Croatia: reforms to meet the terms of the EU acquis
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Public procurement accounts for a significant proportion of Croatia’s economy, representing approximately nine per cent of the country’s GDP. Consequently, the development and maintenance of a well-functioning public procurement system in the country is of paramount importance. Since the enactment of the first public procurement law in 2001, Croatia’s procurement regime has undergone a number of reforms, reflecting the government’s attempts to develop a legal framework that balances competition and transparency safeguards with efficiency. However, even with the completion of the alignment with the European Union (EU) acquis communautaire, enforcing compliance continues to be a formidable challenge. Consequently, capacity building, monitoring and overcoming an overly formalistic approach of contracting authorities are the more difficult steps that may take longer to achieve, and will probably remain areas of focus for the Croatian government over the next several years.

This article first describes the new legal and institutional framework for public procurement in Croatia. It then describes the progress in development of procurement policies as observed by the EBRD legal research and the Procurement Department. Lastly, the article analyses two recently-run tenders in connection with the privatisations of two major state-owned companies, and discusses some of the challenging issues surrounding the public procurement regime in the country.

Legal framework

The area of public procurement was completely unknown in Croatia until the country gained its independence in 1991. Major advances in the area occurred after 1997, when the parliament adopted the first law that regulated public procurement in a more comprehensive manner; the law commenced in 1998. In 2001 the parliament enacted a new law on public procurement, based on the Public Procurement Directives of the European Commission. The law established two central public procurement institutions: the Public Procurement Office (the Office), which was authorised to supervise the implementation of the public procurement laws; and the Public Procurement Supervisory Commission (the Commission), which was authorised to review public procurement complaints.

Since then, the public procurement law has undergone a number of amendments, all of which have aimed to further align Croatia’s procurement legislation with the relevant EC public procurement directives. These amendments were also accompanied by a number of secondary legislation and regulations, such as the regulation on the list of subjects required to comply with the public procurement law and the regulation on the supervision of the implementation of the public procurement law. Croatia’s public procurement legislation was further amended in 2011, when the parliament enacted the new Public Procurement Act.
Procurement Act (the Act), which came into force on 1 January 2012. The Act finalised the alignment of the country’s public procurement regime with the requirements of the EC public procurement directives.

Key changes introduced by the Act

Procurement plan

The Act introduced a number of changes related to the procurement plan. Notably, the Act requires the contracting authority/entity to adopt the procurement plan for the budget or business year, which must include at least the following information: (1) the subject matter of procurement; (2) the file reference number of the procurement; (3) the estimated value of the procurement, if available; (4) the type of public procurement procedure; (5) whether a public procurement contract or a framework agreement is being entered into; (6) the planned commencement of the procedure; and (7) the anticipated term of the public procurement contract or the framework agreement, as applicable. Interestingly, unlike the requirements of the former Public Procurement Act, the procurement plan is no longer required to contain information about the sources of the planned finances or how they align with the financial statements/plans of the contracting authority/entity. However, given that the above items refer to the minimal required information, nothing in the Act prevents the inclusion of the information about the sources of the financing of the plan, which would give the plan more credibility.

If necessary, the contracting authority/entity may change the procurement plan, and all changes must be visibly indicated in relation to the original plan. Notably, the Act introduces the obligation on the contracting authority/entity to publish the procurement plan on the internet within a period of 60 days from the day of the adoption of the budget or the financial plan. Similarly, any changes to the procurement plan must be immediately published on the internet by the contracting authority/entity. The published procurement plan, and all of its changes, must be available on the internet at least until 30 June of the following year.

Further, the contracting authority/entity is required to promptly submit to the central state administration body entrusted with the public procurement supervision (the Competent Authority) details of the URL of the web site on which the procurement plan has been published and to provide any subsequent changes to the URL. With the aim of further increasing the transparency of the process, the Act requires the Competent Authority to include on its web site links to the web sites on which the procurement plans of all contracting authorities are available.

If, however, the contracting authority/entity is unable to publish on the internet, it must submit its procurement plans and any changes to those plans electronically to the Competent Authority, which will then publish them on its web site. Unsurprisingly, provisions related to the publishing of the procurement plan will not apply to the contracts that involve, require or contain “classified information”.

Lastly, with respect to fines, the Act stipulates that any legal entity or unit of local and regional self-government will be fined an amount from HRK 50,000 to HRK 1,000,000 (approximately €6,578 to €131,578) if it fails to submit to the central state administration body, immediately after publication, details of the URL of the web site on which the procurement plan is published and any subsequent changes to the URL, or if it fails to submit its procurement plan and any changes to it by electronic means. Further, the responsible person in the legal entity or in the state body or unit of local and regional self-government will be fined between HRK 10,000 and HRK 100,000 (approximately €1,315 and €13,157).

Register of public procurement contracts and framework agreements

The Act introduces the requirement for the contracting authority/entity to maintain the register of public procurement contracts and framework agreements (the Register), and to update the information in the register at least every six months. Further, the Register must be published on the internet.
The Register must include at least the following information: (1) the subject matter of procurement; (2) the file reference that the contracting authority/entity allocated to the procurement and the number under which the procurement was published; (3) the type of public procurement procedure conducted; (4) the amount of the awarded public procurement contract or framework agreement, as applicable; (5) the date of the conclusion and the term for which the public procurement contract or the framework agreement was concluded; (6) the name of the tenderer to whom the public procurement contract was awarded, the name of the entity with which the framework agreement was concluded, the name of the tenderer to whom the public procurement contract – based on a framework agreement – was awarded, and the name of the subcontractor, if any; (7) the final date of the supply of goods, provision of services or execution of works; and (8) the final amount which the contracting authority/entity paid on the basis of the public procurement contract, and, where this amount is higher than the contracted amount, an explanation for that difference.21

This information for an individual public procurement contract must be available in the Register for a period of at least three years from the date of the final execution of the related contract.22 Further, after the first publication of the Register, the contracting authority/entity must submit to the Competent Authority details of the URL of the web site on which the Register has been published and provide any subsequent changes to the URL. As in the case of the procurement plan, the Act requires the Competent Authority to include on its web site the links to web sites on which the registers of all contracting authorities are available.23

If, however, the contracting authority/entity is unable to publish on the internet, it has to submit electronically, every six months, updated registers of public contracts and framework agreements to the Competent Authority, which will publish them on its web site.24

These register-related requirements do not, however, apply to contracts awarded in accordance with the rules governing public-private partnerships or the rules governing concessions.25

Lastly, the same fines apply for non-compliance with these provisions as for non-compliance with the procurement plan-related provisions; that is, a fine between HRK 50,000 and HRK 1,000,000 (approximately €6,578 and €131,578) for a legal entity26 and between HRK 10,000 and HRK 100,000 (approximately €1,315 and €13,157) for the responsible person within the relevant entity.27

The award criteria

The Act excludes the requirement for the contracting authority/entity to prepare a report on the award criteria on the basis of the economically most advantageous offer.28 However, if the economically most advantageous offer is chosen, the award criteria must not be discriminatory, and they must be related to the subject matter of procurement.29 Further, in the case of public service contracts and public supply contracts, the award criteria must be without prejudice to the implementation of the legislation prescribing remuneration for specific services (for example, services performed by architects, engineers or lawyers, or a fixed price for specific supplies such as school books).30

Public Procurement Office

The Public Procurement Office is a special agency of the government of Croatia, authorised to execute the implementation, oversight and application of the Act and any such subordinate legislation as may be passed in the field of procurement. The Office: establishes the overall procurement requirements for products and services of entities bound by the public procurement regime; plans the implementation of procurement procedures; conducts market research; manages the database of awarded contracts and framework agreements and submits statistical reports to the government; implements advanced technologies in the public procurement process; drafts tender documentation; controls the performance under the signed contracts and framework agreements; analyses the efficiency of the public procurement regime through continuous monitoring; and performs any other tasks as may fall within the scope of its competence.31
The Office has adopted a practice whereby approximately every two years it settles and publishes its strategic plan for the following two years. The Strategic Plan for the period 2013-15 contains the following areas of focus for the Office: standardisation within the procurement categories; further improvements in the area of electronic procurement; ensuring that the procurement process renders the best “value for money”; increasing transparency (to be achieved by continuous publication of the relevant materials and technical consultations); encouragement of competitiveness and assistance to small and medium enterprises; and ongoing training and education of the Office’s employees.32

**Public Procurement Supervisory Commission**

The Public Procurement Supervisory Commission was established by the Act as an autonomous and independent national body of second instance which exercises its jurisdiction by deciding on complaints concerning public procurement procedures.33 The Commission has the characteristics of both judiciary and administrative body.

The Commission has nine members, one of whom acts as the Head, while two act as Deputy Heads.34 They are appointed by the parliament, at the recommendation of the Croatian government, for a period of five years, with the possibility of one extension of their mandate.35

Any candidate that has participated in a tendering procedure may, within the deadlines prescribed by the Act,36 file with the Commission an objection to such decision on the grounds of irregularities in the tendering procedure. The Commission’s decision may be challenged before a competent administrative court.37

Once a year, but no later than 30 June of the relevant year, the Commission must submit to the Croatian parliament a report on its work for the preceding year.38 This report must contain, amongst other things, information concerning the number of received complaints, the number of resolved cases, the number of unresolved cases, the number of decisions prescribing interim measures, the number of fines imposed and their amounts, the number of hearings held, and the average length of time taken for decisions to be made.39 Moreover, the Commission must, at least twice a year, post on its web site the information on the most frequent reasons for the complaints and the most frequent irregularities detected in the tendering procedures.40
Reform progress in Croatia: 2010-13

The charts below – based on the EBRD 2010 Regional Public Procurement Assessment and the 2012 Regional Self-Assessment of Public Procurement Legislation – illustrate the progress of public procurement reform in Croatia. The results of the assessments confirm that Croatia’s public procurement laws improved or remained constant across almost all of the key indicators of the EBRD Core Principles benchmark. Notably, the new law, passed in 2011, made large strides regarding integrity, transparency, and economy indicators. Specific improvements include:

- stipulating that tender documents be made available free of charge online
- allowing electronic communication in public procurement procedures
- providing for contract valuation methods to take into account whole-of-life costs of the purchase or works

Chart 1: Croatia – Public procurement reform progress

Note: The chart present the scores for the quality of the legal framework in subsequent assessments of the national public procurement legislation, completed between 2009 and 2012. The scores have been calculated on the basis of a legislation questionnaire based on the EBRD Core Principles, and answered by local legal advisors (2010) and national regulatory authorities (2012). The scores are presented as a percentage, with 100 per cent representing the optimal score for each indicator.

Sources: EBRD 2010 Regional Public Procurement Sector Assessment, EBRD 2012 Regional Public Procurement Legislation Self-Assessment

The Chart 2 below presents results of the latest assessment of the quality of the national public procurement legal framework compared to other countries in the EBRD region. Croatia is in the top third of countries, with a total score of 89 per cent compliance rate.

Chart 2: Croatia – Quality of national legal framework as compared to transition countries in the region

Source: EBRD 2012 Regional Public Procurement Legislation Self-Assessment

The recent review confirms that the enactment of a new public procurement law in Croatia improved upon the previous PPL, achieving an overall improvement of 8 percentage points. Although Croatia’s national public procurement legal framework is still below a maximum score, it continues to improve in the key indicators of the quality of public procurement regulation. This reform has been largely driven by Croatia’s need to bring its legislation into line with EU Directives; consequently, Croatia now enters the EU with scores for public procurement legislation that are above the regional average in almost all key indicators.
The doughnut chart presents the results of the EBRD assessment for three fundamental for public procurement laws evaluation categories: transparency safeguards, efficiency instruments and institutional and enforcement measures.

The Croatian PPL scored high compliance in all three categories. The regulatory gaps that remain signify that some reform is still needed. However, it is notable that the gaps are similar in size. Croatia has thus reformed its law evenly with regard to these three categories, which indicates that a balance has been struck between transparency and efficiency, and that the appropriate institutional and enforcement framework exists to implement the new laws in practice. Croatia’s national regulatory framework governing public procurement could improve in the areas currently identified by two key regulatory gaps: a lack of thorough regulation of the post-tendering process, and a review and remedies system that could be simplified and made less expensive for suppliers.

Although Croatia’s legal reform has brought its public procurement legislation into line with EU Directives and basic WTO GPA requirements, Croatian government should continue reforms to bring public procurement legal framework in fully into line with international best practice.

Note: The scores have been calculated on the basis of a legislation questionnaire, based on EBRD Core Principles, and answered by the national regulatory authority. Total scores are presented as a percentage, with 100 per cent (one-third of the pie chart) representing the optimal score for each evaluation category. Regulatory gaps – the difference between the assessment results and the benchmark – are marked in light orange, light blue and light green, respectively.

Source: EBRD 2012 Regional Public Procurement Legislation Self-Assessment
Benefits of the procurement law reform in Croatia

An interview with Veljko Sikirica, Senior Procurement Specialist, in charge of the policy dialogue with Western Balkans countries and Turkey for the EBRD Procurement Department

**Did EU policies prompt improvements in Croatia’s national framework?**

Croatia has dedicated significant resources to accomplishing the alignment of its public procurement law with the EU *acquis communautaire*. It committed more than 11 years, from the enactment of the first public procurement law in 2001, submitting its procurement regime to iterative scrutiny and reforms, before reaching, at the end of 2012 – six months before accession to EU – a satisfactory legal framework. This framework intends to balance key universal procurement principles – such as economy, efficiency, transparency and competition – into the Public Procurement Act of Croatia (the Act) that finally became aligned with the Public Procurement Directives of the European Commission. This complex exercise reached fruition with the formal delivery of a compliance regime at the regulatory level; however, enforcing compliance continues to be a formidable challenge.

There is no doubt that the driving force and inspiration behind procurement law reform was the prospect of EU membership. Since alignment of procurement policy was one of the critical requirements of EU membership, obstacles in this area needed to be resolved. The importance of EU membership is further corroborated by the observation that other policies that are not affected by EU membership requirements were not advanced with the same level of rigour.

Croatia has engaged in a remarkable level of legislative activity in an effort to fulfil the criteria for EU accession. However the effect of the financial crisis was to stifle the pace of the reforms, especially when additional resources were necessary.

Conversely, internal pressure on public expenditure as a result of the financial crisis, as well as the prospect of closing the EU negotiations, tended to accelerate the legislative process. In particular, improvements in the linkages between strategies, policies and the budget, together with better consultation practices and the introduction of impact assessment, were critical in incremental improvement towards a better regulatory policy.

However, the fact that prospective EU membership has been the main driver of the reforms raises questions about sustainability and ownership, while at the same time creating opportunities for change and modernisation.

Now, after accession has been consummated, administrative actions will be judged on the same criteria and to the same standards that apply to all member states. The legal framework must still be tested to determine the extent to which it has overcome the traditional, formalistic and detailed approach, which inhibits management effectiveness, increases costs, and creates various legal issues.

The existing administrative organisation still seems to be complex, procedures continue to be complicated and formalistic and decision-making appears to remain highly centralised and politicised. Corruption and a lack of transparency continue to be characteristics of the public administration, which consequently challenge the full implementation of the procurement reform. Regarding anti-corruption initiatives, intense legal activity has been carried out to improve transparency and ethics in the public administration. The anti-corruption policy and strategy have been largely influenced by EU accession and, again, the sustainability of the policy needs to be monitored.

On the prevention side, communication policy needs to be improved in order to address corruption. A greater commitment and more resources are needed to succeed. Monitoring and evaluation methods and skills need to be developed. Concerted efforts for improving integrity and fighting corruption, while fostering ownership, are critical in building the public procurement system.
Public administrations worldwide tend to carry the stigma of being part of the problem rather than the solution when it comes to successful implementation of legal reforms. In Croatia politicisation of the civil service, the unclear and inefficient administrative organisation, inadequate managerial skills, insufficient capacity of many civil servants, heavy and formalistic bureaucracy, corruption, and lack of transparency continue to be characteristics of the public administration that inhibit the full implementation of the procurement reforms.

Human resources management requires more attention. There are opportunities for improvement in the areas of staffing levels, training, skills and support from management, in order to promote activity away from mainly bureaucratic procedures. Change is possible and achievable, provided that it is prioritised, and that a commitment to ongoing action is maintained.

Changing the administrative culture requires strong political commitment, qualified and motivated staff, an effective communication strategy, effective coordination, appropriate budgetary allocation, coherent action, and time. Without these elements effective reform could be compromised.

Integrity issues, corruption and organised crime have been major challenges for Croatia’s EU accession. Further tangible results in the judiciary, and in the fight against corruption and organised crime, are essential for building credibility. Several cases of high-level corruption have been shown to have had deep roots in the public sector. Local governments, public works (highways), urban planning and construction, state companies, customs, and military acquisitions have been identified as the areas with the highest corruption risk. Corruption has been the result of a long culture of secrecy, political manipulation, control over the media, conflicts of interest, poor political accountability, and an inefficient judiciary that lacks independence. Impunity has been deeply embedded in Croatia, over many years, and as such it is not easy to eradicate. Corruption is still considered to be the main problem affecting the business environment.

In response to high-level corruption, action was taken, and relevant pieces of legislation were adopted or amended. Over time it will become evident whether these actions were the result of a clear political commitment to deal with corruption, or whether they were mainly the result of EU accession pressure. Again, ownership and sustainability of the implementation are at stake.

The decision-making process in the public administration is still centralised at the highest – usually political – levels. Therefore, the risk of non-transparent decisions, influenced by private interests, is also high and susceptible to corruption. Procurement practices, such as the abuse of urgent procedures, should be stopped, and procedures that invite open and competitive participation should predominate.

Another issue concerns the concept of conflict of interest and, in particular, the definition of the line of separation. For example, some major infrastructure projects have been excluded from the budget on the grounds that they were being undertaken by state companies which raise more than 50 per cent of their funds from their own revenues, thereby avoiding the public procurement process.

Despite some weaknesses, the reform of Croatia’s legal and institutional framework is almost complete. The challenge now is to make the system work and to demonstrate visible results.

**Will the latest achievements and changes to the national procurement framework in Croatia enable a Croatian national procurement system to be used for EBRD transactions?**

Determining the functionality of Croatia’s reformed public procurement system, and its compatibility with the procurement systems of EU member states, demands a brief reflection on the Public Procurement Directives of the European Commission. These directives were introduced to further the EU’s policy of enabling enterprises from all EU member states to compete fairly in public procurement markets. The most important objective of this policy is to prevent discrimination by procuring entities in favour of their
own national enterprises. The Public Procurement Directives support this by, among other things, requiring major contracts to be advertised, to be open to competition, and to be awarded through transparent procedures, without discrimination.

The EBRD’s procurement policies and rules (PP&R), and the EU’s Public Procurement Directives, are both aligned with the World Trade Organisation (WTO) Agreement on Government Procurement (GPA). The GPA establishes a framework of rights and obligations with respect to laws, regulations, procedures and practices regarding public procurement.

While there has been noticeable progress in the latest achievements and changes to the national public procurement framework in Croatia, which will most likely improve the overall results of public procurement, there are still opportunities for improvement, especially in the implementation of the new regulatory framework and in institutional capacity building. In the near future there will be a further round of the alignment exercise, with the announced revised EU directives. Further, integrity issues, prohibited practices such as corruption, and conflicts of interest definitions require urgent attention, as they are not presently at the standards required by the EBRD’s PP&R system.

From the EBRD’s perspective, the EBRD’s PP&R should be used for procurement under EBRD financing in Croatia in order to mitigate the identified risks and to maintain the efficiency of project implementation. The EBRD’s PP&R have been specially designed, based on international best practices, to guide, monitor and overview procurement processes from the perspective of a third party reviewer with fiduciary responsibility for the use of funds from EBRD operations. The EBRD’s PP&R system is composed of the policies, rules, methods, standardised procurement documents, the review and no objection system, the complaint process, and the capacity risk assessment of the client and the operation. The EBRD is equipped to efficiently apply this system. Therefore, while it can be recognised that Croatia has made important progress in public procurement regulation, evidence of successful implementation, as analysed above, is still pending. The EBRD’s Procurement Department believes this situation demands the on-going use of the EBRD’s PP&Rs for EBRD transactions in Croatia.

Future challenges

The Act has undoubtedly improved the legal framework of the public procurement regime in Croatia. In addition, the government has made efforts to help those required to comply with the public procurement regulations by setting up an informative web site (www.javnanabava.hr), which contains information such as a general description of the public procurement system, the relevant legal framework, applicable guidelines, educational seminars, annual public procurement reports, information brochures, and contact details for a call centre.

However, even after the enactment of the Act, participants in the public procurement process still face both a somewhat overly formalistic approach, and inconsistency in the interpretation and application of tender rules.

These shortcomings came to the fore during two tenders that were recently organised by the Ministry of Finance for the selection of consultants for two key strategic projects for the country: (1) the privatisation and capitalisation of Hrvatska poštanska banka d.d., a state-
owned bank (whose market share amounted to approximately 4.04 per cent in 2011); and (2) the privatisation and capitalisation of Croatia osiguranje d.d., a major state-owned Croatian insurance company with a market share of approximately 35.7 per cent. Both tenders attracted bids involving internationally recognised advisory firms, including Deloitte, KMPG, BNP Paribas and others.

**Hrvatska poštanska banka d.d.**

The tender for the selection of consultants for the privatisation and capitalisation of Hrvatska poštanska banka d.d. was first launched in July 2012, but was subsequently cancelled because both bids that were submitted (one by a consortium led by KPMG and the other by a Swedish consultancy firm, Lagerkvist & Partners) were disqualified for formal reasons. The bid submitted by KPMG and its partners was disqualified under the Act (no detailed explanation of the disqualification reasons was published), while the bid of Lagerkvist & Partners was dismissed due to irregularities in its delivery. Both bidders were dissatisfied with the outcome of the tender; Lagerkvist & Partners stated in a press release that no clear explanation was offered for the disqualification of its bid, that the tender rules were unclear and that the tender documents were available only in the Croatian language.

The tender was repeated in September 2012, and only two bids were submitted. The joint bid submitted by an Austrian-Croatian consortium (Confida-Revizija d.o.o., Confida Klagenfurt Steuerberatungs-gesellschaft m.b.H., Schoenherr Rechtsanwälte GmbH and CD Invest Consult GmbH) was selected as the most favourable bid in November 2012. The other bid, which was submitted by Lagerkvist & Partners, together with a Croatian firm BDO Croatia d.o.o., was disqualified because of the failure to submit certain documents in the required form, among other reasons. The latter consortium filed a formal complaint against this decision, but it was dismissed by the Commission on the grounds that the claimant did not establish sufficient grounds for bringing the claim.

**Croatia osiguranje d.d.**

The tender for the selection of consultants for the privatisation and capitalisation of Croatia osiguranje d.d. was published in September 2012. Four consortiums – led by KPMG, Deloitte, BNP Paribas S.A, and Ernst & Young, respectively – submitted their bids. The joint bid made by KPMG Croatia d.o.o., KPMG Advisory Ltd., KPMG Advisory S.p.A. and the Zagreb subsidiary of Wolf Theiss Rechtsanwälte GmbH was selected as the most favourable bid in November 2012. Two other bids – submitted by the consortiums led by Deloitte and BNP Paribas, respectively – were disqualified for formal reasons; these consortiums were found to have failed to submit certain confirmations and statements in the required form. Both consortiums whose bids were disqualified filed formal complaints with the Commission, noting in their complaints an excessively formalistic approach taken in the evaluation process, as well as a lack of clear and transparent criteria for the determination of whether the relevant documents complied with the requirements of the tender rules. The complainants also asserted inconsistency in treatment, in that documents submitted by them were rejected as invalid, while documents submitted in the same form by other bidders were accepted as formally valid. The Commission dismissed both complaints, in its decisions from 19 January 2013.

In respect of both tenders, the complainants asserted that the formal requirements for various confirmations, statements and similar documents were onerous to comply with. For instance, the Ministry of Finance required certain documents to be provided in the form of a solemnised document (that is, in the form of a document, the contents of which have been confirmed by a notary public). For a number of foreign bidders, this formal requirement was virtually impossible to comply with, as such documentary forms do not exist in their jurisdictions, while others struggled to obtain the required documents (for example, in Austria solemnisation is only possible in certain cases prescribed by law). This resulted in the disqualification of half of the submitted bids in each of the two tenders.

Some of the foreign bidders also found the requirement that all tender documents be submitted in the Croatian language or accompanied by a certified translation into Croatian highly impractical. They argued that this was an overly formalistic requirement, considering the fact that the required consultancy services were procured in an international context.
and would most likely be rendered in English. Lastly, in respect of both tenders, the bidders were not clearly informed if, and if so, how, to include value added tax (VAT) in the offered prices. Consequently, some of the bidders included VAT in their bids, while others did not. This resulted in differently priced bids, which were not fully comparable.

The overall impression, gained from the views of the procurement process expressed by the bidders that participated in the two tenders discussed above, was that achieving compliance with the formal requirements was the most difficult part of the process. These examples suggest that Croatia still needs to invest considerable efforts towards overcoming the formalistic approach of contracting authorities towards public purchasing, and to place more emphasis on obtaining value for money, as recommended by the Progress Report from 2011, which was primarily funded by the EU.48

Conclusion

The adoption of the new public procurement law finalised the alignment of Croatia’s public procurement regime with the requirements of the EU acquis communautaire. The new law introduced a number of progressive measures, primarily in terms of transparency of the process and publication of information. Moreover, the web sites of the Office and the Commission contain very useful information, and provide assistance to those that need to comply with the public procurement regulations. Also, significant strides have been made towards improving the quality of procurement procedures through the organisation of seminars and the publication of educational materials and various reports. Notably, the Commission is able to process complaints within reasonable time frames.

Nevertheless, as voiced above, further work is required in the areas of enhancing capacities of institutions involved in public procurement and moving towards a more pragmatic, and less formalistic, approach by the contracting authorities.

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2 See Zakon o nabavi roba, usluga i ustupanju radova, Official Gazette No. 142/97.

3 See Zakon o javnoj nabavi, Official Gazette No. 117/01.

4 Ibid., Article 69.

5 Ibid., Article 71.

6 See Uredba o popisu obveznika primjene Zakona o javnoj nabavi, Official Gazette Nos. 14/08, 83/09 and 19/12.

7 See Zakon o javnoj nabavi, Official Gazette No. 90/11 (the Act).

8 Ibid., Article 20(1).

9 Ibid., supra note 8, Article 20(3).

10 See Public Procurement Act, Official Gazette No. 110/07 (the 2007 Act), Article 13(5).

11 The Act, supra note 8, Article 20(4).

12 Ibid., Article 20(5).

13 Ibid., Article 20(6).

14 Ibid., Article 20(7).

15 Ibid., Article 20(8).

16 Ibid., Article 182(1)(4).

17 Ibid., Article 182(2).

18 Ibid., Article 21(1).

19 Ibid., Article 21(2).

20 Ibid., Article 21(3).

21 Ibid., Article 21(4).

22 Ibid., Article 21(5).

23 Ibid., Article 21(6).

24 Ibid., Article 21(7).

25 Ibid., Article 182(1)(5).

26 Ibid., Article 182(2).

27 Ibid., supra note 10, Article 58(4).

28 The Act, supra note 8, Article 82(3).

29 Ibid., Article 83(4).

30 See Zakon o ustrojstvu i djelokrugu ministarstava i drugih središnjih tijela državne uprave, Official Gazette, Nos. 150/11 and 22/12, Article 26.


32 See Zavon o Državnoj komisiji za kontrolo postupaka javne nabave, Official Gazette No. 18/13 (the Commission Act), Article 3(1).

33 Ibid., Article 7(1).

34 Ibid., Articles 8(1) and (3).

35 The Act, supra note 8, Articles 146-153.

36 Ibid., Article 173.

37 The Commission Act, supra note 33, Article 18(1).

38 Ibid., Article 18(4).

39 Ibid., Article 18(5).

40 Ibid., supra note 33, Article 18(1).


47 Ibid.