Ministry of Finance
Public Procurement Bureau

ANNUAL REPORT for 2016

PUBLIC PROCUREMENT BUREAU

SEPTEMBER 2017

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REPORT
on the activities of the Public Procurement Bureau
in the functioning of the public procurement system in 2016

Ministry of Finance
Public Procurement Bureau

REPORT

on the Activities of Public Procurement Bureau pertaining to the Functioning of Public Procurement System in 2016

Skopje, September 2017

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

1.1. Law on Public Procurement

In the course of 2016, Law on Public Procurement was modified and amended on two occasions. The first amendment was adopted at the beginning of 2016, in February, when Law on Modifications and Amendments to the Law on Public Procurement ("Official Gazette of the Republic of Macedonia", no. 27/2016) was adopted. This amendment provided for harmonization with the amendments under the Law on Modifications and Amendments to the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", no. 5/16). In fact, the amendments were aimed at harmonization with the requirements for foreign language competence for the civil servants.

Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement ("Official Gazette of the Republic of Macedonia", no. 120/16), the Law does not apply to representations by lawyers due to the specificity thereof, as well as contracts concluded between municipalities within the inter-municipal cooperation regulated under the Law on Inter-Municipal Cooperation, so as to facilitate the operations and the activities of the municipalities in the Republic of Macedonia for the purpose of meeting part of their needs.

Such amendment to the Law on Public Procurement is consistent with the solutions in the new EU Directives on Public Procurement, which also exclude their application on this type of services, and it is, at the same time, based on the fundamental principles of the Law on Public Procurement laid down in Article 2 therein.

Starting on 1st January 2016, Public Procurement Council has been separated from the Bureau and it has acquired separate legal personality, which was envisaged under the Law on Modifications and Amendments to the Law on Public Procurement ("Official Gazette of the Republic of Macedonia", no. 192/15).

Public Procurement Bureau carried out its activities envisaged within the Urgent Reform Priorities of the Government. Comprehensive gap analysis of the public procurement system was prepared in cooperation with SIGMA as regards the solutions envisaged in the new EU Directives on Public Procurement. On the basis of this analysis, the Bureau prepared a concept on new Law on Public Procurement, containing alternative solutions for many open issues which are to be resolved so as to implement the recommendations of the European Commission. This concept will be presented to the Government of the Republic of Macedonia and, after being analyzed, the activities foreseen in the Urgent Reform Priorities will be carried out.

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.

In the course of 2016, Public Procurement Bureau modified and amended the Internal Manual on Preparing and Carrying Out Public Procurement Training, Internal Manual on Lecturing the Contents prescribed in the Public Procurement Training Programme by Trainers and the Train-the-Trainer Programme, Internal Manual on Operations of the Commission Members for the Needs of Public Procurement Training,

Internal Manual on the Manner of Organising and Carrying Out the Exam for the Participants in the Public Procurement Training, and Decision on Determining the Amount of the Fee for the Members of the Commission for Training of Contracting Authorities was adopted. 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.

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.

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 Call Center.

In the course of 2016, 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.

Continuing its practice established in 2013, and taking into account the positive response from the participants, in the course of 2016, 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 2016, total of 20 representatives from among the contracting authorities and the economic operators took part in the event scheduled in March. The Bureau plans to continue this practice in future and to organise Open Doors Day on quarterly basis.

During 2016, 200 requests for opinion were submitted to the Bureau by mail and 1,071 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 continuously causing dilemmas at the contracting authorities

During 2016, 200 requests for opinion were submitted to the Bureau by mail and 1,071 requests were submitted through its web contact form.

when carrying out the contract award procedures, the evaluation phase, as well as the procedure for obtaining consent from the Public Procurement Council, while the volume of questions related to the carrying out of e-procurement procedures increased particularly in the course of last year.

Hence, the most frequently posed questions last year pertained to the evaluation and whether certain documents to prove the personal situation, the technical and the professional qualifications need to be requested to be additionally submitted, which is treated as an arithmetic error and how is to act in such situation.

Other frequent questions pertained 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.

In 2016, 13,578 calls were received through the Call Center. 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.

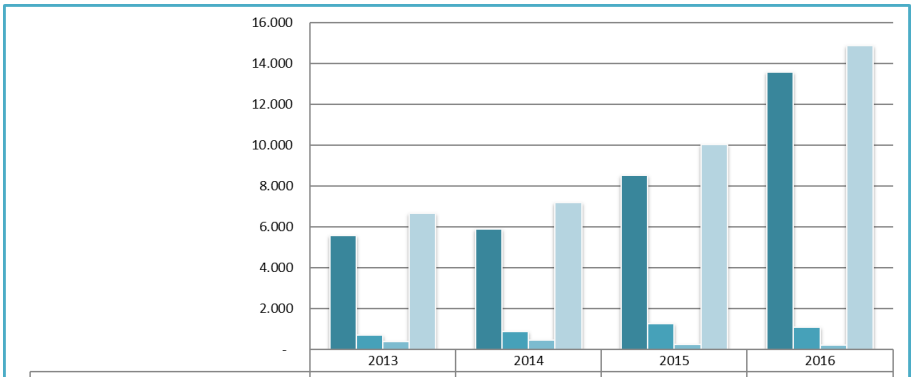
As regards the carrying out of e-procurement procedures, the most frequently posed questions related to which documents were to be signed electronically, as well as what was the procedure in case when the responsible person or a member of the public procurement commission did not have a digital signature. Such questions arose on the basis of the provision in the Law on Public Procurement prescribing that at least 30% of the contract award procedures in the course of the last year were to be carried out by using electronic means.

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 2016, like in the previous years, employees with the Bureau provided timely and prompt advices through the Call 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.

Call Center was available to the contracting authorities and the economic operators on daily basis in 2016. In the period from 1st January 2016 to 31st December 2016, the Center received total of 13,578 calls. 4,857 out of these calls were received by the Department for Normative Affairs, Training and International Relations, while 8,721 calls were received by the Department for Monitoring the Public Procurement System and ESPP Management. Increased volume of calls received by the Department for Monitoring the Public Procurement System and ESPP Management was due to the fact that the legal amendments envisaged for at least 30% of the procedures in 2016 to be carried out by using electronic means, hence the need for assistance and advice to the contracting authorities not carrying out e-procurement procedures before.

Chart 2.1



	2013	2014	2015	2016
Call Center	5.576	5.892	8.530	13.578
Questions posted through the web contact form	704	865	1.250	1.071
Questions postet by mail	394	443	250	200
Total	6.674	7.200	10.030	14.849

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 Call Center continuously increase, experiencing a significant rise in the last year. Such fact indicates that the participants in the public procurement system are more interested in a fast and a precise answer to the problems and the ambiguities they face in the course of carrying out the public procurement procedures.

On the other hand, number of requests for opinions officially submitted by mail dropped significantly again compared to last year, 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 2016 as well, 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.

In 2016, Department for Normative Affairs, Training and International Relations within the Public Procurement Bureau modified and amended the 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 while updating this Manual, new Manual on the Manner of Using the ESPP for the Contracting Authorities and Manual on the Manner of Using the ESPP for the Economic Operators were

prepared in the course of 2016, all to the end of explaining all changes to the electronic system that took place last year.

In the course of 2016, Public Procurement Bureau also prepared and published several short brochures so as to bring the individual stages in the contract award procedures closer to the participants in the public procurement system. Hence, following brochures were prepared:

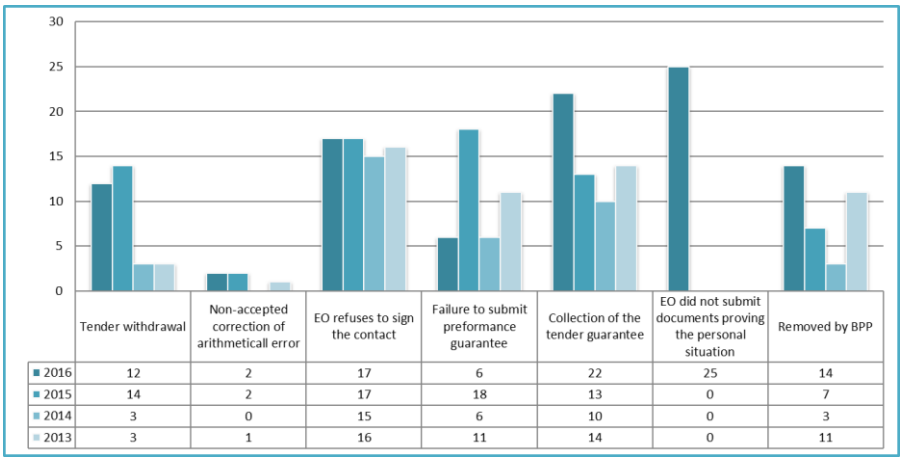
- Brochure on the Contract Award Criteria, Tender Evaluation and Public Contract Award;
- Brochure on Review Procedures;
- Brochure on Consent by the Public Procurement Council; and
- Brochure on Preventing Corruption in Public Procurement Procedures.

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 2016, the contracting authorities published total of 84 negative references for the economic operators. Detailed analysis of the reason due to which negative references were published, as well as comparison with the negative references published in 2013, 2014 and 2015, is presented in the Chart below. The Bureau removed total of 14 negative references by acting upon a decision adopted by the State Appeals Commission, upon agreement in the capacity of an enforcement document between the contracting authority and the contractor or upon request by the contracting authority.

Chart 2.2



	Tender withdrawal	Non-accepted correction of arithmeticall error	EO refuses to sign the contact	Failure to submit preformance guarantee	Collection of the tender guarantee	EO did not submit documents proving the personal situation	Removed by BPP
2016	12	2	17	6	22	25	14
2015	14	2	17	18	13	0	7
2014	3	0	15	6	10	0	3
2013	3	1	16	11	14	0	11

Data presented show that, overall, there was an upward trend of negative references published by the contracting authorities in 2016, which, as per some legal basis, accounted for a significant number, such as increase in the negative references published due to collecting the guarantee, while as regards other legal basis, the number of published negative references significantly dropped, as was the case of unsecured guarantee. It is worth mentioning that the legal basis being last incorporated in the Law on Public Procurement, i.e. the legal basis in cases when the economic operators failed to submit documents proving their personal situation was the one on the basis of which the most negative references were published in the course of 2016 – 25. Comparative data show that unlike in 2014, when the number of negative references published declined, such trend changed in the previous two years, whereby increase of total number of published negative references was again noticed in the course of last year, which could be a result of the penalty provisions, pursuant to which penalties were envisaged for the persons having failed to publish a negative reference 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.

3. Public Procurement Training

3.1. Data on Trainings Carried Out in 2016

In the course of 2016, 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, no. 11-470/2 dated 7th October 2015 and no. 11-270/1 dated 4th February 2016;

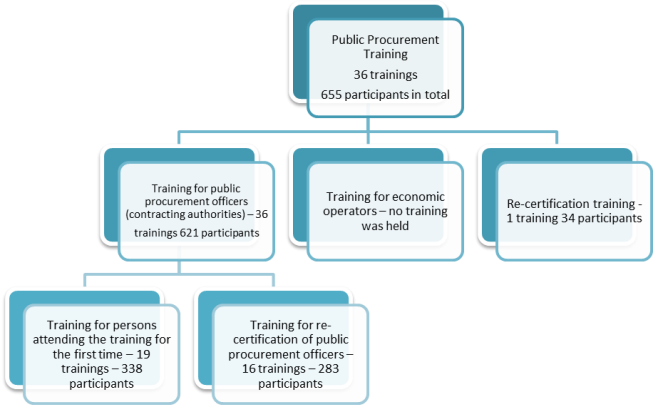
- Internal Manual on Lecturing the Contents prescribed in the Public Procurement Training Programme by the Trainers and the Train-The-Trainer Programme, no. 10-242/1 dated 4th February 2014;
- Internal Manual on Operations of the Commission Members for the Needs of Public Procurement Training, no. 10-2074/1 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 and no. 11-221/1 dated 29th February 2016.

In the course of 2016, following quality assurance procedures were 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;
- quality assurance procedure – inspecting and objecting the written public procurement officer exam;

2016 Annual Plan on Public Procurement Training Realisation was adopted in October 2015, and it was successfully realised. The Plan itself underwent three 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



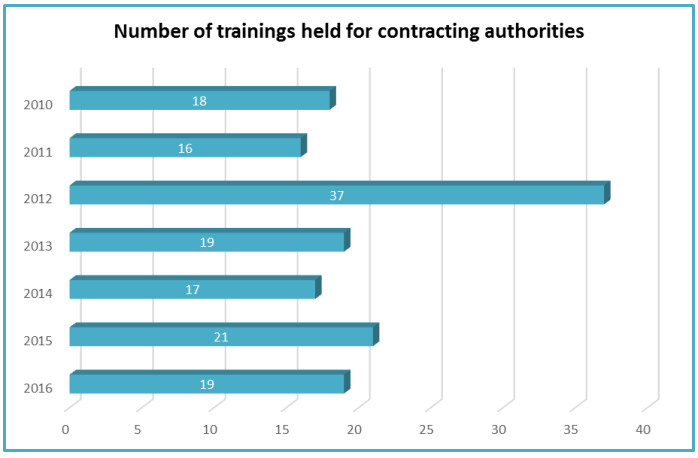
Total of 36 trainings were held, and total of 655 participants acquired the right to take the written exam.

Training for the persons at the contracting authorities not having acquired the certificates for public procurement officers. 19 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) were held. Activities within the Programme were realised through lectures by public procurement trainers having acquired the trainer certificates in the course of 2014, who attended the re-certification training this year and took the written exam for public procurement trainer to extend the validity of the certificates.

Total of 19 trainings for the contracting authorities were carried out, whereby slight decline was registered compared to 2015. Total of 338 persons attended the trainings for the contracting authorities.

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

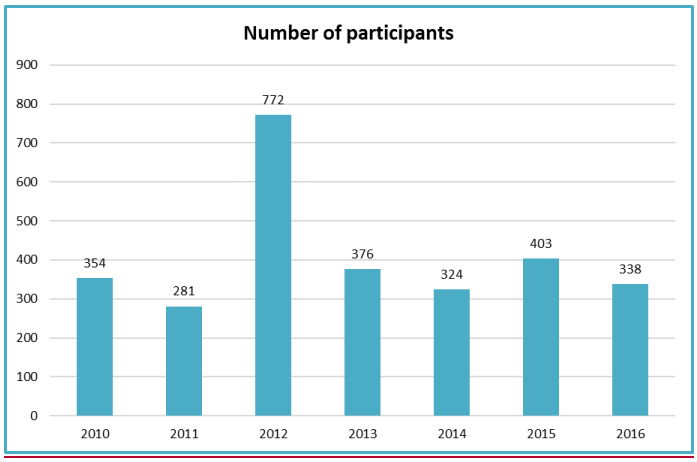
Chart 3.2



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, 21 trainings took place in 2015 and 19 trainings were held in 2016.

In 2016, 338 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



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 2016, 283 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 2016, the Bureau scheduled 2 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 operations.

Accordingly, many participants in the training were delivered a questionnaire by the Training Unit towards the end of the second quarter in 2016. The questionnaire was delivered in paper form, by e-mail, and it pertained to the participants in the training held in the first six months. The paper-based questionnaire was 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. Questions they answered, as well as the answers thereto, are the following:

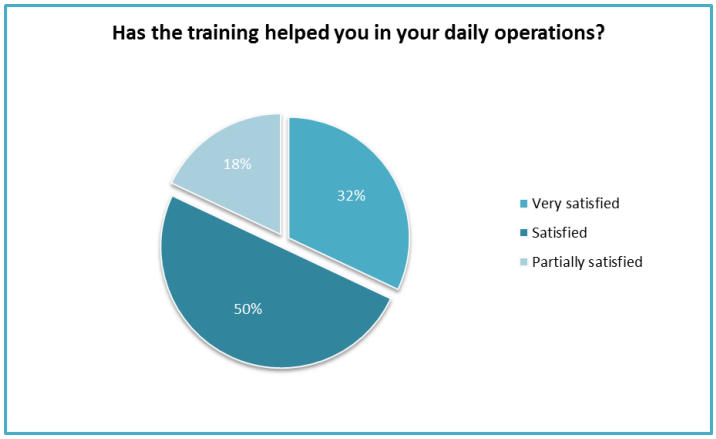
On the basis of gathering information from the participants by using the questionnaires, it can be concluded that most of them are satisfied with the quality of both the trainings and the trainers.

1. As regards the question "*How satisfied are you with the training quality?*", 19 respondents replied they were very satisfied, 30 respondents replied that they were satisfied, 4 respondents replied that they were partially satisfied and there were 0 unsatisfied respondents.

2. Regarding the question *"How satisfied are you with the trainers' quality?"*, 19 respondents replied they were very satisfied, 30 respondents replied that they were satisfied, 4 respondents replied that they were partially satisfied and there were 0 unsatisfied respondents.

3. With respect to the question *"Has the training helped you in your daily operations?"*, 18 respondents replied they were very satisfied, 28 respondents replied that they were satisfied, 10 respondents replied that they were partially satisfied and there were 0 unsatisfied respondents.

Chart 3.4

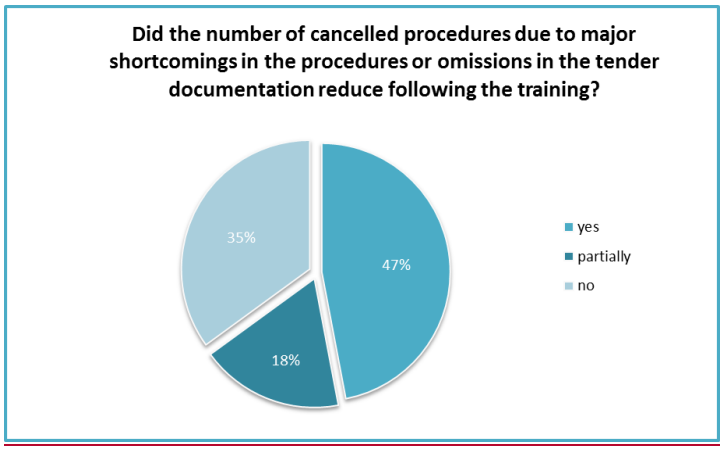


4. Regarding the question *"Are you satisfied with the quality of the knowledge acquired during the training?"*, 18 respondents replied

they were very satisfied, 27 respondents replied that they were satisfied, 8 respondents replied that they were partially satisfied and there were 0 unsatisfied respondents.

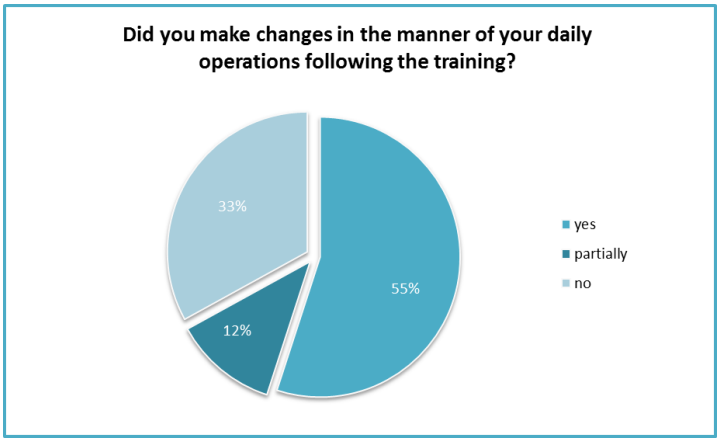
5. As for the question *"Did the number of cancelled procedures due to major shortcomings in the procedures or omissions in the tender documentation reduce following the training?"*, 23 respondents gave a positive reply, 9 respondents said the number of cancelled procedures was partially reduced, while 17 respondents said that the number of cancelled procedures did not reduce.

Chart 3.5



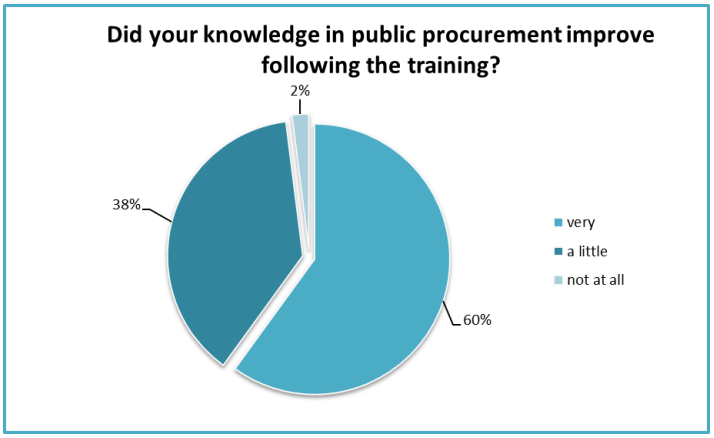
6. 28 respondents replied that they *made changes in the manner of their daily operations following the training*, 6 respondents said they made partial changes, while 17 respondents said they made no changes in their manner of daily operations.

Chart 3.6



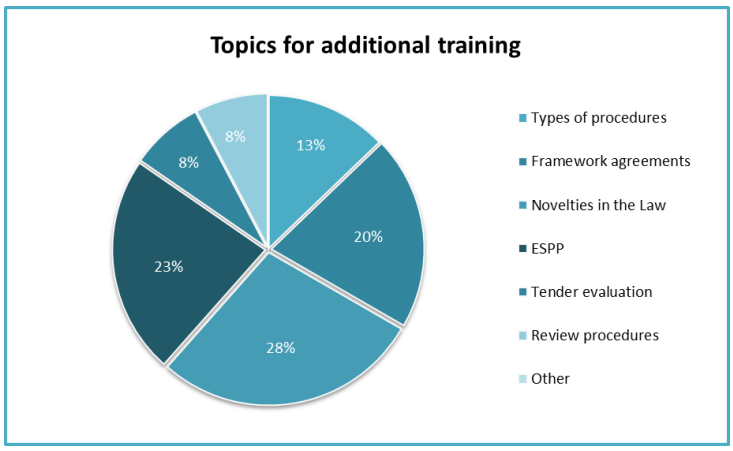
7. 31 respondents *improved their knowledge in public procurement following the training*, 20 respondents said it improved partially, and 1 respondent replied his knowledge did not improve at all following the training.

Chart 3.7



8. 8 respondents said they needed to attend the training again, 9 respondents said they needed no training, while 36 respondents said they needed to attend training only in certain topics. The participants believed they needed to attend the training again as regards the following topics: evaluation, framework agreements, review procedures, novelties in the Law, types of procedures, ESPP, as well as other topics of their interest – preparation of tender documentation, preparation of decisions, agreed minutes and reports in the procedure process, etc.

Chart 3.8



Most of the participants request trainings on certain topics which are to help them overcome the problems when carrying out procurement procedures.

On the basis of the above-mentioned results, it can be concluded that it is particularly positive that 60% of the respondents said that their knowledge on public procurement following the training significantly improved, as well as that they made changes in the manner of their daily operations following the training.

In addition, the fact that more than half of the respondents said they needed to attend the training in specific topics speaks of the need for the Bureau to carry out such training in future.

According to the Annual Training Plan, re-certification training was carried out for the trainers giving lectures at the training organised by the PPB.

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 taking 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 20016, 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.

3.1.1. Train-the-Trainer Programme

In the period from 22nd to 24th September 2016, training was organised for the persons having acquired the trainer certificates. Pursuant to the 2016 Annual Plan on Public Procurement Training, in line with 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. 90/12), the Internal Manual on Preparing and Carrying Out Public Procurement Training by the Public Procurement Bureau, the Internal Manual on the Manner of Organising and Carrying Out the Exam for the Participants in the Public Procurement Training and the Annual Plan on Public Procurement Training Realisation. The training was organised because validity of the trainer certificates was to expire at the end of 2016.

All persons having already acquired the trainer certificate had the right to participate in the training and they were all invited by e-mail to attend the training. The training comprised 14 lessons, and it was organised in line with the Train-the-Trainer Programme, Chapters XI, XII, XIII and XIV. The lessons elaborated on the novelties introduced in the legal framework in the Republic of Macedonia, novelties regarding the ESPP, novelties introduced in the EU Acquis and closing discussions.

34 candidates attended the training in the respective period.

Following lecturers gave lectures at the training, pursuant to the Rulebook on Public Procurement Education Programme, Programme on Train-The-Trainer, the Form and 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 Education

("Official Gazette of the Republic of Macedonia", no. 90/12), Train-the-Trainer Programme, Chapters XI, XII, XIII and XIV:

- Lecturer: *Dariusz Piasta*, SIGMA, lectures related to Directives on Public Procurement – 3 lessons
- Lecturer: *Rita Gligorijevska MA*, Head of Department for Normative Affairs, Training and International Relations within the Public Procurement Bureau, lectures pertaining to novelties introduced in the legal framework in the Republic of Macedonia, with a special focus on the recent modifications and amendments to the Law on Public Procurement
- Lecturer: *Marija Jovanoska MA*, Head of the Department for Monitoring the Public Procurement System and ESPP Management, lectures related to the novelties introduced in the Electronic System for Public Procurement.
- Lecturers: *Borce Davitkovski Ph.D. and Jadranka Dabovik Ph.D*, Faculty of Law, lectures covering the topic "Similarities and differences between public contracts and administrative contracts and similarities and differences between public contracts and contracts and torts"
- Lecturer: *Igor Tanturoski*, State Anti-Corruption Commission, lecture covering the topic "Public procurement from the point of view of the anti-corruption policy of the Republic of Macedonia, as well as determining conflict of interest when carrying out contract award procedures"
- Lecturer: *Valentina Nikoloska*, Commission for Protection of Competition, lecture covering the topic "Detecting bid-rigging in contract award procedures"

Following the training, written exam was scheduled, comprising two parts, as follows: Theoretical part (multiple choice questions, narrative questions, as well as matching questions) and practical part (ESPP case studies and tasks).

Most of the trainers passed the exam and the validity of their certificates was extended. As for those who did not pass the exam, they do not longer have the right to give lectures on the public procurement trainings organised by the Public Procurement Bureau. In the course of January, the trainers were awarded their new trainer certificates, with a two-year validity.

Two trainers will take the exam in the coming period, since they were on a maternity leave in the course of the training, as well as when the exams took place.

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.

41 cases out of the 606 resolved cases were appeals lodged against the decisions adopted by the Public Procurement Council.

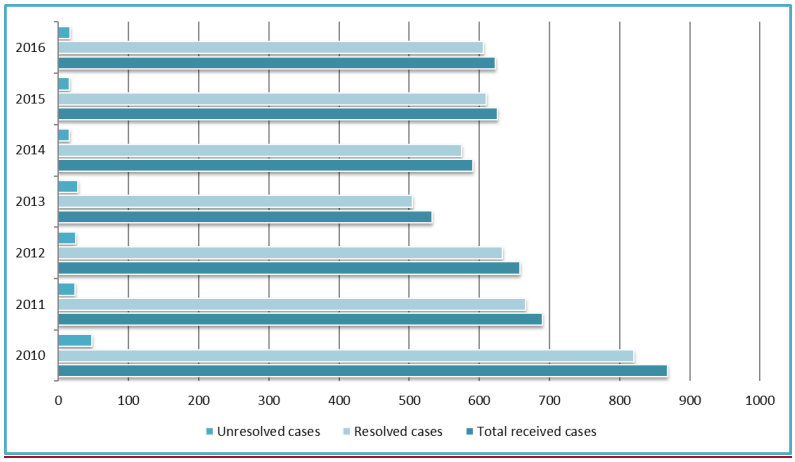
According to the data from the State Appeals Commission[1], total of 623 cases were submitted and registered in 2016, 606 cases out of which were resolved. 17 cases were unresolved due to incomplete documentation and they were transferred to be resolved in 2017.

41 cases out of the 606 resolved cases were appeals lodged against the decisions adopted by the Public Procurement Council. In addition, 65 lawsuits were filed against the State Appeals Commission's decisions before the Administrative Court in the course of 2016.

[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



Data in the Chart show a downward trend of the total number of cases submitted.

However, compared to 2013 and 2015, increase in the number of submitted cases, as well as resolved cases, was evident in 2015 and 2016. Number of unresolved cases in 2016 was 17 cases.

Number of submitted cases in 2016, like in 2015, increased, taking into account the new competence of the State Appeals Commission starting 1st May 2014.

Number of submitted cases in 2016, like in 2015, 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, 41 appeals out of the total of 606 resolved appeal cases in 2016 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 21 requests for continuation of the procedure were submitted in 2016. As regards the requests, 16 requests were refused, 5 requests were rejected, and none of the requests was accepted.

Chart 4.2

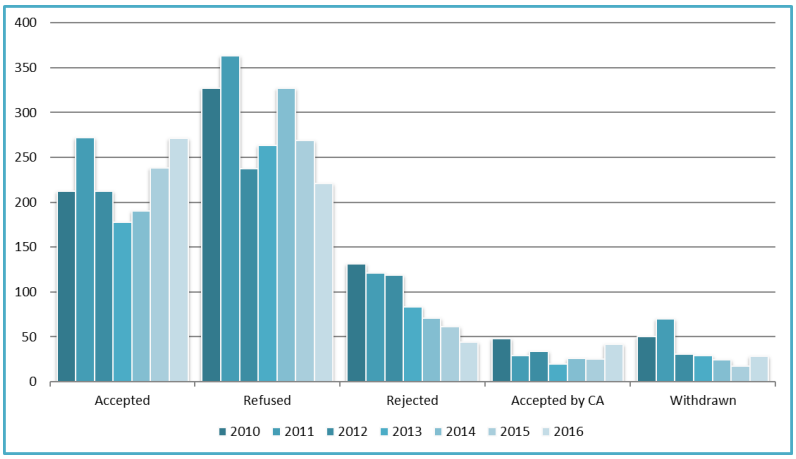
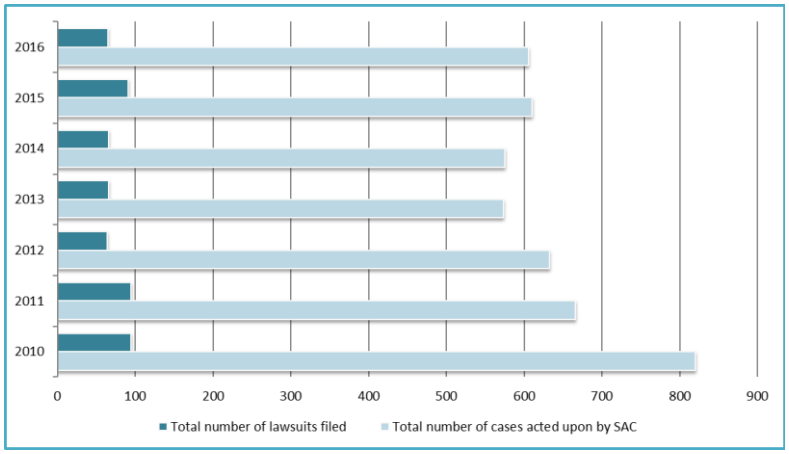


Chart 4.2 shows the data from 2010 to 2016 pertaining to the number of accepted appeals, the number of refused appeals, the number of rejected appeals, the number of appeals accepted by the contracting authority, as well as the number of withdrawn appeals. By comparing the data, it could be noticed that number of accepted appeals increased and, unlike the previous year, number of refused appeals dropped.

Chart 4.3



Total number of lawsuits filed against the decisions adopted by the State Appeals Commission dropped by 26 cases compared to 2015.

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 2016, whereby it could be noticed that the total number of lawsuits filed in 2016

declined, i.e. 65 lawsuits were filed, unlike in 2015, when 91 lawsuits were filed.

Number of cases acted upon by the State Appeals Commission dropped by 4 cases compared to 2015.

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[2]:

Chart 4.4

[2]These data are contained in the State Appeals Commission's Report and they are obtained from the Administrative Court upon request by the Commission.

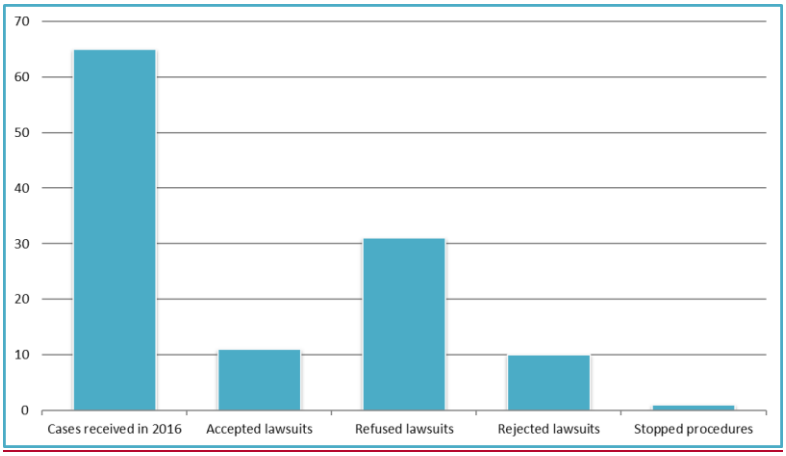


Chart 4.5

Number of refused lawsuits increased compared to 2015.

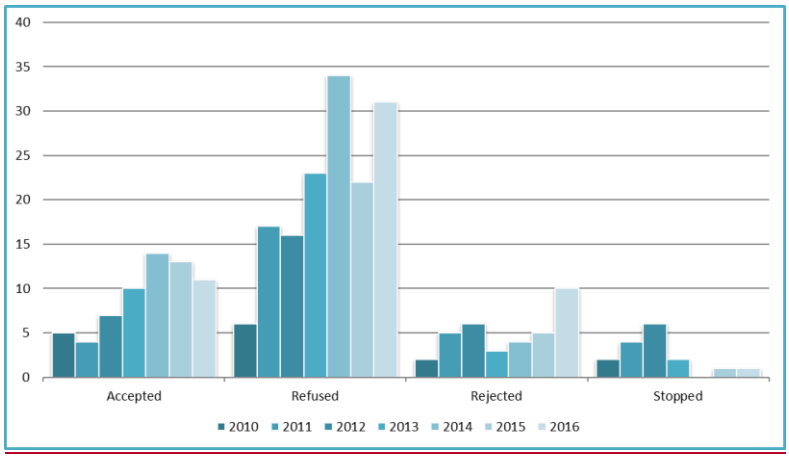


Chart 4.5 shows the data regarding the number of accepted lawsuits, refused lawsuits, rejected lawsuits and stopped procedures compared to the previous four years. 2015 data, compared to the data from 2015, point out to an increased number of refused lawsuits, while number of accepted lawsuits in 2016 dropped by two lawsuits compared

to 2015. As regards the number of stopped procedures, there was only 1 procedure stopped in 2016[3].

4.3. High Administrative Court

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 2016, total of 25 cases in the field of public procurement were submitted to the High Administrative Court, 23 out of which were administrative appeals, while the other 2 were administrative appeals with temporary measures.

In the course of 2016, High Administrative Court received 25 cases in the field of public procurement, 23 out of which were AA, while the remaining 2 were administrative appeals with temporary measures.

With respect to 16 AA cases, decisions were reached to refuse the appeals and the decisions of the Administrative Court were confirmed, the appeals was accepted in 2 (two) cases and the judgments of the Administrative Court were reversed, while the lawsuits filed by the legal entities were refused as ill-founded and the decisions of the State Appeals Commission were accepted.

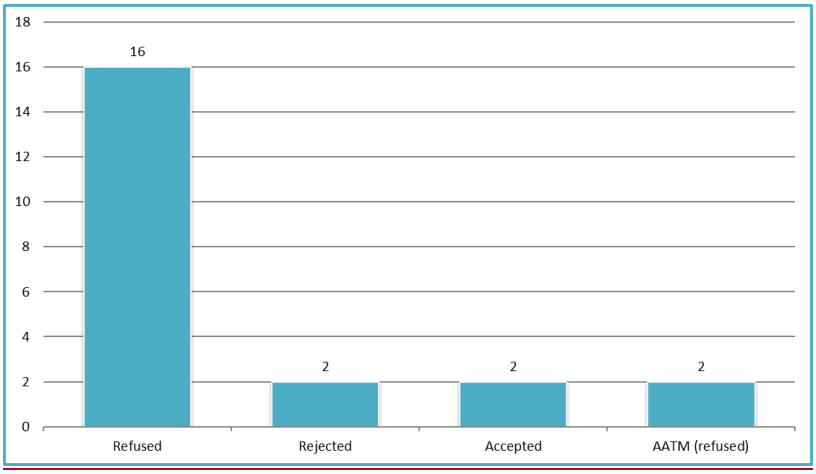
This Court adopted decisions in two cases, on the basis of which the appeals lodged by the legal entities were rejected as not being lodged in a timely manner, decisions reached by the Administrative Court, i.e. lawsuits filed by the legal entities, were confirmed. Decision was reached for one case on the basis of which State Appeals Commission's appeal was accepted, the judgment of the Administrative Court was reversed, i.e.

[3]These data are contained in the State Appeals Commission's Report and they are obtained from the Administrative Court upon request by the Commission.

the lawsuit filed by the legal entity was refused as ill-founded. The Administrative Court reached a decision on temporary measure in one case, on the basis of which the appeal lodged by the legal entity was accepted and the decision of the Administrative Court was revoked.

Total of 22 cases, out of the above-mentioned number of cases, were resolved in the course of 2016. These data are presented in Chart 4.6 below:

Chart 4.6



4.4. State Audit Office

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.

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. At the moment this report was being prepared, data requested from the State Audit Office were in the process of processing and analysis. Once SAO publishes the audit report, the needed data will be submitted to the Public Procurement Bureau.

4.5. State Anti-Corruption Commission

In the course of 2016, State Anti-Corruption Commission acted upon total of 3 charges lodged for possible corruption in the field of public procurement regarding the contract award procedures carried out by the contracting authorities.

Acting pursuant to its competences laid down in the Law on Prevention of Corruption, after gathering relevant information from other institutions so as to determine the actual situation and examine the allegations in the charges, State Anti-Corruption Commission concluded that the accuracy of the allegations in the charges as regards the 3 concerned cases was not established and decided that there were no elements so as for it to further act upon the respective cases.

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,

total of 15 charges were lodged in 2015, while only 3 charges for existence of suspicion for corruption in public procurement were lodged in 2016. [4]

4.6. Commission for Protection of Competition

In the course of 2016, the Commission for Protection of Competition detected no collusive contracts between undertakings when submitting the tenders in contract award procedures.

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 undertakings in an unjustifiably more favourable position in relation to other undertakings.

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

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, which, in the course of 2016, detected no collusive contracts between undertakings when submitting the tenders in contract award procedures.

Since 2012, the Commission for Protection of Competition has introduced a novelty pertaining to prohibiting collusive contracts

[4]Data are obtained from the State Anti-Corruption Commission.

between undertakings when submitting tenders in contract award procedures. The above-mentioned information represents a decrement, especially taking into account 2015 and 2016, 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 the undertakings when submitting the tenders in contract award procedures.[5]

It should be mentioned that the Public Procurement Bureau has been receiving the same or 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 a comprehensive analysis of the reason for the indicated situation is needed, whether it is a matter of the economic operators not being sufficiently informed where and whom they should address to when they believe that fair competition in the contract award procedure is prevented.

4.7. Public Procurement Council

Public Procurement Council (PPC) is a state authority, independent in performing its operations and having the status of a legal entity. The Council is competent for the following: deciding upon the

[5]Data are obtained from the Commission for Protection of Competition.

requests for obtaining consent envisaged by this and other laws, conducting trainings for experts concerning the procedure for obtaining consent, issuing certificates for experts, keeping Register of Experts, as well as performing other activities laid down by law. The request for obtaining consent is distributed to the members and Chairperson of the Council by a random electronic selection.

According to the data obtained from the Public Procurement Council, upon request by the Public Procurement Bureau, in the course of 2016, 16,068 requests for obtaining consent were submitted to the Public Procurement Council, and 36 appeals were lodged against the Council's decisions.

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, Public Procurement Bureau continuously cooperates 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. "2014 – 2018 Strategic Priorities of the Public Procurement Bureau for Further Development of the Public Procurement System in the Republic of Macedonia" is a clearly defined framework through which these institutions actively contribute to increased efficiency and functioning of the public procurement system.

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 training which elaborated on the topic "Application of the Law on Public Procurement". The training was attended by 43 participants from among the members of public procurement commissions within the courts, in particular 33 court officers, 8 public prosecution officers and 2 participants from the Judicial Council of the Republic of Macedonia.

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

Within the cooperation with the State Anti-Corruption Commission on regular basis, the Bureau continued to report on the realisation of the "2016 – 2019 State Programme for Prevention and Repression of Corruption and Reduction of Conflict of Interests", aimed at strengthening the institutional system and the legislation for prevention of corruption and conflict of interest in all cases of possible adoption of decisions which are to the detriment of public interest, but in favour of the personal interest of the officers.

At the same time, the Bureau also exchanged experience with other institutions, "Justinian the First" Faculty of Law and the Faculty of Economics – Skopje, having signed Memorandum of Cooperation and Exchange of Knowledge, contributing to better quality, above all in the filed of education and training, as well as in other areas in which the Faculties and the Bureau share joint interest. The first activities of the joint actions in the field of public procurement were implemented by carrying out train-the-trainer programme in the period from 22nd to 24th September 2016 for the persons already having acquired the trainer certificates. In line with the Programme, professors from the Faculty of Law gave lectures covering the topic "Similarities and Differences between Public Contracts and Administrative Contracts and Similarities and Differences between Public Contracts and Contracts and Torts".

Lecturers from the State Anti-Corruption Commission and the Commission for Protection of Competition also gave lectures regarding the novelties introduced in the legal framework in the Republic of Macedonia, in particular the anti-corruption policy, elaborating on the topics "Public procurement from the point of view of the anti-corruption policy of the Republic of Macedonia, as well as determining conflict of interest when carrying out contract award procedures" and "Detecting bid-rigging in contract award procedures".

"Annual Conference for Micro Enterprises" was organised by the Center for Civil Communications, supported by the USIAD Micro and

Small Enterprises Project, which took place in Ohrid in the period from 23rd to 25th September. Around 80 representatives from the micro enterprises from Polog, Pelagonija and Southwest Polog regions took part in the Conference. Representatives from the Public Procurement Bureau gave presentations at the Conference as a form of additional training for the persons in these enterprises who participate in contract award procedures, mainly at local level (as micro enterprises).

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

During 2016 as well, 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 EU Acquis and application of good practices in the field of public procurement.

Within its competences as regards cooperation with international institutions, representatives of the Public Procurement Bureau, upon invitation by certain international institutions and other foreign legal entities, had the possibility to exchange experience and to present their views on matter regarding the development of the public procurement system.

In the course of 2016, the Bureau continued cooperating with SIGMA representatives as well. SIGMA representative gave lectures at the train-the-trainer session organised by the Public Procurement Bureau, which took place in the period from 22nd to 24th September 2016, elaborating on the topic “Directives on Public Procurement”, intended for the persons having acquired a trainer certificate. Other activities were

also realised within the mutual cooperation pertaining to analyzing the harmonisation of the Law on Public Procurement with the new 2014 EU Directives.

SIGMA held several practical workshops as part of their regular activities, dealing with analyses of EU cases and focusing on the practical aspects of the operations of the review procedure bodies when carrying out public procurement. Thereby, representatives from the Public Procurement Bureau took active part in two workshops held in November and December, elaboration of the following topics: "Contract Award Criteria Other Than the Lowest Price" and "Tenders with Abnormally Low Price and Interest in Getting the Contract".

Public Procurement Bureau received World Bank Grant through the SAFE EU Funds for the Programme on Promotion of Public Procurement in the Republic of Macedonia. Purpose of the Project is to increase efficiency and transparency in public procurement by improving the existing functionalities of the e-procurement system, developing the performance indicators for the public procurement system and strengthening the capacities of the Public Procurement Bureau. The Project will provide for support for most of the activities envisaged in the "2017 – 2021 Strategy for Development of Electronic System for Public Procurement in the Republic of Macedonia". Grant funds will be intended for strengthening of the public procurement process in the Republic of Macedonia. In the course of 2016, representatives from the Public Procurement Bureau had the opportunity to exchange a lot of experience as regards the WTO Agreement on Government Procurement.

At the invitation by the Public Procurement Bureau of the Republic of Macedonia, bilateral meeting was held in the second half of March 2016 with the Public Procurement Administration of Montenegro, covering the topic - exchange of experience regarding harmonisation of the legislation regulating public procurement with the EU Acquis,

improving the carrying out of e-procurement, as well as accession to the WTO Agreement on Government Procurement.

Representatives from the Public Procurement Bureau participated in the National Seminar on the WTO Agreement on Government Procurement on the occasion of the official ceremony for the accession of the Republic of Montenegro to the Agreement on Government Procurement, 4th – 5th May 2016, in Podgorica – Republic of Montenegro. The event was organised by the Government of Republic of Montenegro, in cooperation with the European Bank for Reconstruction and Development (EBRD) and WTO Secretariat. This seminar focused on the transition measures under the Revised Agreement on Government Procurement, as well as the calendar for technical cooperation for the countries interested in commencing negotiations for accession to the Agreement on Government Procurement.

On 27th September 2016, representatives from the Public Procurement Bureau attended a seminar organised by the Government of Moldova, in cooperation with the EBRD, on the occasion of accession of the Republic of Moldova to the Agreement on Government Procurement, at which Macedonian delegation was invited, together with representative for several countries which are in the process of commencing or have already commenced the process of accession to the WTO Agreement on Government Procurement. Participants in the seminar had the opportunity to be presented the challenges and the possibilities of the Government of Moldova, as well as the future activities aimed at harmonisation as regards of the implementation of the standards envisaged in the WTO Agreement on Government Procurement. In addition to being introduced the past and the future activities of the Republic of Moldova in the field of public procurement, the participants also exchanged experience with all participating countries.

At invitation by WTO, in cooperation with the EBRD, Bureau representatives took part in Regional Workshop on Government Procurement for Central and Eastern Europe, Central Asian and the Caucasus Countries (CEECAC), in Vienna, Republic of Austria in November. The participants had the opportunity to be presented the legal framework and the application of the standards envisaged in the WTO Agreement on Government Procurement by exchanging practical experience.

Within the cooperation realised through the Mixed Macedonian - Bavarian Commission of Bavaria and the Republic of Macedonia, in the course of 2016, Public Procurement Bureau initiated new Draft Project – "Exchange of Experience in Directives on Public Procurement" on the eve of the preparations for the seventh session of the Mixed Macedonian - Bavarian Commission, envisaged to be held in 2017.

Representative from the Public Procurement Bureau, together with several representatives from the Republic of Macedonia, at invitation by the Open Society Foundation, Belgrade, Republic of Serbia, in cooperation with the Center for Civil Communications, participated in the Regional Conference on Public Procurement, which took place on 17th November 2016, in Belgrade, Republic of Serbia. 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 the Republic of Macedonia, Bosnia and Herzegovina, Montenegro and Serbia participating. All analyses were presented at the Conference, mainly from the aspect of the assessment of the effectiveness of public procurement, covering the topic "How to Achieve Effective Control over Effectiveness of 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. Usually, representatives from the Republic of Macedonia in the Working Group on Statistical Information for Public Procurement and the Working Group for E-Procurement are employees with the Public Procurement Bureau. In the course of 2016, 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 2016, the Working Group realised the envisaged activities.

It could be underlined that, during 2016 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 EU Acquis and application of good practices in the field of public procurement.

6. Use of the Electronic System for Public Procurement

Starting 1st January 2016, the contracting authorities are obliged to carry out 30% of the procedures electronically.

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 procedures 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 (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.

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.

Increased use of electronic public procurement or e-procurement is one of the important goals of the Europe 2020 Strategy and is in line with the new EU Directives on Public Procurement.

Public Procurement Bureau, in line with its competences to manage and operate the Electronic System for Public Procurement, continuously upgrades the ESPP with new modules and functionalities, 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 2016 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. The second re-design stage (2015) included re-designing of larger modules of the users' profiles (users' section of the ESPP) and 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. The last system upgrading provided for the Bureau to complete the re-design of the ESPP, aimed at easier and more efficient carrying out of the –procurement in contract award procedures, thus the system was fully re-designed from the user's point of view. 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;
- **"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

"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.

standing of the economic operators when participating in public procurement procedures**.** This new process can replace the 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. In 2016, the Project was implemented by establishing web serves between the systems of PPB and the Central Registry of the Republic of Macedonia, whereby the economic operators have the possibility to choose from among the offered packages of CRRM documents through the ESPP and, after making an electronic payment, the documents are automatically uploaded in the economic operator's profile on the ESPP. They can be also used, besides for participating in e-procurement, in paper-based procedures as well in the course of one year. "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;

- **complete "CLOUD" solution** - ESPP is set on a new infrastructure (implemented IAAS service for hosting the information system in a virtual environment) in line with the latest technological trends and developments, as well as more detailed analysing of the options for ESPP infrastructure development. This provides for significant savings in terms of hardware investments, as well as improved performance and obtaining a scalable solution which is most suitable for the system's needs.

ESPP is set on "CLOUD" infrastructure.

- **module on connecting the additional procurements with the original contract – new functionality of the** ESPP which provides for greater transparency in terms of the negotiated procedure without prior publication of a contract notice. In fact, when publishing the contract award notices in negotiated procedure for additional works, it is mandatory to select the original contract from which the additional works originate, thus providing for a transparent manner of reviewing all contracts concluded on the basis of a particular procurement procedure. Such solution has provided for implementation of one of the short-term recommendations of the European Commission contained in the 2015 Country Progress Report.
- **Business Intelligence Semantic Model (BISM) for statistical reports was implemented** – Implementation of this solution created data room, integrating the data from all tables on the system that are easy and simple to use. Data are presented in .xls format and provide for an advanced filtering, making number of analyses of the public procurement process, and comparing the trends in different time intervals. Such statistics help identify the users' errors and improve the business processes, as well as improve the public procurement system as a whole.
- **merging the auction reports** – report on changing the auction parameters and the initial ranking list are merged in the auction report, i.e. one report, containing all necessary information, is prepared instead of three separate auction reports.
- **generating and automatic uploading of the negative reference report and the auction report** – automatic generating of reports is enabled, as well as their automatic uploading to the electronic dossier of the procedure on the ESPP.

- **replacing the members** of the Public Procurement Committee by the person in charge – the person in charge can replace the members of the Commission in the e-procurement procedure.
- **requesting additional documents to prove the personal situation in the simplified competitive procedures** – after the electronic auction in simplified competitive procedures, carried out by applying electronic means is completed, the Public Procurement Committee may request the documents for proving the personal situation from the winning tenderer which, after being submitted, are automatically uploaded in the electronic dossier of the procedure.
- **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:

- reviewing the tender documentation in "view mode" without the need for the economic operators to register therefore;
- publishing the Annual Procurement Plans on the ESPP by the contracting authorities;
- module on publishing the contract notices of international institutions;
- archiving and back-up of ESPP data;
- dossier on participation in the procedures at the economic operators;
- Open Data application;
- e-payment regarding the services for use of the ESPP;

- 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 for the users, 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 Public Procurement System and ESPP Management 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 were the more significant indicators in 2016:

- 1,433 contracting authorities and more than 6,902 active economic operators used the ESPP;

*- **18,444** contract notices, **30,168** contract award notices of different type and **18,433** tender documents were published;*

*- more than **39,186** e-auctions were carried out.*

As for using the system, and as a result of all so-far implemented activities, following was achieved in 2016:

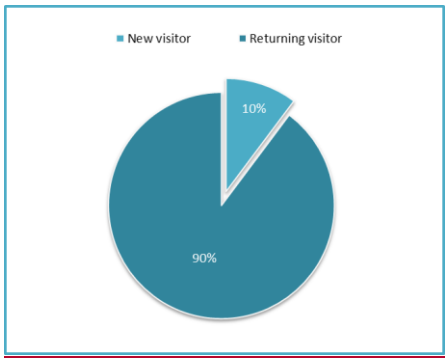
- 1,433 contracting authorities (with total of 16,286 users within the contracting authorities, out of which 12,650 users are active) and 6,902 active economic operators (out of 12,702 registered economic operators) used the system;
- over 1,186 answered questions through the Q&A link on ESPP posed by the contacting authorities and the economic operators pertaining to the manner of functioning and using ESPP in the course of 2016;
- total of 8,721 calls received through the Call Center, pertaining to the ESPP;
- 18,444 contract notices and 30,168 contract award notices of different type published;
- total number of published tender documents – 18,433;
- more than 39,000 auctions carried out, i.e. more than 149 auctions daily in average (only working days).

As regards the number of visitors of the system and the use of the system in 2016, data are provided in the tables and the charts below:

Table 6.1

Page browsing	
Total page browsing	11,403,246
Average page browsing per day	45,251
Average page browsing per visitor	9
Visitors	
Total visitors	1,223,622
Average number of visitors per day	4,856
Total unique IP addresses	135,023

Chart 6.1 – ESPP visits



According to the data from the Electronic System for Public Procurement, 1,223,622 visitors visited the ESPP in 2016, 10% (125,385 visitors) out of which were new visitors and 90% (1,098,237 visitors) were returning visitors. Most visits were registered in November (118,489 visitors), while most visits per day were registered on 21st November 2016 – 6,054 visits.

Chart 6.2 – Accesses monthly

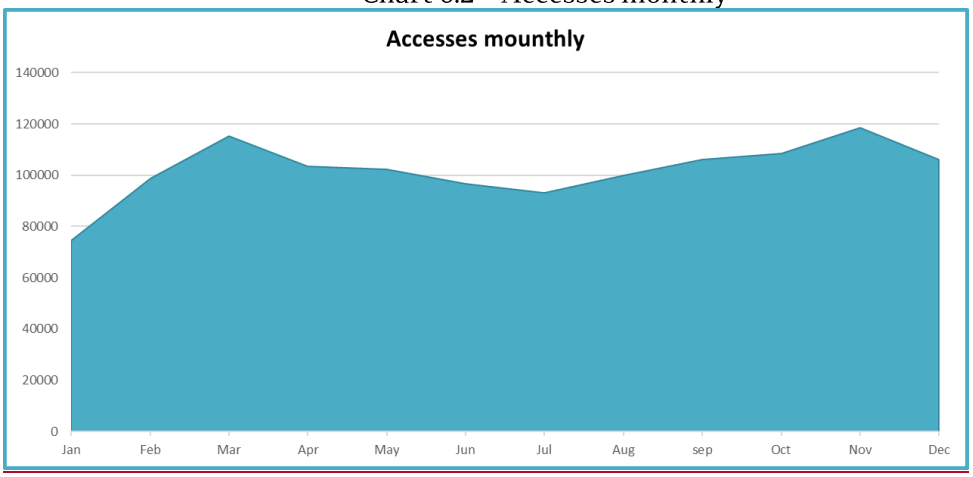


Chart 6.3 – Activities per day in the week

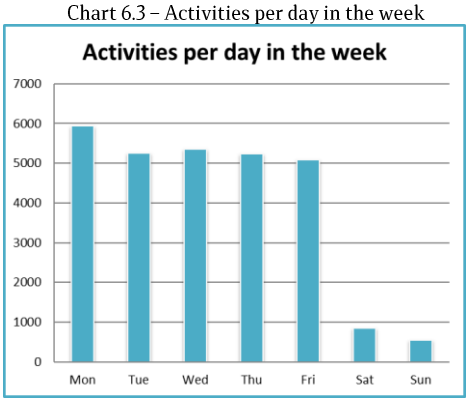


Chart 6.4 – Activities per hour in the day

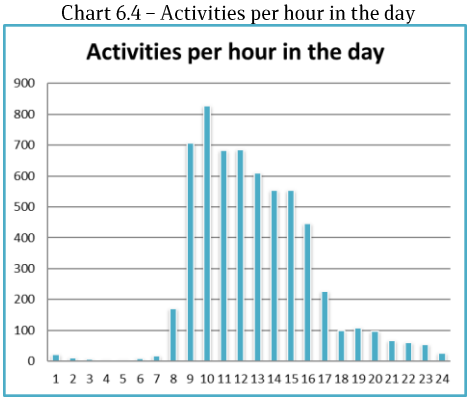


Chart 6.5 – Visitors per country

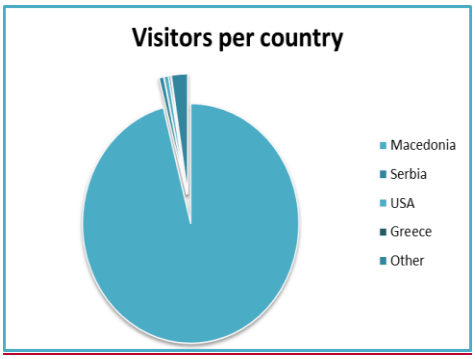


Chart 6.6 – Top affiliates of ESPP

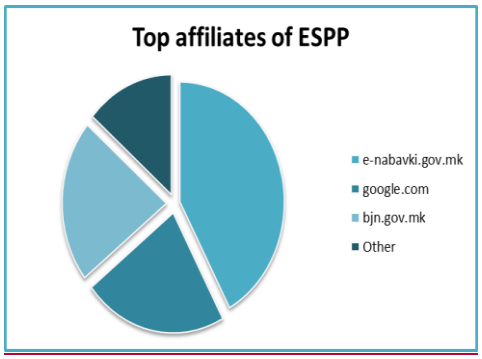


Chart 6.7 - Web browser of visitors

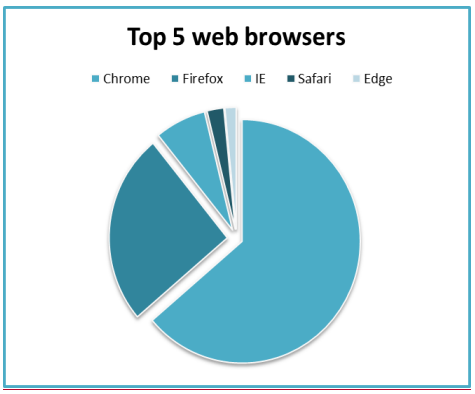
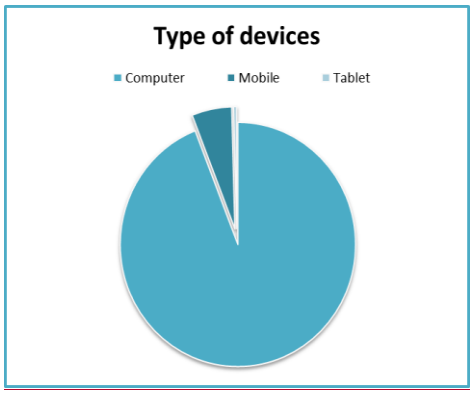


Chart 6.8 – Type of devices



7. Analysis of Public Procurement Market in 2016

This Chapter elaborates on qualitative and quantitative analysis of the public procurement market in the Republic of Macedonia in 2016. 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 2016, 30,168 public contracts were awarded, in the total amount of around Denar 58.8 billion or more than EUR 956 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 the overall actual developments in the field of public procurement in the country. Business Intelligence Semantic Model (BISM) for statistical reports was introduced this year, which has provided for an advanced filtering, making number of analyses of the public procurement process and comparing the trends for different time intervals, thus enabling for more detailed analyses to be prepared from the ESPP database. 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 making comparative analysis of the data,

which covers all contracting authorities and all procurement procedures carried out, hence, the data presented in the text below give the whole picture of the trends on the public procurement market in 2016. 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 10% in 2016.

Data on the number of the awarded public contracts in 2016, obtained from the ESPP database, show that 30,168 public contracts were concluded, in the total amount of Denar **58,818,157,059** (around Denar 58.8 billion) or approximately EUR 956 million. Value of public procurement in the country in 2016 accounted for 10% of GDP of the Republic of Macedonia. According to the data available to the Bureau, value of concluded contracts in 2016, compared to the previous year, surged by around 27%, while number of concluded contracts (27,392 the previous year) increased by 10% in relation to 2015.

Share of public procurement in the budget of the Republic of Macedonia accounted for 30% in 2016.

Comparative data 7.1. on the number and the value of concluded public contracts in the last three years are presented in Chart 7.1 and Chart 7.2. Comparative data on the volume of public procurement as share of GDP and the 2016 Budget are presented in Table 7.1.

Chart 7.1

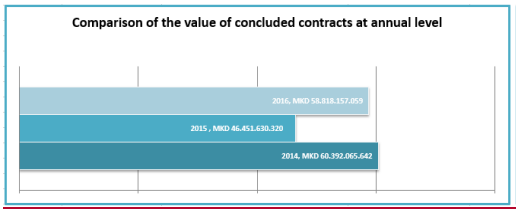


Chart 7.2

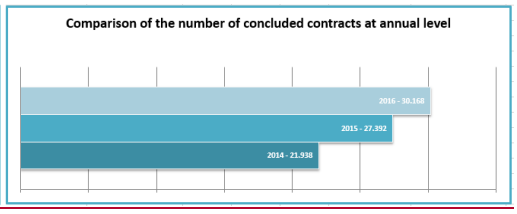


Table 7.1

Value of concluded public contracts	Public procurement as % of the Budget[6]	Public procurement as % of GDP[7]
Denar 58.8 billion	30%	10%

7.1. Data from Contract Notices

18,444 contract notices were published in 2016.

In 2016, **18,444** contract notices were published, 8,070 out of which were notices for simplified competitive procedures with an estimated value up to EUR 5,000 in Denar equivalent, 5,792 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, 4,530 were notices for open procedure, 11 were notices for negotiated procedure with prior publication of a contract notice, 16 were announcements for establishment of a qualification system and 25 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 2,804 contract notices were published on TED.

Table 7.2 and Chart 7.3 show the number of published contract notices according to the type of procedure.

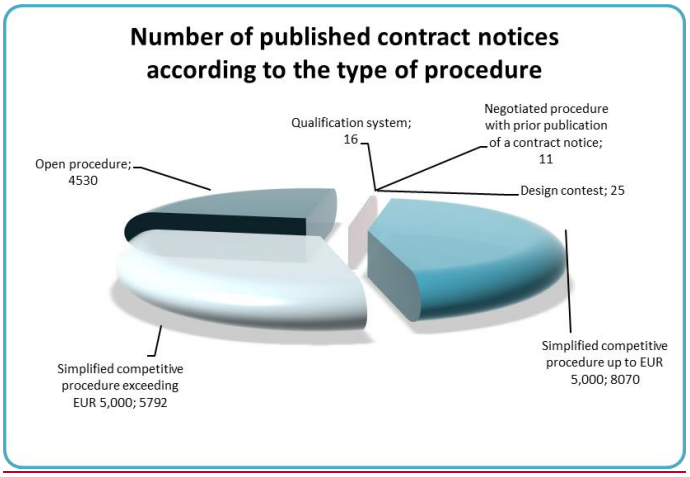
[6] "2016 Budget of the Republic of Macedonia" – obtained from the website of the Ministry of Finance.

[7] "Gross Domestic Product, fourth quarter 2016" – obtained from the website of the State Statistical Office.

Table 7.2

Type of procedure	Number of contract notices
Simplified competitive procedure[8]	8,070
Simplified competitive procedure	5,792
Open procedure	4,530
Restricted procedure	0
Negotiated procedure with prior publication of a contract notice	11
Qualification system	16
Design contest	25
Total	**18,444**

Chart 7.3



Most contract notices in 2016 were published by applying the simplified competitive procedures, total of 13,862 contract notices, and the open procedure – 4,530 contract notices. 8,070 out of the total of 13,862 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.

[8] - simplified competitive procedure up to EUR 5,000 in Denar equivalent.

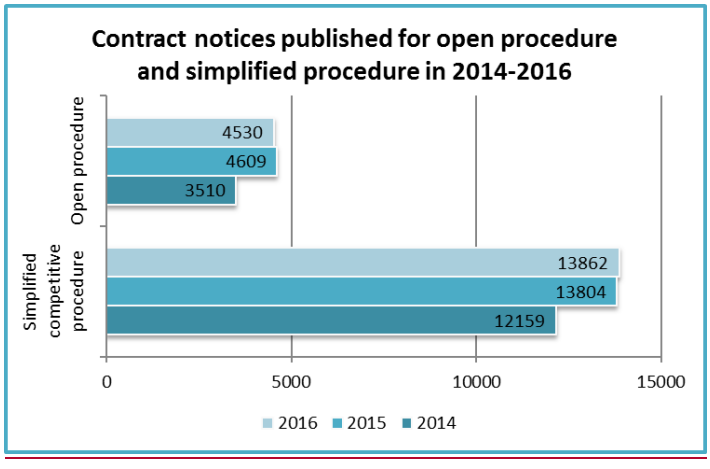
Most contract notices in 2016 were published by applying the simplified competitive procedures, total of 13,862 contract notices.

As for 2016, total of 18,444 contract notices were published, and it can be concluded that the number of published contract notices was almost identical as in 2015, when 18,469 contract notices were published. Slight increase in the number of contract notices was also seen when simplified competitive procedures were applied, with 13,862 contract notices being published compared to 2015, when 13,804 contract notices were published. As regards the open procedure, 4,530 contract notices were published compared to 2015, when 4,609 contract notices were published. Decline in the number of published contract notices was observed at the restricted procedure, the qualification system and the open design contest, while number of published contract notices by applying the negotiated procedure with prior publication of a contract notice increased. Total of 16 announcements for qualification systems were published in 2016, while as regards 2015, 17 announcements for qualification systems were published. 4 out of the total number of published contract notices in 2016 were announcements for establishment of public-private partnership, which were awarded as public contract.

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

Chart 7.4 shows the ratio between published contract notices for the most applied procedures – open procedure and simplified competitive procedure – in the last three years.

Chart 7.4



In 2016, contracting authorities published total of 608 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[9] pursuant to indent 2, paragraph 1, Article 17 of the Law, such as hotel, catering, recreational, cultural, educational, legal, health 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 6 such announcements were published in 2016.

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 – 9,274 contract notices.

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 – 9,274 contract notices, 7,021 contract notices were published for procurement of services and 2,149 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 7.5. Comparative data for the last 3 years are presented in Chart 7.6.

Table 7.3

Type of public contract	Number of contract notices
Supplies	9,274
Services	7,021
Works	2,149
Total	**18,444**

[9]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.

Chart 7.5

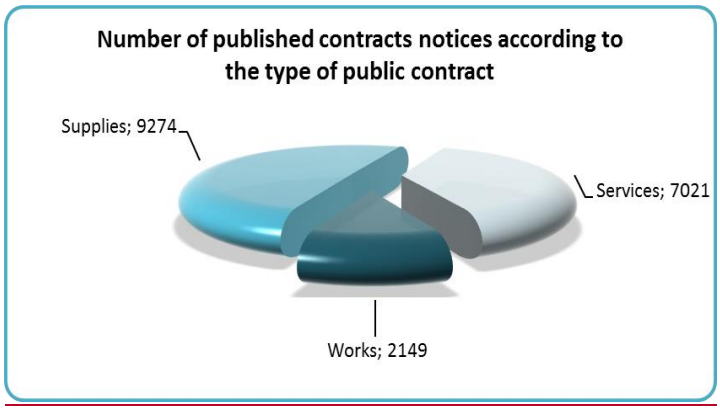
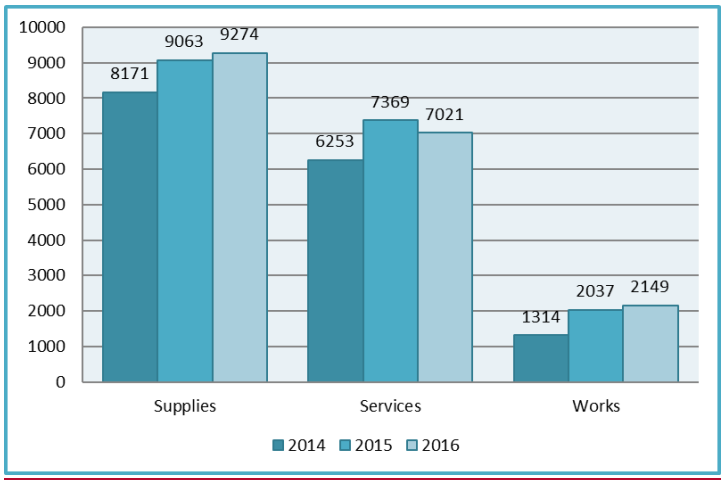


Chart 7.6



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	4,844
Hire purchase	4,392
Lease, with an option to purchase supplies	5
Lease, without an option to purchase supplies	23
Combination of the above-mentioned types	10
Total	**9,274**

Table 7.5

Type of public contract – services	Number of contract notices
Architectural and engineering services	973
Auxiliary transport services	32
Other services	357
Health and social services	148
Publishing and printing services	340
IT and related services	447
Investigative and security services	126
Education and vocational education services	41
Legal services	33
Advertising services	33
Recreational, cultural and sporting services	46
Accounting, auditing and bookkeeping services	149
Management consulting services	32
Telecommunication services	472
Air transport services of travelling passengers and freight	124
Market research and public opinion polling services	10
Services related to land and air transport of mail	38
Land transport services	467
Maintenance and repair services	2,049
Sewage and refuse disposal services	163
Temporary employment services	164
Development and research services	56
Building cleaning services and property management services	93
Rail transport services	1
Financial services	530
Hotel and catering services	97
Total	**7,021**

Table 7.6

Type of public contract – works	Number of contract notices
Execution	1,940
Design and execution	40
Realisation, by any means	169
Total	**2,149**

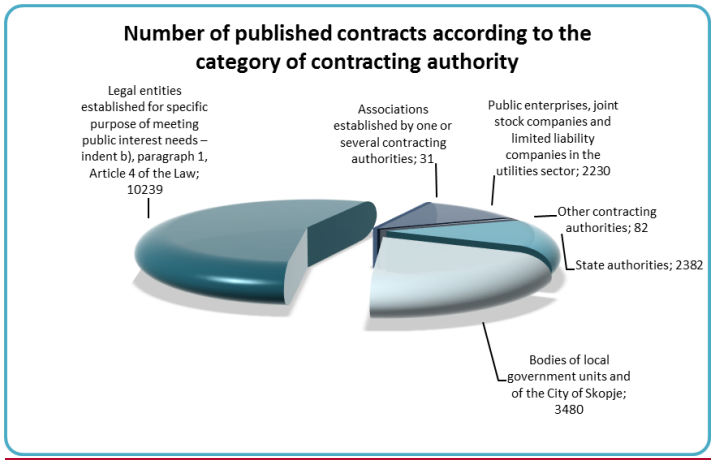
In 2016, the most contract notices were published by contracting authorities falling in the category legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law – 10,239 contract notices.

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 7.7.

Table 7.7

Category of contracting authority	Number of contract notices
State authorities	2,382
Bodies of local government units and of the city of Skopje	3,480
Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law	10,239
Associations established by one or several contracting authorities	31
Public enterprises, joint stock companies and limited liability companies in the utilities sectors	2,230
Other contracting authorities	82
Total	**18,444**

Chart 7.7



*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 16 contract notices were published by applying the economically most advantageous tender criterion.*

When analysing the data on the published contract notices according to category of contracting authority, it can be seen that the most contract notices – 10,239 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 – 3,480.

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 in almost 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), the lowest price criterion is to be used mandatory when awarding public contracts, while, upon exception, the economically most advantageous tender may be used as contract award criterion.

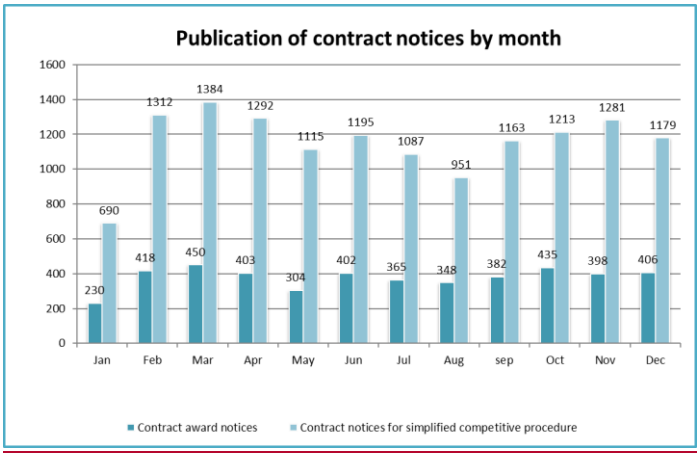
Significant decline in the number of published contract notices when the economically most advantageous tender criterion was used can be observed as a result of this legal amendment. As for 2015, 17 contract notices were published by using the economically most advantageous tender criterion, while only 16 contract notices were published by using this criterion in 2016. 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	18,403
Economically most advantageous tender	16

Chart 7.8 shows the dynamics of publishing contract notices by month. It could be seen therein that most of the contract notices were published in March, as well as in February and April 2016.

Chart 7.8



7.2. Concluded Public Contracts

Value of the awarded public contracts in 2016 amounted to Denar 58.8 billion.

Analysis of the data on concluded public contracts includes a review of the data on public contracts concluded in 2016 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 procedures - open 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

Compared to 2015, value of the concluded contracts surged by 27%.

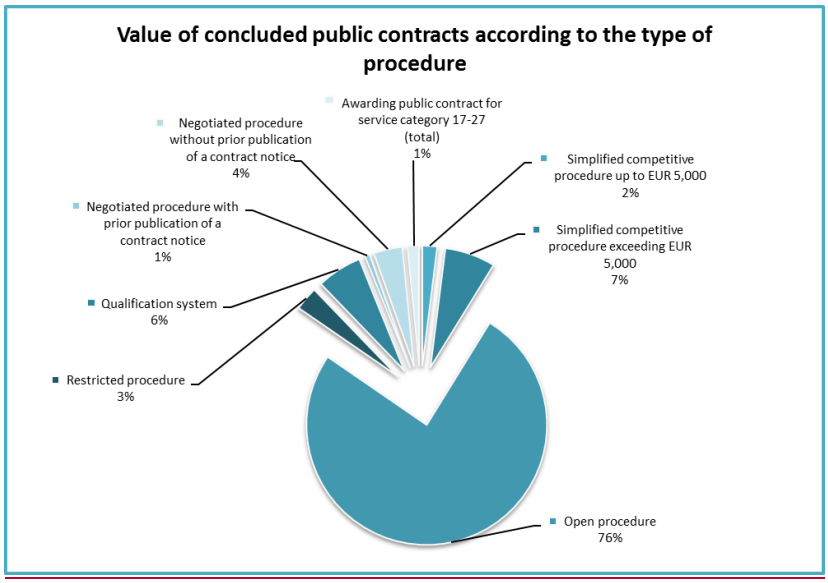
the accuracy of the entered data, since they publish their contract notices, contract award notices/cancellation notices and records on simplified competitive procedures through the ESPP by means of their usernames and passwords.

Number and value of concluded public contracts in 2016 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 2016 surged by around 27% compared to 2015, amounting to Denar 58,818,157,059. Most applied procedure according to the value of the concluded contracts was the open procedure, on the basis of which 9,838 contracts were concluded in the amount of Denar 44,607,065,313, 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 9,123 contracts were concluded in the amount of Denar 3,994,820,279 – 7% of the total value.

Table 7.9

Type of contract award procedure	Number of concluded contracts	Value of concluded contracts
Simplified competitive procedure	8,855	Denar 1,165,626,933
Simplified competitive procedure	9,123	Denar 3,994,820,279
Open procedure	9,838	Denar 44,607,065,313
Restricted procedure	1	Denar 1,880,186,436
Qualification system	30	Denar 3,581,747,189
Negotiated procedure with prior publication of a contract notice	34	Denar 392,585,644
Negotiated procedure without prior publication of a contract notice	608	Denar 2,283,333,753
Awarding public services contract for service category 17-27 (total)	1,679	Denar 912,791,512
Total	**30,168**	**Denar 58,818,157,059**

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 last two years. In fact, with respect to the value of concluded contracts, most of them were concluded by applying the open procedure (79% in 2014, 76% in 2015, 76% in 2016). Share of restricted procedure (3% in 2016) in the total value of concluded contracts dropped in relation to 2015, when it accounted for 5%, while its share increased in relation to 2014, when it accounted for 1%. Share of negotiated procedure with prior publication of a contract notice dropped proportionally from 2% in 2014, to 1% in 2015, accounting for less than 1% in 2016. In addition, share of negotiated procedure without prior publication of a contract notice was stagnant. It was significantly lower in the previous two years compared to the past years (6% in 2014, 4% in 2015, 4% in 2016). With respect to this type of procedure, there were 826 public contracts concluded in 2014 in the amount of Denar 3,466,477,316, while in 2015, number of concluded public contracts increased - 969 public contracts, however with twice lower value in the amount of Denar 1,802,347,717, and there were 608 public contracts concluded in 2016, however, with higher absolute value unlike the year before – Denar 2,283,333,753. 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

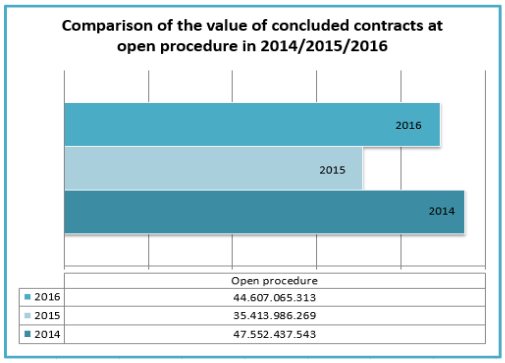
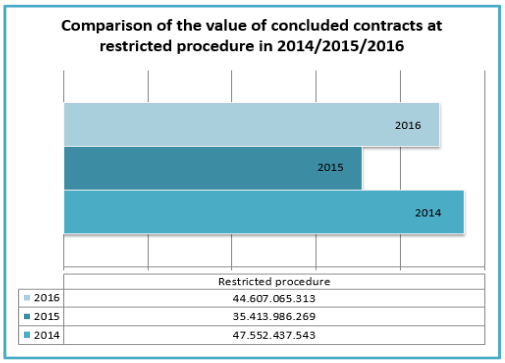


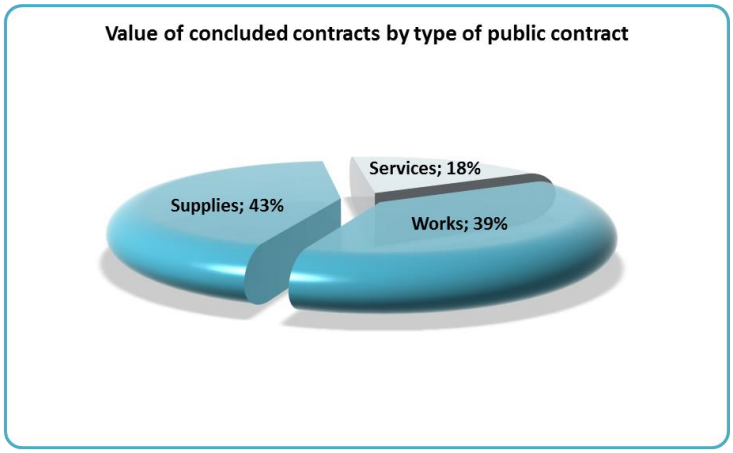
Chart 7.11



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

According to the subject-matter of the public contract, 18,190 supply contracts in the total amount of Denar 25,014,745,836 were concluded in 2016, as well as 9,901 services contracts in the total amount of Denar 10,819,931,751 and 2,077 works contracts in the total amount of Denar 22,983,479,472. 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



According to the type of public contract, the highest percentage (43%) of the value of public contracts accounted for procurement of supplies.

Table 7.10

Type of public contract	umber of concluded contracts	Value of concluded contracts
Supplies	18,190	Denar 25,014,745,836
Services	9,901	Denar 10,819,931,751
Works	2,077	Denar 22,983,479,472
Total	**30,168**	**Denar 58,818,157,059**

The highest percentage (43%) 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 increased by 2 percentage points in 2016, while share of the procurement of services dropped by 8 percentage points in relation to the previous year. Public services contracts accounted for 18% of the total value of public procurement in 2016 (they accounted for 24% in 2014 and 26% in 2015). 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 architectural and engineering services (category No. 12). Public works contracts accounted for 39% of the total value of contracts (most often execution of works). These data show that share of public works contracts picked up by 6 percentage points compared to 2015.

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).

Chart 7.13

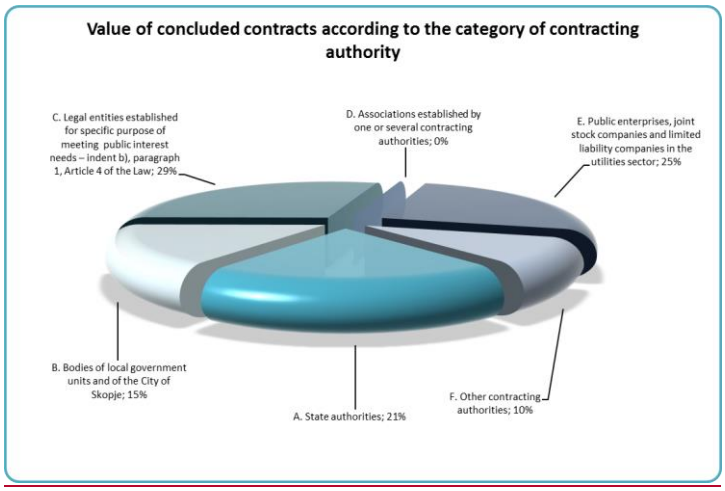


Table 7.11

Category of contracting authority	Main business activity	Number of contracts	Value of concluded contracts
A. State authorities	General public services	1,783	6,149,122,567
	Defence	314	726,613,082
	Public order and security	147	719,033,492
	Environment	21	51,482511
	Housing, construction and transport	27	8,582,385
	Economy and finance	223	202,845,000
	Health	177	2,489,649,632
	Social protection	146	112,713,686
	Sports and culture	38	139,148,829
	Education	198	1,668,342,288
	Other	147	85,267,969
	Total A.	**3,221**	**12,352,801,443**
B. Bodies of local government units and of the city of Skopje	General public services	4,109	8,915,989,263
	Sports and culture	21	76,034,307
	Education	7	3,265,545
	Total B.	**4,137**	**8,995,289,116**
C. Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law	General public services	3,439	6,619,647,959
	Public order and security	207	112,000,101
	Environment	347	231,628,206
	Economy and finance	31	9,842,012
	Health	8,055	6,214,507,502
	Social protection	1,480	703,106,205
	Sports and culture	858	569,283,576

	Education	4,782	1,817,652,672
	Other	337	1,003,114,644
	Total C.	**19,536**	**17,280,782,878**
D. Associations established by one or several contracting authorities	Sports and culture	8	3,269,804
	Other	35	11,960,716
	Total D.	**43**	**15,230,520**
E. Public enterprises, joint stock companies and limited liability companies in the utilities sectors	General public services	1,743	3,966,313,583
	Environment	27	14,688,621
	Housing, construction and transport	116	508,359,477
	Sports and culture	11	1,703,492
	Other	1,203	10,013,143,091
	Total E.	**3,100**	**14,504,208,264**
F. Other contracting authorities	General public services	4	1,677,682,564
	Health	14	2,532,714
	Social protection	8	2,840,915
	Sports and culture	6	539,708
	Education	5	1,446,666
	Other	94	3,984,802,272
	Total F.	**131**	**5,669,844,840**
Total	**Total A + B + C + D + E + F**	**30,168**	**58,818,157,059**

The category legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law had the highest share in the value of concluded contracts, accounting for 29% of the value of public procurement.

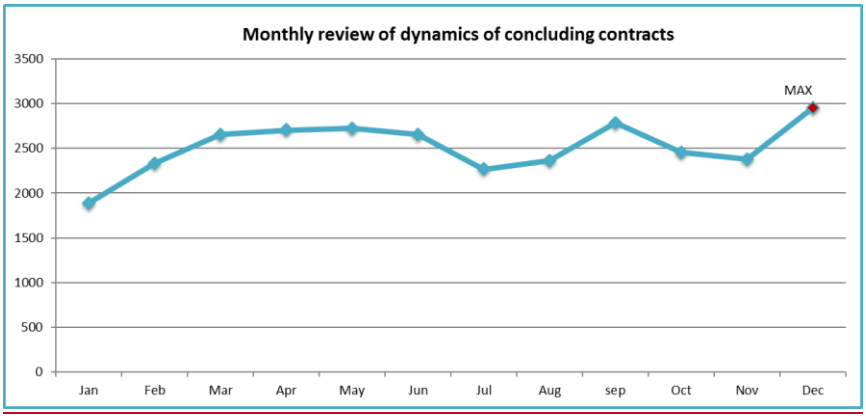
The Table shows detailed review of realised public procurements according to the category and the main business activity of the contracting authorities. The category legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law had the highest share in the value of concluded contracts, accounting for **29%** of the value of public procurement. Further on, on the basis of the realised public procurements, public enterprises, joint stock companies and limited liability companies in the utilities sectors accounted for 25% each of the value of public procurement. Other contracting authorities participated with around 46% all together in the total value of public contracts. Compared to 2015, significant decline of the share of contracts concluded by state authorities was registered (20% in 2014, 36% in 2015, 21% in 2016), as well as 3 percentage points drop of the share of contracts concluded by bodies of local government units and of the city of Skopje. As regards public contracts concluded by public

enterprises, joint stock companies and limited liability companies in the utilities sectors, their share surged (40% in 2014, 17% in 2015, 25% in 2016), as well as the share of public contracts concluded by other contracting authorities (6% in 2014, 2% in 2015, 10% in 2016).

7.2.3. Data on Public Contracts Concluded according to Other Parameters

When analysing the dynamics of awarding contracts by month in 2016 (Chart 7.14), it can be seen that most of the contracts were concluded in December.

Chart 7.14



In addition, it is worth mentioning that 492 framework agreements (total of 481 framework agreements were concluded in 2015, 670 framework agreements in 2013) and 446 agreements for conducting joint procurement (409 agreements for conducting joint procurement were concluded in 2015, while 250 agreements were concluded in 2015).

Table 7.12

Framework agreements concluded in 2016		Number	Value
Single contracting authority	with one economic operator	361	2,898,577,138
	with several economic operators – by reopening competition	33	417,813,022
	with several economic operators - without reopening competition	63	420,755,052
Several	with one economic operator	8	6,674,082

contracting authorities	with several economic operators - by reopening competition	26	24,390,296
	with several economic operators - without reopening competition	1	4,051,879

The Table below shows data on the number of economic operators with which framework agreements were concluded and they are obtained only from the contract award notices due to the ESPP setup. In fact, it can be seen that out of the total of 423 concluded framework agreements, only 4 agreements were concluded with 7 or more economic operators.

Positive benefit worth mentioning is the decline of the total value of concluded contracts in 2016 and 2015 relation to previous years as regards the negotiated procedures without prior publication of a contract notice.

Table 7.13

Number of economic operators with which framework agreement was concluded	Number of contract award notice
1	356
2	19
3	20
4	12
5	10
6	2
7	3
9	1

As mentioned at the beginning of this Chapter, negotiated procedure with prior publication of a contract notice accounted for less than 1% in 2016 (2% in 2014, 1% in 2015), while negotiated procedure without prior publication of a contract notice accounted for 4% in 2016 (6% in 2014, 4% in 2015) of the total amount of funds. Table 7.14 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.

These data speak of significant decline in the negotiated procedures with/without prior publication of a contract notice in 2016, like in 2015, compared to the previous years. Such decline was due to the amendments 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 at some of the basis for applying the concerned procedure.

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 42% of the value of contracts concluded by applying the negotiated procedures. Other reasons, accounting for 41% 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 procurement of unforeseen works accounted for 9% of the total value of the contracts awarded by applying the concerned procedure. The reason - additional works that cannot be technically or economically separated from the original contract without major inconveniences for the contracting authority accounted for 4% of the total value of the contracts awarded by applying the negotiated procedure without prior publication of a contract notice. Share of other reasons/legal justification for the application of negotiated procedure without prior publication of a contract notice was insignificant and accounted for less than 1% of the total value of awarded contracts.

Compared to last year, number of contracts awarded by applying the negotiated procedure without prior publication of a contract notice declined (608 in 2016, 969 in 2015, 826 in 2014), while the total value of

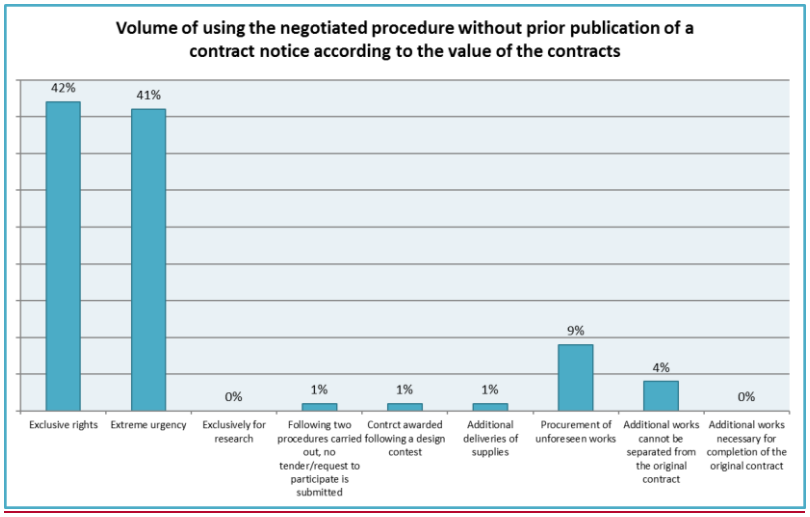
awarded contracts surged in relation to 2015 (Denar 2,283,333,753 in 2016, Denar 1,802,347,717 in 2015, Denar 3,466,477,316 in 2014).

Table 7.14

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	31	Denar 356,274,016
	contracting authority invites to negotiations all economic operators which, in the open procedure, restricted procedure or the competitive dialogue procedure have proven their personal situation and have submitted tenders in line with the requirements for the respective procedure	3	Denar 36,311,628
	Total A.	**34**	**Denar 392,585,644**
B. Negotiated procedure without prior publication of a contract notice	no tender is submitted upon two previously carried out open procedures or simplified competitive procedures, i.e. no request to participate is submitted in the first phase upon two previously carried out restricted procedure, provided that the requirements in the technical documentation are not altered	19	Denar 15,279,637
	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	318	Denar 969,389,324
	for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, nor attributable to it as an omission, as a result of which the time limit for open procedure, restricted procedure, simplified competitive procedures or negotiated procedure with prior publication of contract notice or request for quotations cannot be complied with	159	Denar 945,342,248
	when the products involved are manufactured purely for the purpose of research, experimentation, study or development, but not for quantity production to establish commercial viability or to recover research and development costs	1	Denar 57,860
	when the contracting authority has to procure additional deliveries from the original contractor for the purpose of either partial replacement of normal supplies or installations or extension of existing supplies or installations, whereby a change of the tenderer would oblige the contracting authority to purchase material having different technical characteristics which would result in	2	Denar 25,302,754

	incompatibility or disproportionate technical difficulties in operation and maintenance		
	when, following a design contest, the concerned contract is awarded to the best ranked participant or to one of the best ranked participants	14	Denar 14,123,740
	for procurement of unforeseen works	54	Denar 208,217,954
	such works or services cannot be technically or economically separated from the original contract without causing major inconvenience for the contracting authority	36	Denar 101,584,728
	such works or services, although separable from the execution of the original contract, are strictly necessary for its completion	5	Denar 4,035,509
	Total B.	**608**	**Denar 2,283,333,754**

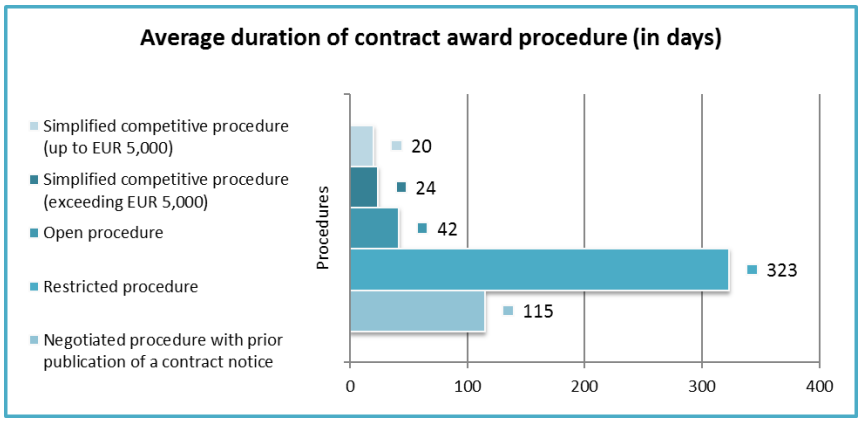
Chart 7.15



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 20 days (21 days in 2014, 21 days in 2015), 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 (24 days in 2014, 24 days in 2015), open procedure - 42 days (45 days in 2014, 46 days in 2015), restricted

procedure – 323 days (139 days in 2014, 330 days in 2015) and negotiated procedure with prior publication of a contract notice – 77 days in 2014, 70 days in 2015 and 115 days in 2016.

Chart 7.16



Comparison of the duration of procedures in the last 3 years is presented in Table 7.15.

Table 7.15

Average duration of contract award procedures			
	2014	2015	2016
Simplified competitive procedure (up to EUR 5,000)	21 days	21 days	20 days
Simplified competitive procedure (exceeding EUR 5,000)	24 days	24 days	24 days
Open procedure	45 days	46 days	42 days
Restricted procedure	139 days	330 days	323 days
Negotiated procedure with prior publication of a contract notice	77 days	70 days	115 days

Below are presented data on the value of concluded contracts by contracting authority (a list of 10 largest public consumers in 2016), by category of contract authority and by category of contract authority by type of public contract - Tables 7.16, 7.17 and 7.18

Table 7.16

List of 10 largest public consumers in 2016	
Name of contracting authority	***Total value of contracts (Denar)***
Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Denar 5,375,439,903
EVN Macedonia joint stock company - Skopje	Denar 3,968,701,205
Ministry of Agriculture, Forestry and Water Economy	Denar 3,158,526,134
Macedonian Power Plants Joint Stock Company - Skopje	Denar 2,531,739,998
Ministry of Health	Denar 2,421,595,165
Public Enterprise for State Roads	Denar 1,895,520,922
National Bank of the Republic of Macedonia	Denar 1,681,986,085
Balkan Energy Group LLC for heat production Skopje	Denar 1,676,367,000
Ministry of Education and Science	Denar 1,598,392,444
Makedonija Pat Public Enterprise - Skopje	Denar 989,567,872

Table 7.17

List of the largest consumers by category of contracting authority		
Category of contracting authority	**Name of contracting authority**	**Value of concluded contracts**
A. State authorities	Ministry of Agriculture, Forestry and Water Economy	Denar 3,158,526,134
	Ministry of Health	Denar 2,421,595,165
	Ministry of Education and Science	Denar 1,598,392,444
	Ministry of Defense - Logistics Department	Denar 726,613,082
	Ministry of Internal Affairs of the Republic of Macedonia	Denar 709,955,999
	Cultural Heritage Protection Office	Denar 537,483,734
	Ministry of Transport and Communications	Denar 535,466,543
	Common Service Agency within the Government of the Republic of Macedonia	Denar 464,885,953
	Directorate for Compulsory Reserves of Oil and Oil Derivatives	Denar 293,512,730
	Customs Administration of the Republic of Macedonia	Denar 151,514,928
B. Bodies of local government units and of the city of Skopje	City of Skopje	Denar 977,609,618
	Center Municipality	Denar 814,773,769
	Kapros Municipality	Denar 754,565,547
	Bitola Municipality	Denar 544,249,516
	Kumanovo Municipality	Denar 362,701,568
	Tetovo Municipality	Denar 317,524,075
	Gazi Baba Municipality	Denar 263,552,730
	Aerodrom Municipality	Denar 250,080,818
	Gostivar Municipality	Denar 245,019,336
	Ilinden Municipality	Denar 226,542,248
C. Legal entities	National Bank of the Republic of Macedonia	Denar 1,681,986,085

established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law	Makedonija Pat Public Enterprise – Skopje	Denar 989,567,872
	Macedonian Forests Public Enterprise p.o. - Skopje	Denar 744,478,505
	"8th September" City General Hospital, public health institution, Skopje	Denar 642,818,104
	Komunalna Higiena (Utilities Hygiene) Public Enterprise Skopje	Denar 507,204,466
	Directorate for Technological and Industrial Development Zones	Denar 461,581,706
	Radiotherapy and Oncology University Clinic, public health institution, Skopje	Denar 448,644,620
	Macedonian Railways Transport Joint Stock Company - Skopje	Denar 368,521,577
	Public Institution in the field of health for the needs of public health institutions - university clinics, institute and emergency center - Skopje	Denar 309,045,703
	Cardiology Clinic - Skopje	Denar 274,227,235
D. Associations established by one or several contracting authorities	Association of Local Government Units of the Republic of Macedonia - ZELS	Denar 11,960,716
	BT MZT Skopje Aerodrom	Denar 2,733,305
	Association of Festival Activities, Tiberiopolian Film Alliance Asterfest - Institute for Short and Documentary Film	Denar 536,499
E. Public enterprises, joint stock companies and limited liability companies in the utilities sectors	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Denar 5,375,439,903
	Macedonian Power Plants Joint Stock Company – Skopje	Denar 2,531,739,998
	Public Enterprise for State Roads	Denar 1,895,520,922
	Water Supply and Sewerage Public Enterprise - Skopje	Denar 967,988,410
	Public Transport Enterprise SKOPJE	Denar 891,098,911
	Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia - Skopje	Denar 421,449,214
	AD MEPSO joint stock company for electricity transmission and energy and electricity system management	Denar 321,994,290
	FOD DOOEL Novaci AD ELEM Skopje (factory for equipment and spare parts)	Denar 306,855,581
	GA-MA AD joint stock company for transmission of natural gas - Skopje	Denar 264,619,895
	Macedonian Post AD (joint stock company)	Denar 226,683,736
F. Other contracting authorities	EVN Macedonia joint stock company - Skopje	Denar 3,968,701,205,
	Balkan Energy Group LLC for heat production Skopje	Denar 1,676,367,000,
	State Council on Road Traffic Safety of the Republic of Macedonia	Denar 12,090,885
	"Macedonian Information Agency" Joint Stock Company – Skopje, state-owned	Denar 4,010,182
	Holocaust Fund of the Jews from Macedonia	Denar 2,840,915
	Mother Therese University - Skopje	Denar 1,446,666
	"H.E.R.A." Citizens' Association - Skopje	Denar 1,377,000
	MHEC Lukar DOOEL Kavadarci (company for production of electricity and services)	Denar 1,315,565
	HOPS Association – Healthy Options Project Skopje	Denar 1,027,836

	Municipal Institution – "Aco Karamanov" Culture Center - Radovis	Denar 479,708

Table 7.18

List of the largest consumers by category of contracting authority by type of public contract

Category of contracting authority	Type of public contract	Contracting Authority	Value of concluded contracts
State authorities	Supplies	Ministry of Health	Denar 1,843,975,064
		Ministry of Education and Science	Denar 663,325,208
		Ministry of Internal Affairs of the Republic of Macedonia	Denar 527,805,587
		Ministry of Defense - Logistics Department	Denar 473,527,541
		Directorate for Compulsory Reserves of Oil and Oil Derivatives	Denar 286,608,087
	Services	Ministry of Education and Science	Denar 238,941,440
		Ministry of Defense - Logistics Department	Denar 178,315,809
		Ministry of Internal Affairs of the Republic of Macedonia	Denar 149,110,412
		Ministry of Agriculture, Forestry and Water Economy	Denar 148,499,806
		Common Service Agency within the Government of the Republic of Macedonia	Denar 147,758,638
	Works	Ministry of Agriculture, Forestry and Water Economy	Denar 2,891,511,579
		Ministry of Education and Science	Denar 696,125,796
		Ministry of Health	Denar 543,944,408
		Cultural Heritage Protection Office	Denar 492,700,219
		Ministry of Transport and Communications	Denar 360,484,167
Bodies of local government units and of the city of Skopje	Supplies	City of Skopje	Denar 79,884,911
		Stip Municipality	Denar 49,077,019
		Kumanovo Municipality	Denar 45,347,515
		Gostivar Municipality	Denar 30,250,942
		Kicevo Municipality	Denar 28,297,958
	Services	City of Skopje	Denar 238,271,283
		Kumanovo Municipality	Denar 153,234,056
		Aerodrom Municipality	Denar 97,414,065
		Bitola Municipality	Denar 75,179,851
		Center Municipality	Denar 70,673,299
	Works	Center Municipality	Denar 729,051,759

		Kapros Municipality	Denar 667,144,641
		City of Skopje	Denar 659,453,423
		Bitola Municipality	Denar 454,036,716
		Tetovo Municipality	Denar 264,232,551
Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law	Supplies	Makedonija Pat Public Enterprise - Skopje	Denar 816,004,694
		"8th September" City General Hospital, public health institution, Skopje	Denar 498,347,558
		Radiotherapy and Oncology University Clinic, public health institution, Skopje	Denar 404,954,186
		Komunalna Higiena (Utilities Hygiene) Public Enterprise Skopje	Denar 339,254,402
		Macedonian Railways Transport Joint Stock Company - Skopje	Denar 323,696,935
	Services	Macedonian Forests Public Enterprise p.o. - Skopje	Denar 486,683,122
		"8th September" City General Hospital, public health institution, Skopje	Denar 141,599,606
		Komunalna Higiena (Utilities Hygiene) Public Enterprise Skopje	Denar 135,384,942
		Food and Veterinary Agency	Denar 134,539,507
		Real Estate Cadastre Agency	Denar 113,421,313
	Works	National Bank of the Republic of Macedonia	Denar 1,480,253,011
		Directorate for Technological and Industrial Development Zones	Denar 412,576,611
		Streets and Roads Public Enterprise - Skopje	Denar 94,400,000
		Makedonija Pat Public Enterprise - Skopje	Denar 94,216,819
		Center for Development of the Third Northeast Planning Region	Denar 64,550,457
Associations established by one or several contracting authorities	Supplies	Association of Local Government Units of the Republic of Macedonia - ZELS	Denar 1,091,154
		BT MZT Skopje Aerodrom	Denar 496,615
	Services	Association of Local Government Units of the Republic of Macedonia - ZELS	Denar 10,869,562
		BT MZT Skopje Aerodrom	Denar 2,236,690
		Association of Festival Activities, Tiberiopolian Film Alliance Asterfest - Institute for Short and Documentary Film	Denar 536,499
Public enterprises, joint stock companies and limited liability companies in the utilities sectors	Supplies	Public Transport Enterprise SKOPJE	Denar 731,491,848
		Macedonian Power Plants Joint Stock Company - Skopje	Denar 611,735,548
		Water Supply and Sewerage Public Enterprise - Skopje	Denar 590,387,480
		FOD DOOEL Novaci AD ELEM Skopje (factory for equipment and spare parts)	Denar 291,961,367

		Macedonian Post AD (joint stock company)	Denar 127,829,166
	Services	Macedonian Power Plants Joint Stock Company - Skopje	Denar 1,668,752,144
		Public Enterprise for State Roads	Denar 555,431,131
		Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Denar 207,174,199
		AD MEPSO joint stock company for electricity transmission and energy and electricity system management	Denar 193,185,664
		Water Supply and Sewerage Public Enterprise - Skopje	Denar 168,834,831
	Works	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Denar 5,167,887,488
		Public Enterprise for State Roads	Denar 1,303,280,548
		Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia - Skopje	Denar 309,880,375
		Macedonian Power Plants Joint Stock Company - Skopje	Denar 251,252,306
		Water Supply and Sewerage Public Enterprise - Skopje	Denar 208,766,100
Other contracting authorities	Supplies	EVN Macedonia joint stock company - Skopje	Denar 3,651,388,481
		Balkan Energy Group LLC for heat production Skopje	Denar 1,676,367,000
		MHEC Lukar DOOEL Kavadarci (company for production of electricity and services)	Denar 1,315,565
		State Council on Road Traffic Safety of the Republic of Macedonia	Denar 1,131,883
		HOPS Association - Healthy Options Project Skopje	Denar 1,027,836
	Services	EVN Macedonia joint stock company - Skopje	Denar 211,112,724
		State Council on Road Traffic Safety of the Republic of Macedonia	Denar 10,959,002
		"Macedonian Information Agency" Joint Stock Company - Skopje, state-owned	Denar 3,470,816
		Holocaust Fund of the Jews from Macedonia	Denar 2,547,061
		"H.E.R.A." Citizens' Association - Skopje	Denar 459,000
	Works	EVN Macedonia joint stock company - Skopje	Denar 106,200,000
		Mother Therese University - Skopje	Denar 494,467

Next few tables show data on the 10 highest-value public contracts by type of contract concluded in 2016, i.e. the highest-value contracts

concluded for procurement of supplies, services and works. Tables 7.19, 7.20 and 7.21.

Table 7.19

List of the 10 highest-value supply contracts concluded in 2016			
Subject-matter of procurement	**Name of contracting authority**	**Contractor**	**Value of concluded contracts**
Procurement of natural gas up to 126.000.000Hm3	Balkan Energy Group LLC for heat production Skopje	Sintez Green Energy Cyprus Limited	1,676,367,000
Fully electronic three-phase meters for direct connection	EVN Macedonia joint stock company - Skopje	Company for trade, production and services ISKRA ATG LLC Skopje	950,136,000
Euro Diesel (D – EV)	Public Transport Enterprise SKOPJE	Joint stock company for sale and transportation of oil derivatives ALOV AD Gevgelija	619,677,000
Procurement of insulin, glucagon, insulin syringes and test strips and insulin pumps with medical consumables for the period from August 2016 to August 2018 for the needs of the population in Macedonia	Ministry of Health	Company for domestic and international sales ZEGIN DOO Skopje	425,847,345
UPE-insulated energy cables, nominal voltage Uo/U 12/20 kV and nominal voltage Uo/U 20/35 kV	EVN Macedonia joint stock company - Skopje	Company for production, trading and services MAK KAB DOOEL import - export Skopje	338,660,000
Meters with embedded GSM modem and switch Macedonia	EVN Macedonia joint stock company - Skopje	Company for trade, production and services ISKRA ATG LLC Skopje	297,246,720
Procurement of 1 (one) oil derivative - Euro Diesel BS (D – EV) dividable into lots for the needs of compulsory reserves of Macedonia	Directorate for Compulsory Reserves of Oil and Oil Derivatives	OKTA Oil Refinery joint stock company - Skopje	283,337,062

Centrifugal spinning reinforced concrete poles, consoles, stands and pole power transformer stations	EVN Macedonia joint stock company - Skopje	KARPOS Factory – joint stock company for designing, production and installation of concrete prefabricated components, flats, industrial facilities, bridges and long-distance power lines - Skopje	283,200,000
Oil and oil derivatives	MACEDONIAN RAILWAYS Transport Joint Stock Company - Skopje	Company for production, trading and services PUCKO PETROL import - export DOOEL Village of Plasnica, Plasnica	250,000,000
Procurement of insulin, glucagon, insulin syringes and test strips and insulin pumps with medical consumables for the period from August 2016 to August 2018 for the needs of the population in Macedonia	Ministry of Health	Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI Skopje	247,304,110

Table 7.20

List of the 10 highest-value services contracts concluded in 2016			
Subject-matter of procurement	**Name of contracting authority**	**Contractor**	**Value of concluded contracts**
Service related to auxiliary mechanization upon call for hydraulic excavator – caterpillar and bulldozer – caterpillar for "Rudnici" production unit, REK Bitola	Macedonian Power Plants Joint Stock Company - Skopje	Company for trading, production and services MARKOVSKI COMPANY Borce DOOEL Import-Export Bitola	377,600,000
Service related to excavation of coal and tailing for "Rudnici" production unit, REK Bitola	Macedonian Power Plants Joint Stock Company - Skopje	Company for construction and services PELISTER Bitola LLC	355,198,753
Supervision over the construction of the gas pipeline system in the Republic of Macedonia – phase 1 Negotino	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Company for planning, designing and engineering PROSTOR LLC Kumanovo	206,264,000

(Kavadarci) – Bitola section and Skopje – Tetovo – Gostivar section			
Service related to use of auxiliary and construction mechanization upon call for "Termoelektrana" production unit and "Rudnik" production unit, REK Bitola	Macedonian Power Plants Joint Stock Company - Skopje	Company for production, trading, services and transport MIS - KOMERC Mitko DOOEL export – import Skopje	188,800,000
PP 01-47/2016 Engaging attorneys at law company for rendering services related to representations by lawyers	Macedonian Power Plants Joint Stock Company - Skopje	Curtis, Mallet-Prevost, Colt & Mosle LLP	155,000,000
Property and employees insurance in AD MEPSO for three (3) insurance years	AD MEPSO joint stock company for electricity transmission and energy and electricity system management	"EUROLINK" insurance joint stock company Skopje	145,491,292
01-171/2015 Service related to representation before international arbitrage	Macedonian Power Plants Joint Stock Company - Skopje	Curtis, Mallet-Prevost, Colt & Mosle LLP	120,000,000
Engagement of agency for temporary employment	Komunalna Higiena (Utilities Hygiene) Public Enterprise Skopje	"Motivi" Agency for Temporary Employment Skopje	94,400,000
Supervision over the construction of state road A2, Stracin – Rankovci – Kriva Palanka section	Public Enterprise for State Roads	Company for designing, construction, trading and services DIVI MAKEDONIJA DOOEL Skopje	87,309,380
Transportation of pupils to elementary schools and high schools in Kumanovo Municipality	Kumanovo Municipality	Company for transportation, production, trading and services OIL-TRAVEL DOOEL import – export Kumanovo	83,558,601

Table 7.21

List of the 10 highest-value works contracts concluded in 2016

Subject-matter of procurement	Name of contracting authority	Contractor	Value of concluded contracts
Construction of regional gas pipeline Negotino (Kavadarci) Bitola section	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Construction company "GRANIT" joint stock company Skopje	2,239,000,000
Construction of "Recani" dam at the Orizarska River, Kocani Municipality	Ministry of Agriculture, Forestry and Water Economy	Company for mining and construction SILEKS NEMETALI ST DOOEL Kratovo	1,880,186,436
Construction of regional gas pipeline Skopje – Tetovo – Gostivar section	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Company for construction and services RAPID BUILD LLC Kumanovo	1,782,270,000
Construction works related to construction of the building of the National Bank of the Republic of Macedonia	National Bank of the Republic of Macedonia	BETON AD Skopje Construction Company (joint stock company)	1,477,332,301
Construction of regional gas pipeline Blok stanica 5 – Negotino section with MMRS Stip and MMRS Negotino	Joint stock company for energy-related activities "MAKEDONSKI ENERGETSKI RESURSI" Skopje, state-owned	Company for construction and services RAPID BUILD LLC Kumanovo	1,146,617,488
Construction works on the main duct of the irrigation system Raven – Recica	Ministry of Agriculture, Forestry and Water Economy	Company for production, construction, trade and catering AK-INVEST DOOEL export	907,409,592
Procurement of works	Cultural Heritage Protection Office	Company for production, construction, trade and catering AK-INVEST DOOEL export	433,368,965
Construction of elementary municipal school in Kapistec settlement – Center Municipality - Skopje	Center Municipality	Company for production, designing and engineering VARDAR GRADBA LLC, Village of Trubarevo - Skopje	403,793,748

Construction of the north stand as a functional part of phase I within the construction of the football stadium in the locality "Tumbe Kafe" - Bitola	Bitola Municipality	Construction company "GRANIT" joint stock company Skopje	331,855,095
Overhaul and rehabilitation of state road A1, Negotino – Demir Kapija section	Public Enterprise for State Roads	Construction company "GRANIT" joint stock company Skopje	305,619,999

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 2016, are presented below.

Table 7.22

List of 20 economic operators being awarded the most public contracts	
Contractor	**Number of concluded contracts**
Sales and services company BIOTEK DOO export-import Skopje	548
Trading, production and services company PROMEDIKA DOO Skopje	382
Sales and services company AVICENA DOO export-import Skopje	379
MAKPETROL joint stock company for sales of oil and oil derivatives Skopje	349
Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI Skopje	277
Sales company MAKEDONIJALEK DOOEL Skopje	274
Sales and services company ALKALOID KONS import - export DOOEL Skopje	272
Company for production, trading and services PUCKO PETROL import - export	265

DOOEL Village of Plasnica, Plasnica	
DAUTI KOMERC AD Company for production, sales and services import - export, joint stock company, Village of Bojane, Saraj Municipality	261
Macedonian Telecom joint stock company for electronic communications - Skopje	221
Trading, production and services company BI-EL ENGINEERING import – export DOOEL Strumica	220
Company for production, sales and services OFFICE PLUS DOOEL import - export – Skopje	209
AD INSURANCE POLICY National Insurance Group (join stock company) – Skopje	199
Company for production, sales and services VESTA DROGERIJA Zoran i Bosko import – export LLC Skopje	192
ONE.VIP LLC Mobile Communications Operator, Skopje	191
Trading, production and services company FENIKS FARMA DOOEL Skopje	175
Company for domestic and international sales ZEGIN DOO Skopje	172
Company for sales of laboratory devices and equipment, chemicals, scales, filtration and services LABORATORIJA Kostadinka Jancevska DOOEL import – export Skopje	165
Company for trade and services VIZIOMED GBG DOOEL Skopje	161
Production, trading and services company RIKI-JUNIOR DOOEL import - export Kocani	152

Table 7.23

List of 20 economic operators with the most concluded contracts according to the value of the concluded contracts	
Contractor	**Value of concluded contracts**
Construction company “GRANIT” joint stock company Skopje	**3,456,715,894**
Company for construction and services RAPID BUILD LLC Kumanovo	**2,928,887,488**

Company for mining and construction SILEKS NEMETALI ST DOOEL Kratovo	1,894,705,549
Sintez Green Energy Cyprus Limited	1,676,367,000
BETON AD Skopje Construction Company (joint stock company)	1,652,540,991
Company for production, construction, trade and catering AK-INVEST DOOEL export	1,530,842,104
Company for trade, production and services ISKRA ATG LLC Skopje	1,379,057,028
Company for production, trading and services PUCKO PETROL import - export DOOEL Village of Plasnica, Plasnica	1,080,180,571
Sales and services company ALKALOID KONS import - export DOOEL Skopje	885,711,086
Joint stock company for production of pharmaceuticals, medical equipment and supplies, sales and services D-R PANOVSKI Skopje	832,050,670
Company for production, designing and engineering VARDAR GRADBA LLC, Village of Trubarevo - Skopje	677,064,460
Joint stock company for sale and transportation of oil derivatives ALOV AD Gevgelija	650,176,414
Company for domestic and international sales ZEGIN DOO Skopje	637,492,526
Company for construction, trading and services BAUER BG DOO Skopje	632,353,392
MAKPETROL joint stock company for sales of oil and oil derivatives Skopje	613,249,756
Construction and trading company ZIKOL DOOEL export – import Strumica	606,036,109
Company for trading, production and services MARKOVSKI COMPANY Borce DOOEL Import-Export Bitola	565,820,510
Macedonian Telecom joint stock company for electronic communications - Skopje	549,474,463
Company for construction and construction – craftsmanship works SPEKTARTERMO LLC Skopje	522,922,429
Sales and services company AVICENA DOO export-import Skopje	509,716,516

Data on the number and the value of contracts concluded by category of tenderer and by country of origin of the contractor are

Small- and medium-sized companies accounted for the most (78%) of the value of concluded contracts by category of tenderer.

Large companies, although only 192 are registered and active on the ESPP, participated with 39% in the total value of concluded contracts.

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. As per the above mentioned, 6,902 economic operators are registered and active on the Electronic System for Public Procurement, which are presented in Table 7.24 by category of tenderer.

Table 7.24

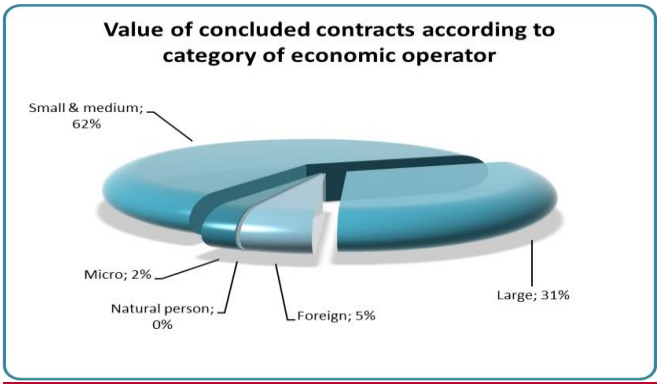
Registered economic operators by category of tenderer	
Category of tenderer	***Active economic operators***
Micro	2,265
Small- and medium-sized	4,027
Large	192
Foreign	365
Natural person	53

Table 7.25

Number and value of concluded contracts by category of tenderer		
	Number of concluded contracts	Value of concluded contracts
Micro	3,033	Denar 1.45 billion
Small- and medium-sized	22,444	Denar 36.23 billion
Large	4,548	Denar 18.35 billion
Foreign	120	Denar 2.78 billion
Natural person	23	Denar 5.14 million

Chart 7.17

The data lead to the conclusion that national companies had the largest share on the public procurement market in the Republic of Macedonia, accounting for 95% of the value of awarded public contracts



Analysis of both the number and the value of concluded contracts by category of tenderer (Table 7.25), shows that most of the contracts concluded in 2016 (22,444 contracts) fall within the category of small- and medium-sized companies, accounting for 78% of the total value of the concluded contracts. In fact, value share of the category large companies accounted for 39% (4,548 contracts concluded), while micro companies accounted for the least – 3 % of the total value of the public procurements carried out (3,033 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 7.26and Chart 7.18

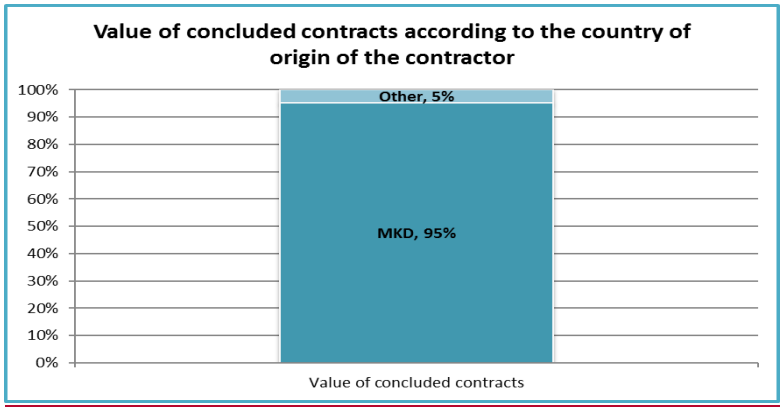
Table 7.26

Country of origin of the contractor	Number of concluded contracts	Value of concluded contracts
Macedonia	30,048	Denar 56.03 billion
EU[10]	65	Denar 2.59 billion
Other[11]	55	Denar 189 million

Chart 7.18

[10]Bosnia and Herzegovina, Israel, India, Canada, Kosovo, the USA, Serbia, Turkey, Montenegro and Switzerland.

[11]Australia, Belgium, Bulgaria, Great Britain, Germany, Denmark, Italy, Cyprus, Slovenia, France, the Netherlands, Croatia, the Czech Republic and Spain.



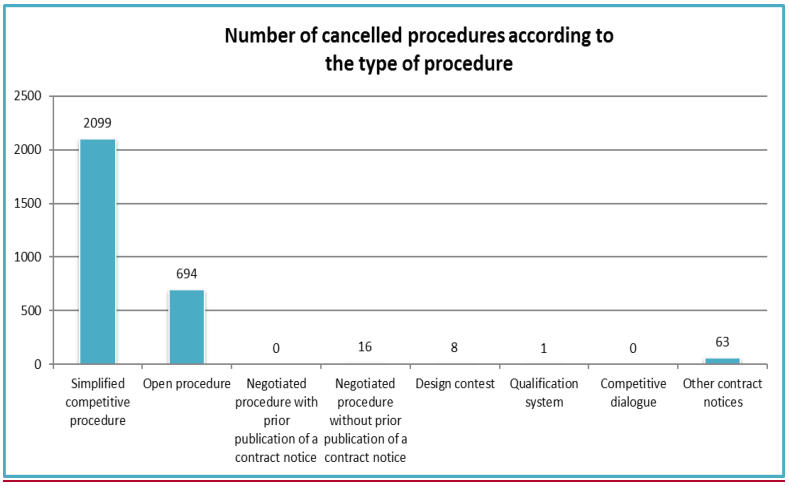
The most common reason for cancellation of the procedures in 2016 was that no tender was submitted.

Above-stated data in Table 7.26 and Chart 7.18 lead to the conclusion that national companies had the largest share on the public procurement market in the Republic of Macedonia, accounting for 95% of the value of awarded public contracts. Share of foreign companies as contractors in the public contracts accounted for 5% in 2016. Value and percentage of awarded contracts to companies outside Macedonia dropped compared to the previous years (13% in 2014, 8% in 2015).

7.3. Data from Cancellation Notices

Analysis of the data on the number of cancellation notices in 2016 shows that total of 2,881 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.

Chart 7.19



There were 392 more cancellation notices in 2016 compared to the previous year.

Chart 7.20

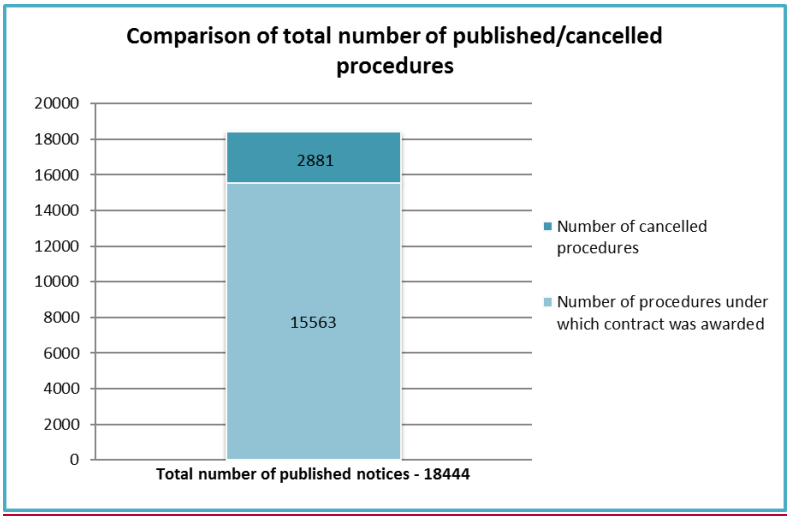


Table 7.27 presents the reasons for cancellation of procedures. It can be concluded that procedures in 2016 were most often cancelled due to the following reasons:

- 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.

Table 7.27

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	77	11
no acceptable tender was submitted	458	221
no appropriate tender was submitted	363	115
no tender was submitted	814	692
acceptable tenders were submitted, but they could not be compared due to different approaches in the financial or technical proposals	46	16
unforeseeable changes occurred in the budget of the contracting authority	78	16
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	319	207
contracting authority found that tender documentation had major shortcomings or deficiencies	343	9
needs of the contracting authority changed due to unpredictable and objective circumstances	85	16
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	239	41
selected tenderer withdrew from signing the contract	10	2
State Appeals Commission cancelled the procedure	115	2
other reasons (other notices, design contest)	4	10
Total	**2,881**	**1,348**

Table 7.28

Contracting Authority	Cancelled procedures	Published contract	Percentage of cancelled

		notices	contract notices
City of Skopje	78	173	45%
Ministry of Internal Affairs	30	80	37.5%
Ministry of Transport and Communications	43	115	37.39%
Ministry of Health	34	92	36.96%
Aerodrom Municipality	44	122	36.07%
Ministry of Defense – Logistics Department	70	237	33.33%
Tetovo Clinical Hospital	26	79	32.91%
Macedonian Power Plants Joint Stock Company – Skopje	134	446	30.04%
Ohrid Municipality	25	84	29.76%
Macedonian Post AD (joint stock company)	26	88	29.55%
Customs Administration	14	49	28.57%
Macedonian Railways Transport AD - Skopje	19	80	23.75%
FOD DOOEL Novaci AD ELEM (factory for equipment and spare parts)	12	51	23.53%
Bitola Municipality	30	130	23.08%
"Kumanovo" General Hospital, public health institution	12	55	21.82%

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

In 2016, total of 1,305 forms for amending and supplementing the contents of the contract notice were published through the ESPP. These data show that, in 2016, as well as the year before, 7% of the contract notices, after being published, underwent amendments or supplements regarding the tender documents which, pursuant to the legal amendments, gave rise to changing the time limit accordingly. Amendments and supplements were most often made at the simplified competitive procedure - 727 amendments and supplements, open procedure – 552 amendments and supplements, and the open design contest – 21 amendments and supplements.

7.4. E-Procurement Procedures

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

Carrying out procurement procedures electronically has been one of the more important commitments of the Public Procurement Bureau for several years now, taking into account the positive effects from e-procurement and the obvious benefits in terms of increased transparency, competitiveness, efficiency and savings of resources.

Starting 2016, e-procurement was mandatory to be applied.

Pursuant to the modifications and amendments to the Law on Public Procurement ("Official Gazette of the Republic of Macedonia", no. 78/15), starting 2016, procedures are mandatory to be carried out electronically by using electronic means. Benefits and effects from e-procurement will be elaborated in a separate chapter in this Report, and all main advantages of carrying out the procedures electronically, as compared to the paper-based procedures, will be pointed out therein. Public Procurement Bureau, like in the paste several years, continued organising and carrying out public procurement training in 2016 as well, aimed at getting the users more familiar with the ESPP tools through practical exercises and encouraging the users to use the system.

According to the analyzed data on e-procurement in 2016, it could be concluded that the contracting authorities adhered, to great extent, to the legal obligations for carrying out the procedures electronically. 1,111 contracting authorities, out of the total of 1,433, carried out the procedures (open procedure, restricted procedure and simplified competitive procedures) in 2016. Only 626 contracting authorities, or 56.3%, of them observed the legal obligation, i.e. they carried out at least 30% of their procedures electronically. Contracting authorities, having recognised the benefits arising from e-procurement for several years backwards, continued to carry out the procedures electronically in 100% of the published contract notices, while the number of contracting authorities shifting to applying e-procurement significantly increased in 2016. In fact, 95 contracting authorities carried out all of their procedures

fully electronically in 2016, unlike in 2015, when only 35 contracting authorities carried out the procedures through the ESPP.

Below is a list of contracting authorities with most e-procurements carried out in the course of 2016:

Table 7.29

List of contracting authorities with most e-procurements carried out		
Contracting Authority	**Number of e-procurements carried out**	**Percentage of fulfilling the legal obligation**
Macedonian Power Plants Joint Stock Company - Skopje	386	87.93%
Kapros Municipality	185	58.36%
Water Supply and Sewerage Public Enterprise - Skopje	156	100%
"8th September" City General Hospital, public health institution, Skopje	148	100%
Ministry of Transport and Communications	111	97.37%
Bitola Municipality	108	83.08%
City of Skopje	105	63.25%
Bitola Clinical Hospital, public health institution	98	100%
Kavadarci Municipality	94	75.20%
Ministry of Internal Affairs of the Republic of Macedonia	80	100%
National Bank of the Republic of Macedonia	75	75%
Veles Municipality	74	76.29%
"Strezevo" Public Enterprise Bitola	74	88.10%
Real Estate Cadastre Agency	74	100%
Public Transport Enterprise SKOPJE	74	58.27%
Ministry of Labour and Social Policy	70	100%
Macedonian Forests Public Enterprise p.o. - Skopje	66	100%
PHI Gynecology and Obstetrics University Clinic Skopje	65	100%
AD MEPSO joint stock company for electricity transmission and energy and electricity system management	61	63.54%

Kisela Voda Municipality	59	96.72%
Stip Municipality	57	55.88%
Sveti Nikole Municipality	55	100%
Gazi Baba Municipality	54	71.05%
Struga Municipality	53	100%
Pension and Disability Insurance Fund of Macedonia	50	92.59%
"Niskogradba" Utilities Public Enterprise Bitola	50	83.33%
Public Enterprise for Railway Infrastructure Macedonian Railways" – Skopje	47	63.51%
Butel Municipality	45	100%
Ministry of Education and Science	45	100%
General Hospital Kicevo, public health institution	42	100%
Macedonian Radio and Television" public broadcasting enterprise - Skopje	41	62.12%
GOCE DELCEV State University Stip	41	100%
Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia - Skopje	41	78.85%
Gorce Petrov Municipality	40	66.67%
Komunalna Higiena (Utilities Hygiene) Public Enterprise Skopje	39	54.93%
Cardiology Clinic – Skopje	39	97.50%
PHI Psychiatric Hospital "Demir Hisar"	38	100%
"Official Gazette of the Republic of Macedonia", public enterprise	38	100%
Public Procurement Bureau	19	100%

The threshold for mandatory carrying out of e-procurement was exceeded. 8,878 procedures, i.e. even 48.27% of the total number of procedure were carried out electronically. They accounted for only 16.4% in 2015.

Total of 8,878 e-procurements were carried out through the ESPP in 2016. There were significantly more procedures carried out electronically compared to 2015, at the same time being the highest number of procedures carried out by applying the electronic means so far, however, the legal obligation for mandatory carrying out of the procedures electronically should be also taken into account.

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

Despite the positive trend and the general conclusion on observance of the legal obligation to carry out the procedures electronically, there is still a large number of contracting authorities which have not reached the threshold of 30% of the procedures to be carried out electronically, among which were the following:

Table 7.30

List of contracting authorities with least e-procurements carried out		
Contracting Authority	**Number of e-procurements carried out**	**Percentage of fulfilling the legal obligation**
Ministry of Health	26	28.26%
Makedonija Pat Public Enterprise - Skopje	21	24.42%
Macedonian Post AD (joint stock company)	20	22.73%
Center Municipality	14	15.22%
"Ss. Cyril and Methodius" University in Skopje – Rector's Office	13	25.00%
Aerodrom Municipality	11	9.02%
Gostivar Municipality	9	13.24%
Public Institution in the field of health for the needs of public health institutions - university clinics, institute and emergency center - Skopje	9	15.25%
Ministry of Foreign Affairs of the Republic of Macedonia	8	28.57%

In addition, 320 contracting authorities or almost 30% did not at all carry out or carried out only one e-procurement procedure. Most of them are smaller contracting authorities, carrying out small number of procurement procedures annually, however, some larger institutions all fall within this group.

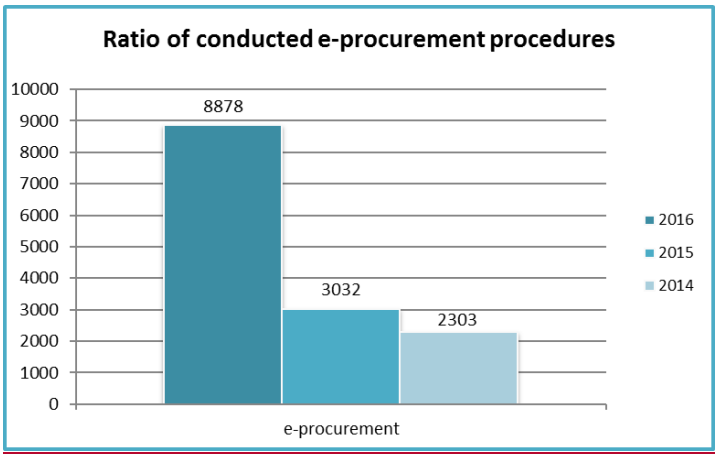
Table 7.31

List of contracting authorities with none or only one e-procurement procedure carried out
Ministry of Defence
Ministry of Culture
Ministry of Local Government
Kumanovo Municipality

General Hospital Gevgelija, public health institution
General Hospital Strumica, public health institution
Public Enterprise "Macedonian Radio Broadcasting" - Skopje
Public Procurement Council

Chart 7.21 shows comparison between procurement procedures carried out at annual level.

Chart 7.21



Statistical data on published procurement procedures by using electronic mean show that after the legal provision on mandatory e-procurement entered into force, the envisaged percentage was not only achieved, but even exceeded. In 2015, 16.4% of the procedures were carried out electronically, while in 2016, this percentage increased to 48.27%. 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 significantly shorter than the time necessary to carry out the procedures in a paper-based form. For comparison purposes, Table 7.32 shows the average duration of the paper-based procedures compared to the procedures carried out by using electronic means.

Table 7.32

Average duration of the procedures by type of procedure		
Type of procedure	**Paper-based**	**Electronically**
Simplified competitive procedure up to EUR 5,000	21	14
Simplified competitive procedure up to EUR 20,000	24	18
Open procedure	45	23

Average number of submitted tenders in 2016 was again higher at e-procurement compared to the paper-based procedure, as in 2015. In fact, average number of tenders submitted in procedures carried out fully through the ESPP was 3.29 tenders per procedure, while with respect to the paper-based procedure, 2.68 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 it 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. MAKPETROL joint stock company for sale of oil and oil derivatives – Skopje, 267 times;
2. Company for production, sales and services OFFICE PLUS DOOEL import - export – Skopje, 254 times;
3. DAUTI KOMERC AD Company for production, sales and services import - export, joint stock company, Village of Bojane, Saraj Municipality, 248 times;
4. Company for production, retail and whole sale and services MAR-SAZ Tasko DOOEL export – import Skopje, 243 times;
5. AD INSURANCE POLICY National Insurance Group (join stock company) Skopje, 231 times;

6. Company for production, trading and services PUCKO PETROL import - export DOOEL Village of Plasnica, Plasnica, 227 times;
7. Macedonian Telecom joint stock company for electronic communications – Skopje, 195 times;
8. Civil Engineering Institute MACEDONIA AD - Skopje (joint stock company), 195 times;
9. Company for construction, sales and services GEING Krebs und Kifer International and Others LLC Skopje, 194 times;
10. Sales and services company BIOTEK LLC export-import Skopje, 171 times.

7.5. Electronic Auctions

E-auctions were mandatory carried out in 100% of published contract notices in 2016 as well. Contracting authorities have been successfully 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.

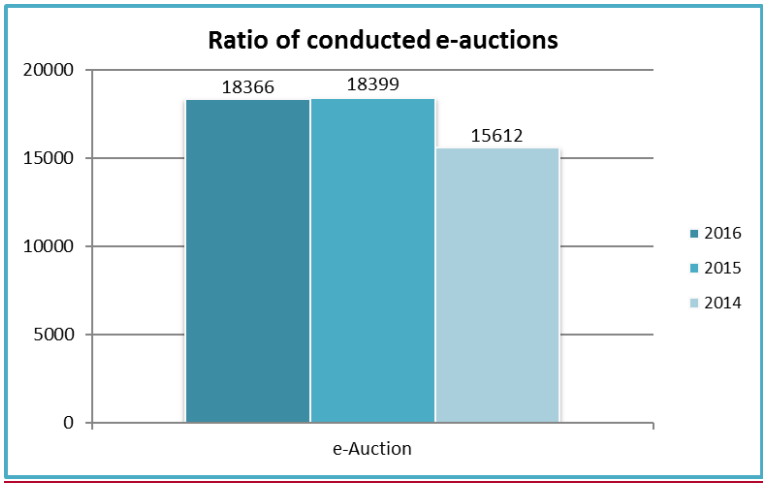
Like in 2015, it can be concluded that percentage of mandatory e-auctions was achieved, and the Bureau played key role in implementing such government policy.

Data on e-auctions carried out and submission of final prices in the course of 2016 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

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 2016, there were 18,366 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 99.79% of the published contract notices in 2016 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 38 contract notices.

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 39,186 e-auction carried out in 2016 or 149 e-auctions a day in average. Submission of final price is added to this figure. In fact, in the course of 2016, there were total of 28,956 submissions of final price through the ESPP or 110 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 2016 show that average savings of 23.69% were generated or savings in the amount of

Denar 5,297,521,340 in absolute terms (or more than EUR 86 million). Thereby, it 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 748,938,078 (expressed as percentage, 12%), are added to these savings, total savings amounted to more than EUR 98 million.

Analyses made by the Bureau lead to the conclusion that the amounts of the savings, both as aggregate value and as a percentage, have 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 7.33. Savings generated on the basis of e-auctions in procedures in which the lowest price was the criterion applied amounted to Denar 6,046,453,289.

Share of savings at the procedures in which the economically most advantageous tender was the criterion applied was insignificant in relation to the total savings. Only 16 contract notices by applying this criterion were published in 2016, which was due, like in the year before, to the introduction of the obligation to obtain a consent from the Public Procurement Council.

Chart 7.23

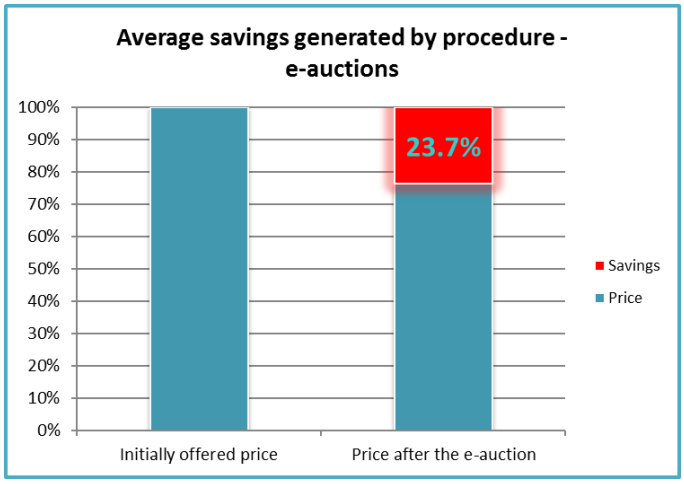


Table 7.33

Total amount of savings generated through e-auctions	
2016	Denar 5,297,521,340
2015	Denar 4,339,156,061
2014	Denar 3,595,492,629

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

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.

2016 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.

As regards the savings generated upon the final prices submitted by the tenderers, insignificant percentage of savings (2.42%) could be observed on the basis of the initially offered price by the single tenderer. Compared to the last year, this percentage has dropped, however, it was

observed that, third 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 12% 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 – 39% 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 7.34

Type of procedure	Total amount of savings	Percentage of savings
Simplified competitive procedure up to EUR 5,000	Denar 159,102,376	27.56%
Simplified competitive procedure up to EUR 20,000	Denar 447,375,855	22.55%
Open procedure	Denar 4,607,175,980	22.75%

In 2016, the same trend continued – larger savings were generated at the procedures with higher value thresholds. In fact, 87% 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 fourth of the contract notices). As regards the simplified competitive procedure, higher percentage of savings was observed compared to 2015, however

such increase in the savings was in an incomparably lower amount in absolute terms than the one at the opened procedures.

In 2016, e-auctions were carried out in 61% of the published contract notices, while 39% of the published contract notices included submission of final price as final stage.

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 (89%) 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 7.35

Activity/sector	Percentage of savings
IT and telecommunication goods and services	27.91%
Consumable supplies and stationery and printing/publishing services	25.81%
Construction works, works related to environment, utilities services, hygienic – technical equipment/products and other related supplies/services	25.00%
Industrial and mining machines, equipment, their maintenance, spare parts and related supplies/services/works	23.96%
Fixed assets	23.68%

Reduction of the initially submitted price was observed at 76% of the scheduled e-auctions.

Like in 2015, 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

Tenderers DID NOT reduce the price in 80% of the submissions of final price.

works sector continued, while as regards the sectors for procurement of services (financial – 37.67%, education, legal, consulting, marketing services and temporary employment services – 33.91%, etc.), where e-auction was carried out, slight decline in the percentage of savings was observed compared to 2015. 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 2016, at 61% 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 39% 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 **76%** of the e-auction scheduled and carried out through the system. In 2016, no reduction was made at 23,123 out of the total 28,956 scheduled submissions of final prices or there was no price reduction in 80% of the cases.

Average number of price reductions when carrying out e-auctions in 2016 was around 21 price reductions, while in 2015, there were 25 price reductions in average.

Chart 7.24

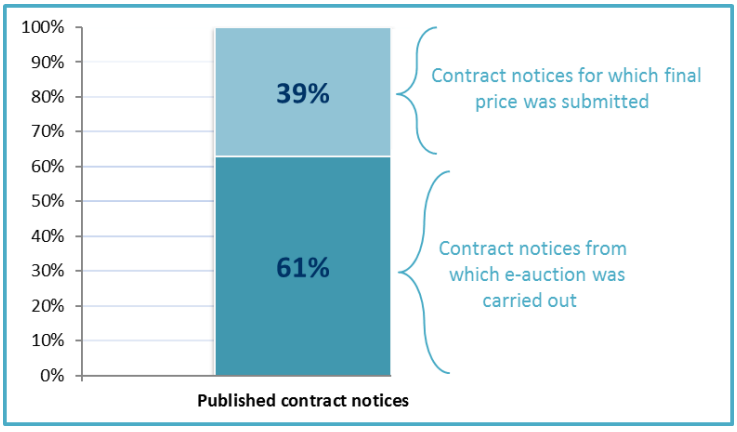
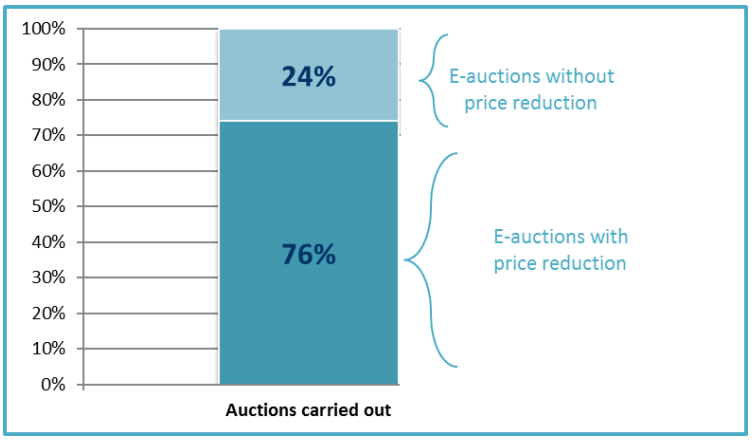


Chart 7.25



Average duration of an e-auction was around thirty-two 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 2016 were held on 25th July, when 693 e-auctions were scheduled and carried out, less e-auctions compared to 2015, when 735 e-auctions at the most were scheduled in one day.

Chart 7.26

The most e–auctions in one day were carried out on 25th July 2016 - 693 e-auctions.

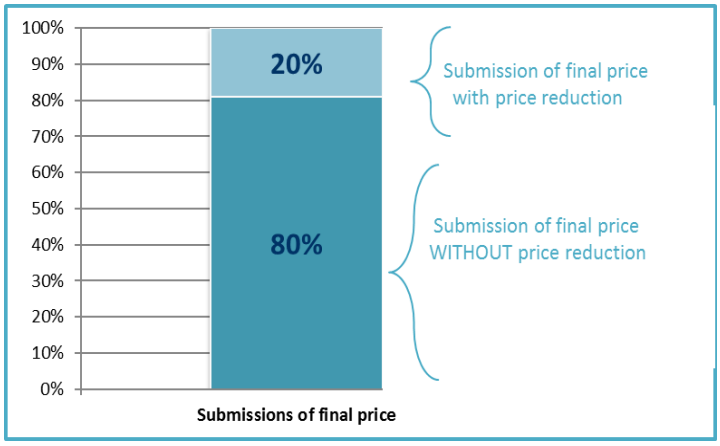
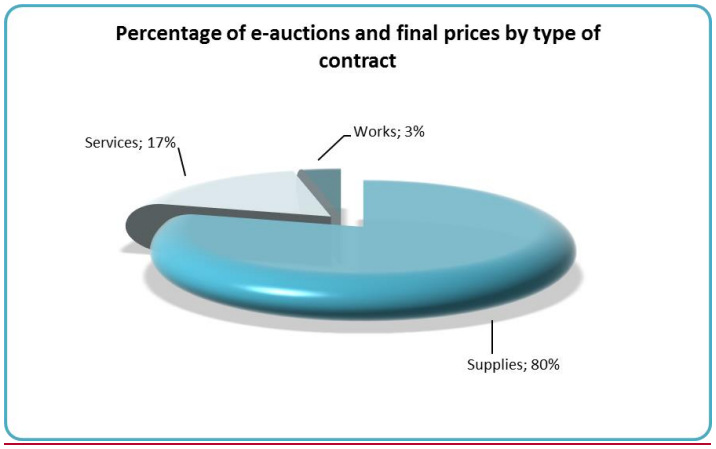


Chart 7.27



7.6. Competition at Public Procurement

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 3.29 tenders per procedure, while with respect to the paper-based procedures, 2.68 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 7.36

Procedure	Average number of tenders
Simplified competitive procedure up to EUR 5,000	**2.56**
Simplified competitive procedure up to EUR 20,000	**3.21**
Open procedure	**3.73**
Negotiated procedure with prior publication of a contract notice	**4.30**
Negotiated procedure without prior publication of a contract notice	**1.37**
Awarding public services contract for service category 17- 27	**2.43**
Qualification system	**3.20**
Total – average of all procedures	**2.97**

Table 7.37

Type of public contract	Average number of tenders
Supplies	3.17
Services	2.59
Works	3.40

As far as determining the average number of submitted tenders is concerned, new modern methodology was introduced in 2016 and statistical processing of data was improved, whereby, tenders submitted

in all procedures at which there were tenders are taken into consideration when determining the total average.

This methodology, which is being applied from 2016, provides for the highest degree of accuracy when processing the data unlike the previous outdated methodology, therefore, we would like to point out that no comparison of the data on the average number of tenders in the past years with 2016 data is possible.

However, in 2016 as well, accuracy of these statistical data depends, to a great extent, on the correct entering of data by the contracting authorities when filling in the contract award notices in paper-based procedures.

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

8.1. Mandatory E-Procurement – Expected and Achieved Effects

Positive aspects from 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 is mandatory to be applied 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,
- 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 started applying in 2016 and, as analysed data show, the contracting authorities have largely accepted this solution, recognizing the benefits arising from e-procurement. Mandatory e-procurement has contributed to modernisation and improvement of the

public procurement system 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 is in the limelight of the Strategy for Development of the Electronic System for Public Procurement. 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

According to the analyses made by the Public Procurement Bureau, the experienced gained so far can lead to the conclusion that effects from carrying out e-auctions were not always as initially assessed and expected. In fact, there are both positive and some negative effects arising from carrying out e-auctions. Public Procurement Bureau maintains the recommendations and the conclusions analyzed in the 2013, 2014 and 2015 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. Statistical data available to the Bureau show increased number of procedures at which there are no possibilities for an auction to be carried out through the ESPP, i.e. price of Denar 0.01 is offered in the tender which is subject to e-auction. In addition, no exception is envisaged in the Law on Public Procurement as regards mandatory carrying out of e-auctions for procurement of services for which, pursuant to other regulations, there are fixed, i.e. regulated prices on the market.

General conclusion from the experience so far is that, 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);
- introducing new type of e-auction, i.e. first-price sealed-bid auction (for more details, please refer to the Draft 2016 – 2020 Strategy for Development of the ESPP in the Republic of Macedonia, prepared by the Public Procurement Bureau);
- not publishing the estimated value of the procurement, in case of applying e-auction as final phase;
- abolishing the tool for submission of final price due to inexpediency and minor effects therefrom in practice.

9.Proposals for Improvement of the Public Procurement System

On the basis of the data from the Call Center, the web contact form and the website, the trainings, the analysis of statistical data, as well as other information obtained by the Public Procurement Bureau on the functioning of the public procurement system,

it gives the following proposals for improvement of the public procurement system in the Republic of Macedonia:

- implementing the State Audit Office's recommendations contained in the report on carried out performance audit over the public procurement system, as well as both SIGMA and European Commission recommendations;
- continuously monitoring of the new EU initiatives and regulations in the field of public procurement and harmonisation of the national legal framework;
- further integration of concessions and PPP in the public procurement system in line with the EU approach;
- strengthening the control in the contract award procedures through the appeal procedure and certain ex-ante control mechanisms;
- using electronic means in the appeal procedure and the proceedings before the Administrative Court;
- strengthening PPB capacities and considering the possibility to change the statue of PPB into Public Procurement Agency;
- improving the public contract management;
- introducing Public Procurement Training Academy for the purpose of further professionalization of the public procurement function;

- facilitating the manner of reporting corrupt practices at the State Anti-Corruption Commission;
- introducing new tools on the ESPP which are to reduce the risk of corrupt practices.