# Procurement Monitoring Report Template

**In view of the Member States' reporting process
under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU**

# Purpose and key features of the template

* This template aims at facilitating Member States' (MS) reporting in the context of the new procurement directives. The template sets out the scope of the reporting requirements and recommends MS a methodology to gather and systematise the collection of relevant information. Furthermore, it strives to propose a harmonised structure of the reports so as to allow easier comparison of the information provided by the MS.
* The questions in this template are non-binding specifications of the directives' legal obligations on monitoring reports. The template should be followed only as far as possible by the Member State, especially as concerns the availability of quantitative information. When information is not available, this may be noted in the report, possibly together with an explanation of whether there are plans to start collecting such information and including it in the future edition of the report.
* MS' reports will be published on the European Commission website. The information will feed the new Report on the implementation and best practices of national procurement policies in the internal market to be issued by the European Commission. The information provided by the MS will support the policy analysis work of the Commission.
* The template covers all domains for which reporting requirements are defined under the 2014 procurement directives.

* The template contains the following types of questions:

 i) qualitative descriptions and assessment,

ii) supporting documents which provide the evidence for the descriptions and assessment made above,

iii) quantitative indicators.

* In the tables below, the left side contains the name of the information to be submitted, while the right side contains further specifications of what this means. The report should be submitted as a text (.doc) and PDF document based on this template.
* To avoid duplication of reporting obligations and reduce administrative burden, MS are invited to indicate any information/data requested in this template that has been already provided to the Commission via another channel (e.g. procurement irregularities falling within the scope of ESIF funds). When it is the case, please specify these channels, the context of the reporting and the nature of the information already provided.

# General information

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| **Scope of reporting** |
| The report should cover the period between 1st January 2017 and 31st December 2017. For quantitative data based on procurement notices, this means that the contract award notice should have been awarded in this period. If an MS has transposed later than on 1st January 2017, the reporting period should still start on the 1st January 2017.If the scope of your report is broader than that indicated in the directives (e.g. because of lower thresholds, broader definition of contracting authorities, contracting entities, or subsidised contracts), please indicate this here. In such a case, for every indicator, information about procurement according to the EU directives and any other information should be presented separately, so that the same information can be compared between EU MS.  |
| National thresholds for public procurement are 200.000,00 HRK (27.000 EUR) for goods and services and 500.000,00 HRK (67.000 EUR) for works (explained in the Article 14 of the Public Procurement Act (Official Gazette no. 120/2016; hereinafter: PPA).All submitted data referring to the value in this report do not include VAT.The scope of this report includes the data for public procurement procedures above and also below the EU threshold where possible. |
| **General information** |
| Number of procurement procedures (i.e. the number of notices announcing a call for competition)* procurement procedures above the EU threshold: 1.370
* procurement procedures below the EU threshold (above national threshold): 7413

Number of awarded contracts* procurement procedures above the EU threshold: 3.337
* procurement procedures below the EU threshold (above national threshold): 9.376
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| I**nformation on monitoring and reporting bodies** |
| This section should include a list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives and the entities in charge with the drafting of the report to be provided to the European Commission on the results of the monitoring activities.The Ministry of the Economy, Entrepreneurship and Crafts, written in the Article 441.4 of the PPA |

## Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds

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| **Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds** | This stands for the value of procurement informally referred to as "below the EU threshold". This section should include information on the estimated value of procurement as well as the methodology used. The methodology used for the estimation should be explained in **Annex I**."Value of procurement" should be understood as the value of the awarded contracts, so as to be comparable with estimates from contract award notices for above-threshold procurement. (Not as, for example, the value of procurement which could have taken place if a contractor was found, i.e. business opportunities, nor on the level of actual spending, i.e. paid invoices.) The aggregated total value of procurement procedures above the EU threshold: 20.195.793.841,79 HRK (2.730.186.874,20 EUR)The aggregated total value of procurement procedures below the EU threshold (above national threshold): 9.868.313.844,10 HRK (1.334.057.038,74 EUR)The aggregated total value of procurement below national threshold: 9.411.012.494 HRK (1.272.622.807,01 EUR) |

## Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules

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| **II.1.** **Qualitative reporting on application of public procurement rules** |  |
| Main sources of wrong application or of legal uncertainty | The information should focus on:- the most frequent cases of wrong application of the rules and of legal uncertainty- the key causes for the wrong application of the rules and the legal uncertainty, including their relative importance, as well as the circumstances that explain their occurrence.*Possible relevant (non-exhaustive) elements for consideration may be:** *types of contracting authorities particularly affected by public procurement errors*
* *types of procedures or contracts particularly affected by public procurement errors*
* *recurrent patterns pointing at specific difficulties at a particular stage of the procedure*
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|  | “QUICK” procurement documentation MONITORING:* Filling out ESPD Form / Prescribing optional submission of ESPD form instead of obligatory submission
* Determining correct criteria for qualitative selection of economic operator

DESCENDING ORDER BY NUMBER OF INQUIRIES:* Exemption from the scope of PPL 2016
* Determining if a legal person is a contracting authority/entity in the meaning of PPL 2016
* procurement documentation - ESPD Form (Filling out)- Selection Criteria (prescribing the conditions of technical, professional, financial ability)- Grounds for exclusion – criminal convictions- Technical specifications - norms / equivalence- Subcontractors/ Resources of other entities / Reliance on the capacities of other entities
* Determining the subject of procurement
* Execution of a contract – contract modifications
* Conflicts of interest
* Which public procurement procedure is to be conducted for a particular type of procurement
* Bid evaluation
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| Specific legal provisions (from EU or national law) which appear to raise significant problems of application | The information should focus on:- the specific legal provisions in question- a description of the type of difficulties identified, if any*Possible relevant (non-exhaustive) elements for consideration may be:** *lack of consistent application of a given provision by the contracting authorities*
* *high frequency of requests for guidance as to how to understand or interpret a given provision*
* *recurrence of the incorrect application of a given provision*
* *need to issue (additional) interpretative guidance on a given provision*

Croatian public procurement legislation is in coherence with EU acquirements. PPL 2016 transposed the following EU directives into the legislation of the Republic of Croatia: 1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28. 3. 2014), as last amended by Commission Delegated Regulation (EU) 2015/2170 of 24 November 2015 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the application thresholds for the procedures for the award of contracts (OJ L 307, 25. 11. 2015)2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28. 3. 2014), as last amended by Commission Delegated Regulation (EU) 2015/2171 of 24 November 2015 amending Directive 2014/25/EU of the European Parliament and of the Council in respect of the application thresholds for the procedures for the award of contracts (OJ L 307, 25. 11. 2015)3. Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30. 12. 1989), as last amended by Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28. 3. 2014)4. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23. 3. 1992), as last amended by Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28. 3. 2014)5. Articles 2, 12 and 13 of Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain public works contracts, public supply contracts and public service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20. 8. 2009), as last amended by Commission Regulation (EU) 2015/2340 of 15 December 2015 amending Directive 2009/81/EC of the European Parliament and of the Council in respect of the application thresholds for the procedures for the award of contracts (OJ L 330, 16. 12. 2015).We have identified different types of difficulties which relate to the implementation of the above mentioned Directives:For each bidder, the grounds for exclusion and selection criteria are in some ways the entry factor in the public procurement procedure. Who passes this test, is put in the phase of balance, which is the most advantageous tender based on the criteria. Criteria must be related to the subject-matter of the contract. The issue arises in works and services contracts on how to set selection and award criteria according to PPL and not to make selection criteria into an award criteria. Croatian public procurement legislation and system have ensured high level of transparency and digitization. All public procurements are published on the EOJN - national e-tendering system (all in one place), where the complete public procurement file is seen. We have implemented the ESPD and e-Submission as well. However, the trend of a single bidder is still an issue. As an improvement measure, the European Commission proposes to update the public procurement system, to further improve digitization, and to introduce a more advanced ordering system. The issue in question is what other measures are applicable to tackle the issue of low competition (except blaming public procurement system)? In practice, we are also faced from time to time with the issue of abnormally low tenders. While legislation and judicial prudence have already given clarifications and it is already known, what the contracting authority/entity must do or should not do. When he determines whether the tender is abnormally low or not, there are no references, when such tender can or must be excluded. It is indisputable that automatic exclusion and exclusion without proper explanation is not the correct behaviour. But it remains open how much discretion the contracting authority/entity has to judge whether the offered price together with all the explanations is considered as abnormal or not, and how much discretion has the contracting authority/entity in accordance with legal protection? In other words, can the bidder always explain that his tender is low due to the right to design free price, possibly not covering the cost of labour or material costs because he provides financial flows from other sources in a non-specific business? Technical and professional ability – means of proofAnnex XII Part II of the Classical Directive lists means of proof for technical ability. It states: „Means providing evidence of the economic operators’ technical abilities, as referred to in Article 58:(a) the following lists:(i) a list of the works carried out over at the most the past five years, accompanied by certificates of satisfactory execution and outcome for the most important works; where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant works carried out more than five years before will be taken into account;(ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account;“The ESPD regulation follows the wording of the Directive.From the wording of this two points in the Directive, two things are clear to us:1) EU legislator didn't want to burden EO with a sum of works carried out2) EU legislator didn't want to burden EO with certificate regarding satisfactory execution of goods and services.In other words, if national legislation or tender documents would ask EO operator to provide sum of works, or to provide a certificate regarding satisfactory execution of goods and services, would this be contrary to EU law, or not?.  |
| An assessment on whether a wrong application of rules might exist, by observing patterns of application of the rules which do not by themselves constitute cases of wrong application of the rules, but nonetheless point at structural or recurring problems yielding a sub-optimal outcome. | The information should focus on:- the specific type of problems identified, if any- any possible assessment of the impact of these difficulties on the efficiency of the public procurement process*Possible relevant (non-exhaustive) elements for consideration may be** *bias towards the systematic use of certain award criteria irrespective of the context (e.g. systematic use of lowest price as award criterion)*
* *overly frequent use of derogatory procedures or shortest possible deadlines*
* *recurrent, particularly low number of bidders or of non-domestic bidders*
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|  | There are no specific problems that are identified other than mentioned in II. 1.:“QUICK” procurement documentation MONITORING:* Filling out ESPD Form / Prescribing optional submission of ESPD form instead of obligatory submission
* Determining correct criteria for qualitative selection of economic operator

DESCENDING ORDER BY NUMBER OF INQUIRIES:* Exemption from the scope of PPL 2016
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* procurement documentation - ESPD Form (Filling out)- Selection Criteria (prescribing the conditions of technical, professional, financial ability)- Grounds for exclusion – criminal convictions- Technical specifications - norms / equivalence- Subcontractors/ Resources of other entities / Reliance on the capacities of other entities
* Determining the subject of procurement
* Execution of a contract – contract modifications
* Conflicts of interest
* Which public procurement procedure is to be conducted for a particular type of procurement
* Bid evaluation

A MEAT criterion (i.e. best price quality ratio) is obligatory.Minimum deadlines are prescribed by law and State Commission for the Supervision of Public Procurement Procedures in appeal procedure checks ex officio if those deadlines were shortened below the regulated minimum time. |
| **II.2 Supporting documents** |  |
| Please provide any available evidence of the issues identified under section II.1. | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):** *Audit reports on identified irregularities related to public procurement, including auditors specialising in ESIF irregularities*
* *Existing typologies of the most frequent errors in public procurement*
* *Reports on the most frequent requests for guidance*
* *Additional interpretative guidance documents published in order to clarify legal issues*
* *Policy or other administrative documents discussing issues in relation to the implementation of the rules*
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|  | The Ministry of the Economy, Entrepreneurship and Crafts provides guidance and interpretations for the application of the PPL 2016 in the form of: written opinions/ responses to the received questions from contracting authorities and economic operators, telephone counselling to contracting authorities and economic operators, establishment of "help desk", preparation and publication of materials on the website of the Public Procurement Portal, conducting quick procurement documents monitoring in EOJN, and through expert coordination meetings with different stakeholders. |
| II.3. Quantitative indicators  | *This section contains quantitative indicators related to section II.1. Other indicators can also be included in the report.* |
| Indicators about the national review system  | A list of proposed specific indicators will be drafted in the course of 2017, linked to a future remedies scoreboard, a part of the European Commission's Single Market Strategy. The indicators will be defined on the basis of the findings of a study to be commissioned by DG GROW in 2017 and further discussions with Member States, including in the context of the network of first instance administrative review bodies. A first study commissioned by the Commission services on the subject of procurement remedies is already available at <http://bookshop.europa.eu/en/economic-efficiency-and-legal-effectiveness-of-review-and-remedies-procedures-for-public-contracts-pbKM0414023/>. This study, together with other materials (including public and ad-hoc consultations), are the basis for the Commission's report and evaluation on the operation of the Remedies Directives.Based on all this, indicators such as the numbers of complaints, the number of appealed procurement procedures, the number of resolved complaints, the number of complaints resolved in favor of the complainant, or the average length of the review procedure could be considered. |
|  | **I. The State Commission for the Supervision of Public Procurement Procedures (State Commission) is an autonomous, independent and specialized public procurement review body, having jurisdiction to conduct the appellate proceeding in the matters of public procurement, grant of concessions and selection of private partners in public-private partnership projects.**Public Procurement Act applies to contracts which are above national thresholds. Also, the jurisdiction of the State Commission covers procedures above national thresholds. Value of national thresholds is lower than the value of Directive thresholds. Information presented below is based on the State Commission’s database, considering procedures above national thresholds. **In 2017 the State Commission received 945 complaints.**  **Number of complaints in 2017**

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|  | **Number of complaints**  | **%** |
| Public procurement |  928 |  98,20 % |
| Concessions |  17 |  1,80% |
| Public-private partnerships |  0 |  0 |
| **Total** |  **945** | **100,00 %** |

 **Comparison between number of procedures and number of complaints**

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| --- | --- | --- | --- |
|  | **Number of published procedures**  | **Number of complaints**  | **%** |
| Public procurement | 9484 |  928 |  9,78% |
| Concessions |  265 |  17 |  6,42% |
| **Total** | **9749** |  **945** |  **9,70 %** |

Of 945 complaints received in 2017, the State Commission resolved 854 complaints till the end of 2017. Of 854 resolved complaints, 446 were resolved in the favor of the complainant (52,22%).

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| Type of decision |  Number % |
| Complaint accepted  | 446 | 52,22% |
| Complaint rejected | 193 | 22,60% |
| Complaint dismissed | 168 |  19,67% |
| Other | 47 | 5,51% |
| **Total** |  **854** | **100,00%** |
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The average length of the review procedure before the State Commission is 36 days. Duration of the proceeding is calculated from the date of receiving a complaint to the date of the publishing the State Commission’s decision. But, when we calculate the average length of the review procedure from receiving complete documentation from the parties, the average length is **14 days.**II. According to the new Public Procurement Act (Narodne novine, broj 120/16.), unsuccessful party can bring an action against the State Commission’s decisions before the High Administrative Court (one instance of court proceeding).According to the previous Public Procurement Act (in force until the end of 2016), the unsuccessful party had the possibility to bring an action against the State Commission’s decisions before four regional administrative courts (administrative dispute). Against the decision of the courts in the first instance, the unsuccessful party had the possibility to launch an appeal to the High Administrative Court (second instance). In 2017, in 112 cases, unsuccessful party initiated administrative dispute against State Commission’s decison (12%). In 2017 the State Commission received 155 rulings from administrative courts (first and second instance). These rulings refer to the State Commission's decision from 2017, but also from previous years. **Number of court rulings**

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| **Administrative Court** | **Number of rulings** |
| First instance court | 119 |
| Second instance court |  36 |
| Total | **155** |

 **The average length of court proceedings**

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| --- | --- | --- |
| **Administrative Court** | **Number of rulings** | **Days** |
| First instance court | 119 | 666 |
| Second instance court |  36 | 227 |

The information presented above is based on the State Commission's Appeal Registry, comparing the number of calendar days from the day of launching an administrative dispute till the date of the court ruling. |
| Histogram of values of procedures, covering also procedures below the thresholds | Please include histograms of values of procedures (i.e. calls for competition). These should be split at least to one for works and one for supplies and services, ideally also further by types of EU threshold. The aim is to find "spikes" in the distribution of values, indicating a bunching of procedures below the EU threshold. To improve comparability, please use histogram bins with a breadth of EUR 10 000 (or the national currency equivalent).For more information on bunching analysis methodology, please see the Swedish Competition Authority’s report <http://www.konkurrensverket.se/globalassets/publikationer/uppdragsforskning/forsk_rap_2015_3.pdf>, in particular section 3.4.2., or the recent article from the American Economic Association available at [*https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f*](https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f)*.*  |
|  | Values of procedures:The total value of procurement procedures above the EU threshold: 20.195.793.841,79 HRK (2.730.186.874,20 EUR)* works: 4.208.052.181,40 HRK
* supplies: 8.725.389.573,07 HRK
* services: 7.262.352.087,32 HRK

The total value of procurement procedures below the EU threshold (above national threshold): 9.868.313.844,10 HRK (1.334.057.038,74 EUR)* works: 5.536.463.851,89 HRK
* supplies: 2.432.889.784,63 HRK
* services: 1.898.960.207,58 HRK

The total value of procurement procedures below national threshold: 9.411.012.494 HRK (1.272.622.807,01 EUR)* works: 1.833.736.547 HRK
* supplies: 3.662.500.145 HRK
* services: 3.914.775.802HRK

See attachment 1 |

## Prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interests and other serious irregularities

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| III.1. Qualitative reporting on fraud, corruption, conflict of interests etc. |  |
| Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption | The information should focus on:- how these actions/mechanisms have been implemented - the key measures that have been put in place *Possible elements for consideration may be as follows:** *The main assumptions and objectives of the underlying actions*
* *Institutional arrangements made*
* *Existing links between the prevention, detection and remedial actions aspect*
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|  | The AFCOS Network is established in order to achieve full operability of the AFCOS system within the framework of which the coordination of legislative, administrative and operational activities, for the purposes of protecting financial interests of the European Union in the Republic of Croatia, and direct cooperation with the European Anti-Fraud Office (OLAF) shall be carried out. The AFCOS Network has been established by Decision 151/2013 of the Government of the Republic of Croatia, establishing also the bodies in the AFCOS Network and defining the tasks of the bodies in the AFCOS Network. The AFCOS Network comprises the representatives of: 1. Ministry of Justice,2. Ministry of the Interior,3. Ministry of Finance - Tax Administration, Customs Administration, Sector for Harmonization of Internal Audit and Financial Control, Anti-Money Laundering Office, Sector for Financial and Budget Supervision, 4. Ministry of Economy, Entrepreneurship and Crafts - Directorate for Public Procurement Policy, 5. State Attorney's Office of the Republic of Croatia, and 6. Agency for the Audit of European Union Programmes Implementation System. |
| Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of conflicts of interests | The information should focus on:- how these actions/mechanisms have been implemented - the key measures that have been put in place- presenting the definition of Conflict of interest, if it differs from the definition in the Directives- explaining the reasons for choosing the elements that have been added to the definition of Conflict of interest set out in the Directives - how the Directive requirement of effectiveness of the measures is fulfilled in practice *Possible elements for consideration may be as follows:** *The main assumptions and objectives of the underlying actions*
* *Institutional arrangements made*
* *Legislative framework*
* *Existing links between the prevention, detection and remedial actions aspect*
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|  | The tasks of the AFCOS Network are following: - cooperation with OLAF regarding the issues of the protection of financial interests of the European Union, - proposing legislative and other measures with the purpose of efficient protection of financial interests of the European Union, and - strengthening inter-institutional cooperation, communication and exchange of data with the bodies of the AFCOS system |
| III.2. Supporting documents |  |
| Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests  | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):** *Policy or other administrative documents discussing issues in relation to the implementation of the actions/mechanisms*
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|  | Article 24 of the Directive 2014/24/EU under the chapter “Conflicts of interest” defines that Member States shall ensure that contracting authorities take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.In Croatian legislation, in PPA, the conflict of interest is defined in Articles 75 to 83 and is even more detailed compared to the above mentioned Article 24 of the Directive 2014/24/EU. For instance the representatives of the contracting authority are obliged to sign a statement on the existence or non-existence of conflicts of interest and to update them without delay if changes occur. The contracting authority shall be obliged, on the basis of a statement from its representatives:1. to publish on its website a list of economic entities with which the representative of the contracting authority or its affiliated persons is in conflict of interest, or a notice that such entities do not exist. The information has to be updated without delay if changes occur.2. In the procurement documentation for a particular public procurement procedure, to provide a list of economic entities with which the representative of the contracting authority is in conflict of interests, or to indicate that such entities do not exist. If the contracting authority does not have its own Internet site, it is obliged to publish the list on the bulletin board, in the Official Gazette or otherwise make it permanently available to the interested public.The public procurement contract concluded contrary to the provisions of the chapter “Conflicts of interest” is legally null and void. |
| III.3. Quantitative indicators | *This section contains examples of quantitative indicators related to section III.1. Other indicators can also be included in the report.* |
| Statistical distribution of buyers by frequency of actual competition  | For each contracting authority or entity:1) Calculate the total number of contract awards. 2) Calculate the number of contract awards which received only one bid. 3) Divide the second number by the first number.In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%, 10%>, (10%, 20%>, (20%, 30%>, … , (90%,100%>[[1]](#footnote-2).Please include only buyers with at least three contract awards over the reporting period and exclude all framework agreements as well as contracts based on framework agreements, as their number of bidders may be misleading (e.g. when multiple contract awards are based on the same framework agreement or for framework agreements with reopening of competition).For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: [http://link.springer.com/article/10.1007%2Fs10610-016-9308-z](http://link.springer.com/article/10.1007/s10610-016-9308-z). |
|  | Table 1: Percentage of the number of contract awards which received only one bid comparing to the total number of contract awards including only buyers who conducted at least three procurement procedures over the reporting period above EU threshold

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| (0%-10%) | <10%-20%) | <20%-30%) | <30%-40%) | <40%-50%) | <50%-60%) | <60%-70%) | <70%-80%) | <80%-90%) | <90%-100%) | total |
| 6 | 4 | 8 | 6 | 15 | 13 | 20 | 18 | 10 | 14 | 114 |

Table 2: Percentage of the number of contract awards which received only one bid comparing to the total number of contract awards including only buyers who conducted at least three procurement procedures over the reporting period below EU threshold (above national threshold)

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| [0%-10%) | <10%-20%) | <20%-30%) | <30%-40%) | <40%-50%) | <50%-60%) | <60%-70%) | <70%-80%) | <80%-90%) | <90%-100%) | total |
| 47 | 24 | 41 | 63 | 61 | 56 | 54 | 47 | 27 | 44 | 464 |

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| Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition | For each contracting authority or entity:1) Calculate the total number of procedures. 2) Calculate the number of negotiated procedures without the prior publication of a call for competition. 3) Divide the second number by the first number.In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%,10%>, (10%, 20%>, (20%, 30%>, … , (90%,100%>.Please include only procurement procedures which resulted in at least one contract award and include only buyers who ran at least three procurement procedures over the reporting period.For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: [http://link.springer.com/article/10.1007%2Fs10610-016-9308-z](http://link.springer.com/article/10.1007/s10610-016-9308-z). |
|  | Table 3: Percentage of the number of negotiated procedures without the prior publication of a call for competition comparing to the total number of contract awards including only procurement procedures which resulted in at least one contract award and including only buyers who conducted at least three procurement procedures over the reporting period above EU threshold

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|  |
| (0%-10%) | <10%-20%) | <20%-30%) | <30%-40%) | <40%-50%) | <50%-60%) | <60%-70%) | <70%-80%) | <80%-90%) | <90%-100%) | total |
| 120 | 23 | 20 | 10 | 2 | 1 | 0 | 0 | 0 | 0 | 176 |

Table 4: Percentage of the number of negotiated procedures without the prior publication of a call for competition comparing to the total number of contract awards including only procurement procedures which resulted in at least one contract award and including only buyers who conducted at least three procurement procedures over the reporting period below EU threshold (above national threshold)

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|  |
| (0%-10%) | <10%-20%) | <20%-30%) | <30%-40%) | <40%-50%) | <50%-60%) | <60%-70%) | <70%-80%) | <80%-90%) | <90%-100%) | total |
| 350 | 47 | 27 | 25 | 4 | 1 | 1 | 2 | 0 | 1 | 458 |

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| Quantitative assessment of collusion risks | This analysis should be based on a country-specific methodology reflecting the business environment, data available from e-procurement and other platforms, etc. National competition authorities may have information relevant for this analysis.For an example of a collusion analysis methodology, see the following toolkit from the Government Transparency Institute: <http://www.govtransparency.eu/index.php/2015/11/13/toolkit-for-detecting-collusive-bidding-in-public-procurement/>. |
|  | No data available  |
| Risk of undiscovered conflict of interest  | Percent of contracts awarded to companies with concealed ownership structure (i.e. whose ultimate beneficiary owner cannot be verified). Information for this indicator should be available in central registers of beneficial ownership, which are to be established by all Member States under the 4th Anti-Money Laundering Directive (2015/849 Art. 30) by June 2017. For more context for this indicator, please see the Commission's Anticorruption Report available at <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm>  |
|  | No data available  |

## Level of SMEs' participation in public procurement

SMEs are **defined in the** Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million. Further information is available at

<http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en>.

|  |  |
| --- | --- |
| **IV.1. Qualitative reporting on SME participation** |  |
| Key challenges encountered | The information should focus on:- key challenges encountered in facilitating the participation of SMEs in public procurement, if any- measures taken to overcome them - difficulties still existing in the Member StateKey challenges encountered in facilitating the participation of SMEs in public procurement are:- Quality and understanding of the information provided;- Administrative burden too high;- Difficulties relating to the size of contracts;- Difficulties relating to proportionality of qualification levels and financial requirements;- Emphasis on price only rather than value for money;- Too short time to draw up tenders.PPL 2016 contains several measures to improve the access of SMEs to public procurements:- Low national thresholds for publication of contract notices on the national procurement platform;- European Single Procurement Document (ESPD) must be used in all public procurement procedures;- Economic operators shall not be required to submit supporting documents or other documentary evidence as far as the contracting authority has the possibility of obtaining the relevant information directly by accessing them in a database (court register, criminal records, tax administration records); - MEAT criteria (i.e. best price quality ratio) is obligatory- PPL 2016 has lowered tender security value to max 3% of the procurement value- PPL 2016 has lowered the amount of fee for initiating the appellate procedure- there is no obligation to sign a bid with e-signature- Help-desk service, providing expert assistance on relevant procurement issues is available for both the contracting authorities and for economic operators who participate or are interested in participating in public procurement procedures.- Training and workshops (not carried out exclusively for SMEs) are organised periodically by the Ministry of the Economy, Entrepreneurship and Crafts in cooperation with the Croatian Chamber of Commerce.The Ministry of the Economy, Entrepreneurship and Crafts provides guidance and interpretations for the application of the PPL 2016 in form of: written opinions/ responses to the received questions from contracting authorities and economic operators, telephone counselling to contracting authorities and economic operators, establishment of "help desk", preparation and publication of materials on the website of the Public Procurement Portal, conducting quick procurement documents control in EOJN, and through coordination meetings with different stakeholders.However, we still observe low participation of SMEs in public procurement contracts. |
| IV.2. Supporting documents |  |
| Please report any available evidence or supporting document for point IV.1, illustrating the measures, achievements or challenges faced, relating to the facilitation of the participation of SMEs in public procurement | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):**List and provide a brief description of the policy and legislative initiatives launched to support SMEs participation in public procurement, including the results of their evaluations, where available* *Specific measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities)**Specific measures targeting the participation of start-ups and scale-ups in public procurement* *Specific measures ensuring that payment for public contracts are made on time, especially in the case of SMEs* *Specific measures addressing the payments to subcontractors**Existing guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs**Existing guidelines for contracting authorities on the application of 'divide or explain' principle* *Existing targets for SME participation in public procurement*Croatian public procurement legislation is in coherence with the EU acquis, thus all measures to support SMEs introduced in such a way as not to jeopardise fundamental public procurement principles and rules. SMEs associations usually actively collaborate in preparation of individual legal document with proposals on how to improve the SMEs position and access to public procurement. In order to ensure comprehensive assessment of impacts of legal acts on economy the use of SME test is mandatory for all legislative proposals.As regards the preparation of Public Procurement legislation (particularly PPL) in drafting phase panel discussion with SME associations was organised – Croatian Chamber of Commerce, Croatian Employers Association, American Chamber of Commerce – and they were actively involved even through public debate on the legislative proposal. Beside PPL a guideline how to use MEAT criteria in practice was published on the Public Procurement Portal (http://www.javnanabava.hr/default.aspx?id=6156 (in Croatian only)).At the same time, greater openness of the public procurement market for SME’s is related with low national thresholds for publication of contract notices on the national procurement platform. Also the use of e-procurement and e-Submission of bids is mandatory. Also there is an obligation for direct payment to any subcontractor (SMEs and non-SMEs). |
| IV.3. Quantitative indicators  | *This section contains examples of quantitative indicators related to section IV.1. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above | *Possible relevant (non-exhaustive) documents for consideration may be as follows:** *Participation of SMEs in call for tenders above threshold:* 3.130
* *Number of above-threshold contracts awarded to SMEs:* 24
* *Total value of contracts above threshold won by SMEs:* 17.167.850,00 HRK (998.532,00 EUR)
* *If additional data is collected in your MS, please report it in order to deepen our understanding about SME participation in public procurement. This might include the number and value of public procurement below threshold won by SMEs -*
* *If applicable, current attainment rate of the target set for SMEs participation -*
 |

## Information on the practical implementation of national strategic procurement

|  |  |
| --- | --- |
| V.1 Green procurement ('GPP') | Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured."[[2]](#footnote-3) A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008. |
| V.1.1 Qualitative reporting  |  |
| Key challenges encountered | The information should focus on:- key challenges encountered in promoting green public procurement, if any- lack of initiative to change patterns of behaviour- lack of information on GPP and examples of good practice- lack of green products and services on Croatian market and among Croatian producers- lack of legal framework for stronger use of GPP- measures taken to overcome them In order to overcome key challenges in the implementation of GPP, in 2017, a series of activities and measures from First National Action Plan for Green Public Procurement (2015 – 2017) were undertaken in the following areas:Education- four workshops were organized on the theme of GPP for procurers in four largest Croatian cities, free of charge- four workshops were organized on the theme of GPP for trainers in the field of public procurement in four largest Croatian cities, free of charge- GPP is included in the framework of regular public procurement educationPromotion- in 2017 national GPP portal was created ([www.zelenanabava.hr](http://www.zelenanabava.hr)). It serves as a unique platform in the Croatian language for the publication of all information relevant for the GPP (examples of good practice, training materials, e-learning materials, webinars, e-courses, photos and multimedia content, lifecycle cost calculators and other)- GPP logo and banner was created and an advertising campaign was conductedInclusion of GPP criteria in public procurement procedures - through the work of the national GPP Committee and in other ways, all public procurement stakeholders are encouraged to include GPP criteria in public procurement proceduresMonitoring Every legal body in Croatia that is obligated to follow the procedures of public procurements according to the Croatian Public Procurement Act is monitored through in two ways:* through official Electronic Public Procurement Classifieds (EOJN; since 2015 on annual basis). EOJN gives simple information about the use of environmental criteria in public procurement when the contract is concluded.
* through on-line forms survey (since 2016 on annual basis). The on-line form survey was taken to get more detailed information and will be used to monitor progress of the use of GPP criteria.

- difficulties still existing in the Member StateFor better implementation of the GPP, it is necessary to continue with the development of supporting infrastructure (helpdesk, portal etc.) as well as with education that needs to be directed to decision-makers, especially ones at local and regional level. It is also necessary to improve the public procurement monitoring system through the EOJN.The change of behaviour patterns must start from the level of the decision-makers who must give their clear political support to change and set the GPP commitments at a strategic level. |
| V.1.2. Supporting documents |  |
| Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the promotion of green public procurement.  | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):** *National definition of 'green' and 'green public procurement'*
* *Information about National action plans or similar documents on GPP in your Member State and the stage of their implementation. Target for the uptake of GPP and the way it is defined i.e. for overall procurement, for specific product groups, by value, by number of contracts*
* *Any obligations to include green requirements in the tender documents and the authorities for which they apply*
* *Any recommendations concerning the use of specific selection criteria, technical specifications/award criteria/performance clauses which public authorities or contracting entities wishing to procure green can include in their tender documentation. Categories of products for which these are relevant and the relevant website, if possible*
* *Any information on environmental labels, environmental management systems or standards*
* *Any recommendations to use the 'green procurement' criteria developed by the European Commission, respectively for which product groups. If different criteria are recommended, please specify whether they are similar to/inspired by the EU criteria*
* *Activities in the area of capacity-building for procuring green (institutionalised or ad-hoc training, helpdesks, etc.)*
 |
|  | First National Action Plan for Green Public Procurement for period 2015 – 2017 (I NAP) was adopted by Croatian government in August 2015 <http://www.mzoip.hr/doc/nacionalni_akcijski_plan_za_zelenu_javnu_nabavu.pdf> The I NAP sets the overall objective of 50% off all public contracts to include environmental; GPP criteria by the year 2020. The objective is identical to the common goal at the European Union level. This objective is planned to be achieved through two national action plans, I and II NAP. I NAP sought to establish a framework for the implementation of measures and activities that will contribute to greater implementation of GPP in public procurement procedures and to achieve this goal.To achieve this goal, 17 activities were divided into four thematic areas (education, promotion, inclusion of GPP criteria in public procurement procedures, monitoring).In I NAP, GPP criteria for six priority products and services was set up in a form that would simplify its inclusion in the procurement documentation. These criteria are identical to the EU GPP criteria:- copying and graphic paper - motor vehicles (trade)- electricity- cleaning services- telecommunication services and mobile telephony services together with devices- office and IT equipment (IT equipment).Within the I NAP relevant EU eco-labels were presented.All data related to I. NAP, training materials, eco labels, handbook on GPP and other supporting materials related to GPP are available on the national GPP website ([www.zelenanabava.hr](http://www.zelenanabava.hr)).GPP helpdesk mail is active since 2017 zelena.nabava@mzoe.hrMeasures, achievements and challenges faced during the implementation of the I NAP are listed in the point V.1.1. |
| V.1.3. Quantitative indicators | *This section contains examples of quantitative indicators related to section V.1. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above. To the extent possible, these indicators should be further grouped by type of legal problem. | *Possible relevant (non-exhaustive) documents for consideration may be as follows:** *Percentage of public procurement procedures incorporating green criteria out of the whole volume of procurement at national level and if available, for the GPP product groups (e.g.* [*http://ec.europa.eu/environment/gpp/eu\_gpp\_criteria\_en.htm*](http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm)*) for which monitoring is being done, measured by number and value*

Percentage of green public procurement proceduresat national level: 133 of 8783 (0,015 %)Percentage of green public procurement procedures above the EU threshold: 28 of 1370 (0,020 %)Percentage of green public procurement procedures below the EU threshold (beginning from national threshold): 105 of 7413 (0,014 %) |
| V.2 Socially responsible public procurement ('SRPP') | Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility. |
| V.2.1 Qualitative reporting |  |
| Key challenges encountered  | The information should focus on:- key challenges encountered in promoting socially responsible public procurement, if any- measures taken to overcome them - difficulties still existing in the Member State |
|  | No data available  |
| **V.2.2. Supporting documents** |   |
| Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.  | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):** *National SRPP definition*
* *List and brief description of national policy initiatives launched in the area of SRPP*
* *Any obligation to include socially responsible criteria or contract performance clauses in the tender documents imposed by your national system, and the contracting authorities or contracting entities which are required to comply*
* *Any information on social labels in use*
 |
|  | No data available  |
| **V.2.3. Quantitative indicators**  | *This section contains examples of quantitative indicators related to section V.2. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.  | *Possible relevant (non-exhaustive) documents for consideration may be as follows:** *Number of public procurement procedures incorporating socially responsible award criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU):* No data available
* *Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive:* 1
* *Number of public procurement procedures for the provision of health, social or cultural services as referred to in article 77.1 reserved to organisations fulfilling the conditions listed in article 77.2.:* 154
* *Number of public procurement procedures incorporating socially responsible contract performance clauses criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU):*  No data available
 |
| V.3 Public procurement of innovation | An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions.No Innovation partnerships have been awarded in 2017. |
| V.3.1 Qualitative reporting |  |
| Key challenges encountered | The information should focus on:- key challenges encountered in promoting innovation procurement, if any* There are still large public needs that need to be met through classic methodology of public procurement, thus the space for innovative solutions is still limited at this stage
* Lack of funds for implementing projects dealing with PPI

These reasons make the promotion of PPI more difficult. There is also lack of financial resources for promoting PPI.- measures taken to overcome them* HAMAG-BICRO has been involved in project PPI2Innovate: “Capacity building to boost usage of public procurement of innovative solutions”. With PPI2Innovate project HAMAG-BICRO promotes activities to raise public awareness of innovation procurement.
* HAMAG-BICRO have organised PPI trainings for public procurers, conferences, round-tables, press conferences, workshops and also have direct contact with public procurers from all over Croatia

- difficulties still existing in the Member State* Low awareness and knowledge about PPI
* Lack of funds for promotion and implementation
 |
| V.3.2. Supporting documents |  |
| Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement. | *Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):** *National Action Plan and/or targets for innovation procurement and its stage of implementation. Information on how are they defined.*

*Strategy for innovation support Action plan, Measure 2.5. Boosting the implementation of innovation throughout the public procurement system; Smart Specialization Strategy (S3) Action plan, Strategic objective 5: “Accepting and using innovative public procurement in addressing identified problems associated with social challenges”** *Any additional provisions for innovation procurement in your national legislation that go beyond the provisions in the EU public procurement directives (e.g. more detailed definition of innovative solutions and/or R&D, specific provisions on innovation procurement Art 33 of 2014 EU State aid rules on R&D&I) -*
* *National guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement)*

*PPI2Innovate project is included in Strategy for innovation support Action plan, Measure 2.5. Boosting the implementation of innovation throughout the public procurement system as realization of the measure for period 2014 – 2020.** *National activities on capacity-building on innovation procurement (institutionalised or ad-hoc training, helpdesks, etc.)*

Throughout the implementation of PPI2Innovate project activities: PPItrainings, conferences, round-tables, press conferences, workshops and also direct contact with public procurers from all over Croatia within PPI2Innovate project* *Information about outcomes e.g. impact on demand side (increase in quality and/or efficiency of public services), impact on the supply side (increase in sales/company growth, intensified investments in R&D/innovation and/or IPRs), wider market impacts (number/value of contracts awarded to SMEs, amount of contracts awarded to non-domestic providers)*

*Still in progress. Within PPI2Innovate project HAMAG-BICRO will map 8 promising PPI projects in Croatia and serve as a support and Competence center for innovation procurement.*  |

## Replicability

This section should provide information allowing anyone to fully replicate the quantitative results presented in the report.

|  |  |
| --- | --- |
| Links to datasets used to prepare the report | The Commission recommends publishing the source data as open data, e.g. as is the case for the Tenders Electronic Daily database at <http://data.europa.eu/euodp/cs/data/dataset/ted-csv>. <https://eojn.nn.hr/Oglasnik/><http://www.dkom.hr/>  |
| Files used to obtain the results from the datasets | This section should include for example the scripts or code for the relevant statistical software or the Excel files used.Attachment 2 and 3. Public Procurement Statistical Report for 2017 and Report from the State Commission for the Supervision of Public Procurement Procedures for 2017. |

**Annex I:**

**Methodology for estimating the value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds**

### 1. Classification and methodology

Indicate the basic characteristics of the methodology used by selecting from the options below. Description of the methodology is to be given in the subsequent section.

#### 1.1. General approach:

1. [data available under national publication requirements]
2. [sample-based estimates]
3. [combined]

Please note that in our opinion using existing administrative data is preferable, as it implies both lower administrative burden (no additional data collection is necessary) and higher data quality.

If a sampling approach is taken, both the source of the sample and the sampling methodology, provided in the following subsection, must be able to withstand careful scrutiny. This ensures that the estimate is representative of the whole Member State.

#### 1.2. Source of data:

|  |  |  |
| --- | --- | --- |
|  Scope:Source of data: | above national publication thresholds [✓] | below national publication thresholds [✓] |
| [e-notification platforms] | ✓ | ✓ |
| [e-submission platforms] | ✓ | ✓ |
| [invoices] | no data available | no data available |
| [budgets] | no data available | no data available |
| [other] |  |  |

### 2. Methodology description

Indicate, amongst others, information on the sources of data, approaches taken to deal with possible missing data and erroneous data, and representativeness of the sample used (if a sample-based approach was taken). If methodology is different depending on the thresholds or source of data, please clearly indicate this, including the relevant thresholds.

The obligation to prepare annual statistical reports for contracting authorities/entities is defined in Article 441, paragraph 2 of the PPA. By 31st March of the current year, the contracting authorities/entities are obliged to prepare a statistical public procurement report for the previous year.
This report is made through the Electronic Public Procurement Classifieds of the Republic of Croatia (EOJN RH, <https://eojn.nn.hr>).

Contracting authorities/entities are responsible for the accuracy of the data entered manually into the statistical module.
It should be noted that all contracts are recorded according to the date of publication of the contract, not the publication number. Therefore, the criterion of "entering" into the statistical report is the value of each contract / framework agreement without VAT from the contract award notice.

The data that are provided can be divided into two parts by the thresholds (above and below the EU thresholds), the procurement procedures below the EU threshold (regulated by national legislation) divides them even further:

* procurement procedures above the EU threshold (public procurement published in the Official Journal of the European Union as well)
* procurement procedures below the EU threshold
	+ “low value” public procurement, which is published only in the Electronic Public Procurement Classifieds and not in the Official Journal of the European Union
	+ procurement below national threshold (publication in the Electronic Public Procurement Classifieds is optional)
1. The symbols "<" and "(" indicate whether the endpoint of the interval should be included. For example (40%,50%> approximately means that the interval should contain contracting authorities or entities whose score is larger than 40.001% and smaller than 50.000%. The rest of the intervals are analogous. [↑](#footnote-ref-2)
2. Commission Communication (COM (2008) 400) "Public procurement for a better environment" [↑](#footnote-ref-3)