/2016 stipulates that the required minimum annual turnover should not exceed twice the estimated contract value, except in justified cases. This limitation aims to prevent excessive barriers to entry, particularly for small and medium-sized enterprises (SMEs) (European Commission, 2018).

Financial ratios and statements, such as liquidity ratios, debt-equity ratios, and profit margins, may also be used to assess financial capacity. In Greece, contracting authorities often

require submission of balance sheets or extracts from them, certified by the competent authority or a registered auditor.

Insurance coverage requirements are common in public works contracts, particularly for civil liability and professional indemnity. These requirements ensure that the operator can cover potential damages arising from contract performance (OECD, 2021).

Evidence of economic and financial standing is initially provided through the European Single Procurement Document (ESPD) as a self-declaration, followed by submission of documentary proof before award. Acceptable documents include audited financial statements, certificates from banks, or evidence of relevant insurance policies.

The Court of Justice and EU legislation have consistently emphasized that financial capacity requirements must be objectively justified and proportionate to the subject matter of the contract. Directive 2014/24/EU (Art. 58(3)) and Law 4412/2016 (Art. 75(3)) expressly limit minimum annual turnover thresholds to no more than twice the estimated contract value, except in duly justified cases. As Arrowsmith (2014) observes, disproportionate or arbitrary financial thresholds may unduly restrict competition, particularly disadvantaging SMEs and foreign operators (Arrowsmith, 2014).

Practical issues in Greece include inconsistent application of turnover thresholds, varying interpretations of acceptable proof, and delays in verifying documents from foreign entities. Greater use of eCertis and harmonized guidance from HSPPA could help address these challenges (HSPPA, 2020).

4.3 Technical and professional ability

The criterion of technical and professional ability assesses whether an economic operator has the skills, experience, and human and technical resources necessary to perform the contract to the required standard. In public works contracts, this is a decisive factor, as the complexity and risk profile of such projects require proven competence and capacity (Arrowsmith, 2014).

Under Article 75(2)(c) of Law 4412/2016, transposing Article 58(4) of Directive 2014/24/EU, contracting authorities may set requirements related to:

- A list of works carried out over a specified period, accompanied by certificates of satisfactory execution.
- The technical equipment, tools, and plant available to the operator.
- The educational and professional qualifications of the contractor’s managerial staff and key personnel.
- Average annual manpower and the number of managerial staff over a specified period.

- Measures for ensuring quality, including quality assurance systems and environmental management standards (HSPPA, 2020).

In Greece, for public works contracts, evidence of technical ability often involves submission of references from previous clients, proof of registration in specific categories of the Register of Contractors' Enterprises (Μητρώο Εργοληπτικών Επιχειρήσεων – ΜΕΕΠ), and compliance with relevant ISO standards for quality and environmental management (European Commission, 2021).

The **minimum levels of ability** required must be proportionate to the subject matter and value of the contract, in line with the principles of EU law. Contracting authorities cannot impose requirements that are unrelated to the contract's execution or that create unnecessary barriers to participation. Notably, in Lianakis (Case C-532/06), the CJEU held that criteria such as prior experience and the qualifications of staff may only be assessed at the selection stage (technical and professional ability) and not as award criteria. The judgment clarified the strict separation between selection and award stages, thereby ensuring that contracting authorities do not distort competition by using unrelated or disproportionate requirements in the tender evaluation. (Lianakis AE, Case C-532/06).

Evidence is typically provided initially through the European Single Procurement Document (ESPD) as a self-declaration, with supporting documentation submitted at the verification stage before contract award. This may include signed attestations, technical dossiers, or certificates from recognized bodies.

Practical challenges in Greece include inconsistent definitions of what constitutes relevant experience, differing interpretations of acceptable evidence for foreign operators, and a tendency to rely heavily on formal documentation rather than qualitative assessment of past performance (OECD, 2021). Harmonized evaluation guidelines and broader use of performance-based metrics could improve the fairness and efficiency of technical ability assessments.

4.4 Evidentiary requirements and verification

Evidentiary requirements and verification processes are essential to ensuring that economic operators who pass the selection stage truly meet the criteria specified in the procurement documents. In the EU and Greek public procurement framework, this process is structured as a staged approach—self-declarations at the selection phase and conclusive proof before award—so as to balance administrative efficiency with legal certainty and it follows (Arrowsmith, 2014).

Under Article 79 of Law 4412/2016, in line with Article 59 of Directive 2014/24/EU, the **European Single Procurement Document** (ESPD) serves as a preliminary self-declaration by economic operators that they meet the selection criteria and are not subject to exclusion grounds. This document significantly reduces the initial administrative burden, as supporting

evidence is required only from the winning tenderer before the award decision (European Commission, 2021).

Supporting documents may include:

- Certificates from competent authorities attesting to registration, licenses, or authorizations.
- Financial statements or extracts demonstrating economic and financial standing.
- References or completion certificates verifying technical and professional ability.
- Proof of quality assurance and environmental management standards (HSPPA, 2020).

Verification involves checking the authenticity, validity, and relevance of the submitted documents. Contracting authorities in Greece must accept equivalent documents issued by authorities in other Member States, in accordance with the principles of mutual recognition and non-discrimination (Directive 2014/24/EU, Art. 62). Where necessary, authorities may request clarifications or additional information, provided this does not result in unfair treatment or alter the substance of the tender. In Connexxion Taxi Services (Case C-171/15), the CJEU confirmed that contracting authorities may seek clarifications to resolve minor ambiguities or formal deficiencies in tenders, but they are not permitted to allow corrections or additions that would alter essential elements. The judgment stressed that any request for clarification must not confer an unfair advantage or undermine the principle of equal treatment. (Court of Justice of the European Union, 2016).

Digital tools play an increasing role in verification. The **eCertis** system provides standardized information on certificates and attestations required across the EU, helping contracting authorities identify equivalent documents from other Member States (European Commission, 2021). In Greece, the interoperability of national systems such as the National Electronic Public Procurement System (ESIDIS) and the Central Electronic Registry of Public Contracts (KIMDIS) with EU platforms remains a priority for improving efficiency (OECD, 2021).

Practical challenges include delays in obtaining documents from foreign authorities, inconsistent acceptance of equivalents, and limited awareness among contracting authorities of the tools available for verification. Clearer procedural guidance and better training for procurement officers could enhance both compliance and efficiency.

In addition, Law 5218/2025 amended Article 80 by adding paragraph 12A, clarifying that documentary evidence is deemed valid if it was valid at the time of the ESPD signature. It also refined the rules on acceptance and cross-checking of evidence within ESIDIS/KIMDIS workflows and mandated full publication of tender notices on Diavgeia; it did not create a new unified national ‘evidentiary platform’ integrated with eCertis or require exclusive reliance on such a platform. The system automatically cross-checks the validity of certificates and highlights inconsistencies or expired documents, thereby significantly reducing procedural delays and the risk of documentation errors.

5. Comparative analysis and proposals for improvement

A comparative perspective can provide valuable insights into how different EU Member States implement and apply the rules on exclusion grounds and selection criteria in public works procurement. While the core framework is harmonized through Directive 2014/24/EU, national transposition and administrative practice vary, influencing both the efficiency and fairness of procurement systems (Arrowsmith, 2014).

By examining the approaches taken in other jurisdictions, this chapter seeks to identify best practices and lessons learned that could inform potential reforms to the Greek public procurement framework. The analysis considers both legal provisions and practical implementation, drawing on case law, regulatory guidance, and international benchmarks.

The first section presents a comparative overview of exclusion grounds and selection criteria in selected EU Member States. Subsequent sections address specific areas for improvement, including procedural efficiency, digitalization, standardization of documentation, and enhanced training for procurement officials.

5.1 Comparative overview of exclusion grounds and selection criteria in selected EU Member States

Although Directive 2014/24/EU provides a common legal foundation for exclusion grounds and selection criteria, Member States retain discretion in transposition, leading to notable differences in detail and emphasis (Directive 2014/24/EU).

Germany: The German Public Procurement Regulation (Vergabeverordnung – VgV) closely mirrors the Directive but includes additional national exclusion grounds, such as violations of environmental or labour laws, even without a final judicial conviction (OECD, 2021). Germany applies a central register, the Wettbewerbsregister, which consolidates information on companies subject to exclusion and facilitates verification across all contracting authorities.

France: The French Public Procurement Code (Code de la commande publique) places strong emphasis on self-cleaning and proportionality. French authorities routinely allow economic operators to submit remedial measures and assess these in light of the proportionality principle, with detailed guidance from the Ministry for the Economy and Finance (Ministère de l'Économie et des Finances, 2020).

Italy: Italy's Public Contracts Code (Codice dei contratti pubblici) includes broad discretionary exclusion grounds, particularly relating to anti-mafia regulations, and grants contracting authorities wide investigative powers. Italy also uses an interoperable national database, the Banca Dati Nazionale dei Contratti Pubblici, to manage verification of selection criteria and exclusion grounds (European Commission, 2018).

Netherlands: Dutch procurement law emphasizes transparency and ease of participation for SMEs, with simplified documentation requirements and a strong focus on electronic verification via eCertis and the TenderNed platform. Dutch authorities tend to apply exclusion grounds narrowly, preferring proportional measures over automatic exclusion (OECD, 2021).

Key comparative observations:

- Centralized registers (Germany, Italy) improve efficiency and consistency in applying exclusion grounds.
- Strong proportionality assessment frameworks (France, Netherlands) reduce the risk of over-exclusion and support fair competition.
- Digital tools for document verification (Italy, Netherlands) streamline procedures and enhance transparency.
- Clear national guidance on self-cleaning and discretionary exclusion (France) promotes uniform interpretation.

In addition to the countries already examined, a comparative analysis of public procurement systems in EU Member States with similar size or administrative structure—such as Portugal, Cyprus, and Ireland—offers valuable insights. These jurisdictions have implemented measures to streamline exclusion and selection processes, including centralized supplier databases and uniform digital templates. Of particular note is the integration of the **eCertis** platform into national verification workflows, enabling contracting authorities to cross-check qualification documents and certificates electronically, thereby significantly reducing exclusions for purely formal reasons (European Commission, 2023; HSPPA, 2022). Ireland's Office of Government Procurement and Portugal's **BASE.gov** platform serve as examples of how unified registries and e-procurement portals can facilitate cross-border participation and enhance procedural efficiency (OECD, 2021). Lessons from these systems could inform the Greek framework, particularly regarding interoperability between **ESIDIS**, **KIMDIS**, and eCertis, and the mandatory use of consolidated supplier registers.

These differences suggest that Greece could benefit from a more centralized verification system, enhanced proportionality assessment guidelines, and further integration with EU-level digital tools such as eCertis.

5.2 Identified weaknesses in the Greek framework

Although Law 4412/2016 has significantly modernized Greece's public procurement framework by transposing Directive 2014/24/EU and Directive 2014/25/EU, several weaknesses persist in its implementation and practical application. As recent case law (see Sections 3.6–3.8) demonstrates, these issues affect both the efficiency and fairness of public works procurement and limit the potential benefits of the legislative reforms (HSPPA, 2020).

Fragmented verification processes:

Unlike some EU Member States that maintain centralized registers for exclusion and selection verification (e.g., Germany's Wettbewerbsregister or Italy's Banca Dati Nazionale dei Contratti Pubblici), Greece relies on contracting authorities to individually verify information. This can lead to inconsistencies, delays, and increased administrative costs (OECD, 2021).

Inconsistent application of discretionary exclusion grounds:

While the law allows for discretionary exclusion under Article 74, there is a lack of standardized guidance on how to assess the severity and relevance of misconduct. This results in divergent interpretations by different contracting authorities, increasing legal uncertainty for economic operators (Kaxiris, 2021).

Limited use of proportionality assessments:

Although the principle of proportionality is embedded in the law, it is not consistently applied in practice, particularly in cases involving minor or outdated breaches. This can lead to overly restrictive outcomes and reduced competition, contrary to EU law principles (Court of Justice of the European Union, 2018).

Challenges in cross-border participation:

Foreign economic operators often face delays and difficulties in proving compliance with Greek requirements, such as professional registration or submission of equivalent certificates. While eCertis is available, its use by Greek contracting authorities remains inconsistent (European Commission, 2021).

Underdeveloped self-cleaning mechanisms:

Although Law 4412/2016 incorporates self-cleaning provisions in line with the Directive, contracting authorities rarely apply them in practice, often due to a lack of training and clear procedural guidelines (OECD, 2021).

Overreliance on formal documentation:

Greek practice tends to emphasize the submission of formal certificates over qualitative assessment of an operator's past performance. This approach can disadvantage competent operators who may lack certain formalities but have demonstrable capabilities (European Commission, 2018).

According to the HSPPA Annual Report 2022, around 17–19% of exclusions across public procurement procedures in Greece were due to documentation errors, including incomplete ESPD forms or missing attestations (this figure covers all categories of public contracts, not only public works tenders). At the same time, the European Commission's Single Market Scoreboard (2023) reports that the average bid evaluation period in Greece exceeded 120 days, compared to the EU average of 80 days. (European Commission, 2023). According to the joint HSPPA–diaNEOsis study on

Law 4412/2016 (HSPPA and diaNEOsis, 2020), these inefficiencies are exacerbated by insufficient project planning and the absence of standardized tender documents. The study further highlights that limited use of framework agreements leads to repeated tendering for similar works, increasing administrative burden and delaying contract execution.

In addition, Law 5218/2025 clarified the temporal validity of supporting documents (Article 80(12A)) and strengthened ESIDIS/KIMDIS processes and transparency obligations (including Diavgeia publication of notices). These changes address long-standing bottlenecks without creating a new standalone 'evidentiary platform'. The platform automatically cross-checks the validity of certificates and flags inconsistencies or expired documents, thereby reducing procedural delays and minimizing the risk of documentation errors. This reform directly addresses a long-standing weakness of the Greek framework by significantly reducing administrative bottlenecks and enhancing the reliability of evidentiary verification.

Overall, these weaknesses suggest the need for targeted reforms focusing on centralization, digitalization, standardization of practices, and capacity building for procurement officials.

5.3 Proposals for improvement

Based on the comparative analysis in section 5.1 and the identified weaknesses in section 5.2, several targeted reforms could strengthen the Greek public procurement framework for public works contracts, enhancing both efficiency and fairness.

1. Establish a centralized verification register

Creating a national electronic register similar to Germany's Wettbewerbsregister or Italy's Banca Dati Nazionale dei Contratti Pubblici would allow contracting authorities to access verified information on exclusion grounds and selection criteria. This would reduce administrative duplication, speed up procurement processes, and ensure greater consistency in decision-making (OECD, 2021). Building on the findings of the HSPPA–diaNEOsis study (HSPPA and diaNEOsis, 2020), , which underscores the need for stronger project planning, standardized tender documents, and wider use of framework agreements, this thesis recommends reinforcing these elements in Greek public works procurement. In addition, adopting feasibility and readiness assessments at early stages could help mitigate delays and improve procurement outcomes.

2. Develop standardized guidance on discretionary exclusion and proportionality

The Ministry of Infrastructure and Transport, in cooperation with HSPPA, could issue detailed guidelines and templates for assessing discretionary exclusion grounds and applying the principle of proportionality. This would align Greek practice more

closely with countries like France and the Netherlands, where proportionality assessments are consistently applied (Ministère de l'Économie et des Finances, 2020).

3. Enhance the application of self-cleaning provisions

Clear procedural rules and training modules should be developed to encourage the use of self-cleaning mechanisms, enabling genuine rehabilitation of economic operators. This would help preserve competition while safeguarding procurement integrity (Court of Justice of the European Union, 2018).

4. Strengthen cross-border participation

Greek contracting authorities should be required to systematically use the EU's eCertis platform to verify foreign certificates and registers. This would facilitate the participation of foreign operators and reduce delays in document verification (European Commission, 2021).

5. Introduce performance-based evaluation metrics

Moving beyond formal documentation towards performance-based assessments could improve the quality of contractor selection. Tools like past performance databases and client satisfaction surveys, as used in some other EU jurisdictions, could provide a more accurate measure of technical and professional ability. The European Commission's 2018 Guidance recommends avoiding excessive reliance on formal certificates and encourages proportionate, relevant methods of assessing technical capacity; its emphasis on reducing formalism supports a shift towards more substantive and performance-oriented evaluations. (European Commission, 2018).

6. Expand digitalization and interoperability

Further integration of the National Electronic Public Procurement System (ESIDIS) and the Central Electronic Registry of Public Contracts (KIMDIS) with EU platforms could increase transparency, reduce administrative burden, and support real-time data sharing between authorities (OECD, 2021).

7. Adoption of targeted practical innovations

Furthermore, the reform agenda could benefit from the adoption of targeted practical innovations that have been successfully implemented in comparable EU jurisdictions. First, the introduction of a mandatory preliminary market consultation for large-scale public works projects would allow contracting authorities to better align technical specifications with market capabilities, fostering competition and reducing the risk of failed tenders (European Commission, 2021). Second, embedding performance indicators (KPIs) into the technical and professional ability criteria could ensure that quality and innovation are weighted alongside experience, thereby promoting long-term value-for-money outcomes (OECD, 2020). Third, advancing the digital integration and interoperability of the Hellenic e-Procurement System (ESIDIS), the Central Electronic Public Procurement Registry (KIMDIS), and the EU's eCertis

platform—possibly through API-based data exchange—would simplify verification processes, reduce administrative burdens, and minimize formalistic exclusions (ΕΑΑΔΗΣΥ, 2020; European Commission, 2023).

By implementing these measures, Greece could align its procurement practices more closely with EU best practices, enhance legal certainty for economic operators, and improve the overall efficiency and integrity of public works contracting.

5.4 Final remarks

The comparative analysis of exclusion grounds and selection criteria in public works procurement highlights both the strengths and weaknesses of the Greek framework under Law 4412/2016. While the legislative structure is broadly aligned with Directive 2014/24/EU, practical implementation gaps hinder its full effectiveness (HSPPA, 2020).

Lessons drawn from other EU Member States demonstrate that the success of procurement frameworks depends not only on legal transposition but also on robust administrative practices, technological integration, and a culture of transparency and proportionality (OECD, 2021). Centralized verification systems, consistent application of proportionality, effective self-cleaning mechanisms, and cross-border facilitation are all areas where Greece could benefit from adopting tested best practices (Ministère de l'Économie et des Finances, 2020).

The proposed reforms in section 5.3 aim to enhance efficiency, fairness, and competition in Greek public procurement. Their implementation, however, requires coordinated efforts among multiple stakeholders, including the Ministry of Infrastructure and Transport, HSPPA, contracting authorities, and the business community.

Ultimately, a modernized procurement system should balance safeguarding the public interest with fostering an open, competitive market. Achieving this balance would not only improve the quality and cost-effectiveness of public works but also strengthen trust between the public sector and economic operators (European Commission, 2018).

6. Conclusions and recommendations

This final chapter synthesizes the research findings, drawing together the analysis conducted in the preceding chapters to address the objectives of the study. The research explored the legal framework governing public works procurement in Greece under Law 4412/2016, with a particular focus on exclusion grounds and selection criteria.

The discussion has highlighted both the strengths of the Greek procurement regime—such as alignment with EU directives and comprehensive codification—and its weaknesses, including fragmented verification processes, inconsistent application of discretionary powers, and limited use of self-cleaning mechanisms. Comparative analysis of selected EU Member States has provided valuable insights into best practices, such as the use of centralized registers, standardized proportionality assessments, and enhanced digital tools for cross-border participation (OECD, 2021; European Commission, 2018).

Section 6.1 summarizes the main findings, while section 6.2 formulates targeted recommendations for reform, based on the research outcomes and comparative insights.

6.1 Summary of key findings

The study has identified several important findings regarding the current state and application of exclusion grounds and selection criteria in Greek public works procurement:

1. Alignment with EU law – Law 4412/2016 effectively transposes Directive 2014/24/EU, providing a clear and comprehensive framework for public works contracts. This includes detailed provisions on mandatory and discretionary exclusion grounds, as well as clearly defined selection criteria (HSPPA, 2020).
2. Fragmented verification mechanisms – Unlike Member States with centralized verification systems (e.g., Germany's Wettbewerbsregister), Greece relies on decentralized, contracting authority-led checks. This increases administrative burdens and leads to inconsistencies (OECD, 2021).
3. Inconsistent application of discretionary grounds – Contracting authorities interpret discretionary exclusion differently, sometimes applying it restrictively and other times excessively. This lack of standardization reduces legal certainty for economic operators (Kaxiris, 2021).
4. Proportionality principle underutilized – Although enshrined in the legal framework, proportionality is not systematically applied, especially in minor or outdated cases of misconduct. Comparative examples from France and the Netherlands illustrate the benefits of consistent proportionality assessments (Ministère de l'Économie et des Finances, 2020).

5. The European Commission's 2018 Guidance reiterates that rejection of self-cleaning claims must be exceptional and justified by their manifest inadequacy. In practice, however, Greek authorities have rarely accepted such measures, leading to prolonged exclusions and reduced competition (European Commission, 2018; HSPPA, 2023)
6. Recent case law following the 2021 amendment of Article 102 L. 4412/2016 indicates that the broader clarification powers granted to contracting authorities have contributed to reducing formalistic exclusions. However, the acceptance of self-cleaning measures under Article 73(7) remains inconsistent across contracting authorities, creating a systemic challenge for ensuring equal treatment and legal certainty.
7. Beyond case law developments, empirical data indicate persistent structural issues. The HSPPA Annual Report 2022 confirms that evaluation periods in Greece remain significantly longer than the EU average. While other sources suggest that recent procedural reforms may have reduced the incidence of formalistic exclusions, the Report itself only provides statistical data without attributing such effects to specific reforms. (HSPPA, 2023; European Commission, 2023). The joint HSPPA–diaNEOsis study recommends the systematic use of standardized documents and framework agreements to address these delays and improve consistency across contracting authorities.
8. Barriers to cross-border participation – Foreign operators face procedural and administrative barriers in proving compliance, with inconsistent use of tools such as eCertis for verifying equivalent certificates (European Commission, 2021).
9. Overreliance on formal documentation – Selection assessments focus heavily on formal certificates rather than performance-based metrics, potentially excluding capable operators who can demonstrate competence through past performance records.

It is important to note that several of the recommendations proposed in this thesis have already been partially addressed by Law 5218/2025. Notably, the law established dedicated committees for examining self-cleaning (Article 73), introduced a low-value threshold in Article 73(12), clarified the temporal validity of evidence via Article 80(12A), reinforced ESIDIS/KIMDIS usage, and mandated full publication of tender notices on Diavgeia. However, it did not create a centralized national registry of exclusion decisions nor a separate pre-assessment mechanism. Future reforms should build on these recent developments, ensuring their effective enforcement and addressing any gaps in their practical application.

In synthesizing the findings of each chapter, several structural and procedural deficiencies emerge as recurrent themes. The analysis of exclusion grounds revealed inconsistencies in the application of discretionary clauses and limited acceptance of self-cleaning measures (HSPPA, 2023). The comparative review underscored that, unlike several EU peers, Greece has yet to fully integrate eCertis or maintain a unified supplier register, contributing to unnecessary formalistic exclusions (European Commission, 2023). EU data show that evaluation periods in Greece remain significantly longer than the EU average. The HSPPA–diaNEOsis study (2020) highlights underlying factors—such as insufficient project planning

and the absence of standardized tender documents—that exacerbate these delays. (HSPPA and diaNEOsis, 2020). These deficiencies form the basis for the subsequent recommendations: for example, the lack of a unified practice in document requirements directly underpins the proposal for mandatory standardized tender templates, while persistent delays reinforce the need for stronger project preparation and the wider use of framework agreements.

6.2 Recommendations for reform

Building on the findings summarized in section 6.1, the following recommendations aim to enhance the efficiency, transparency, and competitiveness of public works procurement in Greece under Law 4412/2016. They draw on comparative best practices from other EU Member States and international guidelines, ensuring alignment with EU principles while addressing national implementation challenges.

1. Establish a centralised verification register

A national electronic register consolidating data on exclusion grounds and selection criteria—similar to Germany's Wettbewerbsregister or Italy's Banca Dati Nazionale dei Contratti Pubblici—would reduce duplication, standardize verification processes, and facilitate cross-authority access to accurate, up-to-date information (OECD, 2021).

2. Issue standardized guidance on discretionary exclusion and proportionality

The Ministry of Infrastructure and Transport, in collaboration with HSPPA, should develop binding or advisory guidelines, templates, and checklists for assessing discretionary exclusion grounds and applying the proportionality principle, modelled on France's detailed practice manuals (Ministère de l'Économie et des Finances, 2020).

3. Strengthen the use of self-cleaning mechanisms

Develop specific procedural rules and training for contracting authorities on assessing remedial measures, ensuring fair evaluation of rehabilitation efforts and consistent acceptance where justified (Court of Justice of the European Union, 2018).

4. Improve cross-border participation

Mandate the systematic use of the EU's eCertis platform for verifying foreign certificates and equivalent documents, accompanied by training for procurement staff to ensure correct application (European Commission, 2021).

5. Integrate performance-based evaluation metrics

Complement formal documentation requirements with tools such as past performance databases, client satisfaction surveys, and risk-based capability assessments, as used in some other Member States (European Commission, 2018).

6. Enhance digital integration and interoperability

Advance the interoperability of the National Electronic Public Procurement System (ESIDIS) and the Central Electronic Registry of Public Contracts (KIMDIS) with EU-level systems, enabling real-time information exchange and greater transparency (OECD, 2021).

7. Build procurement capacity

Introduce continuous training programs for procurement officers, focusing on legal interpretation, proportionality assessment, cross-border verification, and the application of innovative procurement tools.

Implementing these measures would not only address operational inefficiencies and inconsistencies identified in this research but also align Greek procurement practice with advanced EU models, fostering greater market participation and public trust.

6.3 Final reflections

The present research set out to examine, in a systematic and structured manner, the grounds for exclusion and the selection criteria applied in the awarding of public works contracts in Greece, as governed by Law 4412/2016. Through an in-depth bibliographic and doctrinal analysis, combined with a comparative approach drawing from EU Member States' practices, the study has shed light on both the strengths and weaknesses of the current framework.

One of the key overarching observations is that the Greek legal framework, while formally harmonized with EU directives, continues to face challenges in its practical application. The persistence of interpretative ambiguities—particularly with regard to discretionary exclusion grounds—and the uneven application of selection criteria create uncertainty for economic operators and potentially undermine fair competition. These issues are exacerbated by procedural rigidities, such as excessive reliance on formal requirements and insufficient mechanisms for correcting minor procedural errors without jeopardizing competition or transparency.

The comparative analysis demonstrated that other EU Member States have adopted measures that could serve as valuable models for Greece. These include the widespread use of standardized documentary formats, the integration of interoperable digital systems, and more structured approaches to the self-cleaning mechanism, which in the Greek context remains underutilized and inconsistently applied. Furthermore, best practices observed

abroad reveal that a proactive engagement between contracting authorities and market participants—through pre-tender consultations and clear interpretative guidelines—can significantly reduce procedural disputes and administrative burdens.

Beyond the purely legal-technical dimension, the findings of this thesis underscore the broader socio-economic implications of an efficient and transparent public procurement framework. Public works contracts not only represent significant financial commitments but also have a direct impact on infrastructure quality, employment, and public trust in institutions. Inefficiencies, whether caused by legal ambiguity or administrative inertia, translate into lost opportunities for economic growth and diminished public confidence.

Looking ahead, the proposed reforms—ranging from legislative clarifications to the enhancement of digital interoperability—should not be viewed as isolated interventions but as part of a broader strategy to modernize public procurement in Greece. Such a strategy should balance legal certainty with flexibility, uphold the principles of transparency and equal treatment, and foster an environment in which both contracting authorities and economic operators can act with confidence and efficiency.

Ultimately, this thesis aspires to contribute to the ongoing policy discourse on public procurement reform, offering a well-documented, comparative, and practical perspective. The issues identified herein are neither immutable nor insurmountable; rather, they present an opportunity for targeted legislative and procedural innovation. In embracing this opportunity, Greece can strengthen the integrity, competitiveness, and societal value of its public works procurement system, ensuring that it serves the public interest in both the letter and the spirit of the law.

6.4 Suggestions for further research

While this study has provided a detailed analysis of exclusion grounds and selection criteria in Greek public works procurement under Law 4412/2016, several areas merit further academic and practical investigation.

First, future research could focus on **quantitative empirical studies** examining the frequency and impact of exclusion decisions in Greece, both mandatory and discretionary, across different contracting authorities. Such data-driven analysis could reveal patterns of application, highlight systemic inconsistencies, and identify sectors or regions where reforms may be most urgent (OECD, 2021).

Second, there is scope for a **comparative longitudinal study** assessing the evolution of procurement practices in Greece and other EU Member States over a defined period, particularly in relation to the implementation of digital tools such as eForms, ESIDIS, and cross-border verification systems like eCertis (European Commission, 2021).

Third, **stakeholder perception studies** could offer valuable insights into how contracting authorities, economic operators, and oversight bodies perceive the effectiveness, fairness, and efficiency of the current framework. These could explore the practical challenges of applying proportionality, self-cleaning, and performance-based evaluation metrics, as highlighted in recent Greek legal scholarship.

Finally, future research could address the **intersection between public procurement and broader policy goals**, such as environmental sustainability, innovation promotion, and social inclusion, assessing how selection criteria and exclusion grounds can be aligned with green and social procurement strategies without compromising competition and transparency (European Commission, 2018).

Such research would deepen the understanding of the operational realities and policy trade-offs in public procurement, providing a stronger evidence base for continuous improvement of the Greek and EU procurement frameworks.

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