IMPIC
Instituto dos Mercados Públicos do Imobiliário e da Construção

GOVERNO DE PORTUGAL

Public Procurement in Portugal

2016

TECHNICAL DATA

Title:
Public Procurement in Portugal 2016

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Figures in this report for which the source indicated is the "BASE portal" (www.base.gov.pt) are based on data taken from said portal in May 2017.

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Abbreviations

ACT	Above Community thresholds
PCC	Public Contracts Code
CPV	Common Procurement Vocabulary
GFCF	Gross fixed capital formation
ICPEP	Electronic Public Procurement Index in Portugal (Índice da Contratação Pública Eletrónica em Portugal))
$MI_{(act))}$	Manchester Index (above Community thresholds)
IMPIC	Instituto dos Mercados Públicos, do Imobiliário e da Construção (Institute of Public Procurement, Real Estate and Construction)
INCM	Imprensa Nacional Casa da Moeda (the Portuguese Mint and Official Printing Office)
OJEU	Official Journal of the European Union
EP	Electronic Platforms
GDP	Gross domestic product
pp	Percentage points
SMEs	Small and medium-sized enterprises
EM	EUR million

1. Introduction

As in previous years[1], the Institute of Public Procurement, Real Estate and Construction (hereinafter referred to as "IMPIC", from **I**nstituto dos **M**ercados **P**úblicos, do **I**mobiliário e da **C**onstrução) is presenting the 2016 annual report on public procurement in Portugal, which is designed to disseminate the key indicators on public procurement and provide a better insight into this field.

This report was made possible thanks to the BASE portal, which was created in the framework of the reform introduced in public procurement in 2008, namely as regards the mandatory conduct of procurement procedures through electronic means, and constitutes the repository of public contracts.

By receiving information from contracting authorities (either directly or through authorised e-procurement platforms), the BASE portal is an important tool for ensuring not only transparency in the use of public money but also the monitoring of public procurement, thus enabling a factual knowledge of public contracts.

Nevertheless, the innovative nature of this portal in the field of public procurement still leaves room for widening its role in this area. Actually, the weight of the contractual amounts of public contracts reported to the portal in relation to the GDP[2] and to budgetary implementation[3], on the one hand, and the number of contracting authorities who have reported their contracts[4], on the other, make us believe that some under-representativeness still exists.

Drawing on the entry into force of Decre-Law No 111b/2017 of 31 August 2017 (transposing the 2014 public produrement Directives into national law[5]), it is time to reshape the portal in order to enable a better public understanding of public procurement and increase the information available for decision-making on public policies.

The collection of information on excluded procurement and simplified direct awards, the increase in the life cycle of public contracts for which information is collected[6], the broader use of structured collection of information, the management of contracting authorities, and the inclusion of physical indicators, on the one hand, and the development of the project for setting up the National Register of State Suppliers, on the other hand, are important factors that may

[1]Reports for 2010, 2011, 2012, 2013, 2014 and 2015 are available on the IMPIC's website (http://www.impic.pt/impic/pt-pt/relatorios-e-dados-estatisticos/relatorios-de-contratacao-publica) and on the BASE portal (http://www.base.gov.pt/Base/pt/Relatorios).
[2] See item 3.1.2.
[3] See item 3.1.4.
[4] See item 9.1.1.
[5] Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of 28 March 2014.
[6] For example, on complaints and challenges.

help make a relevant qualitative leap towards better information and knowledge on public procurement.

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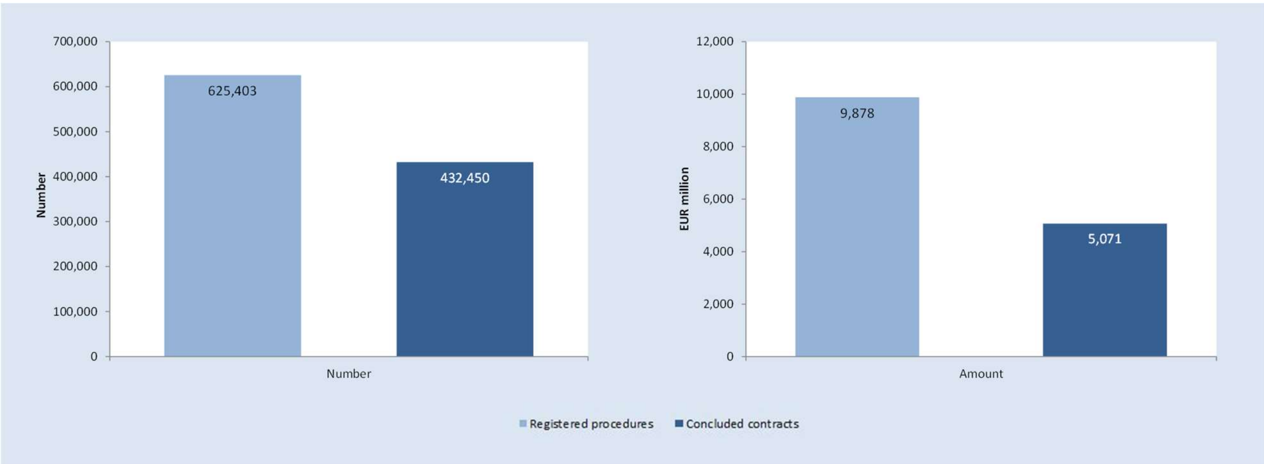
2. Electronic Public Procurement in Portugal

The number of procedures reported to the BASE portal in 2016 totalled 625,403[7] and their basic price[8] amounted to EUR 9,878 million. In the same period, the number of contracts concluded and reported to the BASE portal – irrespective of the year in which the procedure was launched – was 432,450, corresponding to EUR 5,071 million in terms of contractual values.

Graph 1 – Public procurement in 2016



Source: BASE portal (May 2017)

2.1. The Electronic Public Procurement Index in Portugal (ICPEP)

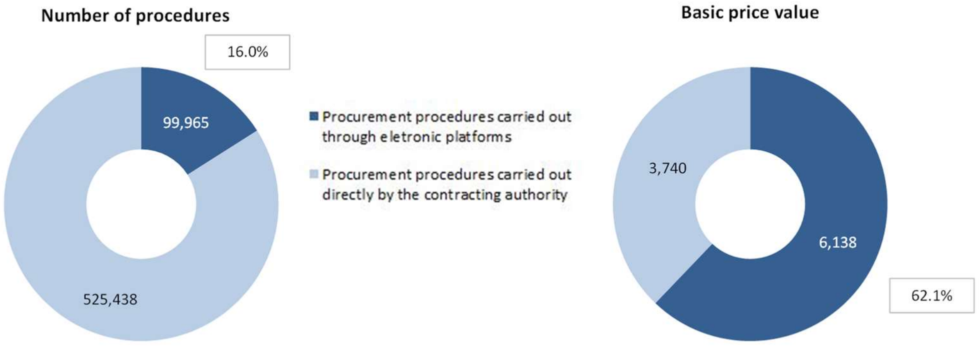
Among the procedures launched in 2016, those that were carried out through one of the seven electronic platforms authorised for public procurement[9] represent 16.0%, which largely reflects the fact that carrying out direct award procedures through a platform is not mandatory.

[7] This number includes all procurement procedures, namely the simplified direct awards.

[8] The maximum price the contracting authority is willing to pay for the performance of all services constituting the subject-matter of the contract, including direct awards (Article 47(1) of the Public Contracts Code).

[9] Platforms of companies certified by CEGER – Centro de Gestão da Rede Informática do Governo, the management centre for the Government computer network.

Graph 2 – Electronic public procurement in Portugal in 2016: the weight of the number of procedures carried out in Portugal[10]



Source: BASE portal (May 2017)

The weight of the procurement procedures carried out through electronic platforms was more significant if we consider the monetary values inherent in those procedures: the sum of the basic prices of the procedures carried out through public procurement platforms represented 62.1% of the sum of the basic price of all the procedures launched in 2016.

Therefore, the Electronic Public Procurement Index in Portugal (ICPEP) – an index designed to monitor the weight of the public procurement procedures carried out through platforms that at present are duly authorized to that effect – was 62%.

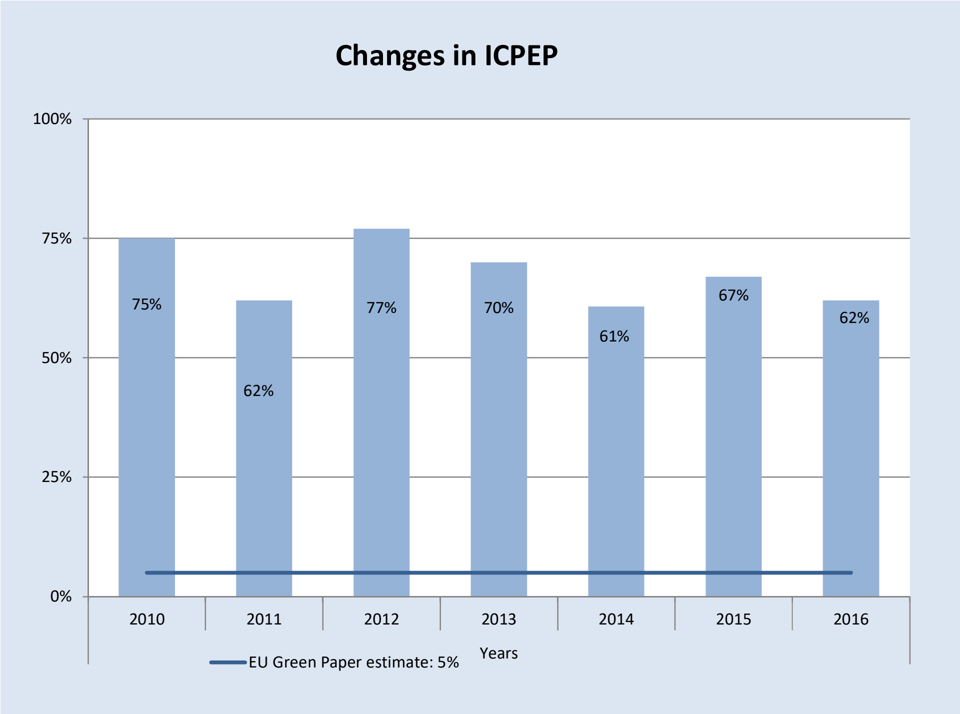
ELECTRONIC PUBLIC PROCUREMENT INDEX IN PORTUGAL ICPEP (total), in 2016

ICPEP 2016$_{(total)}$=62%

Although the value of this index was higher in 2016 than in 2015, it is nevertheless a very positive value, as it largely exceeds the 5 % estimated in 2010 in the Green Paper on the use of e-Procurement in the EU[11].

[10] Comparing with the preceding years (2010 and 2011), there was a change in the calculation of the ICPEP: instead of using as a criterion the number of contracts concluded in the relevant year, we used the number of procedures launched in the relevant year.
We believe this approach is more appropriate for two reasons: *i)* first, because when you use the number of contracts you have to consider the procedures launched in previous years, when the use of electronic platforms was not supposed to be very frequent; *ii)* second, because the use of the number of concluded contracts would not take into account those procedures that had been launched but did not lead to a contract (which does not mean that there had been no procedure at all or that it had not been conducted through an electronic platform).
[11] Green Paper on expanding the use of e-Procurement in the EU - SEC(2010) 1214 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0571:FIN:EN:PDF).

Graph 3 – Changes in ICPEP



Since competitive procedures[12] must be carried out through electronic platforms for public procurement purposes, this indicator depends on the evolution of the procurement procedures launched under direct awards – which saw an increase in their relative weight (see item 3.5.2) – as for these procedures the use of a public procurement platform is at the discretion of the contracting authority.

2.2. MANCHESTER INDEX (ABOVE COMMUNITY THRESHOLDS)

In the Manchester commitment made in 2005[13], Member-States established that by 2010 at least 50 % of public procurement above the EU thresholds would be carried out electronically.

The calculated value of the Manchester Index for 2016 indicates that it largely exceeds the agreed target, reaching 96%.

[12] Open procedures and restricted procedures.

[13] Ministerial Declaration approved on 24 November 2005, in Manchester, United Kingdom, on the occasion of the Ministerial eGovernment Conference “Transforming Public Services”.

Table 1 – Calculation of the Manchester Index for Portugal

2016	Valores Contratuais
Contracts published in the OJEU	1,933,769,212 €
Direct awards above Community thresholds not reported to BASE	71,376,297 €
Manchester Index	96%

Source: OJEU

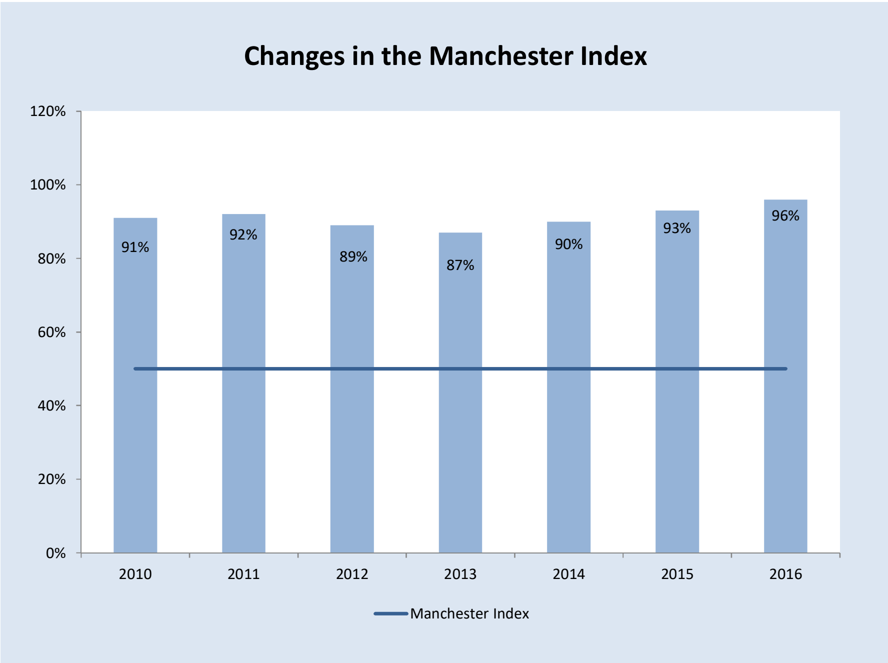
MANCHESTER INDEX (ACT) for 2016

MI 2016$_{(act)}$ =96%

ACT: above Community thresholds

It should be noted that our country has been steadily exceeding that target since 2010, as shown in the graph below.

Graph 4- Changes in the Manchester Index



The value established for the Index in 2016 (showing a slight increase of 3 pp when compared to 2015), still meets and exceeds by far the target established by Member States in 2005.

As with ICPEP, the Manchester Index value also depends on the use of electronic platforms by the contracting authorities for direct award procedures.

Whereas the use of electronic platforms enhances transparency and even facilitates the accountability of decision-makers, a higher value in those indexes would be an indicator of a better performance in public procurement. That can be obtained by spreading their use (including in direct award procedures) and/or by changing the rules on the use of direct award procedures (namely by changing the upper limit value for the use of direct awards, or by introducing an intermediate threshold beyond which consulting more than one supplier and/or using the platforms would become mandatory).

Moreover, it should be highlighted that the EU directives now enshrine this idea, by recognising that "*Electronic means of information and communication can greatly simplify the publication of contracts and increase the efficiency and transparency of procurement processes*." and making mandatory the "*…communication by electronic means at all stages of the procedure …*"[14], after a transition period of 30 months, until 18 April 2018[15].

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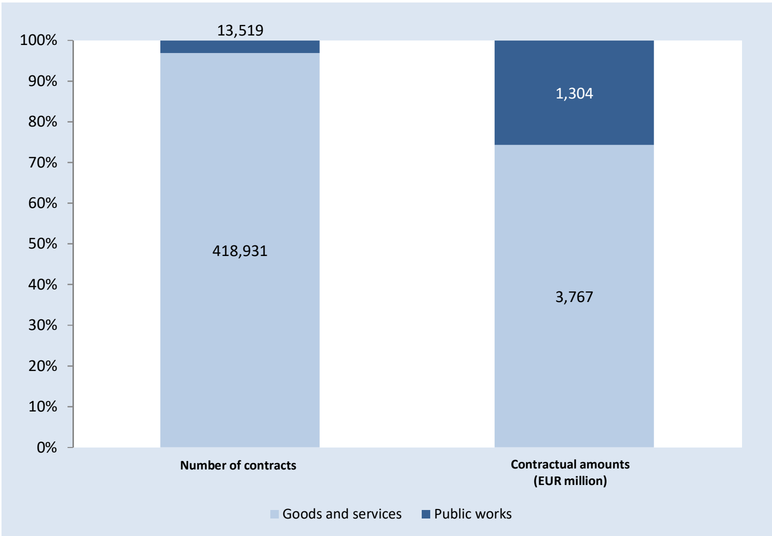
[14] Recital 52 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

[15] See Articles 22(1) and 90(2) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014.

3. PUBLIC PROCUREMENT FIGURES

In 2016, the total amount of public contracts reported to the BASE portal[16] reached EUR 5,07 billion, as a result of the conclusion of 432,450 contracts.

Graph 5 – Public procurement in Portugal in 2016: overall figures



Source: BASE portal (May 2017)

3.1. PUBLIC PROCUREMENT STATISTICS

3.1.1. PUBLIC PROCUREMENT EVOLUTION

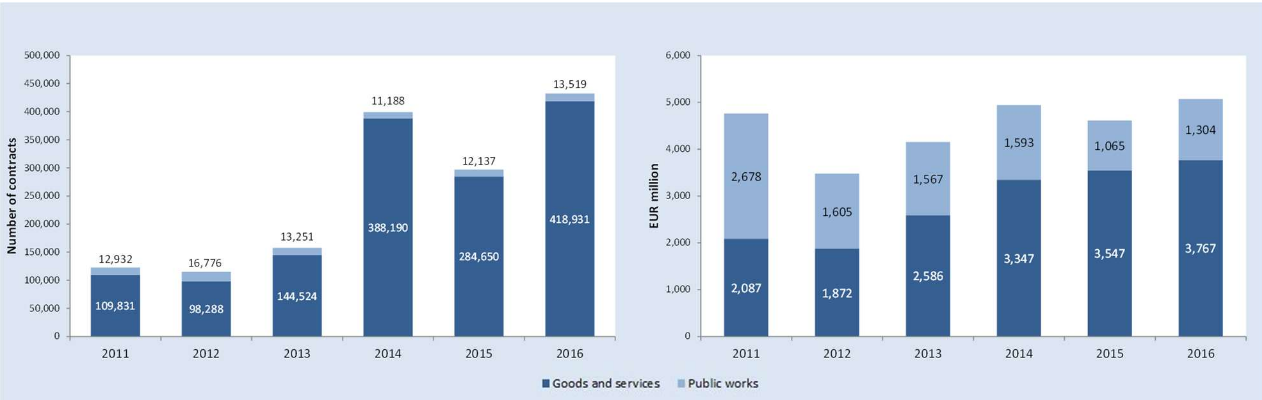
Compared to the preceding years, 2016 saw an increase in the number of public contracts reported to the BASE portal. This change was particularly marked in the case of goods and services, where there was an increase of 47% from 2015 to 2016 (+281% in relation to 2011). Compared to 2015, public works saw an increase of +11%, and an increase of 5% over 2011.

[16] It should be noted (like in previous reports) that the reported contracts may not include all the contracts concluded by contracting authorities. Besides the fact that some authorities may not have reported their contracts, either because they did not know it was necessary or for any other reason, there are other contracts that because of their very nature or legal framework may not have been fully reported to the BASE portal, namely:

(a) Contracts with a contractual price of less than EUR 5,000;
(b) Contracts for the purchase of water and electricity services;
(c) Contracts of entities operating in the special sectors (water, energy, transport and postal services) below the Community thresholds;
(d) Contracts excluded under Article 4 of the Public Contracts Code;
(e) Contracts resulting from procedures not covered by Part II of the Public Contracts Code, pursuant to Article 5 thereof (e.g.: in house procurement).

As regards the contractual amounts, there was an overall increase of 10% (+EUR 459 million) over 2015, and an increase of 6.4% (+EUR 306 million) over 2011. This evolution corresponds to a positive change for goods and services (+6.2%, i.e. +EUR +221 million when compared to 2015, and +80.5% when compared to 2011), although for public works it was negative in relation to 2011 (-51.3%, corresponding to -EUR 1,374 million), but positive in relation to 2015 (+22,4%, i.e. +EUR 239 million).

Graph 6 – Public procurement in Portugal from 2011 to 2016: overall figures



Source: BASE portal (May 2017)

3.1.2. Public Procurement as a share of Gross Domestic Product (GDP)

In 2016, the value of the contractual amounts reported to the BASE portal represented 2.74% of the GDP.

Table 2 – Public procurement in Portugal as a share of GDP

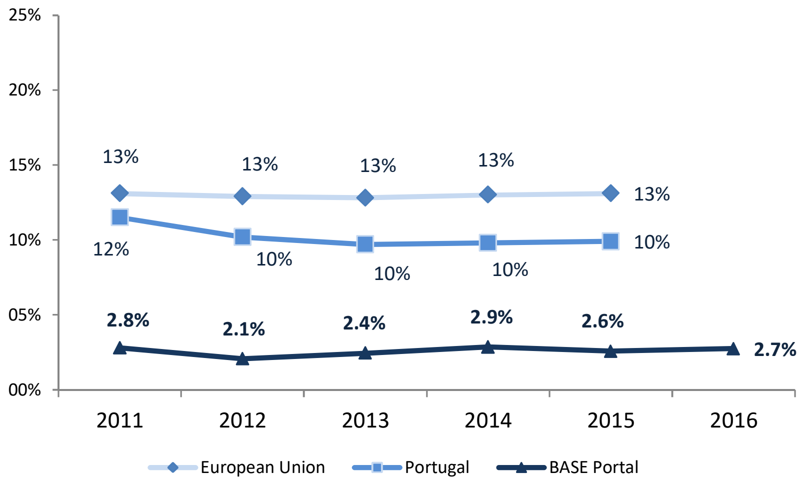
	2012	2013	2014	2015	2016	Δ % 2016
Gross Domestic Product	168 398	170 269	173 079	179 504	184 934	3.02%
Contractual amount	3 477	4 153	4 940	4 612	5 071	9.96%
Public procurement as a share of GDP	2.06%	2.44%	2.85%	2.57%	2.74%	

Source: BASE portal (May 2017)
INE - Quarterly National Accounts (last update: 23-06-2017)

This value reflects an increase of 10 % in the value of the contracts reported to the BASE portal and a decrease of 0.17 pp in the contracts weight.

If we consider the indicators estimated by the European Commission for 2015, public procurement in Portugal should represent 13 % of the GDP, but the number of public contracts reported to the BASE portal did not exceed 2.74% in 2016.

Graph 7 – Public procurement as a share of GDP



Source: BASE portal (May 2017)
INE - Quarterly National Accounts (last update: 23-06-2017)
Public Procurement Indicators 2015, European Commission

Even if we consider that, as a rule, the length of a contract can be up to three years and, as a result, any concluded contract may continue and sustain public expenditure during that period, this value is nevertheless lower than expected.

3.1.3. PUBLIC PROCUREMENT AND GROSS FIXED CAPITAL FORMATION (GFCF)

From 2015 to 2016, the value of public contracts relating to public works reported to the BASE increased to EUR 1,304 million.

Table 3 – Public procurement in Portugal as a share of the GFCF in the construction sector (EUR thousand)

	2012	2013	2014	2015	2016	Δ % 2016
Gross Fixed Capital Formation - Construction	15,071	13,182	12,984	13 679	13 449	-1.69%
Contractual amount - Public works	1,605	1,567	1,593	1 065	1 304	22.40%
Public works share in GFCF - Construction	10.65%	11.88%	12.27%	7.79%	9.69%	

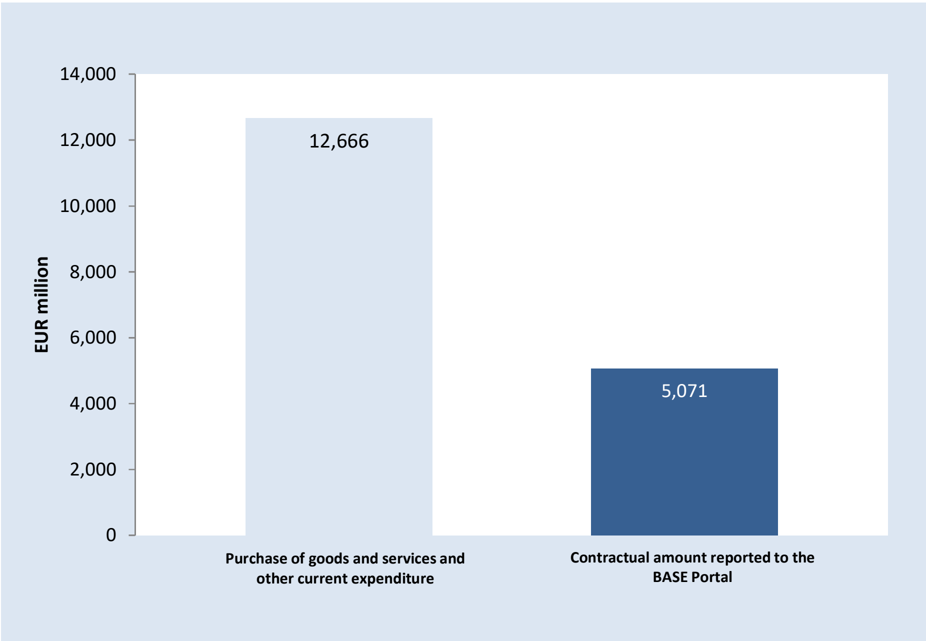
Source: BASE portal (May 2017)
INE - Quarterly National Accounts (last update: 24-03-2016)

The increase in the value of public works contracts reported to the BASE portal resulted in an increase of 1.91 pp in the ratio between the overall contractual amount and the gross fixed capital formation in construction, now representing 9.69% of that indicator.

3.1.4. Public Procurement and Budgetary Implementation by Public Administrations

A comparison between the contractual amounts reported to the BASE portal and the budgetary implementation by public administrations shows that the overall contractual amount of the contracts reported to the BASE portal in 2015 was EUR 4,612 million (including public works), representing 27.2 % of the execution headings "purchase of goods and services" and "other current expenditure".

Graph 8 – Public procurement in Portugal: comparison with budgetary implementation (EUR million)

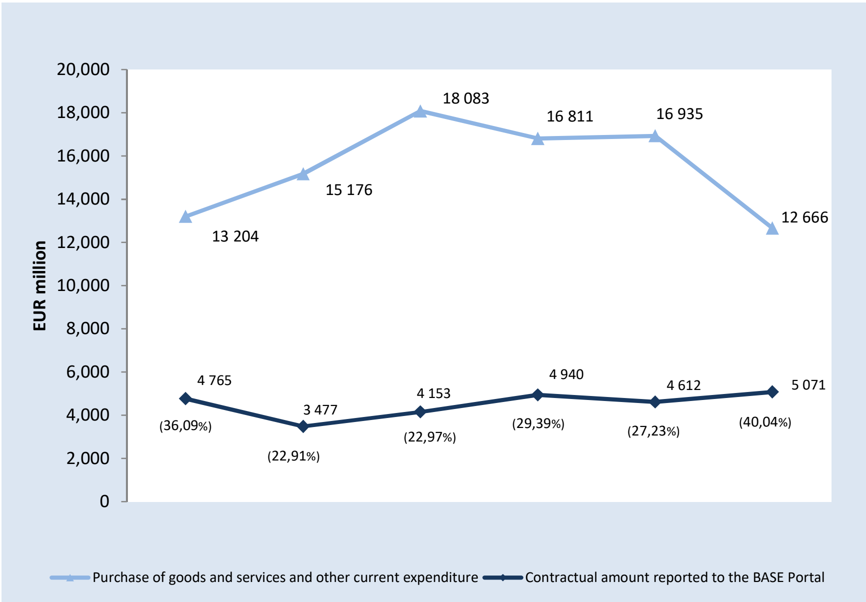


BASE portal (March 2016) Source:
Directorate-General for Budget (Summaries of Budget Implementation - January-December 2016)

While the budgetary implementation value can be affected by contracts concluded in previous years, as well as by procurement procedures to which the Public Contracts Code does not apply, a higher amount for the public contracts reported to the BASE portal should be expected if we consider the budgetary implementation value.

Moreover, this has been a recurring situation in the last years, during which the value of the contracts reported to the BASE portal ranged from 22.91 % (2012) to 40.04% (2016).

Graph 9 – Public procurement in Portugal: comparison with budgetary implementation. Changes from 2011 to 2015 (EUR million)



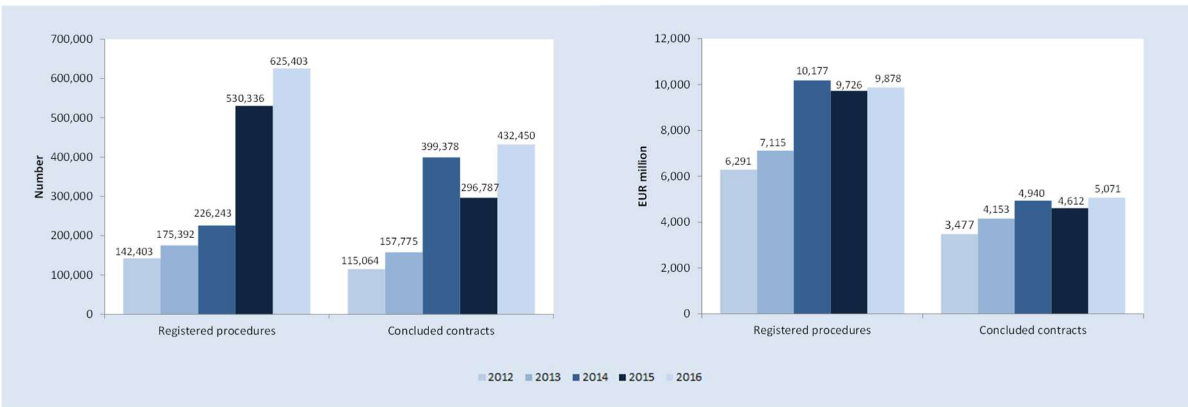
Source: BASE portal (May 2017)
Directorate-General for Budget (Summaries of Budget Implementation - January-December 2016)

3.1.5. LAUNCHED PROCEDURES VS CONCLUDED CONTRACTS

As mentioned above, 625,403 launched procedures (corresponding to EUR 9,878 million in terms of basic price) and 432,450 concluded contracts (corresponding to EUR 5,071 million in terms of contractual price) were reported to the BASE portal in 2016.

Comparing with 2015, there was in 2016 an increase in the number of new procedures (+95,067 procedures, i.e. +17.9%), as well as in the number of new contracts (+135,663 new contracts, i.e. +45.7%)

Graph 10 - Comparing the number of launched procedures with the number of concluded contracts and the value of the basic price of launched procedures with the contractual amounts



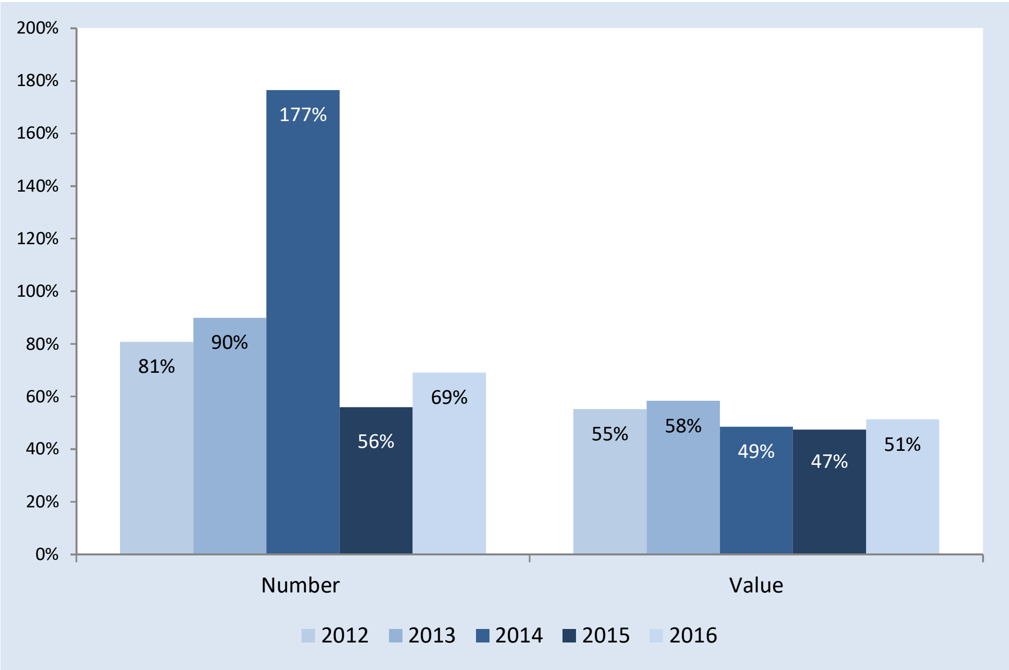
Source: BASE portal (May 2017)

In 2016, in the values associated with those procedures and contracts, the aggregate value of the basic price of launched procedures increased by EUR 152 million (+1.6%), as it was the case with the contractual amounts, which increased EUR 459 million (+10%) in relation to 2015.

While they are distinct concepts[17], it is possible to establish a link between the procedures launched and the contracts concluded in the same period. The ratio between the number of contracts concluded and the number of procedures launched in 2016 was, therefore, 69.1% in terms of numbers and 51.3%, in terms of contractual amounts.

Compared to 2015, there was an increase in the level of completed procedures, i.e. in the ratio between the contracts concluded and the procedures launched during the year both as regards the number of contracts (13.2 pp) and their value (3.9 pp).

Graph 11 – Ratio between the contracts concluded and the procedures launched in the same year: changes from 2012 to 2016



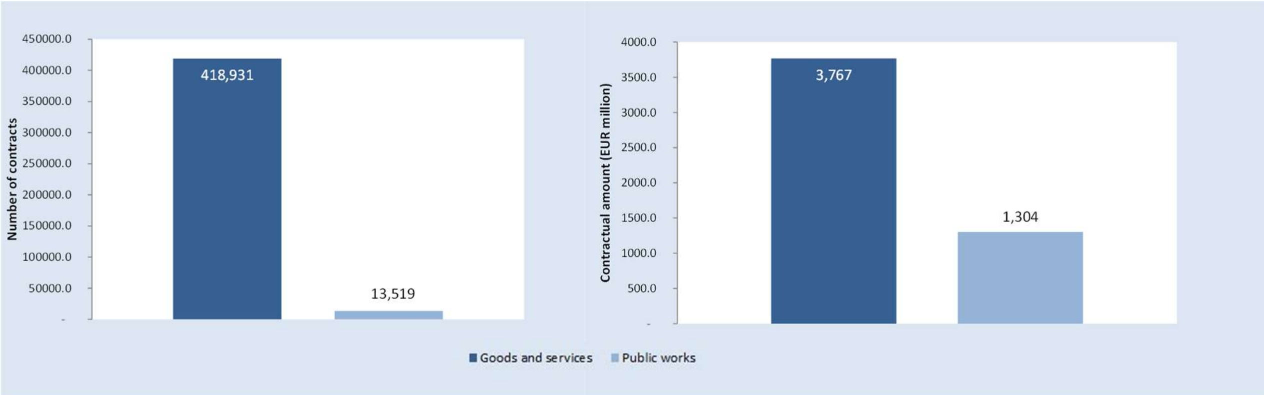
Source: BASE portal (May 2017)

[17] A procurement procedure means the launching of a procedure that hopefully will lead to the conclusion of a contract. It may happen, however, that some procedures do not result in a contract, either because no tenders are submitted or because the contracting authority decides not to award the contract, or for any other reasons.
Conversely, it may happen that a given procedure results in several contracts. That is the case, for example, of contracts with lots or contracts concluded under a framework agreement.

3.2. PUBLIC PROCUREMENT PER TYPE OF CONTRACT

Most contracts (96.9%) reported to the BASE portal in 2016 concern the purchase of goods and services. Although to a lesser extent (74.3%) goods and services were also in majority in terms of contractual amounts.

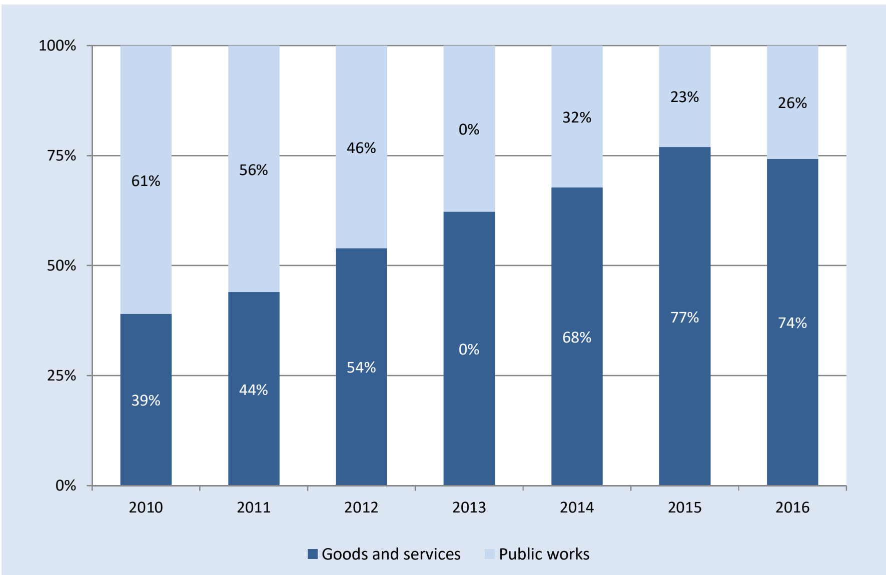
Graph 12 – Public procurement per type of contract in 2016



Source: BASE portal (May 2017)

In 2016, the public contracts structure followed the same trend as that observed since 2010, whereby the weight of public works contracts[18] has been decreasing in relation to that of contracts for the purchase of goods and services. While in 2010 contracts related to public works represented 61 % of the total value of public contracts, in 2016 their weight was just 26%.

Graph 13- Relative weight of goods and services as compared to public works per contractual amounts: from 2010 to 2016.



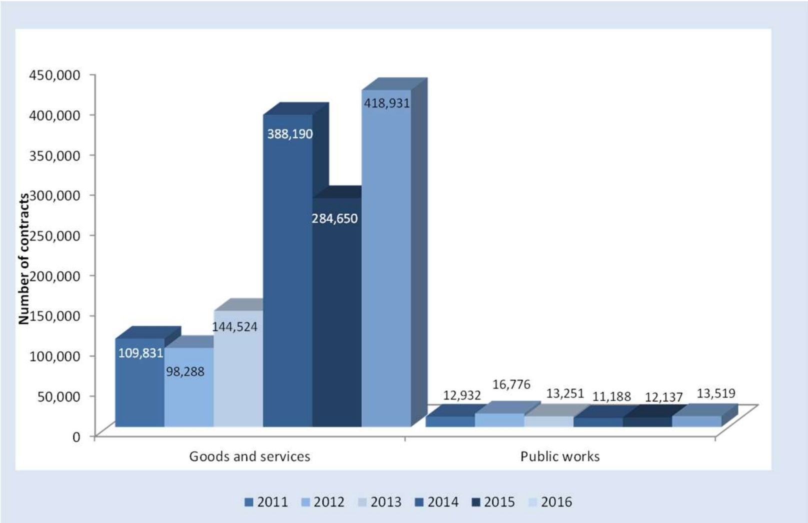
Source: BASE portal (May 2017)

[18] Considering that "public works" include the services related thereto.

The number of contracts relating to goods and services concluded in 2016 represents an increase of 47.2 % over 2015 (+134,281), and an increase of 20.8% (+2,331) in relation to 2014.

As far as public works are concerned, the trend observed in the preceding years was not sustained in 2016, as the number of contracts increased by +11.4% (+ 1 382) over 2014 again.

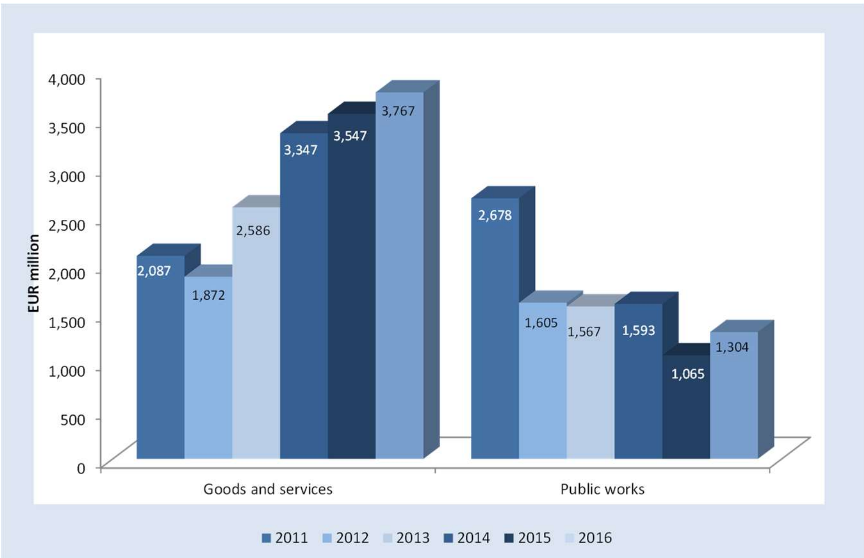
Graph 14- Number of contracts concluded from 2011 to 2016



Source: BASE portal (May 2017)

In relation to 2015, there was an increase of 6.2% (EUR 221 million) in the value of the contracts concluded for goods and services. As for public works, there was an increase of +22.4% (+ EUR 239 million) in the same period.

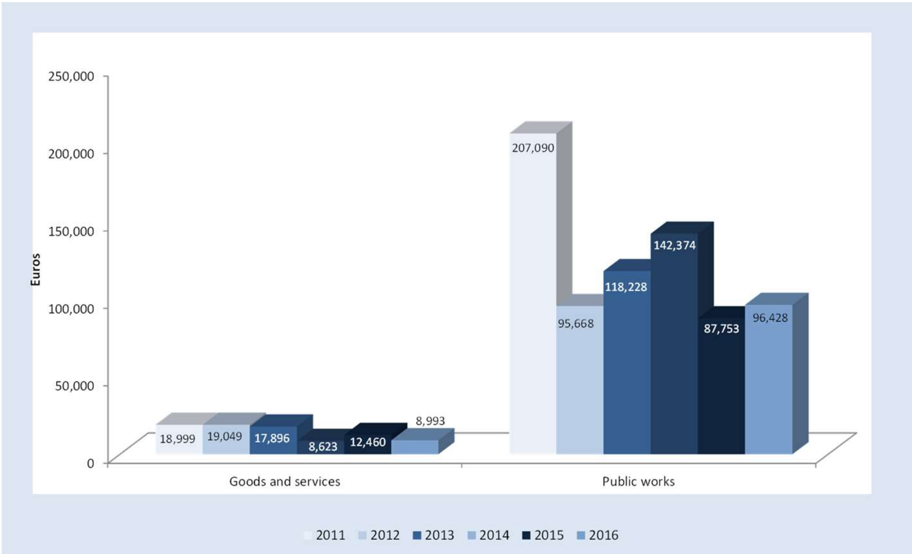
Graph 15- Value of the contracts concluded in 2011-2016 (EUR million)



Source: BASE portal (May 2017)

In 2016, the average value per contract in the case of public works was EUR 96,428, representing an increase of 9.9% (+ EUR 8,675 per contract) over 2015.

Graph 16- Average value of the contracts concluded in 2011-2016 (EUR)



Source: BASE portal (May 2017)

In the case of contracts for goods and services, their average value in 2016 was EUR 8,993, corresponding to a decrease of 27.8% (- EUR 3,467 per contract) over 2015.

3.3. CONTRACTS PER YEAR OF THE DECISION TO CONTRACT AND PER AVERAGE LENGTH OF PROCEDURES

3.3.1. CONTRACTS PER YEAR OF THE DECISION TO CONTRACT

An analysis of the contracts per year of the decision to contract shows that 98.9% of the contracts concluded in 2016 stem from procurement procedures launched in the same year. Only 1.1% of the contracts had been launched in 2015, and we can consider as residual the number of contracts concluded in 2016 following procedures launched before 2015.

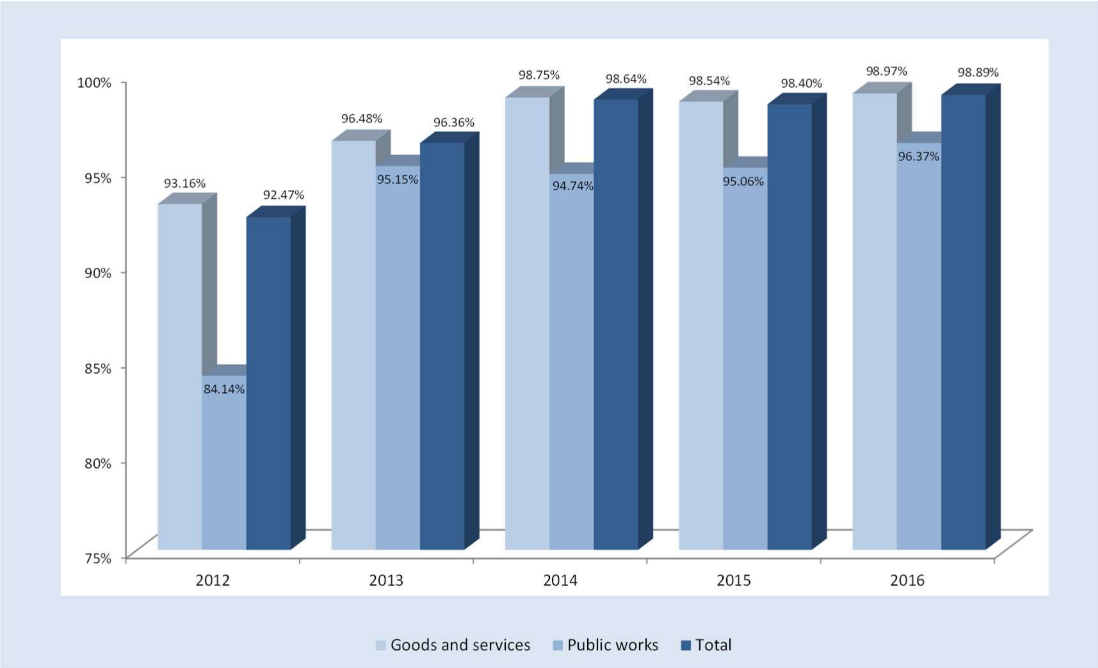
Table 4 – Contracts concluded in 2016 per year of decision

	2012	2013	2014	2015	2016	Total
Goods and services	1	3	8	4,300	414,619	418,931
Public works	0	0	1	490	13,028	13,519
Total	1	3	9	4,790	427,647	432,450

Source: BASE portal (May 2017)

A comparison between 2015 and 2016 shows that the number of contracts resulting from procedures launched in the same year was slightly higher (+0.49 pp) in 2016.

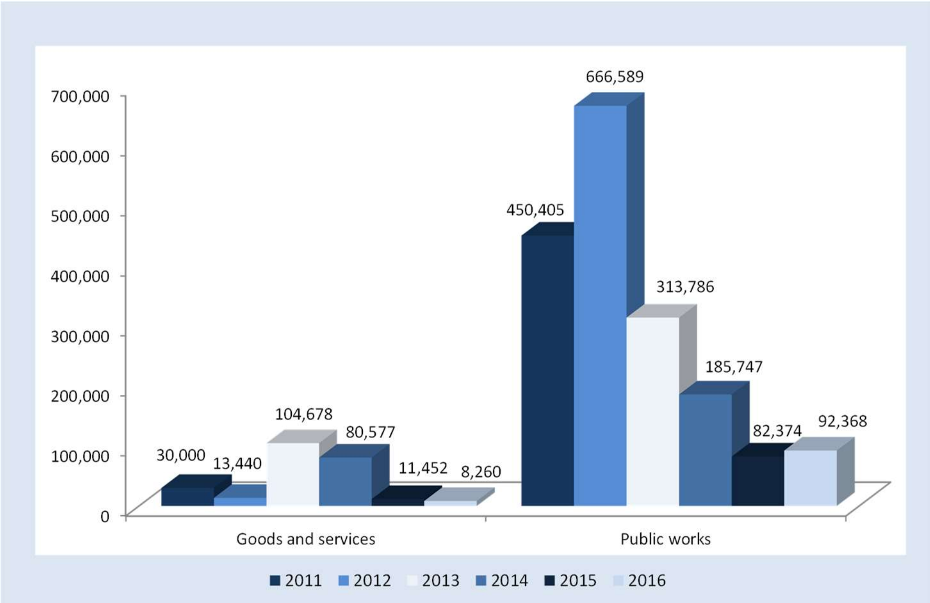
Graph 17- Percentage of contracts for which the procurement procedure was launched in the same year



Source: BASE portal (May 2017)

Among the public works contracts concluded in 2016 it is possible to notice that their average value varies according to the year when the procedure was launched, where the average value of the contract increases for procedures with the oldest launch date (except for the average value of contracts whose procedure was launched in 2011, in the case of public works, and in 2011 and 2012, in the case of goods and services).

Graph 18- Average value of contracts concluded in 2016 per year of the procedure decision (EUR)



Source: BASE portal (May 2017)

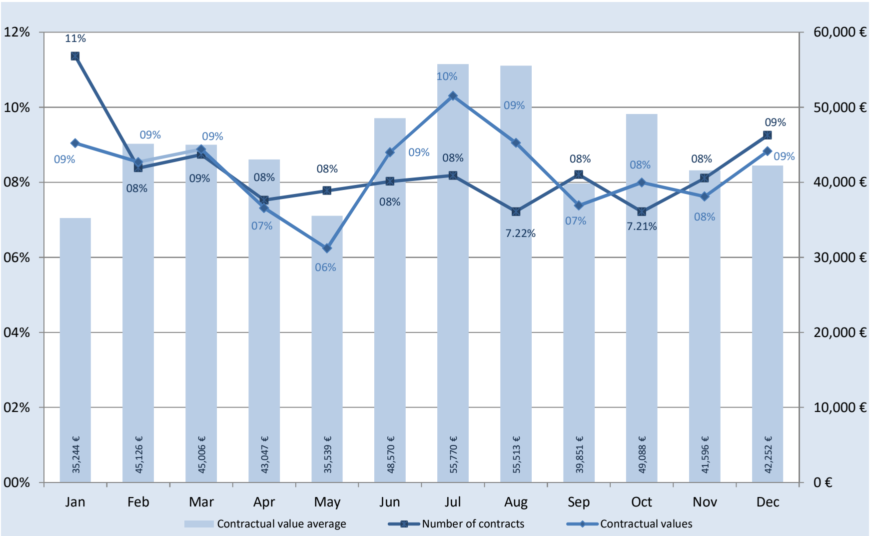
3.3.2. Breakdown of concluded contracts per month

Looking at the breakdown of the number of contracts concluded over the months, we see that August and October were the months in which fewer contracts were concluded. On the other, 11.4% of the contracts were awarded in January while 9.3% were awarded in December, corresponding to -17 % of the contracts concluded in the first month of the year.

As far as the contractual values are concerned, the breakdown ranged between 10.3% (July) and 7.3% (April).

During the same period, the average value of contracts saw some variation and reached its peak in July (EUR 55,770).

Graph 19- Breakdown of concluded contracts per month

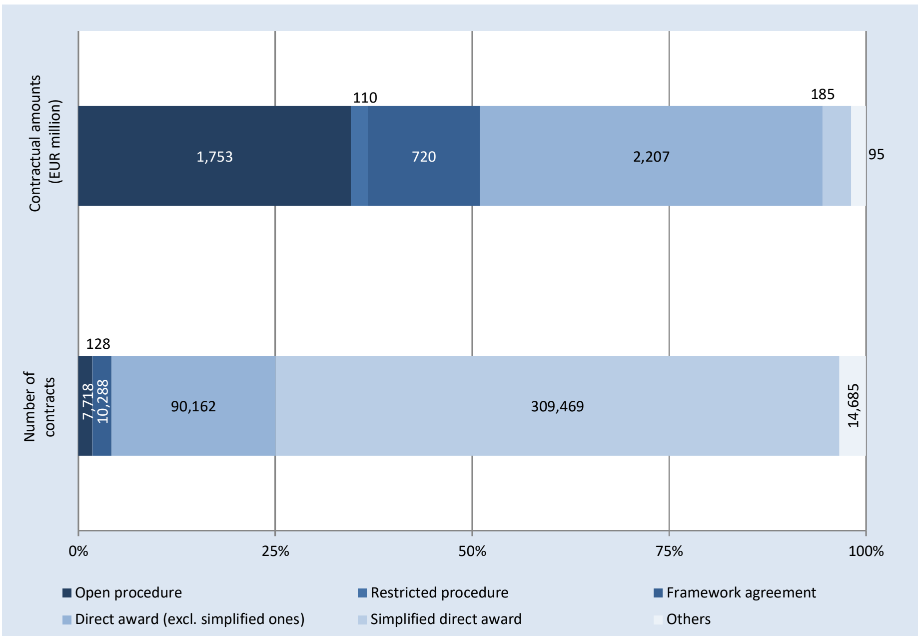


Source: BASE portal (May 2017)

3.4. Contracts per Type of Procedure

Among the contracts concluded in 2016, the direct award was the most frequently used type of procedure, representing 92.4% of the total number of procedures. In terms of contractual amounts, its weight was relatively lower (47.2%).

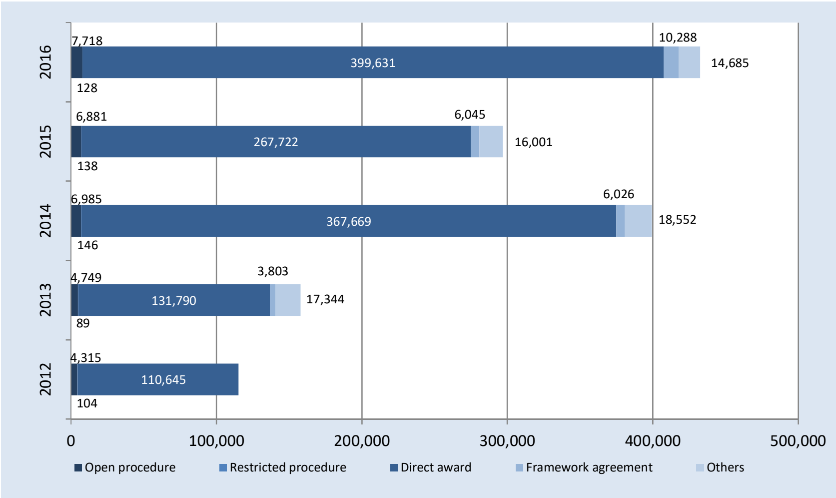
Graph 20 - Public procurement per type of procedure (2016)



Source: BASE portal (May 2017)

The number of contracts saw an overall increase (+45.7%), and the increase in the number of procedures under framework agreements was particularly significant (+70.2%). Although it appears that in previous years the number of contracts under framework agreements was underestimated[19], it increased in 2016 with 10,288 contracts being recorded.

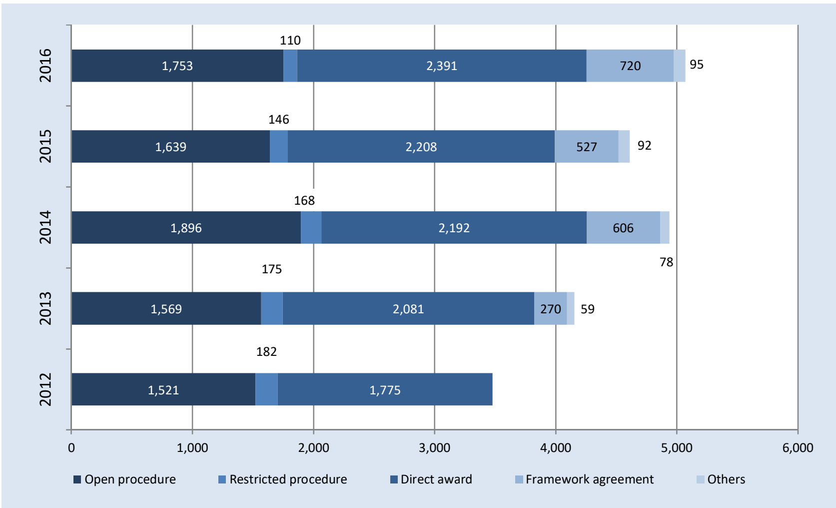
Graph 21 - Number of contracts per type of procedure: changes from 2012 to 2016



Source: BASE portal (May 2017)

As regards the contractual amounts, the change was also positive (+10%). In this respect restricted competitions should be highlighted as they were the only ones with a negative change (-24.2%).

Graph 22 – Contractual amounts per type of procedure: changes from 2012 to 2016 (EUR million)

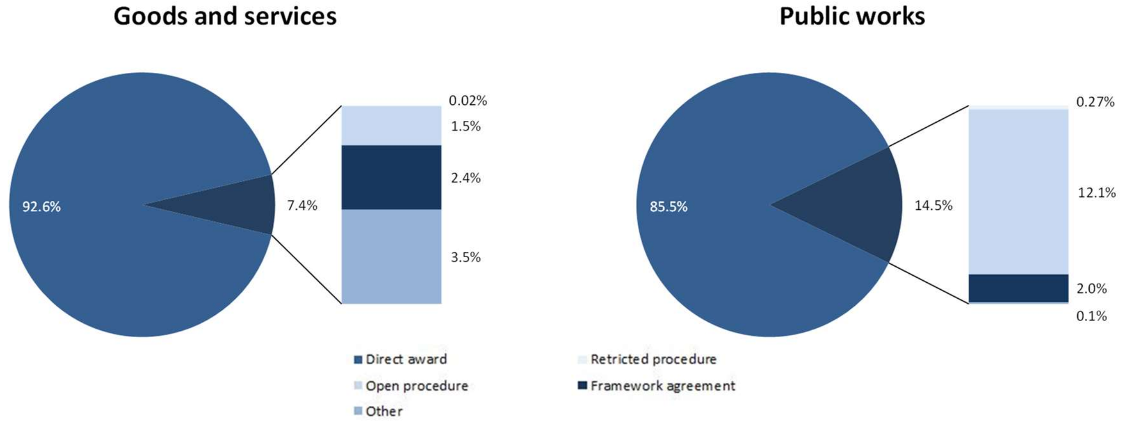


Source: BASE portal (May 2017)

[19] It should be noted, however, that there have been changes in the way these contracts must be reported when they are linked to framework agreements concluded by eSPap (Entidade de Serviços Partilhados da Administração Pública – a body responsible for managing the Public Administration shared services), which shall have effects in subsequent years.

If we consider the use of the different procurement procedures for each type of contract, we see that the share of direct awards is more significant for goods and services (92.6%) than for public works (85.5%). Competitive procedures, however, are more significant for contracts relating to public works (12.3%) than for contracts relating to the purchase of goods and services (1.5%).

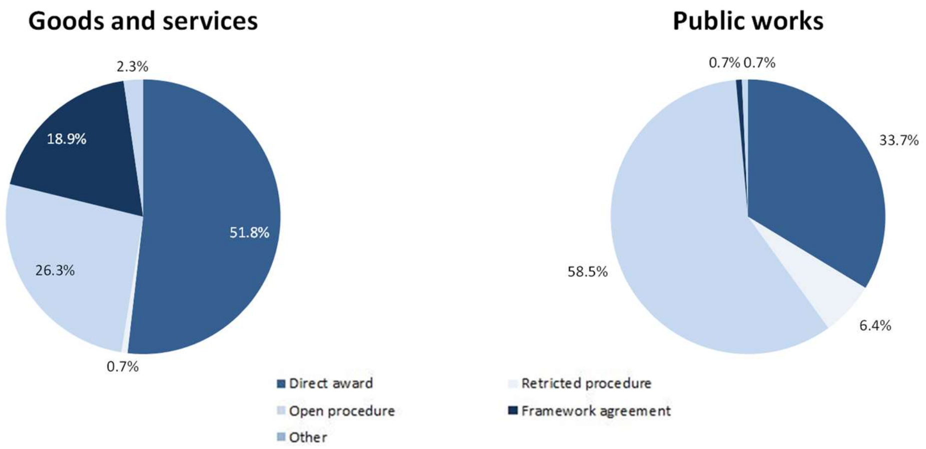
Graph 23- Number of contracts per type of procedure (2016)



Source: BASE portal (May 2017)

As regards the contractual amounts, the proportion of contracts concluded under competitive procedures is relatively more significant for public works (64.9 %) than for goods and services (27%). Conversely, the contracts concluded following a direct award are the majority for goods and services (51.8 %) and represent ⅓ (33.7%) for public works.

Graph 24- Contractual amounts per type of procedure (2016)

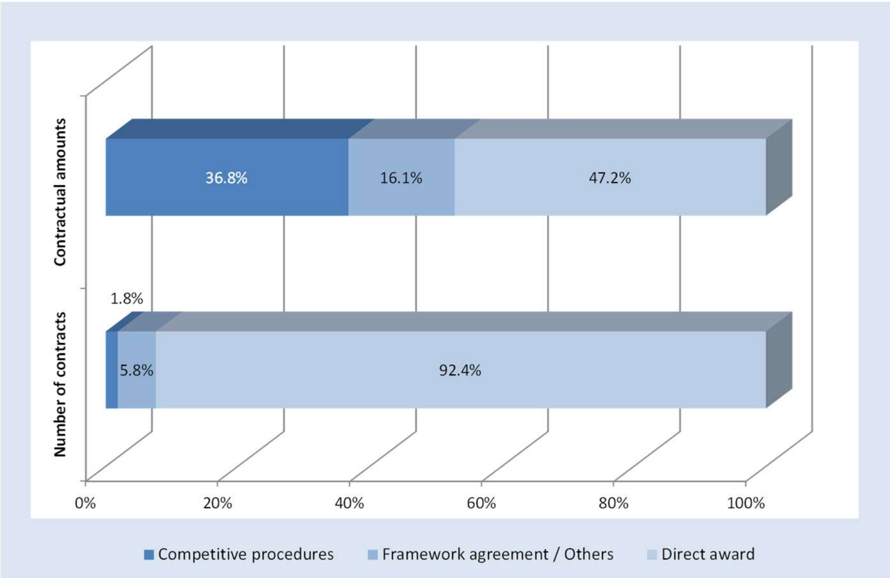


Source: BASE portal (May 2017)

3.5. COMPETITIVE PROCEDURES VS DIRECT AWARD PROCEDURES

The share of contracts concluded in 2016 following a competitive procedure was 1.8% in terms of their number but 36.8% in terms of contractual amounts. On the other hand, contracts concluded under a direct award procedure in 2016 represented 92.4% of the total number of contracts and 47.2% in terms of contractual amounts.

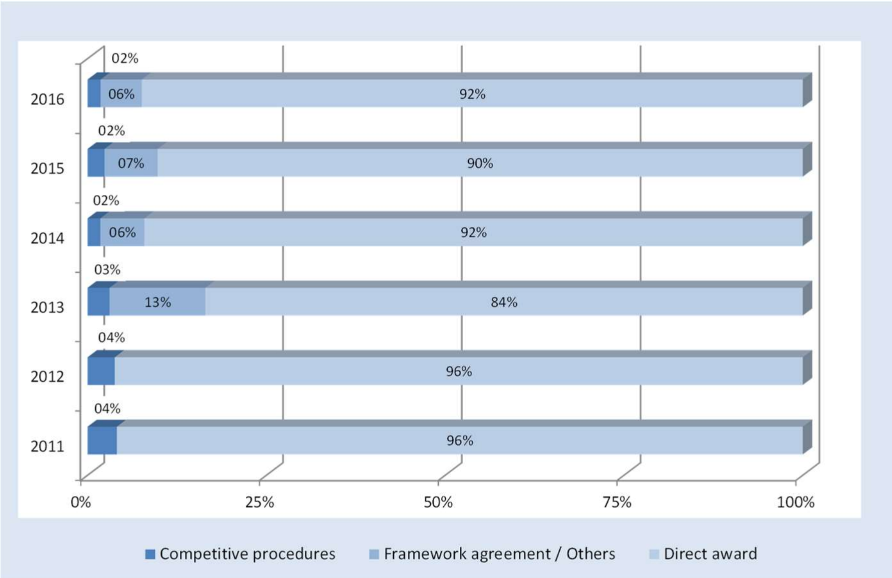
Graph 25 - Public procurement in 2016 per type of procedure



Source: BASE portal (May 2017)

Between 2015 and 2016, the relative weight of the number of direct award procedures increased from 90.2% to 92.4%.

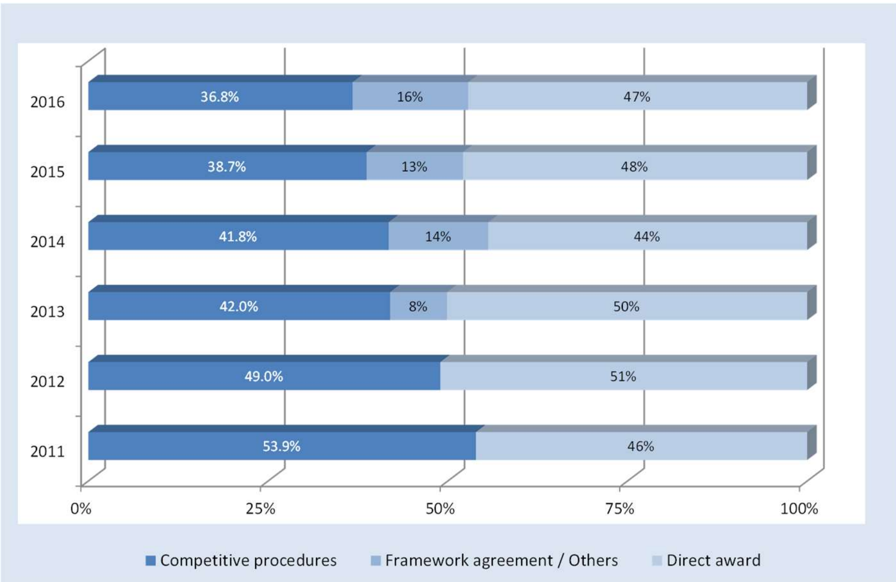
Graph 26- Relative weight of competitive procedures considering their number from 2011 to 2016



Source: BASE portal (May 2017)

Looking at the weight of the contracts per contractual amount, direct award procedures still represented the majority of the contracts concluded in 2016 (47,2%), and there was an increase in the weight of contracts resulting from framework agreements and other procedures (16.1%, i.e. +2.7 pp compared to 2015).

Graph 27 – Relative weight of competitive procedures, considering the contractual amounts, from 2011 to 2016



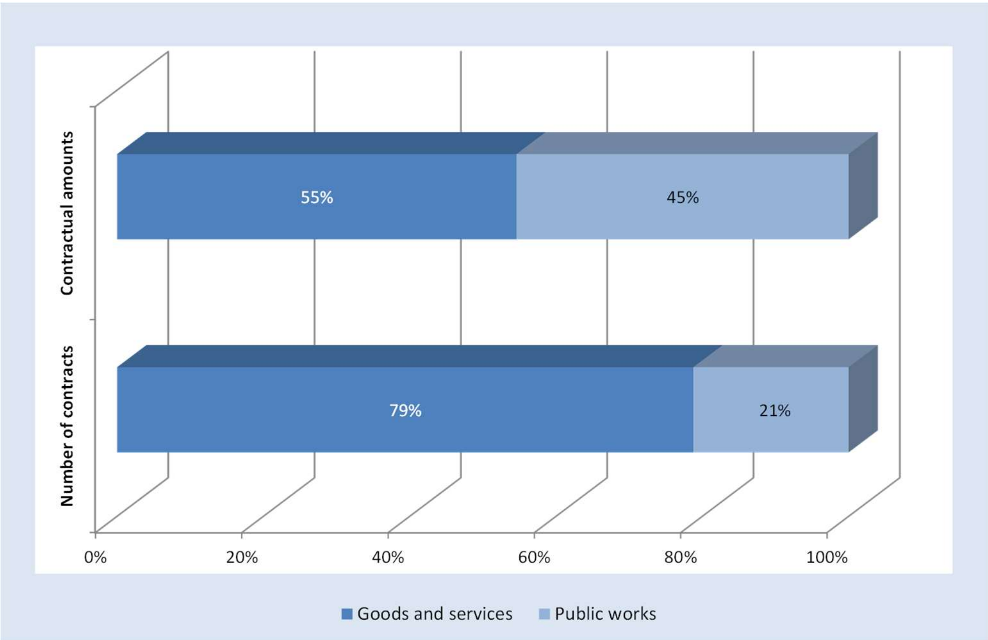
Source: BASE portal (May 2017)

3.5.1. COMPETITIVE PROCEDURES

The number and contractual amounts of contracts concluded in 2016 following a competitive procedure lost some of their share to the other procedures as far as their representativeness in public procurement is concerned.

In competitive procedures, 78.8% (6,180) of the number of contracts, corresponding to 54.6% (EUR 1,018 million) of the contractual amounts, related to goods and services, while the remaining 21.2% of the contracts (1,666) and 45.4% of the contractual amounts related to public works.

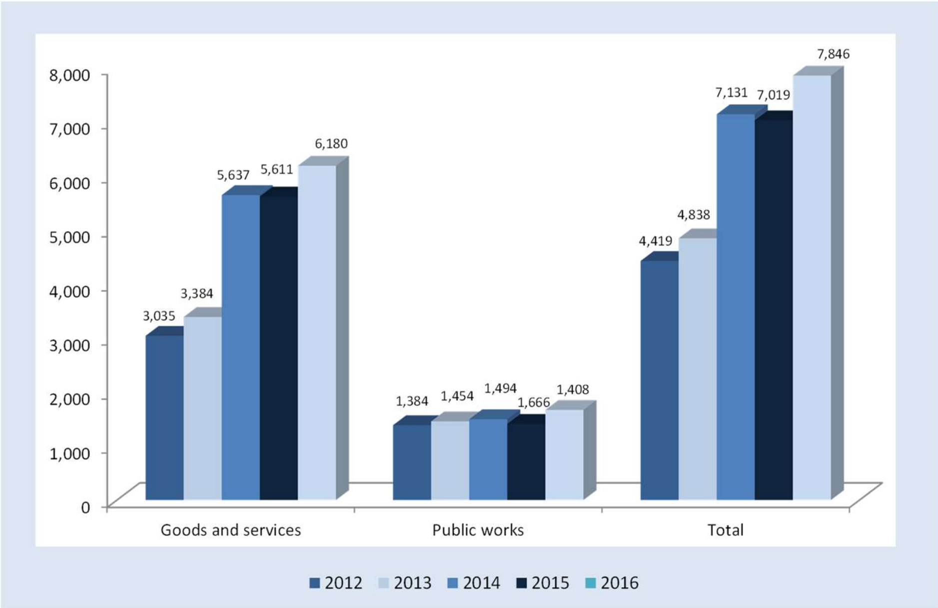
Graph 28 - Contracts resulting from competitive procedures in 2016



Source: BASE portal (May 2017)

Compared to 2015, the findings show that there was an increase in the number of reported contracts and that this was more significant for public works (18.3%) than for goods and services (10.1%).

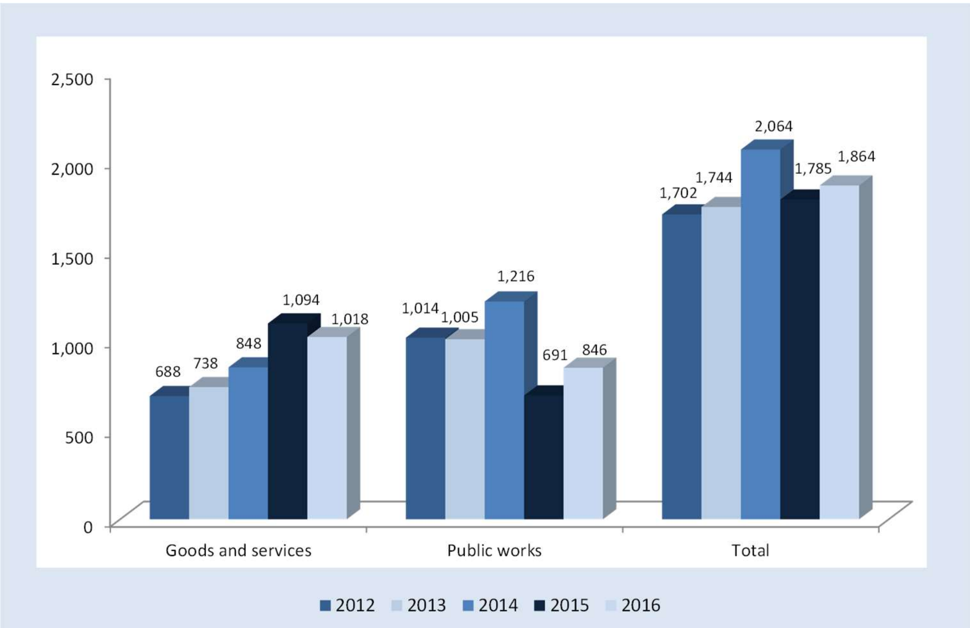
Graph 29 - Number of contracts resulting from competitive procedures: from 2012 to 2016.



Source: BASE portal (May 2017)

As far as the contractual amounts are concerned, there was an increase in their values (4.4%), due to an increase in the case of public works (22.4%); in the case of goods and services there was a decrease (-6.9%)

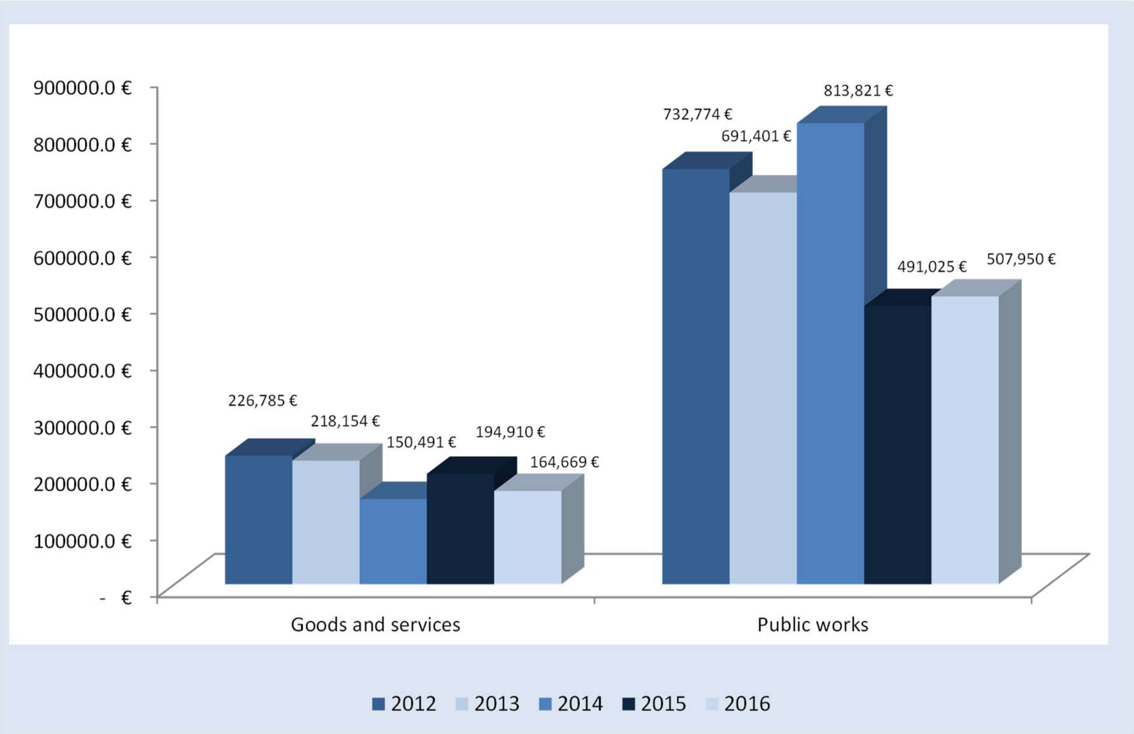
Graph 30 - Number of contracts resulting from competitive procedures: from 2012 to 2016 (EUR million)



Source: BASE portal (May 2017)

As regards the average value of the contracts concluded in 2016 following a competitive procedure, there was a decrease in contracts for the purchase of goods and services (-15.5%) and an increase in contracts for public works (+3.4%), when compared to 2015.

Graph 31 - Average value of contracts resulting from competitive procedures, per type of contract: from 2012 to 2016 (EUR million)



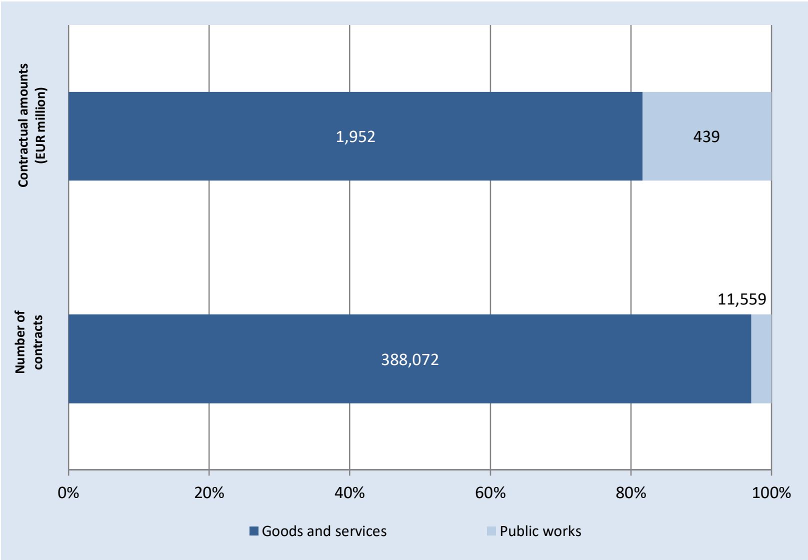
Source: BASE portal (May 2017)

3.5.2. DIRECT AWARDS

Among the 399,631 contracts concluded in 2016 under direct award procedures, 97.1% (388,072) related to the purchase of goods and services, while the remaining 2.9% (11,559) related to public works contracts.

As regards the contractual amounts, more than ⅘ (EUR 1,952 million) concerned the purchase of goods and services, and the remaining EUR 439 million (18.4%) concerned public works.

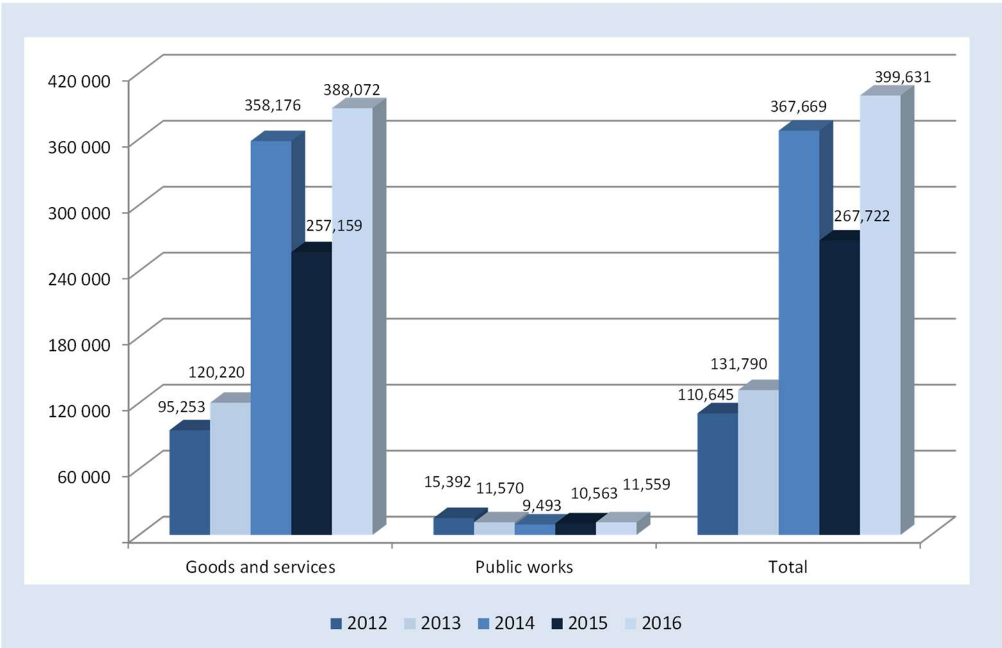
Graph 32 – Direct awards in 2016



Source: BASE portal (May 2017)

Compared to 2015, there was an increase (+50.9%) in the number of contracts under direct award for the purchase of goods and services. There was also an increase (+9.4%) in the number of contracts under direct award relating to public works.

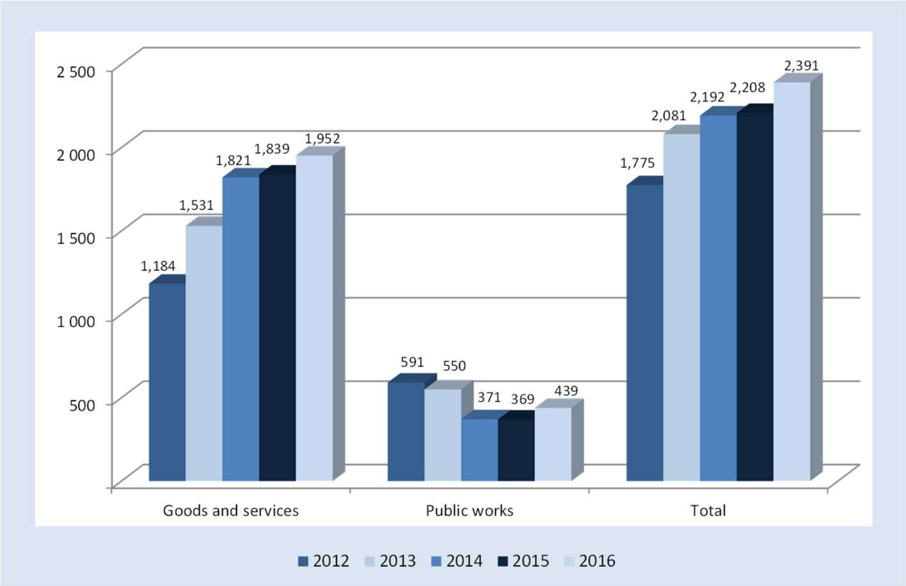
Graph 33 - Number of contracts under direct award: from 2010 to 2016.



Source: BASE portal (May 2017)

In terms of contractual amounts, the same upward trend was observed for both goods and services (+6.2%) and public works (+18.8%).

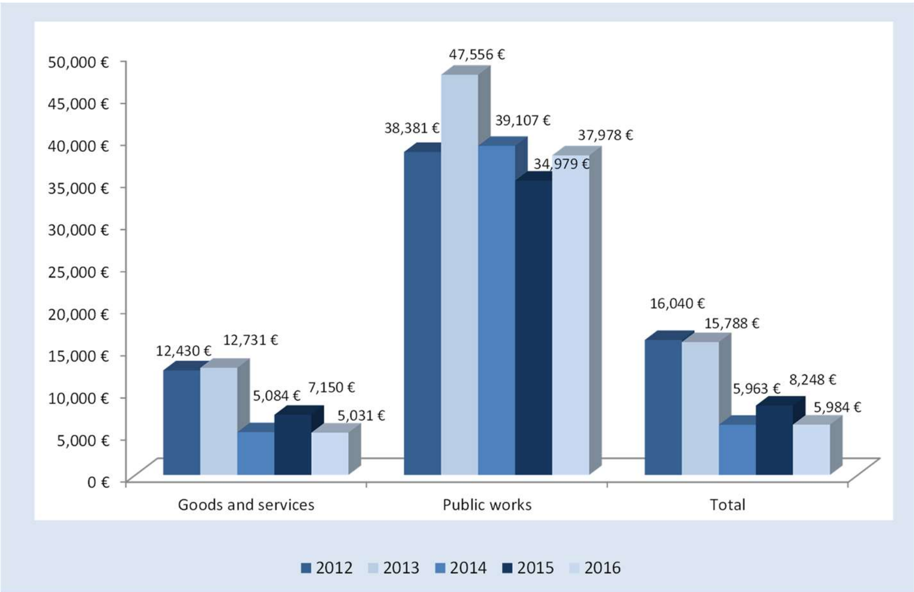
Graph 34 - Number of contracts under direct award: from 2012 to 2016 (EUR million)



Source: BASE portal (May 2017)

Regarding the average contract values, the overall average value per contract in 2016 was EUR 5,984, which corresponds to a decrease when compared to 2015 (-27,5%, i.e. -EUR 2,264 per contract).

Graph 35 - Number of contracts under direct award: from 2010 to 2016



Source: BASE portal (May 2017)

As regards contracts for goods and services, the average value per contract in 2016 was EUR 5,031, corresponding to a decrease of 29.6% over 2015 (-EUR 2,119 per contract). In the case of public works there was an increase in the average contract value corresponding to 8.6% (+EUR 2,998 per contract).

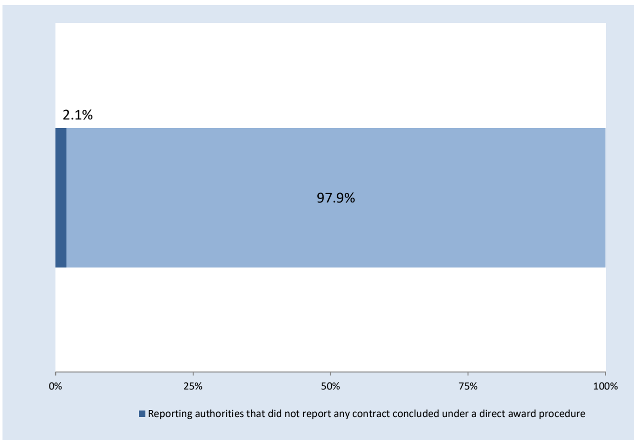
In 2016, the number of contracting authorities (other than groups of entities) that reported direct awards was 2,608, i.e. less 104 contracting authorities than in 2015 (-3.8%).

Graph 36 - Number of contracting authorities that reported direct awards

Source: BASE portal (May 2017)

These authorities represented 97.9% of the total number of contracting authorities (2,663) that reported contracts concluded in 2015 to the BASE portal. *A contrario*, this means that 2.1% (55) of the authorities that reported contracts concluded in 2015 did not report any contract concluded under a direct award procedure.

Graph 37 - Number of contracting authorities that reported contracts concluded in 2016, including (or not) direct awards



Source: BASE portal (May 2017)

As regards the type of contracts classified according to the CPV and concluded under direct award procedures, “Construction work” comes first (17.6% of the contractual amounts), followed by “Medical equipments, pharmaceuticals and personal care products” (15.3%), “Repair and maintenance services” (8.5%), “Business services: law, marketing, consulting, recruitment, printing and security” (8.0%) and “Architectural, construction, engineering and inspection services” (6.0%), which together represent more than a half of the total contractual amount under direct awards (55.4%).

Table 5 – Direct awards in 2016, per CPV

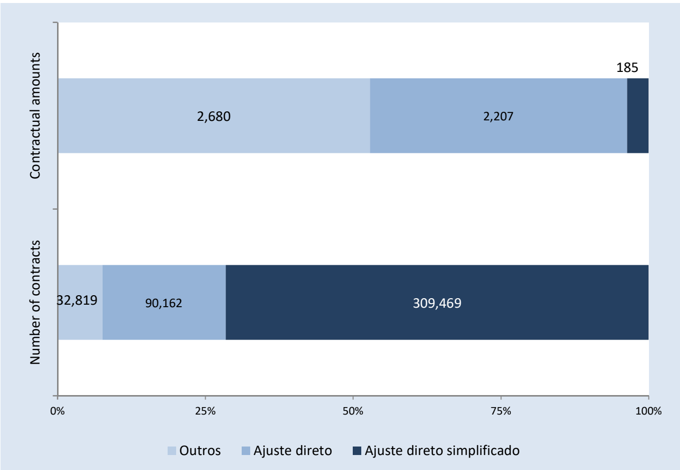
CPV Code	CPV Description	Number of contracts		Contractual values	
		Number	%	Amount	%
45	Construction work	10,870	2.7%	420,329,835 €	17.6%
33	Medical equipments, pharmaceuticals and personal care products	39,730	9.9%	366,510,623 €	15.3%
50	Repair and maintenance services	43,347	10.8%	203,288,690 €	8.5%
79	Business services: law, marketing, consulting, recruitment, printing and security	23,532	5.9%	191,914,411 €	8.0%
71	Architectural, construction, engineering and inspection services	8,472	2.1%	143,505,756 €	6.0%
72	IT services: consulting, software development, internet and support	6,244	1.6%	96,639,552 €	4.0%
92	Recreational, cultural and sporting services	11,698	2.9%	73,325,320 €	3.1%
90	Sewage, refuse, cleaning and environmental services	4,884	1.2%	65,402,047 €	2.7%
22	Printed matter and related products	13,073	3.3%	62,453,648 €	2.6%
30	Office and computing machinery, equipment and supplies except furniture and software packages	19,497	4.9%	53,798,720 €	2.2%
85	Health and social work services	4,822	1.2%	53,340,224 €	2.2%
	Others	213,462	53.4%	660,749,175 €	27.6%
	Total	399,631	100%	2,391,258,001.43 €	100%

Source: BASE portal (May 2017)

3.5.2.1. SIMPLIFIED DIRECT AWARDS

The number of simplified direct awards (contracts for the acquisition or rental of immovable property or the purchase of services with a contractual price of no more than EUR 5,000[20]) reported to the BASE portal totalled 309,469 (71.6% of the total number of contracts), corresponding to an overall contractual amount of EUR 185 million (3.6% of total amount).

Graph 38 - Simplified direct awards in 2016

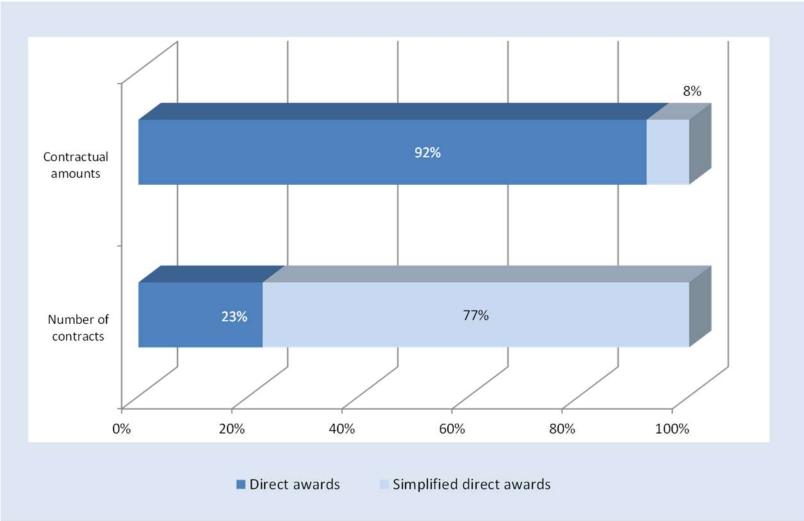


Source: BASE portal (May 2017)

[20] See Article 128 of the Public Contracts Code.

Considering all direct awards, although the number of simplified direct awards accounted for 77.4% of the total number of contracts, it only represented 7.7% of the contractual amounts concerned.

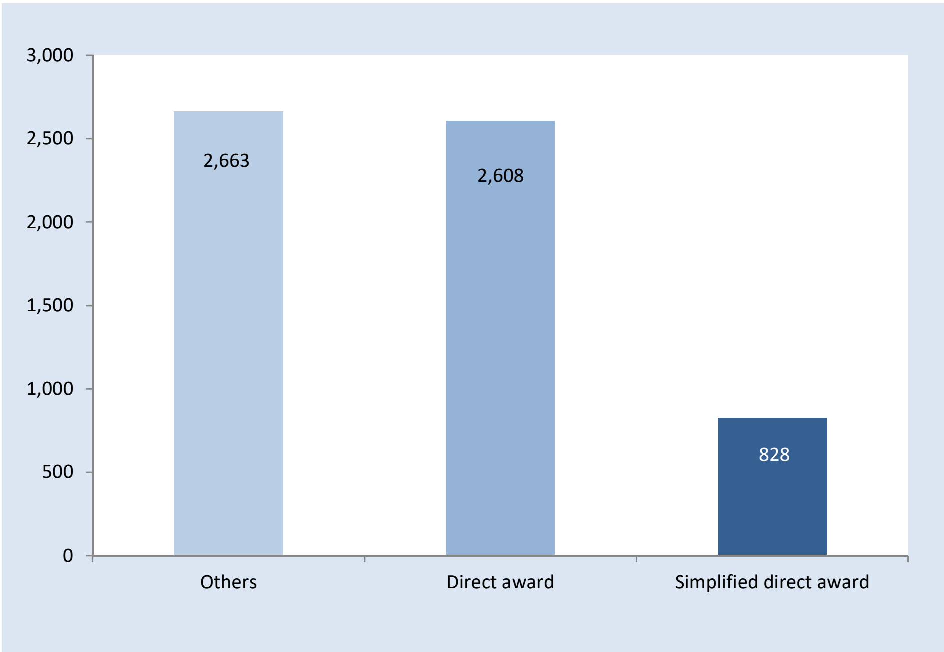
Graph 39 – Relative weight of simplified direct awards as compared to the total number of direct awards in 2016



Source: BASE portal (May 2017)

However, the actual weight of simplified direct awards might be underestimated, particularly because only 828 of the contracting authorities (31.1% of all reporting authorities) did report this type of contracts.

Graph 40 - Number of contracting authorities having reported contracts preceded by simplified direct awards, in 2016



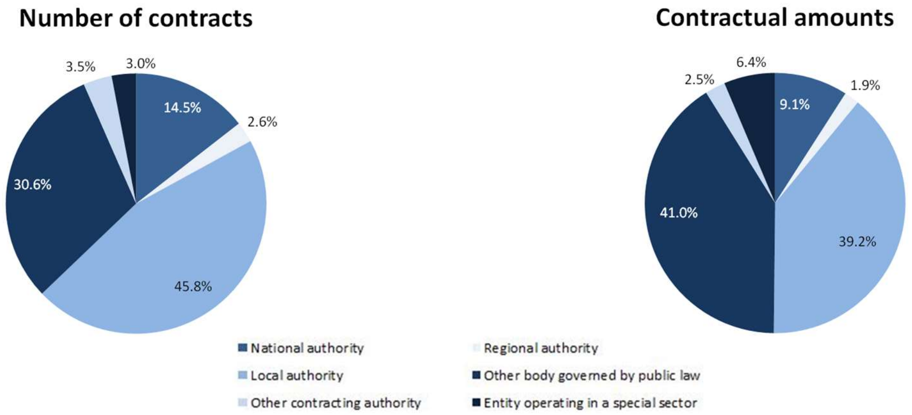
Source: BASE portal (May 2017)

A higher number of contracting authorities, in particular those belonging directly or indirectly to the central, regional or local administration, will certainly have used this type of procedure.

As the weight of simplified direct awards varied according to the authority concerned, among all the contracting authorities that in 2016 reported at least 50 procedures of this type (455, i.e. 55.0% of the authorities that reported simplified direct awards), the share of the value of these contracts in the total number of contracts concluded in the same period was 8.9%.

Most of the 309,469 contracts concluded under simplified direct awards and reported in 2016 concerned “local authorities” (45.8%), followed by “other bodies governed by public law” (30.6%) and “national authorities” (14.5%).

Graph 41 – Breakdown of simplified direct awards per type of authority in 2016



Source: BASE portal (May 2017)

An analysis by type of expenditure shows that contracts under simplified direct awards were mainly related to “Medical equipments, pharmaceuticals and personal care products” (15.1%), “Repair and maintenance services” (11.8%), “Construction structures and materials; auxiliary products to construction” (6.9%), “Business services: law, marketing, consulting, recruitment, printing and security” (6.7%), “Sewage, refuse, cleaning and environmental services” (4.5%), “Recreational, cultural and sporting services” (4.3%), and “Office and computing machinery, equipment and supplies except furniture and software packages” (3.9%), which together accounted for 53.3% of the overall contractual amount.

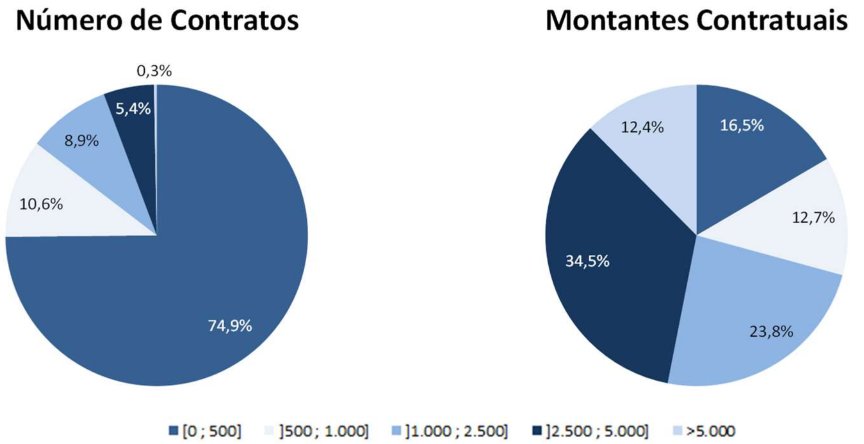
Table 6 – Simplified direct awards in 2016, per CPV

CPV Code	CPV Description	Number of contracts		Contractual values	
		Number	%	Amount	%
33	Medical equipments, pharmaceuticals and personal care products	23,884	7.7%	27,918,453 €	15.1%
50	Repair and maintenance services	36,235	11.7%	21,770,319 €	11.8%
44	Construction structures and materials; auxiliary products to construction (except electric apparatus)	27,359	8.8%	12,696,120 €	6.9%
79	Business services: law, marketing, consulting, recruitment, printing and security	16,851	5.4%	12,427,107 €	6.7%
90	Sewage- and refuse-disposal services, sanitation and environmental services	3,020	1.0%	8,318,100 €	4.5%
92	Recreational, cultural and sporting services	7,706	2.5%	7,940,758 €	4.3%
30	Office and computing machinery, equipment and supplies except furniture and software packages	16,884	5.5%	7,284,711 €	3.9%
39	Furniture (incl. Office furniture), furnishings, domestic appliances (excl. lighting) and cleaning products	13,760	4.4%	6,428,955 €	3.5%
34	Transport equipment and auxiliary products to transportation	13,789	4.5%	5,003,528 €	2.7%
55	Hotel, restaurant and retail trade services	11,100	3.6%	4,886,533 €	2.6%
71	Architectural, construction, engineering and inspection services	3,866	1.2%	4,867,393 €	2.6%
22	Printed matter and related products	11,868	3.8%	4,677,039 €	2.5%
98	Other community, social and personal services	5,225	1.7%	4,587,705 €	2.5%
60	Transport services (excl. waste transportation)	9,559	3.1%	4,421,795 €	2.4%
31	Electrical machinery, apparatus, equipment and consumables; Lighting	10,077	3.3%	4,350,189 €	2.4%
65	Public utilities	5,584	1.8%	4,095,142 €	2.2%
	Others	92,702	30.0%	42,951,026 €	23.3%
	Total	309,469	100%	184,624,874.12 €	100%

Source: BASE portal (May 2017)

Considering the contract value, contracts with a value equal to or lower than EUR 500 predominated (74.9% of the number of contracts), although contracts with a value between EUR 2,500 and EUR 5,000 represented the biggest share in terms of contractual amount (34.5%).

Graph 42 - Breakdown of contracts under simplified direct award, per ranges of contractual amounts

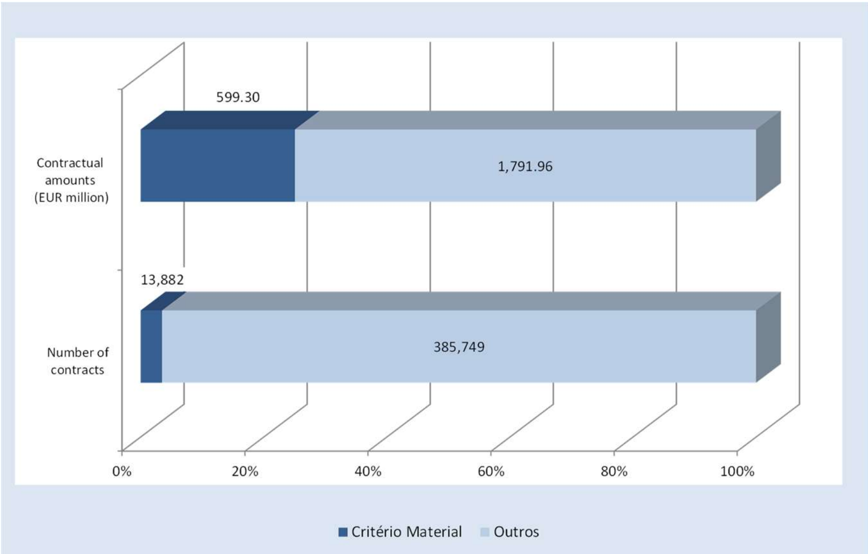


Source: BASE portal (March 2013)

3.5.2.2. DIRECT AWARDS PER SUBSTANTIVE CRITERION

Contracts concluded in 2016 following a direct award procedure on the basis of substantive criteria (i.e. not focused on the contract value) represented 3.5% of the number of contracts concluded under a direct award and 25.1% of their respective contractual amount.

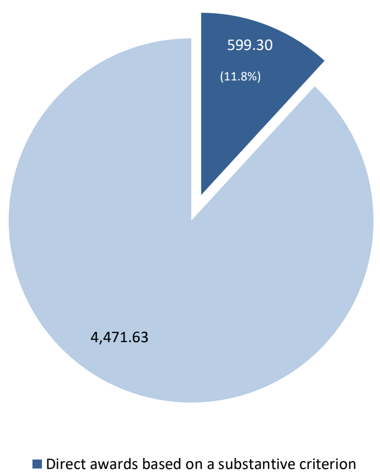
Graph 43 – Relative weight of contracts under direct award per substantive reasons



Source: BASE portal (May 2017)

In 2016, contracts awarded on the basis of substantive criteria, which by definition are not the result of a competitive procedure, represented 11.8% of the value of all reported public contracts.

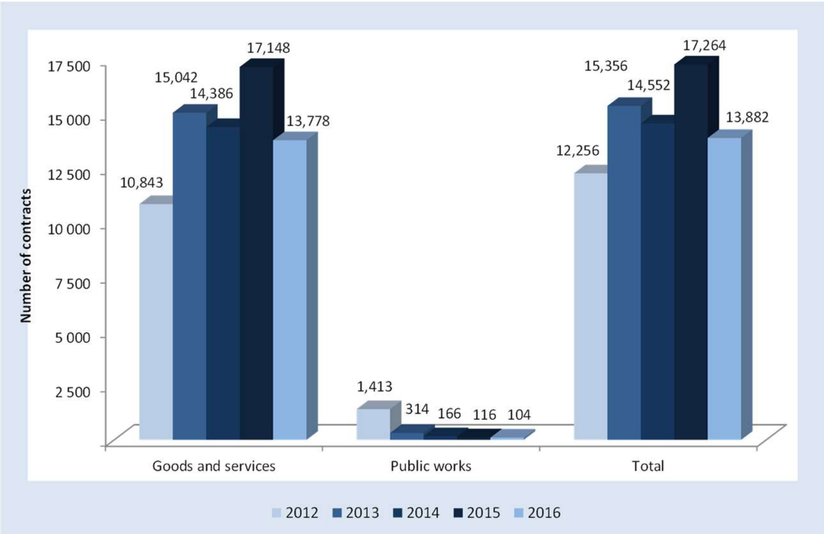
Graph 44 – Relative weight of contracts under direct award per substantive reasons in public contracts, in 2016



Source: BASE portal (May 2017)

Compared to 2015, the number of contracts concluded following a direct award procedure on the basis of substantive criteria decreased by 19.6%. This variation was due to a decrease in the number of contracts related to goods and services (-19.7%, corresponding to -3,370 contracts), and in the number of public works contracts (-10.3%, corresponding to -12 contracts).

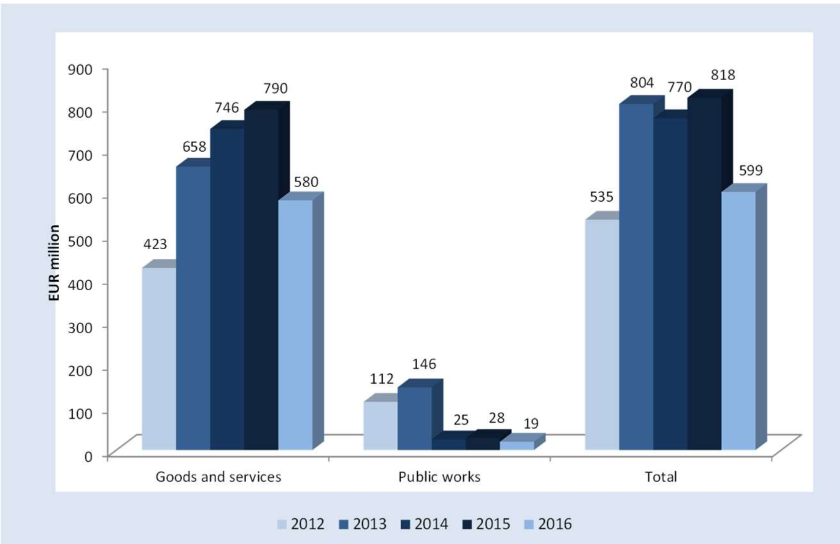
Graph 45 - Changes in the number of contracts concluded on the basis of a substantive criterion in 2016



Source: BASE portal (May 2017)

As regards the contractual amounts involved, there was a general downward trend (-26.7%, corresponding to -EUR 219 million), both for goods and services (-26.6%, corresponding to -EUR 210 million than in 2015), and for public works (-30.7%, corresponding to -EUR 9 million).

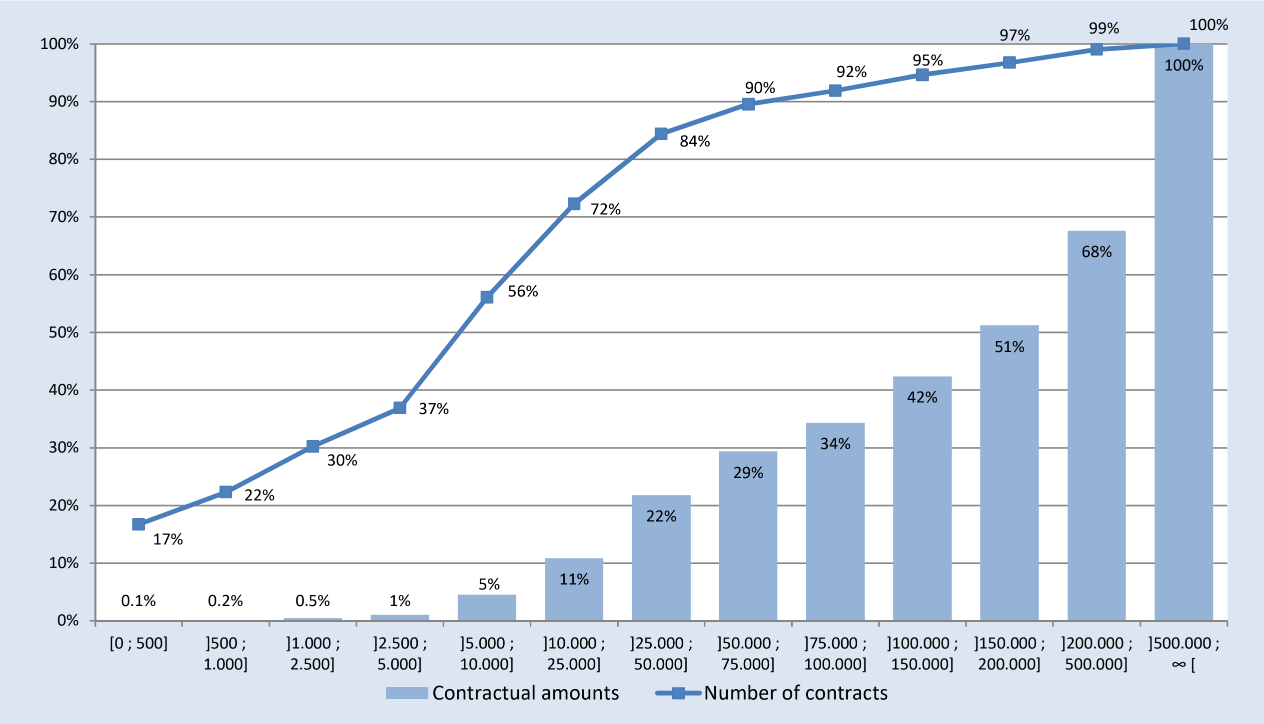
Graph 46 - Changes in the contractual amount of contracts concluded on the basis of a substantive criterion in 2016



Source: BASE portal (May 2017)

Most contracts for goods and services concluded in 2015 on the basis of a substantive criterion (56.1%) had a contractual price of less than EUR 10,000, while around 2/3 (72.2%) had a contractual price of less than EUR 25,000.

Graph 47 - Breakdown of the contracts for goods and services concluded on the basis of a substantive criterion in 2016



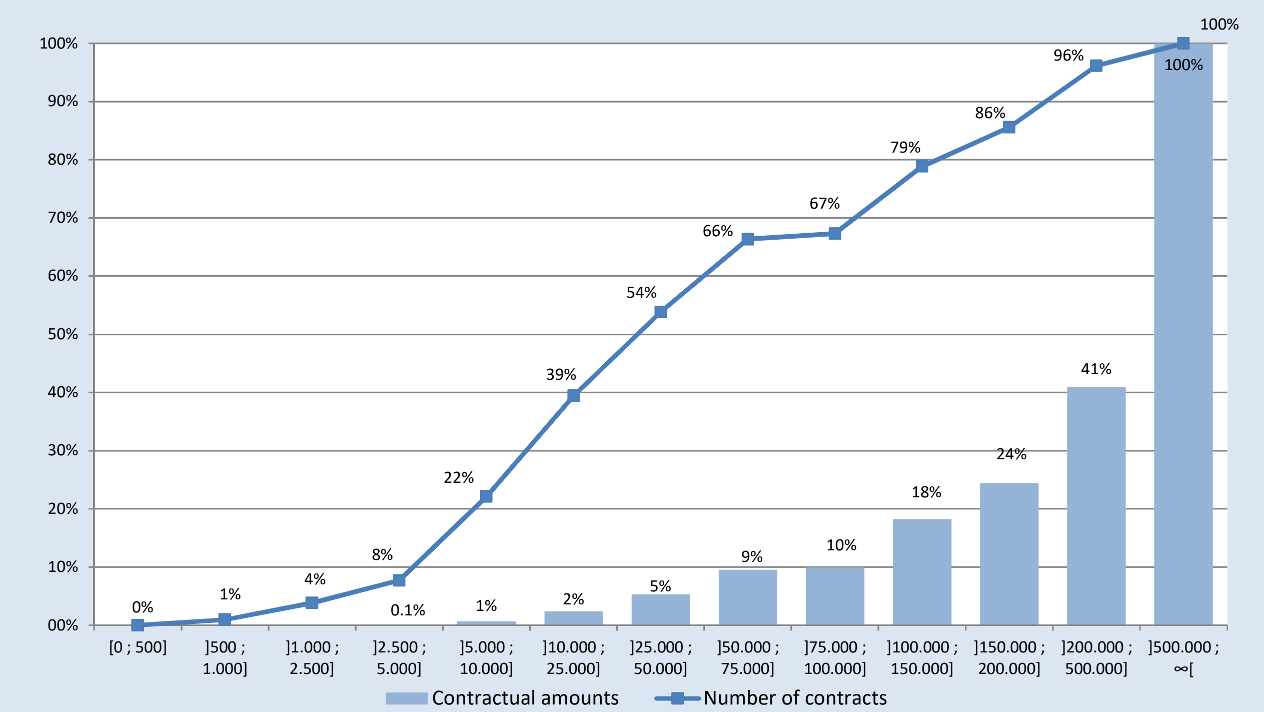
Source: BASE portal (May 2017)

On the other hand, considering the contractual amounts involved, contracts with a contractual price of more than EUR 150,000 were more significant: 57.6% of the overall contractual value of contracts concluded on the basis of substantive criteria related to contracts with a contractual price over that amount, but it should be highlighted that the contracts with a contractual price of more than EUR 200,000[21] represented 48.8% of the overall contractual amount.

In the case of public works, if we consider the number of contracts concluded following a direct award procedure on the basis of substantive criteria, the contractual value was less than EUR 25,000 in 39.4% of the contracts and less than EUR 75,000 in 66.3%. As regards the contractual amounts, 59.1% corresponded to contracts with a contractual price of more than EUR 500,000.

[21] This roughly corresponds to the Community threshold for the publication of procurement procedures relating to goods and services in the OJEU.

Graph 48 - Breakdown of the contracts for public works concluded on the basis of a substantive criterion in 2016



Source: BASE portal (May 2017)

The most often mentioned grounds for the use of these contracts were: "technical or artistic reasons or reasons connected with the protection of exclusive rights" (68.8% of their total number and 57.5% of their contractual amounts), which together with "reasons of extreme urgency" represented 74.2% of the amounts involved.

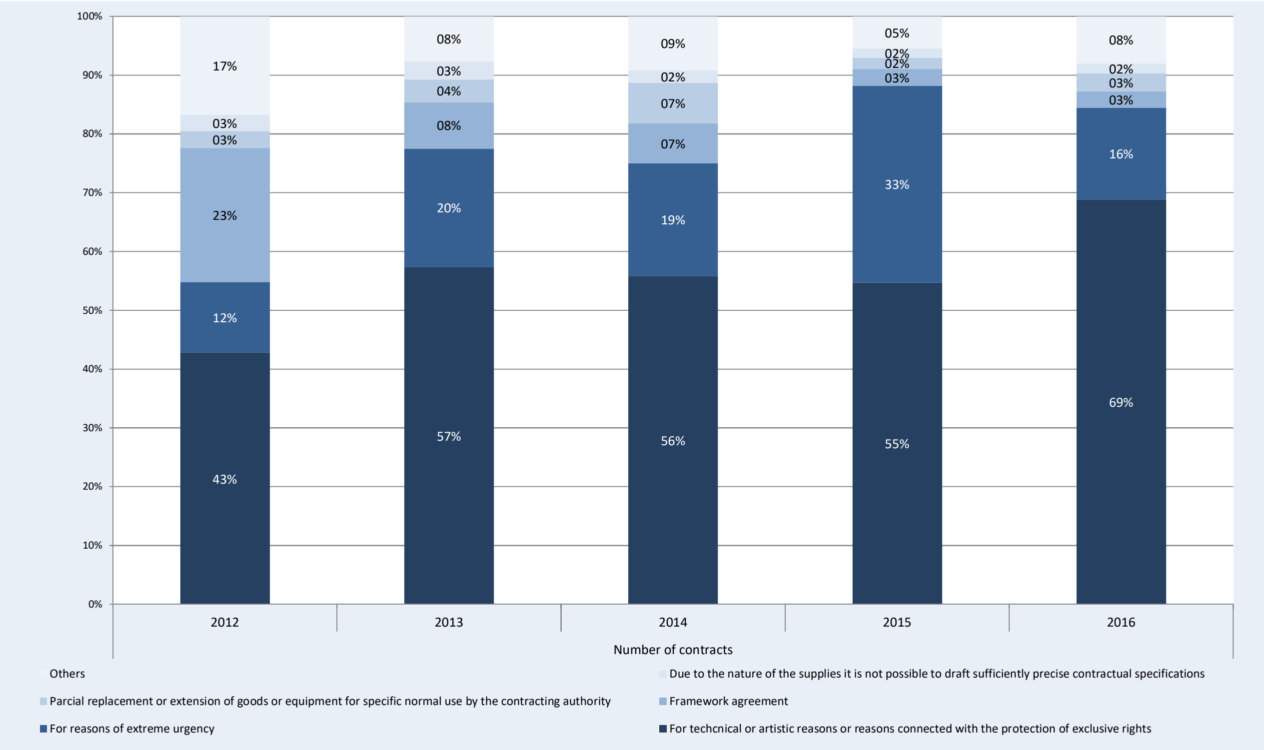
Table 7 – Breakdown of the contractual amounts of the contracts concluded on the basis of a substantive criterion in 2016, per substantive reason

Substantive reasons	Number of contracts		Contractual values	
	Number	%	Amount	%
For techcnical or artistic reasons or reasons connected with the protection of exclusive rights	9,555	68.8%	344,682,906 €	57.5%
For reasons of extreme urgency	2,174	15.7%	100,062,404 €	16.7%
Repetition of similar services	281	2.0%	30,509,187 €	5.1%
Resulting from a procedure where all tenders were excluded	163	1.2%	25,666,888 €	4.3%
Parcial replacement or extension of goods or equipment for specific normal use by the contracting authority	424	3.1%	24,118,151 €	4.0%
Due to the nature of the supplies it is not possible to draft sufficiently precise contractual specifications	234	1.7%	21,244,512 €	3.5%
Purchase of supplies quoted on a commodity market	12	0.1%	12,618,493 €	2.1%
For reasons of secrecy	65	0.5%	12,608,697 €	2.1%
Resulting from a previous procedure that had no response	231	1.7%	9,533,812 €	1.6%
Framework agreement	379	2.7%	9,044,448 €	1.5%
Others	364	2.6%	9,205,838 €	1.5%
Total	13,882	100%	599,295,334.47 €	100%

Source: BASE portal (May 2017)

Compared to 2015, there was in 2016 an increase in the predominance of “technical or artistic reasons or reasons connected with the protection of exclusive rights” (+106 contracts, corresponding to an increase of EUR 12.5 million in contractual values), which represented the majority of this type of procedure (68.8%), with a variation of +14.1 pp. It should also be noted the decrease in references to “reasons of extreme urgency”, which was used in less 3,596 contracts than in 2015 (-EUR 115.9 million), thus representing 15.7% of the contracts based on substantive reasons.

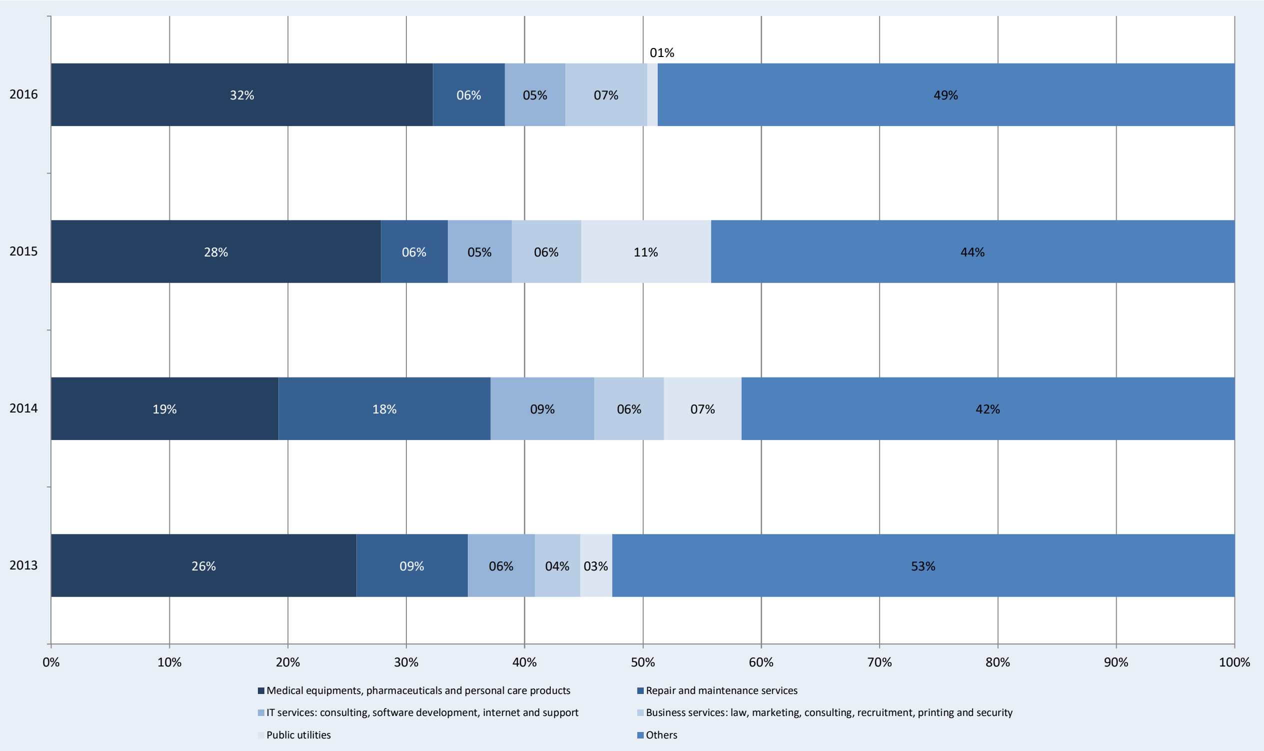
Graph 49 - Breakdown of the number of contracts concluded on the basis of a substantive criterion: from 2012 to 2016



Source: BASE portal (May 2017)

As far as the type of expenditure is concerned, if we consider the contractual amount and the CPV, substantive reasons were given mainly for the purchase of “Medical equipments, pharmaceuticals and personal care products” (32.3%) and “Business services: law, marketing, consulting, recruitment, printing and security”, which together corresponded to a 39.2% “share”.

Graph 50 - Breakdown of the contractual amounts of the contracts concluded on the basis of a substantive criterion, per CPV: comparing 2015 and 2016



Source: BASE portal (May 2017)

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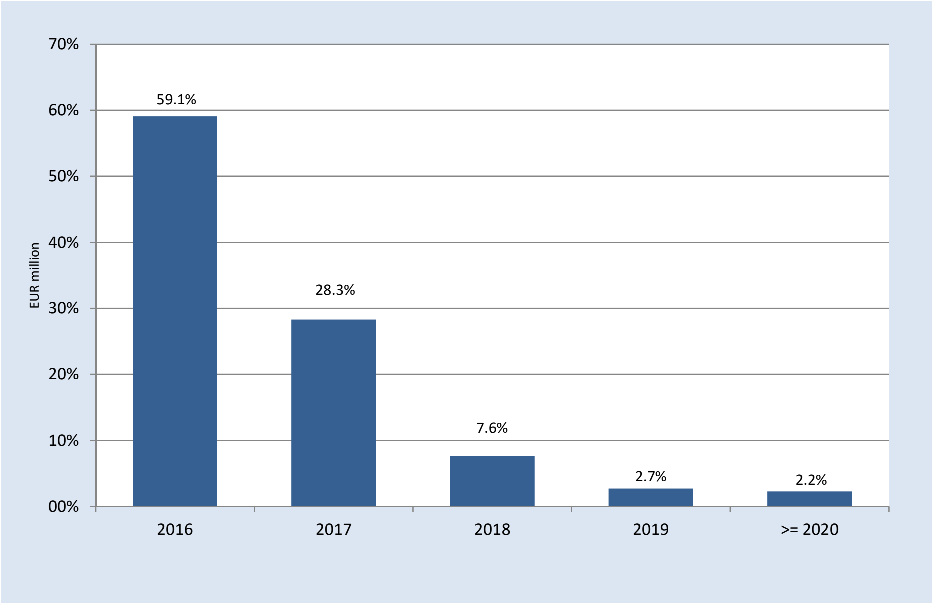
4. Forecast for charges arising from concluded contracts

Most of the contracts concluded in 2016 were planned to be performed during the same year.

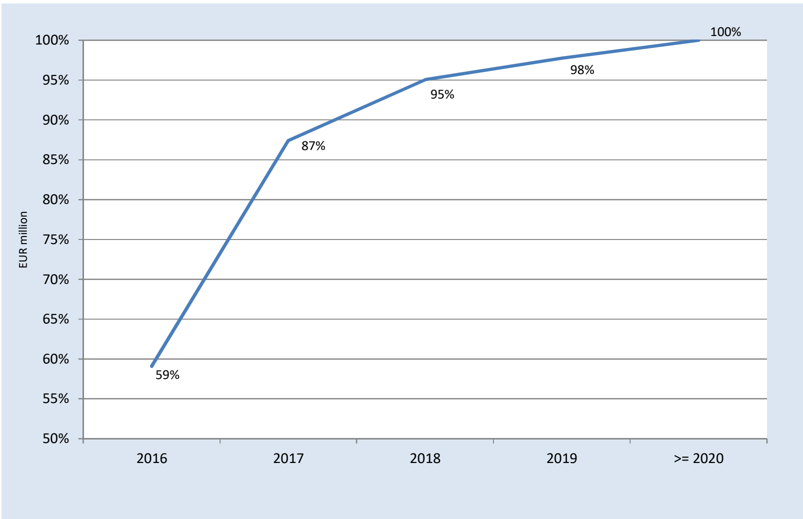
Graph 51 – Forecast for charges arising from contracts concluded in 2016 (EUR million)



Source: BASE portal (May 2017)

In the graph below we can see not only that 59.1% of the value of the concluded contracts have an expected duration of less than one year, but also that 87.4% of the value of all these contracts was expected to be executed until the second calendar year, i.e. until the end of 2017.

Graph 52 – Planned implementation rate for contracts concluded in 2016 (EUR million)



Source: BASE portal (May 2017)

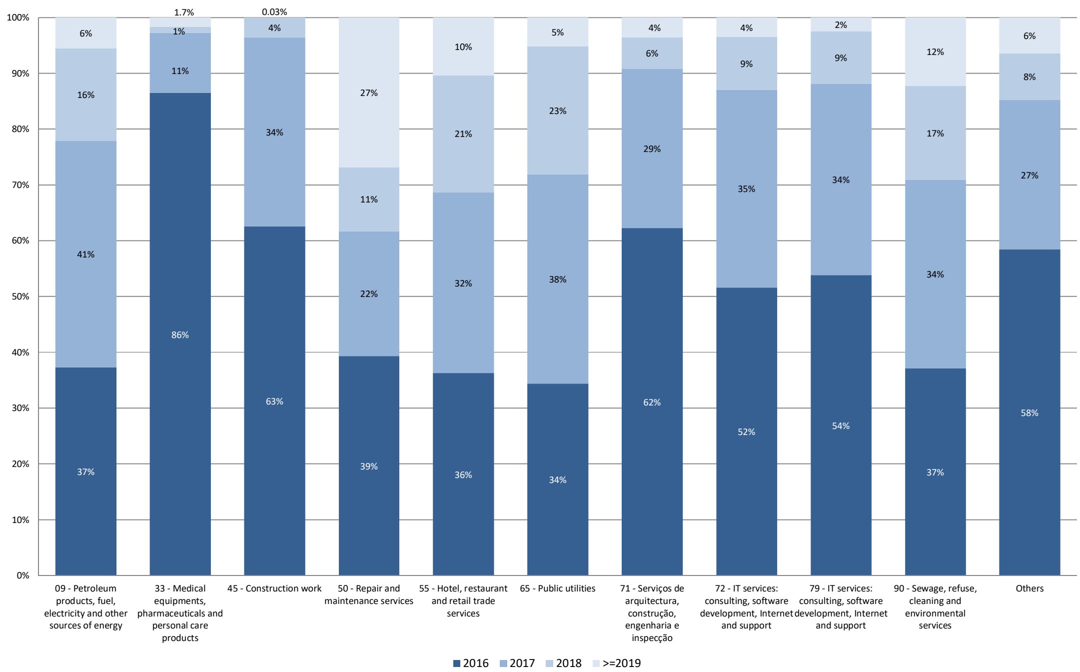
Since the Public Contracts Code establishes that, as a rule, a public contract should have a maximum duration of 3 years[22], it was planned that only 5% of the value of contracts concluded in 2016 would go beyond the end of 2018. Therefore, public contracts are basically short-term contracts.

There are, however, some variations as regards the expected charges over time, in particular if we consider the type of expenditure.

Therefore, if we look at the contracts taking into account the CPV codes, we can see that the most significant in terms of contractual amounts were: “33 - Medical equipments, pharmaceuticals and personal care products” (86%), “45 - Construction work” (63%), “71 – Architectural, construction, engineering and inspection services” (62%), “79 - “Business services: law, marketing, consulting, recruitment, printing and security” (54%), as well as the other codes not included in the “top 10” (58%). These groups had the highest forecast rates of performance in the same year when the contract was concluded (2016).

On the contrary, since the forecast rate for the performance of contracts in the same year of conclusion (2016) was less significant (lower than 50 %) for codes “65 – Public utilities” (34%), “55 - Hotel, restaurant and retail trade services” (36%), “90 - Sewage, refuse, cleaning and environmental services” (37%), and “09 - Petroleum products, fuel, electricity and other sources of energy” (37%), it was in these headings that multi-annual contracts were more predominant.

Graph 53 – Forecast of charges arising from contracts concluded in 2016, per CPV



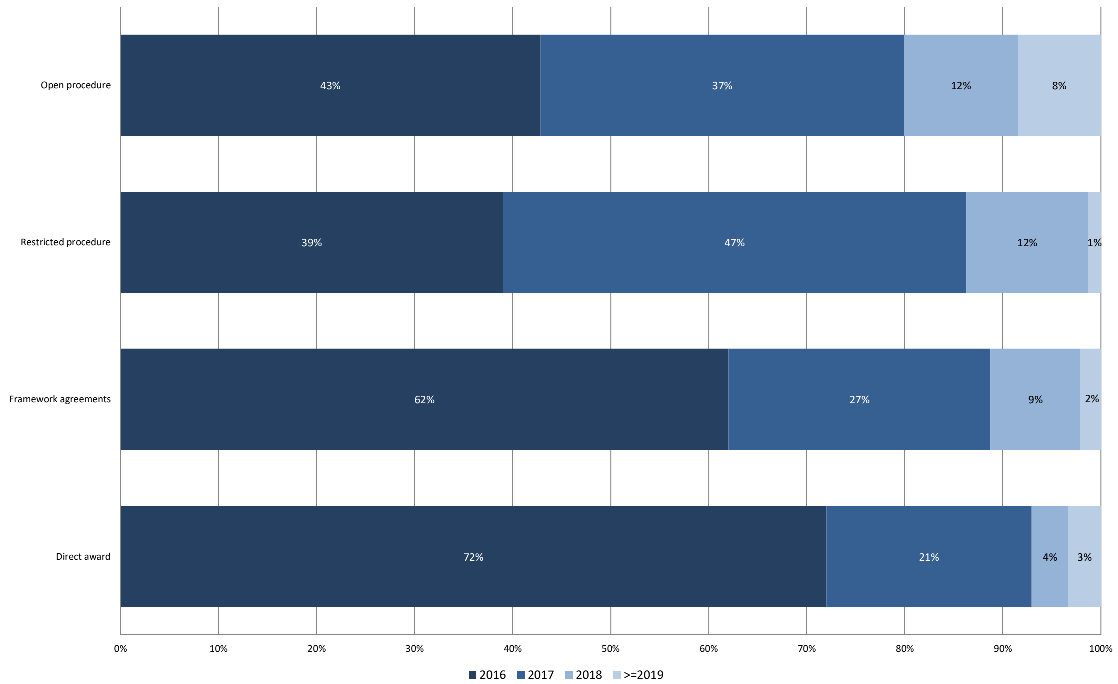
Source: BASE portal (May 2017)

[22] See Article 48 of the PCC. A duration of more than 3 years must be substantiated.

An analysis of the type of procedure underlying the contract leads to the conclusion that contracts under direct award tended to be executed within a shorter period of time: 72% of the value of these contracts was expected to be executed during 2016.

On the contrary, the execution of contracts resulting from competitive procedures was expected to spread over a longer period: 20% of the contracts resulting from a public tender and 14% of the contracts preceded by a restricted procedure were expected to be executed in 2018 and in the following years.

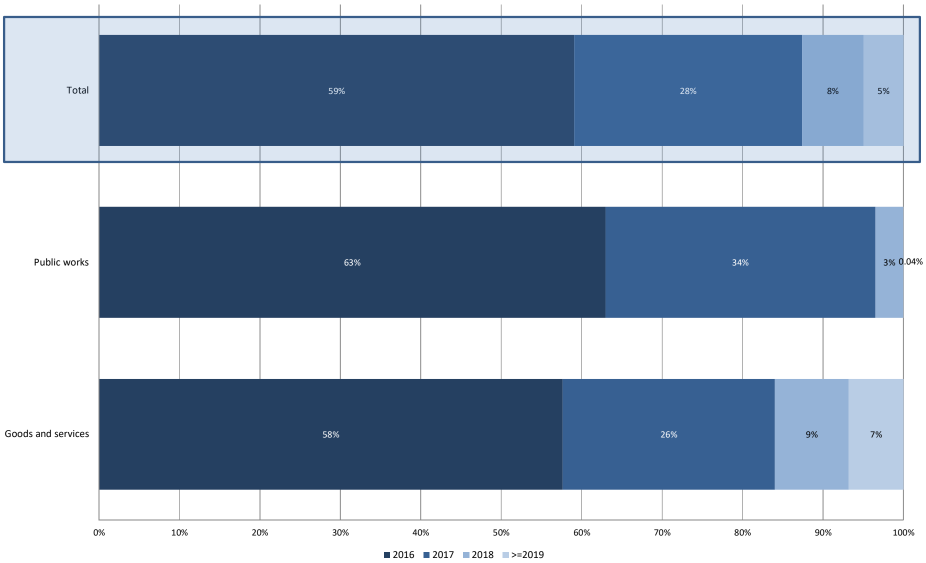
Graph 54 – Forecast of charges arising from contracts concluded in 2016, per type of procedure



Source: BASE portal (May 2017)

A similar analysis per type of contract shows that, in the breakdown of charges over the years of performance of the contract, the concentration of the performance in the same year in which the contract was concluded is higher for public works (63.0%) than for goods and services (57.6%).

Graph 55 - Forecast of charges arising from contracts concluded in 2016, per type of contract

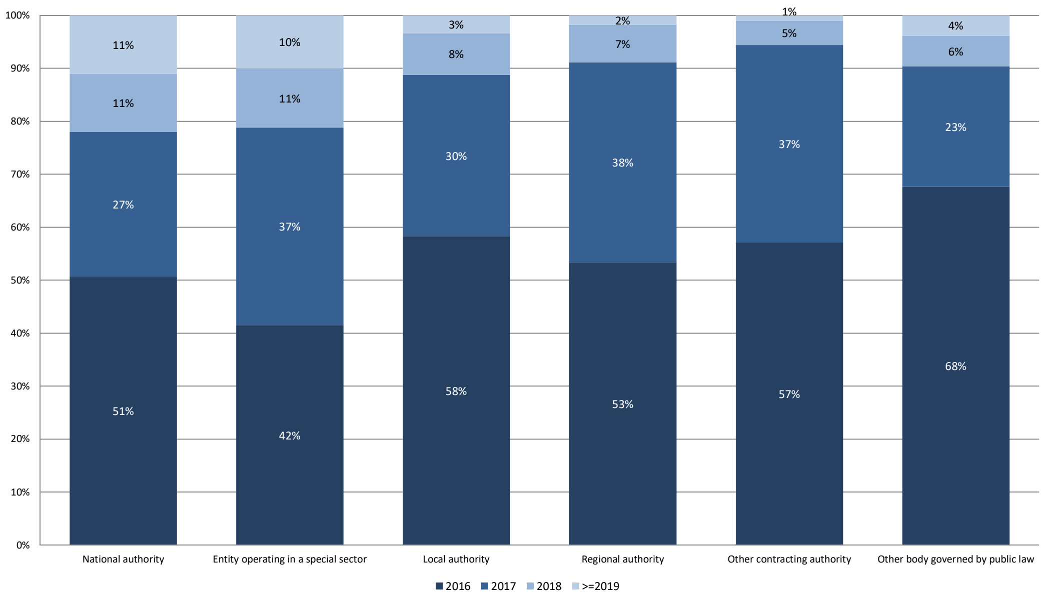


Source: BASE portal (May 2017)

Considering the multi-annual nature of contracts concluded in 2016 per type of authority, we can conclude that most short-term contracts (until late 2016) tended to be awarded by "Other bodies governed by public law" (68%), "Local Authorities" (58%), and "Other Contracting Authorities" (57%) .

"National Authorities" (22%), "Entities operating in the special sectors" (21%) and "Regional Authorities" (11%) show an opposite trend, as their most significant contracts are to be performed in 2018 and beyond.

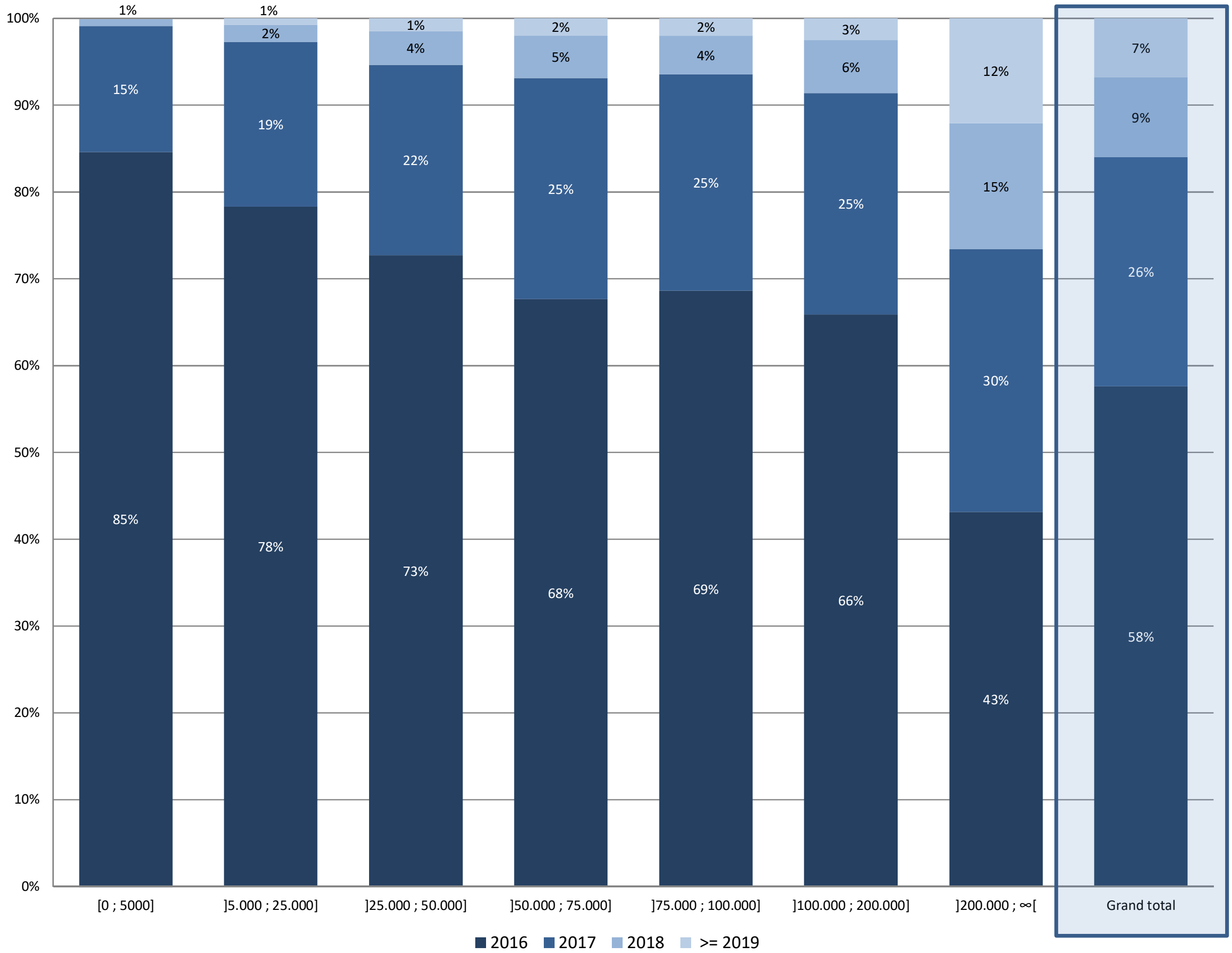
Graph 56- Forecast of charges arising from contracts concluded in 2016, per type of contracting authority



Source: BASE portal (May 2017)

If we use the contract value as a criterion, we can conclude that, for purchases of goods and services, the increase in the number of multi-annual contracts is in line with the increase in contractual amounts. Among the contracts with a value of less than EUR 5,000, it was expected that 85% of their contractual would be executed in 2016, while in the case of contracts with a value of more than EUR 200,000 only 43% of their value was planned to be executed in the same year.

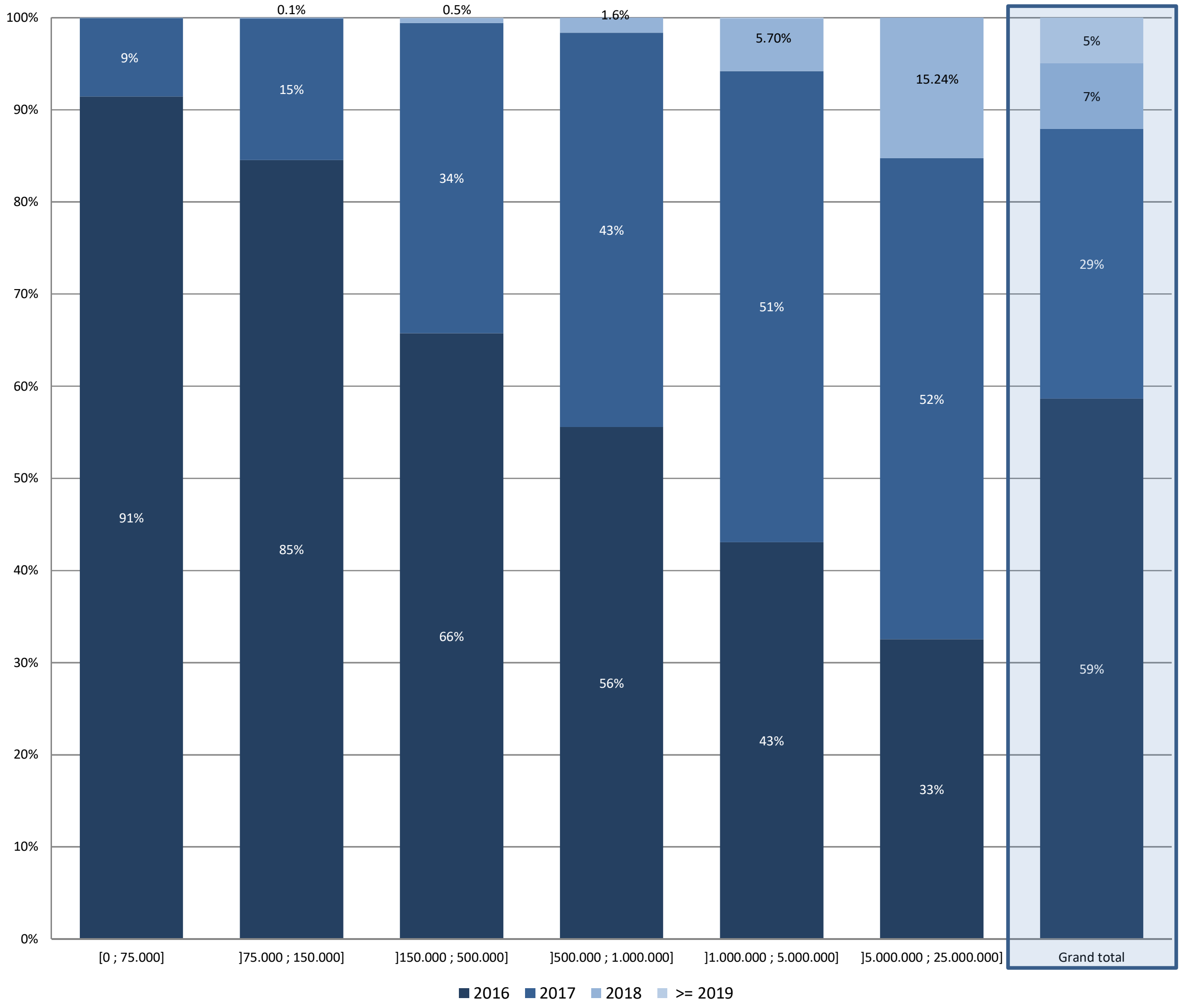
Graph 57 – Forecast of charges arising from contracts concluded in 2016, per range of contractual value – goods and services



Source: BASE portal (May 2017)

We can see the same trend in the case of public works, but it is not so clear-cut. In any event, for contracts with a value of more than EUR 5 million, less than a half of the contractual value was planned to be executed in 2016.

Graph 58 – Forecast of charges arising from contracts concluded in 2016, per range of contractual value – public works



Source: BASE portal (May 2017)

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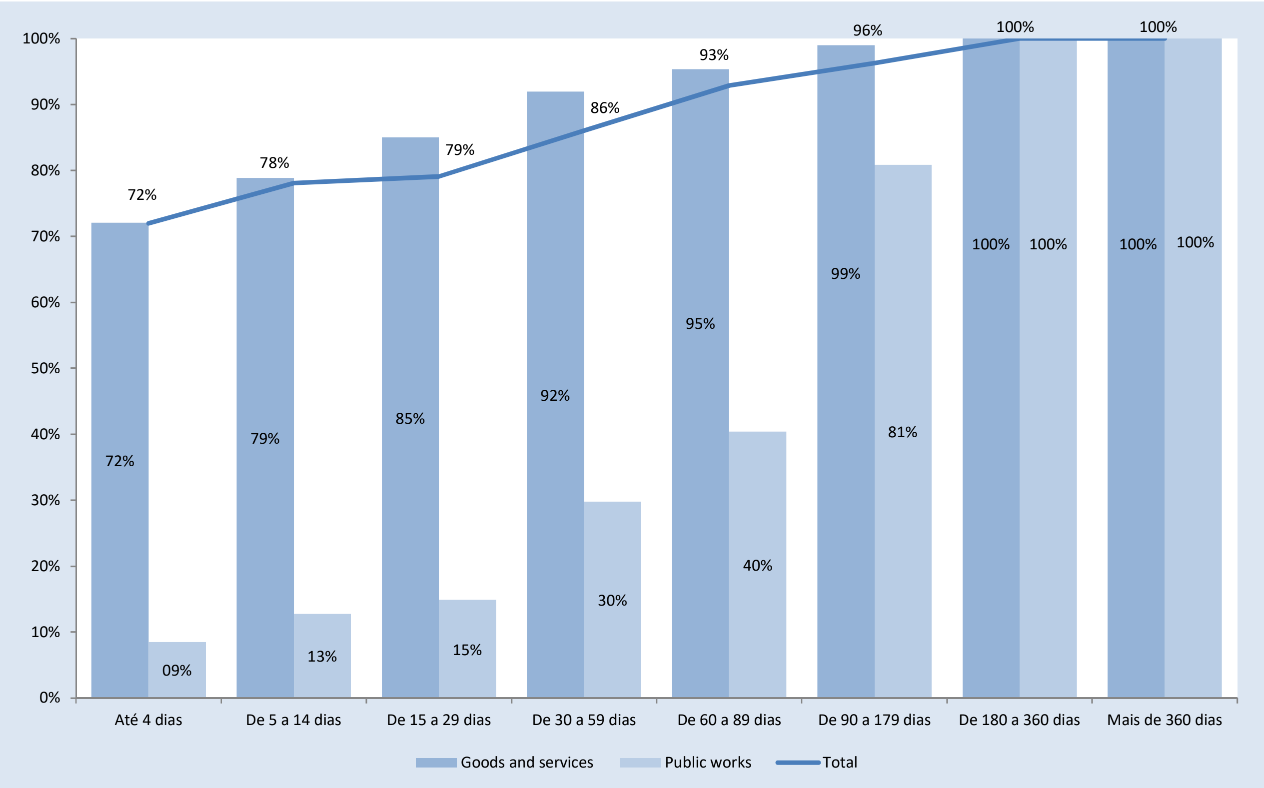
5. THE AVERAGE LENGTH OF PROCUREMENT PROCEDURES

As regards the length of pre-contractual procedures, when considered as the number of days from the beginning of the procedure (publication of the notice or dispatch of the invitation) to the conclusion of the contract, we see that most procedures (71.9%) took up to 4 days until the corresponding decision was made, which appears to represent greater efficiency in the conduct of the procedures than in 2015 (68.5%).

Graph 59- Length of procedures related to contracts concluded in 2016, per range and per type of contract (all contracts except simplified direct awards)

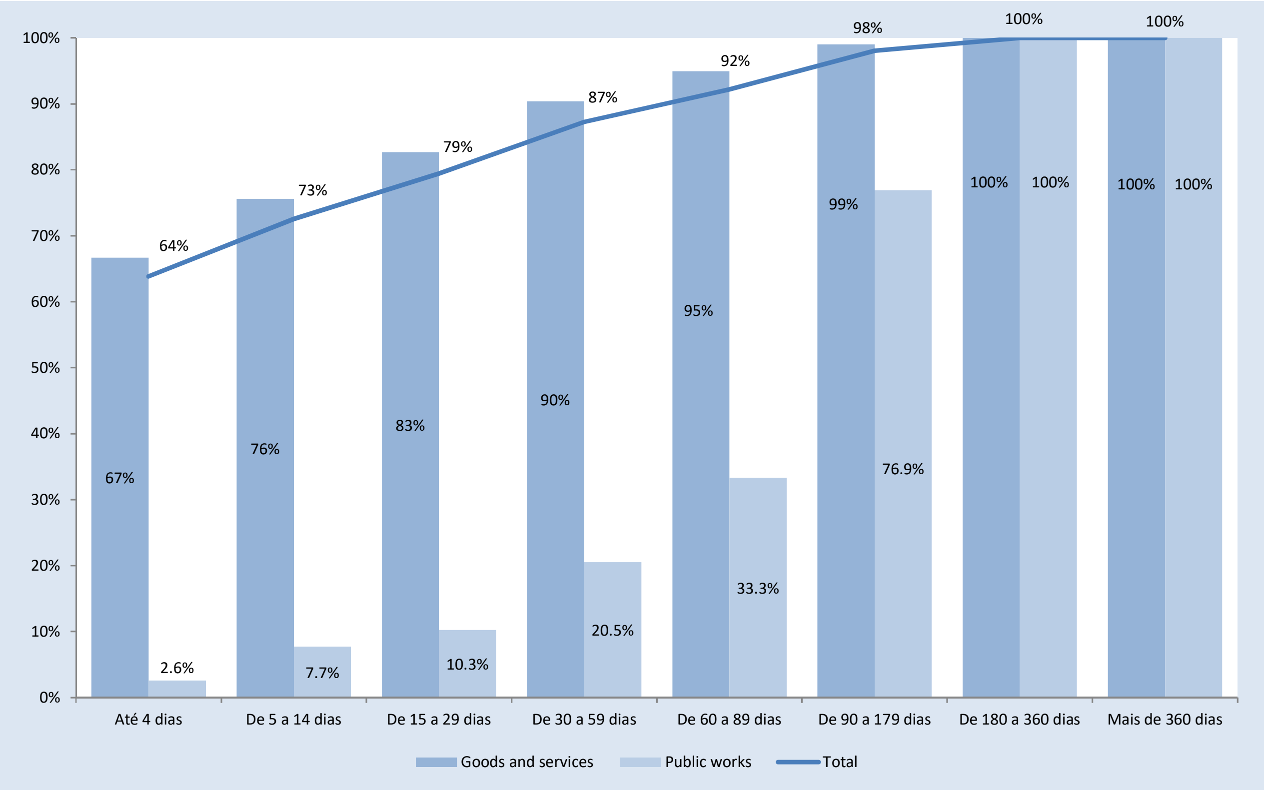


Source: BASE portal (May 2017)

Nevertheless, the length of procedures varied according to the type of contract: in the case of goods and services 72.1% of the procedures took less than 4 days (above the level of 68.7% in 2015), while in the case of public works, in the same period, 8.5% of the procedures were completed, a lower performance than in 2015 (21.5%).

The above mentioned figures are affected by the proportion of the number of procedures under direct award in the number of contracts reported, as direct award procedures tend to be swifter than competitive ones. However, the average time limits for the completion of procedures for contracts preceded by an open or a restricted tender procedure were similar.

Graph 60- Length of procedures related to contracts concluded in 2016, per time range and per type of contract (contracts resulting from competitive procedures)



Source: BASE portal (May 2017)

Notwithstanding the foregoing, the results obtained only for competitive procedures continue to show a noticeable degree of efficiency: 90.4% of the contracts for goods and services e 20.5% of the contracts for public works have been concluded within less than 60 days from the beginning of the procedure.

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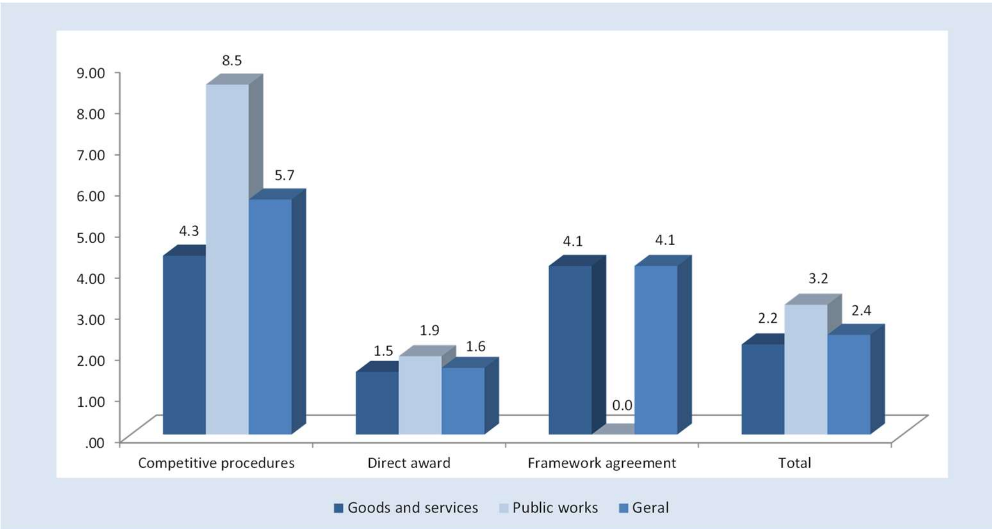
6. NUMBER OF COMPETITORS BY PROCEDURE

In order to assess the level of competition in public procurement, we analysed a sample of 33,146[23]procedures carried out through electronic platforms, whose contracts were reported to the BASE portal.

The number of tenders received for each procurement procedure averaged 2.4, although there is a difference between contracts for goods and services (2.2) and contracts for public works (3.2).

Graph 61- Average number of tenders per procedure (2016)



Source: BASE portal (May 2017)

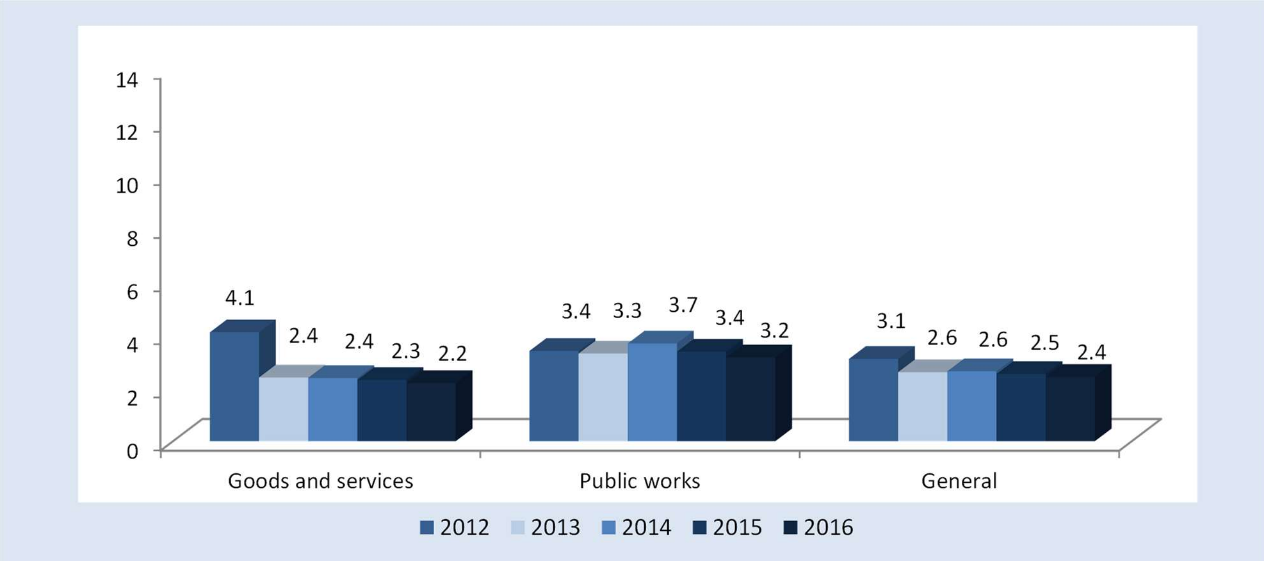
As might be expected, the number of competitors per procedure was higher in the case of competitive procedures (5.7 competitors per procedure) than in the other cases (1.6 and 4.1, respectively, in direct awards and framework agreements).

Considering the type of contracts, it is worth noting that competition in the area of public works (3.2 competitors per procedure) is greater than in goods and services (2.2). This difference is particularly obvious in competitive procedures, where the average number of competitors in the case of public works is 8.5, against 4.3 in the case of goods and services.

Compared to 2015, there was a decrease in the number of competitors per procedure. Overall the number of competitors decreased by 0.1 (from 2.5 to 2.4).

[23] Of which 25,414 negotiated/direct award procedures, 4,499 open procedures and 122 restricted procedures.

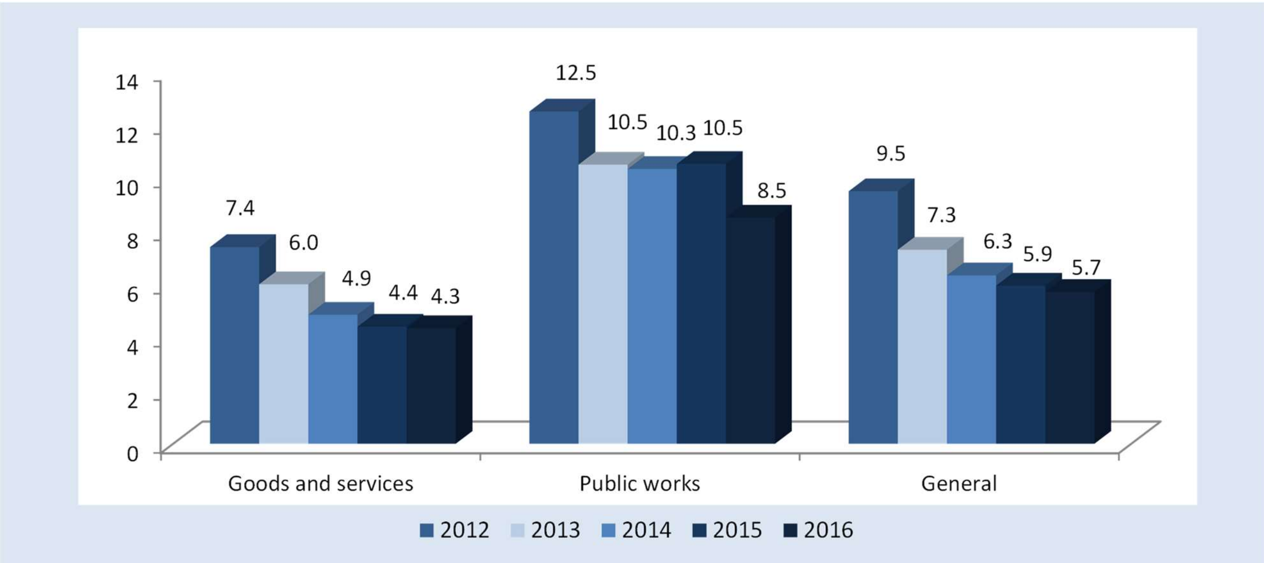
Graph 62- Average number of tenders per procedure: changes from 2012 to 2016



Source: BASE portal (May 2017)

As for the competitive procedures, there was an overall decrease of 0.2 competitors, with a decrease in the average number of competitors in the case of contracts for goods and services (0.1 competitors) and a sharper decrease in the case of public works contracts (-2.0 competitors).

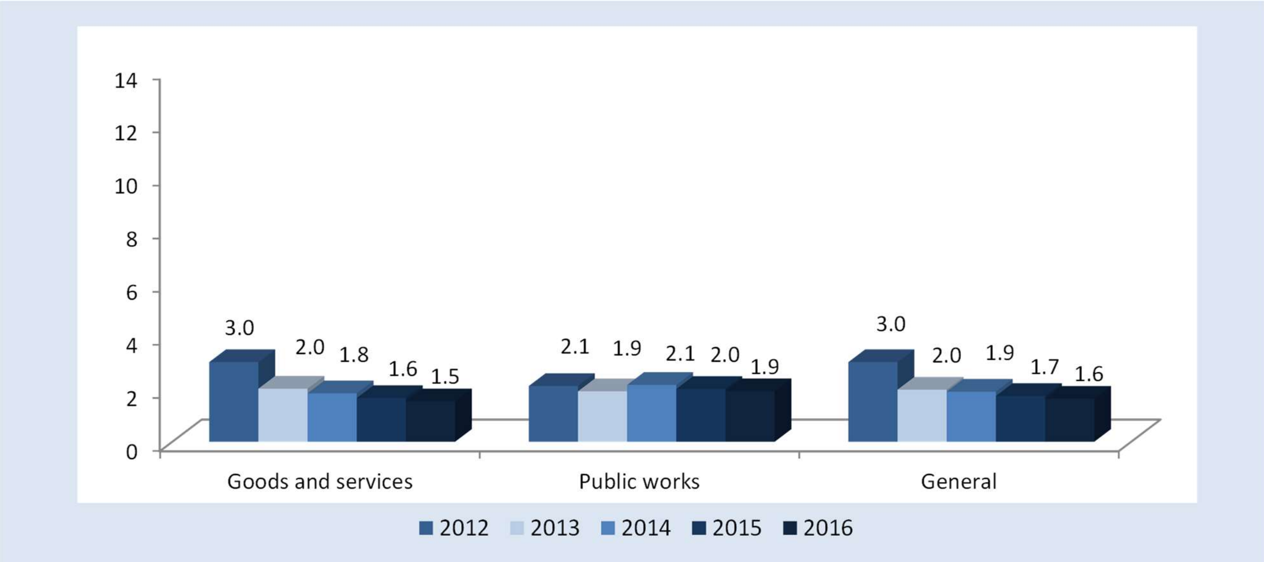
Graph 63- Average number of tenders per procedure: changes from 2012 to 2016



Source: BASE portal (May 2017)

As far as direct award procedures are concerned, the average number of competitors fell from 1.7 to 1.6 per procedure.

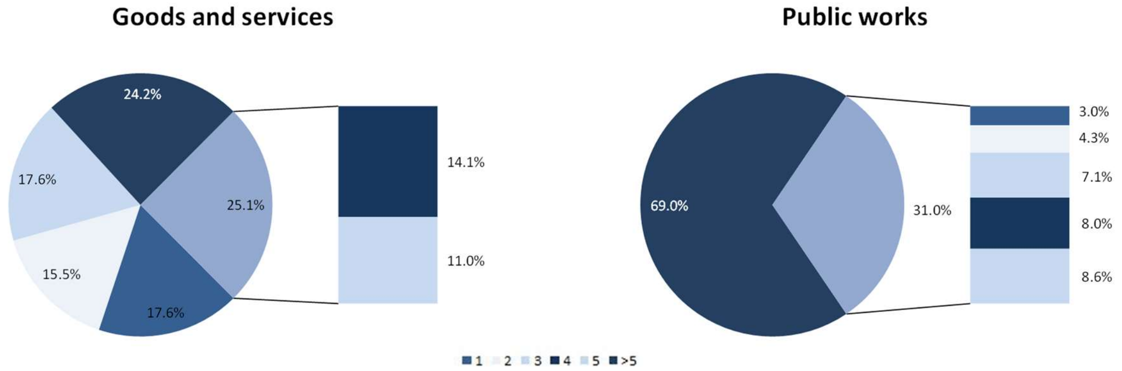
Graph 64- Average number of tenders per direct award procedure: changes from 2012 to 2016



Source: BASE portal (May 2017)

A more detailed analysis of competitive procedures shows that in 82.4% of the procedures for the purchase of goods and services and in 97.0% of the procedures concerning public works, at least two proposals were submitted for consideration by the contracting authority.

Graph 65- Number of tenders per procedure: competitive procedures (2016)



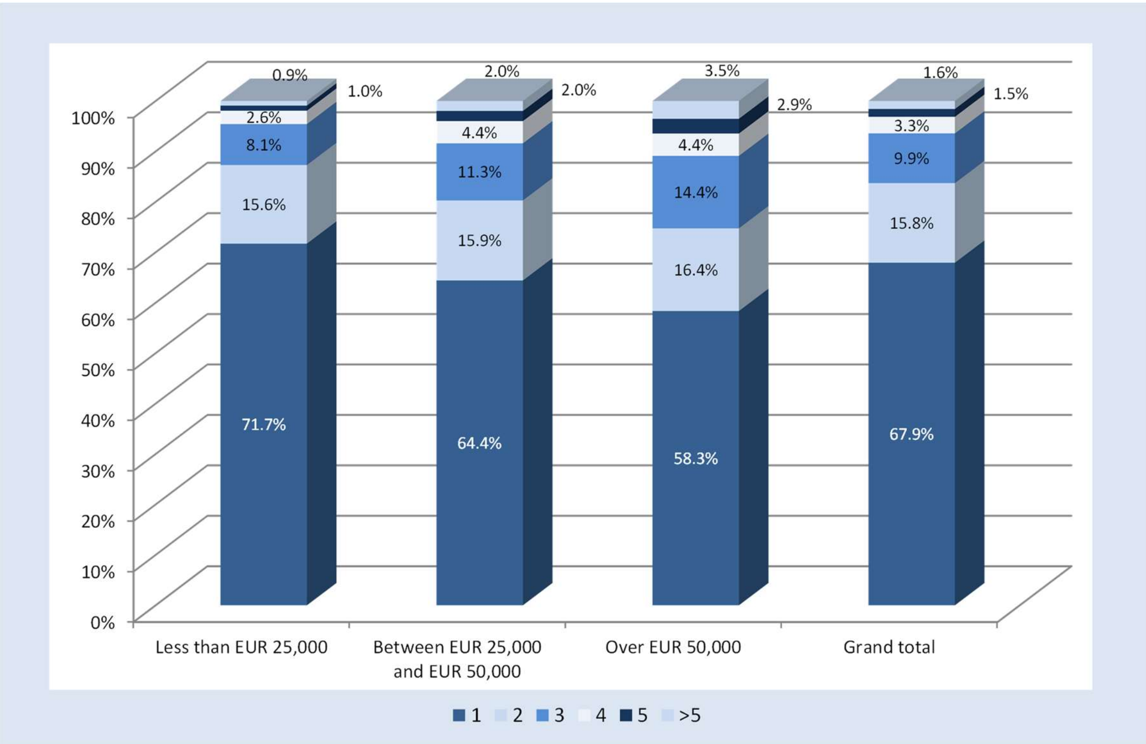
Source: BASE portal (May 2017)

Additionally, more than five tenders were submitted in a significant number of procedures, especially for public works (69.0% of the procedures), although this was also relevant for goods and services (24.2%).

In the case of direct awards for the purchase of goods and services, only one tender was submitted in 67.9% of the procedures.

The weight of contracts resulting from procedures in which only one tender was submitted decreased in line with the contractual value: while 71.7% of the procedures with a basic price of less than EUR 25,000 received only one tender, in the case of procedures with a basic price of more than EUR 50,000 that share was lower (58.3%), corresponding to a decrease of 13.4 pp.

Graph 66- Number of tenders per procedure: direct awards for the purchase of goods and services (2016)



Source: BASE portal (May 2017)

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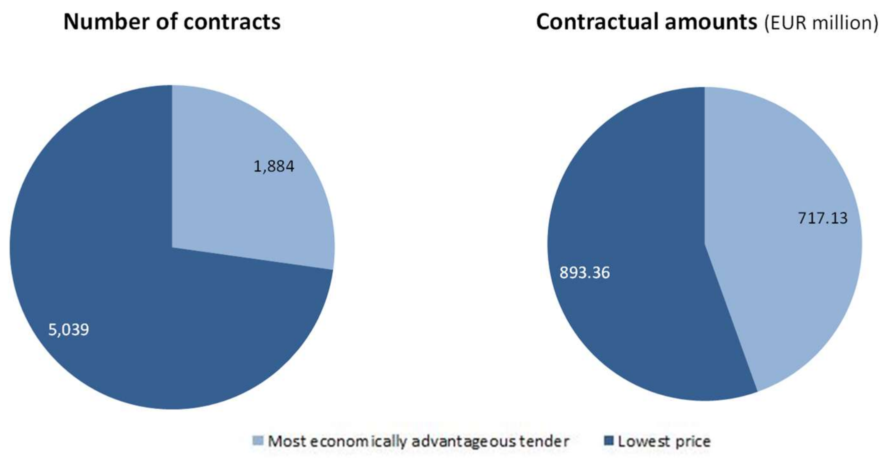
7. AWARD CRITERIA

7.1. "LOWEST PRICE" VS "MOST ECONOMICALLY ADVANTAGEOUS TENDER"

The Public Contracts Code provides for two distinct award criteria[24]: (i) *the most economically advantageous tender for the contracting authority*, and (ii) *the lowest price*.

In a sample of 6,923[25] competitive procedures, it was found that the award criterion "the lowest price" provided for in Article 74(1)(c) was used in 72.8% (5,039) of the contracts concluded in 2016. These contracts corresponded to 55.5% of the contractual amounts.

Graph 67- Award criteria in open procedures (public procedures and restricted procedures)



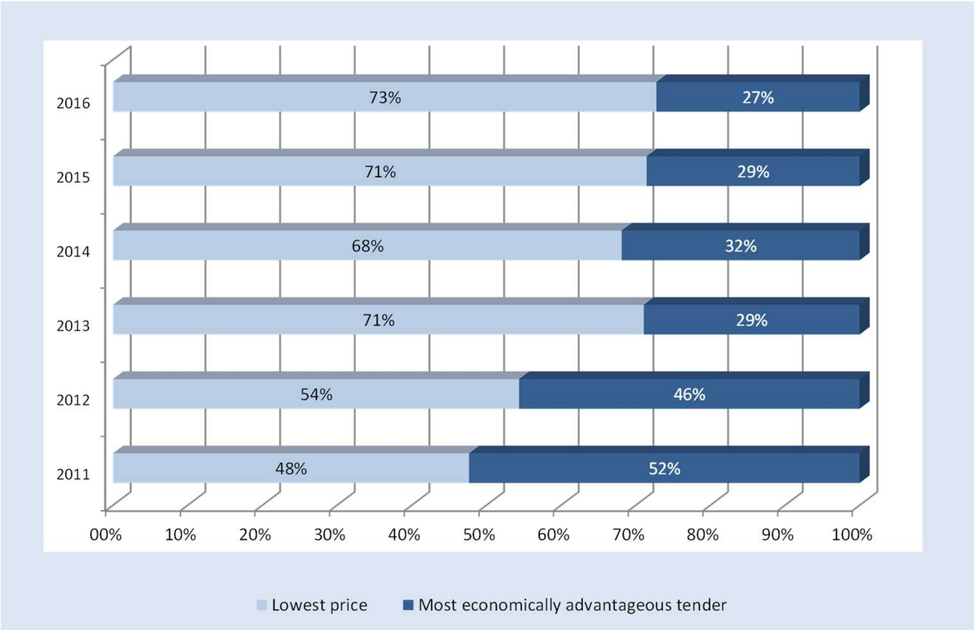
Source: BASE portal (May 2017)

The trend observed in previous years (except in 2014), towards an increasing use of "the lowest price" as the award criterion, continued in 2016. While the use of this criterion was minority (47.7 %) in 2011, it represented almost ¾ (72.8%) of the number of contracts concluded in 2016.

[24] See Article 74(1) of the Public Contracts Code.

[25] Procurement procedures for which it was possible to identify the type of criterion that was used and its weight, where applicable, excluding direct award procedures. This sample represents 88.2% of the competitive procedures launched in 2016 and 86.4% of the corresponding contractual amounts.

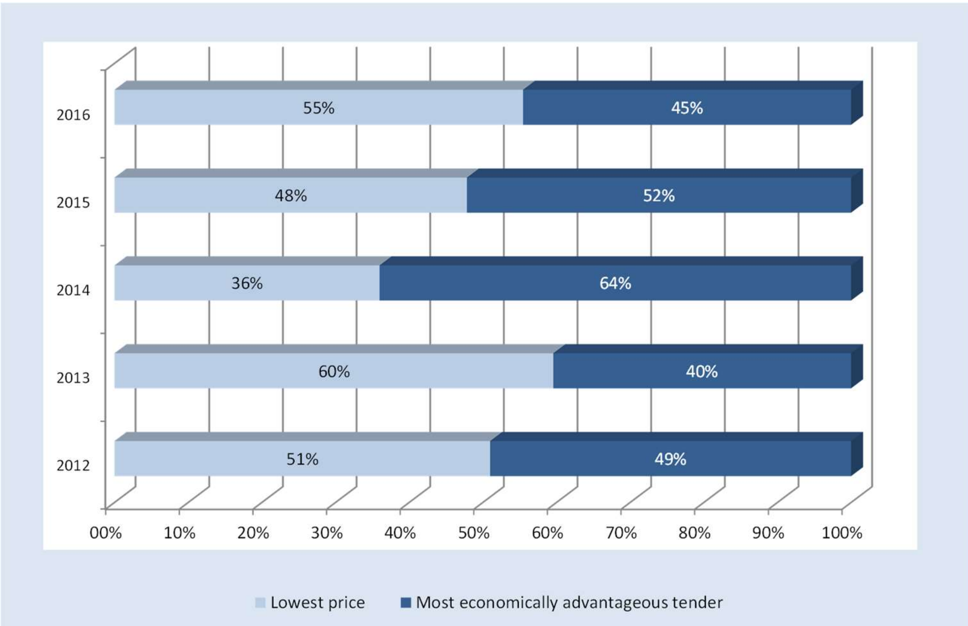
Graph 68 – Relative weight of the award criteria per number of contracts: changes from 2011 to 2016



Source: BASE portal (May 2017)

Regarding the contractual amounts involved, from 2015 to 2016, the predominance of contracts concluded on the basis of the "lowest price" when compared with those based on the "most economically advantageous tender" increased by 7.6 pp to 55.5%.

Graph 69– Relative weight of the award criteria per contractual amounts: changes from 2012 to 2016



Source: BASE portal (May 2017)

Graph 70– Average value of the contracts preceded by a competitive procedure, per type of award criterion: changes from 2012 to 2016

Source: BASE portal (May 2017)

From 2015 to 2016, there was an increase in the average contractual value for contracts awarded on the basis of the "lowest price" (+3.5%, now amounting to EUR 177,290), although there was a decrease in the case of contracts awarded on the basis of the "most economically advantageous tender" (-18.4%, now amounting to EUR 382,052). The average value of the latter contracts in 2016 was 115% higher than the average value of the former ones (in 2015, that ratio was 173%).

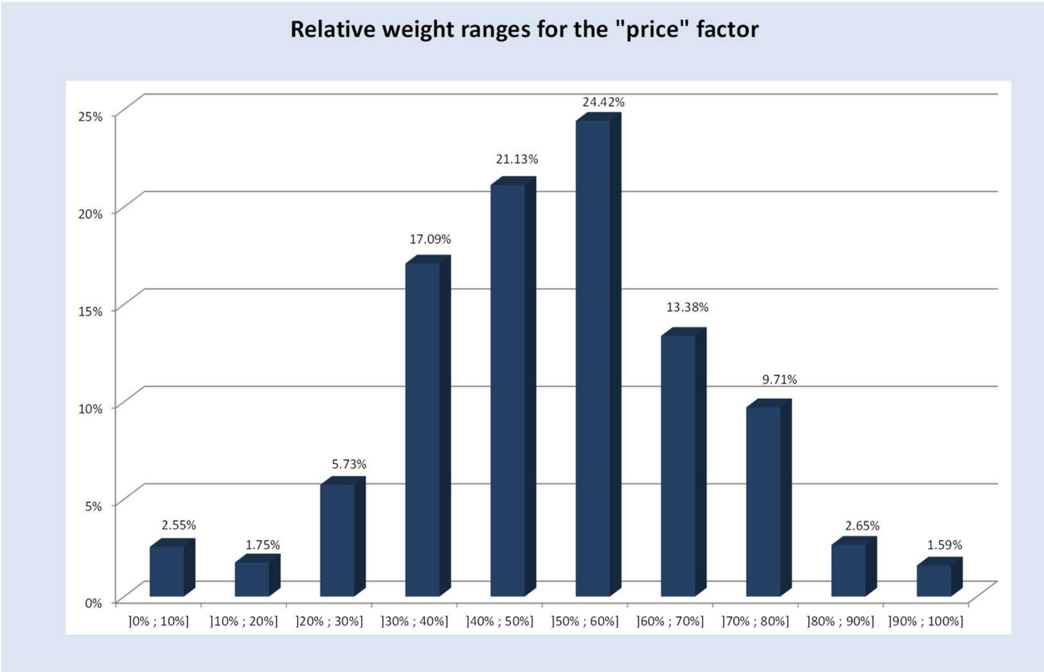
7.2. "MOST ECONOMICALLY ADVANTAGEOUS TENDER": WEIGHT OF THE PRICE FACTOR

If we consider only those contracts awarded on the basis of the "most economically advantageous tender" (1,884), we can observe the predominance of the price factor (or the like[26]) in the use of this criterion.

As shown in the graph below, the weight of the price factor, or the like, was higher than 50 % in 51.8% of the competitive procedures launched in 2016 and included in the processed sample.

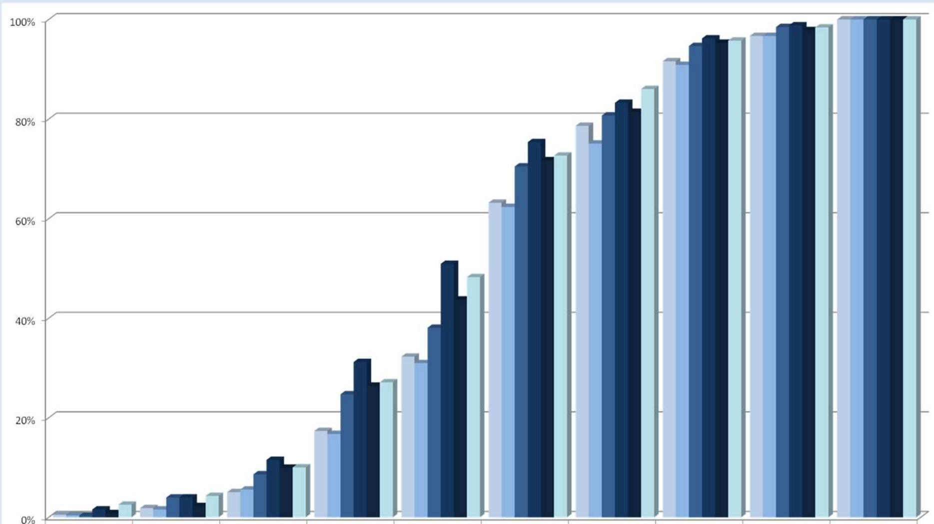
[26] "The like" means the economic factor (financial burden, rents payable, etc.) of the contract.

Graph 71- Breakdown of the weight of the “price” factor, or the like, when assessing tenders submitted under open procedures in 2016



Source: BASE portal (May 2017)

Graph 72- Cumulative breakdown of the weight of the price factor, or the like, when assessing tenders: from 2011 to 2016



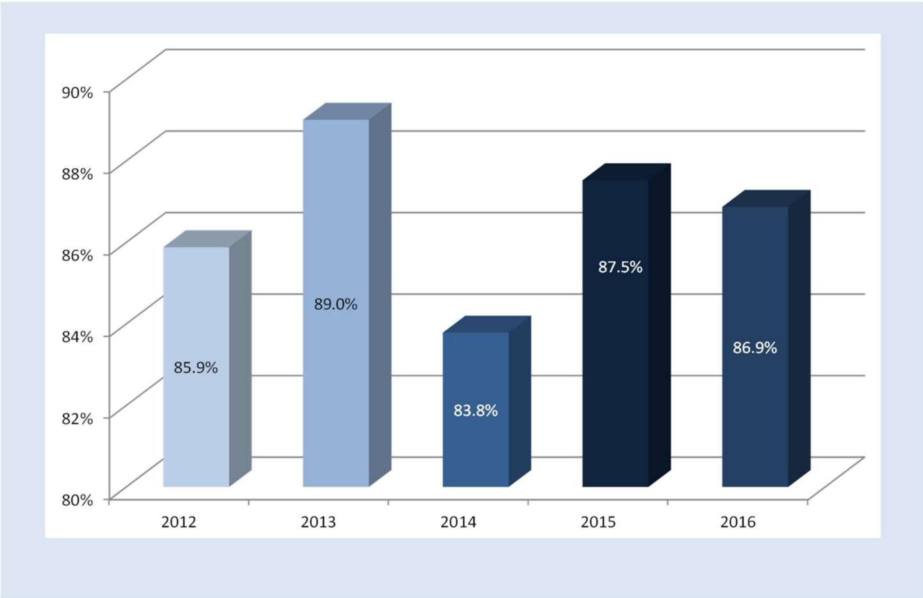
	]0% ; 10%]	]10% ; 20%]	]20% ; 30%]	]30% ; 40%]	]40% ; 50%]	]50% ; 60%]	]60% ; 70%]	]70% ; 80%]	]80% ; 90%]	]90% ; 100%]
2011	1%	2%	5%	17%	32%	63%	79%	92%	97%	100%
2012	0%	2%	6%	17%	31%	62%	75%	91%	97%	100%
2013	0%	4%	9%	25%	38%	70%	81%	95%	98%	100%
2014	2%	4%	12%	31%	51%	75%	83%	96%	99%	100%
2015	1%	2%	10%	26%	44%	72%	81%	95%	98%	100%
2016	3%	4%	10%	27%	48%	73%	86%	96%	98%	100%

2011 2012 2013 2014 2015 2016

Source: BASE portal (May 2017)

If we add the procedures in which the main factor for assessing the tenders was the “lowest price” to those procedures in which the price factor, while not being the only assessment factor, represented more than a half of the weighting, we find that in 86.9% of the competitive procedures the price was the most important and dominant weighting factor.

Graph 73 – Percentage of the number of contracts in which the price factor, or the like, was largely dominant



Source: BASE portal (May 2017)

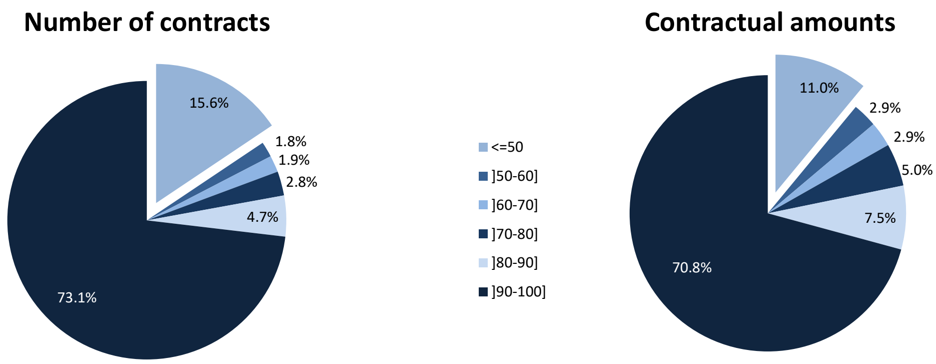
7.3. Abnormally Low Prices

In the current economic and fiscal context, procurement procedures are particularly price-sensitive. For competitors, the need to maintain their activity in a context of low economic growth made them submit tenders whose value was below the prices they used to apply formerly, to the detriment of their profit margin. For contracting authorities, the fiscal constraints reflected not only in the size of their budgets but also in the administrative barriers (for instance, the available funds) led to a general decrease in the basic prices of procedures, thus “smashing” potential competitors, and favoured the economic factor, by assigning it a greater weight than it would probably be the case in a different context.

Another way to examine and quantify this issue is to look at the final value of the contract taking into account the basic price[27] and the abnormally low price[28].

When we consider contracts for **goods and services** (including those related to public works), regardless of the type of procedure, we see that in 15.6% of the sample contracts[29] the final contractual amounts were close to or even lower than the abnormally low price calculated by reference to the basic price. Their representativeness in terms of overall contractual amounts is slightly lower (11.0%).

Graph 74 - The ratio between the basic price and the contractual price, per contractual price range, of contracts for **goods and services** (including those related to public works) in 2016



Source: BASE portal (May 2017)

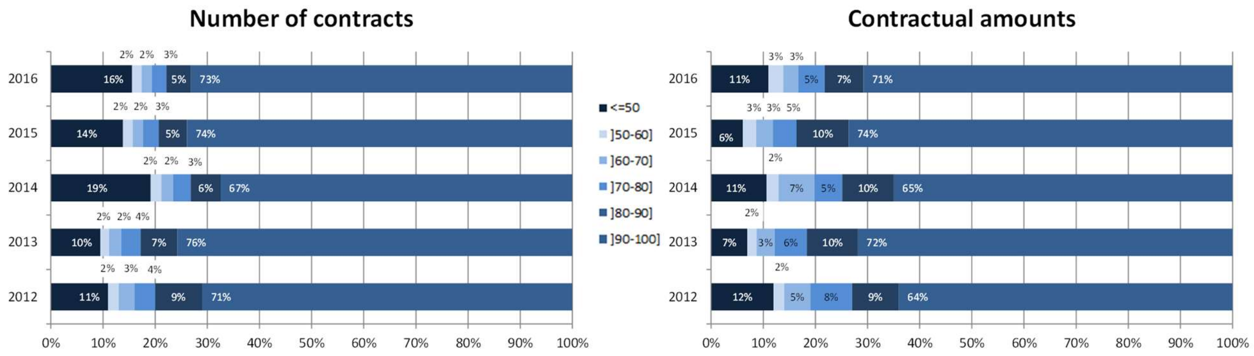
Comparing to the contracts concluded in 2015 and considering the legal criterion used to identify (possible) abnormally low prices, we can see in 2016 an increase of 2 pp (from 14% to 16%) in the number of contracts and +5 pp (from 6% to 11%) in contractual amounts.

[27] This is an innovative concept in the Portuguese legal framework that corresponds to the… *maximum price the contracting authority is willing to pay for the performance of all the services constituting the subject-matter of the contract* … (Article 47 of the PCC).

[28] According to Article 69(1) of the Public Contracts Code, the total price resulting from a tender shall be considered as abnormally low if it is: (a) lower than or equal to 40 % of the basic price indicated in the specifications, when the procurement procedure is designed for public works contracts; (b) lower than or equal to 50 % of the basic price indicated in the specifications, when the procurement procedure is designed for other contracts.

[29] We took into account 23.7% of the contracts, corresponding to 89.3% of the contractual amounts.

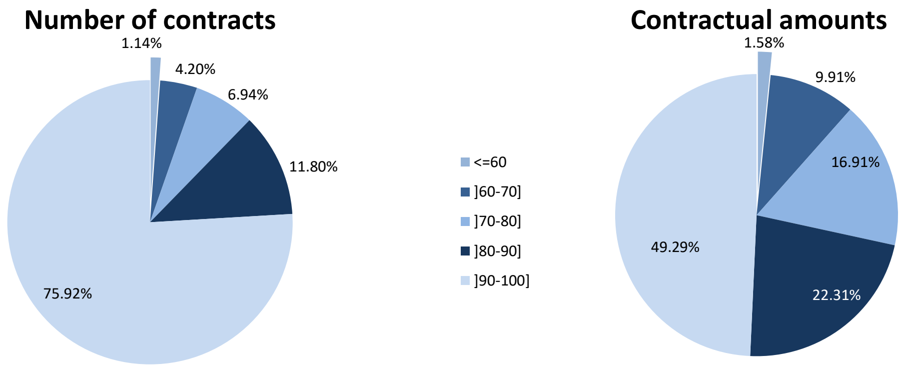
Graph 75 - The ratio between the basic price and the contractual price, per contractual price range, of contracts for **goods and services** (including those related to public works): changes from 2012 to 2016



Source: BASE portal (May 2017)

As far as **public works contracts** are concerned, and irrespective of the type of procedure, those with a contractual price close to the limit of the abnormally low price are less relevant: for 1.14% of those contracts, representing 1.58% of the contractual amounts, the contractual price was lower than or equal to 40% of the basic price.

Graph 76 - The ratio between the basic price and the contractual price, per contractual price range, of **public works contracts** in 2016



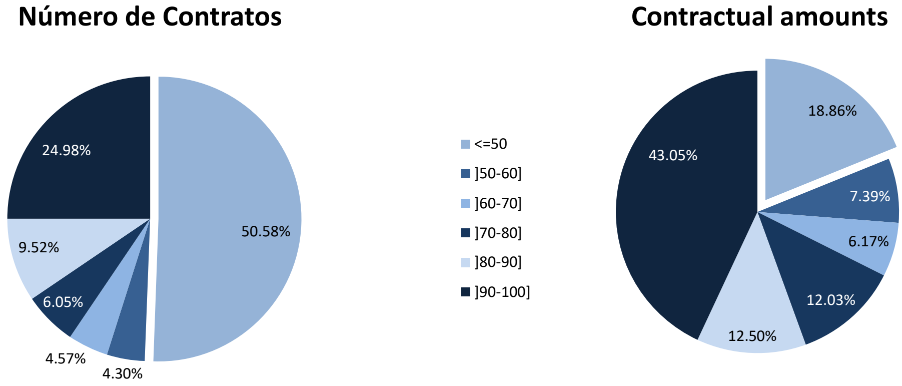
Source: BASE portal (May 2017)

Compared to 2015, public works contracts show the same trend as regards the number of contracts, since the percentage of contracts with a value falling within the abnormally low price criterion remained at 1.1%. As regards the contractual amounts, it dropped 1.1 pp to 1.6%.

Graph 77 - The ratio between the basic price and the contractual price, per contractual price range, of contracts **for public works**: changes from 2012 to 2016

Source: BASE portal (May 2017)

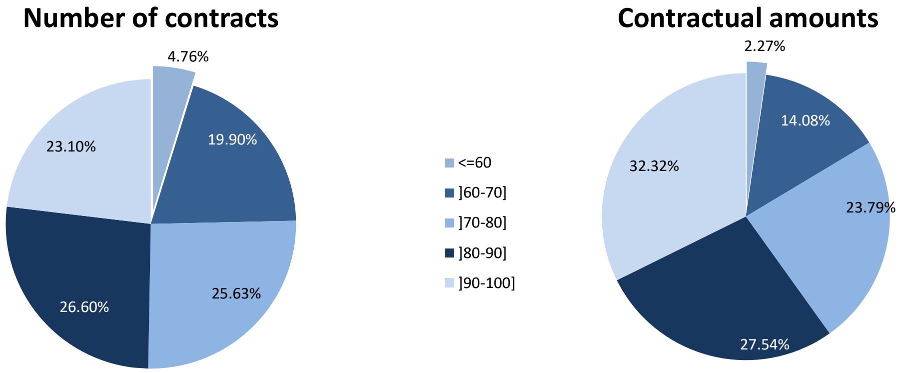
Graph 78 - Deviation between the basic price and the contractual price, per contractual price range, of the contracts for **goods and services** (including those related to public works) resulting from **competitive procedures** in 2016



Source: BASE portal (May 2017)

The same happens with public works contracts, where we can see that 4.76% of the number of contracts and 2.27% of the contractual amounts concerned were awarded for a lower value than the reference value for the abnormally low price.

Graph 79 - Deviation between the basic price and the contractual price, per contractual price range, of **public works contracts** resulting from **competitive procedures** in 2016



Source: BASE portal (May 2017)

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8. CONTRACTS CLASSIFIED ACCORDING TO THE "COMMON PROCUREMENT VOCABULARY" (CPV)

A short analysis on the basis of the CPV classification shows that public works predominate over the remaining expenditure, mainly because of "Construction work", which represents 25.2% of the overall contractual value.

Table 8 – Breakdown of contracts per CPV

CPV Code	CPV Description	Number of contracts		Contractual amounts	
		Number	%	Amount	%
45	Construction work	12,814	3.0%	1,279,438,979 €	25.2%
33	Medical equipments, pharmaceuticals and personal care products	48,572	11.2%	765,035,124 €	15.1%
09	Petroleum products, fuel, electricity and other sources of energy	9,288	2.1%	311,468,144 €	6.1%
79	Business services: law, marketing, consulting, recruitment, printing and security	24,397	5.6%	291,573,920 €	5.7%
50	Repair and maintenance services	43,803	10.1%	277,291,980 €	5.5%
90	Sewage-, refuse-, cleaning-, and environmental services	5,435	1.3%	243,614,859 €	4.8%
71	Architectural, construction, engineering and inspection services	9,219	2.1%	177,099,562 €	3.5%
55	Hotel, restaurant and retail trade services	12,415	2.9%	150,875,903 €	3.0%
72	IT services: consulting, software development, Internet and support	6,844	1.6%	148,353,834 €	2.9%
34	Transport equipment and auxiliary products to transportation	15,864	3.7%	116,615,547 €	2.3%
	Others	243,799	56.4%	1,309,557,007 €	25.8%
	Total	432,450	100%	5,070,924,859.15 €	100%

Source: BASE portal (May 2017)

A comparison with 2015 figures shows distinct variations.

Table 9 – Breakdown of contracts per CPV: comparing 2015 and 2016

Descrição CPV	2015		2016		Variação	
	Montante	%	Montante	%	Montante	Δ %
Construction work	1,038,995,850 €	22.5%	1,279,438,979 €	25.2%	240,443,129 €	23.1%
Medical equipments, pharmaceuticals and personal care products	536,437,931 €	11.6%	765,035,124 €	15.1%	228,597,193 €	42.6%
Transport services (excl. Waste transport)	261,488,701 €	5.7%	84,260,403 €	1.7%	- 177,228,298 €	-67.8%
Business services: law, marketing, consulting, recruitment, printing and security	260,767,288 €	5.7%	291,573,920 €	5.7%	30,806,632 €	11.8%
Petroleum products, fuel, electricity and other sources of energy	237,949,859 €	5.2%	311,468,144 €	6.1%	73,518,286 €	30.9%
Sewage-, refuse-, cleaning-, and environmental services	189,031,325 €	4.1%	243,614,859 €	4.8%	54,583,534 €	28.9%
Repair and maintenance services	187,461,972 €	4.1%	277,291,980 €	5.5%	89,830,008 €	47.9%
Public utilities	156,560,602 €	3.4%	95,384,056 €	1.9%	- 61,176,545 €	-39.1%
Hotel, restaurant and retail trade services	153,716,153 €	3.3%	150,875,903 €	3.0%	- 2,840,250 €	-1.8%
IT services: consulting, software development, Internet and support	143,160,862 €	3.1%	148,353,834 €	2.9%	5,192,971 €	3.6%
	1,446,209,094 €	31.4%	1,423,627,657 €	28.1%	- 22,581,437 €	-1.6%
	4,611,779,636 €	100%	5,070,924,859 €	100%	459,145,223 €	10%

Source: Public Procurement in Portugal – 2013

On the one hand, we see negative variations in the areas of "Transport services" (-67.8%), "Public utilities" (-39.1%) and "Hotel, restaurant and retail trade services" (-1.8%). On the other hand, we see significant increases in the areas of "Repair and maintenance services" (+47.9%), "Medical equipments, pharmaceuticals and personal care products" (+42.6%) and "Petroleum products, fuel, electricity and other sources of energy" (+30.9%).

As a result of these variations, there has been a change in the structure of expenditure, where the upward move of "Petroleum products, fuel, electricity and other sources of energy" from fifth to third and the downward move of "Transport services" from third to thirteenth should be highlighted.

9. Stakeholders in Public Procurement Procedures

9.1. Contracting authorities

9.1.1. The contracting authorities universe

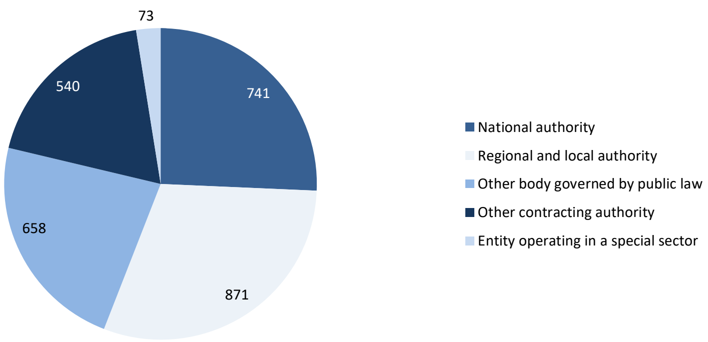
In 2016, the number of authorities that reported contracts to the BASE portal was 2,883. This represents a decrease of 39 (-1.3%) and 779 (-21. 3%) in the number of contracting authorities, respectively over 2015 and 2014.

Graph 80 – Number of contracting authorities having reported contracts: changes from 2011 to 2016

Source: BASE portal (May 2017)

A breakdown per type of contracting authorities shows that the "Regional and Local Authorities" group is the largest one (871), followed by the "National Authorities" (741), the "Other bodies governed by public law" (658), the "Other contracting authorities" (540) and the "Entities operating in the special sectors" (73).

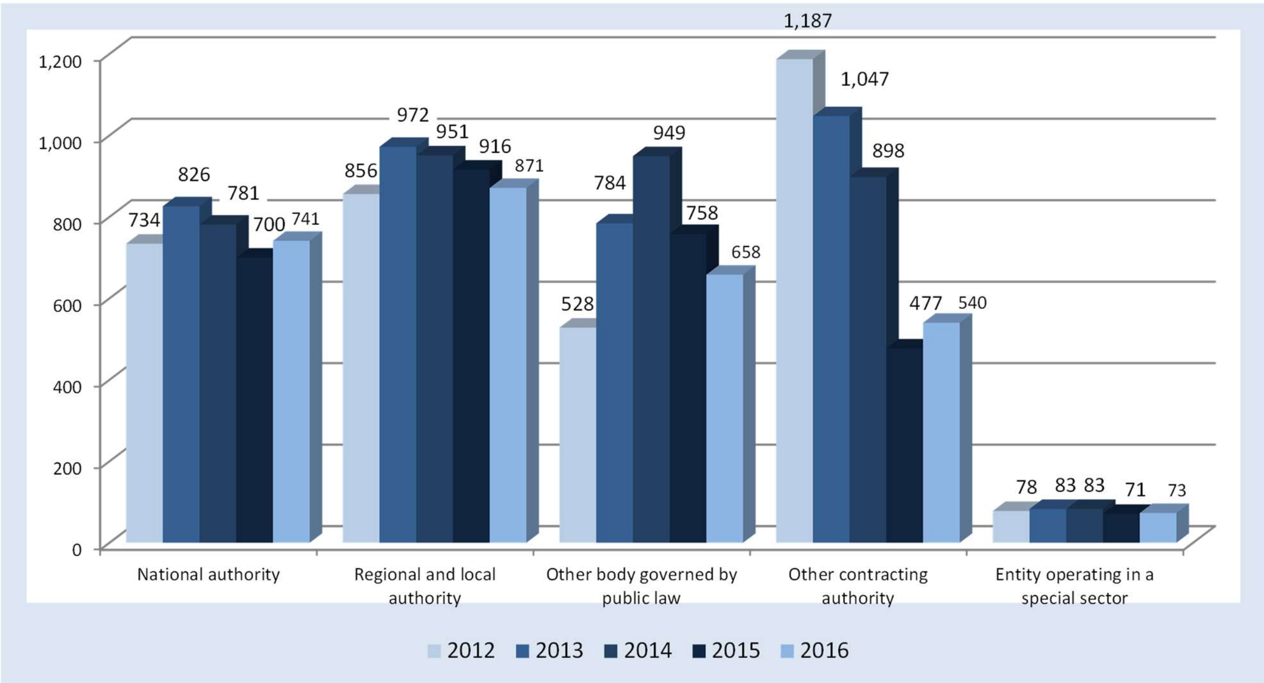
Graph 81 - Number of contracting authorities per type of authority (2016)



Source: BASE portal (May 2017)

Compared to 2015, there was a decrease in the number of entities in all segments, with a stronger negative variation in the “Other contracting authorities” group.

Graph 82- Number of contracting authorities per type of authority: changes from 2012 to 2016



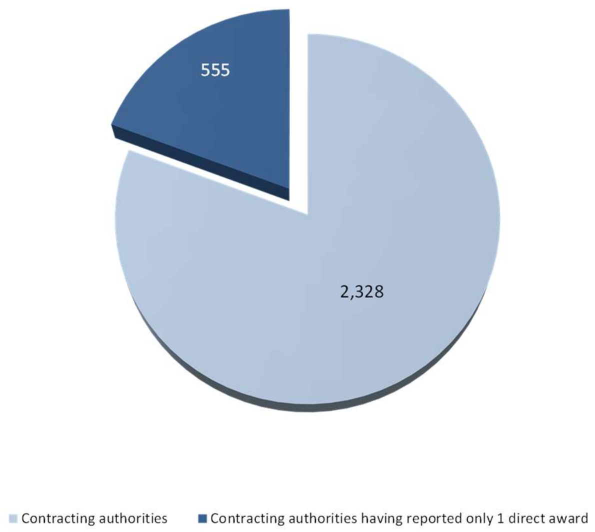
Source: BASE portal (May 2017)

The decrease in the number of reporting authorities confirms the idea that it continues to fall short of the entire group of contracting authorities covered by the Public Contracts Code and hence required to report their procedures and contracts to the BASE portal.

Since competitive procedures must be carried out through electronic platforms, which ensure the communication with the portal, this under-representation of reporting authorities tends to be linked to the fact that some contracting authorities have only used the direct award procedure.

Furthermore, 19.3% of the contracting authorities (555) only reported 1 contract under direct award.

Graph 83 - Number of contracting authorities that reported only one contract or zero contracts under direct award, but did report other contracts



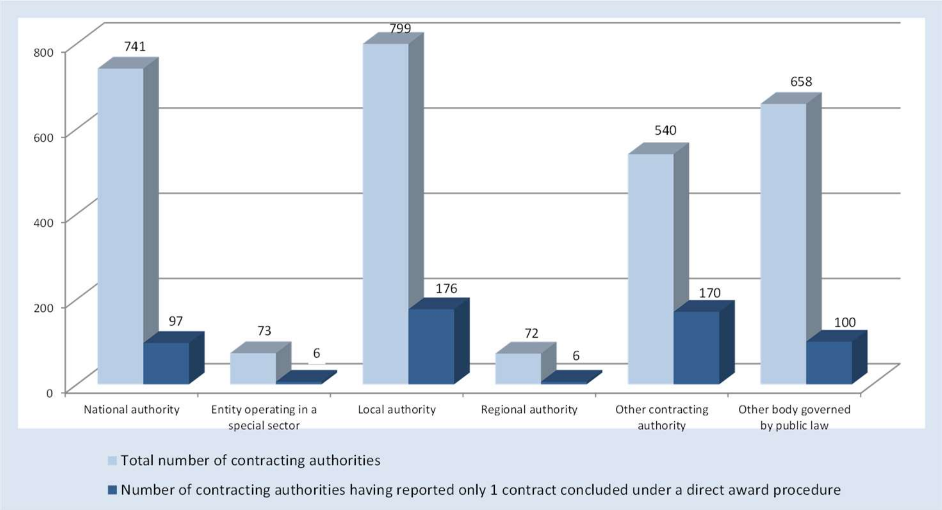
Source: BASE portal (May 2017)

This situation casts ever more doubts on whether all contracting authorities are complying with the provisions of the Public Contracts Code according to which reporting a contract to the BASE portal …, *whether or not written down, is a pre-requisite to ensure its effectiveness, namely for payment purposes*[30].

This situation was common to all groups of contracting authorities. Although we can understand it in the case of "Other contracting authorities" (31.5%) and "Entities operating in special sectors" (8.2%), it is something that would not be expected for "Local authorities" (22.0%), "Regional authorities" (8.3%), "National authorities" (13.1%) and "Other bodies governed by public law" (19.3 %).

Article 127(3) of the Public Contracts Code.

Graph 84- Number of contracting authorities that reported only one contract or zero contracts under direct award, but did report other contracts, per type of authority

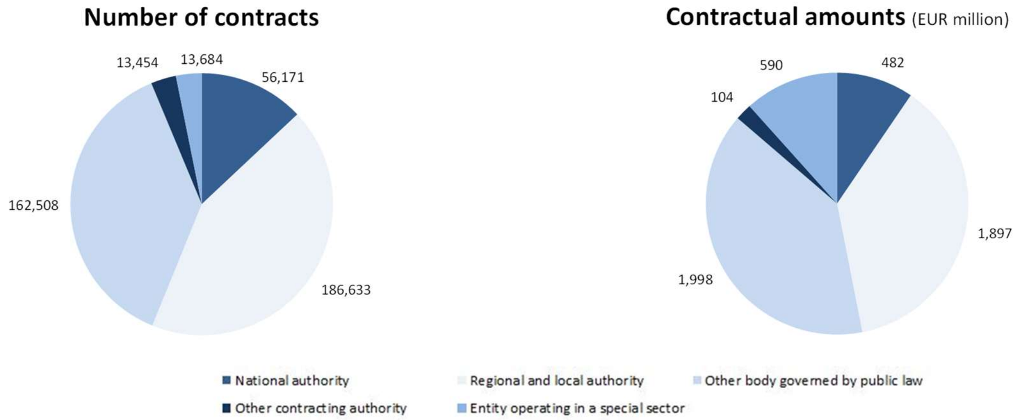


Source: BASE portal (May 2017)

9.1.2. PUBLIC PROCUREMENT PER TYPE OF CONTRACTING AUTHORITY

The entities that concluded a higher number of contracts in 2016 were the "Other bodies governed by public law" and the "Local and regional authorities" (with 43.2% and 37.6%, respectively). As far as contractual amounts are concerned, "Other bodies governed by public law" come first (39.4%), followed by "Local and regional authorities" (37.4%).

Graph 85- Public procurement in 2016 per type of contracting authority

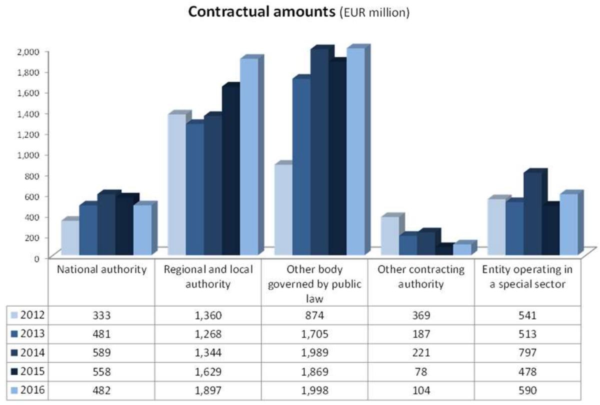


Source: BASE portal (May 2017)

Compared to 2015, the greatest variation in the number of contracts was in the group of "Other contracting authorities" (+112.4%, corresponding to +7.121 contracts), which also stood out as regards the contractual amounts (+34.0%, representing +EUR 26 million).

Graph 86- Public procurement per type of authority: changes from 2012 to 2016

	National authority	Regional and local authority	Other body governed by public law	Other contracting authority	Entity operating in a special sector
2012	15,375	44,586	42,092	7,921	5,090
2013	22,209	46,021	78,975	6,763	3,807
2014	64,899	155,275	155,274	9,109	14,821
2015	50,184	99,668	132,216	6,333	8,386
2016	56,171	186,633	162,508	13,454	13,684

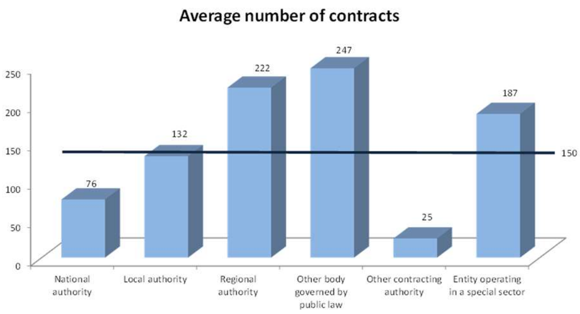


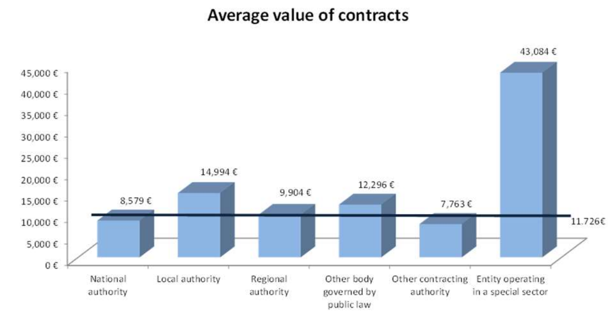
	National authority	Regional and local authority	Other body governed by public law	Other contracting authority	Entity operating in a special sector
2012	333	1,360	874	369	541
2013	481	1,268	1,705	187	513
2014	589	1,344	1,989	221	797
2015	558	1,629	1,869	78	478
2016	482	1,897	1,998	104	590

Source: BASE portal (May 2017)

When we try to establish a profile per type of authority, we find some differences, namely that "Other bodies governed by public law" stand out if we consider the average number of contracts per contracting authority (247 contracts, well above the general average of 150 contracts per contracting authority). As regards the average contractual amounts, the "Entities operating in a special sector" stand out as they reported contracts with an average value of EUR 43,084, well above the general average (EUR 11,726).

Graph 87 – Procurement profile in 2016 per type of authority





Source: BASE portal (May 2017)

The top 10 (ten) contracting authorities as regards the contractual amounts correspond to EUR 996 million, i.e. 19.6% of the total value of contracts reported to the BASE portal. This figure is slightly below the value reached in 2015, when the top 10 (ten) contracting authorities as regards the procurement volume represented 21.6% of the value reached in that same year.

Table 10 – Ranking of the contracting authorities with the largest procurement volume

Contracting authorities	Number of contracts		Contractual values	
	Number	%	Amount	%
Centro Hospitalar de Lisboa Central, E. P. E.	2,348	0.5%	169,041,823 €	3.3%
Infraestruturas de Portugal, S. A.	266	0.1%	151,742,899 €	3.0%
Município de Lisboa	1,708	0.4%	148,449,884 €	2.9%
Santa Casa da Misericórdia de Lisboa	566	0.1%	119,040,104 €	2.3%
MARINHA - DITIC	1,074	0.2%	91,329,915 €	1.8%
Centro Hospitalar Vila Nova de Gaia - Espinho, E. P. E.	6,780	1.6%	88,534,976 €	1.7%
Centro Hospitalar do Algarve, E. P. E.	4,486	1.0%	81,316,713 €	1.6%
Serviço de Saúde da Região Autónoma da Madeira, E. P. E.	1,439	0.3%	50,017,437 €	1.0%
Centro Hospitalar de Lisboa Ocidental, E. P. E.	398	0.1%	49,814,499 €	1.0%
Município de Oeiras	513	0.1%	47,010,832 €	0.9%
Others	412,872	95.5%	4,074,625,776 €	80.4%
	432,450	100%	5,070,924,859.15 €	100%

Source: BASE portal (May 2017)

It should be noted, however, that this list includes 3 new contracting authorities that were not included in the list of 2015.

9.2. Economic Operators

9.2.1. Number of Economic Operators

In 2015, the contracting authorities awarded contracts to 68,234 economic operators, representing an increase of 26.7% in the number of contractors compared to 2015 (53,839).

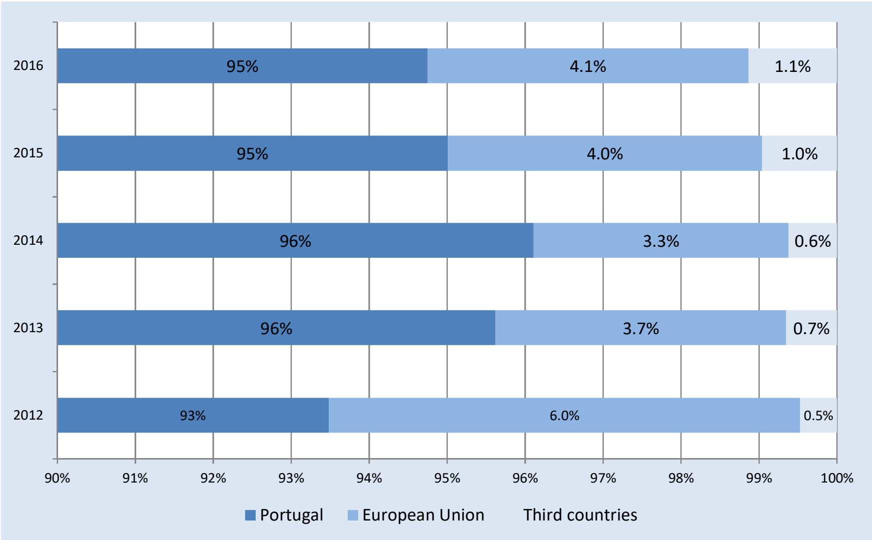
Table 11 – Contractors per nationality

Contractors	2016	
	Número	%
Portugal	64,651	94.7%
European Union	2,807	4.1%
Third countries	776	1.1%
Total	68,234	100%

Source: BASE portal (May 2017)

In most contracts concluded in 2016 (64,651, i.e. 94.7% of the total number of contractors) the co-contractors were economic operators established in Portugal. Economic operators from other EU countries represented 4.1%, while 1.1% came from third countries.

Graph 88 – Contractors per nationality



Source: BASE portal (May 2017)

The trend was reversed as far as the number of national economic operators is concerned, with 13,500 more companies (+26.4%) with which contracts were concluded, while the number of operators from the European area (+637 operators, i.e. +29.4%) saw an increase. We can also see an increase in the number of third country companies (+258, i.e. +49.8%).

9.2.2. CHARACTERIZATION OF NATIONAL ECONOMIC OPERATORS

Based on a sample of 14,404 companies (21.1% of the companies with which public contracts were concluded), representing 49.7% of the number of contracts and 75.0% of the contractual value, it was possible to characterize[31] the business sector of the economic operators with which at least one contract was concluded in 2016.

We can thus conclude that most economic operators to which public contracts were awarded in 2016 were micro enterprises[32] (54.5%). However, they only represented 24.2% of all contracts concluded and only 12.2% of the contractual amounts.

On the other hand, small and medium-sized enterprises (SMEs)[33], representing 42.3% of the economic operators, accounted for slightly more than a half of the contracts (52.9%), corresponding to nearly ½ of the contractual amounts (51.5%).

Lastly, large enterprises[34] represented just 3.1% of all economic operators, having concluded 22.9% of the contracts, which correspond to more than 1/3 (36.2%) of the contractual amounts.

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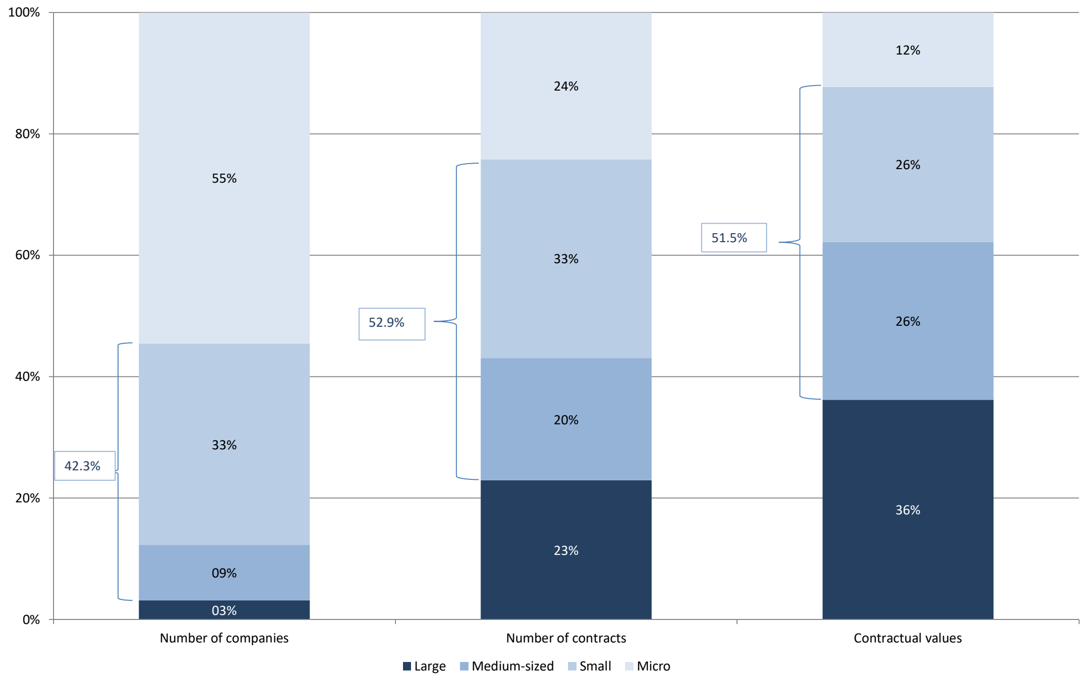
[31] Characterization according to the criteria laid down in Decree-Law No 372/2007 of 6 November 2007.
[32] Companies with less than 10 employees and a turnover of EUR 2 million.
[33] Including small enterprises (companies with less than 50 employees and a turnover of less than EUR 10 million) and medium-sized enterprises (companies with less than 250 employees and a turnover of less than EUR 50 million).
[34] Companies with at least 250 employees and a turnover of EUR 50 million.

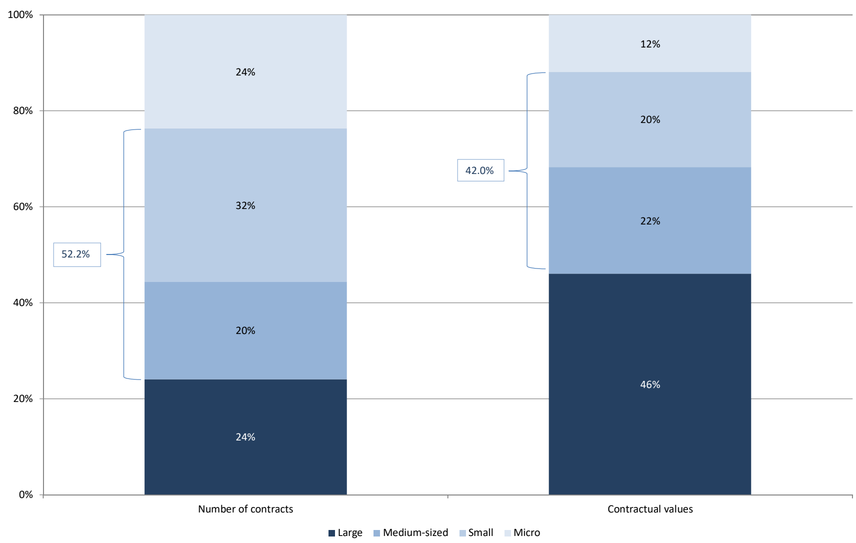
Graph 89 – Contractors representativeness, per company size



Source: BASE portal (May 2017)

If we look only at contracts for **goods and services**, we see that SMEs have an equally significant weight, representing 52.2% of the number of contracts and 42.0% of the contractual amounts. Large enterprises obtained 24.1% of the contracts, which together represented 46.1% of the contractual amounts.

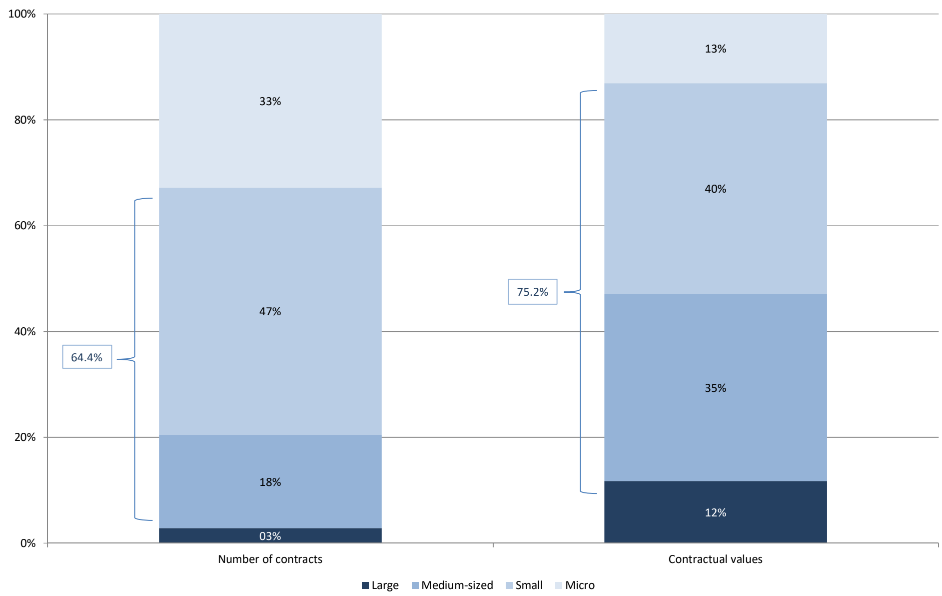
Graph 90 – Contractors representativeness per company size – Goods and services



Source: BASE portal (May 2017)

As regards public procurement related to public works, SMEs accounted for a significant share (64.4% of the contracts and 75.2% of the contractual amounts), and surpassed even large companies in the amounts involved (11.7% of the contractual amounts, corresponding to 2.8% of the number of contracts).

Graph 91 – Contractors representativeness per company size – Public works



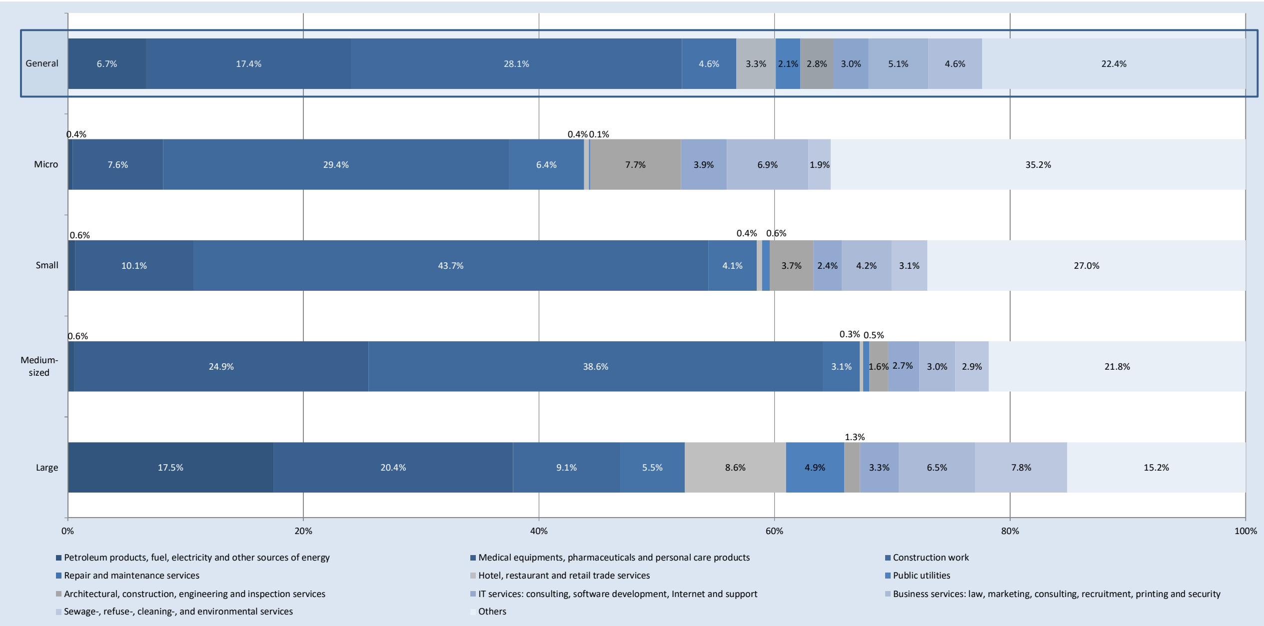
Source: BASE portal (May 2017)

If we look at the structure of the concluded contracts taking into account the company size and the classification according to the Common Procurement Vocabulary (CPV), but only considering the categories (CPV division) with a share of more than 5 % in some of the size segments, we can see a few differences.

First of all, we see that diversity increases when the size of the company decreases. In fact, the contracts covered by the 10 codes of the CPV[35] represented together 84.8% of the contracts concluded with large enterprises, 78.2% with medium-sized enterprises, 73.0% with small enterprises and 64.8% with micro-enterprises. Therefore, as the company size increases, the contracts tend to focus on certain types of purchases.

[35] 09 - Petroleum products, fuel, electricity and other sources of energy; 33 - Medical equipments, pharmaceuticals and personal care products; 45 – Construction work; 50 - Repair and maintenance services; 55 - Hotel, restaurant and retail trade services; 65 – Public utilities; 71 - Architectural, construction, engineering and inspection services; 72 – IT services: consulting, software development, Internet and support; 79 - Business services: law, marketing, consulting, recruitment, printing and security; 90 - Sewage, refuse, cleaning and environmental services

Graph 92 – Public contracts structure per company size and per CPV



Source: BASE portal (May 2017)

Although the category "Construction work" concentrates the highest number of contracts regardless of the company size, its weight is however more significant for small enterprises (43.7%) and medium-sized enterprises (38.6%), than for the others (9.1% and 29.4%, respectively for large and micro-enterprises). Linked to this category of contracts, category "Architectural, construction, engineering and inspection services" is relevant for the micro–enterprises segment (7.7%), but less so for the remaining ones.

Category "Medical equipments, pharmaceuticals and personal care products" is quite relevant in terms of contracts for all company size-types, with the exception of micro-enterprises where it represented only 7.6%.

Table 12 – Public contracts structure, per company size and per CPV

CPV Code		Large	Medium-sized	Small	Micro	General
09	Petroleum products, fuel, electricity and other sources of energy	17.5%	0.6%	0.6%	0.4%	**6.7%**
33	Medical equipments, pharmaceuticals and personal care products	20.4%	24.9%	10.1%	7.6%	**17.4%**
45	Construction work	9.1%	38.6%	43.7%	29.4%	**28.1%**
50	Repair and maintenance services	5.5%	3.1%	4.1%	6.4%	**4.6%**
55	Hotel, restaurant and retail trade services	8.6%	0.3%	0.4%	0.4%	**3.3%**
65	Public utilities	4.9%	0.5%	0.6%	0.1%	**2.1%**
71	Architectural, construction, engineering and inspection services	1.3%	1.6%	3.7%	7.7%	**2.8%**
72	IT services: consulting, software development, Internet and support	3.3%	2.7%	2.4%	3.9%	**3.0%**
79	Business services: law, marketing, consulting, recruitment, printing and security	6.5%	3.0%	4.2%	6.9%	**5.1%**
90	Sewage-, refuse-, cleaning-, and environmental services	7.8%	2.9%	3.1%	1.9%	**4.6%**
-	Others	15.2%	21.8%	27.0%	35.2%	**22.4%**

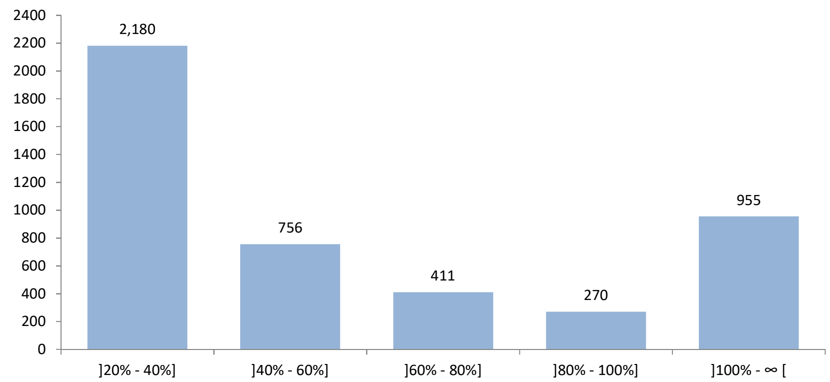
Source: BASE portal (May 2017)

Some contract categories are relevant as regards the contract structure of large enterprises, even though this can be considered as less relevant for the other segments; that would apply to "Petroleum products, fuel, electricity and other sources of energy", "Hotel, restaurant and retail trade services", and "Public utilities".

9.2.3. Public Contracts Share in Economic Operators Turnover

Seeking to analyse the possible impact of public contracts on economic operators, in a sample of 218,266 contractual relations between contracting authorities and economic operators[36], the share of the contracts concluded in 2016 with a given contracting authority represented less than 20 % of the economic operator's turnover in 97.9% of the cases.

Graph 93– Number of situations in which the weight of the contracts concluded with a given contracting authority in 2016 represented more than 20 % of the economic operator's turnover in 2015

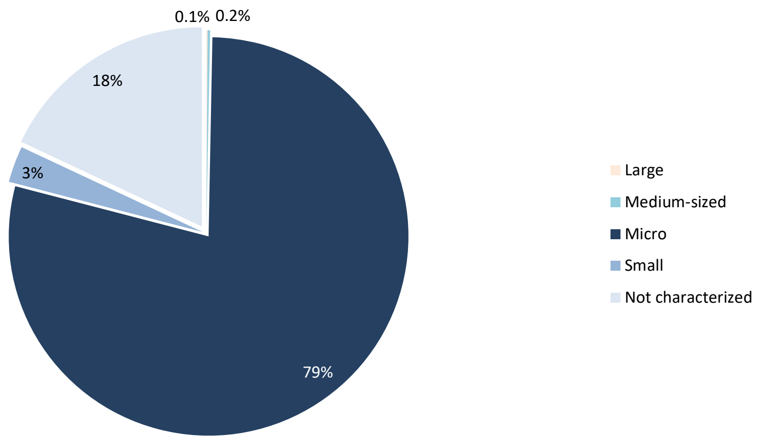


Source: BASE portal (May 2017)

Considering the other situations, it is worth noting that for 2016 it was possible to identify 955 cases where the value of the contracts awarded by contracting authorities was higher than the contractors' turnover. Most of these companies (78.7%) were micro-enterprises.

[36] i.e. 218,266 contracts concluded between a given contracting authority and a specific economic operator, regardless of the number of contracts they might have concluded.

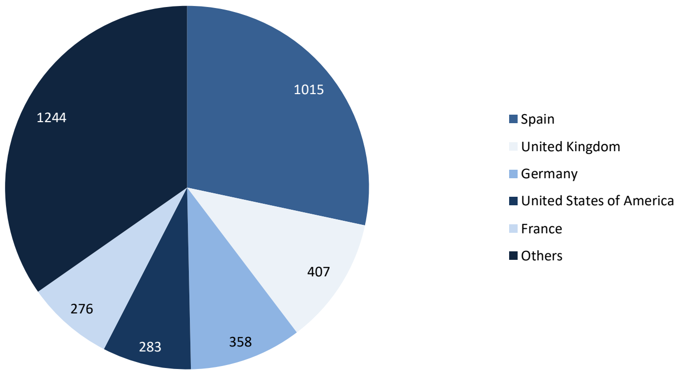
Graph 94- Classification per type of the companies whose turnover was lower than the value of the public contracts they concluded (2016)



Source: BASE portal (May 2017)

9.2.4. ORIGIN OF NON-DOMESTIC ECONOMIC OPERATORS

Graph 95- Number of contractors, per country (2016)

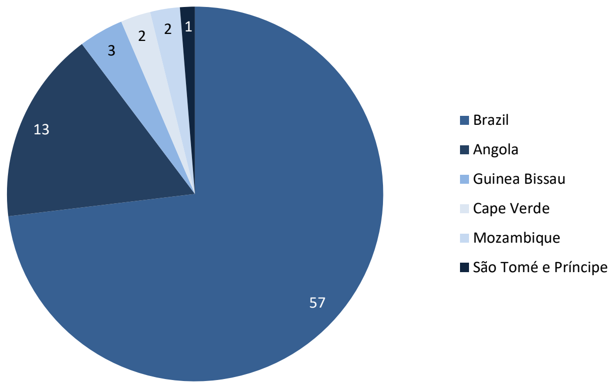


Source: BASE portal (May 2017)

Considering the origin of economic operators, the country with the largest number of enterprises with which at least one contract was concluded was Spain (1,015), followed by the United Kingdom (407), Germany (358) and the United States (283). It is also worth noting that contracts were concluded with 276 enterprises from France.

Among the third-country contractors (772), 78 are from member countries of the Community of Portuguese-Speaking Countries (CPLP – Comunidade dos Países de Língua Portuguesa):

Graph 96 – Contractors from the Community of Portuguese-Speaking Countries



Source: BASE portal (May 2017)

The top 10 (ten) economic operators as regards the number of contracts concluded in 2016 represented 12.4% of the overall amount of contracts reported to the BASE portal during that same year (EUR 5,071 million). Among those enterprises, 3 (three) were not listed in the 2015 ranking.

Table 13 – Ranking of contractors with the largest procurement volume

Contractors	Number of contracts		Contractual values	
	Number	%	Amount	%
EDP Comercial, S.A	2,439	0.6%	175,485,673 €	3.5%
GILEAD SCIENCES, LDA	579	0.1%	102,458,309 €	2.0%
LEONARDO S.P.A.	9	0.0%	69,066,957 €	1.4%
Galp Power	295	0.1%	48,411,284 €	1.0%
GERTAL - Companhia Geral de Restaurantes e Alimentação S.A.	149	0.0%	48,261,349 €	1.0%
SIEMENS S.A.	83	0.0%	41,269,893 €	0.8%
Iberdrola	87	0.0%	37,073,640 €	0.7%
Galp Energia	862	0.2%	36,448,404 €	0.7%
REPSOL PORTUGUESA, S.A.	353	0.1%	36,389,075 €	0.7%
IBERLIM – SOCIEDADE TÉCNICA DE LIMPEZAS, S.A.	56	0.0%	34,439,168 €	0.7%
Others	427,538	98.9%	4,441,621,109 €	87.6%
	432,450	100%	5,070,924,859.15 €	100%

Source: BASE portal (May 2017)

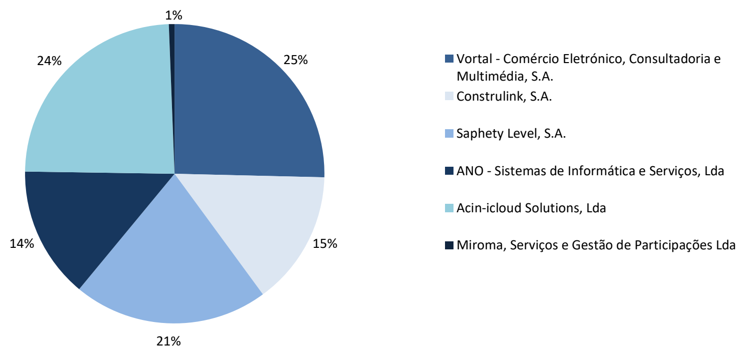
9.3. Electronic Platforms

9.3.1. Contracts concluded in 2016 with electronic platforms for the purchase of e-procurement platform services

E-procurement platforms are a key tool in public purchasing, as competitive procedures are mandatorily carried out through them. As we could see[37], in 2016 they were responsible for carrying out 16.0% of the procedures launched in the same year, corresponding to 62.1% of the underlying basic price.

Looking at the contracts concluded in 2016 for the purchase of services relating to the conduct of competitive procedures through a certified electronic platform, we can see three suppliers with a market share of more than 20% – Vortal - Comércio Eletrónico, Consultadoria e Multimédia, S.A. (vortalGOV), Saphety Level, S.A. (saphetygov) and Academia de Informática, Lda (acinGov) – accounting for 68.3% of the total number of new contracts.

Graph 97- Breakdown of the contracts concluded with electronic platforms for the conduct of procedures, per certified entity

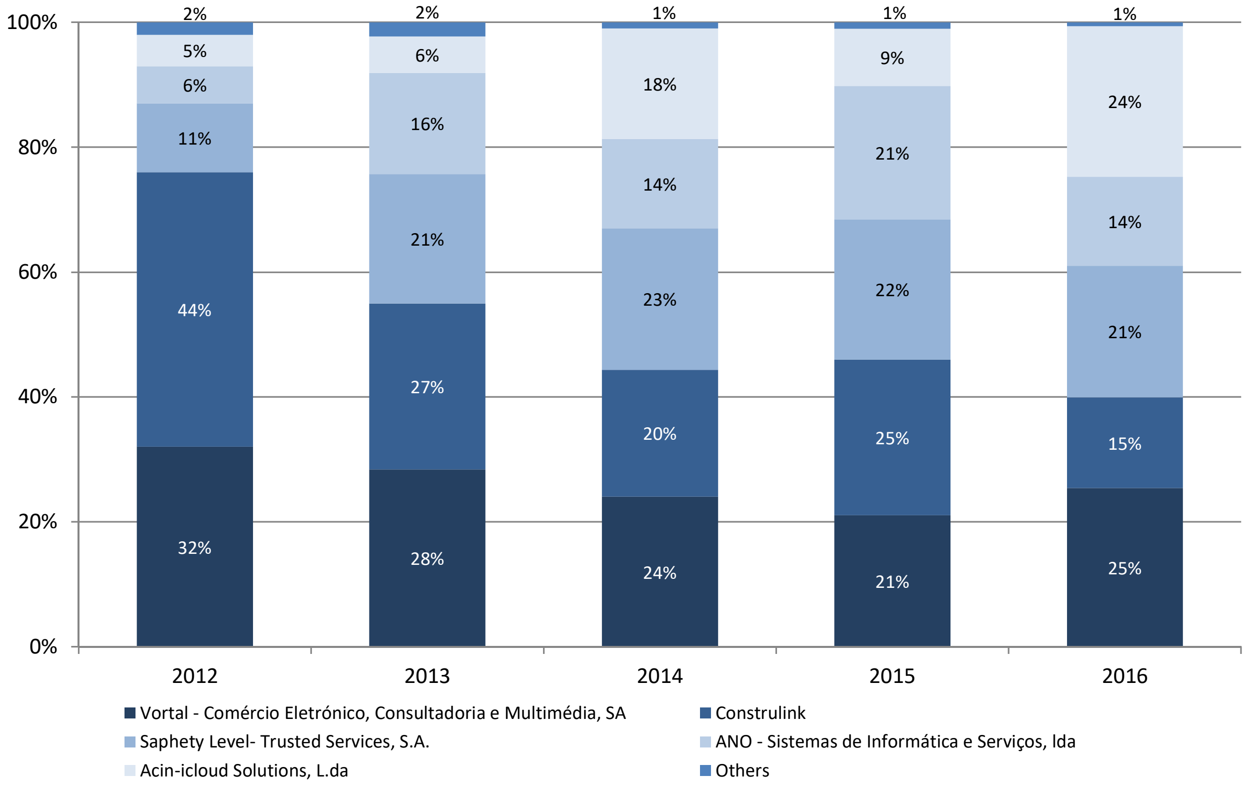


Source: BASE portal (May 2017)

Comparing to the previous years, it appears that the market of e-procurement platforms has evolved towards a greater distribution. In fact, the five companies with the largest share represented 99.4% and 98.9% of the market in 2016 and 2015, respectively.

[37] See item 2.1.

Graph 98- Breakdown of the contracts concluded with electronic platforms for the conduct of procedures, per certified entity: changes from 2012 to 2016

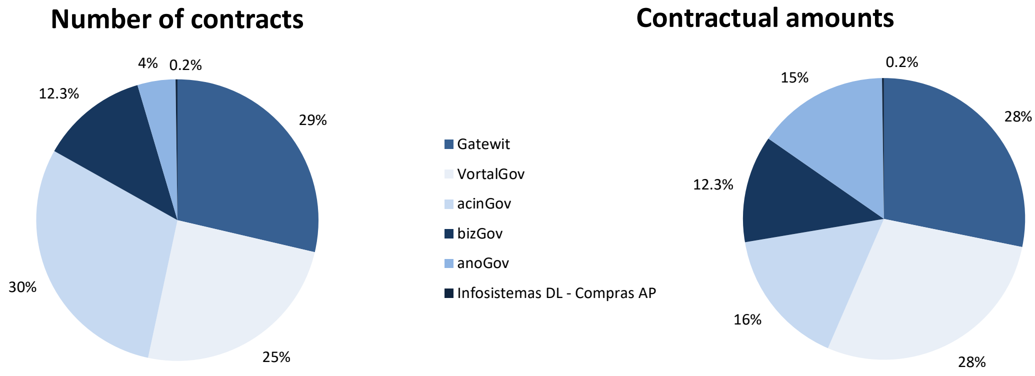


Source: BASE portal (May 2017)

9.3.2. CONTRACTS CONCLUDED IN 2016, PER PLATFORM THROUGH WHICH PROCEDURES WERE CARRIED OUT

As regards the relative weight of the number of contracts and contractual amounts carried out through each platform, in a sample of 60,507 contracts concluded in 2016, we can see a concentration in three platforms (acinGov, Gatewit and VortalGOV), which ensured 83.1% of the contracts reported to the BASE portal and represented 72.3% of the overall contractual amount.

Graph 99- Breakdown of the number of contracts and the contractual amounts carried out per platform



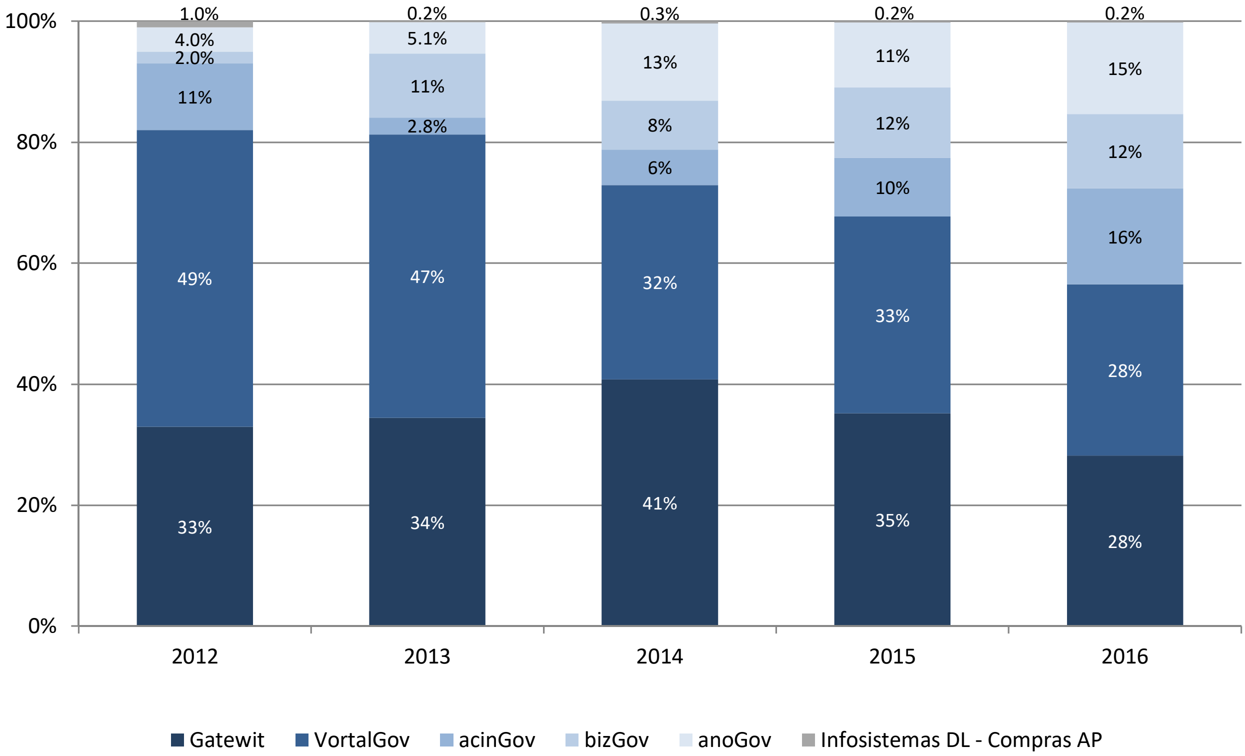
Source: BASE portal (May 2017)

Depending on whether we look at the number of contracts or their respective contractual amounts, these three platforms change their relative position. While acinGov was first as regards the number of contracts (29.8%), this place belongs to VortalGov when it comes to contractual amounts (28.3%).

Compared to 2015, there was a decrease in the relevance of platforms Gatewit and VortalGOV in relation to the market as a whole. As regards the number of contracts, their share decreased by 20.1 pp.

A similar situation was found for the contractual amounts, where both platforms lost 11.2 pp of their market share.

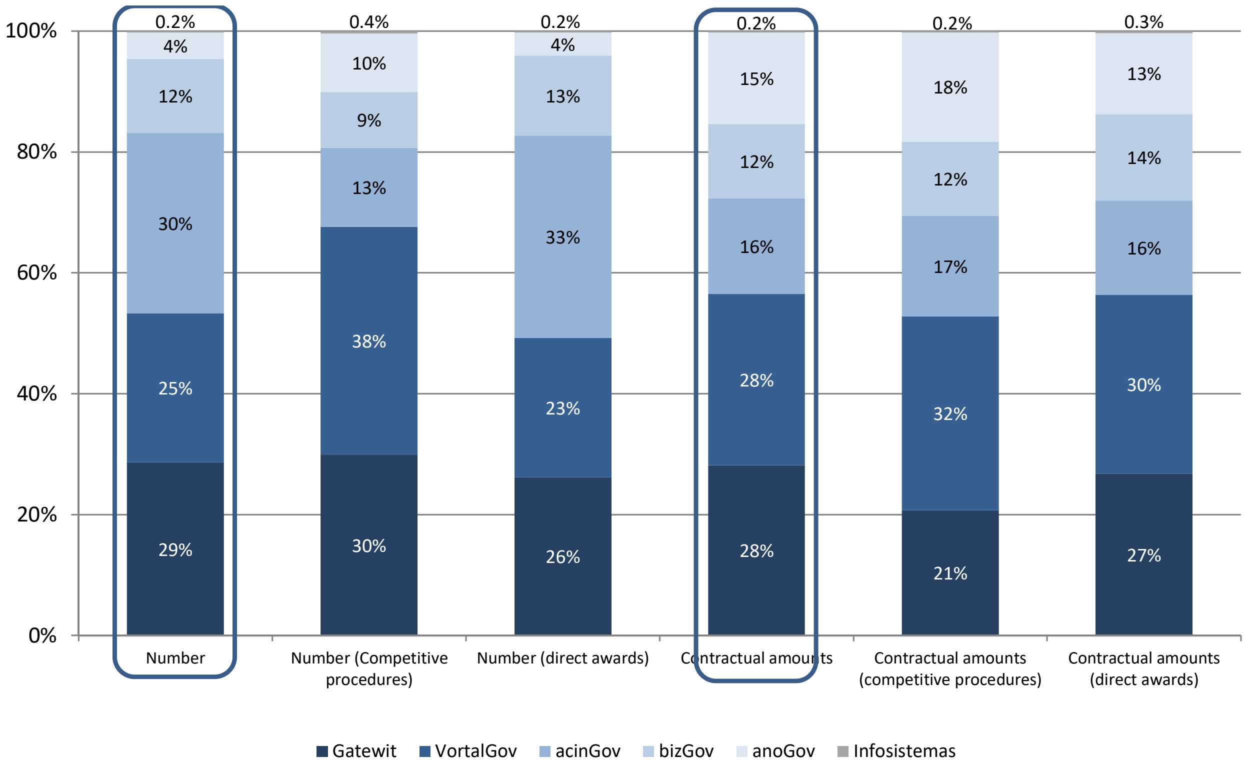
Graph 100- Breakdown of the contractual amounts, per platform: changes from 2012 to 2016



Source: BASE portal (May 2017)

As regards the type of procedure, the largest share belongs to acinGov for the number of contracts under direct award procedure (which increased from 9.7% in 2015 to 33.5% in 2016) and to Vortal, as regards the contractual amounts of procurement procedures (32.1%).

Graph 101- Breakdown of the number of contracts and the contractual amounts carried out per platform in 2016



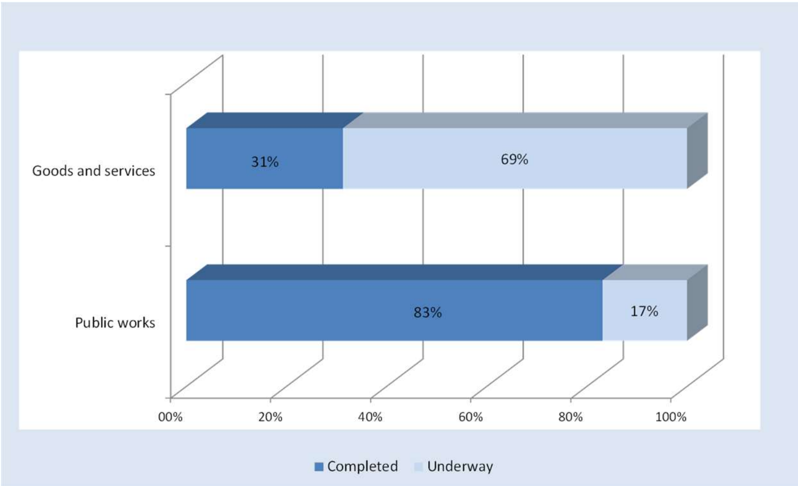
Source: BASE portal (May 2017)

10. Contract Performance

10.1. Price Deviation[38]

When data collection for this report took place, 81.5% (352,465) of the concluded contracts had already an indication of the actual total price. The recorded completion rate was higher for goods and services (83.1%, corresponding to 348,238 contracts) than for public works (31.3%, corresponding to 4,227 contracts).

Graph 102- Contracts indicating the actual total price

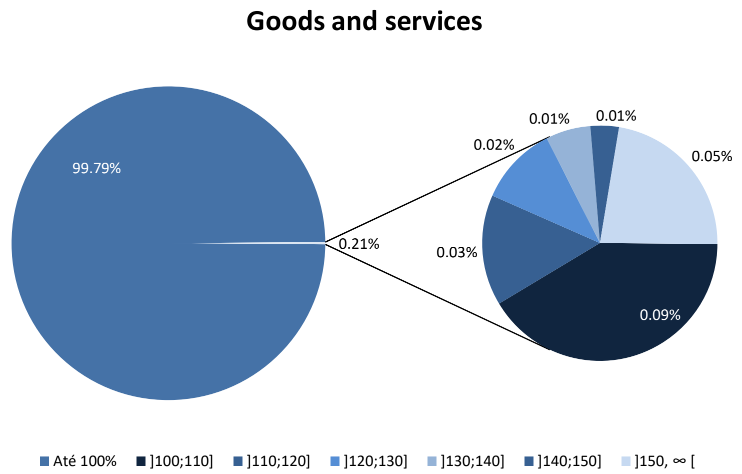


Source: BASE portal (May 2017)

When we compare the actual total value of each contract with the contractual price, we see that only 0.21% of the contracts for goods and services had a final total price that was higher than the value established in the contract.

[38] It should be noted that the price deviation in this context corresponds to the difference between the actual total price of the contract and the contractual price. The nature of extra costs is not considered; for lack of information, these deviations may be due to more and/or less work than expected, to default interest, etc.

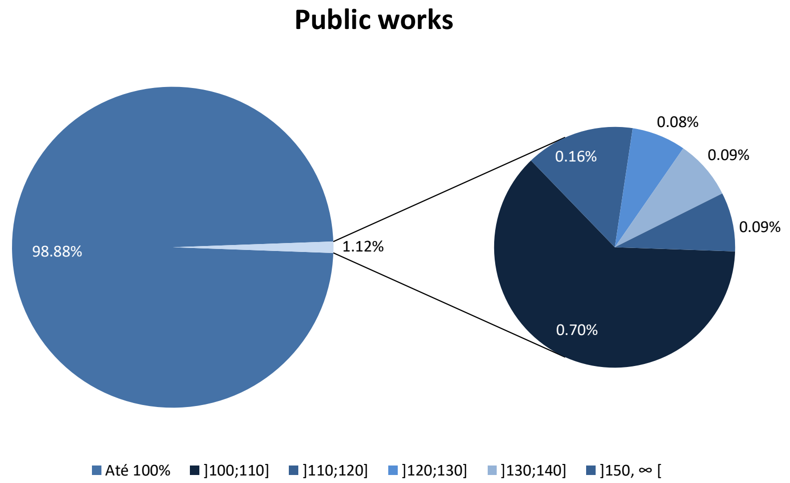
Graph 103- Price deviations per range: Goods and services



Source: BASE portal (May 2017)

As for public works, the weight of contracts in a similar situation is slightly higher, but the proportion is very low: the final value was higher than the contractual value in only 1.12% of the contracts relating to public works.

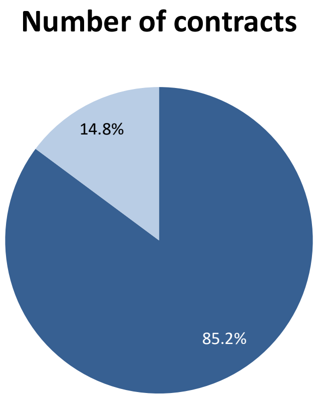
Graph 104- Price deviations per range: Public works

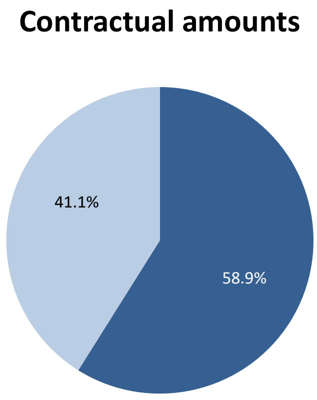


Source: BASE portal (May 2017)

Among the contracts concluded in 2016 with an actual total price higher than the contractual price, 85.2% concerned the purchase of goods and services, corresponding to 58.9% of the contractual amounts.

Graph 105 - Contracts with an actual price higher than the contractual price, per type of contract

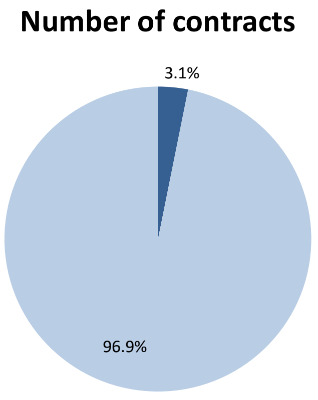


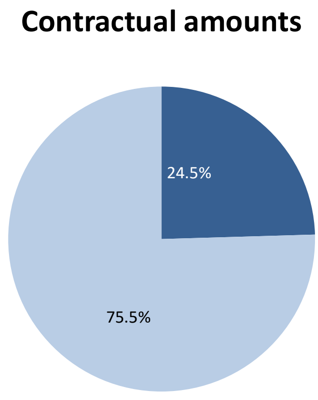


Source: BASE portal (May 2017)

An analysis per type of procedure shows that most contracts (96.9%) and near 4/5 of the contractual amount (75.5%) concerned direct award procedures.

Graph 106 - Contracts with an actual price higher than the contractual price, per type of procedure

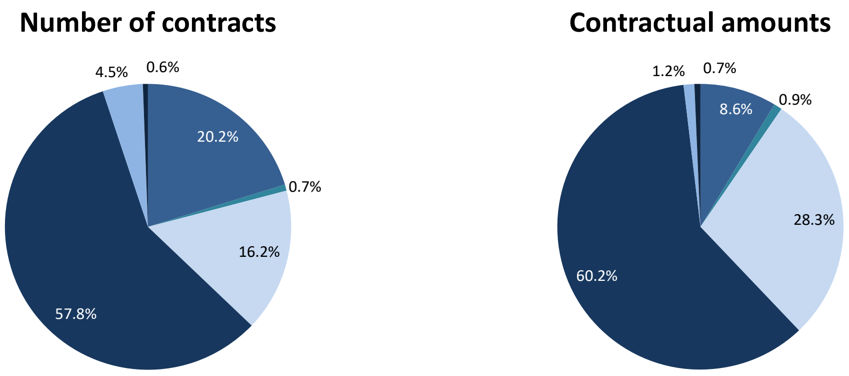




Source: BASE portal (May 2017)

Considering the type of contracting authorities that concluded contracts whose final actual price was higher than the contractual value, that was mainly the case with "Other bodies governed by public law" (57.8% of the contracts and 60.2% of the contractual amounts) and "Local Authorities" (28.3% of the contracts and 16.2% of the contractual amounts).

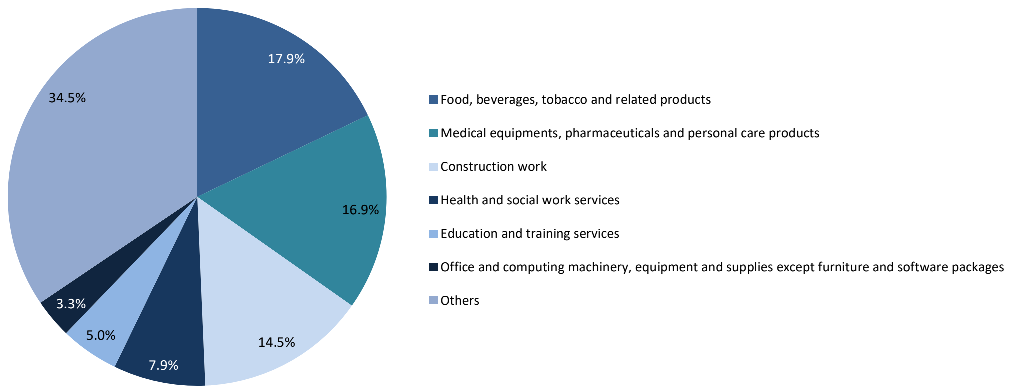
Graph 107 - Contracts with an actual price higher than the contractual price, per type of contracting authority



Source: BASE portal (May 2017)

As regards the type of expenditure, the largest number of contracts can be found in “Food, beverages, tobacco and related products” (17.9 %), followed by “Medical equipments, pharmaceuticals and personal care products” (16.9%) and “Construction work” (14.5%).

Graph 108 - Contracts with an actual price higher than the contractual price, per CPV (number of contracts)



Source: BASE portal (May 2017)

10.2. Deadline Deviation

When data for drafting this report were collected, 5.7% of the concluded contracts mentioned the actual duration of the contracts (5.8% in the case of contracts for the purchase of goods and services and 0.4% in the case of contracts relating to public works).

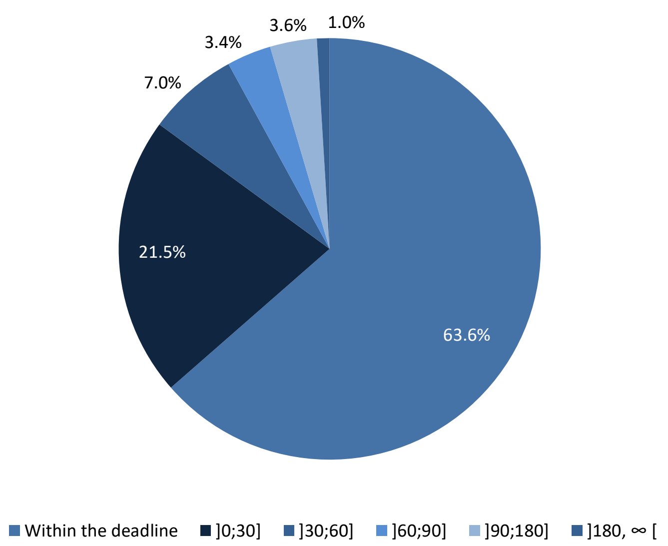
Table 14 – Contracts indicating the final deadline

Contracts	Number of contracts Total	Number of contracts Completed	Weight
Goods and services	418,931	24,400	5.8%
Public works	13,519	48	0.4%
Total	432,450	24,448	5.7%

Source: BASE portal (May 2017)

As regards compliance with the deadline established in the contract for its completion, in the case of goods and services that deadline was not met in 36.4% of the contracts. However, that deadline was exceeded by more than 60 days in only 8.0% of the contracts.

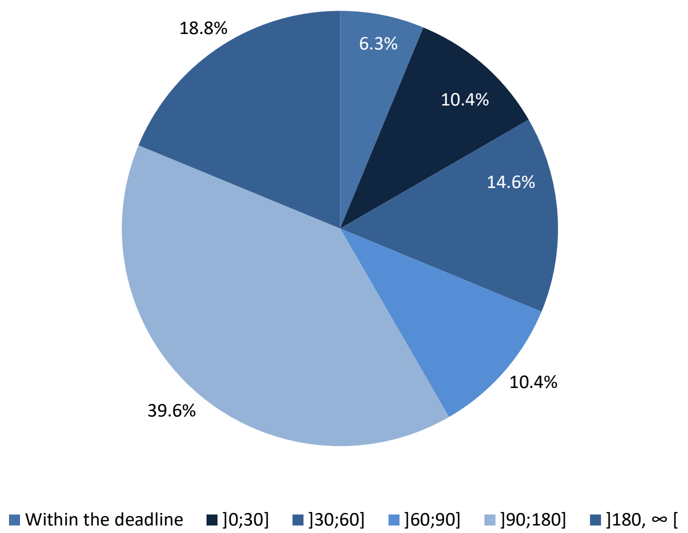
Graph 109 – Deadline deviations per range: Goods and services



Source: BASE portal (May 2017)

In the case of public works, most contracts were not completed within the established deadline: the deadline was met in only 6.3% of the contracts, and it was even exceeded by more than 60 days in 68.8% of the contracts.

Graph 110 – Deadline deviations per range: Public works



Source: BASE portal (May 2017)

11. Final Considerations

1.ª - Portugal's good performance as regards the Manchester commitment on e-procurement was confirmed once again in 2016. In fact, 96% of the contracts concluded in Portugal in 2016 with a value above the Community thresholds were carried out electronically.

Portugal's record remained well above the target established by Member States for the electronic conduct of procedures with a value above the Community thresholds (50%), which proves the consistency of the Portuguese option for e-procurement.

2.ª - The Portuguese electronic public procurement index (ICPEP) has also recorded a very positive value (62%).

3.ª - Both above mentioned indicators depend on the options made by contracting authorities as regards the use of authorized electronic platforms to carry out public procurement procedures for direct awards.

Whereas the use of such platforms brings more transparency and probably more competition to public purchasing, an extension of their mandatory use to direct award procedures - at least to those above a certain threshold - can be beneficial.

4.ª - The value of reported public contracts may be below the actual value of public contracts in general, if we consider its relatively low share in relation to gross domestic product - 2.7%, while the European Commission estimate for 2015 was 9.9% - and to budgetary implementation (40.04%).

5.ª - The value of contracts concluded in 2016 and reported to the BASE portal amounted to EUR 5,071 million, representing an increase of 10 % over 2015 (+EUR 459 million).

6.ª - While the average value of contracts decreased for goods and services (-27.8%), it increased for public works (+9.9%).

7.ª - The purchase of goods and services in 2016 represented 74.3% of the contractual amounts, a reduction in their relative weight. Between 2010 and 2016 there was a reversal in terms of relative weight: in 2010, public works represented 61 % of the contractual amounts.

8.ª - Direct award procedures were the basis for 92.4% of the contracts concluded in 2016, corresponding to 47.2% of the contractual amounts.

On the other hand, competitive procedures were the basis for 1.8% of the contracts concluded in the same year, accounting for 36.8% of the contractual amounts.

9.ª - Simplified direct awards reported to the BASE portal represented 71.6% of the number of contracts under direct award, corresponding to 3.6% of the contractual amounts. However, only 828 contracting authorities (31.1% of all reporting contracting authorities) reported such contracts.

10.ª - Direct awards on the grounds of substantive criteria represented 11.8% of the total value of public contracts reported to the BASE portal, where the most often mentioned criterion was "Technical or artistic reasons or reasons connected with the protection of exclusive rights".

11.ª - Most of the EUR 5,071 million worth public contracts concluded in 2016 (59.1%) were planned to be executed during the same year. It was expected that only 5.0% of that amount would be executed beyond 2018.

12.ª - In the case of contracts for goods and services, most procedures (72.1%) on which they were based took up to 4 days. In the case of contracts for public works, 14.9% of the procedures took up to 30 days.

13.ª - The number of competitors per procedure was 2.2 and 3.2, respectively for goods and services and for public works. In the case of contracts based on competitive procedures, the average number of competitors (4.3 for goods and services and 8.5 for public works) was higher than for contracts resulting from direct award procedures (1.5 and 1.9, respectively).

14.ª - The most used criterion for assessing tenders was the lowest price. It was used in 72.8% of the competitive procedures. In 51.8% of the competitive procedures, the weight of the price factor (or the like) was higher than 50 %.

15.ª - In 15.6% of the contracts for the purchase of goods and services and in 1.1 % of the contracts for public works, the established contractual price was lower than the threshold below which a tender price can be considered as abnormally low (less than 40 % and 50 % of the basic price, respectively for goods and services and for public works).

This phenomenon is more frequent in competitive procedures, where it occurred in 50.6% and 4.8% of the procedures relating to goods and services and to public works, respectively.

16.ª - In 2016, the number of entities having reported contracts to the BASE portal amounted to 2,883, representing a decrease of 1.3 % over 2015. Besides the fact that this is a relatively low figure in view of what could be expected, 555 of these entities reported only 1 contract resulting from a direct award procedure.

17.ª - The number of economic operators who concluded contracts with contracting authorities amounted to 68,234.

Among these economic operators, 94.7% were domestic, 4.1% from other EU countries and 1.1% from third countries.

18.ª - From the domestic companies, 54.5% were micro enterprises, 42.3% were small and medium-sized enterprises and only 3.1% were large enterprises.

Small and medium-sized enterprises accounted for 52.9% of all concluded contracts, followed by micro enterprises (24.2%) and large enterprises (22.9%).

In terms of contractual amounts, near a half (51.5%) related to contracts concluded by small and medium-sized enterprises, followed by large enterprises (36.2%) and micro enterprises (12.2%).

19.ª - The electronic platform market for public procurement is still dominated by three platforms – acinGov, Gatewit and Vortal –, which together represent 83.1% of all contracts and 72.3% of the respective contractual amounts.

20.ª - As regards the financial implementation of contracts, from the sample used in our analysis, only 0.21% of the contracts for goods and services and 1.12% of the contracts for public works showed deviations in relation to their contractual value.

21.ª - As for the deadline for the performance of the contract, it should be noted that it was not met in 36.4% of the cases (goods and services).

*