

REPORT

on the Activities of Public Procurement
Bureau pertaining to the Functioning of
Public Procurement System in 2015

Skopje, May 2016

Contents

1. Legal Framework in the field of Public Procurement in the Republic of Macedonia	1
1.1. Law on Public Procurement	1
1.2. Bylaws	2
2. Public Procurement Bureau	4
2.1. Competences	4
2.2. Prepared Opinions	5
2.3. Tender Document Models and Manuals	9
2.4. Negative References	10
3. Public Procurement Training	12
3.1. Data on Trainings Carried Out in 2015	12
4. Data Obtained from Other Institutions	25
4.1. State Appeals Commission	25
4.2. Administrative Court of the Republic of Macedonia	28
4.3. High Administrative Court	30
4.4. State Audit Office	31
4.5. State Anti-Corruption Commission	32
4.6. Commission for Protection of Competition	34
5. Cooperation with Other Institutions	36
5.1. Cooperation with Institutions in the Republic of Macedonia	36
5.2. Cooperation with International Institutions related to Public Procurement and International Cooperation within the process of EU Integration	37
6. Use of the Electronic System for Public Procurement	41
7. Analysis of Public Procurement Market in 2015	48
7.2. Concluded Public Contracts	60
7.2.1. Data on Public Contracts Concluded according to the Type of Public Contract	63
7.2.2. Data on Public Contracts Concluded according to the Category of Contracting Authority	65
7.2.3. Data on Public Contracts Concluded according to Other Parameters	68
7.2.4. Participation of Economic Operators in Contract Award Procedures	79
7.3. Data from Cancellation Notices	84
7.3.1. Data from Forms for Amending and Supplementing the Contract Notice	87
7.4. E-Procurement Procedures	88
7.5. Electronic Auctions	91
7.5.1. Positive Effects from Carrying Out E-Auctions and E-Procurement	93
7.6. Competition at Public Procurement	101

8. Analysis of the Effects from E-Procurement and E-Auctions	103
8.1. Introduction of Mandatory E-Procurement – Expected Effects	103
Carrying out the procedures electronically provides for series of benefits and advantages, while e-procurement will contribute to accomplishing many objectives, the most significant being the following:	104
8.2. Analysis of the Effects from Carrying Out E-Auctions	105

1. Legal Framework in the field of Public Procurement in the Republic of Macedonia

1.1. Law on Public Procurement

At the beginning of 2015, more precisely in February, Legislative and Legal Committee of the Assembly of the Republic of Macedonia set cleared version of the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 27/2015). In the course of 2015, Law on Public Procurement was modified and amended on two occasions.

Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 78/15), modifications and amendments were introduced pertaining to the work of the Public Procurement Council, obligation was also introduced for the Council to grant consent in the cases when such consent is requested for the third time, i.e. the second time as regards simplified competitive procedure, and preparation of standard tender documentation and specifications was envisaged, which, when used by the contracting authorities, the contracting authorities are not obliged to request consent by the Council.

In addition, Law on Public Procurement was supplemented with provisions pertaining to the obligation for conclusion of annex to the public contract, governing the works deficit and/or the surplus works.

The most important amendment to the Law is the provision envisaging mandatory carrying out of public procurement procedures by using the electronic means through the ESPP, whereby e-procurements are envisaged to be gradually applied, the procedure being carrying out fully electronically in 2018.

In 2015, Law on Public Procurement underwent two modifications and amendments. Most important amendments pertain to the modifications introduced to the procedure for obtaining consent, envisaging mandatory e-procurements and an obligation for conclusion of annex to the contracts in case of works deficit and/or surplus works.

Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 192/15) envisaged separation of the Public Procurement Council from the Bureau and its acquiring of legal personality, starting 1st January 2016. Therefore, new Chapter II-a was added in the Law on Public Procurement. Pursuant to these amendments, both the Council and the Public Procurement Bureau have the same legal competences, having in mind that none of the competences have overlapped so far.

Other modifications and amendments to the Law refer to harmonisation of the provisions in the Law pertaining to the Council’s work, arising from the new Chapter added.

1.2. Bylaws

Bylaws, as part of the legal framework regulating contract award procedures, i.e. as instruments facilitating the implementation of the Law on Public Procurement, were adopted within the envisaged deadlines and are continuously improved, at the same time being harmonised with any possible modifications and amendments to the Law.

Amendments to the Law on Public Procurement gave rise to the need to prepare Rulebook on the Form and the Contents of Standard Tender Documentation and Standard Technical Specifications and the Manner of their Use by the Contracting Authorities (“Official Gazette of the Republic of Macedonia”, no. 77/15). It prescribes the form and the contents of standard tender documentation and standard technical specifications, as well as the manner of their use by the contracting authorities, providing for they to use them without requesting consent by the Public Procurement Council.

Following the amendments to the Law on Public Procurement, Rulebook on the Form and the Contents of Standard Tender Documentation and Standard Technical Specifications and the Manner of their Use by the Contracting Authorities was prepared.

In the course of 2015, internal manuals on preparation and carrying out of public procurement training by the Public Procurement Bureau were amended and modified. These amendments are elaborated in more details in Part 3 of this Report – Public Procurement Training.

2. Public Procurement Bureau

2.1. Competences

Public Procurement Bureau takes care of the proper functioning of the public procurement system and, through its numerous competences, strives for modernising and improving it, to the end of enhancing its efficiency and functionality.

Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 78/15), paragraphs governing the work of the Public Procurement Council in Article 14 of the Law, which Article pertains to the competences of the Public Procurement Bureau, are deleted and they are included in the new chapter of the Law – Chapter II-a, which covers the Council.

In order to successfully perform its competences, the Bureau has established, from the very moment of its incorporation, good communication with both the public and the private sector and it constantly enhances it. In fact, the Bureau increases the transparency on continuous basis by promoting new communication means, which provide for better accessibility to its available information for all interested entities.

At the end of 2012, Certificate Issuance Secretariat of TÜV SÜD Management Service GmbH awarded ISO 9001:2008 Quality Management System Certificate to the Bureau, confirming the quality organisational setup of the working processes and the modern methods of operations of the Bureau. In the course of 2013, as well as during 2014, the Secretariat controlled and checked the operations of the Bureau and submitted a report, proving that the Bureau continuously organised the working processes and the operations in a quality and modern manner.

*PPB was awarded
Quality
Management
System Certificate
in line with the MKS
EN ISO 9001:2009
standard
requirements in
2015.*

During 2015, following the contract award procedure, as well as the implementation of the necessary procedures, MKD CERTIFICATE AM CERT DOOEL Skopje certification authority awarded Quality Management System Certificate, in line with the MKS EN ISO 9001:2009 standard requirements, to the Public Procurement Bureau, confirming that the Bureau implemented quality management system in the field of public procurement system development and monitoring of its implementation. The Certificate is valid by September 2018.

2.2. Prepared Opinions

One of the most significant competences of the Public Procurement Bureau is the delivery of opinions on provisions and application of the Law on Public Procurement, thus helping both the contracting authorities and the economic operators which participate in the contract award procedures to resolve the dilemmas they have when carrying out such procedures.

The Bureau carries out this advisory function in several manners: by giving opinions to the letters the contracting authorities and the economic operators submit by mail, answering questions posed through the web contact form on the Bureau's website and the ESPP, as well as by answering questions posed through the User Support Center.

Continuing its practice established in 2013, and having into account the positive response from the participants, in the course of 2015, the Bureau also kept on organising Open Doors Day, an event at which both the economic operators and the contracting authorities can give their opinions about the Law and the manner of its implementation in practice. Thus, the Bureau directly includes the immediate participants in the creation of the future public procurement policies, i.e. in the improvement of the public procurement system. In the course of

In the course of 2015, PPB continued organizing Open Doors Day. Total of 50 representatives from both the contracting authorities and the economic operators participated in the scheduled trainings.

2015, total of 50 representatives from among the contracting authorities and the economic operators took part in the three events scheduled in March, July and November. The Bureau plans to continue this practice in future and to organise Open Doors Day on quarterly basis.

During 2015, 250 requests for opinion were submitted to the Bureau by mail and 1,025 requests were submitted through its web contact form.

On the basis of the analysis of the submitted requests for opinions, it can be concluded that most frequently posed questions were the ones related to the modifications and the amendments to the Law on Public Procurement, as well as the ones causing continuous dilemmas at the contracting authorities when carrying out the contract award procedures, as well as the procedure for obtaining consent from the Public Procurement Council.

PPB received 250 official requests for opinions and 1,025 requests through its web contact form in 2015.

Hence, the most frequently posed questions last year pertained to the publication of a negative reference at the simplified competitive procedure due to the modifications made in paragraph 7 in Article 102 of the Law, as well as to what if the date of public tender opening was a non-business day and whether the Commission might accept documents on personal situation issued after the public tender opening, taking into account that, pursuant to the amendments to the Law, the Commission is obliged to request supplements to the documents.

Other frequent questions pertained to which persons might be members of the Public Procurement Commission, whether the contract notice could be published in one year and the contract delivered next year, as well as questions related to additional works, surplus works, works deficit and unforeseen works.

In addition, like in the previous year, contracting authorities often posed questions related to requesting consent from the Council, the cases in which the consent should be requested, whether requesting consent was mandatory when standard tender documentation and technical

specifications were used, whether consent should be requested when using tender documentation for which consent was granted the year before, etc.

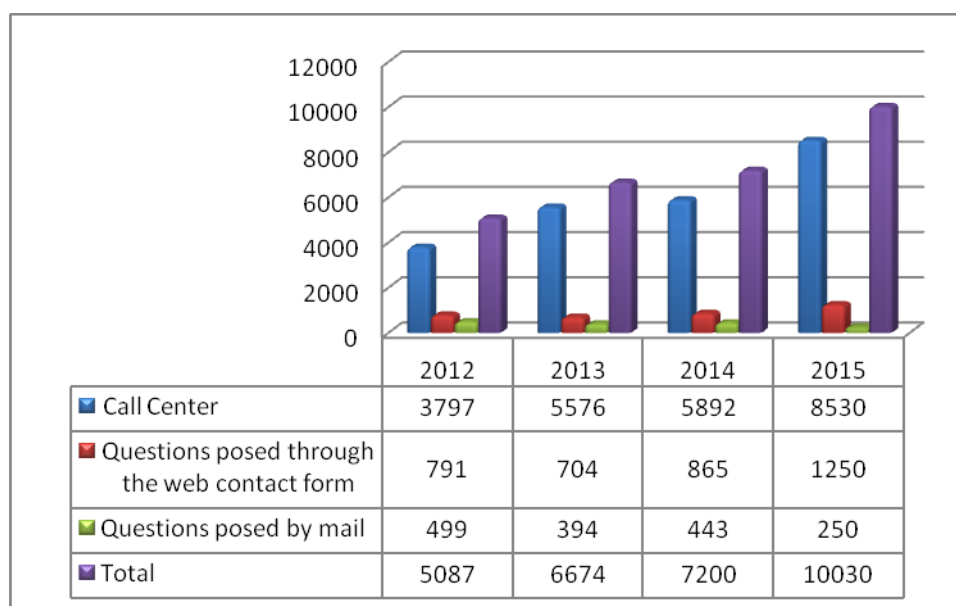
Public Procurement Bureau, in order to meet the needs of the contracting authorities and the economic operators participating in the contract award procedures, continuously updates the most frequently posed questions on the Bureau's website, by adding new questions, as well as by amending and supplementing the answers in line with the amendments to the Law.

In the course of 2015, like in the previous years, employees with the Bureau provided timely and prompt advices through the User Support Center with respect to carrying out the public procurement procedures, at the same time providing expert assistance to both the contracting authorities and the economic operators.

User Support Center was available to the contracting authorities and the economic operators on daily basis in 2015. In the period from 1st January 2015 to 31st December 2015, the Center received total of 8,530 calls. 4,896 out of these calls were received by the Department for Normative Affairs, Training and International Relations, while 3,634 calls were received by the Department for Monitoring the Public Procurement System and ESPP Management.

PPB's employees used the User Support Center the most to provide assistance in 2015 as well, having received total of 8,530 calls.

Chart 2.1



According to the data shown in the Chart, it can be concluded that the total number of requests for opinions submitted by the contracting authorities and the economic operators to the Bureau is constantly rising. Thereby, it is noticeable that number of questions posed through the User Support Center continuously increase, experiencing a significant rise in the last year. This is due to the fact that, after the Public Procurement Bureau moved into the new premises, the User Support Center is practically active throughout the working hours, unlike before.

Significant increase in the number of calls to the User Support Center is a result of its availability throughout the working hours.

Data presented in the Chart also show that both the contracting authorities and the economic operators used the direct communication with the Bureau's employees the most, which provided for prompt and simple way of resolving the practical problems they faced when carrying out the procedures. On the other hand, number of requests for opinions officially submitted by mail dropped significantly, speaking in favour of the fact that the entities involved in carrying out the procedures need fast and simple solutions to their problems.

2.3. Tender Document Models and Manuals

The Bureau continuously prepares and adjusts the Manuals, the Guidelines and the tender document models and makes them available to the public through its website, in order for the contracting authorities and the economic operators to be facilitated the application of the Law when carrying out the contract award procedures.

Like in the previous years, in the course of 2015, tender document models were continuously updated whenever needed so as to be adjusted to and harmonised with the modifications and the amendments to the Law on Public Procurement.

Tender document models, as well as the Manuals for the contracting authorities and the economic operators, are continuously updated.

In 2015, Department for Normative Affairs, Training and International Relations within the Public Procurement Bureau prepared new, third issue of the Manual on Public Procurement, reflecting the modifications and the amendments made to the Law on Public Procurement. At the same time, Manual on the Manner of Using the ESPP for the contracting authorities and the economic operators was continuously updated and harmonised with the novelties introduced to the system. In addition, Guidelines on Negative Reference was supplemented in the course of 2015, taking into account that respective amendments were made to the Law.

In September 2015, the Bureau, in cooperation with the State Audit Office, prepared Manual on Most Frequent Mistakes when Carrying Out Contract Award Procedures, to the end of indicating the most important steps the contracting authorities are to undertake in the stages of carrying out public procurement so as to avoid any mistakes and to ensure proper application of the Law on Public Procurement.

2.4. Negative References

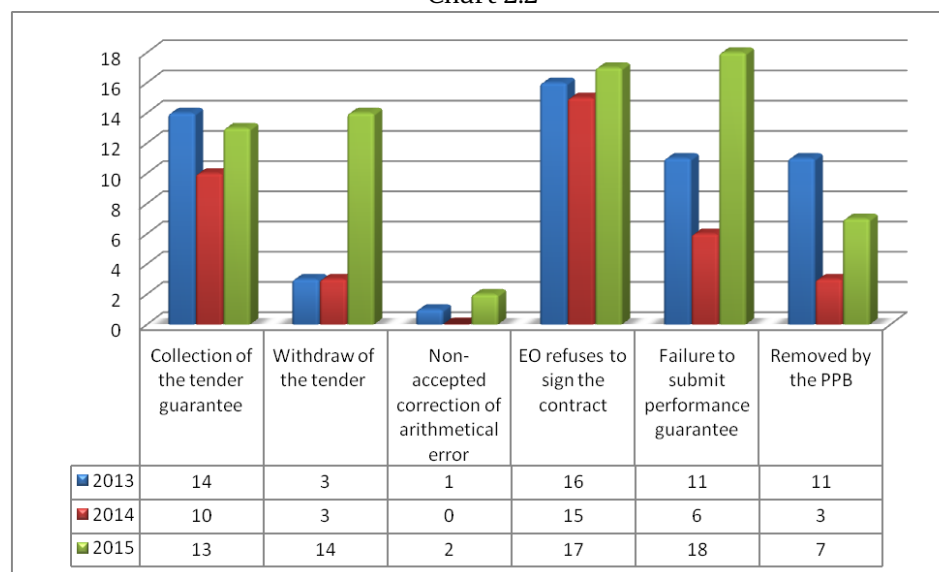
In order to protect the contracting authorities from the economic operators who are not serious, i.e. who do not respect the terms and conditions they offer in their tenders, as well as from the tenderers selected as contractors who do not respect the contractual obligations, the instrument of negative reference was introduced in 2013.

In the course of 2015, the contracting authorities published total of 64 negative references for the economic operators. Detailed analysis of the reason due to which negative references were published, as well as compared to the negative references published in 2013 and 2014, is presented in the Chart below. The Bureau removed total of 7 negative references as follows:

Total of 64 negative references were published in 2015, being an increase in relation to the previous years.

- three negative references were removed upon request by the contracting authority, accompanied with a statement by the person having published the negative reference, given before a competent official body, pertaining to a made technical error;
- two negative references were removed upon decision by the State Appeals Commission;
- two negative references were removed upon decision by the competent court or equivalent thereof.

Chart 2.2



Data presented show that there was an upward trend of negative references published by the contracting authorities in 2015, which, as per some legal basis, accounted for a significant number, such as negative references published due to withdrawal of the tender following the expiry of the time limit. Such data show that, unlike the previous year when number of published negative references dropped, in 2015, the trend changed and it could be a result of the penalty provisions envisaging fines for the persons not having published negative reference in cases when the requirements therefore were met.

List of negative references is publicly available on the ESPP, and the terms and the conditions for publishing a negative reference are clearly prescribed in the Law.

What is interesting is the fact that some tenderers, as a result of being published a negative reference, were pronounced the maximum period for not being allowed to participate, i.e. they were forbidden to participate in contract award procedures for a period of five years.

3. Public Procurement Training

3.1. Data on Trainings Carried Out in 2015

In the course of 2015, Public Procurement Bureau, in line with its competence prescribed in Article 14-a of the Law on Public Procurement, continued organising and carrying out public procurement training, pursuant to the Law and the bylaws, as well as the internal acts on carrying out training.

The main reason to launch this systemic activity is the efforts the Bureau puts in strengthening the capacities of both the contracting authorities and the economic operators for proper application of public procurement regulations. The Bureau carried out the public procurement trainings on the basis of the Annual Plan prepared pursuant to indent 14, paragraph 1 in Article 14 and Article 14-a of the Law, the Rulebook on Public Procurement Training Programme, Programme on Train-the-Trainer, the Form and the Contents of the Certificate for Passed Exam for Public Procurement Officer and Public Procurement Trainer, as well as the Amount of the Fee paid by the Participants in the Training (“Official Gazette of the Republic of Macedonia”, no. 90/2012).

Pursuant to indent 16, paragraph 1 in Article 14 of the Law, the Bureau prepares guidelines as internal manuals on preparation and carrying out of public procurement training and train-the-trainer programme, and they are published on the Bureau’s website – bjn.gov.mk. The Bureau adopted the following manuals:

- Internal Manual on Preparing and Carrying Out Public Procurement Training by the Public Procurement Bureau, no. 10-241/1 dated 4th February 2014, no. 10-241/2 dated 27th October 2014, no. 11-470/1 dated 19th February 2015,
- Internal Manual on Lecturing the Contents prescribed in the Public Procurement Training Programme by the Trainers and the

Train-The-Trainer Programme, no. 10-242/1 dated 4th February 2004,

- Internal Manual on Operations of the Commission Members for the Needs of Public Procurement Training, no. 10-2074/1 dated 28th October 2014,
- Internal Manual on the Manner of Organising and Carrying Out the Exam for the Participants in the Public Procurement Training, no. 10-240/1 dated 4th February 2014, no. 10-240/2 dated 21st July 2014, no. 10-240/3 dated 27th October 2014, no. 11-2762/1 dated 7th October 2015.

In the course of 2015, due to changes in the operations of the Training Unit, amendments to the procedures were also adopted. In addition, new Manual on Use Electronic System for Public Procurement Training was adopted.

Due to changes in the operations of the Training Unit, amendments to the procedures were also adopted:

- quality assurance procedure - public procurement training for the contracting authorities,
- quality assurance procedure – manner of operations of the Commission for carrying out the written exam.

Taking into account that public procurement training is carried out electronically, new

- Manual on Use of the Electronic System for Public Procurement Training (internal), no. 11-2111/1 dated 30th July 2015, was adopted, while the previous Manual was made void.

2015 Annual Plan on Public Procurement Training Realisation was adopted in January, and it was successfully realised. The Plan itself underwent seven modifications in the course of the year, so as to add new training schedules and to change the existing ones, as a result of the increased interest shown by the contracting authorities to attend the training, in particular the trainings related to extension of the validity of certificates for public procurement officers.

Chart 3.1

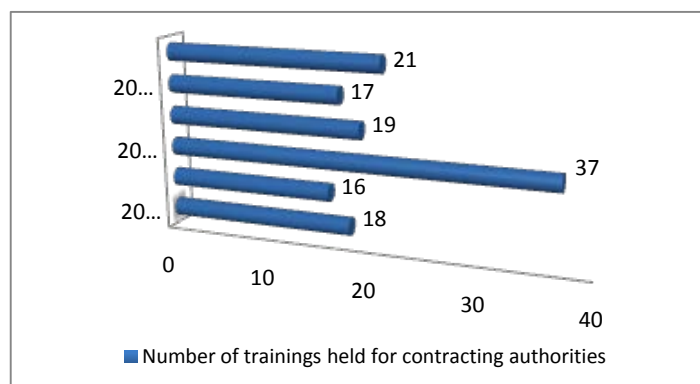


Total of 41 trainings for the contracting authorities were held in the course of 2015.

Training for the persons at the contracting authorities not having acquired the certificates for public procurement officers. 41 trainings for contracting authorities (regular trainings for persons working in the field of public procurement so as to acquire the certificate for the first time, as well as re-certification trainings for the persons having passed the written public procurement exam and having acquired the certificate, the validity of which has expired) were held. Activities within the Programme were realised through lectures by public procurement trainers who acquired the trainer certificates in the course of 2014, i.e. they passed the written public procurement exam following the trainer re-certification training.

The Chart below gives a review of the trainings held in the last five years:

Chart 3.2

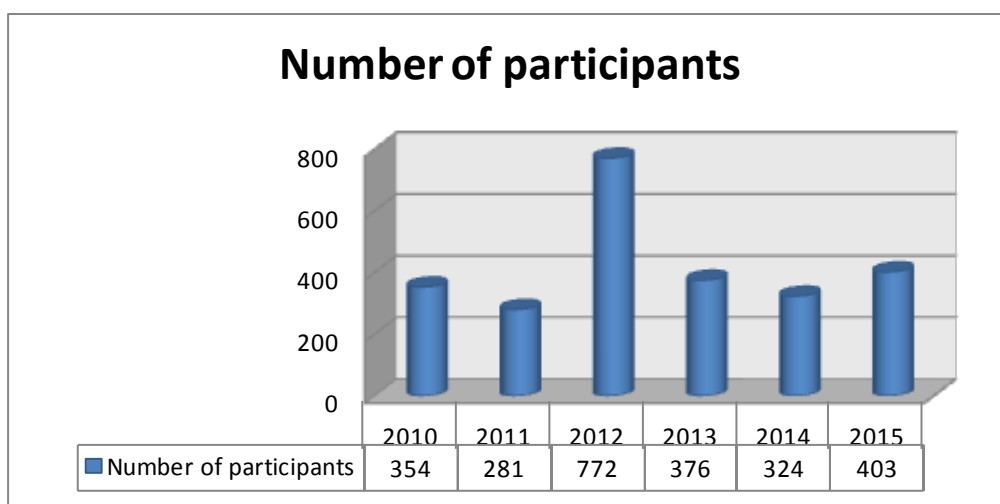


18 trainings were held in 2010, 16 trainings were carried out in 2011, 37 trainings took place in 2012, total of 19 trainings were held in 2013, 17 trainings were carried out in 2014 and 21 trainings took place in 2015.

In 2015, 403 participants from the contracting authorities were trained and attended the training for the first time. The Chart below gives review on the number of persons who attended the training in the last five years:

Chart 3.3

In 2015, 403 participants, who attended the trainings for the first time, and 364 persons, who attended the re-certification trainings, were trained.



Training for the persons at the contracting authorities having acquired the certificates for public procurement officers. Pursuant to the amendments to the Law in 2011, certificates for public procurement officers issued in line with the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, nos. 136/07, 130/08, 97/10 and 53/11) continue to be valid for the period for which they are issued, but no longer than the day of entry of the last amendments into force. In the course of 2015, 364 persons attended the training for Parts 14 and 15 under the Programme, while the other participants, who had not had extended the validity of the certificates yet, were invited to again attend

such training and to take the written exam in public procurement, thus acquiring the certificates for public procurement officers.

Training for economic operators. For the first time in 2013, the Bureau started organising and carrying out training specialised for the economic operators. Following the analysis made on the basis of questionnaires and the answers thereto, the Bureau concluded that, in order to provide more detailed information to the economic operators about the questions of their interest, it was necessary to design and carry out tailor-made training solely for them. Hence, module for economic operators was envisaged in the Rulebook on Public Procurement Training Programme, Programme on Train-the-Trainer, the Form and the Contents of the Certificate for Passed Exam for Public Procurement Officer and Public Procurement Trainer, as well as the Amount of the Fee paid by the Participants in the Training. Thus, in the course of 2015, the Bureau scheduled 5 two-day trainings for economic operators. However, economic operators showed poor interest in such trainings and none of the scheduled training was held due to insufficient number of registered participants.

Measuring the satisfaction of the participants in the trainings. Throughout the year, as well as periodically, the Bureau provides questionnaires to all participants in the trainings so as to measure their satisfaction from the trainings held and application of the lessons learnt in their daily operations.

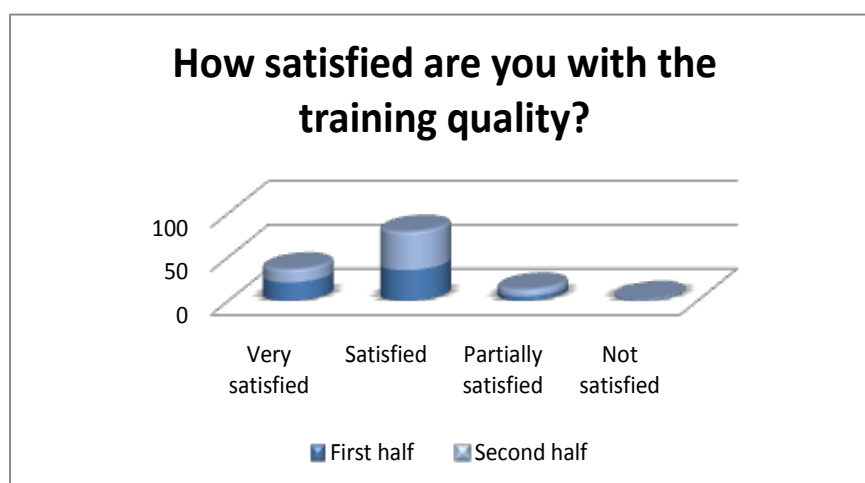
The participants fill in such questionnaires at the end of each training, as well as after a certain period of time, providing insight in whether the trainings have helped them in their daily work.

The Training Unit delivered one questionnaire in July to the participants who took part in the training held in the period from February to June 2015, as well as one questionnaire in January to the participants who attended the training held in the period September – December 2015. The questionnaires were submitted by e-mail. The Training Unit delivers the

questionnaire to the participants in the trainings each 6 months, so as to meet the needs for training, containing certain questions about the manner the trainings were carried out and the effect thereof on their work as persons having acquired certificates for the exams passed. Training Unit uses the questionnaires so as to check the so-far success of the trainings, as well as to improve the trainings to be carried out next year. Part of the remarks and the comments has already been implemented in the respective amendments to the internal manuals on public procurement trainings.

Answers were delivered by around 55 participants who attended the trainings in the first half of the year and by around 70 participants who took part in the trainings in the second half of the year. Questions they answered, as well as the answers thereto, are the following:

Chart 3.4

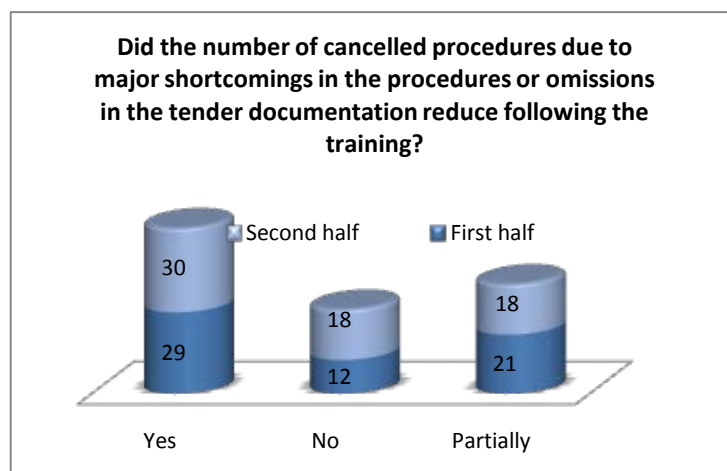


The Bureau measures the satisfaction from the training quality, having the average grade of 3.5 in relation to the highest possible 4.

According to this comparison, it is evident that the Bureau has a continuous satisfactory average above 3.5 in relation to the highest possible average of 4, as well as that it needs to continuously improve the

organisation and the carrying out of the trainings so as for they to retain the same or attain a higher level.

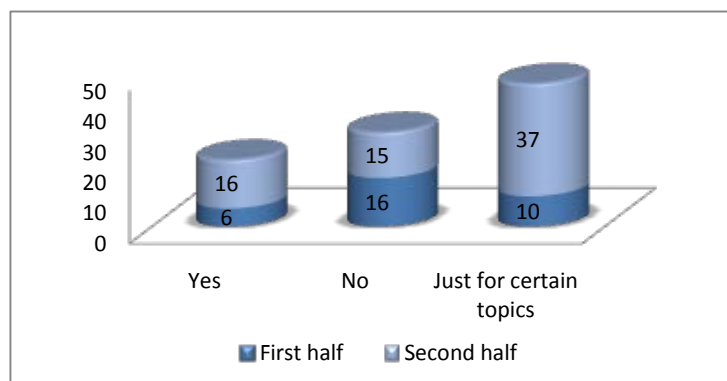
Chart 3.5



What is particularly positive is that, in the past period, 46% of the participants responded that the number of cancelled procedures due to omissions in the tender documentation was reduced, while 31% of them said that this number dropped partially.

The Chart below presents the needs of the participants in the training:

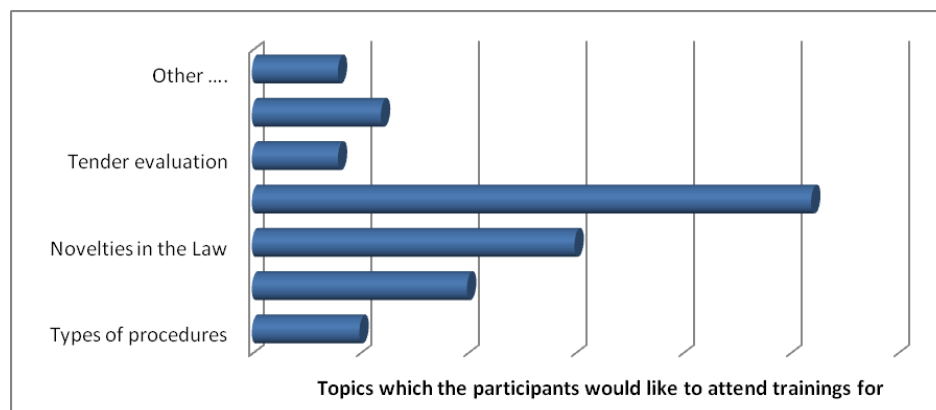
Chart 3.6



The participants mostly responded that they needed to attend the training again, however just for certain topics. Accordingly, the Training Unit also prepared draft amendment to the bylaw regulating the public procurement trainings, proposing a module for the persons at the contracting authorities having acquired the certificate for public procurement officer to attend trainings in different topics, unlike the so-far trainings which covered only the amendments to the Law, the bylaws and Electronic Training System.

Participants in the training had the possibility to choose one or several topics which they would like to attend trainings for, and their response was the following:

Chart 3.7



Participants in the trainings consider that they need to attend the trainings again, thereby preferring distance-learning module, and the Training Unit will prepare proposal for such learning module in the coming period.

On the basis of their answers to the question pertaining to the distance-learning module, the Training Unit prepared a proposal for the manner in which such distance learning would be designed in the future period.

Electronic Training System. Electronic Training System commenced to operate at the beginning of 2012 and its main purpose is to be used for log in of the participants in the trainings, keeping records on attendance, evaluation of the trainers, filling in evaluation tests,

uploading presentations and exercises of the trainers, as well as for passing the written exam.

The Bureau constantly upgraded and improved the system, so as for it to provide for more efficient trainings. In the course of 2015, all trainings according to the Annual Plan on Public Procurement Training, as well as the written exams in public procurement, were held fully electronically through the Electronic Training System.

Electronic Training System underwent several changes, all to the end of better functioning of the System and facilitating the work of the Training Unit, as follows:

- Option to enter the date of the paid invoice. Thus, the Training Unit, when issuing the certificates for the exam passed by the participants in the training, has no obligation to contact the Financial Affairs Unit, but it rather enters the payment in the Electronic Training System on regular basis.
- Exam application underwent changes, hence the exam questions are automatically generated in the system and computer-based test is created, rather than having the human factor involved to choose the questions. The subjective influence by the employees is thus reduced, whereby the exam questions are generated by themselves from the pool of questions, divided in categories – publicly available questions, questions related to the legal acts, questions pertaining to the ESPP and questions related to the amendments to the Law.
- The service for training application through the web page of PPB was changed and training section, a field indicating which training should be publicly announced on the website, was added. This functionality is enhanced, hence the participants may only see whether the training they have chosen is intended for contracting authorities, economic operators or whether it is a

Electronic Training System underwent several changes, all to the end of its better functioning and facilitating the work of the Training Unit.

training for extension of the validity of certificate for public procurement officer.

- The service for training application pertaining to the number of free places on the training which the participants applied for was changed. The change was made so as for the participants to be aware of the free places left on the scheduled training they are interested to take part in.
- The application, visible for the users, was changed, whereby they can change their personal data (name and surname, e-mail or date and place of birth).
- New user profile was prepared for the users to access only the invoice section in Class Manager, in order to easily check the payments on the basis of issued invoices, and new search tab "Parameters" was introduced, providing for searching the invoices on the basis of several parameters (name and surname, paid - unpaid invoice, etc.).
- Date and place of birth and the contracting authority are added in the participant's dossier (in addition to user name, name and surname), so as to produce an accurate report in case of participants bearing same name and surname.
- Improvement of the written exam module, in terms of being more user-friendly for the participants sitting for the exam.

Other Activities of the Training Unit. In period from 24th to 26th February 2015, the Bureau, in cooperation with the State Audit Office, organised 3 trainings for the employees with the State Audit Office. The trainings were held in the premises of the Public Procurement Bureau, while the lecturers were the civil servants employed with the Bureau.

Topics presented on the trainings covered the modifications and the amendments to the Law on Public Procurement, focusing on the amendments that came into force in September and December 2014, and

the novelties introduced pertaining to the Electronic System for Public Procurement.

The trainings were held as follows:

- 24th February – 16 participants attended
- 25th February – 15 participants attended
- 26th February – 26 participants attended

Hence, total of 57 persons from the State Audit Office attended the trainings. All participants in the trainings positively accepted such Bureau's activity. The trainings were successfully realised, accompanied by constructive debates, suggestions and presentation of lecturing materials. Such trainings have been held several years in a row, whereby the cooperation between these two institutions has been strengthened.

Government of the Republic of Macedonia delivered a conclusion for the Public Procurement Bureau to prepare and implement an action plan on organising trainings related to the Law on Public Procurement for the institutions at which the first-instance decisions are the most often appealed against and revoked, i.e. the healthcare institutions, the schools and the kindergartens.

Acting upon the above-mentioned conclusion, in the period 15th – 16th April 2015, the Bureau organised two one-day trainings for the representatives from the contracting authorities in the field of education, as well as the representatives from the healthcare institutions in several cities in the Republic of Macedonia, as follows:

- 15th April 2015, for the participants from the schools and the kindergartens, and
- 16th April 2015, for the participants from the healthcare institutions.

To that end, the Bureau requested the State Appeals Commission to submit it a list of institutions at which the first-instance decisions were the most often appealed against and revoked.

In the course of 2015, the Bureau held 3 trainings for the employees with the State Audit Office. In addition, tailor-made trainings for representatives in the field of education, as well as representatives from the healthcare institutions, were held.

According to the data the State Appeals Commission delivered, the Public Procurement Bureau addressed 14 institutions in the field of education and 15 healthcare institutions by sending them an official letter and invitation to participate in the trainings.

As regards the training of contracting authorities in the field of education, held on 15th April 2015, 22 participants from total of 14 invited institutions took part in the training, while with respect to the training of contracting authorities in the field of healthcare, held on 16th April 2015, 15 participants from total of 15 invited institutions attended the training.

By the time the trainings commenced, Public Procurement Bureau and State Appeals Commission prepared presentations and adequate lecturing materials, whereby the Bureau prepared presentation pertaining to the latest modifications and amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 148/13, “Official Gazette of the Republic of Macedonia”, no. 28/14, “Official Gazette of the Republic of Macedonia”, no. 43/14 and “Official Gazette of the Republic of Macedonia”, no. 130/14), while the State Appeals Commission prepared presentations related to the review procedures, focusing on the detected irregularities in the course of carrying out the procedures at each group of institutions.

Agenda for both trainings comprised lectures on the Law on Public Procurement, its modifications and amendments and the novelties regarding the ESPP. The lectures were given by civil servants within the Bureau. Lecturers, who were representatives from the State Appeals Commission, elaborated on the issues of the most frequent mistakes the State Appeals Commission detected, which occurred when carrying out the procedures, as well as the rules on proper acting and non-violation of the provisions in the Law on Public Procurement.

On 20th April 2015, Public Procurement Bureau announced a public call in two printed media to future trainers and contracting authorities

implementing the Law on Public Procurement to take part in the training programme. In fact, the public call was announced in “Vecer” and “Utrinski Vesnik” newspapers on 20th April 2015. All trainings scheduled to be held from September to December were opened online on the same day, and all contracting authorities and economic operators could register their participants for one of the trainings that are continuously organised. The public call announced in two daily newspapers was continuously open on the website of the Public Procurement Bureau – bjn.gov.mk as well, containing more information concerning the trainings.

On 28th May 2015, SIGMA organised a workshop on encouraging innovations in public procurement, the goal of which was to introduce the possibilities as regards innovations in public procurement to the participants.

On 28th May 2015, SIGMA held a workshop on encouraging innovations in public procurement, which was attended by total of 27 participants from several institutions.

This one-day workshop was held in TCC Grand Plaza Hotel. Upon SIGMA request, Public Procurement Bureau proposed several institutions to participate in this workshop and invited them to take part.

Following institutions were invited: State Appeals Commission, City of Skopje, Ministry of Internal Affairs, Ministry of Agriculture, Forestry and Water Economy, Ministry of Finance, Ministry of Defense, Ministry of Transport and Communications, Agency for State Roads, National Bank of the Republic of Macedonia, Ministry of Economy, Ministry of Local Government, State Industrial Property Bureau, Ministry of Labour and Social Policy, Assembly of the Republic of Macedonia, Kisela Voda Municipality, Ministry of Information Society and Administration, Innovations and Technological Development Fund, Ministry of Health and Ministry of Education and Science. Most of the institutions took part in the workshop. Total of 24 participants attended.

4. Data Obtained from Other Institutions

4.1. State Appeals Commission

State Appeals Commission, pursuant to the Law on Public Procurement, is competent to decide upon appeals lodged in the contract award procedures, as well as appeals lodged in the procedures for awarding contracts for concessions and public private partnership and appeals lodged against the decision adopted by the Public Procurement Council.

In fact, State Appeals Commission decides on the legality of the actions and the omissions to undertake actions, as well as the legality of the decisions which are adopted as individual legal acts in the contract award procedures. In addition, it also decides on other requests which the parties in the review procedures are permitted to submit.

According to the data from the State Appeals Commission¹, total of 626 cases were submitted and registered in 2015, 610 cases out of which were resolved. 16 cases were unresolved due to incomplete documentation.

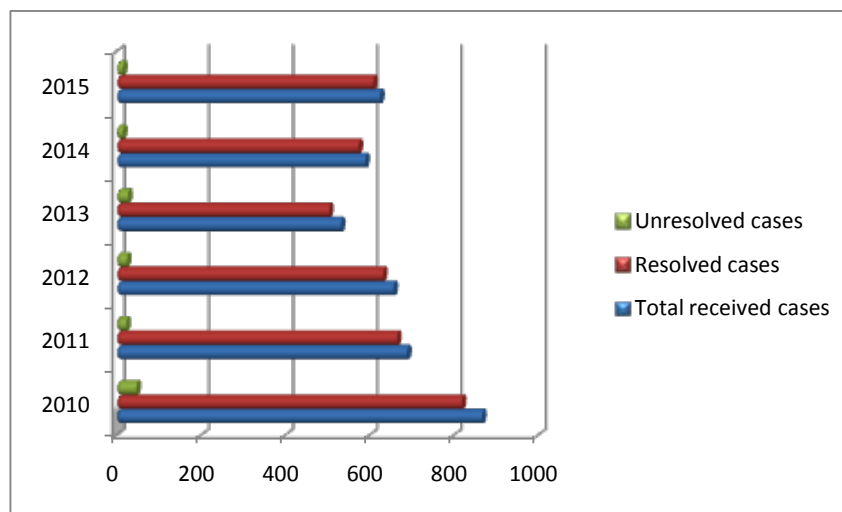
91 cases out of the 610 resolved cases were appeals lodged against the decisions adopted by the Public Procurement Council. In addition, 91 lawsuits were filed against the State Appeals Commission's decisions before the Administrative Court in the course of 2015.

91 appeals out of the total of 610 resolved appeal cases were appeals lodged against the decisions adopted by the Public Procurement Council.

¹ Data, which are part of this Report, are obtained from the State Appeals Commission.

The Chart below shows data obtained from the State Appeals Commission. For comparison purposes, data from the previous 5 years are also included.

Chart 4.1



Number of both received and resolved appeal cases increased compared to 2014.

Data in the Chart show a downward trend of the total number of cases submitted, as well as of the number of resolved and unresolved cases.

However, compared to 2014, increase in the number of submitted cases, as well as resolved cases, was evident in 2015. Number of unresolved cases was identical as in 2014, i.e. 16 cases.

Number of submitted cases in 2015, like in 2014, increased, taking into account the new competence of the State Appeals Commission starting 1st May 2014, pertaining to deciding upon the appeals lodged against the decisions adopted by the Public Procurement Council. In fact, 91 appeals out of the total of 610 resolved appeal cases in 2015 were appeals lodged against the decisions adopted by the Public Procurement Council.

In addition, according to the data obtained from the State Appeals Commission, total of 12 requests for continuation of the procedure were submitted in 2015. As regards the requests, 7 requests were refused, 5 requests were rejected, and none of the requests was accepted.

Chart 4.2

As regards the total 12 requests received for continuation of the procedure, 7 requests were refused, 5 requests were rejected and none of the requests was accepted.

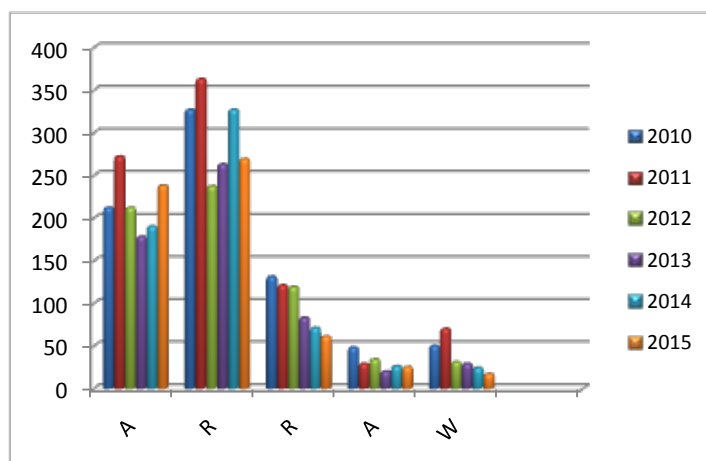
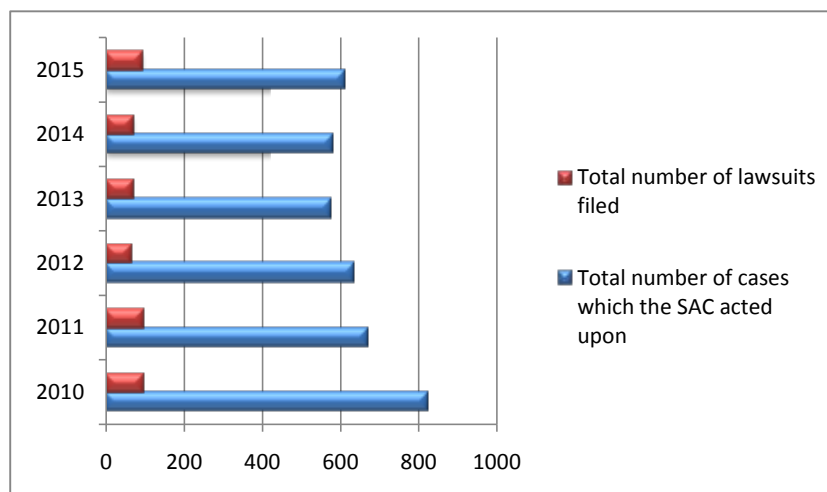


Chart 4.2 shows the data from 2010 to 2015 pertaining to the number of accepted appeals, the number of refused appeals, the number of rejected appeals, the number of appeals accepted by the contracting authority, as well as the number of withdrawn appeals. By comparing the data, it could be noticed that number of accepted appeals increased and, unlike the previous year, number of refused appeals dropped.

Chart 4.3



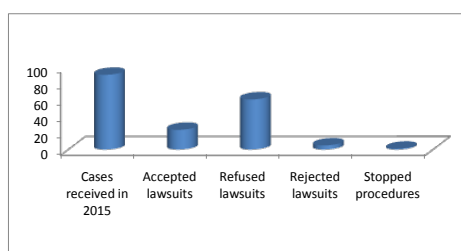
As for the number of lawsuits against the decisions adopted by the State Appeals Commission filed before the Administrative Court of the Republic of Macedonia, Chart 4.3 shows the data from 2010 to 2015, whereby it could be noticed that the total number of filed lawsuits increased compared to 2014, i.e. 91 lawsuits were filed. Number of cases acted upon by the State Appeals Commission increased by 35 cases compared to 2014.

4.2. Administrative Court of the Republic of Macedonia

Administrative Court of the Republic of Macedonia is in charge of acting upon the lawsuits filed by the parties that are not satisfied with the decisions adopted by the State Appeals Commission. Taking this competence into account, this institution is of great importance as regards the review procedures in the contract award procedures.

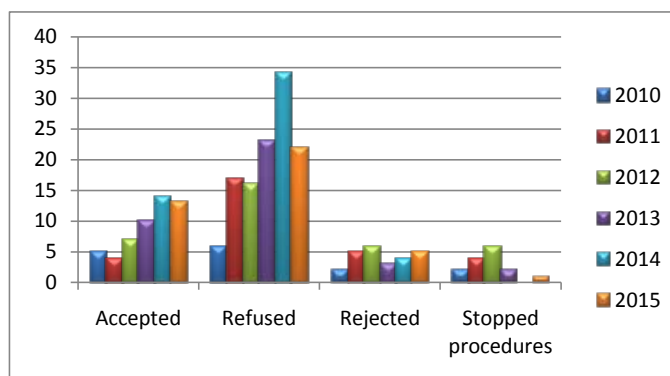
Public Procurement Bureau includes the data on the lawsuits against the decisions of the State Appeals Commission filed before the Administrative Court in the annual reports for the purpose of more precise insight in the efficiency and the effectiveness of the review procedures in the field of public procurement. These data are presented in Chart 4.4 below:

Chart 4.4



Number of both accepted and refused appeal cases increased compared to 2014.

Chart 4.5



Number of rejected lawsuits increased compared to 2014.

Chart 4.5 shows the data regarding the number of accepted lawsuits, refused lawsuits, rejected lawsuits and stopped procedures compared to the previous four years. 2015 data, compared to the data

from 2014, point out to a reduced number of refused lawsuits, while number of accepted lawsuits in 2015 dropped by one lawsuit compared to 2014. As regards the number of stopped procedures, there was only 1 procedure stopped in 2015.

4.3. High Administrative Court

19 out of 28 administrative appeals were refused, while decision reached by the Administrative Court was accepted in 1 case, i.e. the appeal was accepted.

High Administrative Court decides upon the appeals lodged against the decisions of the Administrative Court adopted in first instance, pertaining to annulment of the decisions reached by the State Appeals Commission.

According to the data delivered by the High Administrative Court upon request by the Public Procurement Bureau, in the course of 2015, total of 35 cases in the field of public procurement were submitted to the High Administrative Court, 28 out of which were administrative appeals, while the other 7 were administrative appeals with temporary measures.

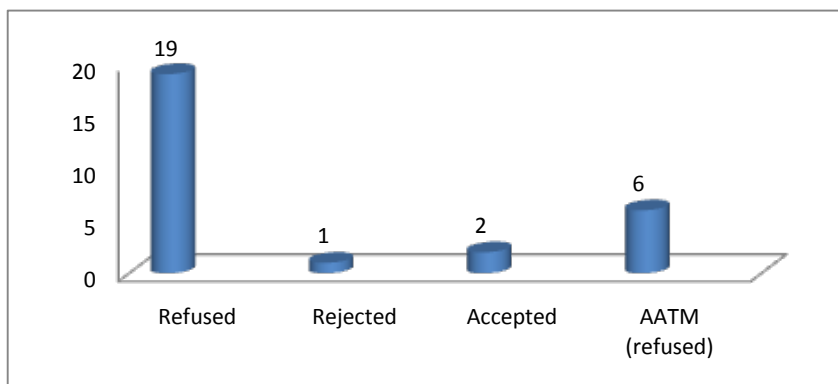
With respect to 19 AA cases, decisions were reached to refuse the appeals and the decisions of the Administrative Court were confirmed, the appeal was accepted in 1 (one) case and the decision of the Administrative Court was reversed, while the appeal was accepted in 1 (one) case, the decision of the Administrative Court was revoked and the case was remitted for re-examination to the Administrative Court.

With respect to the 7 registered AATM, 6 of them were refused, while decision was adopted to accept the appeal in 1 (one) case.

As for the 7 (seven) registered AATM cases, decisions were reached to refuse the appeals in 6 cases and the decisions of the Administrative Court were confirmed, while the appeal was accepted in 1 (one) case, the decision of the Administrative Court was revoked and the case was remitted for re-examination to the Administrative Court. Regarding the concerned cases, no decisions were reached to revoke the decisions of the State Appeals Commission.

Total of 28 cases, out of the above-mentioned number of cases, were resolved in the course of 2015. These data are presented in Chart 4.6 below:

Chart 4.6



4.4. State Audit Office

State Audit Office is the supreme audit institution in the Republic of Macedonia, carrying out, among other things, regularity audit and performance audit in public procurement. When carrying out regularity audit, the audit teams also examine and assess the use of funds in line with the legal regulations. Hence, the manner of planning, carrying out and implementing public procurement procedures carried out in the period subject to audit are inspected.

Data received from the State Audit Office are of especial importance to the Bureau which, on the basis of such data, plans the undertaking of respective measures, aimed at eliminating the detected irregularities at the contracting authorities, subject to audit.

State Audit Office prepares Annual Report on Audits Carried Out and submits the results therefrom to the Assembly of the Republic of Macedonia for consideration by 30th June in the current year at the latest

for the previous year. As regards the data published in the concerned Report, the Public Procurement Bureau can use them for its purposes.

In September 2015, the Bureau, in cooperation with the State Audit Office, prepared Manual on Most Frequent Mistakes when Carrying Out Contract Award Procedures, to the end of indicating the most important steps to the contracting authorities to be undertaken in the stages of carrying out public procurement so as to avoid any mistakes and to ensure proper application of the Law on Public Procurement.

4.5. State Anti-Corruption Commission

State Anti-Corruption Commission considered for there to be grounded suspicion for committed criminal deeds in 2 out of total of 10 cases of possible corruption.

In the course of 2015, State Anti-Corruption Commission acted upon total of 10 charges lodged for possible corruption in the field of public procurement regarding the contract award procedures carried out by the contracting authorities. With respect to 2 of the concerned cases, State Anti-Corruption Commission considered for there to be grounded suspicion for criminal deed committed in performing ex-officio duties and authorisations by the responsible persons at the contracting authorities. In fact, State Anti-Corruption Commission raised 2 initiatives before the Public Prosecutor's Office of the Republic of Macedonia for initiating a procedure for criminal prosecution of elected or appointed officials, officers or responsible persons at public enterprises, public institutions or other legal entities managing state-owned capital due to existence of basis for suspicion for committed criminal deed "Abuse of Official Position and Authorisation" referred to in paragraph 3 in Article 353 of the Criminal Code of the Republic of Macedonia. As regards these cases, in addition to the violations of other laws, violations of the Law on Public Procurement were detected, committed by persons against whom the State Anti-Corruption

Commission raised initiative before the Public Prosecutor's Office of the Republic of Macedonia.

Should one compare the previous years (2012, 2013, 2014 and 2015), it can be concluded that continuous downward trend of lodged charges is evident in relation to the previous period (there were even 45 charged lodged in 2011). In fact, 29 charges for possible corruption were lodged in 2012, only 14 charges were lodged in 2013, 25 charges were lodged in 2014, while total of 10 charges for existence of suspicion for corruption in public procurement were lodged in 2015. It could be concluded that public procurement training for the contracting authorities, which the Public Procurement Bureau carries out, covering topics that refer to prevention of corruption in public procurement and conflict of interest, provides for them to be better informed and contributes to reduction of the cases of corruption in public procurement.²

*Compared to 2014,
number of charges
lodged for existence
of a suspicion for
corruption dropped.*

To the end of constantly improving the established public procurement system, the Bureau cooperates, on continuous basis, with institutions which scope of operations has common grounds with the system. During the concerned period, Public Procurement Bureau proposed activities in the field of public procurement while the new 2016 – 2019 National Programme on Prevention and Repression of Corruption and Prevention and Reduction of Instances of Conflict of Interest, with an Action Plan of the State Anti-Corruption Commission, was being prepared.

² Data are obtained from the State Anti-Corruption Commission.

4.6. Commission for Protection of Competition

Free competition is of special importance for all states, the economies of which are based on the free-market principle, where distribution of funds is a result of the relation between the supply and the demand on the market. Right to competition, as one of the European Union and its Member States internal market policies, as well as the internal market policies of all countries having established the free market principle in their economies, is aimed at preventing certain practices and business activities on the market which can place certain companies in an unjustifiably more favourable position in relation to other companies.

In 2015, Commission for Protection of Competition detected no severe or lesser offences as regards competition at public procurement.

Such placing of certain companies in a more favourable position than the other companies when awarding public contracts would also bring into question and jeopardize the free competition among the companies.

Legal implementation of contract award procedures, especially adherence to the principle of competition among economic operators and equal treatment and non-discrimination of economic operators, is a subject of interest to the Commission for Protection of Competition and, in the course of 2015, it detected no severe or lesser offences regarding the competition at public procurement and no fine was pronounced for a committed offence, i.e. no collusive contracts between companies when submitting the tenders in contract award procedures were determined.

Since 2012, the Commission for Protection of Competition has introduced a novelty pertaining to prohibiting collusive contracts between companies when submitting tenders in contract award procedures. The above-mentioned information represents a decrement, especially taking into account 2015, when Commission for Protection of Competition detected no severe or lesser offences as regards the competition at public procurement, i.e. it detected no collusive contracts

between the companies when submitting the tenders in contract award procedures.³

It should be mentioned that the Public Procurement Bureau has been receiving similar data as regards competition protection from the Commission for Protection of Competition for several years in a row now. Indicated data do not fully correspond to the actual situation and information the Bureau receives from the economic operators, which complain very often about the abnormally low prices or the limitation of the competition on other bases.

It could be concluded that cooperation between the two institutions needs to be continued and strengthened, all to the end of encouraging the economic operators to report the cases of collusive contracts or other cases of impediment of competition.

³ Data are obtained from the Commission for Protection of Competition.

5. Cooperation with Other Institutions

5.1. Cooperation with Institutions in the Republic of Macedonia

To the end of constantly improving the established public procurement system, the Bureau cooperates, on continuous basis, with institutions which scope of operations has common grounds with the system, to the end of improving the capacities of the contracting authorities.

By having signed the Memorandum of Cooperation, mutual cooperation and exchange of knowledge between Justinian the First Faculty of Law, the Faculty of Economics – Skopje and the Public Procurement Bureau will contribute to better quality, above all in the field of education and training, as well as in other areas in which the Faculties and the Bureau share joint interest. First activities in the field of education and training were realised, and new areas of joint actions in public procurement were being initiated at the same time, the more specific results therefrom being expected in the coming period.

To the end of constantly improving the established public procurement system, the Bureau continuously cooperates, through exchange of mutual experience, with institutions which scope of operations has common grounds with the system, such as: Ministry of Justice, State Appeals Commission, State Audit Office, State Anti-Corruption Commission, Commission for Protection of Competition and other institutions.

One of the institutions the Bureau cooperated with in the course of last year was the Academy for Training of Judges and Public Prosecutors, which, according to the Programme on Training Court Officers and Public Prosecution Officers, organised two trainings on the application of the Law on Public Procurement. The first training elaborated on the topic “Application of the Law on Public Procurement”, while the second training covered the topic “Law on Public Procurement with a special focus on Fight against Corruption”. 26 participants from among the members of public procurement commissions within the

courts took part in the first training, while the second training was attended by 25 participants – judges and public prosecutors from all areas of courts of appeal.

In the period 24th – 26th February 2015, upon request by the State Audit Office, Public Procurement Bureau organised and held 3 trainings focusing them on the modifications and amendments to the Law on Public Procurement. The training comprised two parts, one pertaining the modifications and amendments to the Law on Public Procurement and the other covering the the novelties introduced in the Electronic System for Public Procurement. The trainings were successfully realised, accompanied by constructive debates, suggestions and presentation of lecturing materials. Such trainings have been held several years in a row, whereby the cooperation between these two institutions has been strengthened.

Public Procurement Bureau was also an active participant in the Working Group for Chapter 23. Judiciary and Fundamental Rights, whereby, within the “National Programme for the Adoption of the Acquis“, it envisaged several activities for fight against corruption.

These activities were undertaken to the end of improving the capacities of the contracting authorities, i.e. strengthening the professionalism, the expertise and the accountability of the persons engaged in the field of public procurement, which is actually a recommendation by the European Commission, presented in the Progress Reports for the Republic of Macedonia.

5.2. Cooperation with International Institutions related to Public Procurement and International Cooperation within the process of EU Integration

Within its competences as regards cooperation with international institutions and other foreign entities on matters related to the

development of the public procurement system, representatives of the Public Procurement Bureau, upon invitation by certain international institutions, had the possibility, in the course of 2015, to exchange experience with representatives of these institutions, as well as representatives of other participating countries.

In the course of 2015, the Bureau continued cooperating with SIGMA representatives as well. On 28th May 2015, SIGMA held a workshop on encouraging innovations in public procurement in Skopje, the goal of which was to introduce the participants with the possibilities as regards innovations in public procurement. The workshop was attended by representatives of the City of Skopje, Ministry of Internal Affairs, Ministry of Agriculture, Forestry and Water Economy, Ministry of Finance, Ministry of Defense, Ministry of Transport and Communications, Agency for State Roads, National Bank of the Republic of Macedonia, Ministry of Economy, Ministry of Local Government, State Industrial Property Bureau, Ministry of Labour and Social Policy, Assembly of the Republic of Macedonia, Kisela Voda Municipality, Ministry of Information Society and Administration, Innovations and Technological Development Fund, Ministry of Health and Ministry of Education and Science, State Appeals Commission and employees with the Public Procurement Bureau. Total of 24 participants attended the workshop. At the same time, other activities aimed at realisation of the activities envisaged under the “2014 – 2018 Strategic Priorities of the Public Procurement Bureau for Further Development of Public Procurement System in the Republic of Macedonia” were implemented together with SIGMA.

Within the cooperation realised through the Mixed Macedonian – Bavarian Commission of Bavaria and the Republic of Macedonia, representatives from the Public Procurement Bureau went on a study tour to Munich in the period 7th – 10th September 2015 and visited several

During 2015, Public Procurement Bureau continued cooperating with the institutions in charge of monitoring the public procurement systems in the Western Balkan countries, all to the end of further harmonisation with the European legislation and application of good practices in the field of public procurement.

institutions included in the public procurement system. The concerned study tour focused on the topic “Harmonisation with the EU Acquis”.

One more example of good bilateral cooperation was the sixth round of Macedonian – Polish “Skopje Conference”, organised in the first week of November 2015, which, in addition to the other representatives from the Republic of Macedonia, was also attended by representatives of the Public Procurement Bureau. This Conference is a forum of cooperation between the Macedonian and the Polish administration aimed at European integration, the Polish state administration transferring its experience gained in the EU integration process. Chapter 5. Public Procurement was, among the other topics, also elaborated on at the Conference.

Regional conference “Corruption Risk Assessment, Public Procurement and Open Contracting in South Eastern Europe” was held in the period 26th - 27th May 2015 in Istanbul, Republic of Turkey. This event was organised by Regional Anti-Corruption Initiative, Regional Cooperation Council, Swiss Agency for Development and Cooperation and UNDP.

Upon invitation by the Open Society Foundation, Belgrade, Republic of Serbia, in cooperation with the Center for Civil Communications, representative from the Public Procurement Bureau, together with several representatives from the Republic of Macedonia, were invited and participated in the Regional Conference on Public Procurement, which took place on 27th November 2015. The Conference was held within the regional EU Project: “Towards Efficient Public Procurement Mechanisms in the EU (Potential) Candidate Countries”, having representatives from (government and non-government) institutions from Serbia, Bosnia and Herzegovina, Montenegro and Slovakia participating. All analyses of the institutional and legal framework on public procurement in the countries were presented at the

Conference, mainly from the aspect of the assessment of the appropriateness in public procurement.

Advisory Committee on Public Contracts is an advisory body of the European Commission, at which various problems encountered by the EU Member States, pertaining to public procurement, are discussed. In addition, modernisation of the public procurement system, the new directives and solutions to be introduced in the EU Acquis, are discussed at this Committee, in which the Republic of Macedonia, as a candidate country, takes part as an observer. In the course of 2015, representatives from the Public Procurement Bureau participated as observers in the public procurement working group and the e-procurement working group of the Advisory Committee on Public Contracts in Brussels, the Kingdom of Belgium.

Public Procurement Bureau also manages the Working Group under Chapter 5. Public Procurement within the “National Programme for Adoption of the Acquis Communautaire”. In the course of 2015, the Working Group realised the envisaged activities.

Cooperation with the World Bank was also intensified in 2015, among other things, through participation of Bureau’s representatives in the Regional Public Procurement Knowledge Exchange Forum for the countries in Europe and Central Asia, held in Batumi, Georgia.

It could be underlined that, during 2015 as well, the Public Procurement Bureau continued cooperating with the institutions in charge of monitoring the public procurement systems in the Western Balkan countries, all to the end of further harmonisation with the European legislation and application of good practices in the field of public procurement.

6. Use of the Electronic System for Public Procurement

Introduction of the Electronic System for Public Procurement has provided a possibility to all contracting authorities in the Republic of Macedonia to carry out their contract award procedures electronically. In fact, contract notices are mandatory published on the ESPP, together with the tender documentation which the registered economic operators can download. In addition, when carrying out procedure through the ESPP, all procedure-related activities (submission of tenders, public opening and evaluation, decision making, notifications on decisions made, communication with economic operators) are carried out electronically.

Pursuant to the modifications and amendments to the Law on Public Procurement, e-procurement will be mandatory to apply gradually in the course of the next three years.

Taking into account the fact that carrying out the procedures electronically is on voluntary basis, number of e-procurement procedures being carried out from year to year is relatively small. Pursuant to the modifications and amendments to the Law on Public Procurement (Article 13 of the Law on Modifications and Amendments to the Law on Public Procurement, published in the “Official Gazette of the Republic of Macedonia”, no. 78/2015), e-procurement will be mandatory to apply gradually in the course of the next three years. The contracting authorities are obliged to carry out the open procedures, the restricted procedures and the simplified competitive procedures by using the electronic means through the ESPP, as follows:

- in at least 30% of the published contract notices starting 1st January 2016,
- in at least 50% of the published contract notices starting 1st January 2017, and
- in 100% of the published contract notices starting 1st January 2018.

Using electronic public procurement or e-procurement more is one of the important goals of the Europe 2020 Strategy and is in line with the new EU directives on public procurement, introducing mandatory e-procurement to be gradually applied for different phases of the public procurement process starting 2016, the procedures being carried out fully electronically from 2018.

Public Procurement Bureau, in line with its competences to manage and operate the Bureau, continuously upgrades the Electronic System for Public Procurement, so as to facilitate the access for the users and more efficient carrying out of e-procurement. Some of the more significant improvements made to the ESPP in 2015 were the following:

- re-designing the ESPP - the first stage of ESPP re-designed (2014) included full re-design of the home page of ESPP, the users' registration process and the e-auctions. In addition, an application adjusted for the use of mobile devices and tables was developed on the ESPP. In the course of 2015, process of re-designing the users' profile (users' section of the ESPP) commenced. The new design is unique, user-friendly, providing for simplified use of the system, easy and better reference and easy navigation. User interface was upgraded with additional visual elements, enabling for fast and direct access to the most frequently used actions by the users;
- New concept on procurement divided into lots was introduced, which has significantly facilitated the public tender opening and the tender evaluation, as well as the sending of contract award notices to the tenderers;
- "Tender Dossier" Project – this Project introduces new process of issuance of package of documents – e-certificates necessary for proving the personal situation, professional ability and financial standing of the economic operators when participating in public procurement procedures. This new process would replace the

Public Procurement Bureau continuously upgrades the Electronic System for Public Procurement with new modules and functionalities, so as to facilitate the access for the users and more efficient carrying out of e-procurement.

"Tender Dossier" Project introduces new process of issuance of package of documents – e-certificates necessary for proving the personal situation, professional ability and financial standing.

existing one, whereby the economic operators are obliged to provide themselves the necessary documents and to upload them manually to the system, at the same time taking care of their renewal each 6 (six) months pursuant to the existing legal regulations. The Project was being implemented in the course of 2015, while its results are expected in 2016, when PPB and CRRM systems will be connected by establishing web services. “Tender Dossier” Project provides for several advantages: reduced costs related to the provision of documents (savings when preparing the tender), no need to be physically present at the counter to obtain them and their renewal twice a year, increased number of registered economic operators and economic operators participating in e-procurement procedures, facilitated use of documents when evaluating the tenders and saving disc space for storage and keeping of the documents on the ESPP;

- change in the manner of renewing the subscription – it provides for the registered economic operators to extend the subscription 10 days prior to its expiry;
- registration of natural persons as economic operators – special module is created by which the natural persons can register as economic operators on the ESPP;
- improvement as regards the “Negative Reference” module – this improvement enables the contracting authorities to search negative reference on dates different from the current one;
- optimization, hardware and software improvements, as well as other slight improvement of the ESPP;

Mandatory use of the electronic system when carrying out public procurement procedures entails future plans for upgrading the system and developing new tools for easier and simplified access to, and use of, the system. Following are part of the future more significant upgrades

and new functionalities planned to be carried out as regards the ESPP on short- and medium-term:

- automatic generating and uploading of the negative reference report to the procedure dossier;
- automatic generating and uploading of the auction/s report/s to the procedure dossier;
- changing the members of the Public Procurement Committee by the person in charge;
- reviewing the tender documentation in “view mode” without the need to be registered;
- publishing the Annual Procurement Plans on the ESPP;
- module on connecting the additional procurements with the original contract;
- module on publishing the contract notices of international institutions;
- archiving and back-up of ESPP data;
- analysis of the need to introduce uploading of digital certificates at application level.

Having in mind the main features of the Electronic System for Public Procurement - EASIER, FASTER, CHEAPER, we are confident to say that e-procurement simplifies the manner of carrying out the procedures, contributes to achieving better results, reduces the duration of the procedures, enhances transparency and fair competition, and lowers the costs by improving the efficiency of public expenditures. In addition, e-procurement increases confidence in the public procurement system, which is noticeable through the increased registration on the ESPP and the participation of SMEs.

Despite the many benefits arising from the use of ESPP, since the moment it was introduced, both the contracting authorities and the economic operators have been facing many challenges stemming from its

use, which in most of the cases refer to the following: fear of the unknown and resistance to change the well-established manner of carrying out paper-based public procurement procedures; insufficient knowledge of the information and communication technology; distrust in the new technologies to undertake actions related to public procurement procedures; etc.

In order to overcome the difficulties and the challenges the users face when using the system, Public Procurement Bureau carries out continuous trainings, which also include practical exercises on using the system. Manuals on use of the system are being prepared for the contracting authorities and the economic operators and they are constantly updated, while the Department for Monitoring the System for Public Procurement and Managing E-Procurement extends continuous support when the system is used and develops tools for its easier mastering and using.

As for using the system, and as a result of all so-far implemented activities, following was achieved in 2015:

- around 1,417 contracting authorities (with total of 11,626 users within the contracting authorities, out of which 8,546 users are active) and 5,272 active economic operators (out of 11,772 registered economic operators) used the system;
- over 1,266 answered questions through the Q&A link on ESPP posed by the contacting authorities and the economic operators pertaining to the manner of functioning and using ESPP in the course of 2015;
- total of 3,634 calls received through the User Support Center, pertaining to the functioning of the Electronic System for Public Procurement and e-auctions;
- 18,469 contract notices and 27,392 contract award notices of different type published;
- total number of published tender documents – 18,413;

As for using the system, and as a result of all so-far implemented activities, following were the more significant indicators in 2015:

- 1,417 contracting authorities and more than 5,200 active economic operators used the ESPP;

- 18,438 contract notices, 27,392 contract award notices of different type and 18,413 tender documents were published;

- more than 41,500 e-auctions were carried out.

- more than 41,500 auctions carried out, i.e. more than 158 auctions daily in average (only working days).

As regards the number of visitors of the system and the use of the system on monthly basis, data are provided in the tables and the charts below:

Table 6.1

Page browsing	
Total page browsing	786,218
Average page browsing per day	39,311
Average page browsing per visitor	8.5
Visitors	
Total visitors	92,723
Average number of visitors per day	4,636
Total unique IP addresses	17,475

Chart 6.1 – Accesses daily

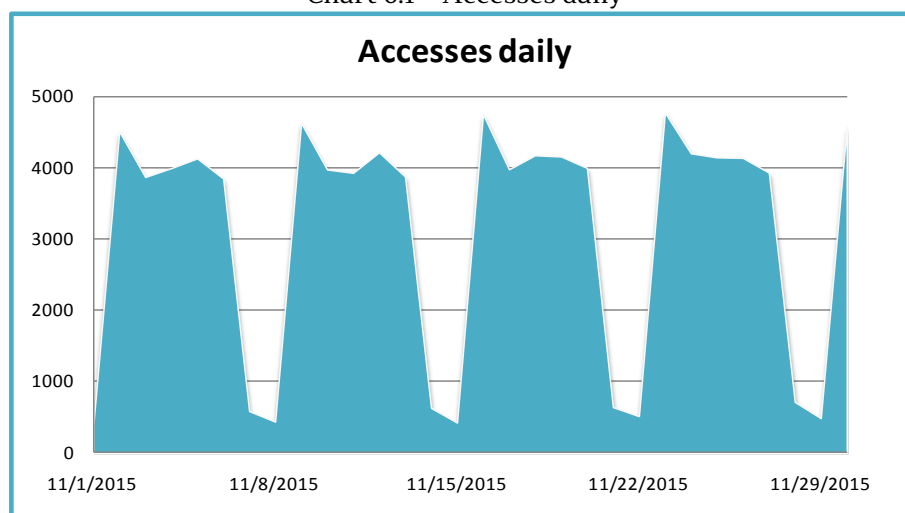


Chart 6.2 – Activities per day in the week

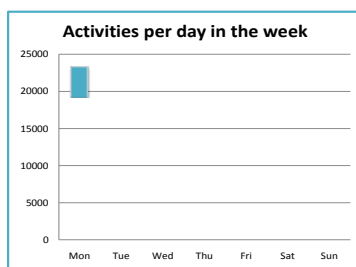


Chart 6.3 – Activities per hour in the day

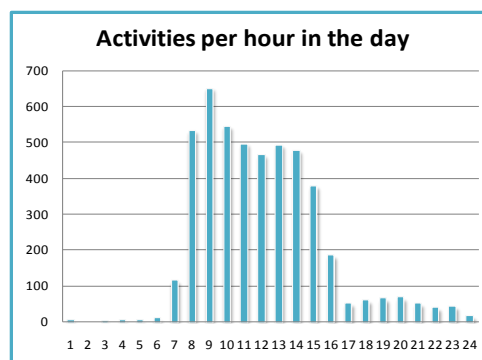


Chart 6.4 - Visitors per country

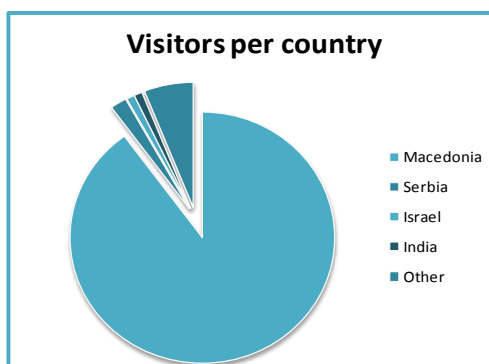


Chart 6.5 – Web-pages – top affiliates of ESPP

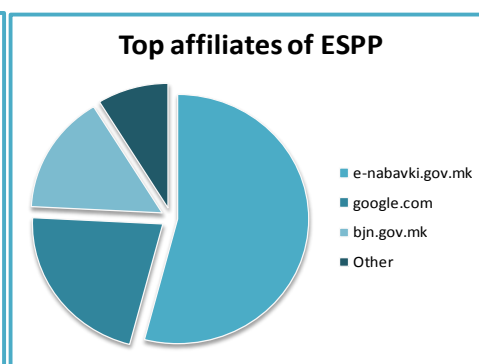


Chart 6.6 - Web browser of visitors

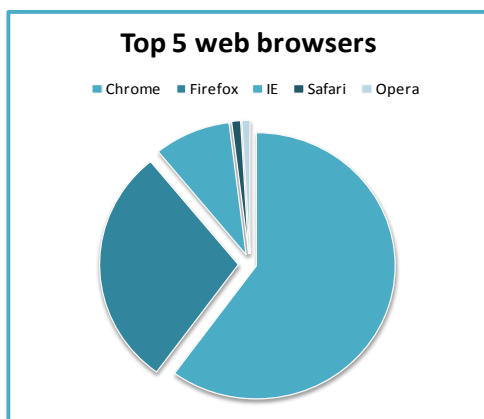
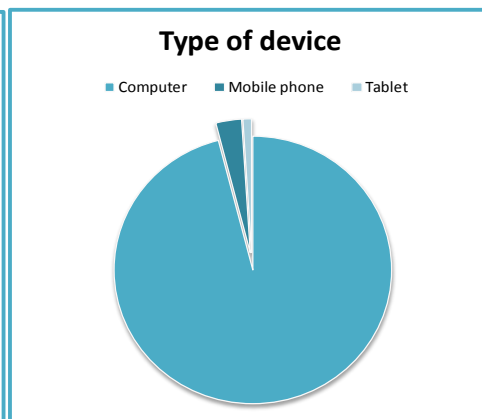


Chart 6.7 – Type of device



7. Analysis of Public Procurement Market in 2015

This Chapter elaborates on qualitative and quantitative analysis of the public procurement market in the Republic of Macedonia in 2015. Data are categorised by different parameters and types, so as to better observe the developments in the field of public procurement, the financial trends and the implications on public spending through the carried out procedures. Data shown in this Report pertain to the contract notices, the design contests, the annexes, the cancellations and all public contracts concluded in the respective period. All listed forms are published and publically available on the ESPP.

In 2015, 27,392 public contracts were awarded, in the total amount of around Denar 46.5 billion or more than EUR 755 million.

All gathered data are analysed by applying the module on monitoring and statistical review of trends in public procurement, implemented in the Electronic System for Public Procurement. ESPP database is one of a kind in the Republic of Macedonia and it reflects overall actual developments in the field of public procurement in the country. It is necessary to point out that the manner of evaluation and the statistical review of the reports obtained from the Electronic System for Public Procurement was amended and revised in 2014, all to the end of introducing the new legal solutions and the obligations, such as the estimated value and the final price.

The tool for timely and mandatory submission of information on the procedures, introduced with the ESPP, provides for gathering complete and relevant data and doing comparative analysis of the data, which covers all contracting authorities and all procurement procedures carried out, hence, the data presented in the text below provide for a whole picture of the trends on the public procurement market in 2015. Still, it should be underlined that accuracy of the data presented may fluctuate with a slight statistical error, which is due to the incorrect

entering of some of the values when filling in the contract award notices on the ESPP. In fact, it is the contracting authorities' responsibility to correctly fill in the electronic forms and, due to the type and the volume of the process of filling in, no automatic control or review of the forms filled in is possible to be carried out by the Bureau.

Share of public procurement in GDP in Macedonia accounted for 8% in 2015.

Data on the number of the awarded public contracts in 2015, obtained from the ESPP database, show that 27,392 public contracts were concluded, in the total amount of Denar **46,451,630,320** (around Denar 46.5 billion) or approximately EUR 755 million. Value of public procurement in the country in 2015 accounted for 8% of GDP of the Republic of Macedonia. According to the data available to the Bureau, value of concluded contracts in 2015, compared to the previous year, dropped by around 23%, while number of concluded contracts (21,938 last year) increased by 24% in relation to 2014.

Share of public procurement in the budget of the Republic of Macedonia accounted for 25% in 2015.

Hence, it can be pointed out that, in the last three years, value of the concluded public contracts in the Republic of Macedonia was at the highest level – Chart 7.1. Comparative data on the volume of public procurement as share of GDP and the 2015 Budget are presented in Table 7.1.

Chart 7.1

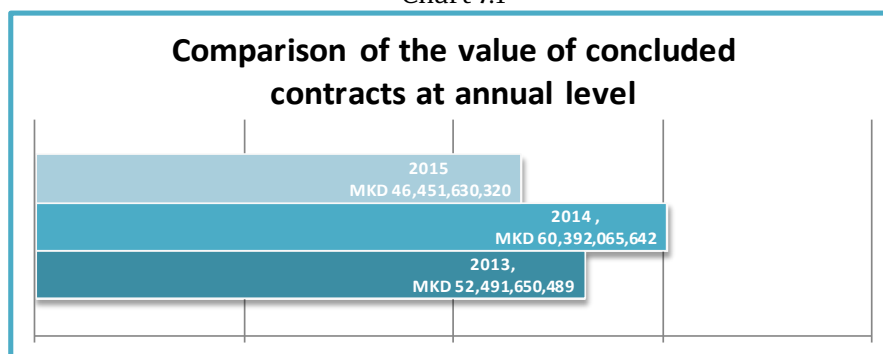


Table 7.1

Value of concluded public contracts	Public procurement as % of the Budget	Public procurement as % of GDP
Denar 46.5 billion	25%	8%

7.1. Data from Contract Notices

18,469 contract notices were published in 2015.


In 2015, **18,469** contract notices were published, 8,383 out of which were notices for simplified competitive procedures with an estimated value up to EUR 5,000 in Denar equivalent, 5,421 were notices for simplified competitive procedures with an estimated value of up to EUR 20,000 in Denar equivalent for supplies and services and up to EUR 50,000 in Denar equivalent for works, 4,609 were notices for open procedure, 2 were notices for restricted procedure, 6 were notices for negotiated procedure with prior publication of a contract notice, 17 were announcements for establishment of a qualification system and 31 were notices for design contest.

Pursuant to the legal amendments adopted in 2014, if the estimated value of the public contract, excluding VAT, exceeds EUR 50,000 in Denar equivalent for supplies and services, i.e. if it exceeds EUR 200,000 for works, the contract notice is to be mandatory published in

the Official Journal of the European Union – TED (Tenders Electronic Daily). Total of 2,612 contract notices were published on TED.

Table 7.2 and Chart 7.2 show the number of published contract notices according to the type of procedure.

Table 7.2

Type of procedure	Number of contract notices
Simplified competitive procedure ⁴	8,383
Simplified competitive procedure	5,421
Open procedure	4,609
Restricted procedure	2
Negotiated procedure with prior publication of a contract notice	6
Qualification system	17
Design contest	31
Total	18,469


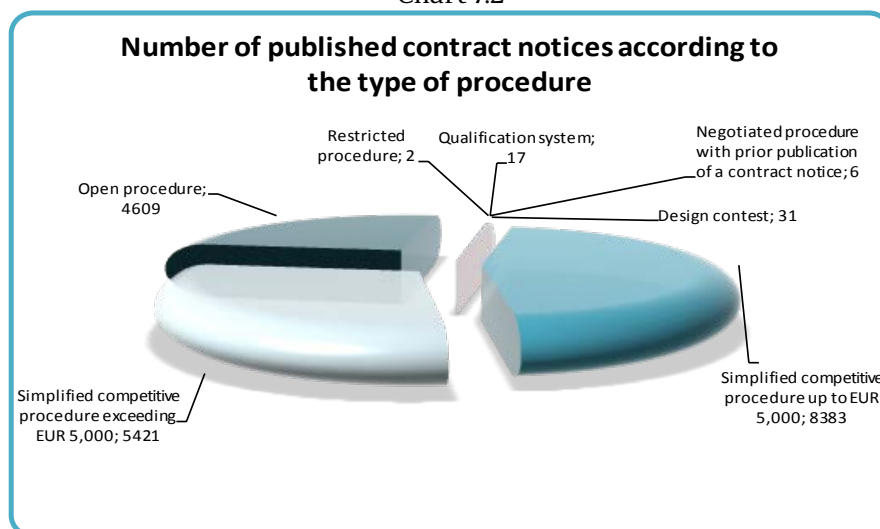
⁴  - simplified competitive procedure of up to EUR 5,000 in Denar equivalent.

Chart 7.2



Most contract notices in 2015 were published by applying the simplified competitive procedures, total of 13,804 contract notices.

Most contract notices in 2015 were published by applying the simplified competitive procedures, total of 13,804 contract notices, and the open procedure – 4,609 contract notices. 8,383 out of the total of 13,804 contract notices by applying the simplified competitive procedures were contract notices published for procedures with an estimated value of up to EUR 5,000 in Denar equivalent.

Number of published contract notices surged by 17% compared to 2014.

As for 2015, total of 18,469 contract notices were published, and it can be concluded that the number of published contract notices increased by 17% compared to 2014, when 15,738 contract notices were published. Increase in the number of contract notices was also seen when simplified competitive procedures were applied, with 13,804 contract notices being published compared to 2014, when 12,159 contract notices were published. The upward trend as regards the contract notices was also registered at the contract notices by applying the open procedure, with 4,609 contract notices being published compared to 2014, when 3,510 contract notices were published. With respect to the other procedures, decline in the number of published contract notices was observed at the restricted procedure, the negotiated procedure with prior publication of a contract

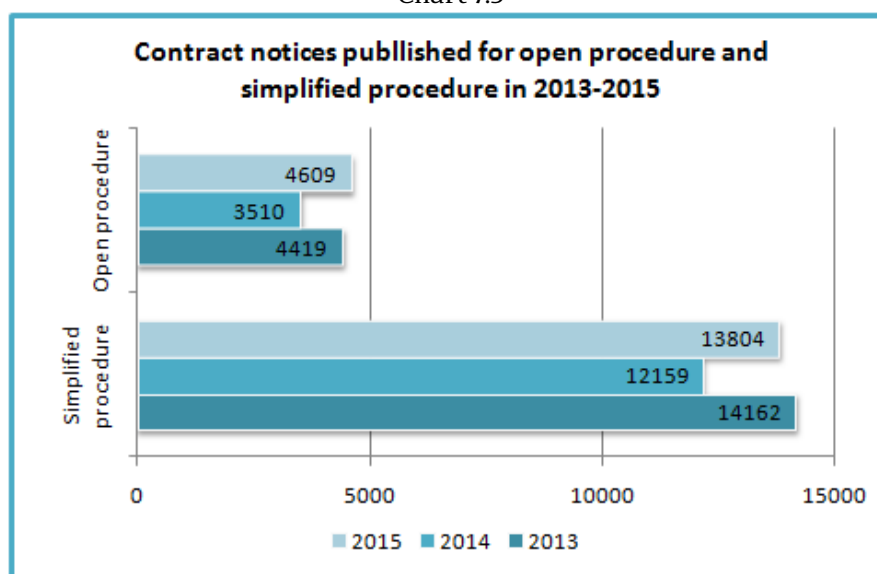
As regards the type of procedure, the largest increase in the number of published contract notices was observed at the simplified competitive procedure.

notice and the design contest. Total of 17 announcements for qualification systems were published in 2015. Increased use of this type of announcements for the utilities could be noted unlike in 2014, when only 9 announcements for qualification systems were published. 10 out of the total number of published contract notices in 2015 were announcements for establishment of public-private partnership, which were awarded as public contract.

As for 2015, it could be concluded that the number of published contract notices surged by around 2,700 compared to 2014 (as mentioned before, around 17% increase).

Chart 7.3 shows the ratio between published contract notices for the most applied procedures – open procedure and simplified competitive procedure – in the last three years.

Chart 7.3



In 2015, contracting authorities published total of 603 contract notices on the system in the category *Other Contract Notices*. It is a matter of contract notices for procurement of so-called “non-priority”

services pursuant to indent 2, paragraph 1, Article 17 of the Law, such as services related to temporary employment⁵, hotel, catering, recreational, cultural, educational, legal and other services.

Announcements for establishment of public-private partnership as a public works concession or as a public service concession pursuant to Article 19 of the Law on Concessions and Public-Private Partnership are also published on the Electronic System for Public Procurement in a special module for public works concessions and public service concessions. Total of 3 such announcements were published in 2015.

Analysis of the number of contract notices according to the type of the subject-matter of the public contract shows that most contract notices were published for procurement of supplies – 9,063 contract notices, 7,369 contract notices were published for procurement of services and 2,037 contract notices were published for procurement of works. Contract notices published according to the type of public contract are shown in Table 7.3 and Chart 7.4. These data show that, compared to the previous year, number of published contract notices for procurement of supplies, services and works increased proportionally to the increased total number of published contract notices.

Comparative data for the last 3 years are presented in Chart 7.5.

Analysis of the number of contract notices according to the type of the subject-matter of the public contract shows that most contract notices were published for procurement of supplies – 9,063 contract notices.

⁵ Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement, published in the “Official Gazette of the Republic of Macedonia” no. 130/2014, temporary employment services referred to in indent 2, paragraph 1, Article 17 are shifted to indent 1.

Table 7.3

Type of public contract	Number of contract notices
Supplies	9,063
Services	7,369
Works	2,037
Total	18,469

Chart 7.4

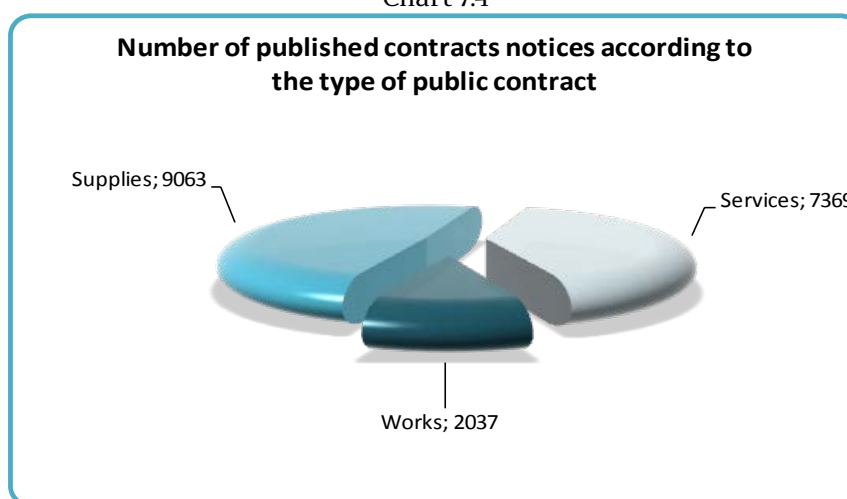
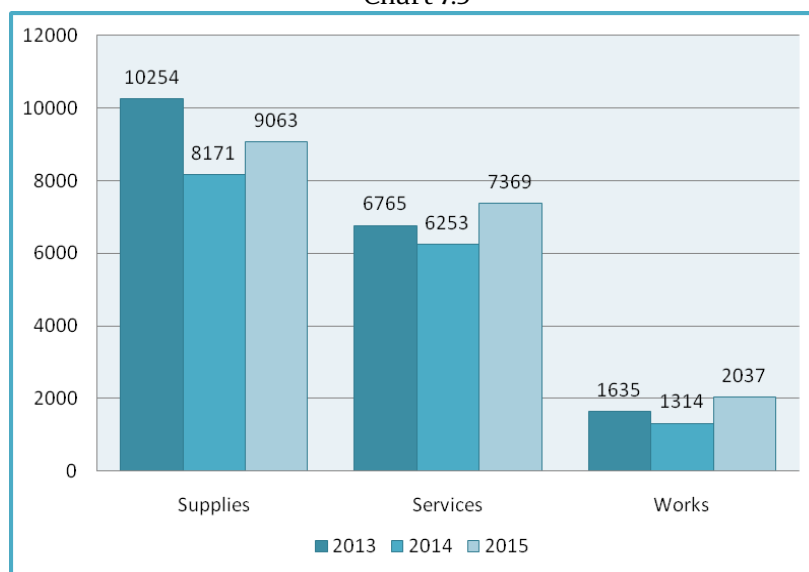


Chart 7.5



Tables below show detailed data on published contract notices according to the type of contract and the way of its execution.

Table 7.4

Type of public contract- supplies	Number of contract notices
Purchasing	4,542
Hire purchase	4,492
Lease, with an option to purchase supplies	2
Lease, without an option to purchase supplies	19
Combination of the above-mentioned types	8
Total	9,063

Table 7.5

Type of public contract – services	Number of contract notices
Architectural and engineering services	1,175
Auxiliary transport services	44
Other services	396
Health and social services	156
Publishing and printing services	356
IT and related services	438
Investigative and security services	121
Education and vocational education services	53
Legal services	51
Advertising services	53
Recreational, cultural and sporting services	36
Accounting, auditing and bookkeeping services	161
Management consulting services	49
Telecommunication services	476
Air transport services of travelling passengers and freight	102
Market research and public opinion polling services	18
Services related to land and air transport of mail	38
Land transport services	424
Maintenance and repair services	2,170
Sewage and refuse disposal services	174
Temporary employment services	150
Development and research services	61
Building cleaning services and property management services	92
Rail transport services	1

Analysis of Public Procurement Market in 2015

Financial services	484
Hotel and catering services	90
Total	7,369

Table 7.6

Type of public contract – works	Number of contract notices
Execution	1,863
Design and execution	37
Realisation, by any means	137
Total	2,037

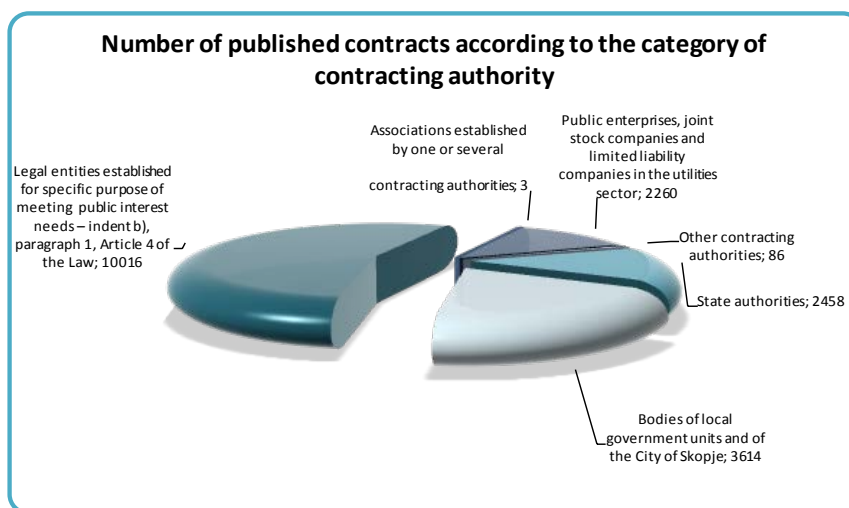
In 2015, the most contract notices were published by contracting authorities falling in the category legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law – 10.016 contract notices.

Total number of published contract notices according to category of contracting authorities, pursuant to Article 4 of the Law on Public Procurement and the Decision on Determining the Indicative List (“Official Gazette of the Republic of Macedonia”, nos. 159/07 and 74/09) is shown in Table 7.7 and Chart 7.6.

Table 7.7

Category of contracting authority	Number of contract notices
State authorities	2,458
Bodies of local government units and of the City of Skopje	3,614
Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law	10,016
Associations established by one or several contracting authorities	35
Public enterprises, joint stock companies and limited liability companies in the utilities sectors	2,260
Other contracting authorities	86
Total	18,469

Chart 7.6



When analysing the data on the published contract notices according to category of contracting authority, it can be seen that the most contract notices – 10,016 were published by contracting authorities falling in the category legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law and by contracting authorities falling in the category bodies of local government units and of the City of Skopje – 3,614.

When analysing the data from the contract notices, as regards the type of contract award criteria the contracting authorities applied in the carried out procedures, it can be determined that the lowest price criterion was used as mandatory almost in all contract notices compared to the economically most advantageous tender as contract award criterion. Table 7.8 shows data on the number of published contract notices according to the contract award criterion applied in the procedure. Pursuant to the amendments dated 1st May 2014 (“Official Gazette of the Republic of Macedonia”, no. 148/2013), use of the lowest price criterion is mandatory criterion when awarding public contracts, while, upon exception, the economically most advantageous tender may be used as contract award criterion.

The lowest price criterion, as a criterion for awarding public contracts, was applied in 99.9% of the total contract notices published, i.e. only 17 contract notices were published by applying the economically most advantageous tender criterion.

Significant decline in the number of published contract notices when the economically most advantageous tender criterion is used can be observed as a result of this legal amendment. As for 2014, 584 contract notices were published by using the economically most advantageous tender criterion (most of them in the first half of 2014), while only 17 contract notices were published by using this criterion in 2015. It is necessary to point out that these data do not include some of the contract notices for restricted procedure and negotiate procedure with prior publication of a contract notice, because, depending on the complexity of the subject-matter of the procurement, the contracting authority publishing the contract notice did not publish the criterion in the contract notice, but rather included it in the tender documentation for the next stage of the procedure.

Table 7.8

Contract award criterion	Number of contract notices
Lowest price	18,404
Economically most advantageous tender	17

Chart 7.7 shows the dynamics of publishing contract notices by month. It could be seen therein that most of the contract notices were published in November, as well as in December and June 2015. Chart 7.8 shows the published contract notices with the estimated value, whereby the first chart therein presents the contract notices with an estimated value of up to Denar 1,200,000 and the second one shows the contract notices with an estimated value exceeding Denar 1,200,000.

Chart 7.7

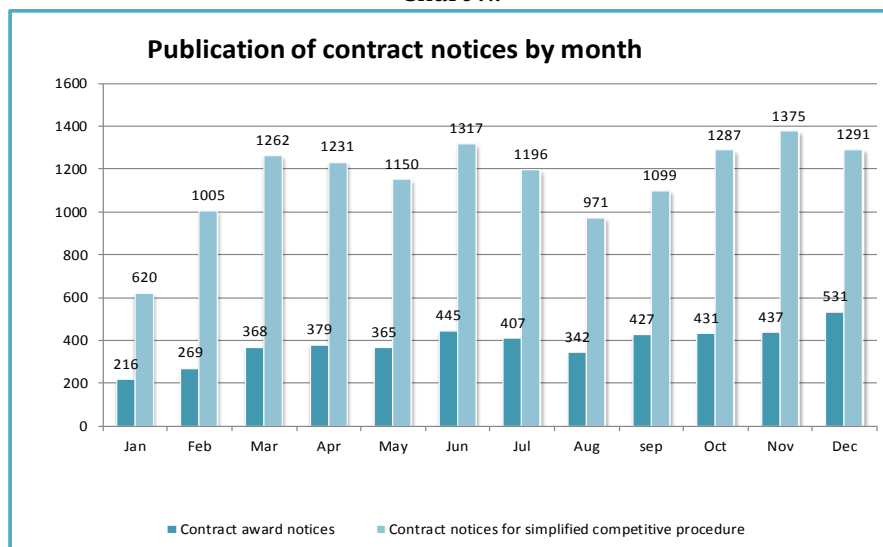
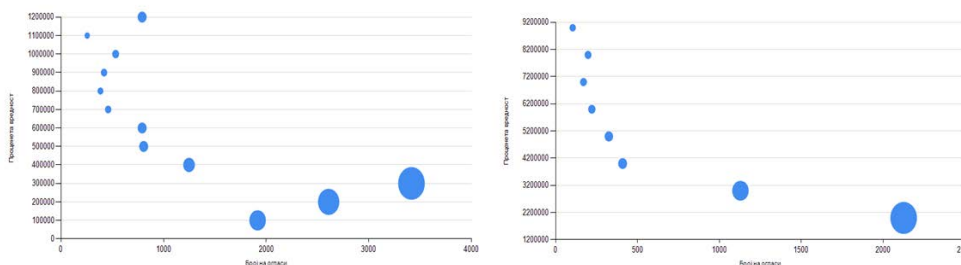


Chart 7.8



7.2. Concluded Public Contracts

Analysis of the data on concluded public contracts includes a review of the data on public contracts concluded in 2015 on the basis of different parameters. Data mainly refer to the total number of concluded public contracts and their value, however, with respect to some parameters, due to ESPP setup (depending on whether data are received from contract award notices or from the records on simplified competitive procedures), data are grouped and refer only to the


Value of the awarded public contracts 2015 amounted to Denar 46.5 billion.

procedures - open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice, competitive dialogue and awarding of public services contract pursuant to indent 2, Article 17, exceeding EUR 20,000 in Denar equivalent, excluding VAT. These Tables and Charts are presented below. All data regarding concluded public contracts are published on the ESPP <https://e-nabavki.gov.mk> and are fully available to the public. Contracting authorities are responsible for the reliability and the accuracy of the entered data, since they publish their contract notices, contract award notices/cancellation notices and records on simplified competitive procedures through the ESPP by means of their usernames and passwords.

Compared to 2014, value of the concluded contracts dropped by 23%.

Number and value of concluded public contracts in 2015 according to the type of contract award procedure are presented in Table 7.9 and Chart 7.9. Total value of concluded public contracts in 2015 dropped by around 23% compared to 2014, amounting to Denar 46,451,630,320. Most applied procedure according to the value of the concluded contracts was the open procedure, on the basis of which 9,090 contracts were concluded in the amount of Denar 35,413,986,269, i.e. 76% of the total value of public procurements carried out in the Republic of Macedonia. The second most applied procedure was the simplified competitive procedure with a value threshold exceeding EUR 5,000, on the basis of which 7,364 contracts were concluded in the amount of Denar 3,514,079,844 – 8% of the total value.

Table 7.9

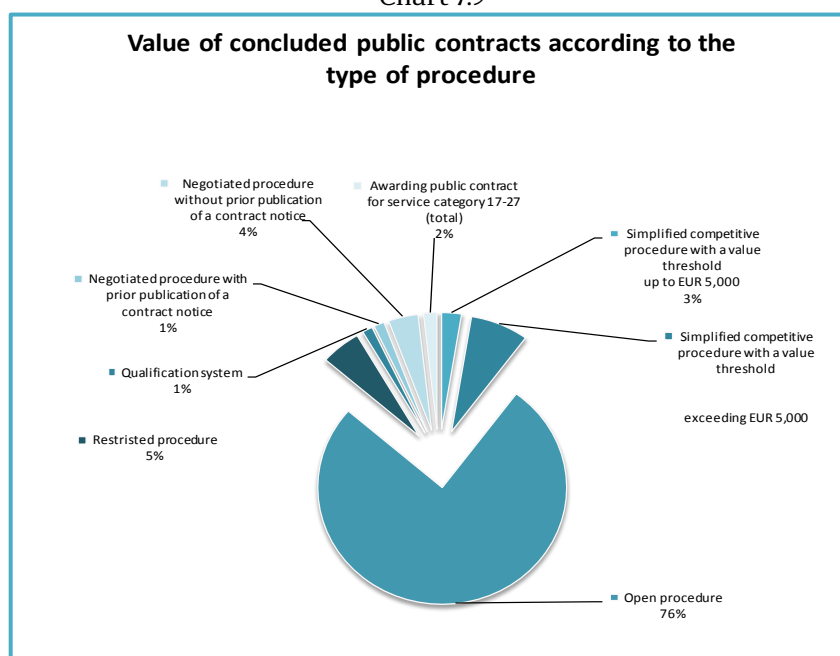
Type of contract award procedure	Number of concluded contracts	Value of concluded contracts
Simplified competitive procedure 	8,327	Denar 1,199,807,985
Simplified competitive procedure	7,364	Denar 3,514,079,844
Open procedure	9,090	Denar 35,413,986,269
Restricted procedure	2	Denar 2,449,110,650
Qualification system	19	Denar 621,483,690
Negotiated procedure with prior	5	Denar 640,732,409

publication of a contract notice

Negotiated procedure without prior publication of a contract notice	969	Denar 1,802,347,717
Awarding public services contract for service category 17-27 (total)	1,616	Denar 810,081,756
Total	27,392	Denar 46,451,630,320

9.090 contracts in the amount of Denar 35,413,986,269 i.e. 79% of the total value of public procurements carried out in the Republic of Macedonia, were awarded by applying the open procedure, thus being the most applied procedure.

Chart 7.9



As regards the application of different types of procedures compared to the previous years, certain trends and minor differences were observed compared to 2014. In fact, with respect to the value of concluded contracts, most of them were concluded by applying the open procedure (68% in 2013, 79% in 2014, 76% in 2015). Share of restricted procedure in the total value of concluded contracts increased to 5% in 2015 in relation to the previous years (2% in 2013 and 1% in 2014), while share of negotiated procedure with prior publication of a contract notice dropped proportionally from 7% in 2013 to 2% in 2014, to 1% in 2015. In addition, there was a significant difference compared to last year, when

share of the negotiated procedure without prior publication of a contract notice dropped significantly (12% in 2013, 6% in 2014, 4% in 2015). With respect to this type of procedure, there were 826 contracts concluded in 2014 in the amount of Denar 3,466,477,316, while in 2015, 969 contracts were concluded in the amount of Denar 1,802,347,717. More detailed data on the negotiated procedures will be presented in the text below. Volume of the other procurement procedures is approximately the same in terms of value of the concluded contracts. Comparative data are presented in Charts 7.10 and 7.11.

Chart 7.10

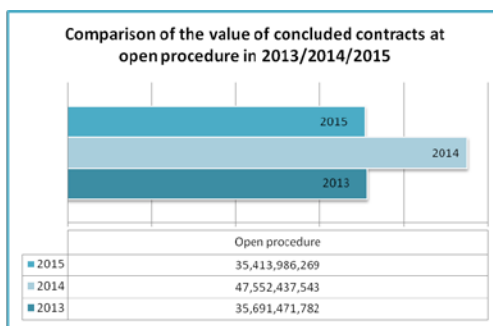
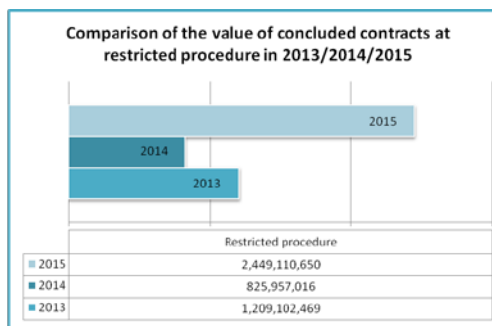


Chart 7.11



7.2.1. Data on Public Contracts Concluded according to the Type of Public Contract

According to the type of public contract, the highest percentage (41%) of the value of public contracts accounted for procurement of supplies.

According to the subject-matter of the public contract, 15,818 supply contracts in the total amount of Denar 19,227,250,050 were concluded in 2015, as well as 9,788 services contracts in the total amount of Denar 12,029,262,565 and 1,786 works contracts in the total amount of Denar 15,195,117,705. Chart 7.12 and Table 7.10 present more detailed data on the number and the value of concluded public contracts according to the type of the subject-matter of the contract.

Chart 7.12

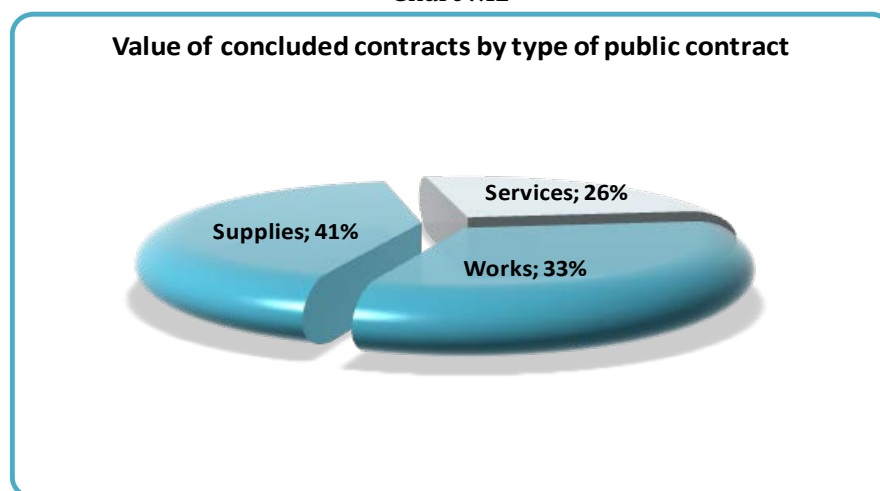


Table 7.10

Type of public contract	Number of concluded contracts	Value of concluded contracts
Supplies	15,818	Denar 19,227,250,050
Services	9,788	Denar 12,029,262,565
Works	1,786	Denar 15,195,117,705
Total	27,392	Denar 46,451,630,320

The highest percentage (41%) of the value of public contracts accounted for procurement of supplies. Public supply contracts were most often realised through purchasing and hire purchase. By comparing the data on the value of the concluded public contracts according to the type of the contract, it is noticeable that share of the procurement of supplies dropped by 5 percentage points in 2015, while share of the procurement of services increased by 2 percentage points in relation to last year. Public services contracts accounted for 26% of the total value of public procurement in 2015 (they accounted for 23% in 2013 and 24% in 2014). Their structure shows different percentage of categories of services pursuant to the Decree on services subject-matter of public services contracts (“Official Gazette of the Republic of Macedonia”, no.

157/07). Major portion of the value of public services contracts accounted for public contracts for maintenance and repair services (category No. 1) and land transport services (category No. 2). Public works contracts accounted for 33% of the total value of contracts (most often execution of works). These data show that share of public works contracts picked up by 3 percentage points compared to 2014.

7.2.2. Data on Public Contracts Concluded according to the Category of Contracting Authority

Number and value of contracts concluded according to the category of contracting authority and its main business activity are shown below (Table 7.11 and Chart 7.13). Information presented below were obtained from the contract award notices and refer exclusively to contracts concluded by applying open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice and competitive dialogue. This was due to ESPP setup and the manner of gathering data according to the parameter – category of contracting authority. In fact, these data do not include data on the simplified competitive procedures due to the fact that contract award notice is not filled in for these procedures, but rather summary records on semi-annual basis are prepared.

Analysis of Public Procurement Market in 2015

Chart 7.13

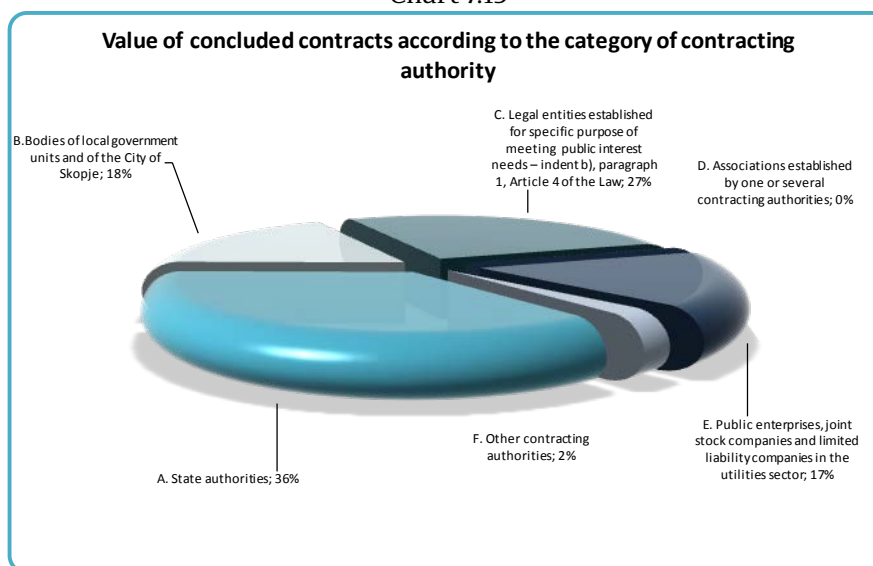


Table 7.11

Category of contracting authority	Main business activity	Number of contracts	Value of concluded contracts
A. State authorities	General public services	476	Denar 6,813,869,862
	Defence	214	Denar 707,764,282
	Public order and security	97	Denar 973,340,590
	Environment	4	Denar 17,013,342
	Economy and finance	64	Denar 216,136,650
	Health	126	Denar 3,580,415,375
	Social protection	52	Denar 79,963,846
	Sports and culture	46	Denar 518,129,679
	Education	79	Denar 2,201,366,646
	Other	14	Denar 20,250,290
	Total A.	1,172	Denar 15,128,250,562
B. Bodies of local government units and of the City of Skopje	General public services	1,323	Denar 7,347,687,848
	Sports and culture	12	Denar 8,340,505
	Total B.	1,335	Denar 7,356,028,353
C. Legal entities established for specific purpose of meeting	General public services	1,106	Denar 3,720,659,837
	Public order and security	61	Denar 93,031,786
	Environment	56	Denar 141,826,510
	Economy and finance	4	Denar 10,093,580
	Health	3,528	Denar 4,643,442,436

Analysis of Public Procurement Market in 2015

public interest needs – indent b), paragraph 1, Article 4 of the Law	Social protection	502	Denar 518,934,228
	Sports and culture	132	Denar 343,309,179
	Education	1,041	Denar 953,393,236
	Other	191	Denar 798,702,527
	Total C.	6,621	Denar 11,223,393,319
D. Associations established by one or several contracting authorities	Other	4	Denar 4,565,508
	Total D.	4	Denar 4,565,508
E. Public enterprises, joint stock companies and limited liability companies in the utilities sectors	General public services	483	Denar 1,947,541,744
	Environment	8	Denar 12,675,029
	Housing, construction and transport	48	Denar 897,852,446
	Other	737	Denar 4,146,336,626
	Total E.	1,276	Denar 7,004,405,845
F. Other contracting authorities	Health	1	Denar 460,000
	Social protection	3	Denar 7,000,240
	Other	21	Denar 885,645,091
	Total F.	25	Denar 893,105,331
Total⁶	Total A + B + C + D + E + F	10,433	Denar 41,609,748,918

The category state authorities had the highest share in the value of concluded contracts in 2015, accounting for 36% of the value of public procurement.

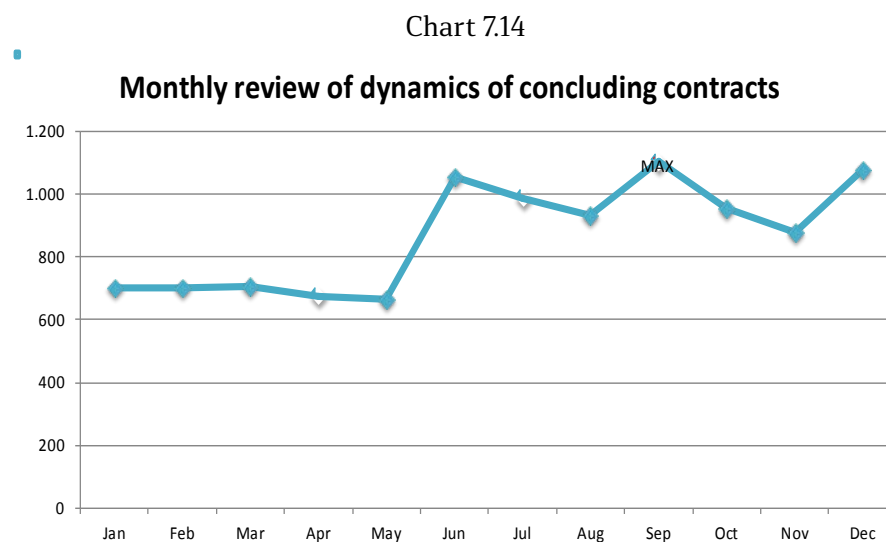
The Table shows detailed review of realised public procurements according to the category and the main business activity of the contracting authorities. The category state authorities had the highest share in the value of concluded contracts in 2015, accounting for **36%** of the value of public procurement. Further on, on the basis of the realised public procurements, legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law accounted for 27% of the value of public procurement. Other contracting authorities participated with around 37% all together in the total value of public contracts. Compared to 2014, significant increase of

⁶ Data refer only to contracts concluded by applying open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice and competitive dialogue, and public services contracts referred to in indent 2, paragraph (1), Article 17, when the estimated value exceeds EUR 20,000 in Denar equivalent.

the share of contracts concluded by state authorities was registered (24% in 2013, 20% in 2014, 36% in 2015), as well as 5% increase of the share of contracts concluded by legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law. As regards public contracts concluded by public enterprises, joint stock companies and limited liability companies in the utilities sectors, their share dropped (24% in 2013, 40% in 2014, 17% in 2015).

7.2.3. Data on Public Contracts Concluded according to Other Parameters

When analysing the dynamics of awarding contracts by month in 2015 (Chart 7.14), it can be seen that most of the contracts were concluded in September.



In addition, it is worth mentioning that 481 framework agreements (total of 670 framework contracts were concluded in 2014) and 409 agreements for conducting joint procurement (250 contracts for conducting joint procurement were concluded in 2014) were concluded in 2015.

As mentioned at the beginning of this Chapter, negotiated procedure with prior publication of a contract notice accounted for 1% in 2015 (7% in 2013, 2% in 2014), while negotiated procedure without prior publication of a contract notice accounted for 4% in 2015 (12% in 2013, 6% in 2014) of the total amount of funds. Table 7.12 and Chart 7.15 show the number and the value of concluded public contracts by applying these procedures on the basis of the reason for applying/legal basis for applying these procedures.

Compared to the previous years, use of negotiated procedure with/without prior publication of a contract notice significantly declined. Such decline was due to the amendment to the Law pertaining to the introduction of the final price concept, whereby the basis for applying the negotiated procedure without prior publication of a contract notice is deleted in cases when in an open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice and simplified competitive procedure, the contracting authority cannot schedule electronic auction for the reason that there is not enough competition. Drop in applying the negotiated procedures was also due to the introduction of the prior consents to be obtained from the Public Procurement Council.

Positive benefit worth mentioning is the two-fold decline of the total value of concluded contracts in relation to last year as regards the negotiated procedures without prior publication of a contract notice.

Data on the negotiated procedure can lead to the conclusion that the most used reason/legal justification for the application of the negotiated procedure without prior publication of a contract notice is indent 2, point 1), paragraph (1) of Article 99 of the Law, when due to technical or artistic reasons, i.e. for reasons related to the protection of exclusive rights (patents and alike), the contract may be executed only by a particular economic operator, whereby this reason accounted for 37% of the value of contracts concluded by applying the negotiated procedures. Other reasons, accounting for 34% of the total value of contracts awarded by applying the negotiated procedure without prior publication of a contract notice, were related to extreme urgency brought about by events

unforeseeable by the contracting authority, nor attributable to it as an omission, while 21% of the reasons related to additional works that cannot be technically or economically separated from the original contract. Following reason accounted for 4% of the total value of the contracts awarded by applying the negotiated procedure without publication of a contract notice, when, following the design contest, the concerned contract was awarded to the best ranked participant or to one of the best ranked participants. Share of other reasons/legal justification for the application of negotiated procedure without prior publication of a contract notice is insignificant and accounted for less than 1% of the total value of awarded contracts.

Compared to last year, what is interesting is that although the number of contracts awarded by applying the negotiated procedure without prior publication of a contract notice increased (969 in 2015, 826 in 2014), the total value of awarded contracts was almost twice (48%) lower (Denar 1,802,347,717 in 2015, Denar 3,466,477,316 in 2014).

Table 7.12

Type of procedure	Justification for selection of a procedure	Number of awarded contracts	Value of awarded contracts
A. Negotiated procedure with prior publication of a contract notice	in exceptional cases, when the nature of the works, supplies or services, or the risks arising therefrom, does not allow a prior overall pricing of the contract;	3	Denar 257,596,182
	for services, if the service is of such nature, that the technical specifications cannot be determined with sufficient precision so as to enable the awarding of the contract on the basis of the most advantageous tender in accordance with the rules governing open or restricted procedure;	2	Denar 383,136,227
	Total A.	5	Denar 640,732,409
B. Negotiated	when in an open procedure, restricted procedure, negotiated procedure with	1	Denar 4,264,550 Denar

procedure without prior publication of a contract notice	prior publication of a contract notice and simplified competitive procedure, the contracting authority cannot schedule electronic auction for the reason that there is not enough competition ⁷		
	when the contracting authority has to procure additional deliveries from the original contractor for the purpose of partial replacement of common supplies or installations or extension of the existing supplies or installations;	11	Denar 25,134,595
	when no tender in an open procedure or no request to participate in the first phase of a restricted procedure is submitted, provided that the initial requirements of the contract are not altered;	27	Denar 11,527,157
	in case of reasons of extreme urgency caused by events the contracting authority cannot foresee, nor they can be attributed to it as an omission;	577	Denar 608,422,723
	when due to technical or artistic reasons, i.e. reasons connected to protection of exclusive rights (patents, etc.), the contract can be executed only by a particular economic operator;	296	Denar 666,460,474
	when, following a design contest, the concerned contract is awarded to the best ranked participant or to one of the best ranked participants;	11	Denar 66,030,949
	when the purchase is under particularly advantageous terms, from either a tenderer which is closing up its business activities (winding-up or bankruptcy), a receiver or a liquidator upon prior agreement with the	1	Denar 981,451

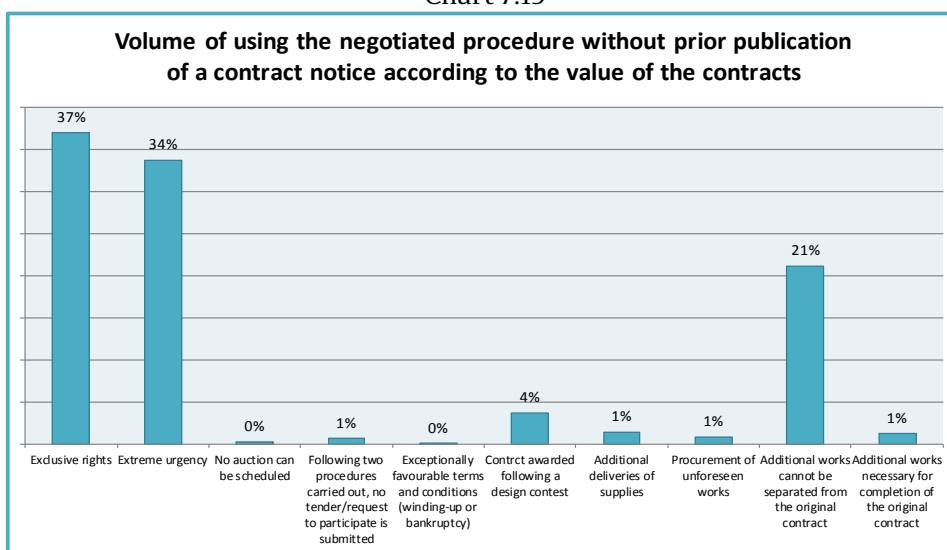
⁷ Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement, published in the "Official Gazette of the Republic of Macedonia" no. 148 dated 29th October 2013, indent 4 in point 1, paragraph (1), Article 99 is deleted, i.e. awarding contracts by applying this provision is no longer allowed/used.

Analysis of Public Procurement Market in 2015

creditors,

procurement of unforeseen works	7	Denar 15,361,223
such additional works or services cannot be technically or economically separated from the original contract without major inconvenience for the contracting authority	30	Denar 382,366,748
such works or services, although separable from the execution of the original contract, are strictly necessary for its completion.	8	Denar 21,797,847
Total B.	969	Denar 1,802,347,717

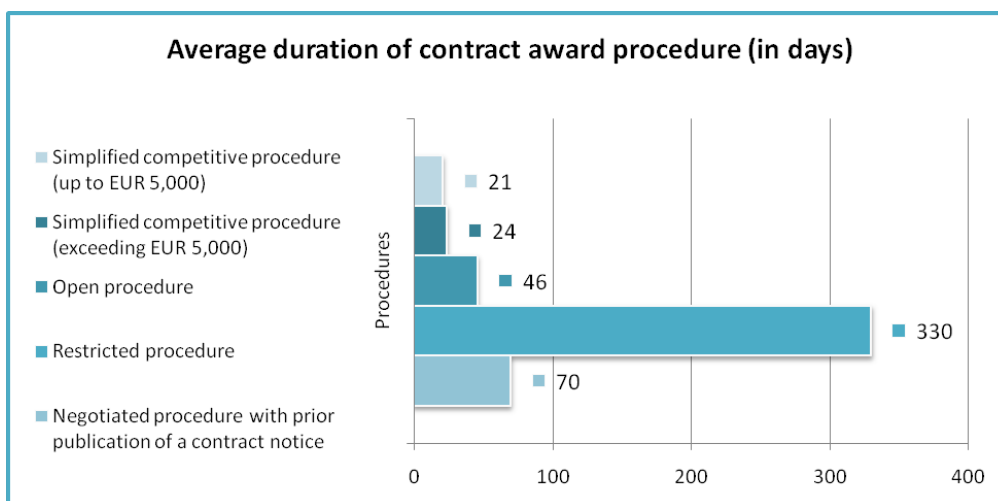
Chart 7.15



Data that can also serve to present efficiency of contract award procedures is average duration of the procedures from the public tender opening to concluding the contract. Gathered data lead to the conclusion that average duration of the evaluation phase in 2015 at simplified competitive procedure with an estimated value of up to EUR 5,000 in Denar equivalent was 21 days (12 days in 2013, 21 days in 2014), simplified competitive procedure with an estimated value of up to EUR 20,000 in Denar equivalent for supplies and services and up to EUR 50,000 in Denar equivalent for works was 24 days (26 days in 2013, 24 days in 2014), open procedure - 46 days (28 days in 2013, 45 days in 2014), restricted procedure

– 330 days (156 in 2013, 139 days in 2014) and negotiated procedure with prior publication of a contract notice – 66 days in 2013, 77 days in 2014 and 70 days in 2015.

Chart 7.16



Comparison of the duration of procedures in the last 3 years is presented in Table 7.13.

Table 7.13

Average duration of contract award procedures			
	2013	2014	2015
Simplified competitive procedure (up to EUR 5,000)	12 days	21 days	21 days
Simplified competitive procedure (exceeding EUR 5,000)	26 days	24 days	24 days
Open procedure	28 days	45 days	46 days
Restricted procedure	156 days	139 days	330 days
Negotiated procedure with prior publication of a contract notice	66 days	77 days	70 days

Below are presented data on the value of concluded contracts by contracting authority (a list of 10 largest public consumers in 2012), and

by contract (list of 10 highest-value public contracts in 2015). Tables 7.14 and 7.15.

Table 7.14

List of contracting authorities – 10 largest consumers in 2015	
<i>Name of contracting authority</i>	<i>Total value of contracts (Denar)</i>
Ministry of Health	3,591,817,712
Macedonian Power Plants Joint Stock Company - Skopje	3,132,161,924
Ministry of Agriculture, Forestry and Water Economy	2,583,881,768
Ministry of Education and Science	2,116,255,149
City of Skopje	1,594,522,084
Common Service Agency within the Government of the Republic of Macedonia	1,107,701,478
Ministry of Internal Affairs of the Republic of Macedonia	981,765,427
Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia - Skopje	843,918,239
Water Supply and Sewerage Public Enterprise - Skopje	786,647,919
Makedonija Pat Public Enterprise - SKopje	784,653,854

Next few tables show data on the 10 highest-value public contracts by type of contract concluded in 2015, i.e. the highest-value contracts for procurement of supplies, services and works. Tables 7.15, 7.16 and 7.17.

Analysis of Public Procurement Market in 2015

Table 7.15

List of 10 highest-value supply contracts concluded in 2015			
Subject-matter of procurement	Name of contracting authority	Contractor	Value of concluded contracts
Procurement of pharmaceuticals for the needs of public health institutions in the Republic of Macedonia	Ministry of Health	Sales and services company ALKALOID KONS import - export DOOEL Skopje	431,811,053
Procurement of biochemical tests for the needs of public health institutions in the Republic of Macedonia	Ministry of Health	Sales and services company BIOTEK DOO export-import Skopje	430,028,518
Procurement of pharmaceuticals for the needs of public health institutions in the Republic of Macedonia	Ministry of Health	Trading, production and services company FENIKS FARMA DOOEL Skopje	395,510,594
Procurement of pharmaceuticals for the needs of public health institutions in the Republic of Macedonia	Ministry of Health	Company for domestic and international sales ZEGIN DOO Skopje	252,755,401
Procurement of Euro Diesel BS (D – EV) dividible into lots	Directorate for Compulsary Reserves of Oil and Oil Derivatives	OKTA Oil Refinery joint stock company - Skopje	229,200,000
Procurement of 1 (one) oil derivative – Euro Diesel BS (D – EV) for the needs of compulsory reserves of the Republic of Macedonia	Directorate for Compulsary Reserves of Oil and Oil Derivatives	OKTA Oil Refinery joint stock company - Skopje	229,200,000
Bitumen 50/70	Makedonija Pat Public Enterprise - SKopje	Company for retail sale and wholesale, representation, mediation and re-export KI-EM DOOEL export – import Skopje	188,752,800
Procurement of pharmaceuticals for the	Ministry of Health	Company for production, trading and services	182,261,707

Analysis of Public Procurement Market in 2015

needs of public health institutions in the Republic of Macedonia		FARMA DOOEL import - export Skopje	
Procurement of vaccines for continuous immunization and immunization by epidemiological indications of the population in the Republic of Macedonia for the period 2015 - 2016	Ministry of Health	Company for production and sales of chemical and cosmetics products ELBIJOR DOO import - export Skopje	179,509,734
Procurement of Eurodiesel BS (D - EV) dividible into lots	Directorate for Compulsary Reserves of Oil and Oil Derivatives	MAKPETROL joint stock company for sales of oil and oil derivatives Skopje	152,800,000

Table 7.16

List of 10 highest-value services contracts concluded in 2015			
Subject-matter of procurement	Name of contracting authority	Contractor	Value of concluded contracts
Maintenance of hygiene, current maintenance services, typing services, fire prevention services and services related to operating a TT switchboard in state administration bodies	Common Service Agency within the Government of the Republic of Macedonia	Company for providing security services and services SECURICOM MULTISERVICE INTERNATIONAL DOO Skopje	660,834,855
Telecommunication services for the needs of the Ministry of Internal Affairs	Ministry of Internal Affairs of the Republic of Macedonia	Macedonian Telecom joint stock company for electronic communications - Skopje	354,000,000
Use of auxiliary mechanization upon call for the needs of REK Bitola	Macedonian Power Plants Joint Stock Company - Skopje	Production, trading and services company RUBITON import - export DOOEL Bitola	346,920,000
Modernisation, extension and maintenance of the street lighting system in Ohrid Municipality	Ohrid Municipality	ICS - systémy s.r.o.	215,650,980
Use of auxiliary mechanization upon call for	Macedonian Power Plants Joint Stock Company - Skopje	Company for trading, production and services	212,400,000

Analysis of Public Procurement Market in 2015

the needs of REK Bitola		MARKOVSKI COMPANY Borce DOOEL Import- Export Bitola	
Use of auxiliary mechanization upon call for the needs of REK Bitola	Macedonian Power Plants Joint Stock Company - Skopje	Company for trading, production and services MARKOVSKI COMPANY Borce DOOEL Import- Export Bitola	188,800,000
Insurance of property	EVN Macedonia joint stock company - Skopje	UNIQA A.D. Insurance Company - Skopje	161,040,240
Use of auxiliary mechanization upon call for the needs of REK Bitola	Macedonian Power Plants Joint Stock Company – Skopje	Company for production, trading, services and transport MIS – KOMERC Mitko DOOEL export – import Skopje	136,880,000
Use of auxiliary mechanization upon call – telescopic conveyor belt cleaners and auto cranes for the needs of REK Bitola	Macedonian Power Plants Joint Stock Company – Skopje	Production, trading and services company RUBITON import - export DOOEL Bitola	106,200,000
Organizing transportation of students in 2015/2016 and 2016/2017 academic years	Strumica Municipality	Limited liability company for transportation of passengers and trading STRUMICA – EKSPRES import – export DOO Strumica	86,327,374

Table 7.17

List of 10 highest-value works contracts concluded in 2015			
Subject-matter of procurement	Name of contracting authority	Contractor	Value of concluded contracts
Construction of "Konsko" dam - Gevgelija	Ministry of Agriculture, Forestry and Water Economy	SERKA TAAHHUT INSAAT AS	2,442,281,400
Construction of Faculty of Physical Educations, Sports and Health within "Ss. Cyril and Methoduous" University, Skopje and construction of a facility for the Faculty of Computer	Ministry of Education and Science	Constrution Company BETON-STIP, joint stock company, Stip	1,127,581,265

Analysis of Public Procurement Market in 2015

Science and Computer Engineering, subterranean parking garages and parterre landscaping within “Ss. Cyril and Methodious” University, Skopje			
Construction works for construction of a facility State institutions AP 7.1.1 DCP Central city area of the City of Skopje – Mal Ring in Skopje	Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia – Skopje	Company for production, trading, construction and services DEKON-KOM DOOEL import – export Skopje	612,902,378
Construction of a facility with sculptural composition	Ministry of Culture	BETON AD Skopje Construction Company (joint stock company)	342,223,926
Construction of an indoor swimming pool in Ohrid Municipality	Youth and Sports Agency	Company for construction, trading and services BAUER BG DOO Skopje	297,714,000
Execution of construction and construction and craftsmanship works in the building of the Assembly of Republic of Macedonia	Assembly of the Republic of Macedonia	BETON AD Skopje Construction Company (joint stock company)	262,911,673
Construction of “Football Training Center” sports complex	Gazi Baba Municipality	VARDAR HANDBALL CLUB joint stock company Skopje	251,077,670
Construction of an administrative business and commercial building, including construction of indoor green market (third publication)	Ohrid Municipality	ILINDEN AD company for construction, production, trading and catering, joint stock company, Struga	239,610,029
Reconstruction and adaptation of “St. Erazmo” Specialised Hospital, Ohrid	Ministry of Health	Company for construction, production, trading, catering and services VIA ENGINEERING DOO import – export Cvetomir Vevcani	219,100,195
Additional works for construction of a facility	City of Skopje	BETON AD Skopje Construction Company	194,700,000

7.2.4. Participation of Economic Operators in Contract Award Procedures

Data on participation of the economic operators in contract award procedures by individual contract, i.e. number of individual economic operators selected as contractors according to the number of concluded contracts, as well as according to the value of the concluded contracts in 2015, are presented below.

Table 7.18

List of 20 economic operators being awarded the most public contracts	
Contractor	Number of concluded contracts
Sale and services company BIOTEK DOO export-import Skopje	401
MAKPETROL joint stock company for sales of oil and oil derivatives Skopje	306
Sales and services company AVICENA DOO export-import Skopje	272
Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI Skopje	270
Company for production, trading and services PUCKO PETROL import - export DOOEL Village of Plasnica, Plasnica	263
Company for domestic and international sales ZEGIN DOO Skopje	253
Sales company MAKEDONIJALEK DOOEL Skopje	222
Trading, production and services company PROMEDIKA DOO Skopje	206
Company for wholesale and retail sale, services, marketing and import - export MANCE DENT Velika DOOEL Bitola	206
AD INSURANCE POLICY National Insurance Group (join stock company) - Skopje	189
DAUTI KOMERC AD Company for production, sales and services import - export, joint stock company, Village of Bojane, Saraj Municipality	188
Trading, production and services company BI-EL ENGINEERING import - export DOOEL Strumica	169
Sales and services company ALKALOID KONS import - export DOOEL Skopje	168

Analysis of Public Procurement Market in 2015

Company for production, sales and services OFFICE PLUS DOOEL import - export – Skopje	165
Macedonian Telecom joint stock company for electronic communications - Skopje	148
ONE Telecommunication Services DOO Skopje	145
Company for production and sales of chemical and cosmetics products ELBIJOR DOO import - export Skopje	141
Sales and consulting company FARMAHEM DOOEL Skopje	130
Company for production, sales and services SUPERTRADE DOOEL import - export – Skopje	120
Company for production, trading and services HOSSAM DOO import - export Skopje	120

Table 7.19

List of 20 economic operators with the most concluded contracts according to the value of the concluded contracts	
Contractor	Value of concluded contracts
SERKA TAAHHUT INSAAT AS	2,442,281,400
Constrution Company BETON-STIP, joint stock company, Stip	1,217,581,265
Company for construction, trading and services BAUER BG DOO Skopje	1,024,667,066
BETON AD Skopje Construction Company (joint stock company)	917,969,058
Sales and services company ALKALOID KONS import - export DOOEL Skopje	889,692,649
MAKPETROL joint stock company for sales of oil and oil derivatives Skopje	835,340,545
Company for providing security services and services SECURICOM MULTISERVICE INTERNATIONAL DOO Skopje	725,685,204
Company for production, trading and services PUCKO PETROL import - export DOOEL Village of Plasnica, Plasnica	707,784,527
Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI Skopje	706,322,290
Sales and services company BIOTEK DOO export-import Skopje	664,712,127
Company for production, trading, construction and services DEKON-KOM DOOEL import – export Skopje	661,611,689
Macedonian Telecom joint stock company for electronic communications - Skopje	659,193,531

Analysis of Public Procurement Market in 2015

Company for trading, production and services MARKOVSKI COMPANY	590,173,820
Borce DOOEL Import-Export Bitola	
Trading, production and services company FENIKS FARMA DOOEL Skopje	573,717,163
Company for domestic and international sales ZEGIN DOO Skopje	545,666,517
OKTA Oil Refinery joint stock company - Skopje	480,762,070
Trading, production and services company PROMEDIKA DOO Skopje	477,886,612
Production, trading and services company RUBITON import - export DOOEL Bitola	475,540,000
Sales and services company AVICENA DOO export-import Skopje	394,606,623
Construction and trading company ZIKOL DOOEL export – import Strumica	386,928,813

Data on the number and the value of contracts concluded by category of tenderer and by country of origin of the contractor are presented below. In fact, it is necessary to mention that annual subscription to use the services offered by the Electronic System for Public Procurement was introduced in 2012. The fee to be paid by the economic operators depends on the company size as registered in the Central Registry of the Republic of Macedonia, according to the Tariff Book on Fee for Using Electronic System for Public Procurement, published in the “Official Gazette of the Republic of Macedonia”, no. 44 dated 30th March 2012. As per the above mentioned, 5,272 economic operators are registered and active on the Electronic System for Public Procurement, which are presented in Table 7.20 by category of tenderer.

Table 7.20

Registered economic operators by category of tenderer	
<i>Category of tenderer</i>	<i>Active economic operators</i>
Micro	1,688
Small- and medium-sized	3,133
Large	162
Foreign	253
Natural person	36

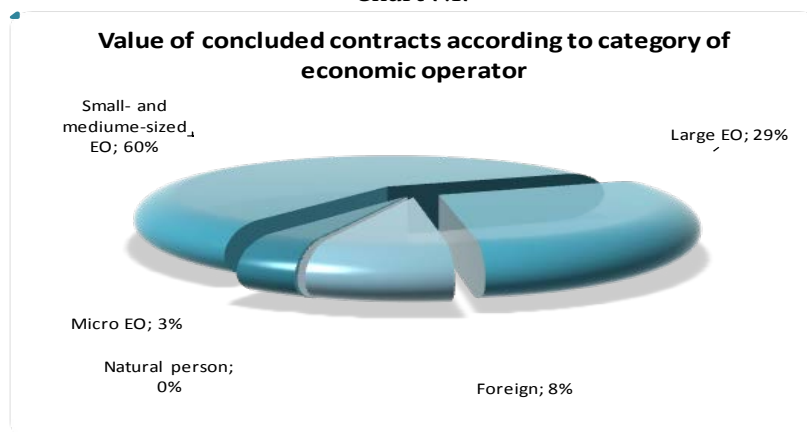
Small- and medium-sized companies accounted for the most (60%) of the value of concluded contracts by category of tenderer.

Large companies, although only 162 registered on the ESPP, participated with 29% in the total value of concluded contracts.

Table 7.21

Number and value of concluded contracts by category of tenderer		
	Number of concluded contracts	Value of concluded contracts
Micro	3,023	Denar 1.62 billion
Small- and medium-sized	19,875	Denar 27.76 billion
Large	4,339	Denar 13.58 billion
Foreign	84	Denar 3.56 billion
Natural person	17	Denar 5.38 million

Chart 7.17



The data lead to the conclusion that national companies participated the most on the public procurement market in the Republic of Macedonia, accounting for 92% of the value of awarded public contracts.

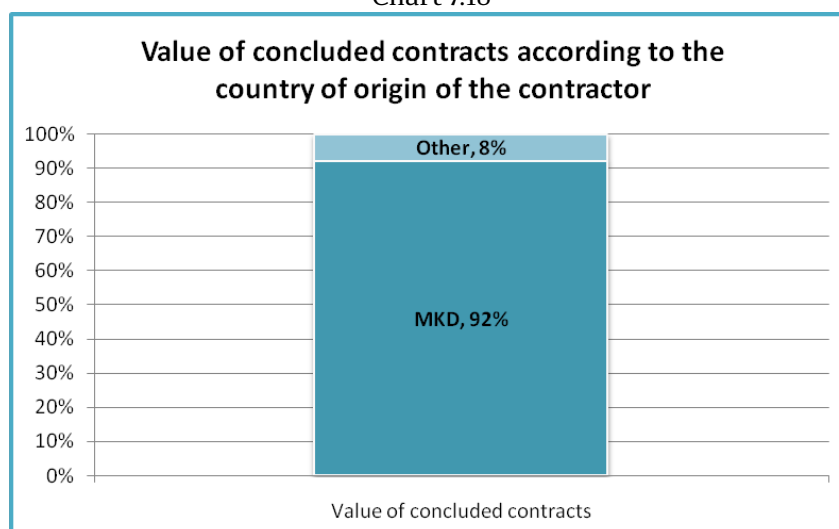
Analysis of both the number and the value of concluded contracts by category of tenderer (Table 7.21) shows that most of the contracts concluded in 2015 (19,875 contracts) fall within the category of small- and medium-sized companies, accounting for 60% of the total value of the concluded contracts. In fact, value share of the category large companies accounted for 29% (4,339 contracts), while micro companies accounted for the least – 3 % of the total value of the public procurements carried out (3,023 contracts concluded), taking into account that they accounted for the most at the simplified competitive procedures.

Analysed by country of origin of the contractor, data are presented in Table 7.22 and Chart 7.18.

Table 7.22

Country of origin of the contractor	Number of concluded contracts	Value of concluded contracts
Macedonia	27,254	Denar 42.85 billion
EU	39	Denar 695 million
Other	47	Denar 2.98 billion

Chart 7.18

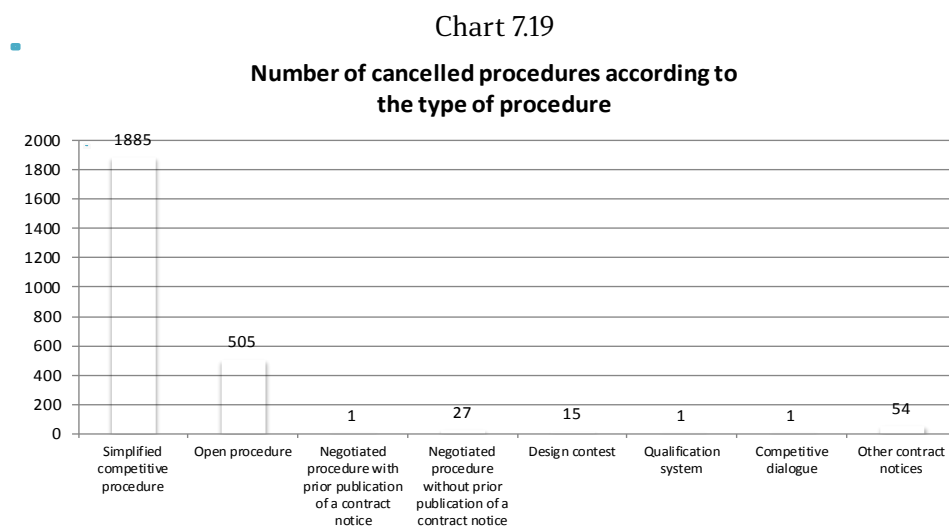


Above-stated data in Table 7.22 and Chart 7.18 lead to the conclusion that national companies participated the most on the public procurement market in the Republic of Macedonia, accounting for 92% of the value of awarded public contracts. Share of foreign companies as contractors in the public contracts accounted for 8% in 2015. Value and percentage of awarded contracts to companies outside Macedonia dropped compared to the previous year (13% in 2014).

7.3. Data from Cancellation Notices

Analysis of the data on the number of cancellations in 2015 show that total of 2,489 cancellation notices were filled in through the ESPP. These data refer to the cancellation of the whole procedure, rather than to cancellation of parts thereof. Chart 7.19 presents data on cancellation of procedures by type of procedure.

In 2015, 13% of the published contract notices were cancelled, being an improvement in relation to last year, i.e. there were less cancelled procedures.



Above-presented data lead to the conclusion that 13.46% of the published contract notices was cancelled in the course of 2015, being lower percentage of cancellations compared to 2014 (when 17% of the published contract notices were cancelled).

Chart 7.20

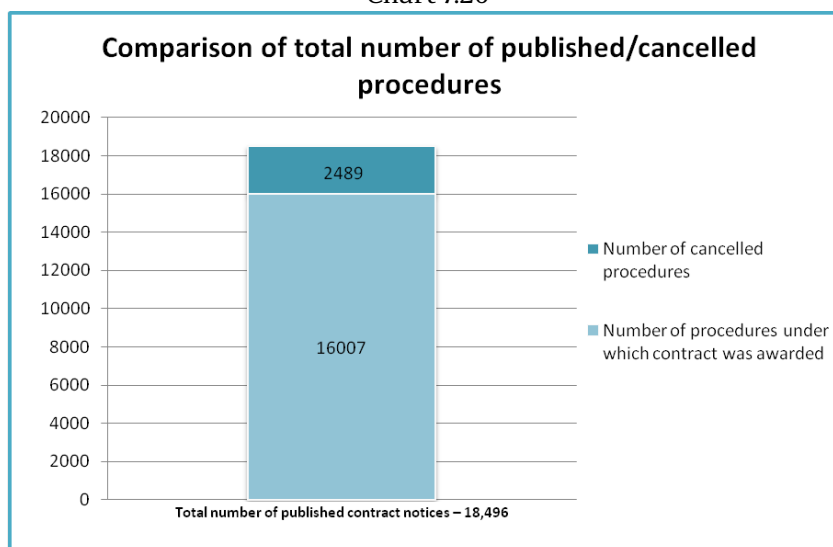


Table 7.23 presents the reasons for cancellation of procedures. It can be concluded that procedures in 2015 were most often cancelled due to the following reasons:

- no tender was submitted
- no acceptable tender was submitted
- no appropriate tender was submitted
- contracting authority found that tender documentation had major shortcomings or deficiencies and
- tenderers offered prices and terms and conditions for execution of the public contract which were less favourable than the real prices and terms and conditions on the market.

The most common reason for cancellation of the procedures in 2015 was that no tender was submitted.

Table 7.23

Information on the reasons for cancellation of the procedure or cancellation of parts thereof	Number of cancelled procedures	Number of cancelled parts thereof
number of candidates was less than the minimum number envisaged for the contract award procedures pursuant to the Law	5	3
no acceptable tender was submitted	372	166
no appropriate tender was submitted	266	91
no tender was submitted	673	536

Analysis of Public Procurement Market in 2015

acceptable tenders were submitted, but they could not be compared due to different approaches in the financial or technical proposals	65	22
unforeseeable changes occurred in the budget of the contracting authority	75	2
tenderers offered prices and terms and conditions for execution of the public contract which were less favourable than the real prices and terms and conditions on the market	283	176
contracting authority found that tender documentation had major shortcomings or deficiencies	313	28
needs of the contracting authority changed due to unpredictable and objective circumstances	70	14
contracting authority could not select the most advantageous tender due to major violations to the Law on Public Procurement pursuant to Article 210 of this Law	248	45
selected tenderer withdrew from signing the contract	17	5
State Appeals Commission cancelled the procedure	85	17
other reasons (other notices, design contest)	17	/
Total	2,489	1,105

Table 7.24

Contracting Authority	Cancelled procedures	Published contract notices	Percentage of cancelled contract notices
Ministry of Internal Affairs of the Republic of Macedonia	35	104	33.65%
Macedonian Railways Transport AD (joint stock company) - Skopje	16	52	30.77%
Makedonija Pat Public Enterprise - Skopje	25	88	28.41%
Macedonian Post AD (joint stock company)	24	86	27.91%
Macedonian Power Plants Joint Stock Company - Skopje	122	507	24.06%
Ohrid Municipality	18	78	23.08%
Real Estate Cadastre Agency	16	77	20.78%
PHI Gynecology and Obstetrics University Clinic Skopje	15	75	20.00%
Struga Municipality	12	61	19.67%
Public Transport Enterprise SKOPJE	33	169	19.53%
PHI Psychiatric Hospital "Demir Hisar"	12	62	19.35%

Ministry of Defense - Logistics Department	37	194	19.07%
Bitola Municipality	35	191	18.32%
Common Service Agency within the Government of the Republic of Macedonia	36	198	18.18%
Water Supply and Sewerage Public Enterprise - Skopje	22	121	18.18%

7.3.1. Data from Forms for Amending and Supplementing the Contract Notice

In 2015, total of 1,272 forms for amending and supplementing the contents of the contract notice were published through the ESPP. These data show that 7% of the contract notices, after being published, underwent amendments or supplements regarding the tender documents and, pursuant to the legal amendments, the time limit had to be changed accordingly, being by 15% less compared to 2014. Amendments and supplements were most often made at the simplified competitive procedure - 668 amendments and supplements, open procedure - 577 amendments and supplements, restricted procedure - 1 amendment and supplement, negotiated procedure with prior publication of a contract notice - 1 amendment and supplement, design contest - 14 amendments and supplements and qualification system - 11 amendments and supplements.

7.4. E-Procurement Procedures

Obvious positive results and benefits from the use of e-procurements.

Public Procurement Bureau has been analyzing and monitoring the effects from carrying out procurement procedures electronically for several years now. On the basis of the analyses of data obtained through the ESPP, as well as the experience of the users oriented towards e-procurement, positive effects of e-procurement, especially from point of view of more efficient, more transparent and faster procurement procedures, accompanied with significant savings of resources, are indisputable.

However, despite the benefits from e-procurement, share of contract award procedures carried out electronically in 2015 remained insignificant and unsatisfactory, i.e. carrying out contract award procedures fully electronically was approximately at the same level as in the previous two years.

Pursuant to the modifications and amendments to the Law on Public Procurement, e-procurements are mandatory to apply gradually in the course of the next three years.

Public Procurement Bureau continued organising and carrying out public procurement training in 2015 as well, aimed at getting the users more familiar with the ESPP tools through practical exercises and encouraging the users to use the system.

Use of paper-based form of carrying out procurement procedures continued to a large extent in 2015 as well, among other things because the e-procurement was not mandatory in 2015.

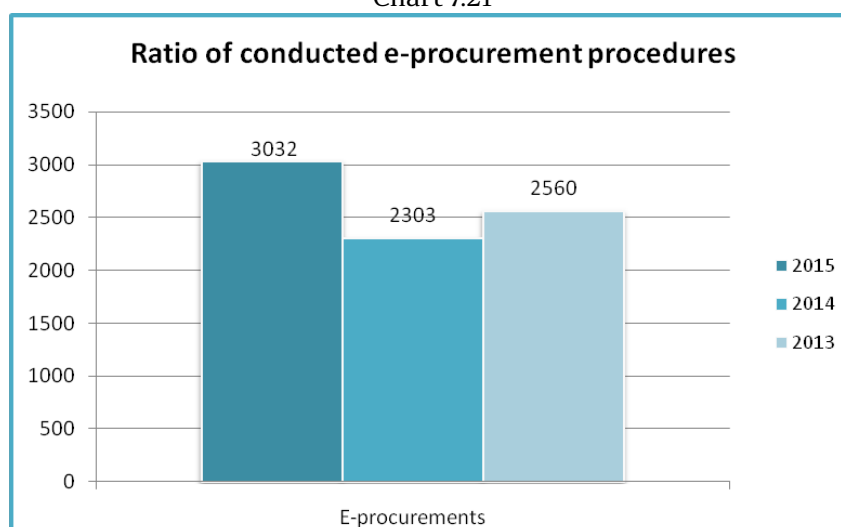
Taking both the positive experience and the benefits into account, Public Procurement Bureau brought about the commitments to improve the legislation aimed at following the European trends on mandatory e-procurement, hence pursuant to the amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 78/15) e-procurement will be mandatory to apply gradually in the course of the next three years.

Expected effects therefrom, as well as the advancement in implementing this legal amendment, will be elaborated further on in this Report.

According to the analyzed data on e-procurement in 2015, it could be concluded that the contracting authorities, having recognised the benefits arising from this manner of awarding contracts, continued to carry out the procedures electronically.

Total of 3,032 e-procurements were carried out through the ESPP in 2015. There were more procedures carried out electronically compared to 2014, at the same time being the highest number of procedures carried out by applying the electronic means so far, however the increased number of published contract notices in 2015 should be also taken into account. Chart 7.21 shows comparison between procurement procedures carried out at annual level.

Chart 7.21



As already mentioned, carrying out the procedures electronically is still not at the satisfactory level. Published contract notices present that around **16.4%** of contract award procedures in 2015 were carried out fully electronically, accounting for the most in the past years.

What is of particular significance, on the basis of the comparative analyses of the procedures carried out electronically and those carried out in the traditional paper-based form, is the information on the average duration of the procedures. In fact, according to the data available to the Bureau, average duration of the procedures carried out electronically is by 4.5 times shorter than the time necessary to carry out the procedures in a paper-based form.

Average number of submitted tenders in 2015 was approximately at the same level as in 2014. In fact, average number of tenders submitted in procedures carried out fully through the ESPP was 3.5 tenders per procedure, while with respect to the paper-based procedure, 2.3 tenders were submitted in average. These data speak in favour of the fact that the use of electronic means in public procurement is not a limiting factor for the economic operators to participate in the procedures, but also encourages the e-procurement trend in general. One of more important remarks the contracting authorities make as a possible repercussion from the introduction of mandatory e-procurement is exactly the fear from reduced competition.

Tenderers - economic operators having participated in number of e-procurements are the following:

1. Civil Engineering Institute MACEDONIA AD - Skopje (joint stock company), 126 times
2. Company for construction, sales and services GEING Krebs und Kifer International and Others DOO Skopje, 119 times
3. Construction and trading company ZIKOL DOOEL export – import Strumica, 70 times
4. Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI – Skopje, 69 times
5. DAUTI KOMERC AD Company for production, sales and services import - export, joint stock company, Village of Bojane, Saraj Municipality, 64 times

6. Sales and services company BIOTEK DOO export-import – Skopje, 63 times
7. MAKPETROL joint stock company for sale of oil and oil derivatives – Skopje, 63 times
8. NEOCOM AD computer engineering company import - export – Skopje, 61 times
9. Company for production, sales and services OFFICE PLUS DOOEL import - export – Skopje, 60 times
10. Company for production, sales and services STENTON GRADBA DOO, Village of Dolno Orizari, Bitola, 59 times

7.5. Electronic Auctions

The threshold for mandatory carrying out of e-auctions in 100% of the published contract notices was attained.

E-auctions were mandatory carried out in 100% of published contract notices in 2015 as well. Contracting authorities successfully have been applying mandatory carrying out of auctions since 2012, and the Public Procurement Bureau has fully performed its legally prescribed competence to control the carrying out of e-auctions and implemented certain automated control processes in the Electronic System for Public Procurement, which prevent avoidance of the application of e-auctions, except in cases prescribed by the Law.

Public Procurement Bureau plays key role in carrying out such government policy.

Like in 2014, it can be concluded that percentage of mandatory e-auctions was achieved, and the Bureau played key role in implementing such government policy.

Data on e-auctions carried out and submission of final prices in the course of 2015 will be presented further on in this Report. Pursuant to the Law on Public Procurement, starting 1st January 2014, in cases of procedures when only one tender is submitted or when only one acceptable tender is submitted, the contracting authority mandatory invites the single tenderer to submit final price through the ESPP. Pursuant to these amendments, the system provides for a module through which the single tenderer has the possibility to reduce the

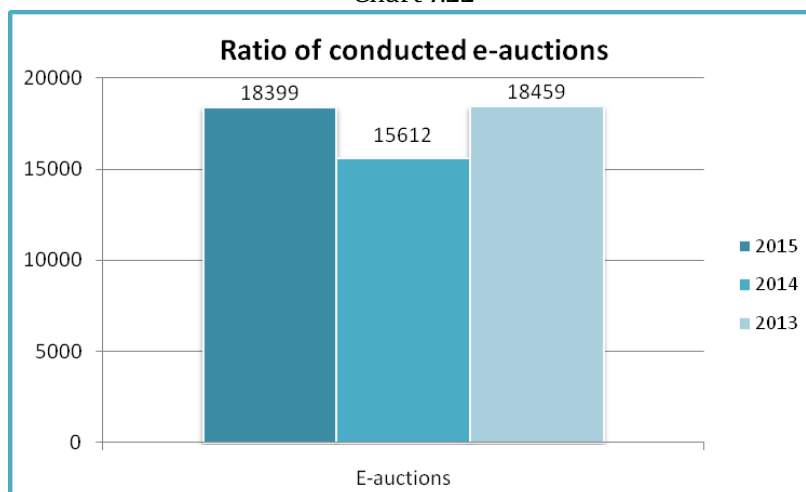
In 2015, there were 18,426 contract notices published for procedures with e-auctions as a final phase in e-procurement procedures or procedures previously carried out in a paper-based form.

initially submitted price, hence data regarding the submitted final prices will be presented, like in last year's Report, in the additional analyses below in this Report.

In 2015, there were 18,399 contract notices published for procedures with e-auctions as a final phase in e-procurement procedures or procedures previously carried out in a paper-based form. This figure leads to the conclusion that 99.85% of the published contract notices in 2015 included e-auction as final phase of the procedure. Other contract notices fall within the exception from the application of e-auction referred to in Article 123 of the Law on Public Procurement and they are not taken into account when determining the percentage of procedures that are to include e-auction as final phase on mandatory basis. Even if they are taken into account, it can be seen that they are in an insignificant number – only 27 contract notices.

There were 41,535 e-auctions carried out in 2015 through the ESPP or 158 e-auctions a day in average and 31,373 submissions of final price (119 submissions daily)(working days)

Chart 7.22



The Chart presents the total published contract notices envisaged to include e-auction as final phase. However, it should be taken into consideration that only one acceptable tender was submitted for part of the procedures or parts thereof, hence submission of final price was the

final phase in these procedures/parts thereof. More detailed analyses will be presented below in this Report.

An important data, reflecting the volume of using the ESPP itself, is also the number of e-auctions carried out on the Electronic System for Public Procurement. There were 41,535 e-auctions carried out in 2015 or 158 e-auctions a day in average. Submission of final price is added to this figure. In fact, in the course of 2015, there were total of 31,373 submissions of final price or 119 submissions of final price a day in average.

7.5.1. Positive Effects from Carrying Out E-Auctions and E-Procurement

So-far experience in public procurement analysed by the Bureau shows that the most significant effect achieved by carrying out the e-auctions is generating savings. Thereby, the Bureau calculates the savings generated through e-auctions as follows:

- a) the lowest price being the criterion for awarding the contract - the savings generated is the difference between the initial price at the e-auction (the lowest price from all tenders previously evaluated and accepted to participate in the e-auction) and the final price achieved at the e-auction, i.e. the value of the contract concluded.
- b) economically most advantageous tender being the criterion for awarding the contract - the savings generated is the difference between the own initial price and the price of the tenderer with the most advantageous tender, following the e-auction.

Data on the e-auctions carried out in the course of 2015 show that average savings of 20% were generated or savings in the amount of Denar 4,339,156,061 in absolute terms (or more than EUR 70 million). Thereby, it

It could be concluded that average savings of 20% were generated or savings in the amount of Denar 4,339,156,061 were generated in absolute terms (or more than EUR 70 million) in the course of 2015.

should be emphasized that, considered as an aggregate value, savings were even higher, since the above-mentioned value also included e-auctions which were carried out at unit price, thus when such value is presented as an aggregate value of the contract, savings have higher aggregate value. If savings generated upon submission of final prices, in the absolute amount of Denar 459,909,076 (expressed as percentage, 10%), are added to these savings, total savings amounted to almost EUR 78 million.

Analyses made by the Bureau lead to the conclusion that the amounts of the savings, both as aggregate value and as a percentage, had constantly increased in the last three years. Amounts of the savings generated at the auctions carried out in the last three years are presented in Table 7.25. Amounts of the savings by type of the criterion used for awarding the public contract were as follows:

- as regards e-auctions in procedures in which the lowest price was the criterion applied, savings in the amount of Denar 4,339,031,562 were generated,
- as regards e-auctions in procedures in which the economically most advantageous tender was the criterion applied, savings in the amount of Denar 124,499 were generated.

Inconsiderable share of savings generated in procedures in which the economically most advantageous tender was the criterion applied was due to the overall significant drop in the number of procedures carried out in the course of 2015 by applying this criterion, which, on the other hand, was due to the introduction of the obligations to obtain a consent from the Public Procurement Council.

Chart 7.23

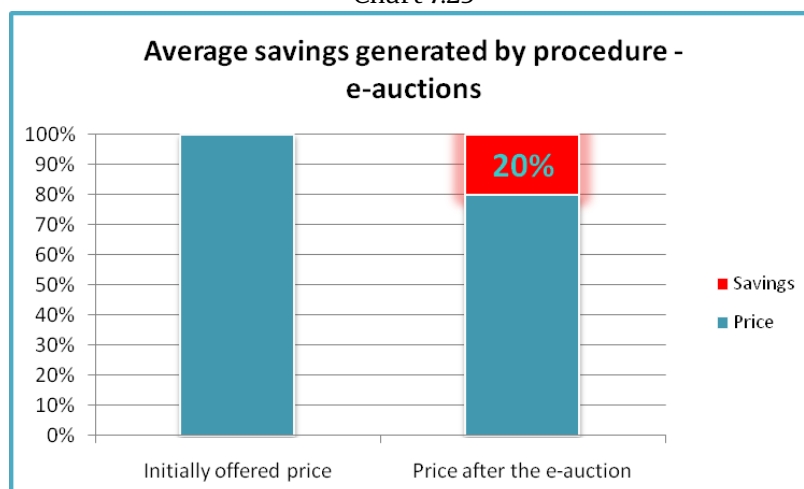


Table 7.25

Total amount of savings generated through e-auctions	
2015	Denar 4,339,156,061
2014	Denar 3,595,492,629
2013	Denar 3,382,290,268

2015 data and so far practice lead to the conclusion that submission of final price, as a tool, does not even closely yield the results obtained with e-auctions, i.e. when there is competition as regards the procedures.

Data gathered show constant increase of the amount of savings generated in the last three years.

Such trend was mostly a result of the increased volume of procedures (published contract notices) in which the e-auction was the final phase in the e-procurement. On the basis of the so far analyses and experience gained throughout the years as regards the effects from e-auctions and the savings generated by applying them, what is important to be mentioned is that ever important factor contributing to increased amount of savings is the submission of abnormally high prices in the initial tenders at some types of procedures. These analyses and conclusions are also mentioned in the draft Strategy for Development of the Electronic System for Public Procurement, in which the Public Procurement Bureau elaborates on and proposes the possibility for

introduction of a new model of e-auction, which is to be presented further on in this Report.

As regards the savings generated upon the final prices submitted by the tenderers, insignificant percentage of savings (3.37%) could be observed on the basis of the initially offered price by the single tenderer. Compared to last year, this percentage has increased, however, it was observed that, second year in a row after the introduction of mandatory publication of the estimated value, prices were abnormally high up to the amount of the estimated value, especially at specific subject-matters of procurement for which there is no competition on the market. It is worth mentioning here that savings generated through the final price mechanism participated with approximately 10% in the total amount of generated savings. If this information is compared with the number of contract notices with submission of final price as final phase – 37% of the published contract notices, it could be concluded that, as regards the amount of savings and the percentage of savings, submission of final price does not even closely yield the results obtained with the e-auctions, but rather the tenderers, most often, reduce their prices only to be within the estimated value (approximately at the same level as the estimated value).

As regards savings generated from applied auctions compared to different procedures, on the basis of the lowest price as contract award criteria, data are presented in the Table below:

Table 7.26

Type of procedure	Total amount of savings	Percentage of savings
Simplified competitive procedure up to EUR 5,000	Denar 157,765,875	24%
Simplified competitive procedure up to EUR 20,000	Denar 437,049,060	21%

Analysis of Public Procurement Market in 2015

Open procedure	Denar 3,433,635,367	18%
Restricted procedure	Denar 310,581,257	13%

In 2015, the same trend continued – larger savings were generated at the procedures with higher value thresholds. In fact, 79% of the total amount of the savings was generated at e-auctions carried out at the open procedures (share of open procedures in the total number of published contract notices accounted for approximately only one third of the contract notices). Higher percentage of savings was observed at the simplified competitive procedure compared to 2014, however, only at the procedures in which the lowest price was the criterion applied, while the economically most advantageous tender was practically not applied as a criterion at these procedures in 2015.

Savings generated at negotiated procedure with prior publication of contract notice were insignificant and are not included in this review.

As is the case with the procedures and the savings generated on the basis of carried out auctions, savings generated on the basis of submission of final prices - the highest percentage (85%) were also observed at the open procedures.

As regards savings generated on the basis of auctions by type of procurement, i.e. type of supplies, service or works procured, more important data are shown in the Table below:

Table 7.27

Activity/sector	Percentage of savings
IT and telecommunication goods and services	25.02%
Consumable supplies and stationery and printing/publishing services	24.50%
Fixed assets	22.66%

The largest amount of savings was generated at the e-auctions as final phase of the open procedure.

Construction works, works related to
environment, utilities services, hygienic
– technical equipment/products and
other related supplies/services

21.90%

In 2015, e-auctions were carried out in 63% of the published contract notices, while 37% of the published contract notices included submission of final price as final stage, accounting for a large percentage of the contract notices.

Reduction of the initially submitted price was observed at 74% of the scheduled e-auctions.

Tenderers DID NOT reduce the price in 81% of the submissions of final price.

Like in 2014, the largest savings, in average, were generated in the sectors where standardised supplies and services were offered and where competition on the market existed. As it can be seen from the Table, savings of more than 20% in average were generated in these sectors. In these terms, market competition means that more competitive tenderers participate with their tenders in the contract award procedures. Thereby, it has to be pointed out that, although market competition can exist in a particular sector, if the companies do not participate with their tenders, there would not be real competition in the contract award procedures and the e-auctions would not yield the expected positive effect. In addition, the trend of high percentage of savings in the construction works sector continued, as well as in the sectors for procurement of services (financial – 45%, education, legal, consulting, marketing services and temporary employment services – 34.26%, etc.), where savings of more than 40% were generated on the basis of the carried out e-auction. Since this type of savings does not account as a significant item within the total amount of savings, it is not presented in the Table.

In 2015, at more than 63% out of the total number of published contract notices for procedures having an e-auction as final phase, there were at least two acceptable tenders and e-auctions were carried out, while as regards the remaining 37% of the procedures, final price was submitted. This ratio is presented in Chart 7.24. These data show a significantly large share of the procedures/parts thereof having the submission of final price as final phase in the total number of contract notices/parts thereof for which contracts were concluded.

Quite positive data as regards the use of e-auctions and participation of the tenderers is the percentage of e-auctions at which there was reduction of the initial price. Reduction of the initial price was observed at 74% of the e-auction scheduled and carried out through the system. In 2015, no reduction was made at 25,352 out of the total 31,360 scheduled submissions of final prices or there was no price reduction in 81% of the cases.

Average number of price reductions when carrying out e-auctions in 2015 was around 25 price reductions, while in 2014, there were 23 price reductions in average.

Chart 7.24

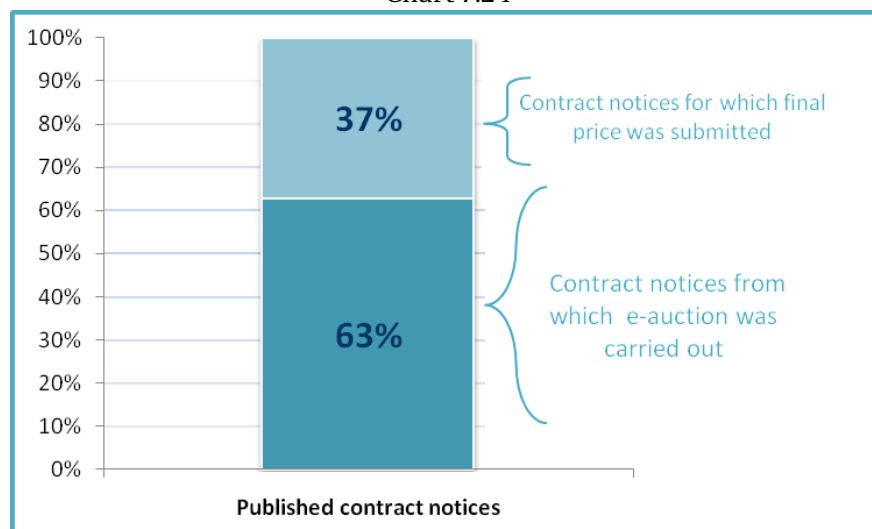


Chart 7.25



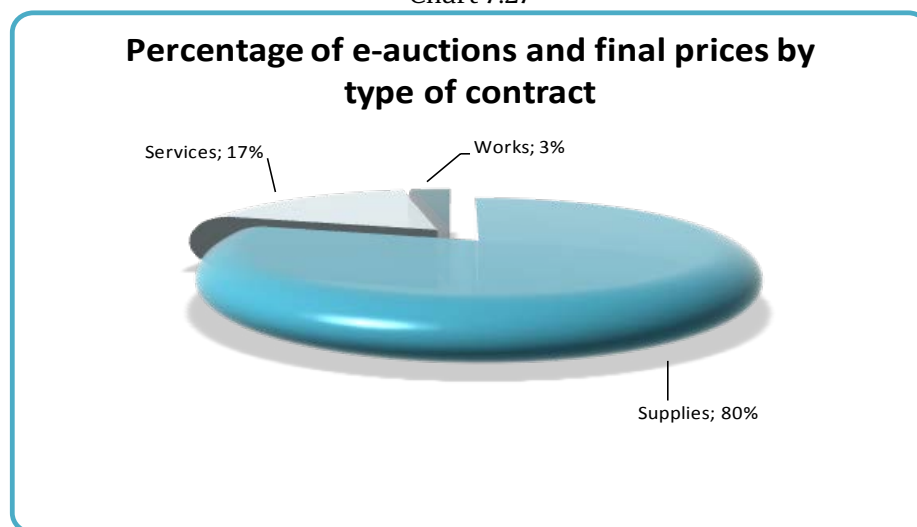
The most e-auctions on one day were carried out on 13th July 2015 - 735 e-auctions.

Average duration of an e-auction was around thirty minutes (including the 3-minute extensions if new reduced price was submitted in the last 3 minutes). Most scheduled e-auctions in one day through the ESPP in the course of 2015 were held on 13th July, when 735 e-auctions were scheduled and carried out, more e-auctions compared to 2014, when 627 e-auctions at the most were scheduled in one day.

Chart 7.26



Chart 7.27



7.6. Competition at Public Procurement

Average number of tenders submitted in procedures carried out fully through the ESPP was 3.5 tenders per procedure, while with respect to the paper-based procedures, 2.3 tenders were submitted in average.

With respect to the analyses made on the basis of the data available to the Public Procurement Bureau as regards competition at public procurement, below are presented some significant data on the number of tenders by procedure, type of contract, as well as data on the basis of how the procedure was carried out (paper-based form or electronically).

It should be taken into consideration that the data are obtained from the ESPP database, whereby with respect to the tenders in the procedures carried out electronically, the system itself produces the number of submitted tenders, while regarding the paper-based procedures, data are obtained from the forms the contracting authorities fill in manually when recording the concluded contracts. Hence, the reliability of these data depends, to a great extent, on the accuracy of the data entered by the institutions.

Average number of tenders submitted in procedures carried out fully through the ESPP was 3.5 tenders per procedure, while with respect to the paper-based procedures, 2.3 tenders were submitted in average.

Average number of submitted tenders at the contract award procedures (including both those carried out electronically and in a paper-based form) is presented in the Tables below:

Table 7.28

Procedure	Average number of tenders
Simplified competitive procedure up to EUR 5,000	2.55
Simplified competitive procedure up to EUR 20,000	3.10
Open procedure	3.39
Restricted procedure	5.50
Negotiated procedure with prior publication of a contract notice	2.60
Negotiated procedure without prior publication of a contract notice	1.92
Awarding public services contract for service category 17- 27	1.85
Qualification system	3.70
Weighted average of all procedures	2.91

Table 7.29

Type	Average number of tenders
Supplies	3.05
Services	2.48
Works	4.13

As far as determining the average number of submitted tenders for all procedures is concerned, average for each procedure individually is taken into account, whereby, in addition to individual average, number of concluded contracts for the respective type of procedure in the concerned accounting period is also taken into consideration.

8. Analysis of the Effects from E-Procurement and E-Auctions

8.1. Introduction of Mandatory E-Procurement – Expected Effects

Positive aspects of carrying out public procurement procedures fully electronically were underlined many times in the annual reports prepared in the past years, and commitments of the Public Procurement Bureau in the context of improving the legislation aimed at following the European trends on mandatory e-procurement were pointed out as well.

Pursuant to the modifications and amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 78/15), e-procurement will be mandatory to apply gradually in the course of the next three years. The contracting authorities are obliged to carry out the open procedures, the restricted procedures and the simplified competitive procedures by using the electronic means through the ESPP, as follows:

- in at least 30% of the published contract notices starting 1st January 2016,
- in at least 50% of the published contract notices starting 1st January 2017, and
- in 100% of the published contract notices starting 1st January 2018.

Legal provision on mandatory carrying out of the contract award procedures by using electronic means through the Electronic System for Public Procurement will contribute to modernizing and improving the public procurement system, all to the end of increasing its efficiency and functionality.

New Directives on Public Procurement, which were published in the Official Journal of the European Union at the end of March 2014, clearly recognised the e-procurement as a key factor in increasing efficiency and ensuring transparency, hence the focus is placed on carrying out public procurement procedures by using electronic means. According to the new EU Directives, it is envisaged for the tenders for the contract notices published by all contracting authorities to be mandatory submitted electronically (e-submission) by September 2018.

Introduction of this legal provision and its successful implementation will be in the limelight of the Strategy for Development of the Electronic System for Public Procurement. Mandatory use of the electronic system when carrying out public procurement procedures entails future plans for upgrading the system and developing new tools for easier and simplified access to, and use of, the system.

Carrying out the procedures electronically provides for series of benefits and advantages, while e-procurement will contribute to accomplishing many objectives, the most significant being the following:

- efficiency in the public sector – saving time and funds in the contract award procedures and improvement in terms of managing and implementing the awarded contracts;
- increased transparency and fair competition at contract award procedures;
- improved monitoring and auditing of the contracts, providing for greater conformity with the rules and the policies, thus minimizing corruption and abuses;
- enhanced competition by improving the access to the public sector market and better possibilities for cross-border trading;
- improved and better communication between the contracting authorities and the economic operators, and

- unification and standardisation of the steps undertaken when carrying out certain types of public procurement procedures.

8.2. Analysis of the Effects from Carrying Out E-Auctions

E-auctions yield the expected results when standardized supplies and services are procured, with well-defined technical specifications and when used on a market with high level of competition.

According to the analyses made by the Public Procurement Bureau, the experienced gained so far can lead to the conclusion that effects for carrying out e-auctions were not always as initially assessed and expected. In fact, there are both positive and negative effects arising from carrying out e-auctions. Public Procurement Bureau maintains the recommendations and the conclusions analyzed in the 2013 and 2014 Reports, when main features and trends related to e-auctions were presented, as well as the cases when e-auctions did not provide for the best results. Among out things, following were detected as major shortcomings: e-auctions yielded the expected results when standardised supplies and services were procured, with well-defined technical specifications and when used on a market with high level of competition; not all subject-matters of procurement were suitable to be tendered at an e-auction; real effect of the savings at higher-value procurements; abnormal increase of prices in the phase prior to the e-auction; speculative activities as regards the price, etc.

General conclusions from the experience so far is that, theoretically/technically, e-auctions could be used in all procurement procedures, however, they do not give the results and do not justify the purpose of their existence if used in 100% of the procurement procedures. Therefore, Bureau's plans and proposals are aimed at:

- on medium/long run, abolishing the mandatory use of e-auctions and introducing their optional use (or their use to be partially mandatory for certain types of procurement procedures);

- not publishing the estimated value of the procurement, in case of applying e-auction;
- abolishing the tool for submission of final price due to inexpediency and minor effects therefrom in practice.