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**Is it all worth it? Litigation risks in public procurement –
in particular the role of reputation
Evidence from Finland**

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LAPIN YLIOPISTO
UNIVERSITY OF LAPLAND
Pohjoisen puolesta – maailmaa varten

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- This study is a part of the Academy of Finland funded research project Comp_Eff_PP – Competition and Effectiveness in Public Procurements, decision 340044.
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Background and research question

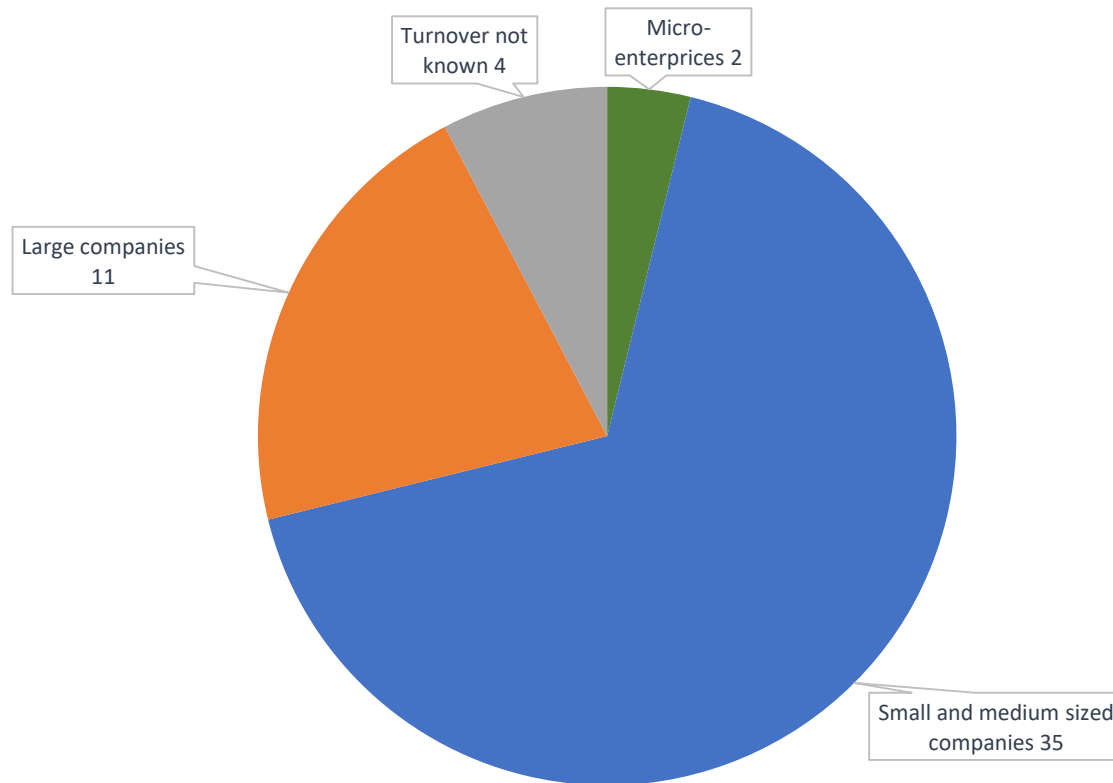
- The role of reputation in companies' decision-making as regards to public procurement litigations has been studied previously
 - Despina Pachnou's Ph.D. thesis from 2003 (UK and Greece): reputation matters
 - Richard Craven and Sue Arrowsmith PPLR 2016 (UK): reputations matters + SMEs' possibilities to challenge a decision are limited due to their financial resources
- Which factors affect companies' litigation decisions in Finland and in particular, do reputational concerns have an impact on these decision?

The empirical study

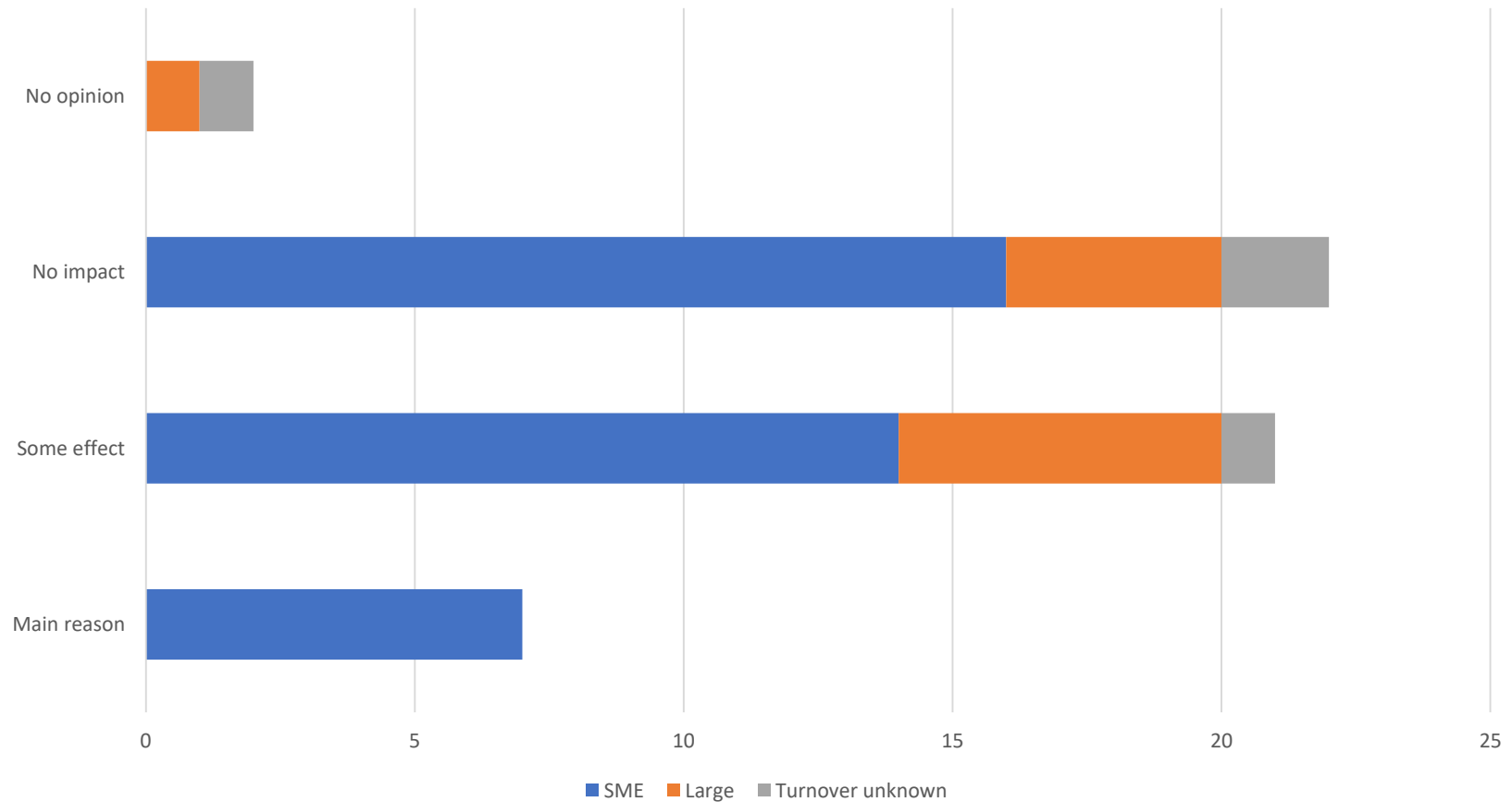
- Dataset of 316 withdrawn appeals from the Finnish Market Court in the years 2020 and 2021
- Removed all the cases, which were withdrawn due to the removal of the award decision and interruption of the award procedure
- E-survey March-April 2022
 - 103 cases
 - 86 companies

Responses by the size of the companies

Responses by the size of the companies, n=52

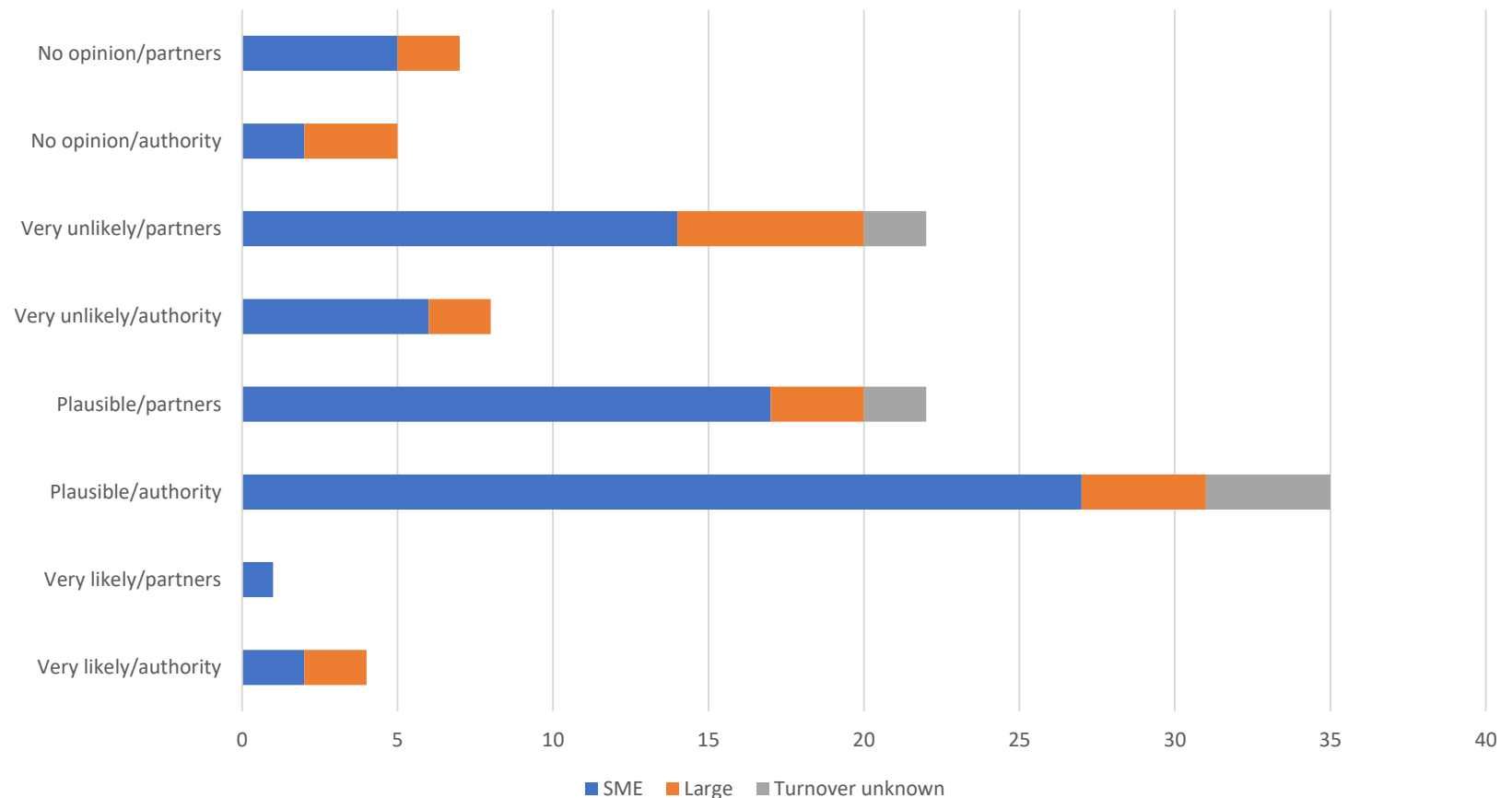


Did reputation concerns affect the withdrawal decision in the case concerned? n=52

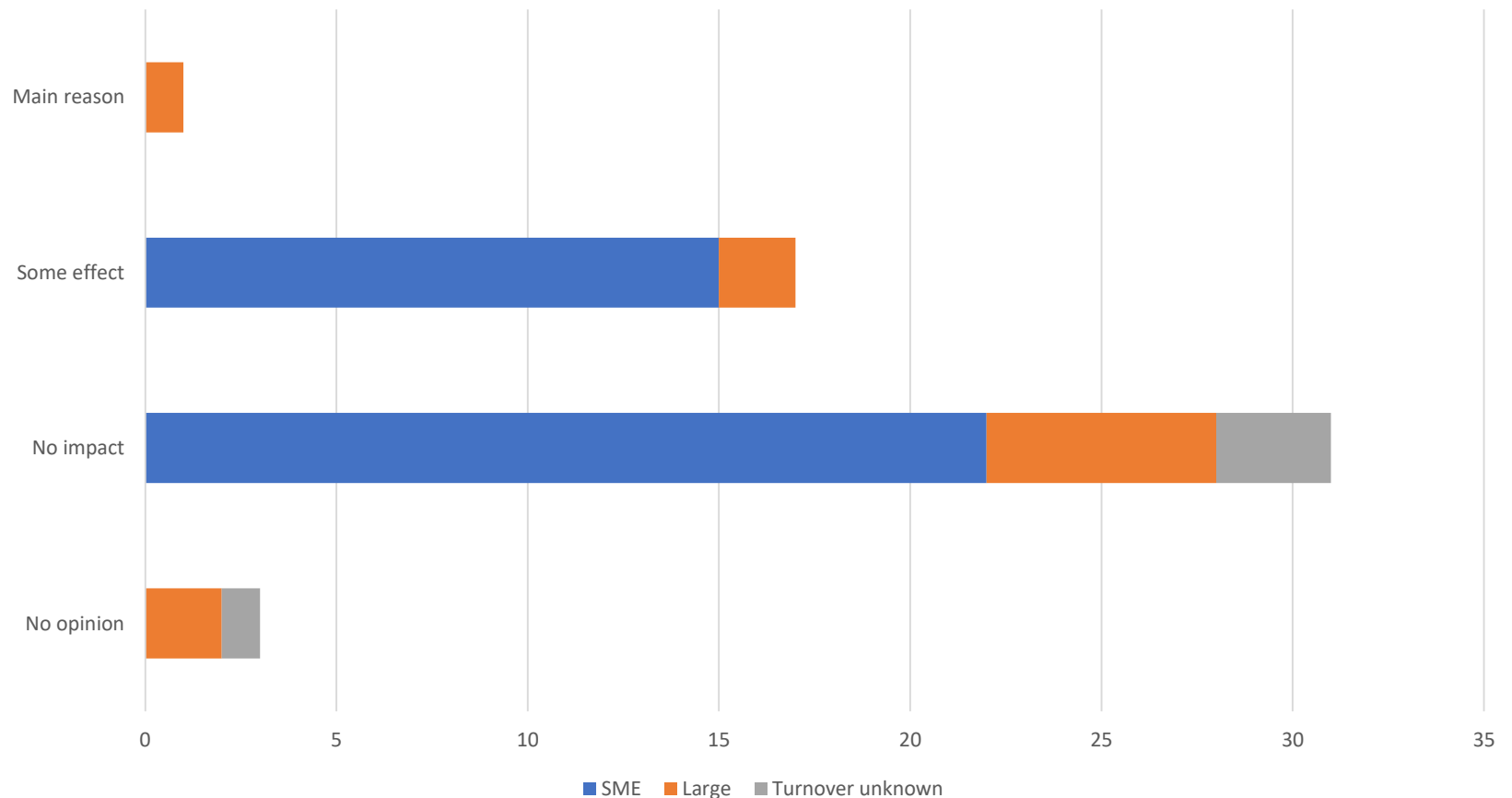


Will you refrain from lodging a procurement appeal in future due to reputational risks towards contracting authorities or potential business partners?

n=52

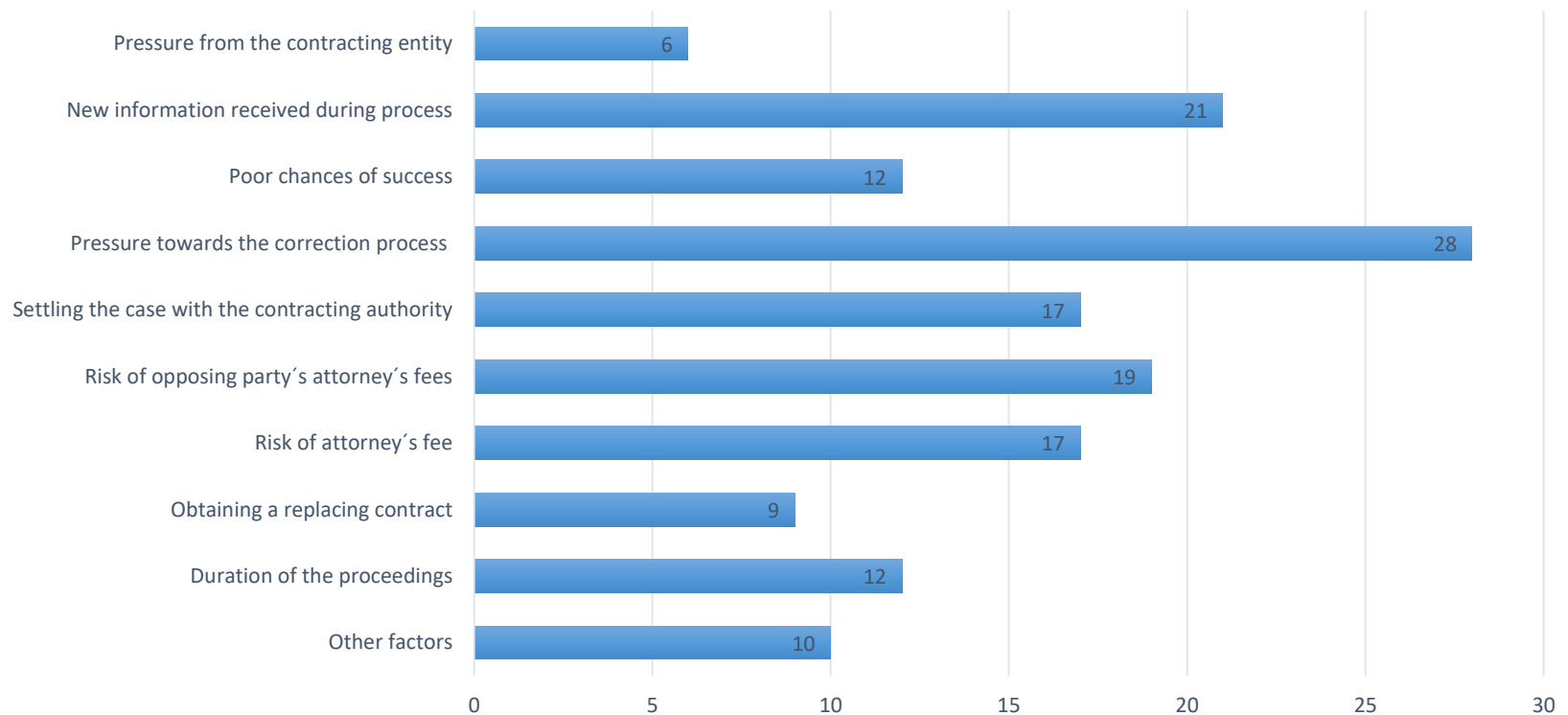


Did the possibility to get a significantly lower court fee if appeal was cancelled, affect the withdrawal decision in the case concerned? n=52



Other factors that contributed to the decision to withdraw the appeal

Other factors alone or in combination with reputational risks and/or court fees



Conclusions

- Reputational factors influence companies' litigation related decisions
 - Confirms the findings made in the earlier research literature
- Many companies consider refraining from litigating in the future due to reputational risk
 - Particularly in relation to the contracting authority
- The amount of court fees did not seem to play an important role in companies' decisions
 - A clear distinction between SMEs and large companies.
 - Also the risk of having to pay attorney fees seems more important for SMEs
- Multiple factors need to be considered and companies' decisions may vary on the basis of
 - their role in the market,
 - the contract's importance to their operation
 - The gravity of contracting authority's infringement

Thank you



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