

# ANNUAL REPORT TO THE NATIONAL ASSEMBLY

On the activities of the Public Procurement Authority of Hungary  
Between 1 January 2017 and 31 December 2017



**PUBLIC PROCUREMENT  
AUTHORITY**

**2017**



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## WELCOME OF SPEAKER OF THE NATIONAL ASSEMBLY OF HUNGARY

### Dear Readers,

This publication presents the activities, objectives and results achieved by the Public Procurement Authority in 2017, enhancing the transparency of the operation of the organisation.

The Public Procurement Authority has enjoyed an unchanged legal status since its establishment 23 years ago. The Authority is a state administration organ, which is subordinated only to the Hungarian National Assembly and submits an annual report on its activities to the Hungarian National Assembly.



One of the major objectives of the Authority is to support those engaged in public procurement procedures, and in order to facilitate the lawful application of law, it aims at shaping the legal practice. The Authority supports the lawful conduct of public procurement procedures by publishing guidelines, information and opinions, by maintaining databases and by organizing conferences with the purpose of disseminating public procurement best practices.

The organisation provides information not only on the fulfilment of its obligatory duties, but also on voluntarily tasks that go beyond the Authority's legal obligations; as a service providing Authority the public procurement actors are supported by IT developments and wide cooperation with other national organisations.

Furthermore, it is important to note, that in addition to supporting Hungarian public procurement practitioners and providing obligatory training to accredited public procurement consultants, the Authority pays particular attention to international knowledge sharing and cooperation: during the Hungarian Presidency of the Visegrád Group, the Authority promoted regional exchange of experience by organizing two international public procurement events.

Transparent and accountable utilization of public funds is our joint interest. The Public Procurement Authority performs its activities in accordance with this public interest, which was also recognised by the European Commission by giving a score of 100% to the transparency of the Hungarian public procurement market within the European Single Market Scoreboard.

I strongly believe that the present publication can facilitate the dissemination of information for all stakeholders in the Hungarian public procurement sector.

**László Kövér**

President of the National Assembly of Hungary



## Dear Reader,

I would like to welcome you on behalf of the Public Procurement Authority. The Hungarian public procurement market had a record year in 2017 in several aspects; a total of 8,811 successful procedures were conducted amounting to HUF billion 3,360, which represents an over 80.86% increase compared to the previous year. Only a part of these procurements are procedures co- founded by the European Union; the public procurement procedures financed by Hungarian funds produced by Hungarians also represent a significant share. This intense year required a higher level of efficiency and accuracy from the Public Procurement Authority as well.



Accordingly, in 2017 we continued the renewal we had started in the previous year; in order to adapt to the needs of the 21st century, we further strengthened the service providing nature of the Authority, the efficient and transparent communication, as well as the application of new innovative solutions. As a result, last year did not only bring outstanding results in terms of the number and volume of the public procurement market, but we can also report on a significant progress in the operation of the Public Procurement Authority. One of the key tasks of the Public Procurement Authority is to ensure the transparency of public procurements and the accessibility of information concerning public procurement procedures.

The Authority has introduced a number of innovations in order to further increase transparency; the Public Procurement Bulletin is now published daily, the mobile application named Daily Public Procurement was launched, which was downloaded by nearly 4,500 users by the end of 2017. Furthermore, the Authority's website was continuously updated to provide current information related to public procurement procedures and review procedures. According to the European Commission, Hungary performed excellently in this indicator, as well as the European Commission assessed the transparency of Hungarian public procurement at 100% in the most recent Single Market Scoreboard published in 2017.

The growing volume of public procurements also means that the sector significantly contributes to the overall performance of the national economy. The total value of public procurements in 2017 reached HUF 3,629.9 billion, accounting for 10.2% of the total Hungarian GDP. In parallel to the expansion of the public procurement market, the competition has also strengthened: while in 2016 the average number of tenders was 6, by 2017 this number increased to 8. This is particularly good news, because increasing competition reduces the risk of unlawful conduct, furthermore, it is also a clear indication that Hungarian companies are becoming increasingly prepared and competitive on the public procurement market.

Thanks to the provisions of the new Public Procurement Act adopted in 2015, the total value of public procurements awarded to Hungarian small and medium-sized enterprises increased last year; from about HUF 826 billion in 2016

to nearly HUF 1,460 billion in 2017. In terms of the number of public procurement procedures, 82.6% of all procurements were awarded to Hungarian small and medium-sized enterprises.

The increase in competition and in transparency is also demonstrated by the fact, that in 2017 the number of open procedures continued to increase; it reached 73% of the public procurements reaching threshold. An additional important fact is that the number of single bidder procedures fell to 16.6% by 2017, compared to 27% in 2015. The number of initiated negotiated procedures without prior publication decreased by about 45% compared to 2016. In 2017, the Public Procurement Arbitration Board conducted 684 review procedures and imposed a total fine of over HUF 800 million for infringements of public procurement rules. Since November 2015, the Authority has been controlling not only the lawfulness of the public procurement procedures, but also the performance of the contracts. In 2017, the organisation carried out 107 such controls; as a result of which more than half of the total amount of fines imposed by the Arbitration Board was generated by this activity.

In addition to its mandatory statutory tasks, the Authority endeavours to do everything in its competence to assist the public procurement market through continuous training and exchange of experience. In order to provide up to date information and continuous professional training, 22 successful conferences were organised by the Authority last year, with a total number of 2600 participants. We attach great importance to strengthening international exchange of experience and knowledge sharing; therefore, I am pleased to report that we have organised a fruitful international conference and an expert meeting in the framework of the Hungarian V4 Presidency, in excellent cooperation with our neighbouring partner organisations.

Procedures with environmental considerations increased both in value and in number: in 2017, 831 such procedures were successfully conducted in the framework of national procedures, accounting for over HUF 100 billion. The Authority's objectives for 2018 are to present the best practices, both through a microsite created for this purpose and through the creation of the Public Procurement Prize and calls for applications for thesis and studies on sustainable public procurement.

Based on our achievements, the Public Procurement Authority will take further steps in 2018 to ensure the transparent and efficient use of public funds, to enhance competition in the public procurement market and to further strengthen prevention and lawful conduct.

**Csaba Balázs Rigó**

President of the Public Procurement Authority

## I. OBLIGATORY TASKS OF THE PUBLIC PROCUREMENT AUTHORITY

### I.1. The Council operating within the framework of the Public Procurement Authority

The tasks of the 13 members of Council operating within the framework of Public Procurement Authority are set out in Article 183 of Act CXLIII of 2015 (hereinafter referred to as PPA).

In line with Article 183 c) of the PPA, the Council consults with the minister responsible for public procurement and, where appropriate, in collaboration with the national economic chambers and other trade organisations, prepares guidelines with the aim of facilitating the application of the regulations applicable to public procurements based on the experience acquired from the decisions of review procedures and the control of public contracts in practice and concerning practical information on public procurement.

#### In 2017, the Council adopted the following guidelines:

- guideline of the Public Procurement Council on aspects related to the assessment of the severity of the infringement of the Article 62 (1) q of the PPA;
- guideline of the Public Procurement Authority concerning the change of the economic operators invited to tender pursuant to Article 115 (2) of the PPA;
- guideline of the Public Procurement Authority on the methodology of life cycle costs calculation;
- guideline of the Public Procurement Council on certificates, declarations, registers and data to be submitted in connection with grounds for exclusion by economic operators established in Hungary;
- guideline of the Public Procurement Council on issues related to the amendment and performance of contracts under the PPA concluded as a result of public procurement procedures;
- guideline of the Public Procurement Council on certificate, declarations, registers and data to be submitted by economic operators established in the European Union and the European Economic Area;
- guideline of the Public Procurement Council on the calculation of estimated value, the prohibition on the artificial splitting of public contracts and artificial merging of procurement needs.



Following the publication of the guidelines on **the prohibition of artificial splitting of public contracts**, the Association of Towns with County Rights initiated a consultation to draft **a book of practical examples** that would illustrate the common position of institutional actors involved in public procurement control, based on specific cases. The book of practical examples demonstrates the position of the Public Procurement Authority, the Prime Minister's Office, the Directorate General for Audit of European Funds and the Association of Towns with County Rights concerning the most common issues in connection with the prohibition of artificial splitting of public contracts.

It is unprecedented in the Hungarian public procurement law that bodies facilitating the application of law would provide such practical examples to stakeholders. Although the examples do not provide a solution to all problems related to the prohibition of artificial splitting of public contracts, they enable the contracting authorities to draw conclusion on the legitimate approach upon calculating the estimated value of their procurement.

The work on the preparation of guidelines adopted by the Council is described in more detail in Section I.3.2 of this Annual Report.

There are **three working groups** within the Council, with the primary purpose to competently and effectively **prepare the Council's work**, in particular the publication of guidelines. In 2017, the Council's working group on bureaucracy and legislative assistance and the working group on public service assistance held four meetings with the participation of their members and occasionally with the involvement of organisations engaged in activities related to the subject of the meeting's agenda (Ministry of Human Capacities, Directorate General for Audit of European Funds and State Audit Office).

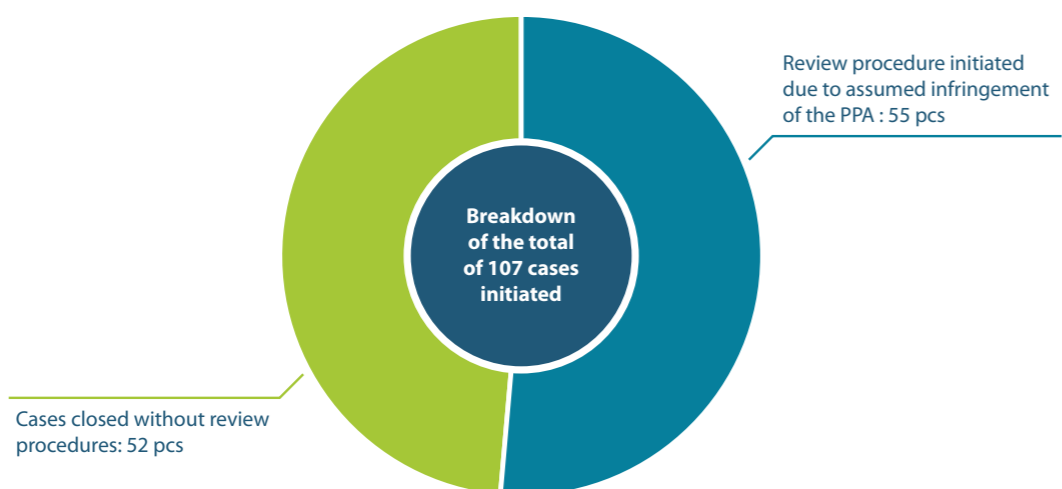
Article 42 (2) of Act CLX of 2016 on the Amendment of the Act CXLIII of 2016 on Public Procurement and Certain Related Acts amended Article 182 (10) of the PPA to the extent that as of 2017, the members of the Public Procurement Council are entitled to a monthly honorary fee, the amount of which – according to the law – is regulated by the Authority's Organisational and Operational Rules. The President of the Public Procurement Authority has set a HUF 0/month honorary fee in the relevant provision of the Organisational and Operational Rules of the Authority.



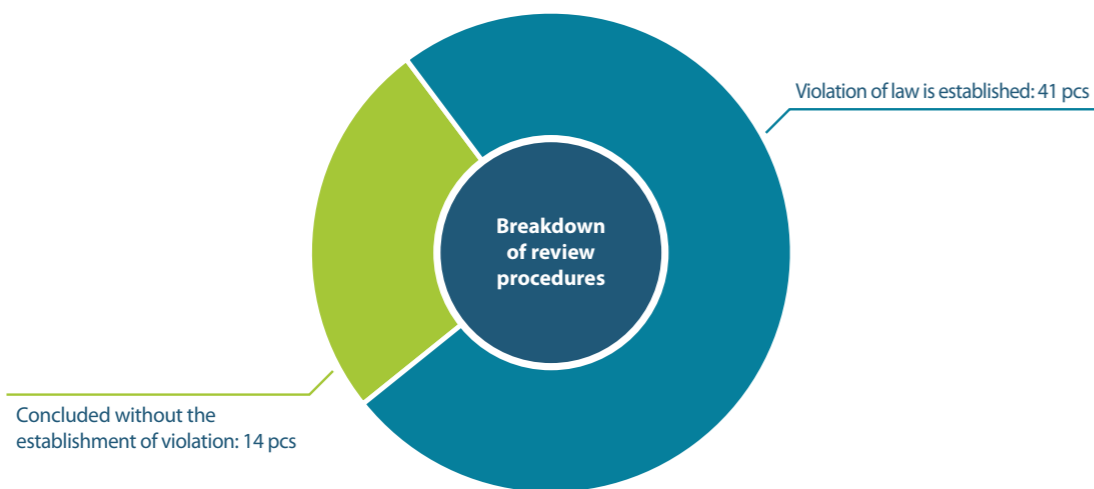
## I.2. Control activities

### I.2.1. Results of the contract control activities

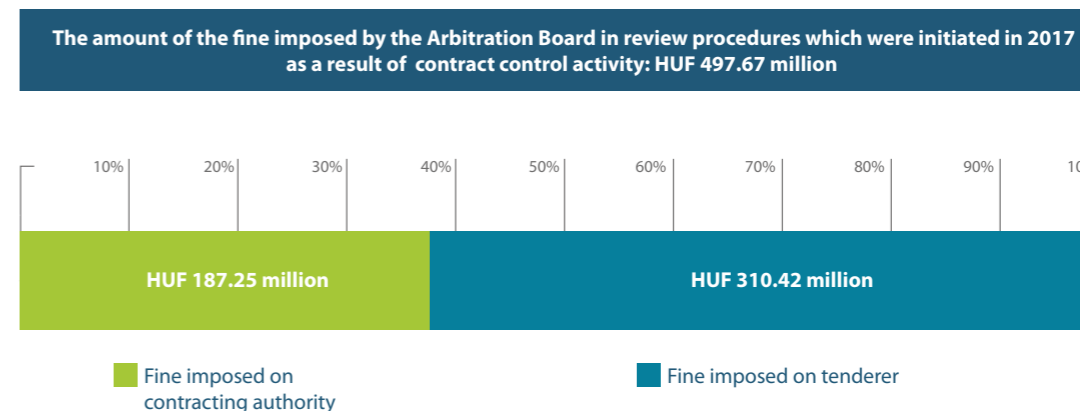
In 2017, the Authority carried out more than 100 controls.



More than half of the controls have led to the initiation of a review procedure, which shows that the staff of the Authority are increasingly capable to identify the problematic issues. In 2017, a total of **55 review procedures were initiated** as a result of the control; in connection with **41 cases, the Public Procurement Arbitration Board made conviction** decision.

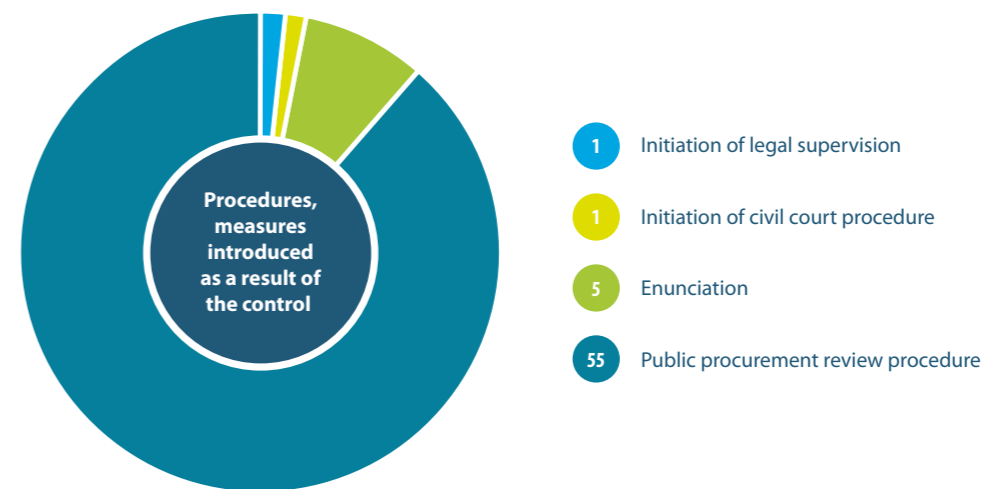


Of the 41 decisions when the infringement was established, the Arbitration Board also imposed a fine in 39 cases,, totalling to HUF 497.67 million.



Government Decree No. 308/2015 (27 October) on the control activities of the Public Procurement Authority concerning the amendment and performance of public contracts concluded as a result of a public procurement procedures, which lays down the detailed control procedural rules, enables **on-the-spot checks**. In 2017, the Authority carried out **25 on-the-spot checks**.

Based on the control methodology introduced by the Authority, in addition to the 55 review procedures, additional proceedings and measures were initiated in seven cases:





### I.2.2. Reduction of negotiated procedures without prior publication

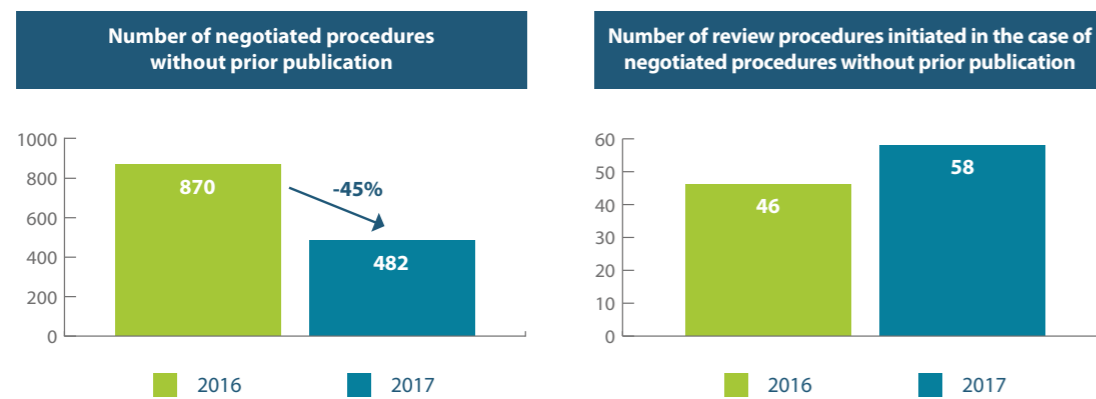
Because of its restrictive effects on competition, negotiated procedure without prior publication may only be used in exceptional cases and is subject to the conditions laid down by the law in an exhaustive manner and must be conducted under the compliance control of the President of the Public Procurement Authority. In view of the exceptional application of the procedure, contracting authorities are required to demonstrate the legal basis of such procedure in each case.

Pursuant to Article 103 of the PPA, contracting authorities are required to provide information to the President of the Public Procurement Authority on the circumstances underlying the application of a negotiated procedure without prior publication at the commencement of the procedure. They must also send the notice initiating the procedure and communicate the name and address of the economic operators invited to tender, as well as the estimated value of the procurement.

The efficiency of the compliance control of negotiated procedures without prior publication is demonstrated by the drastic reduction of the number of such procedures. The year 2017 was exceptionally successful from this aspect, as it illustrated by the diagrams below.

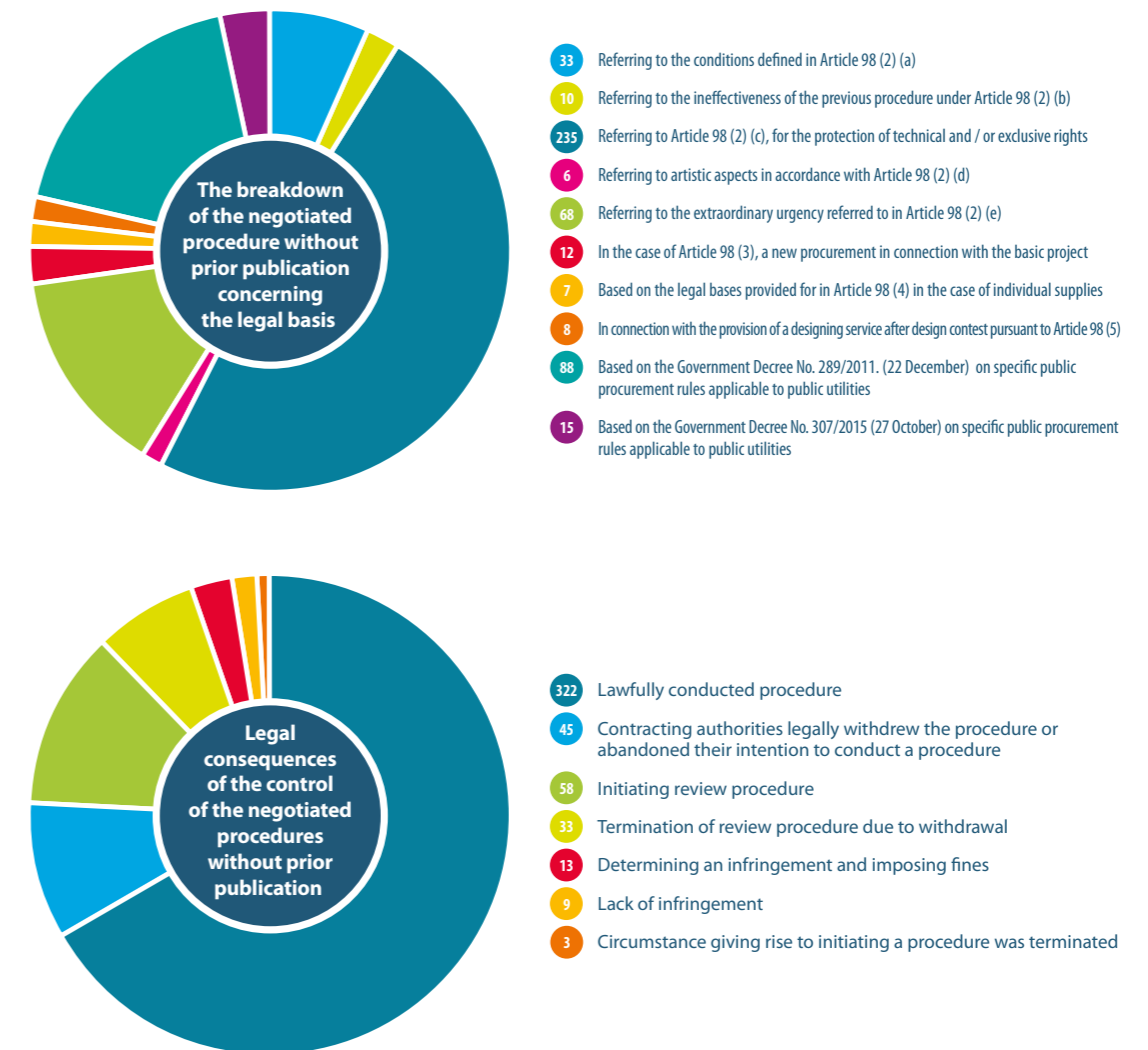
In 2017, contracting authorities informed the President of the Authority in a total of **482 times** that they had **initiated a negotiated procedure without prior publication**, which means that

compared to 2016, the number of negotiated procedures without prior publication decreased by 45%.



In 2017, contracting authorities often justified their procedure by referring to Article 98 (2) (c) of the PPA, to technical reasons or to the protection of exclusive rights.

In its legal competence, the President of the Public Procurement Authority examines all cases acutely and strictly, whether the legal conditions for the conduct of the negotiated procedure without prior publication, which is applicable exceptionally, are fulfilled. If the President establishes during the examination that the conditions of the legal basis applied are not met in full, or the existence of a legal basis cannot clearly be established, the President of the Public Procurement Authority issues a request for supplying missing documents or initiates a review procedure ex officio in order to eliminate the infringement and to provide for the possibility of conducting a procedure with publication.



In 2017, in the case of **negotiated procedures without prior publication**, out of 58 proceedings initiated by the President of the Public Procurement Authority, **the Public Procurement Arbitration Board imposed fines in 12 cases amounting to a total of HUF 10,150,000.**

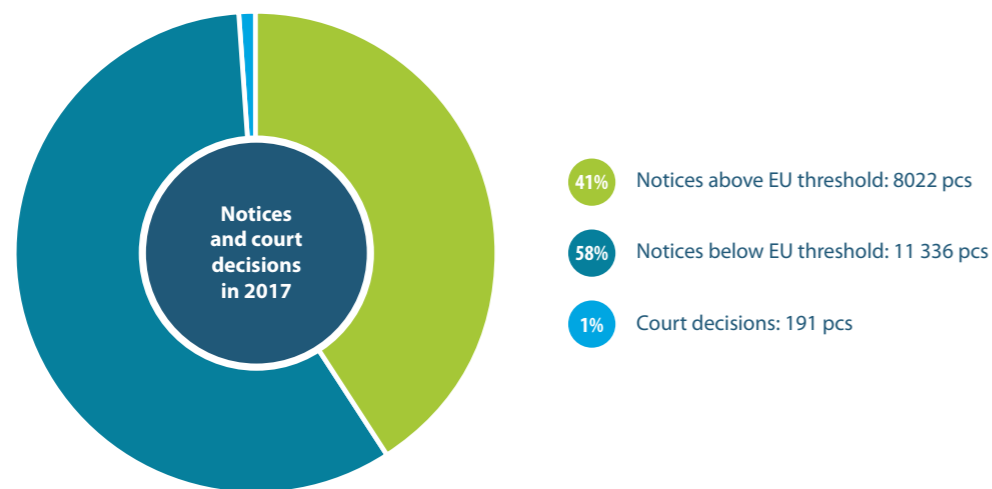
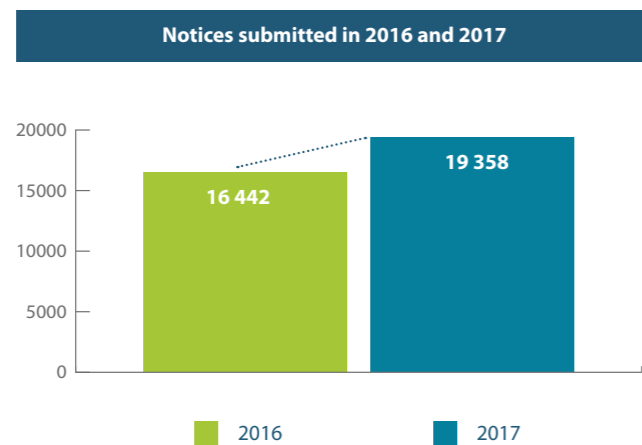


### I.2.3. Notice examination duties – focus on the prevention to facilitate successful public procurement procedures

Notice examination is a multiple-step checking system embedded in the public procurement procedure process. **The aim of the examination** is to check whether the notice is **in compliance with the law** and whether **the content of the notice is coherent and publication deadlines are kept**.

In the current reporting period, the Public Procurement Authority carried out a substantive and formal examination of notices published in the Official Journal of the European Union or in the Hungarian Public Procurement Bulletin.

In 2017, a total of **19,358 notices** and **191 court decisions** were registered and processed in our system.



The main task of the control of notices is to carry out a formal and substantive check to filter out the typical or, in some cases, individual mistakes. As contracting authorities usually corrected the mistakes identified, the preliminary **control prevented the violation of public procurement law in several cases or the publication of a notice unsuitable for conducting a public procurement procedure.**

Since the beginning of 2017, the **mandatory notice control** has been expanded by **reviewing contract amendments**, as a result of which

the number of reviewed notices increased by more than three thousand.

Starting from the beginning of 2017, mandatory notice controls have included calls initiating procedures falling under the scope of the Government Decree on central control and authorization of public procurements, which further extended the Authority's notice control tasks.

The Authority is making every effort to facilitate the submission of legitimate notices also by maintaining a telephone customer service, where our colleagues answer generic and specific questions regarding the notices. They also responded to inquiries from inspection bodies about contracting authorities or specific procedures.

### I.2.4. Notification of public interest – Every disclosure counts

The Public Procurement Authority pays particular attention to complaints and notifications of public interest in order to enforce transparency and combat corruption.

In order to develop value added "best practices" – ensuring the widest possible enforcement of the rights of whistle blowers – in 2017, the Authority also placed great emphasis on the continuous provision of information to public procurement actors. In order to make public procurement more transparent and effective, the Public Procurement Authority has supported public procurement actors and citizens by publishing presidential briefings.

In 2017, a total of 74 notifications of public interest were submitted to the Authority; **a review procedure was initiated** in connection with **31 notifications**.







Out of the initiated ex officio review procedures, the review procedure was rejected due to the lack of infringement in 4 cases, whereas **in 27 cases, the Public Procurement Arbitration Board stated that infringement occurred.**

The Public Procurement Arbitration Board imposed fines amounting to HUF 15,990,000 in review procedures initiated based on notifications of public interest.

### I.2.5. Legal review – our controls will have consequences

#### I.2.5.1. The most important indicators of legal reviews

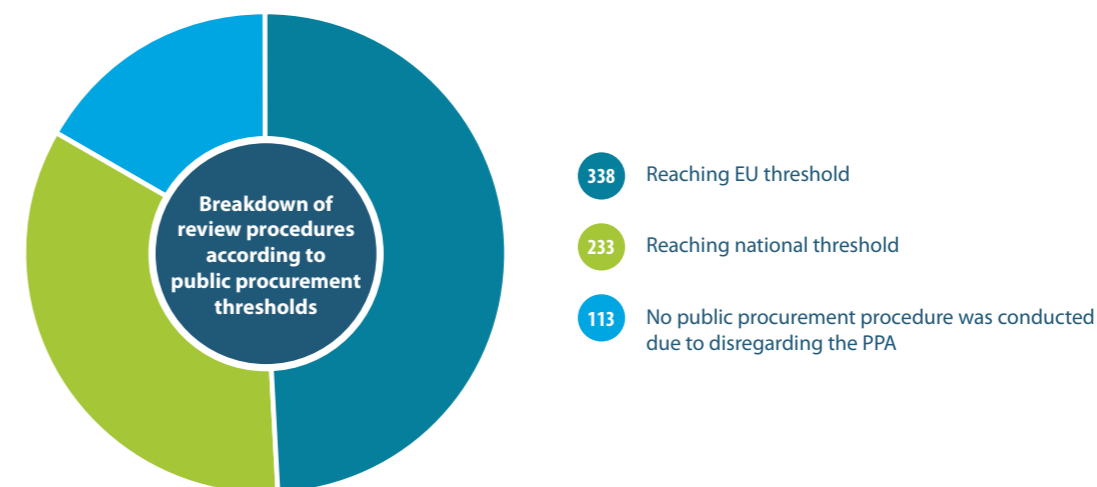
The legal basis for the legal review activities of the Public Procurement Arbitration Board (hereinafter: Arbitration Board) are as follows: the legal review directives adopted by the European Parliament and Council (89/665/EEC and the 2007/66/EC on the modification of the 92/13/EEC Directive), the Public Procurement Act and its implementation decrees. The Arbitration Board applies the provisions of the directives and the judgments of the Court of Justice of the European Union as the legal sources of its work.

In 2017, **a total of 684 review procedures were launched**, out of which 447 were initiated ex officio and 237 based on legal review request. The vast majority of the legal disputes **initiated upon request** are launched by economic operators participating in a public procurement procedure as candidates or tenderers. The lawfulness of the contracting authorities' decision is contested in most cases.

In 2017, **447 ex officio motions were submitted by those who are entitled to do so, which is 36% lower** than in the previous year.



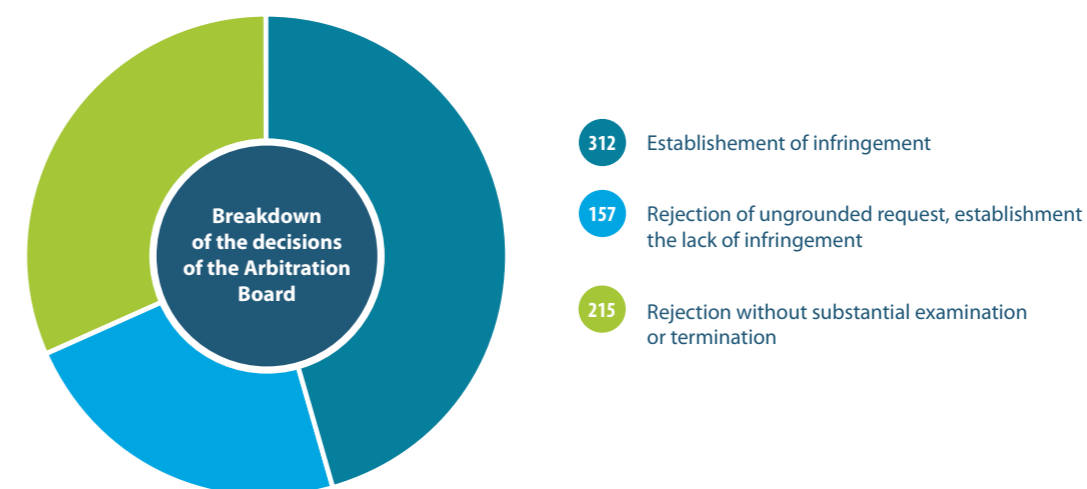
The highest number of review procedures were initiated by the President of Public Procurement Authority (188 cases), the Hungarian State Treasury (178 cases), as well as entities providing financial support or acting as intermediate bodies.



The **vast majority** of legal review requests and ex officio initiations submitted to the Arbitration Board continues **to challenge open procedures** (280 pcs).

#### I.2.5.2. Stricter decisions – contribution to the central budget

In 2017, the Arbitration Board made substantial decisions in 469 cases out of a total of 684 cases, amounting to 68 %.



In 215 cases, the Arbitration Board rejected the legal review request or the ex officio initiation without a substantive examination or dismissed the review procedure as the procedural obstacle to the substantive evaluation of the case was established (such as failure to comply with the limitation period, lack of completeness and failure to deliver missing documents, the applicant's lack of capacity as a party, withdrawal of the appeal, the ex officio initiation or the notice).



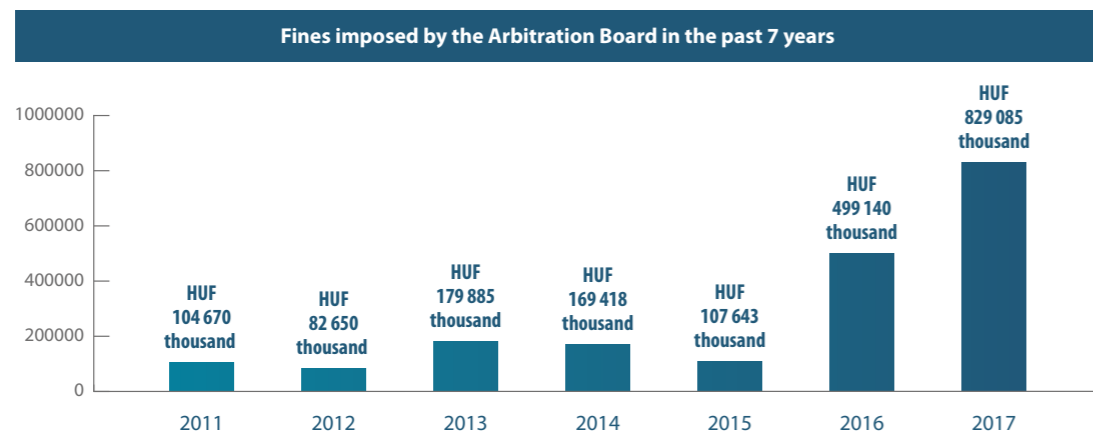
In 2017 the Arbitration Board applied interim measures and suspended the given public procurement decision in 8 cases, in 2 cases the Arbitration Board approved the contract conclusion on the grounds that it was justified by urgent and extremely important interest or by the protection of public interest and the benefits exceeded the drawbacks of concluding the contract.

The Arbitration Board expanded the scope of the review procedure of public procurement in 18 cases in 2017, because the identified infringement violated fair competition, publicity, or the equal treatment of economic operators or had a substantial impact on the decision of the contracting authority.

In the majority of its 469 substantial decisions, (namely, in 312 cases, which **amounts to 73.6%**) the Arbitration Board **stated that infringement occurred** and applied legal consequences. Of the 312 cases when a infringement was stated, in 95 cases it annulled the unlawful public procurement documents or the decisions of the contracting authority.

**In 45 cases, the legal review applications were rejected, because they were unfounded;** while the Arbitration Board came to the conclusion that no infringement had occurred in 112 review procedures initiated ex officio.

The Arbitration Board imposed fines in 267 cases; the generated income for the national budget amounted to HUF 829.085.000, which was 66.1% higher in 2017 than in the previous year.



### I.2.5.3. The most frequent infringements – based on the experience of the Arbitration Board

Applicants and persons or organisations initiating a review procedure ex officio **usually contested the unlawful decisions or procedural actions of contracting authorities.** Therefore, the Arbitration Board decided primarily against contracting authorities when it concluded that infringement occurred. However, in connection with the performance and amendment of contracts infringement decisions were also made against economic operators.



- In the reporting period, in the review procedures concerning **the violation of the legal basis for conducting a negotiated procedure without prior publication**, the Arbitration Board **stated in 12 cases that infringement occurred.**
- Concerning the content of the notices, **the most frequent infringement occurred in connection with the certification method of selection criteria and their minimum requirements.**
- In 2017, the Arbitration Board made **22 decisions** on infringement because of **overly demanding selection criteria**, and **in 26 cases because of the infringement in connection with the provisions concerning the evaluation of the tenders.**

Compared to the number of review procedures initiated by economic operators to contest the notice launching the procedure, a lower proportion of reviews challenged other basic documents of the public procurement procedure, such as the tendering documents.

- In 2017, the Arbitration Board stated in 32 cases that infringement occurred because contracting authorities **violated the provisions of the Public Procurement Act concerning the technical specifications, the technical equivalence or the documentation (public procurement documents).**

As regards **to the notices launching the public procurement procedure**, the applicants or those initiating the procedure ex officio typically contested

- the legal basis of the procedure type applied,
- the selection criteria defined in the notice, and
- the technical requirement of the public procurement documents and the evaluation criteria.



**The review cases contesting the final decision closing the public procurement procedures still represent the highest ratio.**

- The vast majority of economic operators seeking legal review contested the decision of the contracting authority on the invalidity of the applicant's tender or request to participate.
- Contracting authorities often do not provide sufficiently detailed information in their procedure closing written summary on the grounds for invalidity, based on which the economic operators could judge the lawfulness of the contracting authority's decision on closing the procedure.
- The vast majority of applicants contested the tender of the successful tenderer or even the second-best tenderer.
- The main objective of some applicants is to be announced as the successful tenderer; another frequent objective was to declare the public procurement procedure unsuccessful and thus, to give the applicant a chance to resubmit the tender in a new public procurement procedure.

The Arbitration Board checked in each case whether the winning tender had shortcomings. It is important to note, that even if a deficiency of the winning tender is revealed, it cannot serve as a basis for an automatic invalidity of the tender, because in this case, the tenderer must be given the opportunity to supply the missing information. In these cases, the Arbitration Board annuls the contested procedural action and returns the public procurement procedure to the contracting authority for conducting a lawful procedure to supply missing information.



In 2017, the Arbitration Board **stated in 11 cases that an infringement occurred because the provisions on the supply of missing information was violated and in 84 cases it came to the conclusion that contracting authorities unlawfully decided on the validity of the tender or the request to participate.**

- Regarding invalid cases, the majority of infringements concerned the contracting authority's decision on suitability.
- **In most cases, the review concerned the professional experience of experts, the minimum length of experience or the technical content of the references.**
- The Arbitration Board returned the case to the contracting authority for re-evaluation in 95 cases; as a result of supplying missing information or clarification, these tenders could be made valid.

The increasingly fierce competition is demonstrated by the fact that **tenderers tend to offer lower prices** in order to win the public procurement. Especially in the case of services (e.g. security, cleaning), economic operators typically offer prices that are not only significantly lower than the market price and the price offered by the other tenderers, but lawful contract performance conditions are also doubtful.

Furthermore, the Arbitration Board is aware that **some contracting authorities do not fulfil the obligation of examining the abnormally low consideration;** the Arbitration Board has stated infringement in connection with 9 cases for this reason.

As opposed to making a judgement on validity, contracting authorities basically carry out the evaluation according to the award. This is mirrored by the fact that the number of infringements continued to be relatively low in this reporting period.

In 2017, the Arbitration Board came to the conclusion **in 18 cases** that the principles of **public procurement were breached** due to the fact that no specific reference to the violated legislation could be identified.

**Upon controlling the performance and amendment of public contracts,** as a result of ex officio reviews, the Arbitration Board made **a decision on infringement** against 47 tenderers in 39 cases, as a result of which a fine was imposed.

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In 113 cases, the Arbitration Board stated that an infringement occurred because no public procurement procedure was conducted. In addition to imposing fines amounting to HUF 55.085.000, the Arbitration Board brought an action to declare the public contracts null and void.

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If it is stated that no public procurement procedure was conducted, the Arbitration Board brings an action to declare the contract invalid and apply the legal consequences of invalidity; in 19 cases a final and binding decision has been made stating that the contract was null and void.

**I.2.5.4. Experience with court review**

**There is no legal opportunity** to appeal **against the decision of the Arbitration Board** in the framework of a **public administration procedure;** only court review is possible according to the law.

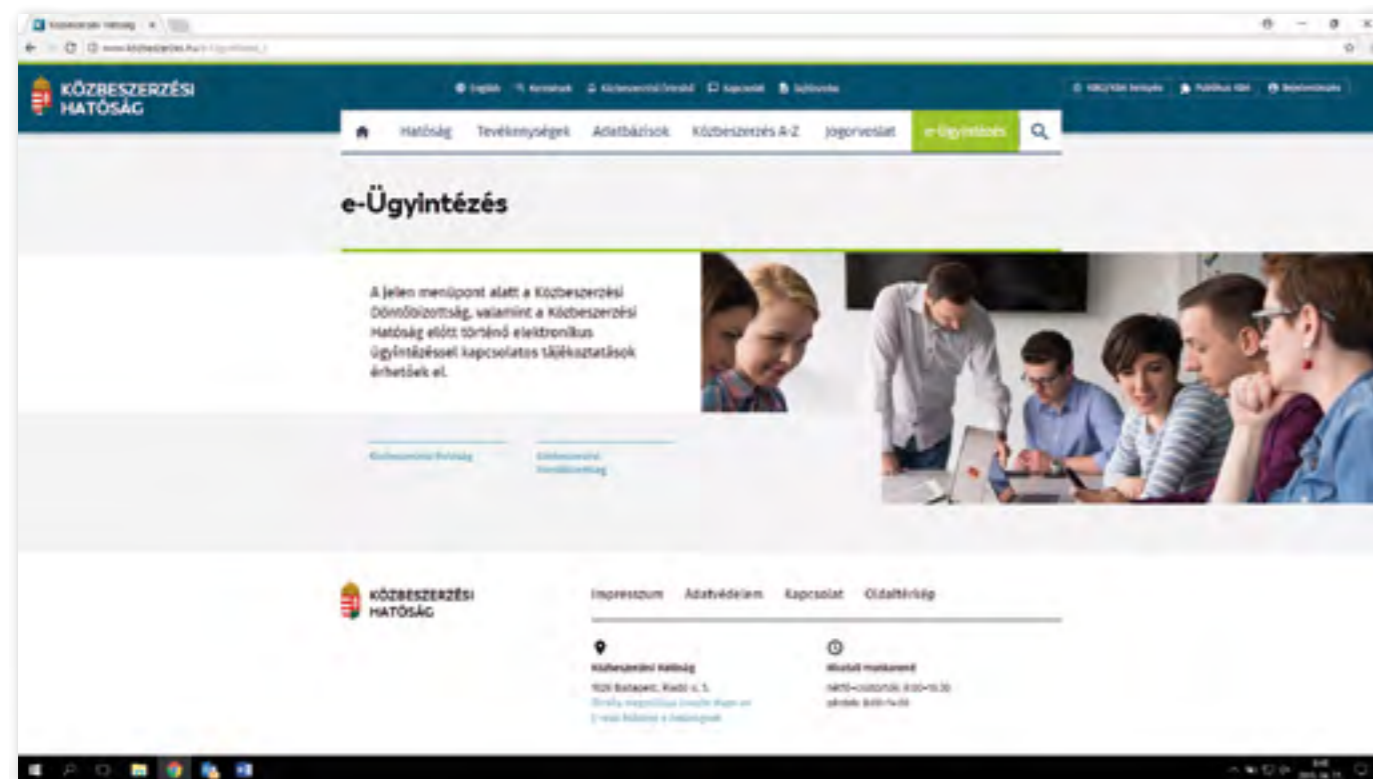
Out of the 684 legal review cases initiated in 2017, in 567 cases (82.9%) **the decision of the Arbitration Board was final and legally binding;** 17.1% of the decisions made by the Arbitration Board was appealed against in court.

The total number of judicial reviews was 117, of which merely 54 were closed and had a final and binding decision at the time of writing this report.

Out of the 54 closed procedures, the court rejected the appeal against the decision of the Arbitration Board in 90% of the cases.

In 2017, **the Arbitration Board** was able to operate in a very efficient manner despite the fact that the cases were very important and complex; **the average duration of case handling was extremely short; only 28 days**, which we intend to shorten further.

In 2017, the Arbitration Board prepared for the new procedural rules and electronic contact keeping that entered into force on 1 January 2018; relevant detailed information was provided to the clients on the website of the Public Procurement Authority.



## I.3. Supporting those applying the law and assisting the legislator

### I.3.1. Expressing opinions – helping to create a unified interpretation of the law

In order to facilitate the daily work of those applying the law, the Public Procurement Authority provides general information on any questions concerning the legal framework of public procurement procedures. The strategic aim of the Public Procurement Authority is to facilitate the acquisition of information and to helping adaption to the rapidly changing legal environment.

In the reporting period, the number of requests for expressing the opinion of the Public Procurement Authority increased significantly compared to previous years, which indicates that public procurement actors attach importance to obtaining guidance from an independent professional organisation.

In line with Article 187 (2) m) of the PPA, the Public Procurement Authority expresses opinions on the interpretation of legal issues of principle in cooperation with the minister responsible for public procurement, if necessary, in order to help contracting authorities during the preparation and conduct of procurement procedures.

Thanks to the guidelines issued by the Authority and the established practical experience in connection with the new Public Procurement Act, after 2016, when the Public Procurement Authority issued 710 resolutions, the number of requested opinions declined to 540 in 2017.



Contracting authorities and organisations conducting public procurement procedures on a commercial basis most frequently requested the Authority's opinion on the following issues:

- the scope *ratione personae* and the material scope of the Public Procurement Act, that is, whether the given contracting authority is obliged to conduct a public procurement procedure in a particular case;
- the prohibition on **artificial splitting of public contracts** and the calculation of the estimated value of the procurement;
- provisions on **the grounds for exclusion** [Article 62-63 of the PPA];
- questions regarding submission of evidence concerning suitability and the lack of grounds for exclusion;
- questions relating to the **supply of missing information** requested by the contracting authority, in particular in the context of the lack of a professional tender;
- requests for the interpretation of provisions relating to **negotiated procedures without prior publication**;



- questions regarding the provisions on the **consideration** to be paid by the contracting authority based on the contracts concluded as a result of a public procurement procedure [in particular in the case of public works contracts];
- inquiries regarding the provisions of Article 141 of the PPA on contract **amendment**, which were primarily related to the interpretation of certain legal bases.

Furthermore, recurring topics included selection criteria, award criteria, and summary information. Also, a high number of questions addressed the issue of launching public procurement procedure below EU thresholds, framework agreements as defined in Article 104-105 of the PPA, the procedure without prior publication as defined in Article 115 of the PPA as well as subcontractors. Outside the scope of the PPA, there were also frequent requests to express the opinion to interpret the rules of **Government Decree No. 321/2015 (30 October)** on the way of certifying suitability and the non-existence of the grounds for exclusion as well as of the definition of public procurement technical specifications in contract award procedures; **Government Decree No. 322/2015 (30 October)** on the detailed rules of public works contracts and the related design and engineering services, as well as the **Decree No. 14/2016 (25. May)** of the Minister leading the Prime Minister's Office on the activity of accredited public procurement consultants.

In order to support the work of those applying the law, the Public Procurement Authority maintains a **free-of-charge call centre** to clarify general implementation questions. This service was also popular in 2017 (there were 10 to 15 questions in an average working day).

### I.3.2. Publication of guidelines and president's briefing

In 2017, the Public Procurement Authority continued to pay particular attention to promoting the application of law. The Authority revised its guidelines based on the changes in legislation, the decisions of the Public Procurement Arbitration Board and on the requests received, and modified them, if necessary. In addition to the mandatory topics defined by the PPA, the Authority published new guidelines and briefings for public procurement practitioners on issues that are problematic or difficult to assess.

As discussed in Chapter I.1. of this report, in line with Article 183 c) of the PPA, the Council operating within the framework of the Public Procurement Authority, consults with the minister responsible for public procurement and, where appropriate, in collaboration with the national economic chambers and other trade organisations, **prepares guidelines to facilitate the application of the regulations applicable to public procurements** based on the experience gained from the decisions of review procedures and the control of public contracts; covering practical information on public procurement.

The professional preparation of the guidelines is carried out by the staff of the Authority; these are also published on the Authority's website and also in the Public Procurement Bulletin.

In 2017, **the Public Procurement Authority drafted and published seven guidelines** by involving the Council operating within the framework of the Authority, the relevant national chambers and professional organisations.

In accordance with the consultations with the minister responsible for public procurement, the Authority issued a guideline in December 2016 on the rules for calculating the **estimated value** after the new PPA's entry into force on 1 November 2015, as well as on the rules concerning **the prohibition of artificial splitting of public contracts**, which guidelines were amended in June 2017. Accordingly, the new guideline has a more pragmatic approach, with examples of audit experience and the case law of the European Court of Justice.

Following the publication of **the guideline on the calculation of the estimated value** after the PPA's entry into force on the 1 November 2015 **and the artificial splitting of public contracts, a book of practical examples of the prohibition on artificial splitting of public contracts** was published as a joint effort of the Public Procurement Authority, the Prime Minister's Office, the Directorate General for Audit of European Funds and the Association of Towns with County Rights, demonstrating a joint position. The examples support the interpretation of the rules, the correct application of law by the contracting authorities and the preparation and conduct of lawful public procurement procedures.

The Council operating within the framework of the Public Procurement Authority also issued guidelines covering the following topics:

- aspects related to the assessment of the severity of the infringement of the Article 62 (1) q of the PPA,
- change of the economic operators invited to tender pursuant to Article 115 (2) of the PPA,
- methodology of the life cycle costs calculation,
- certificates, declarations, records and data to be submitted in connection with grounds for exclusion by economic operators established in Hungary,
- issues related to the amendment and performance of contracts under the PPA concluded as a result of public procurement procedures,
- certificates, declarations, registers and data to be submitted by economic operators established to the European Union and the European Economic Area.

In 2017, the Public Procurement Authority drafted two additional guidelines covering the following topics:

- architecture and engineering design contests,
- some issues in connection with subcontractors.

At the time of the preparation of the present report, these two guidelines drafted by the Authority are to be discussed by the Council operating within the framework of the Public Procurement Authority.

In 2017, in line with Article 180 (c) of the PPA, the Public Procurement Authority published **nine presidential briefings** in the Public Procurement Bulletin related to practical information on public procurement.



The President of the Public Procurement Authority informed the public procurement actors by means of presidential briefings on

- the public procurement thresholds applicable from 1 January 2017,
- the changes in the control of negotiated procedures without prior publication,
- thresholds set out in Article 19 (4) (a) of the PPA,
- the application of Article 75 (2) (e) of the PPA,
- the practical experience of notifications of public interest,
- the practical experience of self-cleaning under Article 64 of the PPA,
- the changes in the definition of the de facto owner,
- the annual statistical summary for the year 2016, as well as
- a communication was also issued about the acutely strict control of negotiated procedures without prior publication.

The Authority will continue to prepare and publish information to stakeholders, with a view to the sound and efficient spending of public funds and their transparent and verifiable use.

### I.3.3. Publication of the Public Procurement Bulletin

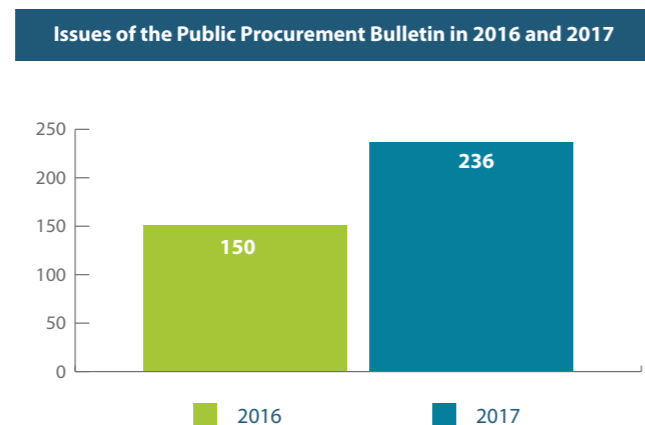
Since 1 July 2008, the Public Procurement Bulletin, which is the official journal of the Authority, has been published exclusively in an electronic format on the homepage of the Authority. **The users of the mobile application “Daily Public Procurement” are notified by push messages about the publication.**

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In 2017, the Authority voluntarily undertook to publish the Public Procurement Bulletin daily instead of three times a week. As a result, in 2017 a total of 236 issues were published.

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The Authority edits and manages the content of every issue of the Public Procurement Bulletin, furthermore, it is responsible for the publication of the official and authentic electronic version.



### I.3.4. Public Procurement Professional Journal

The Authority has been publishing a monthly journal titled Public Procurement Professional Journal (Közbeszerzési Szemle, hereinafter Journal) since 2011; which was also continued in 2017.

The Journal provides information to the actors of the public procurement market (such as contracting authorities, tenderers, monitoring bodies, training organisers, etc.), and those interested in the area of public procurement concerning the regulatory changes, thus, facilitating the application of public procurement regulations, providing answers to specific law application questions, disseminating information on the most important decisions of the Public Procurement Arbitration Board, summarising the current international trends and challenges in the area of public procurements, providing information on education, as well as offering the opportunity to publish studies and articles by public procurement experts.



### I.3.5. Self-cleaning

The Public Procurement Authority aims to provide comprehensive and easy-to-understand information about the new legal institution of self-cleaning. It is important to support those involved in our proceedings to enforce their rights with an objective and impartial approach; we aim to provide clear and accurate information in our president’s briefings. In addition to dissemination of legal information, practical knowledge sharing was also important in 2017.

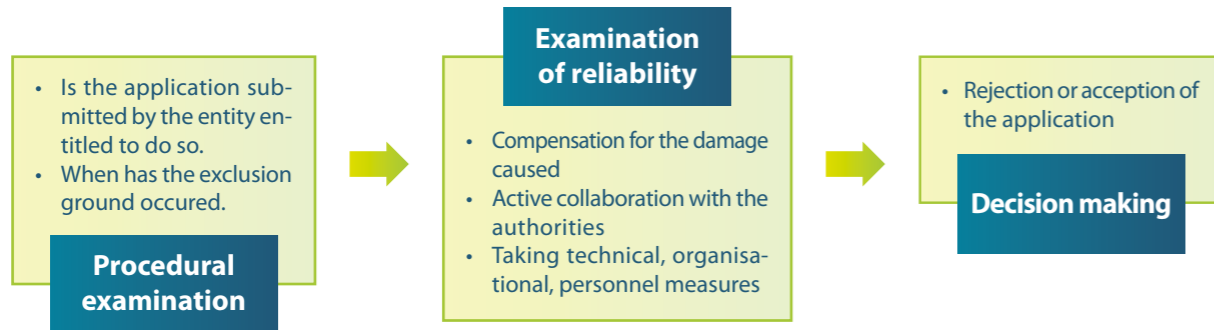
Self-cleaning means that in line with Article 64 (1) of the PPA, despite the existence of any ground for exclusion other than those referred to in Article 62(1)(b) and (f), **a tenderer, candidate, subcontractor, or an organisation contributing to the certification of suitability will not be excluded from the procurement procedure**, if the final decision of the Public Procurement Authority specified in Article 188(4) of the PPA or, in the case of a judicial review thereof, a final judicial decision specified in Article 188(5) of the PPA established that measures taken, prior to the submission of the tender or the request to participate, by the economic operator concerned are sufficient to demonstrate its reliability despite the existence of relevant grounds for exclusion.

The economic operator subject to grounds for exclusion can prove its reliability **if three cumulative conditions are fulfilled**. In line with Article 188(2) of the PPA, in order to demonstrate its reliability, the economic operator subject to grounds for exclusion **must prove** that

- a) it has **paid or undertaken to pay compensation** in an amount as agreed with the injured party, within a specified period, in respect of any **damage caused** by the criminal offence, misconduct or other infringement;

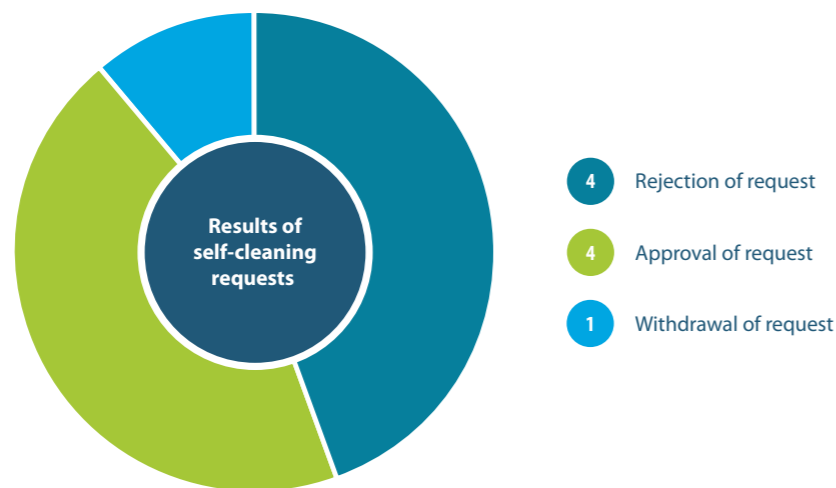


- b) it has clarified the facts and circumstances in a comprehensive manner by **actively collaborating** with the competent authorities; and
- c) it has taken concrete technical, organisational and personnel measures that are appropriate **to prevent further criminal offences, misconduct or other infringement.**



In 2017, a total of 9 requests for self-cleaning were submitted:

- 1 request in connection with the infringement of environmental, social or labour law requirements,
- 3 requests in connection with fines imposed by the Competition Authority,
- 1 request in connection with the serious breach of previous contractual obligations according to Article 63 (1) c) of the PPA,
- 3 requests in connection with false data supply and
- 1 request in connection with a serious breach of the performance of a public procurement contract in accordance with Article 62 (1) (q) of the PPA.



### I.3.6. Initiation of amendments of laws and participation in preparing draft laws, formulating opinions

In line with Article 187 (1) of the PPA, the Authority is responsible for effectively contributing to framing the public procurement policy and for forming and spreading lawful public procurement behaviour enhancing the public and transparent spending of public funds.

The specific content of the above-mentioned general task is laid down in Article 187 (2) of the PPA, which stipulates in points (o) and (p) that the Authority monitors the enforcement of the rules stipulated in the PPA, and initiates with competent persons the making or amendment of the legislation related to public procurement, reviews draft legislation and legislation concepts related to public procurement and the operation of the Council.

In 2017, one of the most prominent tasks in this field was to formulate opinion on the draft government decree on the detailed rules of **electronic public procurement submitted by the Prime Minister's Office responsible for public procurement, in connection with which the Authority created a list of 37 comments.**

In August 2017, on the basis of its practical experience, the Public Procurement Authority prepared a recommendation package for the modification of the PPA. The recommendation package contained several points in the following areas: reducing administrative burden, increasing the efficacy of public procurement procedures, reducing the risk of inefficient utilisation of EU funds, improving the transparency of the usage of public funds as well as better compliance with the Directive.

**Most of the proposals made by the Authority have been incorporated by the legislator** into the draft amendments of the Government Decree No. 217/2017 (31 July) on the mandatory public procurement training of accredited public procurement consultants and into MVM decree No. 14/2016 (25 May) on accredited Public Procurement Advisory Activity. This shows the weight of the Authority's activities to deliver opinion on draft legislation and to initiate the amendment of the law.



In 2017, the Public Procurement Authority **reviewed 12 draft laws and amendments.** Furthermore, we provided our professional support to a number of guidelines, reports and professional handbooks.

Our goal remains unchanged in 2018: we intend to use our experience to support the legislative work by making recommendations on amending the legal framework to facilitate the conduct of legitimate and effective public procurement procedures and to accelerate the procedures.



### I.3.7. Data collection and data processing – info graphs show the most important information

According to Article 187 (4) of PPA, the annual report submitted to the National Assembly on the Authority's activity must provide information regarding **the trends in the number and value of public procurement procedures** and the situation of national tenderers including **micro, small and medium size enterprises**.

**The statistical data collection** is carried out in the IT system of the Authority called **the Electronic Notice Handling System**, which was developed for this purpose. The data entered into this system are exclusively based on the information and data included in the notices on the result of procedures that were published in **the Public Procurement Bulletin**.

In addition to the obligatory tasks set out by the PPA, the Authority was able to deliver answers to **statistical questions** submitted by various organisations within a short deadline.

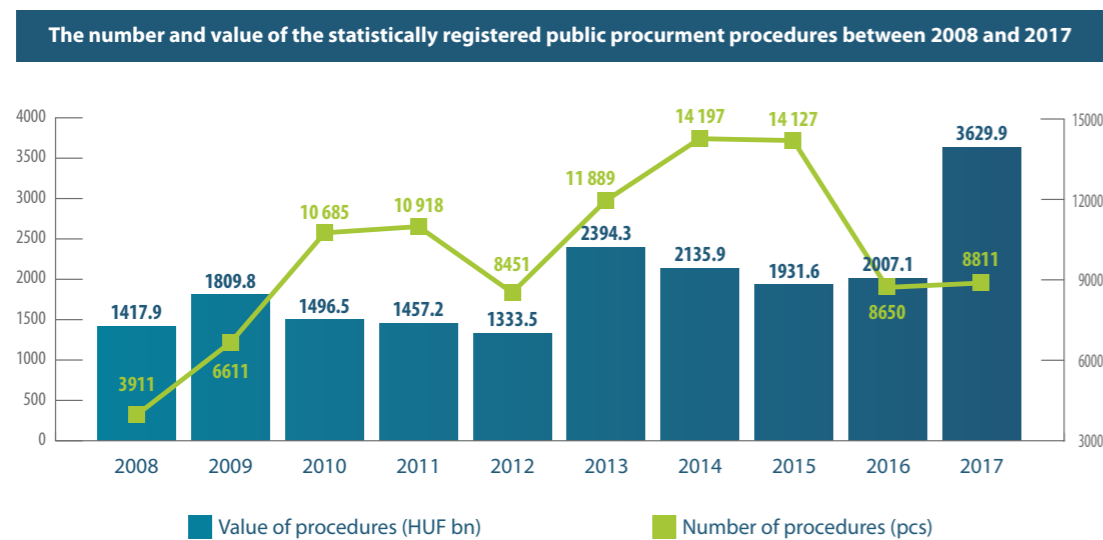
#### A) The number and value of public procurement procedures

In 2017, contracting authorities have conducted a total of **8,811 effective public procurement procedures**, an increase of 1.9% over the 8,650 procedures registered in 2016.

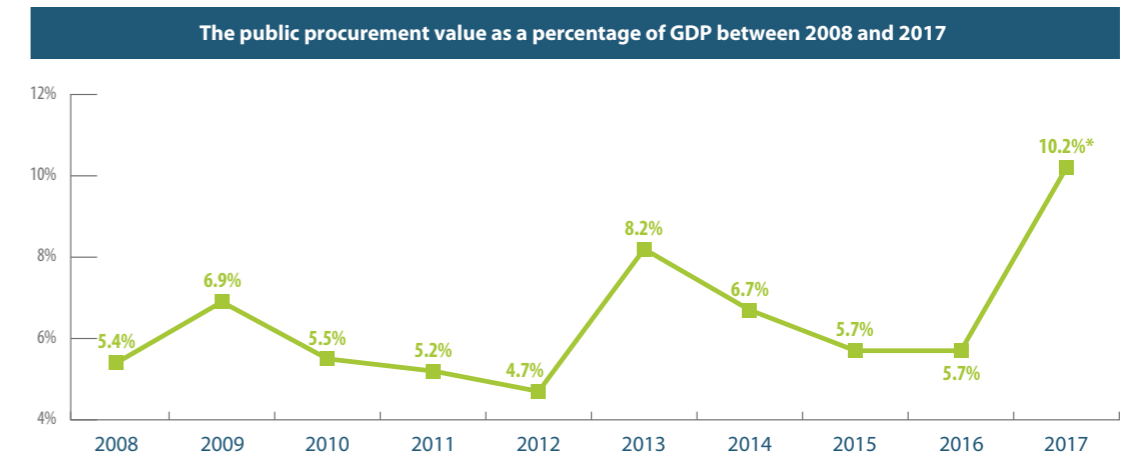
There is a significant increase in total value,

the HUF 3 629.9 billion realized in the reporting period exceeded the total value of the previous year by 80.9% (HUF 2,007.1 billion)

The chart below shows the public procurement procedures conducted over the past 10 years:



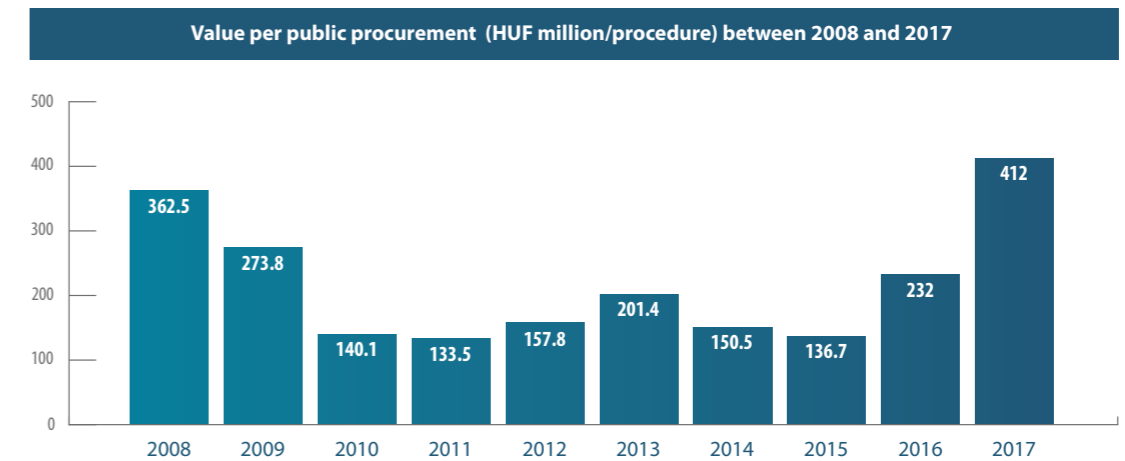
The annual change in public procurement as a percentage of GDP is shown in the following graph:



\* The 10,2% ratio was calculated based on the GDP of 2016. If the current price of GDP in 2017 is considered, which is set officially only as secondary estimate, such ratio is 9,51%.

#### a) Value per procedure

As the rate of increase in the number of procedures was significantly exceeded by the increase in value, the amount per procurement procedure increased by 77.6% from 2016 to 2017. In 2017, the contracting authorities decided upon HUF 412.0 million per procedure on average.



Upon examining the average value of public procurements according to procedure regimes, it can be concluded that in 2017 the procedures above EU thresholds reached a total value of HUF 3,061.58 billion in 1,965 procedures, which means that the average value of the procedures was HUF 1,558.1 million. Below EU thresholds, a total of HUF 568.37 billion was realized in 6,846 procedures, so in this case the value per procedure was HUF 83.0 million.





**b) The share of the various procedure regimes**

The number of procurement procedures increased by 1.86% and the total value of public procurement procedures increased by 80.86% from 2016 to 2017. At the same time, their number and value according to each procedure regime showed a different trend; resulting in a change in the composition in terms of number and value for the various procurement regimes.

The number of procedures above EU thresholds increased (by 26.20%), while the number of procedures below EU thresholds decreased slightly (by 3.48%). As the rate of growth of procedures above thresholds exceeded the increase in the total number of public procurement procedures, their share increased in 2017 (from 18.00% to 22.30%), while the share of procedures below EU thresholds decreased (from 82.00% to 77.70%). This proportion also has a positive effect on transparency and on competition because, on the one hand, the rules of the procedures above EU thresholds are stricter and on the other hand, the notices are published not only in the Public Procurement Bulletin, but also in TED.

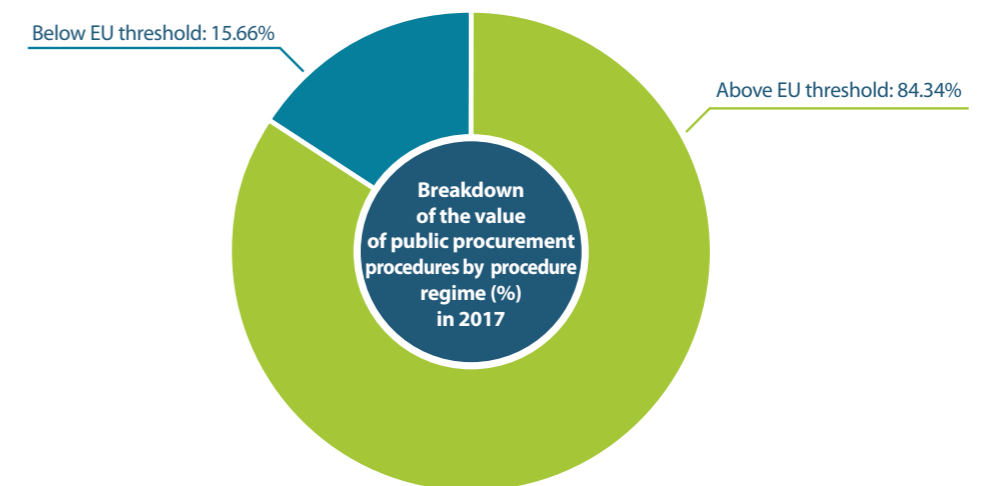
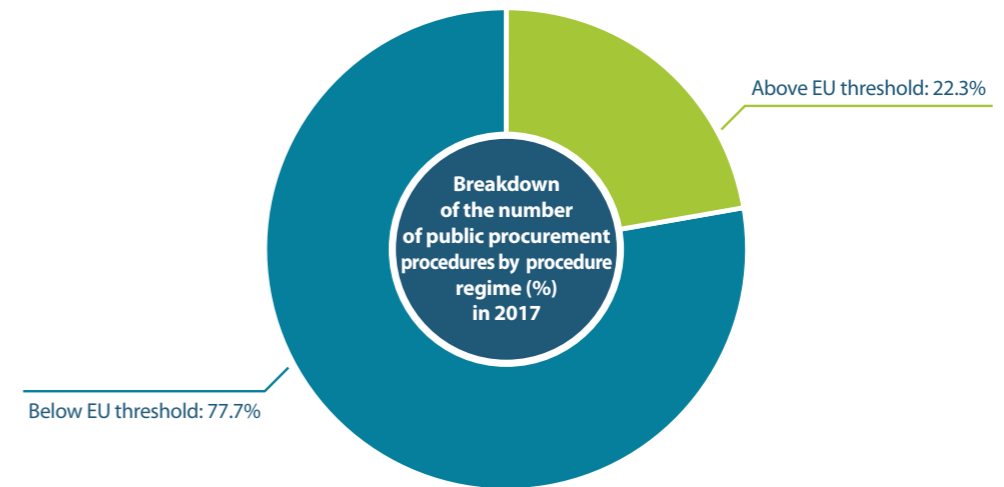
Regarding the value of public procurement procedures, both procedure regimes show a significant increase over the previous year (91.06% and 40.46% respectively). As the growth rate was higher above EU thresholds than in the case of procedures below EU thresholds, the share of the value of the procedures above EU thresholds increased in 2017 (from 79.84% to 83.34%) within all procurement procedures. In contrast, the rate of growth in the value of procedures below EU thresholds remained below the overall change, which resulted in a reduction in their share of the total value of all public procurement procurements (from 20.16% to 15.66%) over the previous year.

The table below shows the degree of change within each procedure regime:

Procedure	Number of procedures (%) (2017/2016)	Value of procedures (%) (2017/2016)
Above EU thresholds	126.20	191.06
Below EU thresholds	96.52	140.46
<b>Total</b>	<b>101.86</b>	<b>180.86</b>

The breakdown of public procurement procedures by procedure regime in 2017 is illustrated by the following table and diagrams:

Procedure	Year 2017			
	Number of procedures (pcs)	Ratio (%)	Value of procedures (billion HUF)	Ratio (%)
Above EU thresholds	1 965	22.30%	3 061.58	84.34%
Below EU thresholds	6 846	77.70%	568.37	15.66%
<b>Total</b>	<b>8 811</b>	<b>100.00%</b>	<b>3 629.95</b>	<b>100.00%</b>





### c) Competition in the Hungarian public procurement market

During the reporting period, 8,811 procedures were successfully completed; thanks to the opportunity to submit tenders for lots,

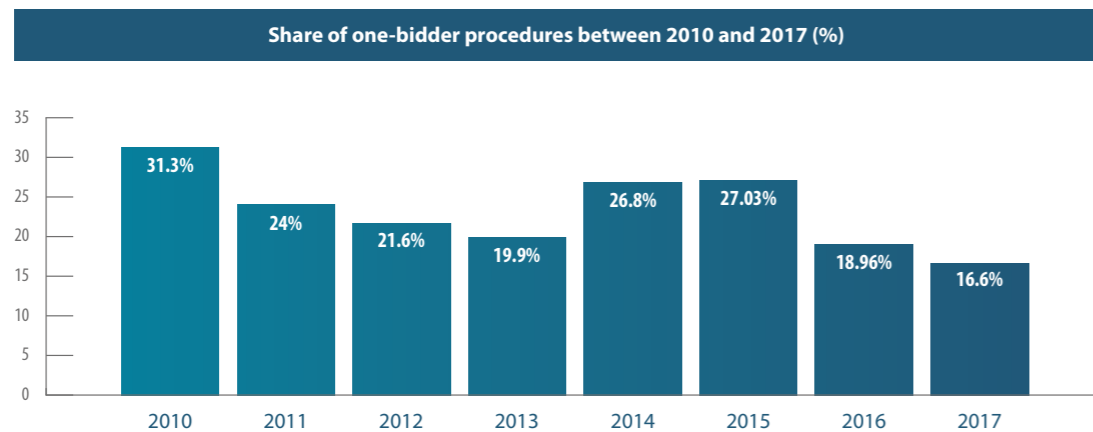
a total of 69,924 bids were submitted, with an average of 7.94 bids per procedure, compared to an average of 5.98 in 2016.

A more sophisticated picture about the average number of bids submitted per procedure can be obtained if we exclusively examine contracts not divided into lots, so the analysis will only be based on such procedures. In 2017, 6,615 procedures did not allow for lot tendering, accounting for 75.08% of all public procurement procedures. For these procedures a total of 21,199 bids were submitted, which averaged 3.20 bids compared to the previous year's 2.91 average, which represents a noticeable improvement.

In terms of the subject of the procurement, similarly to last year, the highest level of **competition could be observed in the case of public works contracts**, with an average of 3.70 bids for contracts not divided into lots.

Upon looking at the procedure regimes, the number of bids submitted has improved for both the above and below EU thresholds, compared to the previous year. On average, there were 2.62 bids above EU thresholds, as opposed to last year's average of 2.49, while in the case of the procedures below EU thresholds, an average of 3.34 bids were submitted in 2017 compared to the 2.98 in the previous year.

An important indicator of competition in the public procurement market is the proportion of one-bidder procedures. In this respect, there has been a continuous improvement since 2015; **in 2017, only 16% of the procedures had only one bidder.**



### B) Procedures realized with EU funds

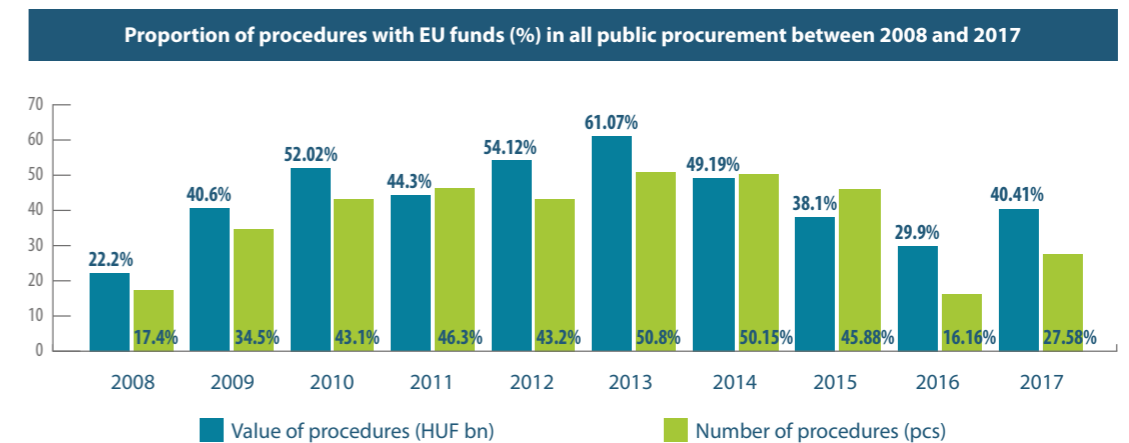
In the notices on the results of the procedure, contracting authorities are not required to state the specific amount of the EU fund; they only have to indicate whether the contract is related to a project and/or programme funded by European Union funds. Thus, in terms of value, the Public Procurement Authority has information only on the proportion of the total value of the realized public procurement linked to EU funds.

In the year under review, a total of 2,430 public procurement procedures used EU funds, which represents a 73.82% increase over the previous year.

It represents 27.58% of all procedures, which shows an 11,42 % increase over the previous year.

It can be concluded that **the value of EU-funded procedures increased significantly, by 144.74%**. In 2016, this amounted to HUF 599.30 bn; reaching HUF 1 466.75 bn in 2017, representing 40.41% of the total public procurement value, compared to 29.86% in the previous year.

The following diagram illustrates the change in the ratio in terms of value and number of procedures related to EU funds over the past 10 years:



### C) Breakdown of public procurement by procedure type

Public procurement procedures are divided into two main groups; the Authority distinguishes between open and not open procedures.



Open procedures above EU thresholds include open, restricted, negotiated<sup>1</sup>, accelerated open, accelerated restricted, accelerated negotiated, concession procedures with publication, and, for 2016, legal services provided according to Annex No. 4 and other<sup>2</sup> procedures. Not open procedure means negotiated procedures without prior publication.

Open procedures below EU threshold include open, restricted, negotiated<sup>3</sup>, independent procedural rules according to Articles 113 and 117 of the PPA, concession procedures, as well as for 2016, accelerated restricted, accelerated negotiated and other<sup>4</sup> procedures. Not open procedures are negotiated procedures without prior publication and procedures in line with Article 115 of the PPA.

### Data on public procurement procedures above EU thresholds

The number of public procurement procedures above EU thresholds increased by 26.20% (from 1,557 to 1,965), and the total value increased by 91.06% (from HUF 1,602.44 bn to HUF 3,061.58 billion) from 2016 to 2017.

However, their number and value according to each procedure type showed differed trends, resulting in a change in the breakdown of the procedure types.

Both in case of open and not open types, the number of procedures increased from 2016 to 2017 (open: 28.83%, closed: 6.11%). As the growth rate of open procedures exceeded the increase in the number of all public procurement procedures above EU thresholds, thus their proportion within the latter increased by 2017 (from 88.44% to 90.28%). By contrast, the growth rate of not open procedures remained below the national level, resulting in a decline in their share (from 11.56% to 9.72%).

Regarding the value of public procurement procedures, both procedure types show a significant increase compared to the previous year (open: 93.06%, not open: 58.90%). Similarly to the trend observed at the number of procedures, the growth in the case of open procedures was higher, while the increase of not open procedures was lower than the national average. As a result, the share of the value of open public procedures above the EU threshold increased in 2017 (from 94.14% to 95.13%). At the same time, the share of not open procedures decreased (from 5.86% to 4.87%) compared to the previous year.

1 In 2016, above EU thresholds, the negotiated category included negotiated procedures as well as negotiated procedures launched by a notice including a periodic indicative notice.  
2 In 2016, in the EU procedure, the other category included the restricted design contest, the open design contest, the simple design contest and the freely developed procedures.  
3 In 2016, below EU thresholds, the negotiated category included negotiated procedures as well as negotiated procedures launched by a notice including a periodic indicative notice.  
4 In 2016, below EU thresholds, the other category included freely developed procedures and simple procedures launched with publication of a notice, without negotiation.

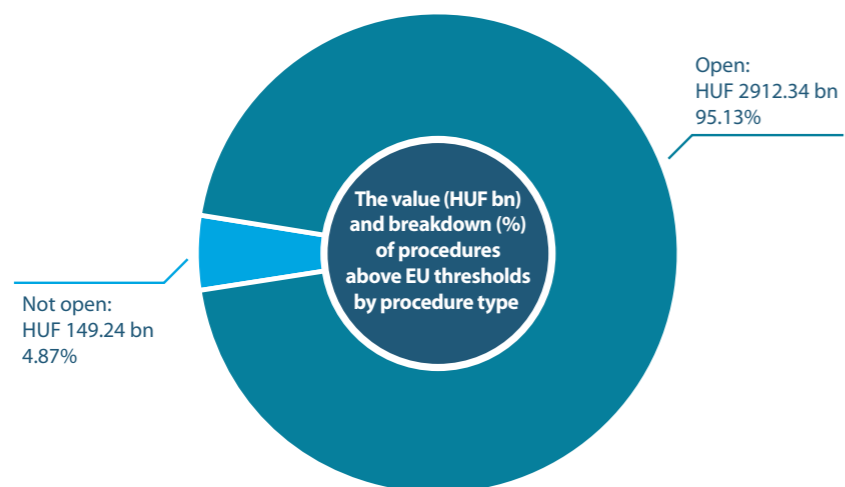
The change observed in the various procedure types from 2016 to 2017 is shown in the following table:

Type of procedure	EU procedure	
	Number of procedures (%) (2017/2016)	Value of procedures (%) (2017/2016)
Open	128.83%	193.06%
Not-open	106.11%	158.90%
<b>Total</b>	<b>126.20%</b>	<b>191.06%</b>

The breakdown of public procurement above EU thresholds by procedure type in 2017 is illustrated in the following table and diagrams:

Type of procedure	EU procedure, 2017			
	Number of procedures (pc)	(%)	Value of procedures (HUF bn)	(%)
Open	1 774	90.28%	2 912.34	95.13%
Restricted	191	9.72%	149.24	4.87%
<b>Total</b>	<b>1 965</b>	<b>100.00%</b>	<b>3 061.58</b>	<b>100.00%</b>



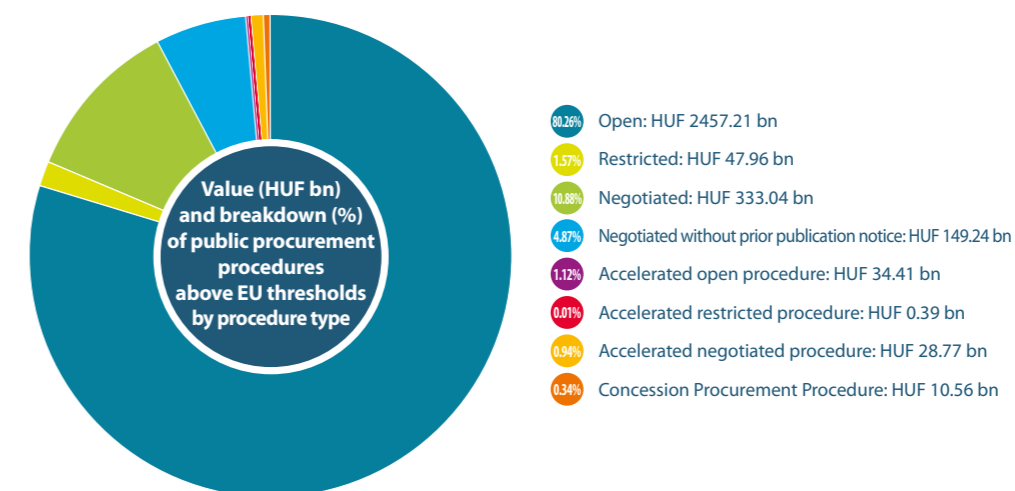
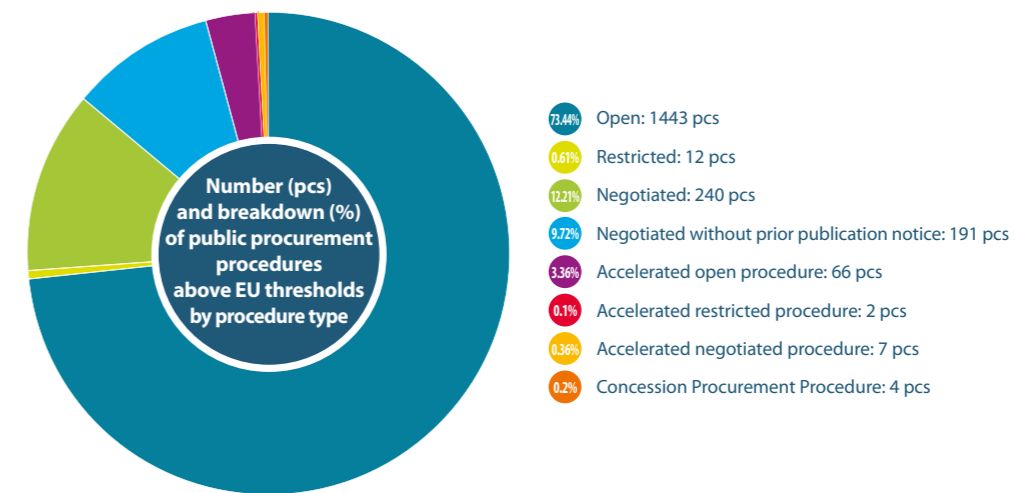


The detailed breakdown of the number and value of public procurement above EU thresholds by procedure type in 2016 and 2017 is shown in the table below<sup>5</sup>:

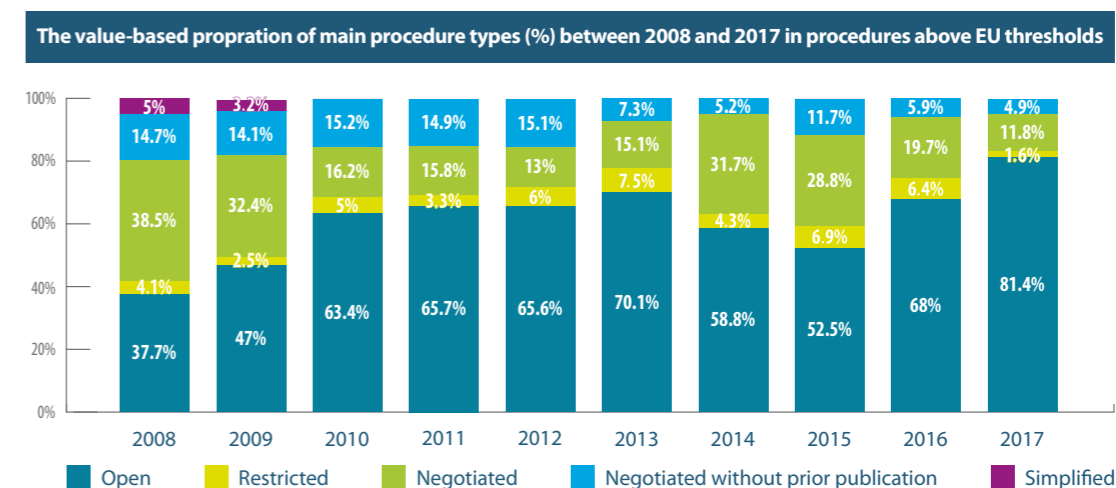
Number and value of procedures above EU thresholds by procedure type in 2016 and 2017								
Type of procedure	2016				2017			
	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)
Open	1 079	69.39%	1 079.11	67.37%	1 443	73.44%	2 457.21	80.26%
Restricted	12	0.77%	100.06	6.25%	12	0.61%	47.96	1.57%
Negotiated	203	13.05%	289.25	18.06%	240	12.21%	333.04	10.88%
Negotiated without prior publication notice	180	11.58%	93.92	5.86%	191	9.72%	149.24	4.87%
Accelerated open procedure	55	3.54%	10.22	0.64%	66	3.36%	34.41	1.12%
Accelerated restricted procedure	7	0.45%	2.17	0.14%	2	0.10%	0.39	0.01%
Accelerated negotiated procedure	17	1.09%	26.94	1.68%	7	0.36%	28.77	0.94%
Concession Procurement Procedure	-	-	-	-	4	0.20%	10.56	0.34%
Legal service (lawyer activity) according to Annex No. 4	2	0.13%	0.66	0.04%	-	-	-	-
Other	2	0.13%	0.11	0.01%	-	-	-	-
<b>Total</b>	<b>1 555</b>	<b>100.00%</b>	<b>1 601.78</b>	<b>100.00%</b>	<b>1 965</b>	<b>100.00%</b>	<b>3 061.58</b>	<b>100.00%</b>

<sup>5</sup> In 2016, the negotiated category included negotiated procedures, negotiated procedures launched with the publication of a notice including a periodic indicative notice. The other category included the restricted design contest, the open design contest, the simple design contest and the freely developed procedures.

The detailed breakdown of public procurement above EU threshold by procedure type in 2017 is shown in the chart below:



The diagram below shows the breakdown of public procurement procedures above EU thresholds on the basis of the total value of the main procedure types over the past 10 years:



It can be seen that the total value of negotiated procedures without prior publication was below 5% in 2017.



b) Data on public procurement below EU thresholds

Below EU thresholds, the number of procurement procedures decreased by 3.48% (from 7,093 to 6,846), while their total value increased by 40.46% (from HUF 404.64 billion to HUF 568.37 billion) from 2016 to 2017.

However, their number and value according to each procedure type showed differed trends, resulting in a change in the composition of the procedure types.

As regards open procedures, the number of procedures increased from 2016 to 2017 (by 46.03%) and decreased within the not open procedures (by 20.66%). As a result, the proportion of open procedures in all public procurement procedures below EU thresholds increased in 2017 (from 25.76% to 38.97%), while the share of the number of not-open procedures decreased (from 74.24% to 61.03% respectively).

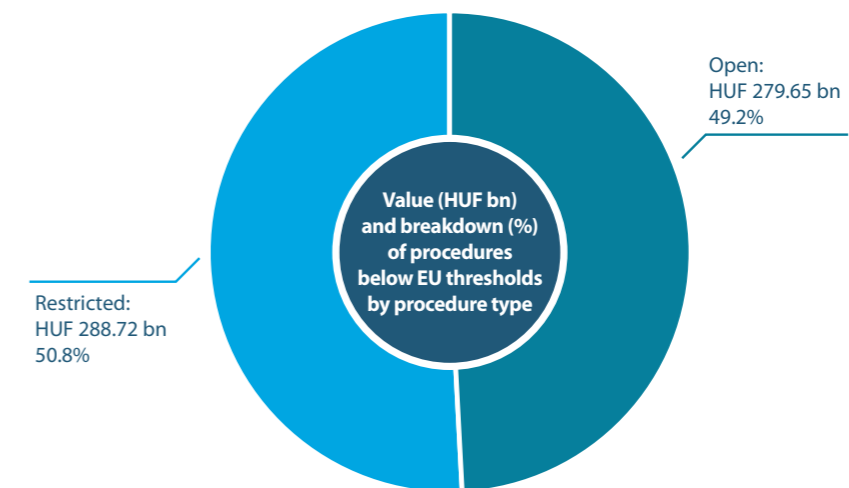
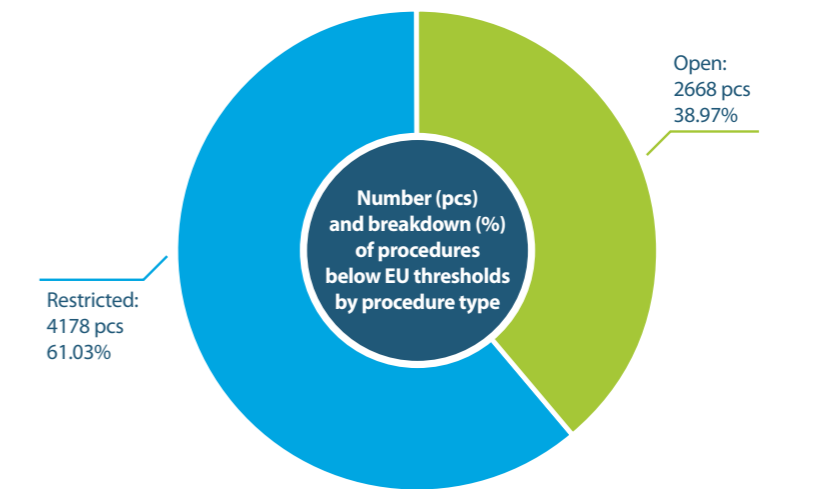
Regarding the value of public procurement procedures, both procedure types show an increase compared to the previous year (open: 25.04%, not open: 59.52%). At the same time, the rate of growth for open public procedures was lower, while for not open procedures it was higher than the national level (40.46%). As a result, the proportion of the value of open public procedures shrunk within the total value of procedures below EU thresholds in 2017 (from 55.27% to 49.20%) and the share of not open procedures increased (from 44.73% to 50.80%) compared to the previous year.

The change in each procedure type is shown in the table below:

Procedure type	Procedures below EU thresholds	
	Number of procedures (%) (2017/2016)	Value of procedures (%) (2017/2016)
Open	146.03%	125.04%
Not open	79.34%	159.52%
<b>Total</b>	<b>96.52%</b>	<b>140.46%</b>

The breakdown of public procurements below EU thresholds by procedure type in 2017 is illustrated in the following table and graphs:

Procedure type	Procedures below EU thresholds, 2017			
	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)
Open	2 668	38.97%	279.65	49.20%
Not open	4 178	61.03%	288.72	50.80%
<b>Total</b>	<b>6 846</b>	<b>100.00%</b>	<b>568.37</b>	<b>100.00%</b>



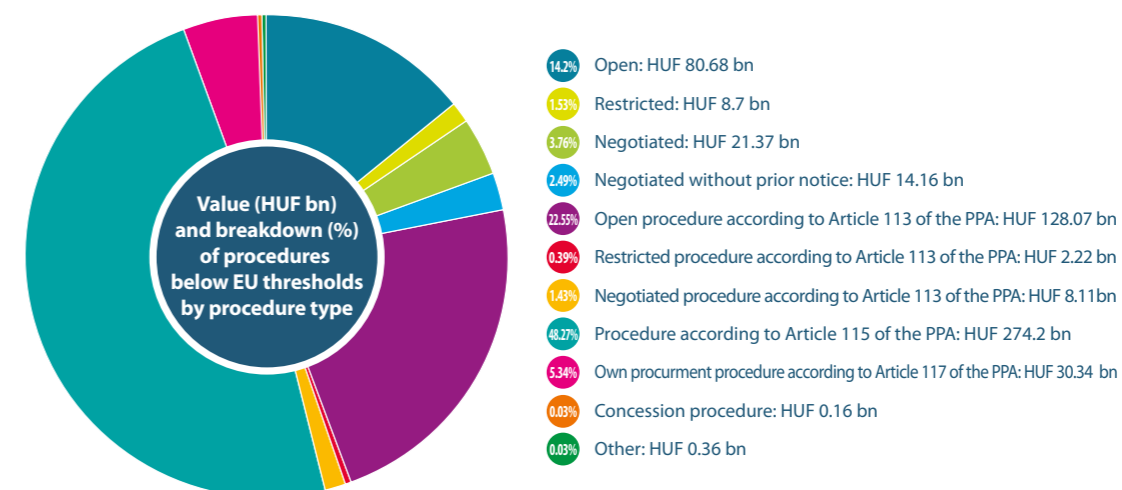
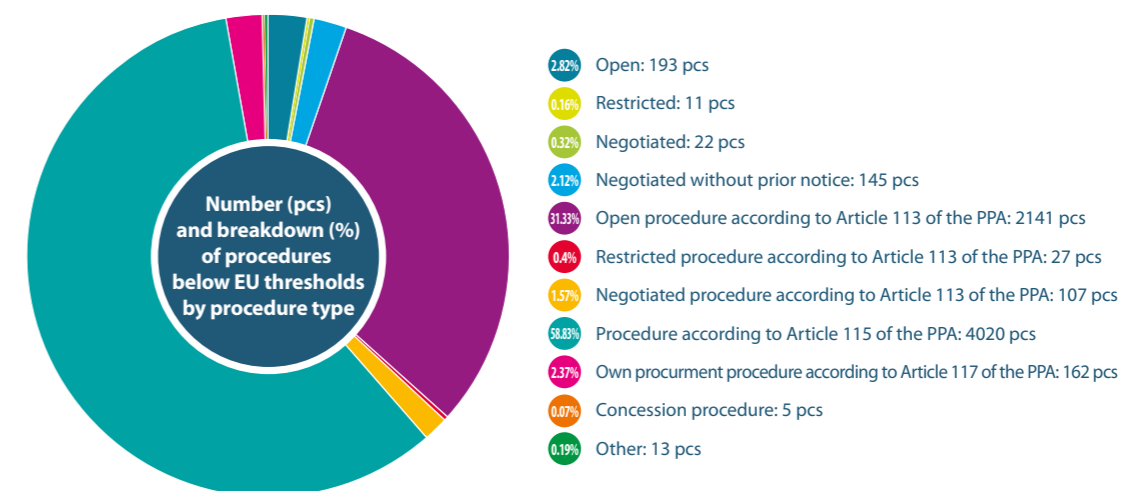


The number and value of the public procurement procedures below EU thresholds in 2016 and 2017 by procedure type is shown in the following table<sup>6</sup>:

Number and value of procedures below EU thresholds by procedure type in 2016 and 2017								
Procedure type	2016				2017			
	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)
Open	533	7.51%	114.99	28.42%	193	2.82%	80.68	14.19%
Restricted	8	0.11%	3.52	0.87%	11	0.16%	8.70	1.53%
Negotiated	66	0.93%	18.36	4.54%	22	0.32%	21.37	3.76%
Negotiated without prior publication	557	7.85%	37.86	9.36%	145	2.12%	14.16	2.49%
Open procedure according to Article 113 of the PPA	1 054	14.86%	64.34	15.90%	2 141	31.27%	128.07	22.53%
Restricted procedure according to Article 113 of the PPA	22	0.31%	1.57	0.39%	27	0.39%	2.22	0.39%
Negotiated procedure according to Article 113 of the PPA	64	0.90%	4.86	1.20%	107	1.56%	8.11	1.43%
Procedure according to Article 115 of the PPA	3 778	53.26%	114.88	28.39%	4 020	58.72%	274.20	48.24%
Own procurement procedure according to Article 117 of the PPA	49	0.69%	4.92	1.22%	162	2.37%	30.34	5.34%
Concession procedure	-	-	-	-	5	0.07%	0.16	0.03%
Accelerated restricted	5	0.07%	2.68	0.66%	-	-	-	-
Accelerated negotiated	2	0.03%	0.28	0.07%	-	-	-	-
Other	955	13.46%	36.38	8.99%	13	0.19%	0.36	0.06%
<b>Total</b>	<b>7 093</b>	<b>100.00%</b>	<b>404.64</b>	<b>100.00%</b>	<b>6 846</b>	<b>100.00%</b>	<b>568.37</b>	<b>100.00%</b>

<sup>6</sup> In 2016 the negotiated category included negotiated procedures as well as negotiated procedures launched by publication of a notice, and negotiated procedures launched by publishing a notice including a periodic indicative notice. The other category in 2016 and 2017 included freely developed procedures and simple procedures launched with publication of a notice, without negotiation and procedures under Article 122/A of the PPA.

The detailed breakdown of procedures below EU thresholds in 2017 by procedure type is shown in the following graphs:





**D) Breakdown of public procurements by contracting authorities**

Public procurement data for the years 2016 and 2017 are shown in the following table according to the classification indicated by the contracting authorities in the notices:

Type of contracting authority	2016				2017			
	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)
Regional/local level	3 397	39.27%	288.94	14.40%	3 315	37.62%	326.44	8.99%
Central	1 351	15.62%	228.51	11.39%	906	10.28%	266.85	7.35%
Public law body	1 806	20.88%	725.98	36.17%	1 764	20.02%	1 474.03	40.61%
Utilities	558	6.45%	517.40	25.78%	523	5.94%	563.47	15.52%
Subsidized organisations	362	4.18%	30.61	1.53%	687	7.80%	111.08	3.06%
Other organisation	1 176	13.60%	215.63	10.74%	1 616	18.34%	888.08	24.47%
<b>All</b>	<b>8 650</b>	<b>100.00%</b>	<b>2 007.07</b>	<b>100.00%</b>	<b>8 811</b>	<b>100.00%</b>	<b>3 629.95</b>	<b>100.00%</b>

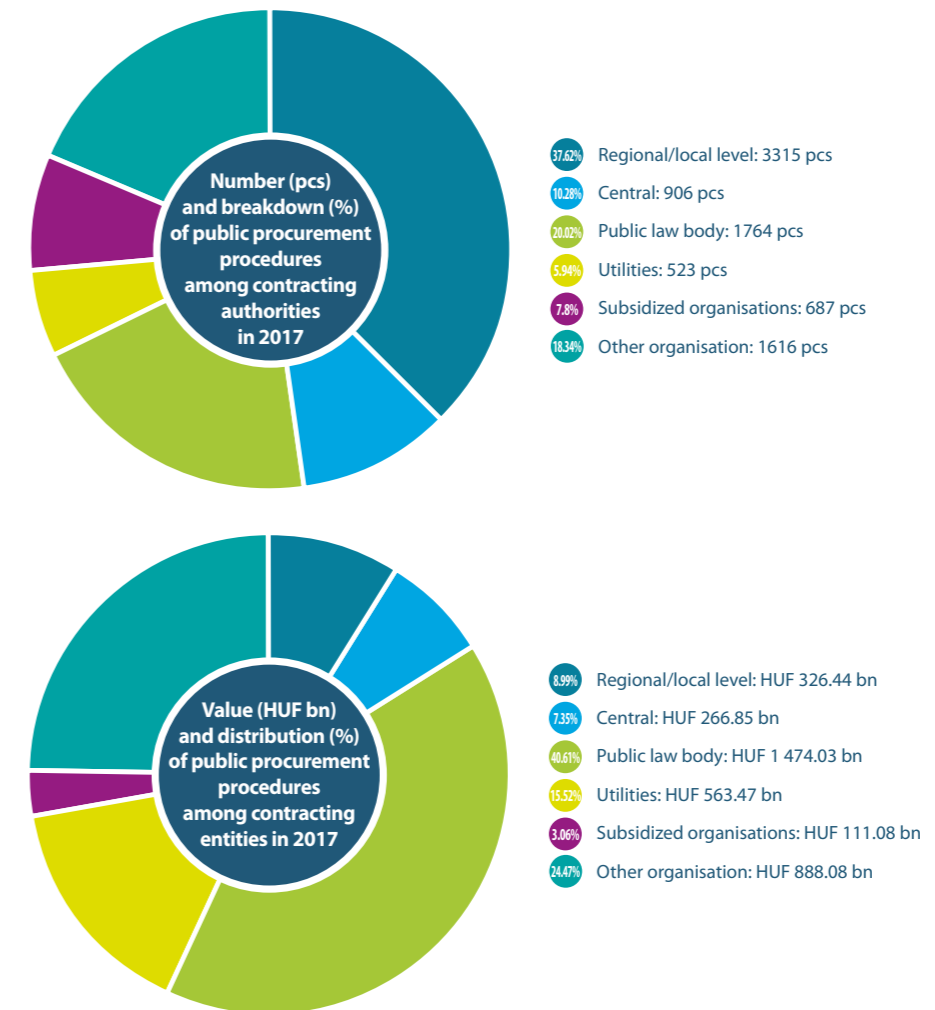
When analysing public procurement procedures based on the type of contracting authorities, it can be concluded that, similarly to the previous years, in terms of the number of procedures, **the regional local level institutions** were the largest procurers, despite the fact that the number of procedures conducted by them decreased by 2.41%. As a result, their proportion within all procedures also decreased (from 39.27% to 37.62%). Among the various groups of contracting authorities, the number of procedures initiated by subsidized institutions and other organisations increased (subsidized organisations: 89.78%, other organisations: 37.41%). As this growth rate exceeded the national average, their share in all procedures increased (subsidized organisations: from 4.18% to 7.80%, other organisations: from 13.60% to 18.34%). Similarly to the regional / local level institutions, the number of procedures conducted by central organisations, public bodies and utilities also decreased in 2017, which drop was the highest in the case of the central institutions (32.94%).

Regarding the value of public procurements, similarly to 2016, **the value of the procedures conducted by public bodies was the highest**, but the total value of the procedures increased for all types of contracting authorities. Particularly high growth can be observed in the case of "other organisations" (311.85%), subsidised organisations (262.90%) and public bodies (103.04%), which is significantly higher than the growth rate observed at national level. This also resulted in an increase in their total share within the total value. Despite the increase in the value of the procedures, the share of the total value of regional/local institutions, central organisations and utilities fell in the current year.

The table below presents the change for each group of contracting authorities:

Type of contracting authority	Number of procedures (%) (2017/2016)	Value of procedures (%) (2017/2016)
Regional/local level	97.59%	112.98%
Central	67.06%	116.78%
Public law body	97.67%	203.04%
Public service	93.73%	108.90%
Subsidized organisations	189.78%	362.90%
Other organisation	137.41%	411.85%
<b>All</b>	<b>101.86%</b>	<b>180.86%</b>

The breakdown of the number and value of public procurement procedures in 2017 by contracting authorities is illustrated in the following diagram:





### E) Breakdown by subject-matter of public procurement

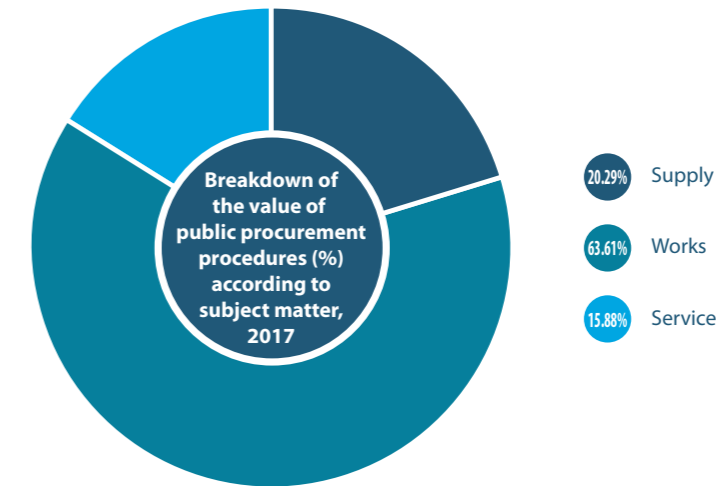
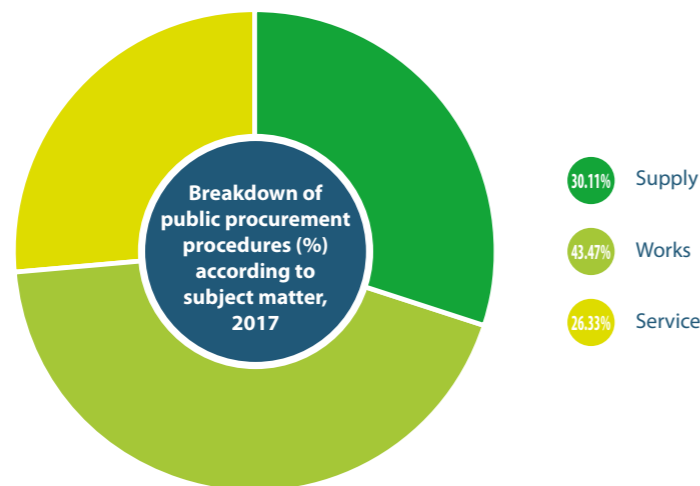
The number of procedures for the reporting year increased by 35.58% in the case of public works; as the rate of growth exceeded the increase in all procurement procedures, **the share of public works increased in 2017 (from 32.66% to 43.47%)**. In the other two major groups a decreasing trend could be observed; it is more moderate concerning public supplies (5.86%) and the drop is more significant in the case of public services (22.67%). This resulted in a decrease in their share in all procurement procedures (from 32.58% to 30.11% and from 34.68% to 26.33%, respectively).

Regarding the value of public procurement procedures, in all three groups there was an increase compared to the previous year, which was very significant for public works (160.33%). As the growth for public works was larger than the expansion in value at national level, its proportion increased in 2017 (from 44.19% to 63.61%). In contrast, in the other two main groups, the rate of increase in the value of the procedures remained below the national level, which reduced their share in the total public procurement (public supplies: from 29.85% to 20.29%, public services: 25.20 from% to 15.88%) compared to the previous year.

The change in the major public procurement subject matter is shown in the following table:

Main procurement subject matters	Number of procedures (%) (2017/2016)	Value of procedures (%) (2017/2016)
Public supply	94.14	122.94
Public works	135.58	260.33
Public service	77.33	144.00
<b>Total</b>	<b>101.86</b>	<b>180.86</b>

The breakdown of public procurements by major subject matters in 2017 is illustrated in the following diagrams:



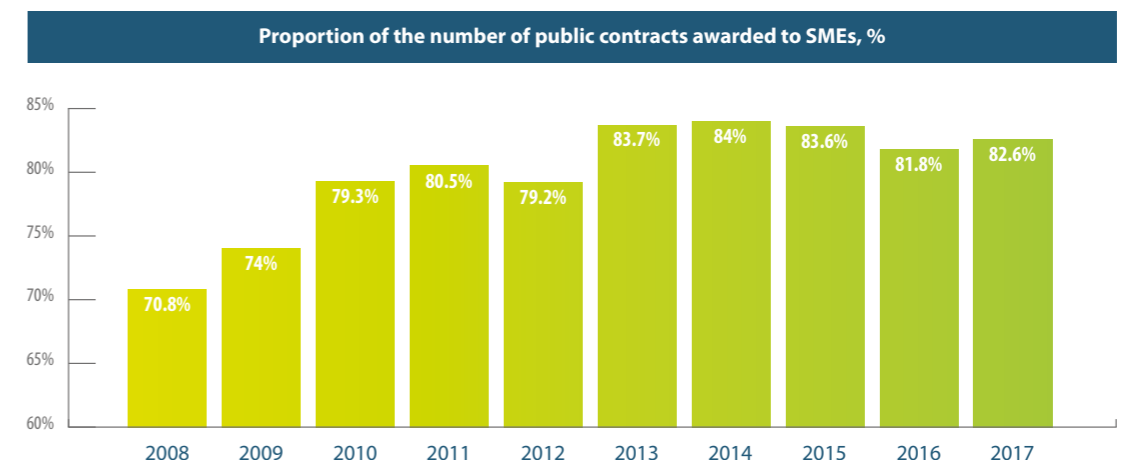
### F) Participation of micro, small and medium-sized enterprises in public procurement

**Micro, small and medium-sized enterprises** submitted a winning tender in 7,276 cases, amounting to 82.6% of all procedures, compared to 81.8% in the previous year.

With regard to the value of public procurement procedures, micro, small and medium-sized enterprises won public procurement procedures in the value of HUF 1,458.97 billion in the current year, an increase of 76.6% over the previous year.

However, given that the pace of growth of the value of procedures for SMEs lagged behind the change at national level (80.9%), a slight reduction in their share of total procurement (41.2% to 40.2%) can be seen for 2017.

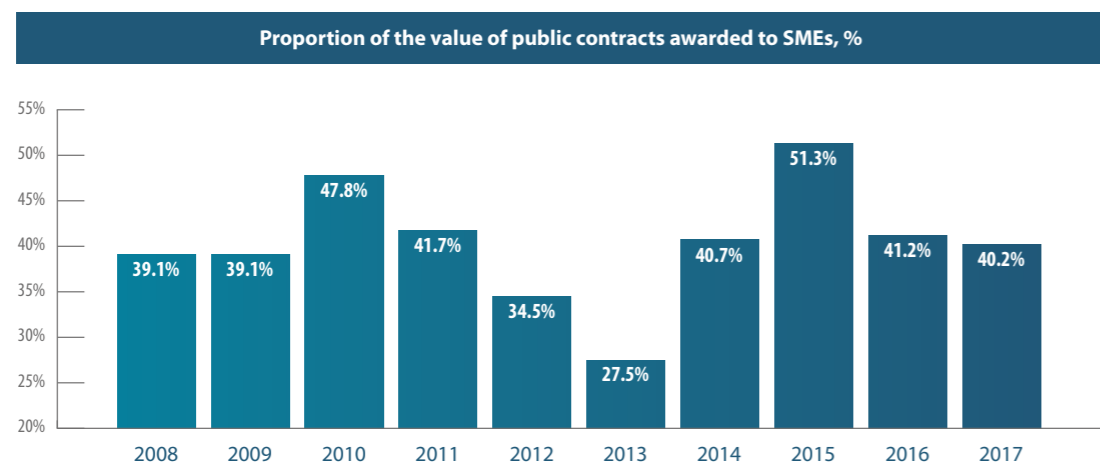
The share of SME's in public procurement regarding the number of procedures between 2008 and 2017 is shown in the diagram below:



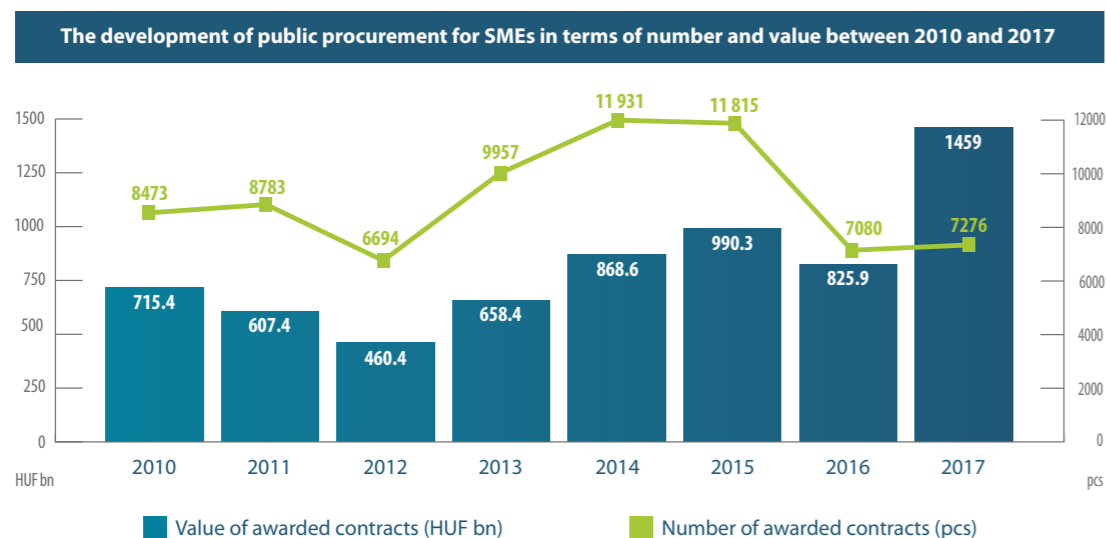




The share of SME's in the value of public procurement between 2008 and 2017 is shown in the diagram below:



The development of public procurement for SMEs between 2010 and 2017 is illustrated by the diagram below:



## G) Environmental and social aspects

From the year 2012, the legal environment enables the collection of data on public procurement procedures with green and social considerations. However, this is only possible below EU thresholds; because of the characteristics of the notice templates, such data are not available for procedures that reach or exceed the EU thresholds. The Authority informed the European Commission about this deficiency of the EU notice templates, but, unfortunately, the templates have not been modified yet.

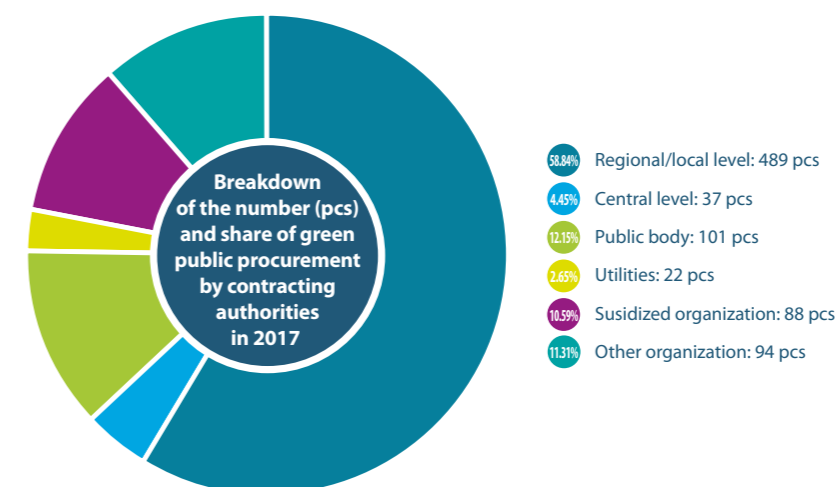
The following table presents the data of the procedures in 2016 and 2017 that include green and social aspects, taking into account public procurement below EU thresholds:

Characteristics of the procedure	2016				2017			
	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)	Number of procedures (pcs)	(%)	Value of procedures (HUF bn)	(%)
Green procedures	613	8.64%	43.42	10.73%	831	12.14%	102.87	18.10%
Procedures with social considerations	95	1.34%	5.21	1.29%	141	2.06%	22.35	3.93%

Both the number and value of the procedures with environmental and social aspects increased in the reporting period. As this increase exceeded the national growth rate below EU thresholds, their share resulted in an increase in the total number and value of procedures. Experience in recent years shows that, in contrast to public procurement involving the social aspect, **public procurement involving environmental considerations represents a larger proportion.** Thus, the role of such procedures with regard to the contracting authorities and the main groups of subject matter is briefly discussed.

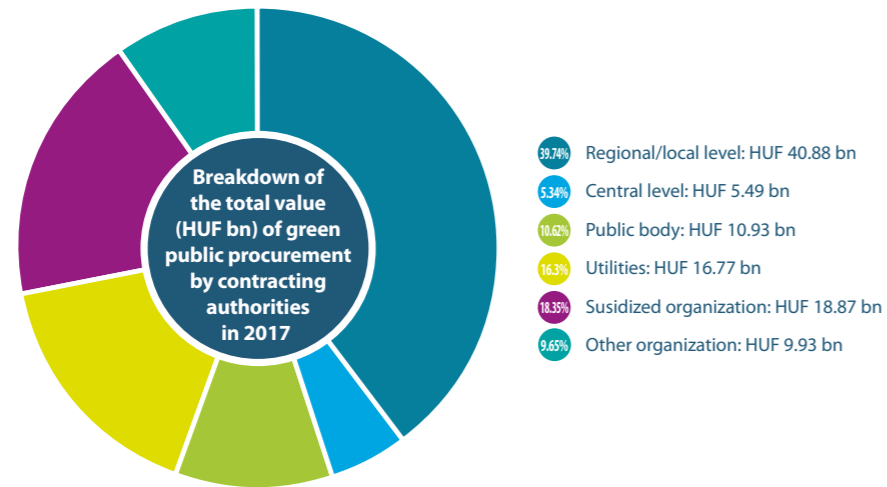
Considering contracting authorities, both in terms of the number and the value of the procedures, **regional/local institutions have taken most frequently the environmental considerations into account** in their public procurement. 16.01% of their procedures below EU thresholds can be considered as green processes, representing a value of 19.15%.

The breakdown of the number and total value of green public procurement (HUF bn) by contracting authorities in 2017 is illustrated by the graphs below:



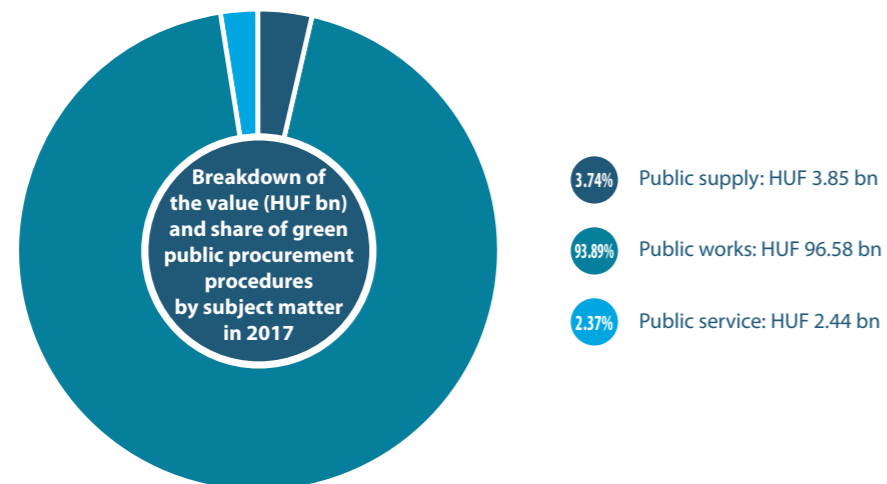
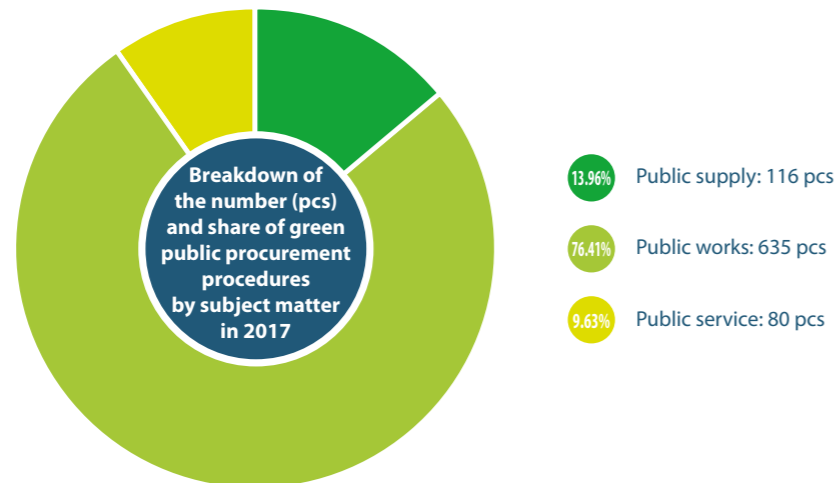


# I. OBLIGATORY TASKS OF THE PUBLIC PROCUREMENT AUTHORITY



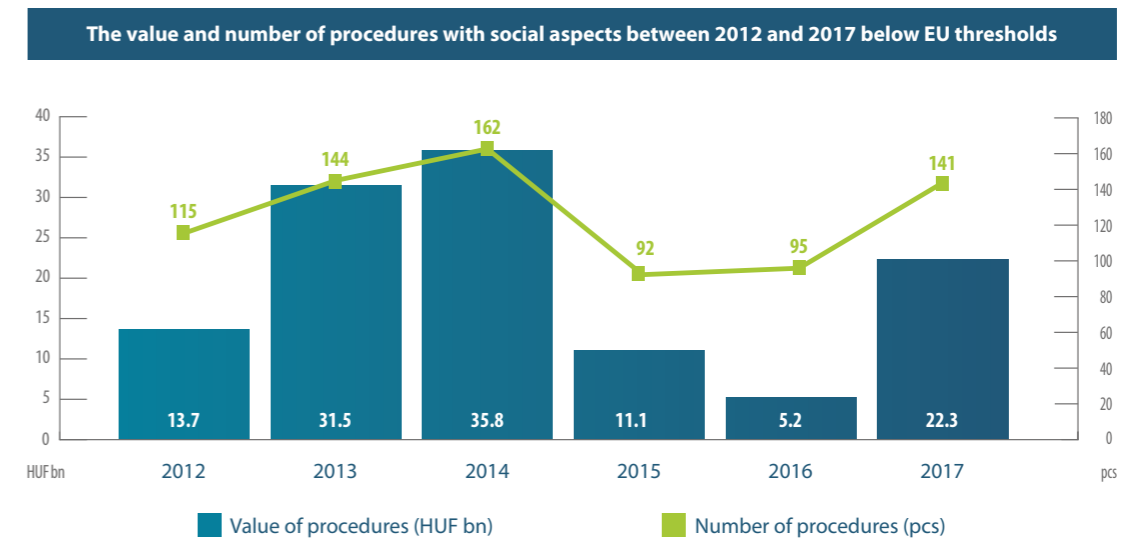
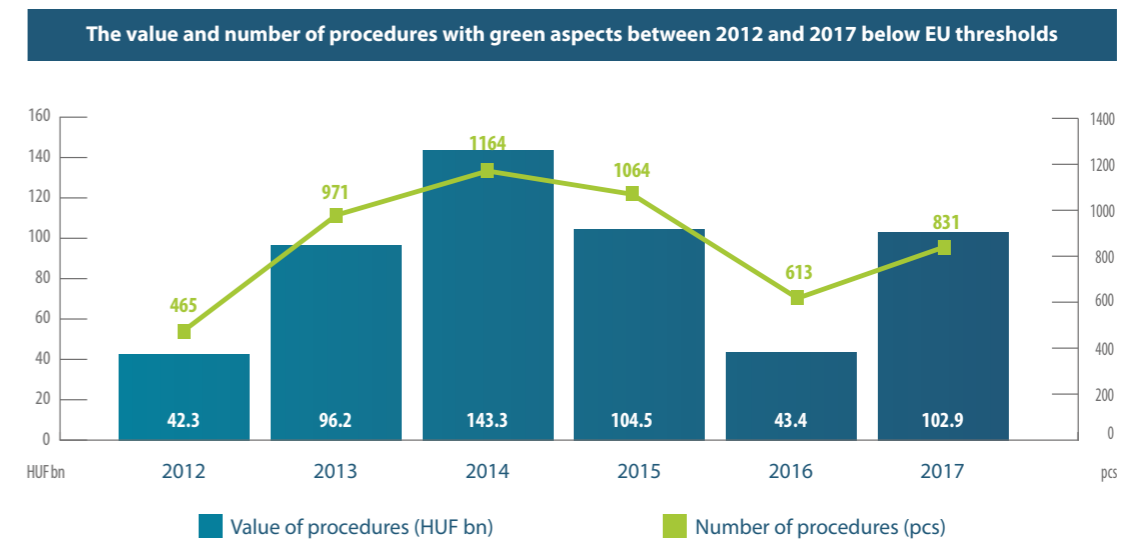
As regards the subject matter, contracting authorities considered environmental aspects in the case of public works. This represents 17.41% of all procedures below EU thresholds in terms of numbers and 21.47% for value.

The breakdown of the number (pcs) and total value of green public procurement procedures (HUF bn) by subject matter in 2017 is illustrated by the graphs below:



# I. OBLIGATORY TASKS OF THE PUBLIC PROCUREMENT AUTHORITY

The following graphs illustrate public procurement procedures with environmental and social aspects between 2012 and 2017:





### I.4. Organisation of conferences – Record number of participants

Over the past year, the Authority has put great emphasis on informing public procurement practitioners in public procurement conferences and in professional forums. Our main objective is to facilitate the application of public procurement law and to promote good practice.

#### I.4.1. Public Procurement Academy series

Within the frameworks of the **Public Procurement Academy series**, the Authority regularly organised conferences and thematic trainings that provided an excellent opportunity to answer the practical problems of the participants.

In 2017, the Authority organised a total of 22 conferences,

of which **an international conference with 360 participants is to be highlighted**. As a body with general competence, the Authority provided an opportunity for professional dialogue not only in Budapest, but in several rural locations, such as Debrecen, Salgótarján, Szeged, Zalaegerszeg and Győr.

The conferences were very popular and fully booked, therefore **in this year**,

the Authority contributed to the training of approximately 2,600 professionals.

#### I.4.2. The International Conference of the Public Procurement Authority

The Public Procurement Authority held an international conference entitled “**Clear, Accessible and Competitive Public Procurement**” in November 2017, with the patronage of the President of the State Audit Office. The conference was organised as part of the Hungarian Presidency Programme of the Visegrad Group with approximately 360 participants, including the leaders of the Public Procurement Institutions of the V4 Member States



and Hungary, representatives of the European Commission and other international experts. In order to promote integrity-based, transparent and accountable public spending and to endorse regular, effective and efficient management of public funds and public assets, the conference **focused on the fight against corruption**.

Upon organizing the events, the Authority placed special emphasis on the mandatory public procurement training of accredited public procurement consultants. In 2017, two events of the Authority were recognized by the Prime Minister’s Office as training courses designed for consultants.

### I.5. Our international relations – Activities during the V4 Presidency



In the international relations of the Authority in 2017, the Presidency of Hungary in the Visegrad Cooperation and the sharing of the first experiences in the implementation of the new Public Procurement Directives were of decisive importance. Article 187 (2) (n) of the PPA defines the role of the Public Procurement Authority as a body for the maintenance of international relations, cooperation with public procurement organisations in other Member States of the European Union. In 2018, prior to drafting this report, in the framework of the Hungarian Presidency of Visegrád Cooperation, the Authority also convened a meeting of the Expert Working Group to discuss the experience on public procurement review and controlling public procurement contracts.

#### I.5.1. V4 Plus public procurement expert meeting in Budapest

As part of the 2017-2018 V4 presidency program, a V4 Plus Public Procurement Expert’s meeting was held on 21 September 2017 by the Authority. In addition to the **V4 member countries, Croatia, Serbia and Macedonia were also represented** at the meeting. The participants **signed a cooperation agreement to promote close and regular exchange of experience**. The main themes of discussion were, besides the introduction of the institutional systems, the prohibition of artificial splitting of contracts, one-bid procedures, negotiated procedures without prior publication and EU audit experiences. In view of the latter, the Directorate General for Auditing European Funds also attended the meeting.





### I.5.2. Tasks arising from EU membership

#### Task carried out at various EU bodies

Due to Hungary's EU membership, the work carried out at various EU bodies and working groups continued to represent an important task in 2017. In this context, the colleagues of the Authority participated in the work of the Commission's Expert Group on Public Procurement (EXPP), the e-Certis Editorial Committee, the Expert Group on e-Procurement (EXEP), the GPP Advisory Group and the Economic and Statistical Working Group (ESWG). At the initiative of the European Commission, two new working groups were set up in 2017: one is dealing with public procurement in the health care sector, while the other one is facilitating the cooperation between the Member States' public procurement review bodies.

Considering the expiry of the relevant deadlines, the 2014 Directive on Public Procurement has already been transposed in most of the Member States, so after focusing on the preparation for new legislation, these meetings of the working groups in Brussels mostly aimed sharing the first experience. EXPP met three times, the Expert Group on e-Procurement (EXEP), the Green Public Procurement Working Group and the Review Working Group on two occasions, while the Economic and Statistical Working Group, the Health Procurement Working Group and the e-Certis Editorial Committee met on one occasion.

The March, June and December meetings of **the Committee Government Experts Group (EXPP)** focused on the main themes related to the new directives. The new developments in connection with the new standard forms, the new working group on professionalization and the voluntary ex-ante evaluation mechanism were on the agenda at the March meeting. At the June meeting, first the Member States were informed about the current state of the application of the European Single Procurement Document (ESPD) and the developments in the Internal Market Information System (IMI). At the December meeting, the European Commission provided detailed information on the Public Procurement Package adopted in October 2017, including a Commission Recommendation on the Professionalization of Public Procurement.

**The e-Certis Editorial Committee** held its meeting in February 2017. According to Article 187 (2) n) of the PPA, the Authority is obliged to provide information concerning the certificates to be used in procurement procedures, the publicly available Hungarian databases, registers, ensure publication of the list of relevant registers in the e-Certis.

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The Authority was one of the first ones among the Member States to update the national information in the e-Certis system, for which Hungary received a special recognition.

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At the e-Certis Editorial Committee meeting, the Commission provided information on the expected future changes and developments of the e-Certis system; later, the Member States were informed that the future performance by Member States based on the amount of data uploaded to e-Certis will be included in the Single Market Scoreboard.

**The Economic and Statistic Working Group (ESWG)** met in April 2017, where the new standard forms were discussed in detail. At the meeting of **the Electronic Working Group (EXEP)**, the database of the Public Procurement Authority was presented in detail together with the contract register systems of other Member States. The newly established **Health Procurement Working Group** discussed the experiences of drug purchase and central purchase.

The other new initiative, the Public Procurement Review **Working Group** meeting took place in March; the main topic of the meeting was the Commission's report on the enforcement of the remedy directives, followed by Member States' short presentation on their national review systems. The second meeting took place in October to analyse the interaction between the public procurement directives and the remedy directives, then the presentations on the national reviews systems continued.

### I.5.3. Requests for information from international organisations and EU Member States



#### Cooperation with the organisation for Economic Cooperation and Economic Development (OECD) in activities with public procurement relevance

In October 2017, the OECD held a meeting of the Working Party of the Leading Practitioners on Public Procurement, as well as a Workshop on Capacities for Strategic Procurement, attended by a representative of the Authority. Participants in the "Public Procurement Week" event discussed the challenges of implementing the OECD 2015 Public Procurement Recommendations.

#### Inquiries by Member States

During 2017, the colleagues working in international relations at the Authority answered questions submitted in writing by public procurement organisations in other Member States or by foreign private individuals. The issues, among others, included self-cleaning (Lithuania), responsible accredited public procurement consultants (Slovakia), reporting (Greece), and participation in public procurement (Romania).



### I.5.4. Hosting foreign delegations

In line with the practice of previous years, the Public Procurement Authority has put great emphasis on the maintenance of bilateral international relations in 2017.

#### Professional co-operation with the Croatian Public Procurement Arbitration Committee

Following the visit of the delegation of the Croatian Public Procurement Review Body (Public Procurement State Committee) at our Authority in June 2016; in September 2017, the Authority again had opportunity to exchange experiences and share good practices between our institutions. At the Zagreb meeting, members of the Hungarian delegation were received by the President and colleagues of the Croatian Arbitration Board. The purpose of the visit was to receive information about the tasks and work of the Croatian public procurement review system and the Croatian body responsible for remedies. At the end of the meeting a cooperation agreement was signed to strengthen the relationship between the parties.



#### Contact with the Serbian Public Procurement Office



The delegation of the Serbian Public Procurement Office visited the Authority in April 2017. During the meeting, the parties exchanged information on the Hungarian and Serbian public procurement institutions and legal background; the Serbian guests also provided information on the current state of the transposition of the new EU public procurement directives and the possibilities for Hungarian small and medium-sized companies to access Serbian public procurement procedures.

#### Visit of the Macedonian delegation

In June, representatives of the State Anti-Corruption Committee of the Republic of Macedonia visited the Authority, the topic of the meeting was to strengthen international cooperation against corruption. The presentation delivered by the experts of the Authority gave an overall picture to the delegation on the Hungarian public procurement legislation and its amendments, on the infrastructure of the public procurement system and the public procurement review system.

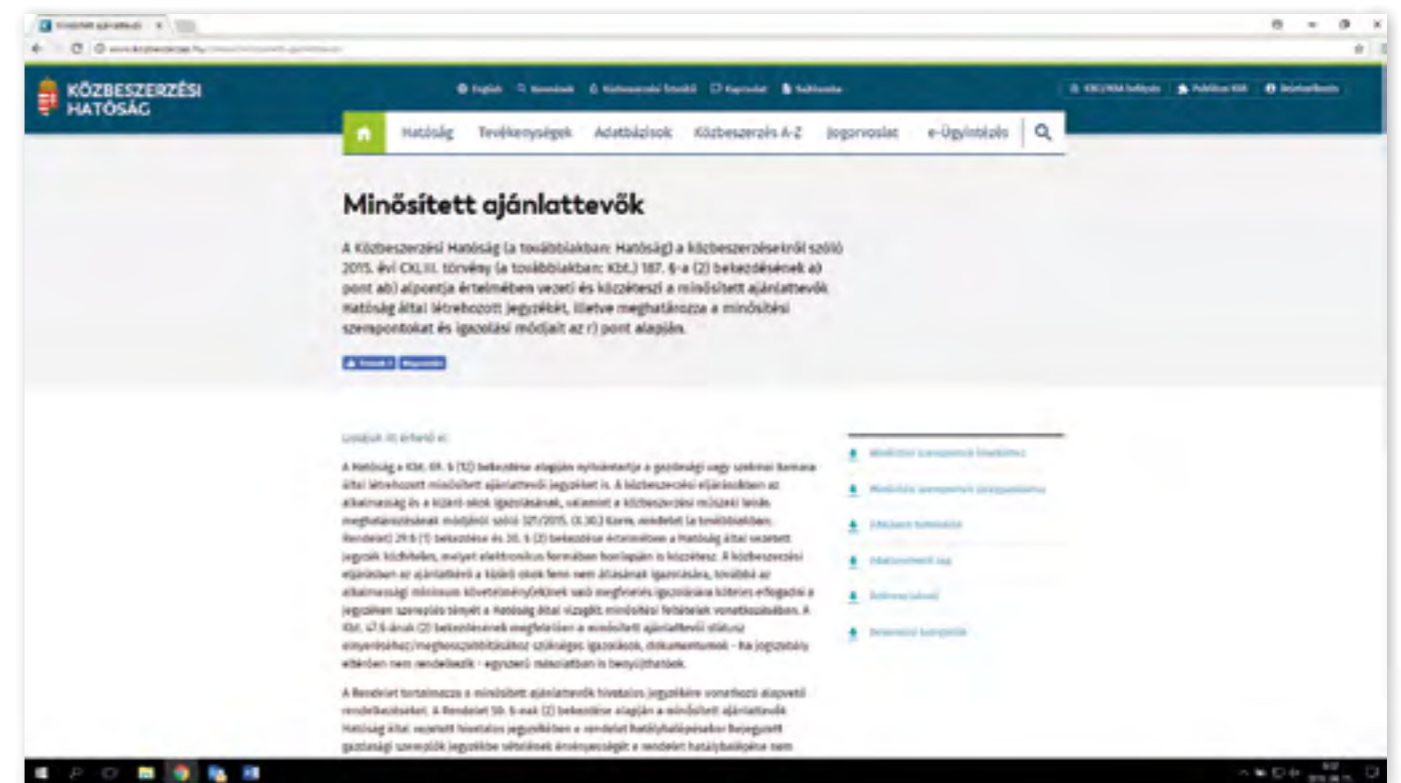
### I.5.5. Other tasks in connection with international relations

In 2017, the colleagues of the Public Procurement Authority attended international public procurement conferences and seminars, to apply the knowledge gained so in their everyday work.

In the reporting period, the Authority took the necessary steps to publish the public procurement related judgements of the European Court of Justice on its homepage. The public procurement related decisions of the European Court of Justice and the General Court were made available to the Authority by the Ministry for Justice of Hungary for this purpose.

### I.6. Keeping lists and registers, providing information to practitioners

#### Official list of approved tenderers



In line with Article 187 (2) a) and ab) of the PPA, **the Authority manages, updates and publishes on its homepage the official list of approved tenderers**, and in line with Article 187 (2) r) the Authority determines the approval criteria and the method of certification. In line with Article 187 (2) c) of PPA, the Authority assesses the adequacy of conditions for being included as approved tenderer in the list drawn up by the economic or professional chamber and maintains such list.



Government Decree No. 321/2015 (30 October) on the way of certifying suitability and the non-existence of the grounds for exclusion as well as the definition of public procurement technical specifications in contract award procedures (hereafter referred to as “the Decree”) specifies the details of the qualified tenderer list.

The Authority is responsible for making a decision on including an economic operator in the list of approved tenderers, as well as for renewing such status, deleting it, or for modifying some data. **On 31 December 2017, a total of 24 approved tenderers were on the list established and maintained by the Public Procurement Authority.**

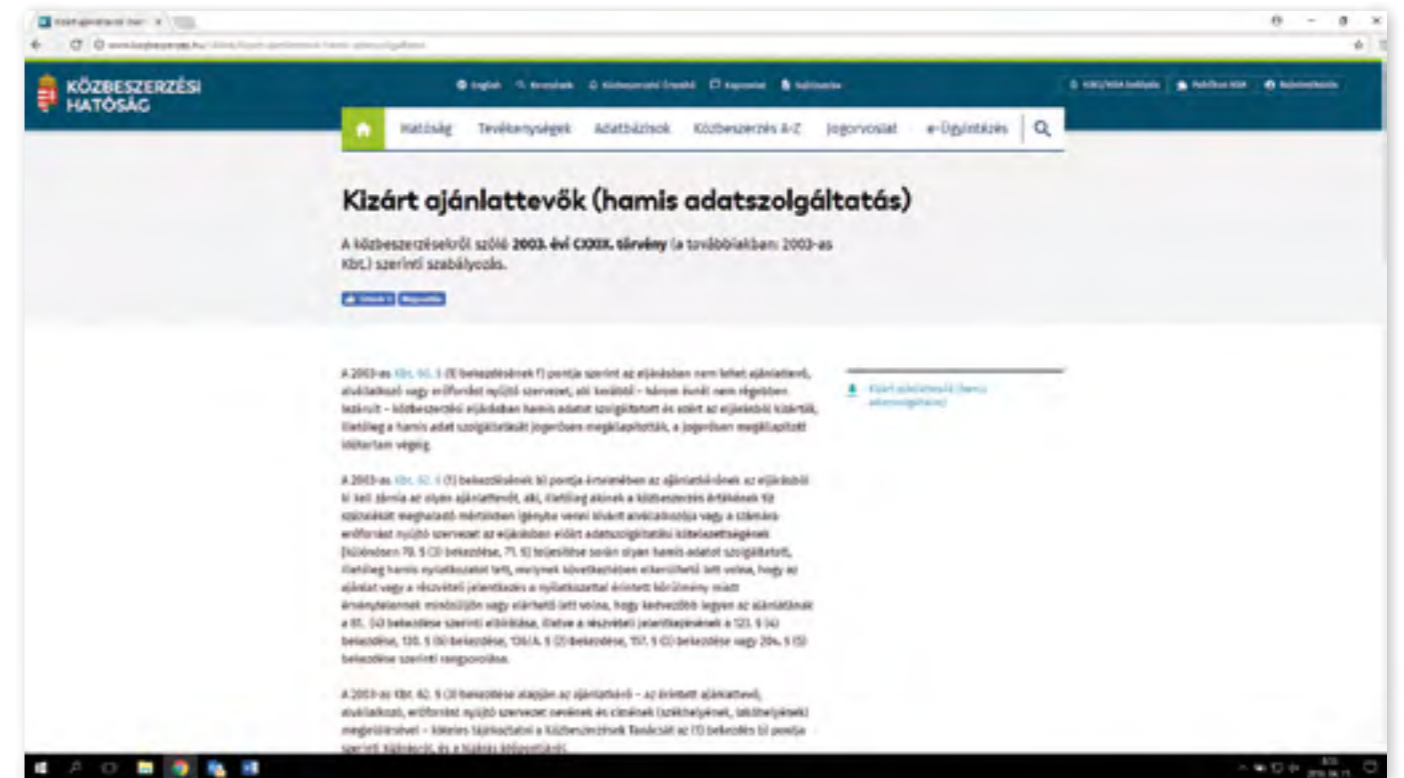
### List of accredited public procurement consultants



Article 27 (3) of PPA sets out that the contracting authority must involve an accredited public procurement consultant in certain public procurement procedures. According to Article 9 of the MvM Decree No. 14/2016 (V 25) **on the activities of accredited public procurement consultants**, the Authority publishes the list and data of accredited public procurement consultants on its homepage.

In connection with the list, a number of phone calls were received regarding both the rules, the legal interpretation, and the method of application.

### Maintaining the list of economic operators excluded from public procurement procedure because of supplying false data, and the list of tenderers excluded from participating in public procurements



In 2017, the Public Procurement Authority maintained and published on its homepage **the list of economic operators excluded from public procurement procedure because of supplying false data or making false declarations, as well as the list of tenderers excluded** from participation in procurement procedures as defined in Article 187 (2) ad) of PPA.

According to the PPA, contracting authorities are obliged to inform the Authority about exclusion and the date of exclusion due to false information or false declaration.

The list is drafted based on the information provided by contracting authorities, that is, the list is not based on a decision made in the framework of a public administration or court procedure. Therefore, the list is merely for informational purposes. Furthermore, in line with the practice of the Public Procurement Arbitration Board, it does not relieve the contracting authority of its obligation to check whether the data provided in the framework of a public procurement procedure is true before making a decision on excluding a tenderer from a procedure.

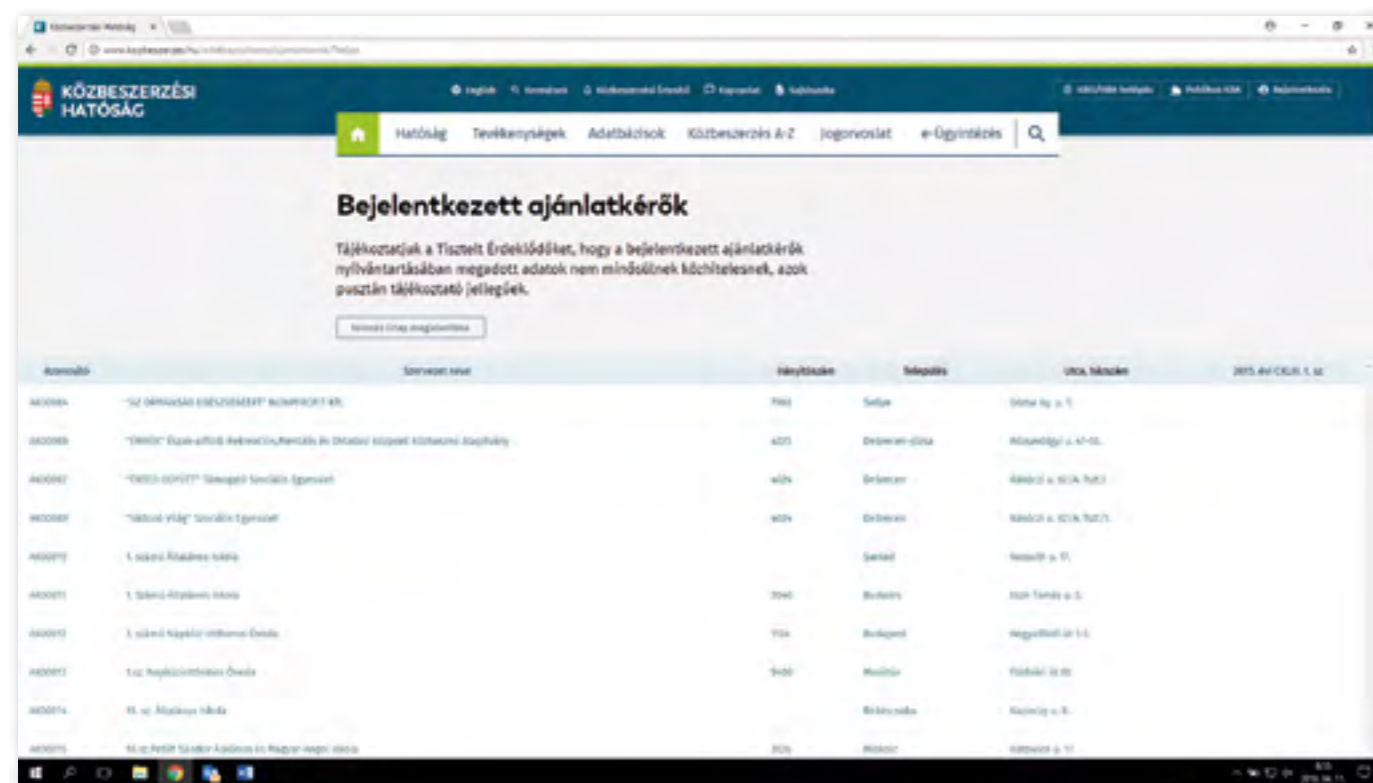
In 2017, the Public Procurement Authority included three organisations in the list of economic operators excluded from a public procurement procedure because of supplying false data.



The list of economic operators **excluded from participating in public procurement procedures** only includes organisations having a binding public administration decision or binding court decision.

The Public Procurement Arbitration Board and the courts dealing with public procurement cases very rarely make a decision to introduce a sanction of excluding an organisation from participating in public procurement procedures. In 2017, the Authority did not register any new organisations in the list; therefore, **no organisations were listed at the end of the reporting period.**

### Maintaining the lists of the registered contracting authorities



In line with Article 26 (1) of PPA, contracting authorities, exception for those referred to in Article 5(2) and (3), shall notify the Public Procurement Authority of their falling under the scope of the Public Procurement Act and any changes in their data within thirty days following the date from which they come under the scope of the Act or from the date of such changes.

Since 18 June 2012, the notification obligation concerning registration, modification of data and deletion can be fulfilled through the Centre Registration System (hereinafter: CRS system). **In the CRS system, registered organisations can maintain their own data and contracting authorities can also manage their authorisations on this application.**

## I.7. Sustainability and innovation

The Authority's objective is to raise awareness to the importance of green and social aspects, and to disseminate information on the opportunities to promote innovative public procurements, on relevant regulations and on best practices and follow the developments in Hungarian and international practice. In view of the importance of this topic, in the framework of the Public Procurement Academy, a conference titled "Sustainability aspects in public procurement procedures", was held in April 2017.

### I.7.1. Green Public Procurement

The Authority seeks to draw attention to the importance of green public procurement by spreading information on it, by publishing studies and other publications on its website and on the "Daily Public Procurement" mobile applications, including the internet newsletter (GPP New-Alert) edited and published monthly by the European Commission's Directorate General for Environment (DG Environment).



In 2017, the Authority continued to play an active role in the work of the **Green Public Procurement Working Group of the European Commission.** In a meeting held in April, representatives of the Member States presented the progress achieved in green public procurement over the previous six months and the Commission reported on the revision of green procurement requirements for certain product groups. In addition to the green procurement working group meetings, the experts of the Authority participated at international conferences and online seminars focusing on public procurement organised by the European Commission. Based on the discussions in the working group, the Public Procurement Authority prepared a questionnaire on the practical application of green requirements. In addition, we contacted the Green Working Group of the Public Procurement Advisors' Association of Hungary to channel the most extensive practical experience. On the basis of the Authority's questionnaire-based survey and the professional opinion of the working group, the Authority submitted a summary report to the Commission concerning the Hungarian practice on the use of green public procurement requirements.

Based on the authorisation of Article 78 (4) of the PPA, the Authority prepared its guideline on lifecycle cost calculation methodologies, which was adopted by the Council functioning in the framework of the Authority in March 2017.

The objective of this guideline is to support contracting authorities to use lifecycle cost calculation during the evaluation in their public procurement procedures.



In 2017, the Public Procurement Authority has also responded to several surveys on green and sustainable public procurement; including inter alia answering questions from Italy on lifecycle costs in the framework of a comprehensive study among the Member States.

## I.7.2. Social aspects in public procurement

Since 1 January 2012, the Public Procurement Authority has collected statistical data on the social aspects applied in public procurement procedures. In the notice on the results of the procedure contracting authorities are obliged to indicate the results of a national procurement procedure, whether they have considered social aspects. In addition to the collection of statistical data, in 2017, the Authority organised **an internal sensitising workshop** with the help of **the Association of Persons living with Disability in Budapest**; our colleagues were able to familiarise themselves with the concept of universal design, as well as with the aspects of people with disabilities in connection with public procurement. **A representative of the Association was an invited speaker at the Authority's Sustainability Conference in April.**

In May 2017, a representative of the Authority gave a presentation at the V4 plus Warsaw Public Procurement Expert's meeting on the current state of social public procurement in the Hungary. At the international conference organised by the Public Procurement Authority, participants received more information about social aspects and universal design.

## I.7.3. Innovative Public Procurement

The Public Procurement Authority attaches high importance to supporting and enhancing innovative public procurements, therefore, it publishes (in a separate menu point) the practical tools, useful links and best practices of the European Union and regularly publishes them on the "Daily Public Procurement" mobile application.

In 2017, in addition to the above, **the colleagues of the Authority participated in several Hungarian and international platforms dealing with sustainability and innovation, both as participants and as speakers.**

On behalf of the European Commission, PricewaterhouseCoopers conducted a comprehensive survey in 2017, titled "Strategic Use of Innovative Public Procurement in the Digital Economy". The Authority completed the questionnaire with the cooperation of the Public Procurement Departments of the Prime Minister's Office.



## II. TASKS OF THE PUBLIC PROCUREMENT AUTHORITY PERFORMED VOLUNTARILY

### II.1. The Authority's anti-corruption activities

It is a priority task of the Authority to promote the integrity-based, transparent and accountable public spending and to promote regular, effective and efficient management of public funds and public assets.

On the 18th of November 2011, upon the initiation of the State Audit Office, the Minister for Public Administration and Justice, the Prosecutor General, the President of the Supreme Court and the State Audit Office signed a **joint declaration**, in which they made a moral commitment to **increase the efficiency of anti-corruption, to improve the anti-corruption methods and to strengthen anti-corruption attitudes in the public bodies they govern.** The declaration was later joined by the President of the National Judicial Office and the Ministry of Interior, and in 2016, the Public Procurement Authority and the National Bank of Hungary also expressed their intention of consent. Over the past period, the Authority has paid particular attention to strengthening its resistance to organised corruption, **in view of this, the entire IT system of the Authority has been reviewed.**



The Public Procurement Authority introduced new information security technologies, in which a more efficient firewall was built and a new log analysis system was introduced. In addition to the above, the Authority's INSIDE procurement support system has been reviewed and further developed, resulting in a high degree of transparency and traceability of procurement processes.

Although the Public Procurement Authority does not fall under the Government Decree No. 50/2013 (II.25.) on the System of Integrity Management at Public Administration Bodies and the Procedural Rules of Receiving Lobbyists, it also considers it important to strengthen integrity and to raise awareness of anti-corruption behaviour among its colleagues. In the light of the above, one of our colleagues participated in the specialist training on Integrity Advisory provided by the National University of Public Service.

In order to mitigate and prevent public procurement corruption, the Public Procurement Council functioning within the framework of the Public Procurement Authority adopted a **Public Procurement Code of Ethics** at the end of 2012, which entered into force on 1 March 2013. The Code of Ethics has the main aim to give guidance to public procurement actors – both contracting authorities and economic operators – on how to act in an ethical manner during public procurement procedures, thus, contributing to the efficient spending of public funds, to the protection of public assets





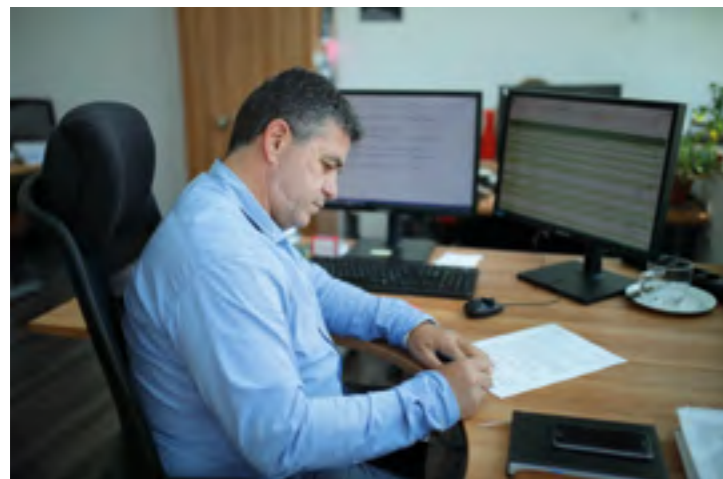
and to the transparency of public procurement procedures. The Authority reviews the provisions of the Code at least every six months and, and updates its content, should it deem necessary.

At the request of the International Training Centre, the colleagues of the Authority participated as speakers in the anticorruption training organised for the National Protecting Service.

In line with Article 325 (5) of the Treaty on the Functioning of the European Union (TFEU), the European Commission, in cooperation with the Member States submits an annual report to the European Parliament and the Council on the measures introduced in order to protect the financial interest of the EU. This report is prepared based on the responses of the so-called "Article 325 questionnaire". A questionnaire developed by OLAF was also filled out by the Authority in 2017, at the request of the OLAF Coordination Office of the National Tax and Custom's Administration.

In 2017, **the lawfulness of negotiated procedures without prior publication was strictly enforced.**

In 2017, contracting authorities initiated a total of 870 negotiated procedures without prior publication, which decreased by 45% compared to the number of procedures launched in 2016.



On the basis of the amendments of the PPA, which entered into force on 1 January 2017, the President of the Public Procurement Authority makes a substantiated decision, stating the detailed reasons, based on which it can be clearly established whether the legal basis for using a negotiated procedure is justified. The Public Procurement Authority's decisions are published on its website to ensure transparency. In addition, contracting authorities are also obliged to make all relevant documents available, ensuring 100% transparency of public procurement procedures.

In addition to legal restrictions, practical restrictions have also been implemented. **The President of the Authority drew the attention of public procurement actors through information provision and communication to the increasingly strict controls.** During the activity of the Public Procurement Authority, emphasis was placed on continuous information provision to the general public. In this context, it informs stakeholders through communications, briefings and conferences about the methodology of strictly enforced review of legality and the control experience.

By reducing the number of negotiated procedures without prior publication, the use of a procedure ensuring competition is increasingly widespread. To ensure this, the Public Procurement Authority will endeavour, through all means at its disposal, to continuously reduce the number of negotiated procedures without prior publication in the coming years.

### II.2. Cooperation with monitoring and professional organisations

#### II.2.1. Cooperation with monitoring organisations

The Public Procurement Authority continues to strive acquiring new ideas and perspectives in the performance of its controlling tasks. In this regard, the Authority's experts responsible for controlling the contracts continued to consult the Competition Authority during 2017 so that anti-competitive practices can be detected and reported to the Competition Authority more effectively. Our colleagues regularly consult with the investigating authorities, including the National Police Headquarters and the National Tax and Customs Administration. The purpose of the consultations was to elaborate practical solutions, experiences and to exchange experience for more effective detection of the violation of the law and to establish the conditions for future joint inspections.

#### II.2.2. Professional cooperation agreements

In 2016, the Authority decided to co-operate more closely with relevant professional bodies, by concluding cooperation agreements. In 2017, the number of agreements continued to grow, mostly with the government offices that require professional support and offer conferencing facilities.

The Authority facilitates the exchange of information and best practices, holds presentations in the field of public procurement.

In 2017, cooperation agreement was signed with the following organisations:

- Government Office of Heves County,
- Government Office of Csongrád County,
- Government Office of Győr-Moson-Sopron County,
- Government Office of Zala County,
- Government Office of Nógrád County,
- Ministry of Foreign Economy and Foreign Affairs,
- Association of people living with disabilities in Budapest,
- Public procurement authorities in the V4 countries.



The above bodies joined the following already cooperating organisations:

- the National Archives of Hungary,
- the National Association of Public Procurement Advisors,
- the Association of ITC Enterprises,
- the Hungarian Energy and Public Utility Regulation Office,
- the National Waste Management Coordinating and Asset Management Inc.,
- the Hungarian Academy of Science,
- the Association of Cities with County rights,
- the Hungarian State Treasury,
- the Young Entrepreneurs Association of Hungary.



### II.3. Modern public service

#### II.3.1. "Service providing Authority"

The Authority pays particular attention to the practical implementation of the public service principle. We need to provide modern, professional services that meet the expectations of the 21st century, so we are committed to strengthening public service engagement and providing strategic support to those enforcing the law.

In order to implement the concept of a "service providing Authority", the Authority creates an environment for public procurement actors, where they can get all the support they need to conduct their procurements lawfully and efficiently and they have equal opportunities to participate in a strict system of public procurement procedures.

Through its efforts launched in 2016 and now with additional objectives, the Authority seeks to develop, in an innovative way, a clear public procurement system. The homepage [www.kozbeszerzes.hu](http://www.kozbeszerzes.hu) was improved, the mobile application called Daily Public Procurement was introduced and the Authority appeared on social media. In implementing the concept of "service providing Authority", the focus is not on the Public Procurement Authority as an institution, but on the entire public procurement system.

#### II.3.2. Daily Public Procurement mobile application

In May 2017, the Public Procurement Authority has launched a new communication channel, a mobile application called the Daily Public Procurement, which meets the expectations of our time. By the end of 2017 it was downloaded by nearly 4500 users.

The purpose of the application is to provide a wide range of information to users and to provide practical assistance in conducting successful public procurement procedures. The **free, downloadable application** offers customisable features in a user-friendly system and in an easy-to-understand way for those interested to find out about up-to-date rules and basic information about public procurement. Furthermore, it provides practical assistance to contracting authorities for successful procurement procedures and for bidders to successfully bid. With the application, everyone can learn about the published notices every day. The information is sent on a daily basis by a "push" message to subscribers to that service.



The application is constantly being developed in order to increasingly adapt to user needs.

A fundamental requirement was a customer-oriented approach and clarity from the very beginning of the application development. These principles were also maintained in the further development of the concept:

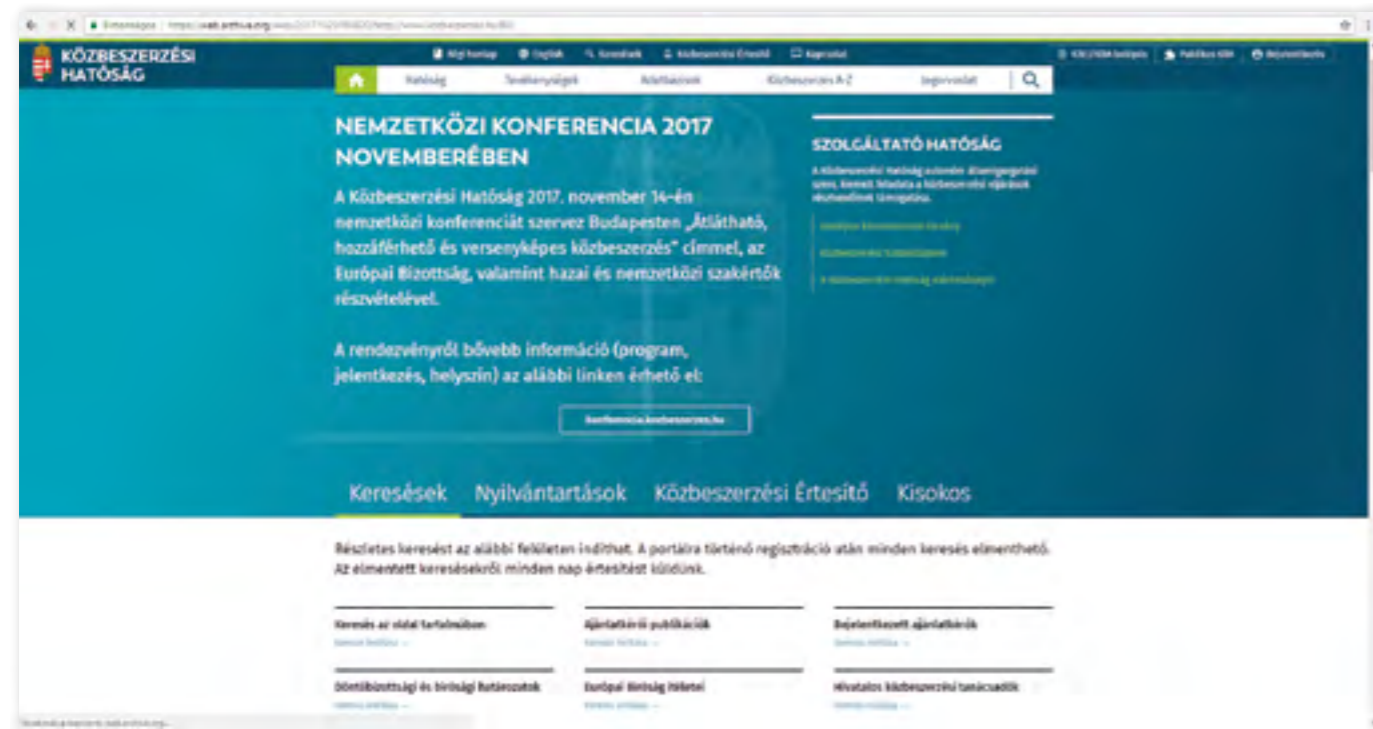
- by expanding the search function, users can search for notices based on pre-set parameters, similarly to the [www.kozbeszerzes.hu](http://www.kozbeszerzes.hu) homepage, and also
- the so-called "Manager Notification" menu point will be launched, which will promptly notify subscribers upon the launch of relevant procedures,
- according to the further development plans, contracting authorities will be notified in the future about the publishing of their notices and the decisions of the Public Procurement Arbitration Board.

The Authority is committed to deepening its co-operation with other professional organisations and will therefore in future give the opportunity to interested organisations to publish their relevant content on public procurement. The objective of this mobile application is to provide fast and flexible electronic service.



### II.3.3. The renewed portal service of the Public Procurement Authority

According to Hungarian legislation, the official website of the Authority must comply with a wide range of provisions on content.



**We consider online tools as a strategic field:** updating the Authority's website also serves the purpose of improving customer-friendliness. The goal of the Authority was to create a public service interface that was transparent and easy to handle, based on visitor behaviours and needs, which can also be used for mobile devices.

The new website makes the most commonly used functions easy to use by keeping the previous content in a modernised and clear, simple menu system, which makes the Authority's website, [www.kozbeszerzes.hu](http://www.kozbeszerzes.hu) a very useful service.

During the development of the portal, the content structure serving general user needs and a modern (responsive) appearance were developed, in addition to the further development of the Authority's characteristic public image. The portal includes best practices inspired by Anglo-Saxon public service, such as glossary, system level information, and explanatory texts for all content.

### II.4. Corporate social responsibility



The colleagues of the Authority feel obliged to help the vulnerable and those in need throughout the year. Besides their daily work, our colleagues were able to take part in the charity work several times during the year. During the summer season, some colleagues were assisting sick children in summer camps, while during the Advent period, we have tried to create a beautiful Christmas atmosphere with our donations to the young people in need of the St. Elisabeth Children's Home in Szászváros. In 2017, many of our colleagues joined our initiative launched in 2016 and donated a total of 12 bags of shoes and cloths, nearly 80 liters of toiletries, 3 bags of toys and other donations.

The joy caused jointly to the children will strengthen our performance and enhance internal cohesion.





### III. ORGANISATIONAL UNITS SUPPORTING THE PROFESSIONAL WORK OF THE AUTHORITY

#### III.1. IT development projects

In 2017, the Public Procurement Authority started and completed a number of major projects, partly related to the tasks incurred in the field of e-public administration/case management launched in 2016, and partly to the new demands generated by the changed legal environment.

As a result of the effective preparations for the introduction of the Electronic Public Procurement System (hereinafter referred to as the "EPPS"), the system was implemented successfully, and the interface between the EPPS and the former Public Procurement System has also been successfully launched.

At the same time, the technical basis for submitting notices to the European Union has been radically updated, making the process more reliable and mutually more informative.

These two development projects make it possible to keep the data of the notices published in the Official Journal of the EU (TED) be maintained from the date on which it is dispatched until the publication of the notice.

Based on the experience gathered over the years, the colleagues of the Authority have helped and continued to support the EPPS-related IT development work of the Prime Minister's Office, in the form of gathering information, testing and solving problems in connection with notices.



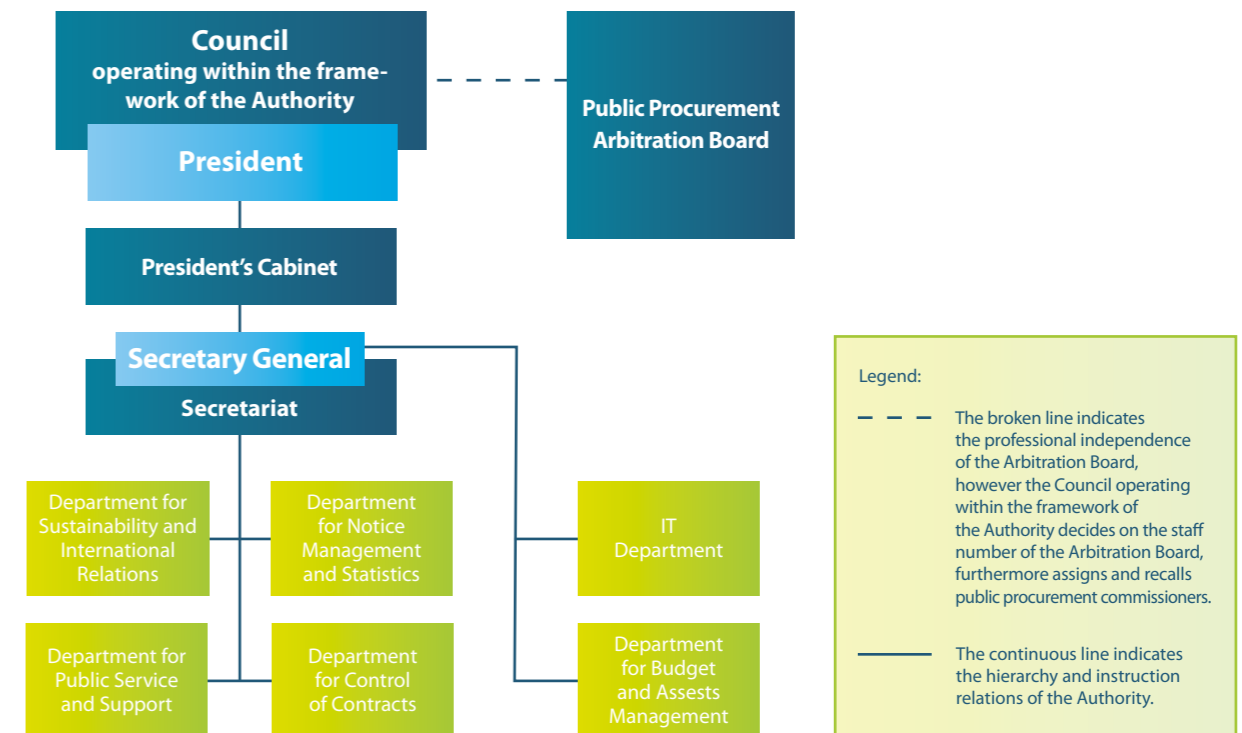
In 2017, the **CoRe (Contract Register) contract registration system** was developed and implemented, in order to promote transparency. Contracts concluded **after 1 January 2018 will no longer be uploaded to the Public Procurement Database (PPDB), but to the CoRe.** This system provides the opportunity to search in data provided by users and in

the content of contracts PDF-format that can be processed in a quality manner. Information gathered over time can also be used to facilitate audit tasks in the Authority's future audit system

### III.2. Human resources data – 2017 was a year of stability

In 2017, the primary objective of the Authority's management was to strengthen the organisational structure established in 2016, partly by recruiting new staff, while ensuring the stability of the staff.

The aforementioned objective has been achieved; while in 2016, the Authority had 62 persons leaving or recruited, in 2017 this figure fell to half, to 31 and the number of leaving colleagues dropped from 27 to 10.



### III.3. Budget of the Public Procurement Authority

In 2017, the Authority, as a budget chapter and institution, had **2,046.1 Million HUF own revenues, 140.5 Million HUF allocation from the national budget and a balance allocation of 1,149.6 Million HUF** remaining from the year 2016 that was approved in 2017.

**The own revenues** were generated from notice management and publication fees, as well as **public administration service fees** in connection with arbitration procedures and fees paid for listing approved tenderers. This revenue was solely spent on financing the Authority's basic duties.



The ratio of state support compared to own revenues amounted to 6.9% in the reporting period. Revenues related to the power of the state are of major importance; this amount showed a significant increase in 2017 compared to 2016, accounting for 158%.

The Authority's **annual budget** for 2017 was subject to internal reallocations as a result of the utilisation of the balance funds from previous years and the demands in connection with the implementation of the budget.

The **budget allocations** are presented in the following table:

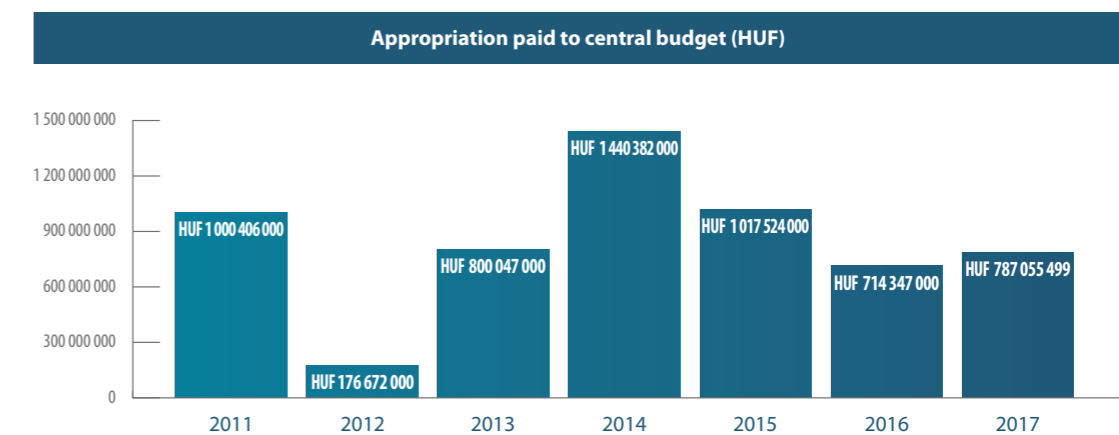
Description	Expenditure	Revenue	Support	Staff expenditure	Approved head count (persons)
Appropriation according to the Act XC of 2016	1,800.9	1,660.9	140.0	788.7	127
Modifications according to budget items *					
Balances subject to liability from 2016 Government Decree No. 1775/2017. (XI.7.)	380.9	380.9			
Free balance from 2016.	768.7	768.7			
Salary compensation based on Government Decrees No. 432/2016. (XII.15.) and No. 1301/2017. (VI.7.)	0.5		0.5	0.4	
Decreases of the appropriation due to less revenues in the national budget Article 30 (3) of Act on National Budget	385.2	385.2			
Modified appropriation of 2017.	3,336.2	3,336.2	140.5	789.1	127

Description	Fact 2016	Original appropriation in 2017	Modified appropriation according to act in 2017	Modified appropriation in 2017	Fact 2017	5/1	5/4
	1.	2.	3.	4.	5.	6.	7.
	in HUF Million, one decimal point					In %	
Expenditure	2,060.7	1,800.9	-	3,336.2	2,426.5	117.8	72.7
out of which staff expenditure	580.1	788.7	-	789.1	753.1	129.8	95.4
Revenue	1,295.3	1,660.9	-	2,046.1	2,046.1	158.0	100.0
Support	140.6	140.0	-	140.5	140.5	99.9	100.0
Allocation balance	1,149.6	0	-	1,149.6	909.7	79.1	79.1
Headcount (persons)	93	127	-	127	100	107.5	78.7

The original appropriation for the Authority's headcount for 2017 was 127, which remained unchanged during the year. Taking into account the colleagues with a contract of services and the part-time employees, by the end of 2017, the labour law headcount was 110, with 100 people fully employed.

The balance sheet total of the **assets and liabilities** declined by 13% compared to the previous year. As regards to assets, the volume of funds decreased significantly. Based on the Government Decisions No. 1621/2017 (IX. 7) and No. 2067/2017 (XII. 27) on the reallocations of the appropriations a total of HUF 620.7 Million of balance appropriation not subject to debt were withdrawn from the Authority, which was transferred to the central budget. As regards to liabilities, the value of own capital decreased with the amount of the negative balance sheet profit.

In 2017, the Authority generated 909.7 Million HUF **appropriation balance**, out of which 563.4 is subject to liabilities, so, the free balance amounts to 346.3 Million HUF.



From the **finances imposed** by the Arbitration Board 570.4 Million HUF has already been paid and **was transferred** by the Authority to **the central budget at the balance sheet date**. In 2017, nearly HUF 200 million additional amount was paid, which is about one and a half times higher than the amount generated in 2016.

## IV. OBJECTIVES FOR 2018

### IV.1. Sustainable public procurement program

#### 2018 THE YEAR OF SUSTAINABLE PUBLIC PROCUREMENT



The Public Procurement Authority has been following the relationship between sustainability and public procurement for many years, both in terms of international trends and the development of national legislation. One of the Authority's main task is to inform

the interested parties about the possibilities of promoting green, social and innovative public procurement, about the relevant international and national regulations, and about best practices. Since this theme is extremely relevant and important, the Authority launched a program entitled "Year of Sustainable public procurement" in 2018, which aims to disseminate procurement practices conducted responsibly, in consideration of future generations.



Within the framework of the "Year of Sustainable Public Procurement" program:

- conferences are held on green, social and innovative public procurement as well as on circular economy;
- in order to acknowledge and present best practices of sustainable public procurement, the Authority establishes a Public Procurement Prize;
- by launching a Sustainability Award for studies, papers and theses on sustainable public procurement and enables the publishing of the winners' studies in the Hungarian Public Procurement Professional Journal. The Authority also intends to contribute to raising awareness of the importance of sustainability considerations;

- the Public Procurement microsite for sustainability will be launched;
- the Authority intends to act in the spirit of sustainability during its own activities, and therefore it will adopt its own internal sustainable procurement policy.

### IV.2. Increase the quality of communication channels

Effective and credible external communication is essential for the Authority, to this end, in addition to the mandatory statutory tasks, it is important to adjust the content and the communication channels and tools to the habits and expectations of public procurement practitioners.

Thanks to technological advances and the widespread use of the Internet, communication with users and procurement practitioners increasingly takes place on electronic interfaces. Functioning and providing service in electronic form creates new requirements for the Authority both in terms of professional content and information security.

#### IV.2.1. Enhance the level of clarity

The increase in the level of clarity in our communication is one of the cornerstones of the success of the Authority, as the lack of comprehension impedes not only understanding of the law and access to the law, but at the same time obstructs the objective of public procurement legislation and procedures.

In view of this, publicity, service provision approach, spreading information on the activities of the Authority as well as easy access to our documents were defined as basic values of our modern public service attitude.

We paid attention to use **user-friendly and easy-to-understand** wording on the various **Internet surfaces**; on the Authority's official website, in the social media and in our phone application.

Through the new channels of communication, a large number of communications and shared news provided information about the Authority's activities over the past year, thus significantly increasing the awareness of the wider public.

The Public Procurement Authority has set itself the goal of creating clear, articulate professional materials that are devoid of complex sentence structures, confusing word order, unstructured and unnecessary jargon, thus facilitating understanding. In the spirit of maintaining balance, clarity cannot affect professionalism, so the prepared materials do contain the precise legal terminology.

### IV.2.2. Communication Objectives

In 2018, which year is dedicated to sustainable public procurement, the Authority has foreseen additional online appearances for green, innovative, social public procurement. The essential development direction of our portal continues to be the effective presentation of our organisation as a “service providing Authority”. In order to achieve this, infographics will be elaborated to illustrate the procurement types to users.

In view of the provisions of Act CL of 2016 on the General Public Administration Procedures, which entered into force on 1 January 2018, the mode of correspondence in connection with public procurement cases will shift towards electronic means.

### IV.3. Raising the fight against corruption to a new level



Since 2016, the Public Procurement Authority has been a party to a joint declaration initiated by the State Audit Office aiming to increase the effectiveness of the fight against corruption, to expand its toolkit and to coordinate efforts to increase the institutions’ resistance to corruption.

At the end of each year, the parties joining the anti-corruption declaration report on their annual anti-corruption activities at an event.

### IV.4. Support for the Electronic Public Procurement System

From the 15 April 2018, contracting authorities are required to upload their notices to EPPS, which will be automatically forwarded to the Electronic Notice Management System (ENMS) managed by the Authority. The process is similar in the case of information provision concerning negotiated procedures without prior publication. The colleagues of the Authority are also responsible for tasks related to the design and testing of the interface, which requires IT and other professional capacities and a continuous standby.

Uploading notices from the EPPS to the Public Procurement Bulletin and TED remains the sole responsibility of the Authority. In order to ensure that this task functions smoothly, all the Authority’s colleagues involved pay particular attention to support the fault-free launch of the EPPS both from the professional and technical aspects.

In connection with the introduction of the EPPS, the Authority implemented the CoRe (Contract Register) contract management system on 1 January 2018, which serves as a database of contracts concluded as a result of public procurement procedures and is now able to provide sufficient source data for extracting statistical data. The system will replace the Public Procurement Database and will provide users with a user-friendly search interface and assist the Authority’s contract monitoring work. The CoRe-EPPS interface needs to be developed in parallel with the EPPS, thus ensuring a smooth transition for both systems.



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