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# Ordinance on Simple Procurement



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## Introduction

In accordance with European legislation and the established practice of Member States, the Croatian public procurement system allows for simplified public procurement procedures to be conducted in cases of procurements that do not exceed a specific value. The aim is to provide contracting authorities and tenderers with a certain degree of flexibility for lower-value procurements, allowing them to acquire goods, work, and services more quickly and with less administrative burden. It is therefore not surprising that the implementation of such simple procurements is quite common in Croatian public procurement practice.

The total value of public procurement in Croatia in 2023<sup>1</sup> was EUR 12,676,389,627 net of VAT, of which the value of simple procurement amounted to EUR 1,801,009,578 net of VAT. Therefore, the share of the value of simple procurement in 2023 in the total value of public procurement was 14.21%. The share of the total value of public procurement excluding VAT in Croatia's GDP in 2023 was 19.98%.<sup>2</sup>

The total value of public procurement in 2022 was HRK 75,046,541,904 net of VAT, of which the value of simple procurement amounted to HRK 11,894,641,946 net of VAT. Therefore, the share of simple procurement in the total value of public procurement in 2022 was 15.85%. The share of the total value of public procurement excluding VAT in GDP in 2022 was 20.59%.<sup>3</sup>

The total value of public procurement in 2021 was HRK 57,234,416,871 net of VAT, of which the value of simple procurement amounted to HRK 10,547,572,437 net of VAT. The share of simple procurement in the total value of public procurement in 2021 was 18.43%. The share of the total value of public procurement excluding VAT in GDP in 2021 was 16.06%.<sup>4</sup>

According to the provisions of the applicable Public Procurement Act (Official Gazette Nos 120/2016, 114/2022, hereinafter: PPA 2016), simple procurement refers to goods and services, as well as the implementation of project tenders, with an estimated value of up to EUR 26,540, and works with an estimated value of up to EUR 66,360. In the case of diplomatic missions, these amounts are EUR 126,080 and EUR 530,880, respectively.

These amounts were prescribed as such when the PPA 2016 came into force, while the 2022 amendments only adjusted them to reflect the change of currency from the Croatian kuna to the euro. American Chamber of Commerce in Croatia (AmCham Croatia) believes that, due to the inflationary pressures of recent years, which have led to significant increases in the prices of goods, services, and works in Croatia, it would not only be justified but also necessary to review and raise the prescribed thresholds. In its opinion "Proposals for Amendments to the Public Procurement Act" from September 2024, AmCham briefly presented this view and suggested to *"legally prescribe simple procurement for goods and services with a value of EUR 50,000 or less and, in the case of works, with a value of EUR 100,000 or less"*.

In consultations with relevant stakeholders conducted in the meantime, it has become evident that the legislator is also considering raising the thresholds for simple procurements in the planned upcoming amendments to the Public Procurement Act, which AmCham supports.

However, based on the practical experiences of its members, AmCham believes that, in addition to raising the prescribed thresholds, other legislative amendments are also necessary. The current rules on simple procurements are broadly defined and leave significant room for discretion to public contracting authorities, obliging them in the implementation of such procedures only to respect the principles of public procurement and to use electronic means of communication. Over time, most public contracting authorities have developed their own rules for simple procurements and related procedures, which often differ substantially. This has led to highly divergent and inconsistent

<sup>1</sup> Data for 2024 are not yet publicly available.

<sup>2</sup> Statistical report on public procurement in Croatia for 2023.

<sup>3</sup> Statistical report on public procurement in Croatia for 2022.

<sup>4</sup> Statistical report on public procurement in Croatia for 2021.

practices in the conduct of simple procurement procedures. In a market the size of Croatia, such fragmentation significantly limits the ability of interested tenderers to participate.

These inconsistencies also complicate the effective observance of the core principles of simple procurement: competition, equal treatment, non-discrimination, and transparency. According to AmCham members, some contracting authorities fail to apply these principles in practice, thereby undermining both the purpose and the function of simple procurement within Croatia's public procurement system. More importantly, the lack of harmonization has a direct negative impact not only on the participation of Croatian companies in such procedures but also on the overall competitiveness of the Croatian economy, as it discourages foreign tenderers from entering the market.

AmCham considers it essential that the upcoming amendments to the PPA 2016 expand the rules on simple procurements by introducing an Ordinance on Simple Procurement as a dedicated by-law. Such an Ordinance would allow for more detailed regulation without overburdening the legal text, while at the same time ensuring the standardization of practices among public contracting authorities. To address current inconsistencies, the Ordinance should set out minimum requirements that contracting authorities must observe when conducting simple procurements. This should include the mandatory publication in the Electronic Public Procurement Classifieds (EPPC) of all procurements above EUR 10,000 for goods and services, and above EUR 25,000 for works. This approach also balances the position of contracting authorities by avoiding unnecessary administrative burdens.

AmCham is confident that these amendments would directly strengthen the participation of both Croatian and foreign business entities in simple procurements, thereby contributing to greater efficiency in the use of public funds.

## Legal framework

In the Croatian legal system, simple procurement is regulated by a single provision. Article 15 of the PPA 2016 stipulates the following:

*"(1) Simple procurement refers to procurement below the thresholds from Article 12, paragraph 1 of this Act.*

*(2) The rules, conditions, and procedures for simple procurement are established by the contracting authority by means of a general act, taking into account the principles of public procurement and the possibility of using electronic means of communication.*

*(3) The contracting authority is required to publish this general act referred to in paragraph 2 of this Article, as well as any subsequent amendments, on its website;*

*(4) Notwithstanding the provisions of paragraphs 2 and 3 of this Article, the rules, procedures, and manner of conducting simple procurement in the diplomatic missions and consular offices of the Republic of Croatia abroad, up to the thresholds referred to in Article 12, paragraph 1, point 2 of this Act, shall be prescribed by the head of the state administration body responsible for foreign affairs, by ordinance."*

Article 12, paragraph 1 of the PPA 2016 stipulates the following:

*"This Act shall not apply to:*

*1. The procurement of*

*a) goods and services, and the implementation of project tenders with an estimated value of less than EUR 26,540.00.*

*b) works with an estimated value of less than EUR 66,360.00.*

*2. The procurement in the diplomatic missions and consular offices of the Republic of Croatia abroad*

*a) goods and services, and the implementation of project tenders with an estimated value of less than EUR 126,080.00.*

*b) works with an estimated value of less than EUR 530,880.00..."*

In addition, in September 2022, the Ministry of Economy and Sustainable Development, Directorate for Trade and Public Procurement Policy adopted **Guidelines for the implementation of simple procurement procedures, version 1.0** (hereinafter: Guidelines).<sup>5</sup> Although not binding on

<sup>5</sup> Available at: <https://www.javnabavava.hr/userdocsimages/SMJERNICE%20JN%20-%202026.9..pdf>, retrieved on 14 May 2025.

contracting authorities, AmCham considers the Guidelines a valuable and necessary complement to the otherwise general and limited provision of Article 15.

For example, with respect to the publication of simple procurement procedures, point 4 of the Guidelines (Electronic means of communication)

*"Electronic means of information and communication can significantly simplify the publication of requests for the collection of tenders for simple procurement and increase the efficiency and transparency of the procedure itself. These means should become standard means of communication and information exchange, as they significantly increase the opportunities for economic operators to participate in simple procurement procedures. Contracting authorities should strive to ensure that the electronic availability of requests for the collection of tenders for simple procurement, as well as full electronic communication, which includes electronic communication at all stages of the procedure, including the submission of tenders, becomes the standard."*

In December 2024, the Ministry of Economy published its own **Guideline on Planning and Implementation of Simple Procurement Procedures**<sup>6</sup>. Considering the role of the Ministry of Economy as the competent authority for the legislative framework in the field of public procurement in general, AmCham believes that, together with the Guidelines, the aforementioned Guideline could serve as a good starting point for preparing the Ordinance on Simple Procurement.

## State of play in Croatia

According to the three most recent Public Procurement Reports, the share of simple procurement in the total value of public procurement demonstrates that it represents substantial financial resources, with a considerable share not only in overall public procurement but also in GDP. With the expected increase in thresholds, these amounts and shares are likely to grow further.

The existing legislative framework is broadly defined and grants contracting authorities wide discretion, through their general acts, to establish rules, conditions, and procedures for conducting simple procurement. Under the PPA 2016, they are required to "take into account the principles of public procurement and the possibility of using electronic means of communication."

In practice, however, these general acts are often drafted in vague and general terms, giving contracting authorities significant additional discretion. This frequently leads to inconsistent interpretation and implementation of simple procurement procedures. Experience also shows that many general acts suffer from substantive shortcomings, both in relation to compliance with public procurement principles and in the insufficient integration of electronic communication tools.

Unfortunately, such practices are facilitated by the current legal framework, as both the PPA 2016 and the Guidelines merely provide contracting authorities with the "option" of using electronic means of communication in simple procurement procedures. Given the overall development and widespread application of electronic tools in public procurement – including the EPPC and its associated functionalities, the obligation to submit e-appeals, and the electronic delivery of decisions, etc. – AmCham considers that the use of electronic communication should be a mandatory minimum requirement in simple procurement, particularly for the submission of tenders.

The wide discretion granted to contracting authorities in interpreting and implementing their general acts has also resulted in inconsistent practices at every stage of simple procurement. Experiences reported by tenderers indicate not only substantial differences between contracting authorities but also inconsistencies within the same authority. This problem is further compounded by the lack of effective legal oversight: in cases of suspected arbitrariness or unlawfulness in the conduct of simple procurement, tenderers often lack adequate legal remedies.

Listed below are the most common shortcomings AmCham's members identified in practice, in the order in which they occur in simple procurement procedures.

<sup>6</sup> Available at: [Guideline on Planning and Implementation of Simple Procurement Procedures](#), retrieved on 14 May 2025

## Examples of irregularities and abuses

### 1. Failure to publish procedures via the EPPC portal or contracting authority website

Example: Some contracting authorities invite only three tenderers without publishing the procedure on their websites. Invitations are most often sent by email, while some are still delivered in paper form by post.

Example: Most contracting authorities publish simple procurement procedures on their websites, thereby generally meeting the requirement for electronic means of information and communication. However, this method of publication often requires payment for additional services or relies on manual searches, which significantly increases the time needed to identify opportunities.

Some contracting authorities do not provide direct access to the required documentation. Instead, tenderers must request it by email, further reducing already short deadlines for submission. Since invitations are usually sent to only three operators, other potential tenderers remain unaware of the procurement, creating scope for favoritism and undermining transparency – especially in higher-value procedures. This shortcoming is particularly detrimental because timely public announcements of public procurement procedures are the most effective safeguard of the principles of the PPA 2016: competition, equal treatment, non-discrimination, and transparency.

### 2. Splitting the subject of procurement to avoid the application of the PPA 2016

Example: Conducting a simple procurement procedure every month for a single box of products. When the total annual quantity of products purchased is aggregated, the total value exceeds EUR 26,540.

Example: Dividing services related to a multi-year project into separate phases, each procured through a new simple procurement procedure to remain below PPA 2016 thresholds. As these procedures were not published, their existence, and the fact that all services were awarded to the same tenderer, only became apparent through subsequent communication in another procedure.

### 3. Excessively and unjustifiably short deadlines for submitting tenders

Example: Analysis of internal rules across contracting authorities reveals significant inconsistencies in deadlines, even for comparable procurement items. Some acts stipulate deadlines of “*not less than 3 days*,” which in practice can mean exactly three days. For many procurements, such deadlines are unreasonably short and discourage participation, thereby weakening competition and undermining fundamental procurement principles.

In practice, some contracting authorities publish simple procurement procedures on their websites immediately before weekends or public holidays. Since most economic operators rely on additional services to track such publications, notifications often arrive with a delay of one to two days. If the submission deadline is limited to five calendar days and tenders must be submitted in paper form, interested operators are frequently left without sufficient time to prepare and submit their tenders.

The problem is compounded when all supporting documents must be submitted with the tender (e.g., criminal record certificates, tax authority certificates, court register extracts, catalogues, or product certificates). Without prior notice of the upcoming publication, preparing such documentation within the prescribed deadline can be nearly impossible.

AmCham members have also reported cases where invitations to tender were sent by email at the start of the working day, with the deadline for submission set for the very same day. Such practices further complicate the preparation and submission of tenders.

### 4. Inability to use electronic means of communication in the tender submission stage

Example: Many contracting authorities' general acts do not allow simple procurement procedures to be conducted electronically. Consequently, such general acts do not prescribe the possibility of submitting offers electronically. Instead, they require tenders and supporting documentation to be delivered physically, either in person or by post. This creates unequal conditions for participation:



tenderers located closer to the contracting authority are directly favored over those farther away (e.g., on islands). Such provisions undermine the principle of equal treatment.

#### **5. Inconsistent use of electronic means of communication in the tender submission stage**

Example: An analysis of numerous internal regulations on simple procurement shows that contracting authorities often prescribe multiple submission methods – in person, by post, by fax, or electronically. In practice, this leads to inconsistencies in the implementation of simple procurement both across different authorities and within the same authority, from one procedure to another. Some acts even state that the method of submission may be determined “*in the manner specified by the contracting authority in the request for tenders*,” which is incompatible with the principle of transparency. Such inconsistencies create legal uncertainty and distort competition among tenderers.

#### **6. Failure to provide access to tenders submitted in a specific procurement procedure**

Example: Many contracting authorities’ internal regulations on simple procurement do not guarantee tenderers access to the tenders submitted in a specific procurement. This directly violates the principle of transparency and weakens market competition. The lack of legal remedies in simple procurement procedures allows these practices to persist. They are particularly harmful to foreign tenderers, who justifiably view the absence of transparency as a deprivation of fundamental rights. The lack of adequate protection has a direct deterrent effect on their participation in the Croatian market.

#### **7. Lack of obligation of public tender opening and non-transparency in the delivery of the selection decision**

Example: Some contracting authorities’ general acts do not provide for public opening of tenders. Once the deadline expires, tenders are evaluated behind closed doors, with results communicated to participating tenderers only afterwards. In some instances, the selection decision was sent exclusively to the successful tenderer. Such practices are directly contrary to the principle of transparency and to the public nature of procurement procedures.

# Ordinance on Simple Procurement

## The need to adopt the Ordinance

Considering the above, it is evident that simple procurement, although conducted below the prescribed monetary thresholds, involves substantial public funds and therefore requires adequate regulation and oversight. The current framework, which grants contracting authorities broad discretion through their general acts, results in inconsistent levels of transparency, efficiency, and equal treatment of tenderers.

AmCham therefore considers it essential that, following the adoption of the announced amendments to the Public Procurement Act, a dedicated Ordinance on Simple Procurement be issued. The Ordinance should set out minimum requirements for contracting authorities, ensuring the standardization of procedures and the consistent application of procurement principles. AmCham believes that such measures would not impose additional administrative burdens for contracting authorities, while at the same time delivering multiple benefits for the Croatian public procurement system as a whole.

## Minimum standards to be prescribed by the Ordinance

### **Obligation to publish simple procurements in EPPC**

- **AmCham's proposal**

*Introduce an obligation to publish simple procurements through the Electronic Public Procurement Classifieds for the procurement of goods and services with a value of EUR 10,000 or more, and for works with a value of EUR 25,000 or more.*

### **Prevention of splitting simple procurements to avoid public procurement procedures**

- **AmCham's proposal**

*Include a provision prohibiting the splitting of multiple simple procurements within one year for the same procurement items (same goods, services, and works) in order to circumvent public procurement procedures, except in cases where the contracting authority could not reasonably have anticipated the procurements.*

### **Extension of deadlines for submitting tenders in simple procurement procedures**

- **AmCham's proposal**

*Introduce a minimum deadline of five working days for submitting tenders for simple procurements included in the procurement plan, or ten working days for goods and services valued at EUR 10,000 or more, and for works valued at EUR 25,000 or more.*

### **Allowing electronic submission of tenders in simple procurements**

- **AmCham's proposal**

*Require contracting authorities to allow tenderers to submit tenders electronically, in addition to the existing methods of submission, for all simple procurements included in the procurement plan.*

### **Allowing access to received tenders in simple procurement procedures**

- **AmCham's proposal**

*Require contracting authorities, upon request by interested tenderers, to provide electronic access to received tenders in simple procurement procedures for goods and services valued at EUR 10,000 or more, and for works valued at EUR 25,000 or more.*





## Conclusion

Simple procurement, although limited to procedures below the legally prescribed monetary thresholds, constitutes a significant part of Croatia's public procurement system, accounting for more than 14% of its total value. Given the volume of funds involved, it is essential that these procedures are conducted transparently, competitively, and in line with the fundamental principles of public procurement.

The current framework grants contracting authorities considerable discretion in defining their procedures, which has resulted in a variety of practices and inconsistent application. To ensure greater consistency and legal certainty, AmCham proposes the adoption of a dedicated Ordinance on Simple Procurement. The Ordinance would establish minimum standards, including the mandatory publication of procedures via the EPPC, the prevention of artificial splitting to circumvent public procurement rules, extended deadlines for tender submissions, the option for electronic tender submission, and access to received tenders.

AmCham believes that the Ordinance would enhance legal certainty and predictability for all participants, promote market competition, reduce opportunities for abuse, and increase the efficiency of public spending. While imposing a minimal administrative burden on contracting authorities, the adoption of the Ordinance would contribute to strengthening trust in the public procurement system, greater participation of economic operators – both domestic and foreign – and, consequently, to enhancing the competitiveness of the Croatian economy.

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