INCI
INSTITUTO DA CONSTRUÇÃO E DO IMOBILIÁRIO

GOVERNO DE PORTUGAL | MINISTÉRIO DA ECONOMIA

Public Procurement in Portugal 2013

TECHNICAL DATA

Title:
Public Procurement in Portugal 2013

Authors:
Cláudia Roriz
Pedro Ministro

Directorate of Financial Management, Research and Strategy
Institute of Construction and Real Estate, I.P.
Av. Júlio Dinis, 11
1069–010 Lisboa
Telefone: 217 946 700 |Fax: 217 946 799 |Email: geral@inci.pt

Date of publication: January 2015

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 October 2014.

Table of Contents

Abbreviations

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

1. INTRODUCTION

The Institute of Construction and Real Estate (hereinafter referred to as "InCI", from **In**stituto da **C**onstrução e do **I**mobiliário) presents once again its 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 important field.

In a context where most contracting authorities are under budgetary pressure, a careful, efficient and effective use of public money is more and more required in order to ensure a sound public management. The increasing complexity of public contracts (more diversified products and more sophisticated production processes and technologies) also puts increased pressure on the players involved in public procurement.

Like in previous years[1], this report aims at providing a better understanding of public procurement in our country. It is based on the data published in the public procurement portal (the BASE portal[2]), which is managed by InCI and is meant to serve as a repository of all public procurement procedures carried out by entities covered by the Public Contracts Code.

The BASE portal is an integral part of the electronic public procurement model adopted by Portugal in 2009 and plays a significant role in terms of transparency and accountability, namely because it is freely available. Besides that, it also allows for the preparation of analyses that otherwise would not be feasible - at least not in the same way – and that clearly increase the concrete knowledge on public procurement in Portugal, allowing for more informed decisions when designing public policies.

Although the innovative nature of the Portuguese electronic public procurement model is self-evident, namely as regards the creation of a website with the characteristics and objectives of the BASE portal, we are aware that there is still a long way to go before its relevance in the process of understanding the reality of public contracts becomes more effective. The relatively low share of the public contracts reported to the BASE portal not only in GDP[3] but also in the budgetary implementation[4], on the one hand, and the number of contracting authorities having reported their contracts[5], on the other, make us believe that some under-representativeness still exists.

[1] Reports for 2010, 2011 and 2012 are available on the InCI's website (http://www.inci.pt/Portugues/inci/Paginas/Relatorios.aspx) and on the BASE portal (http://www.base.gov.pt/Base/pt/Relatorios).
[2] http://www.base.gov.pt/
[3] See item 3.1.2.
[4] See item 3.1.4.
[5] See item 9.1.1.

From another perspective, the inclusion of data on physical indicators associated with each contract could also be an asset at the level of the BASE portal and the information that can be processed, as it would provide not only a better public understanding of public procurement but also better information for decision-making on public policies.

The transposition of the public procurement directives[6] into national law is certainly an opportunity for us to have a regulatory framework that can help increase the information to be “placed“ on the portal. The mandatory conduct of (present) direct award procedures through public procurement platforms, the possibility of reporting (present) simplified direct award procedures on a different basis from that of other procedures, the mandatory reporting of all contracts concluded by public entities (other than contracting authorities), whether or not it is an excluded procurement, and the monitoring of procedures reported by public administration entities are among the aspects that can improve the significance and relevance of the BASE portal.

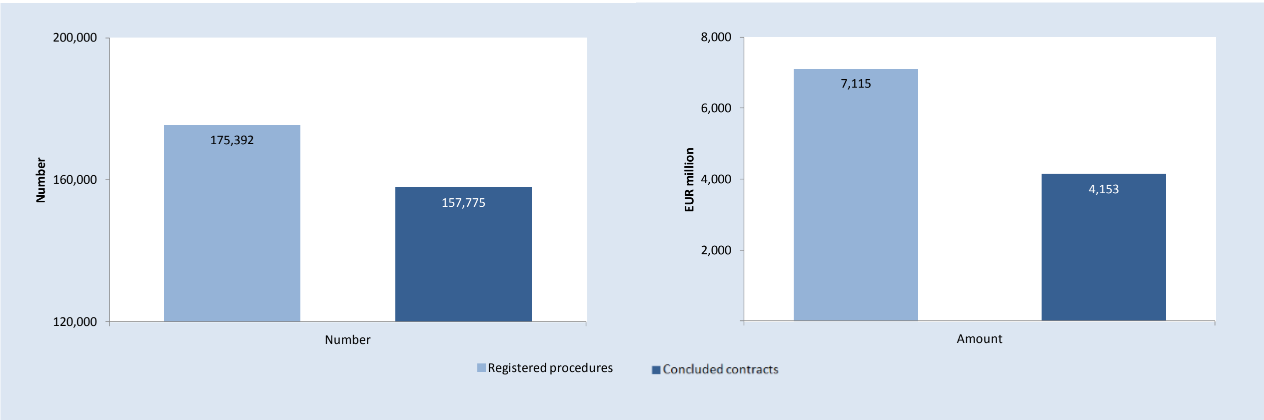
________________________ * ___________________________

[6] Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of 28 March 2014.

2. ELECTRONIC PUBLIC PROCUREMENT IN PORTUGAL (ePROCUREMENT)

The number of procedures reported to the BASE portal in 2013 totalled 175,392[7] and their basic price[8] amounted to EUR 7,115 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 157,775, corresponding to EUR 4,153 million in terms of contractual values.

Graph 1 – Public procurement in 2013



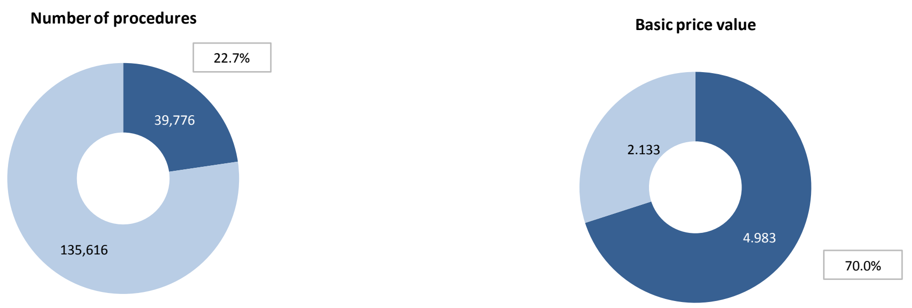
Source: BASE portal (October 2014)

2.1. THE ELECTRONIC PUBLIC PROCUREMENT INDEX IN PORTUGAL (ICPEP)

Among the procedures launched in 2013, those that were carried out through one of the seven electronic platforms authorised for public procurement[9] represent 22.7 %, 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 - (http://www.base.gov.pt/Base/pt/PlataformasElectronicas/EntidadesCertificadas).

Graph 2 – Electronic public procurement in Portugal in 2013: the weight of the number of procedures carried out in Portugal[10]



Source: BASE portal (October 2014)

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 70 % of the sum of the basic price of all the procedures launched in 2013.

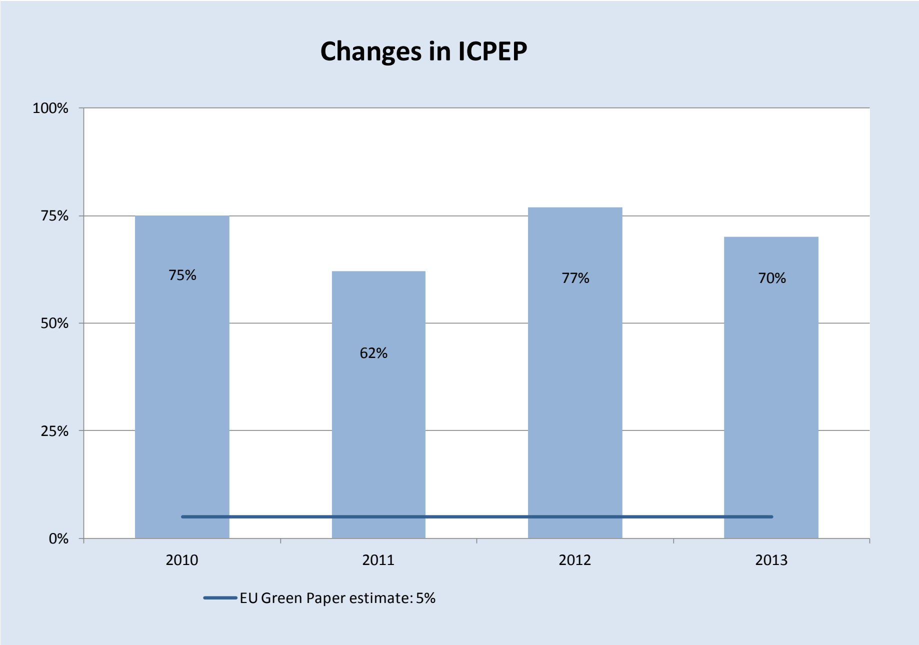
Therefore, the Electronic Public Procurement Index in Portugal (ICPEP) – an index designed to monitor the weight of the public procurement procedures carried out through platforms presently duly authorized to that effect - was 70 % in 2013.

ELECTRONIC PUBLIC PROCUREMENT INDEX IN PORTUGAL ICPEP (total), in 2013
ICPEP 2013$_{(total)}$=70 %

Although the value of this index was lower in 2013 than in 2012, 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 European Union[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 follows the development of the procurement procedures launched under direct awards – which saw an increase in their relative weight (see item 3.5.2) – since the use of a public procurement platform for these procedures is at the discretion of the contracting authority.

2.2. THE 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 2013 indicates that it largely exceeds the agreed target, reaching 87 %.

[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

2013	Contractual values
Contracts published in the OJEU	1,499,030,160.09 €
Direct awards above Community thresholds not reported to BASE	197,338,467.64 €
Manchester Index	87%

Source: OJEU

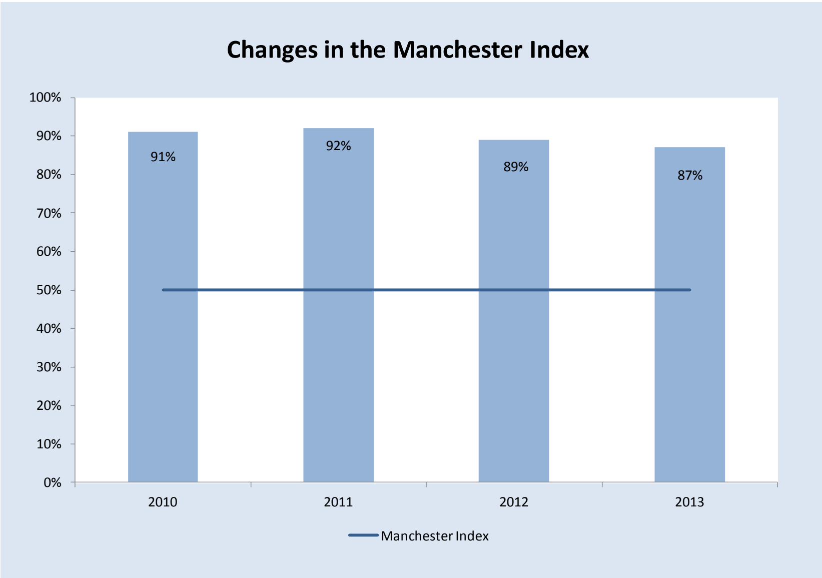
MANCHESTER INDEX (ACT) for 2013

MI 2013$_{(act)}$ =87 %

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



Even though the value established for the Index in 2013 was lower (showing a slight decrease of 2 pp when compared to 2012), it not only meets but also 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 such procedures, 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].

_______________________ * __________________________

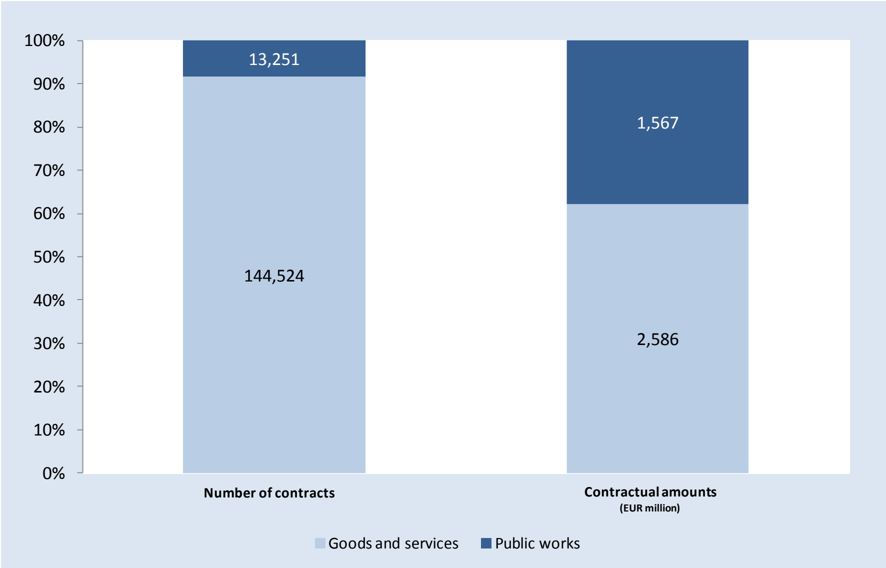
[14] Recital 52 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

[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 2013, the total amount of public contracts reported to the BASE portal[16] reached EUR 4,153 million, as a result of the conclusion of 157,775 contracts.

Graph 5 – Public procurement in Portugal in 2013: overall figures



Source: BASE portal (October 2014)

3.1. Public procurement statistics

3.1.1. Public procurement evolution

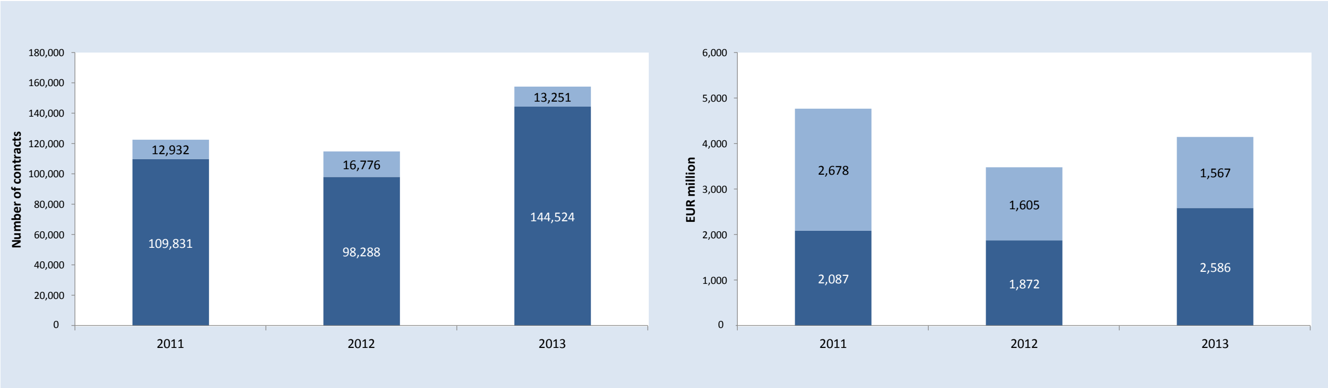
Compared to the preceding years, 2013 saw an increase in the number of public contracts reported to the BASE portal. This change was particularly pronounced in the case of goods and services, where there was an increase of 47 % between 2012 and 2013 (32 % in relation to 2011). Compared to 2012, public works saw a decrease of 21 %, which nevertheless represents an increase of 2.5 % 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 19.4 % (+EUR 676 million) over 2012, and a decrease of 12.8 % (-EUR 612 million) over 2011. This evolution corresponds to a positive change in the case of goods and services (+38.1 %, i.e. +EUR 714 million when compared to 2012, and +23.9 % when compared to 2011), and a negative one in the case of public works (-2.4 %, corresponding to -EUR 38 million in comparison with 2012, but -41.5 %, i.e. -EUR 1,111 million in comparison with 2011).

Graph 6 – Public procurement in Portugal from 2011 to 2013: overall figures



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

In 2013, the value of the contractual amounts reported to the BASE portal represented 2.5 % of the GDP.

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

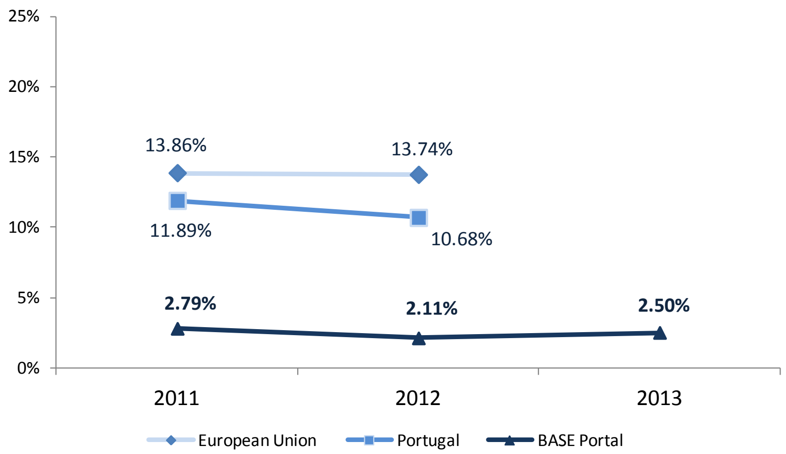
	2012	2013	Δ %
Gross Domestic Product	165,108	165,854	0.45%
Contractual amount	3,477	4,153	19.44%
Public procurement as a share of GDP	2.11%	2.50%	

Source: BASE portal (October 2014)
INE Annual and Quarterly National Accounts (Q4 2013)

Although this value represents an increase in the share of public procurement against the GDP when compared to 2012 (+0.39 pp), it is nonetheless lower than expected.

If we consider the indicators the European Commission estimated for 2012, public procurement in Portugal should represent 10.68 % of the GDP in 2012, but the number of public contracts reported to the BASE portal did not exceed 2.5 % in 2013.

Graph 7 – Public procurement as a share of GDP



Source: BASE portal (October 2014)
INE Annual and Quarterly National Accounts (Q4 2013)
Public Procurement Indicators 2012, 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 2012 to 2013, the value of public contracts relating to public works reported to the BASE decreased to EUR 1,567 million (-2.39 %).

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

	2012	2013	Δ %
Gross Fixed Capital Formation – Construction	15,654	13,527	-13.59%
Contractual amount – Public works	1,605	1,567	-2.39%
Public works share in GFCF - Construction	10.25%	11.58%	

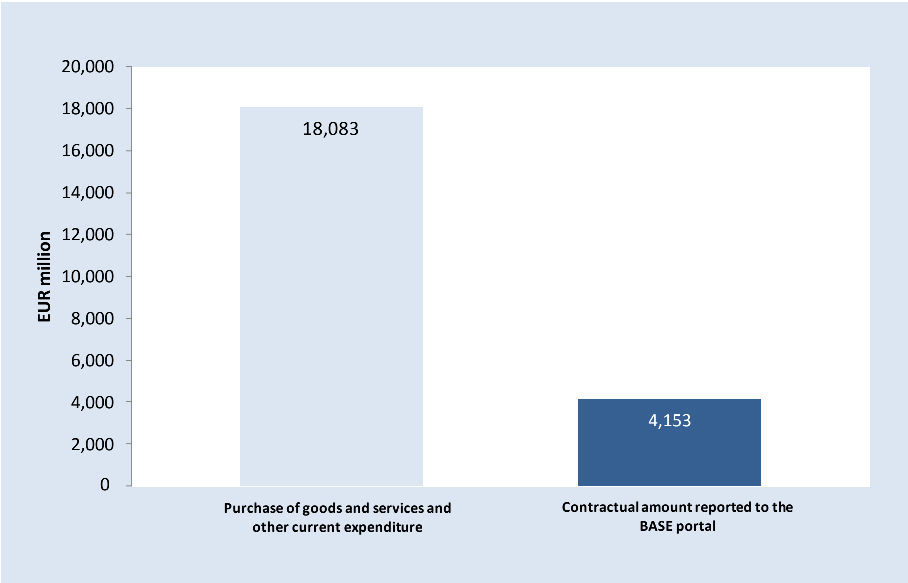
Source: BASE portal (October 2014)
INE Annual and Quarterly National Accounts (Q4 2013)

Although there was a decrease in the value of public works contracts reported to the BASE portal, the ratio between the overall contractual amount and the gross fixed capital formation in construction (which decreased even more sharply) increased 1.33 pp, thus representing 11.58 % 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 2013 was EUR 4,153 million (including public works), representing 23 % 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)

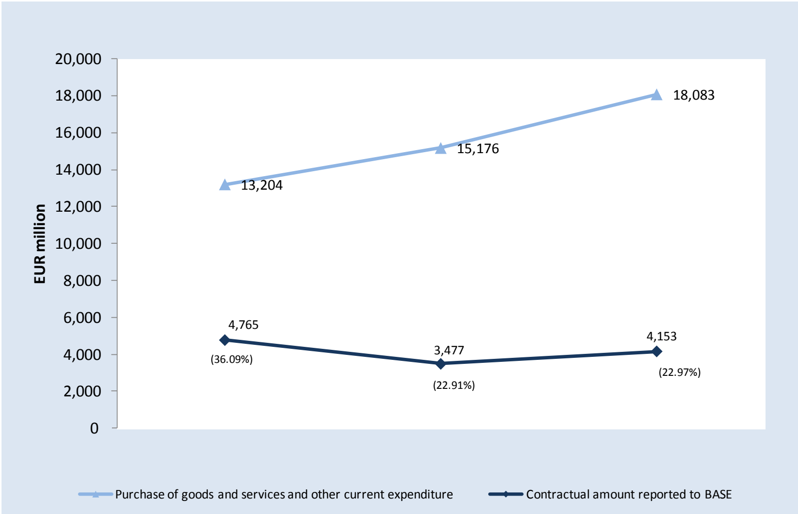


Source: BASE portal (October 2014)
Directorate-General for Budget (Summaries of Budget Implementation – January-December 2013)

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 in 2013 if we consider the budgetary implementation value in the same year.

Moreover, this has been a recurring situation in the last three years, during which the value of the contracts reported to the BASE portal ranged from 22.91 % (2012) to 36.09 % (2011).

Graph 9 – Public procurement in Portugal: comparison with budgetary implementation. Changes from 2011 to 2013 (EUR million)



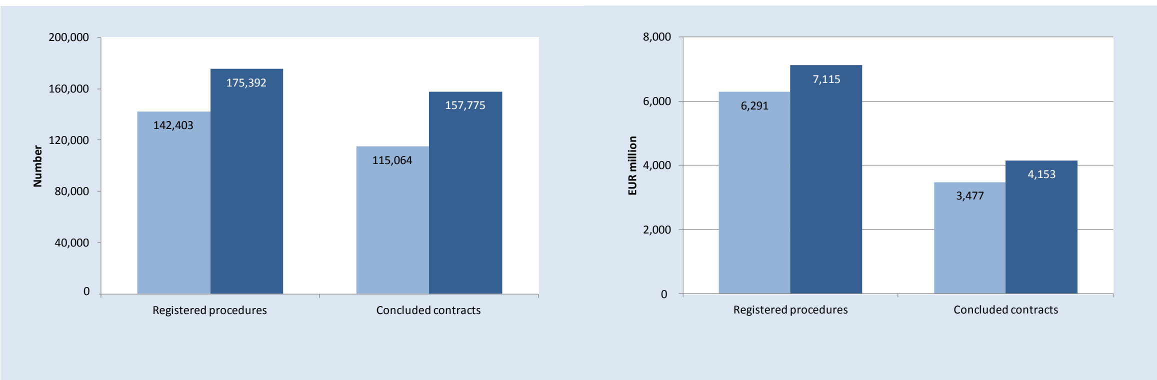
Source: BASE portal (October 2014)
Directorate-General for Budget
(Summaries of Budget Implementation - January-December 2013)

3.1.5. LAUNCHED PROCEDURES *VS* CONCLUDED CONTRACTS

As mentioned above, 175,392 launched procedures (corresponding to EUR 7,115 million in terms of basic price) and 157,775 concluded contracts (corresponding to EUR 4,153 million in terms of contractual price) were reported to the BASE portal in 2013.

Compared to 2012, there was an increase in the number of both new procedures and new contracts in 2013, although this was shaper for the latter (more 42,711 new contracts, i.e. +37.1 %) than for the former (more 32,989 procedures, i.e. +23.2 %).

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 (2013)



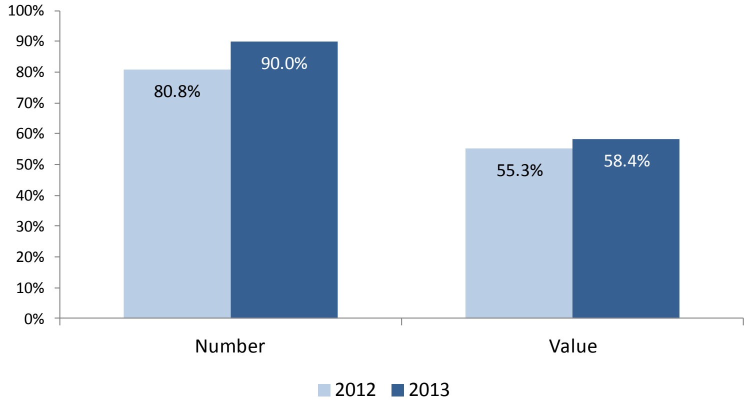
Source: BASE portal (October 2014)

Although to a lesser extent, values associated with those procedures and contracts followed the same trend: compared to 2012, the aggregate value of the basic price of launched procedures increased by EUR 824 million (+13.1 %) in 2013, as it was the case with the contractual amounts, which increased by EUR 676 million (+19.4 %).

Even though 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 2013 was, therefore, 90 % in terms of numbers and 58.4 %, in terms of contractual amounts.

Compared to 2012, there was in 2013 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 (+9.2 p.p.) and their value (+3.1 p.p.).

Graph 11 – Ratio between the contracts concluded and the procedures launched in the same year: changes from 2012 to 2013



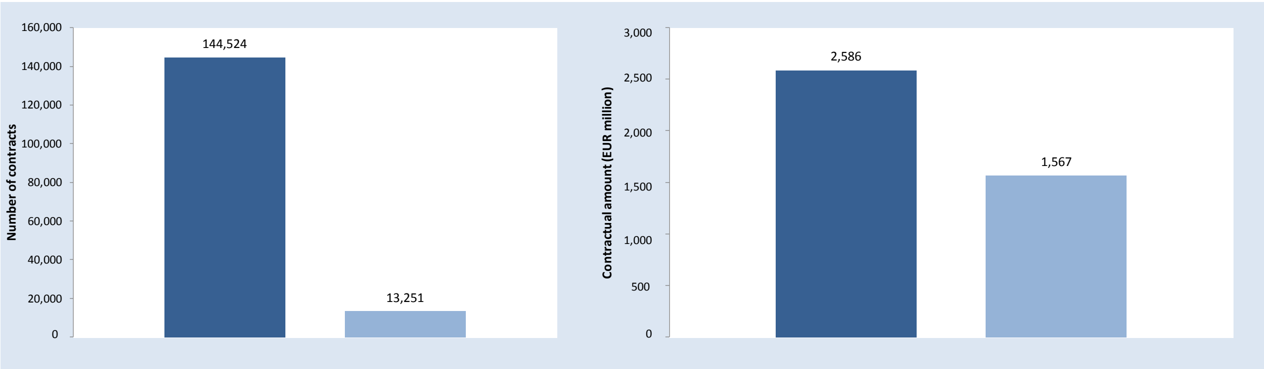
Sources: BASE portal (October 2014); Report on public procurement in Portugal – 2012

3.2. PUBLIC PROCUREMENT PER TYPE OF CONTRACT

Most contracts (91.6 %) reported to the BASE portal in 2013 concerned the purchase of goods and services. Although to a lesser extent (62.3 %) goods and services were also in majority in terms of contractual amounts.

[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.

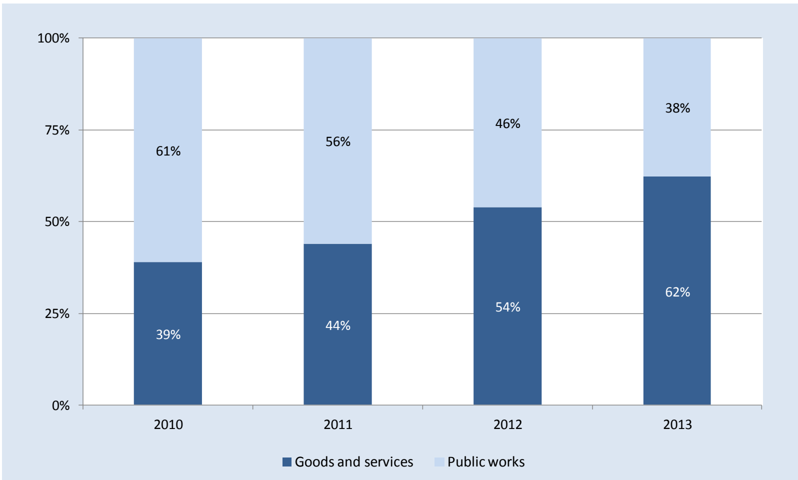
Graph 12 – Public procurement per type of contract in 2013



Source: BASE portal (October 2014)

Public contracts structure in 2013 follows the same trend since 2010, in which the weight of contracts for public works[18] is becoming lower than 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 2013 their weight was just 38 %.

Graph 13- Relative weight of goods and services as compared to public works per contractual amounts: from 2010 to 2013



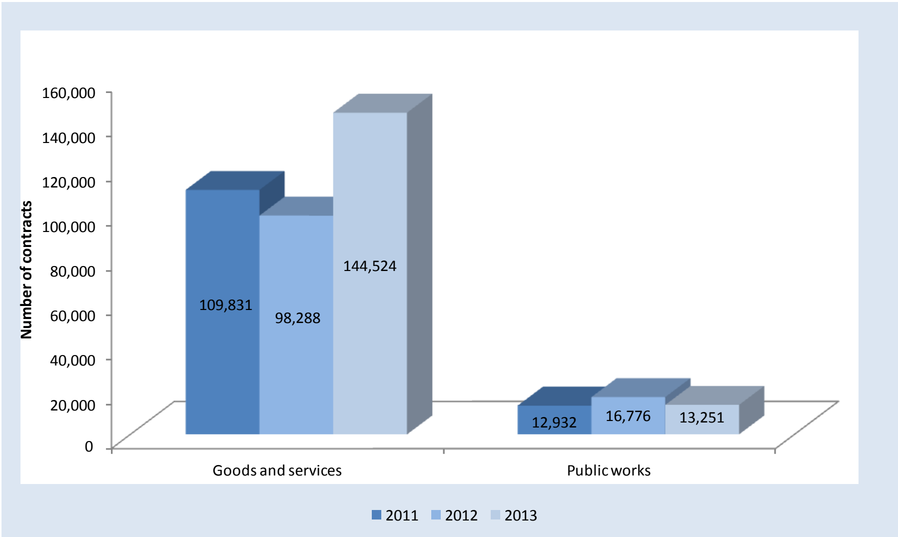
Source: BASE portal (October 2014)

The number of contracts relating to goods and services concluded in 2013 represents an increase of 47 % (+46,236) over 2012, thus reversing the change occurred in that year in relation to 2011.

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

However, the trend was the opposite for public works: while from 2011 to 2012 the number of contracts saw an increase, in 2013 it decreased by 21 % (-3,525) over 2012 but was higher than in 2011 (+319).

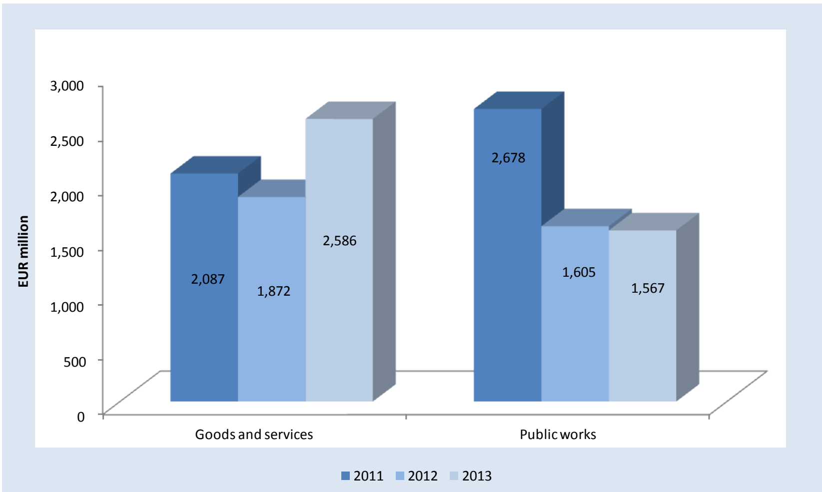
Graph 14- Number of contracts concluded in 2011, 2012 and 2013



Source: BASE portal (October 2014)

As regards the value of the contracts concluded, the trend for goods and services was similar to that in the number of contracts, i.e. instead of the decrease occurred from 2011 to 2012, there was an increase of 38.1 % (EUR 714 million) from 2012 to 2013. In the case of public works, there was a decrease of 2.4 % (- EUR 38 million) in the same period.

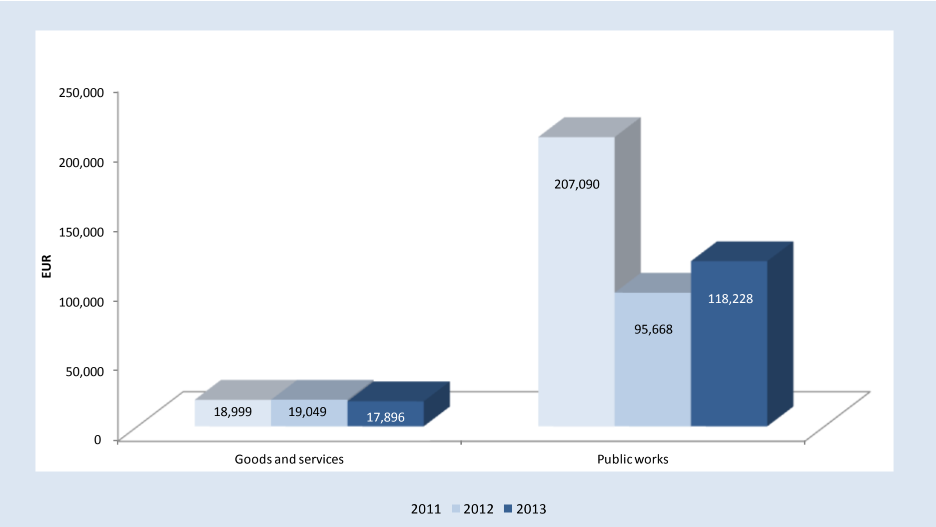
Graph 15- Value of the contracts concluded in 2011, 2012 and 2013 (EUR million)



Source: BASE portal (October 2014)

In 2013, the average value per contract in the case of public works was EUR 118,228, representing an increase over 2012 (+23.6 %, i.e. +EUR 22,560) but a decrease over 2011 (-42.9 %, i.e. –EUR 88,862 per contract).

Graph 16- Average value of the contracts concluded in 2011, 2012 and 2013 (EUR)



Source: BASE portal (October 2014)

In the case of contracts for goods and services, the average value was EUR 17,896 in 2013, corresponding to a decrease of 6.1 % (-EUR 1,153 per contract) when compared to 2012.

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 96.4 % of the contracts concluded in 2013 stem from procurement procedures launched in the same year. Only 3.6 % of the contracts had been launched in 2012, and the number of contracts concluded in 2013 following procedures launched before 2012 can be considered as residual.

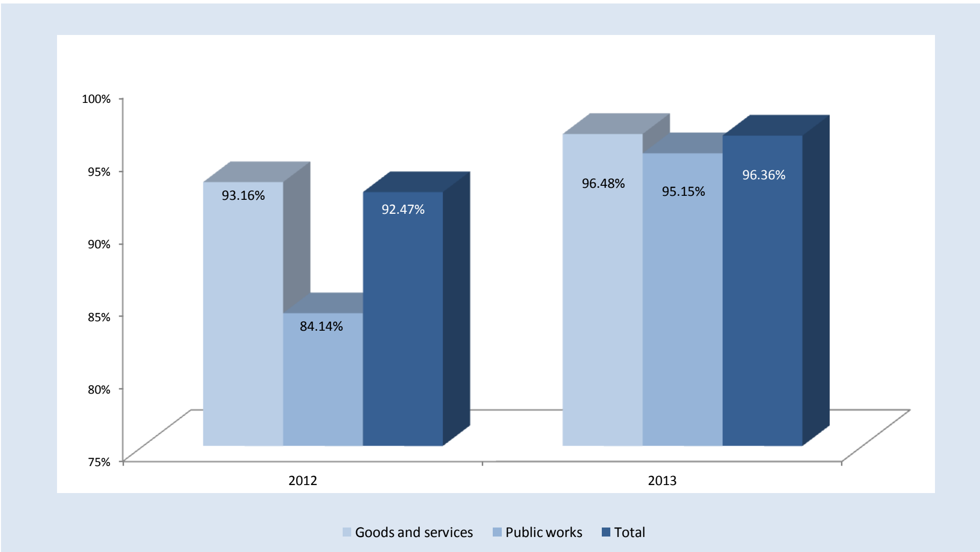
Table 4 – Contracts concluded in 2013 per year of decision

	2008	2009	2010	2011	2012	2013	Total
Goods and services	1	2	11	28	5,051	139,431	144,524
Public works	0	0	1	15	627	12,608	13,251
Total	1	2	12	43	5,678	152,039	157,775

Source: BASE portal (October 2014)

A comparison between 2012 and 2013 shows that the number of contracts resulting from procedures launched in the same year was higher (+3.89 pp) in 2013 than in 1012, while the increase in the number of contracts relating to public works, from 84.14 % to 95.15 %, should be highlighted.

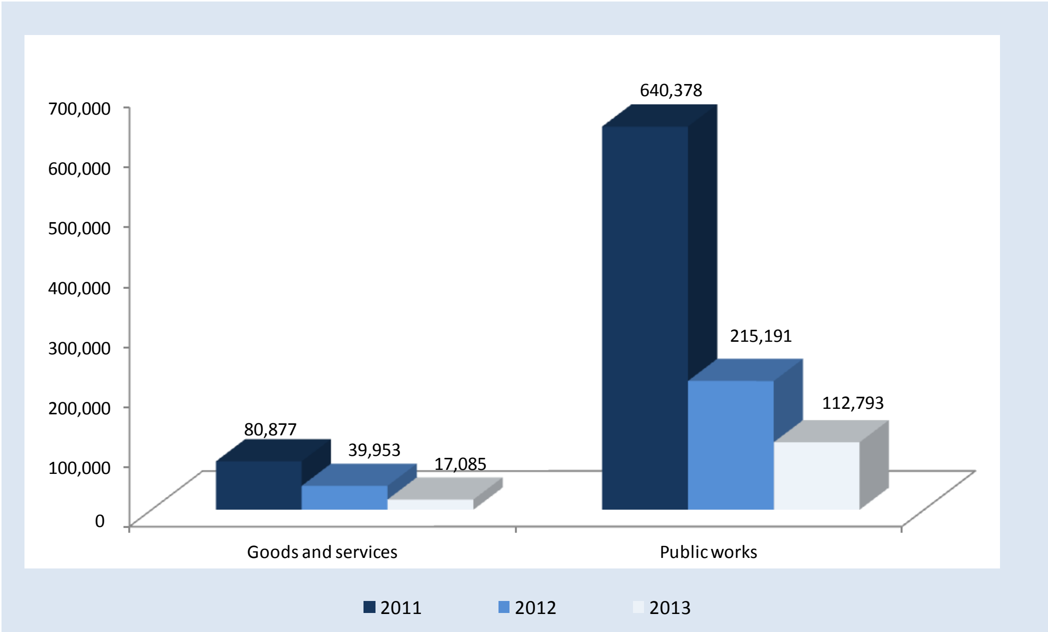
Graph 17- Percentage of contracts for which the procurement procedure was launched in the same year



Source: BASE portal (October 2014)

If we consider the contracts concluded in 2013 we can see that their average value varies according to the year when the procedure was launched. This is a common trend in both contracts for goods and services and contracts for public works, where the average value of the contract increases for procedures with the oldest launch date.

Graph 18- Average value of contracts concluded in 2013 per year of the decision (EUR)



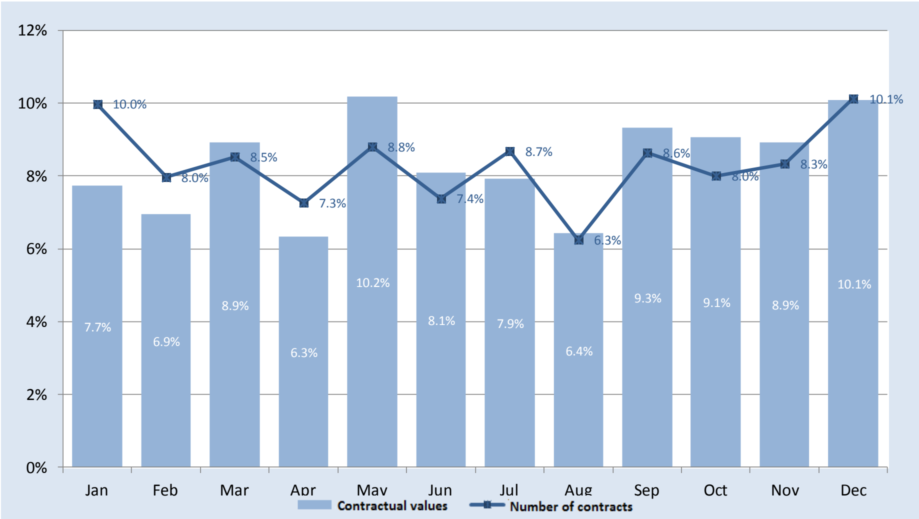
Source: BASE portal (October 2014)

This situation is more evident in the case of public works, where the average value of contracts following procedures launched in 2013 is just 17.6 % compared to the average value of contracts whose procedure was launched before 2012 (52.4 % for contracts whose procedure was launched in 2012), although it is equally significant for goods and services, where the average value of the contracts whose procedure dates back to 2013 was 21.1 % and 42.8 %, respectively, compared to the contracts whose procedure was launched before and in 2012.

3.3.2. BREAKDOWN OF CONCLUDED CONTRACTS PER MONTH

Looking at the breakdown of the number of contracts concluded along the year, there is no particular difference in the number of contracts concluded per month – which varies between 6.3 % of all contracts in August and 10.1 % in December – or in the contracted amounts – which vary between 6.3 % in April and 10.2 % in May.

Graph 19- Breakdown of concluded contracts per month



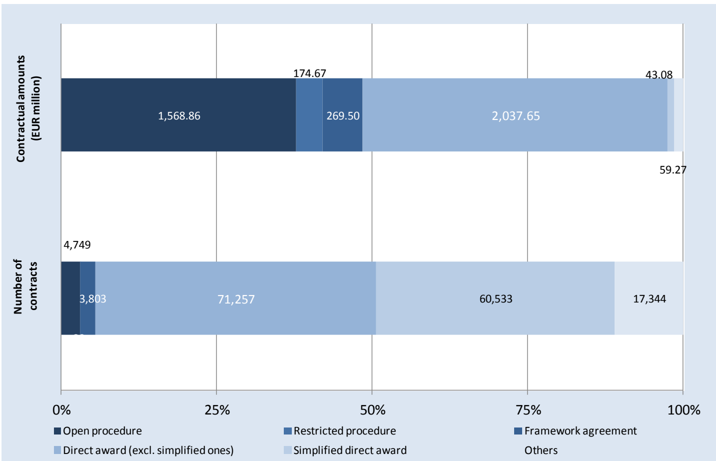
Source: BASE portal (October 2014)

Nevertheless, it is possible to see some seasonality in the last four months of the year, a period during which 35 % of the contracts were concluded, corresponding to 37.4 % of the contractual amounts.

3.4. CONTRACTS PER TYPE OF PROCEDURE

Among the contracts concluded in 2013, the direct award was the most frequently used type of procedure, representing 83.5 % of the total number of procedures. In terms of contractual amounts, its weight was relatively lower but nevertheless above 50 % (50.1 %).

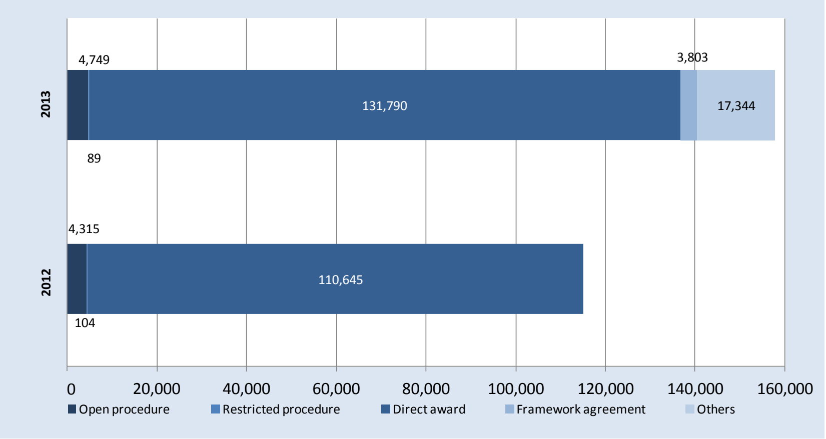
Graph 20 - Public procurement per type of procedure (2013)



Source: BASE portal (October 2014)

There was an overall increase in the number of contracts (+37.1 %), and a particularly significant increase in the number of procedures under direct award (+19.1 %). Like in previous years, it appears that the number of contracts under framework agreements remains underestimated[19], as only 3803 contracts have been reported.

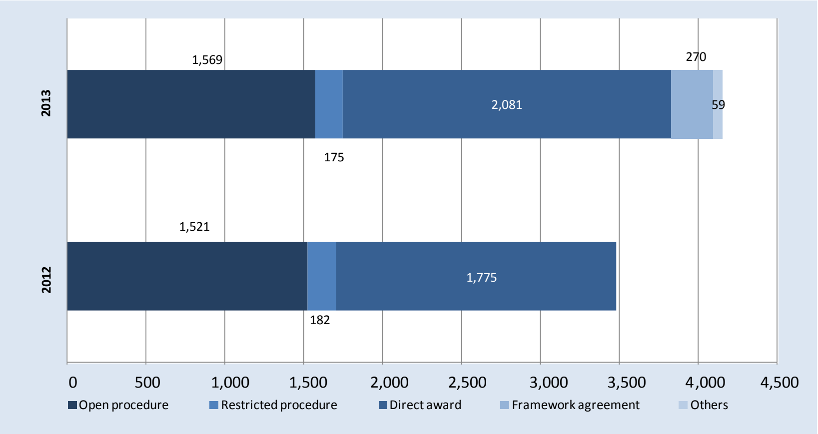
Graph 21 - Number of contracts per type of procedure: changes from 2012 to 2013



Source: BASE portal (October 2014)

As regards the contractual amounts, the change was less marked but positive (+19.4 %). Also in this context direct awards should be highlighted (+17.2 %) when compared to competitive procedures, which saw an overall increase of 2.4 %.

Graph 22 – Contractual amounts per type of procedure: changes from 2012 to 2013 (EUR million)

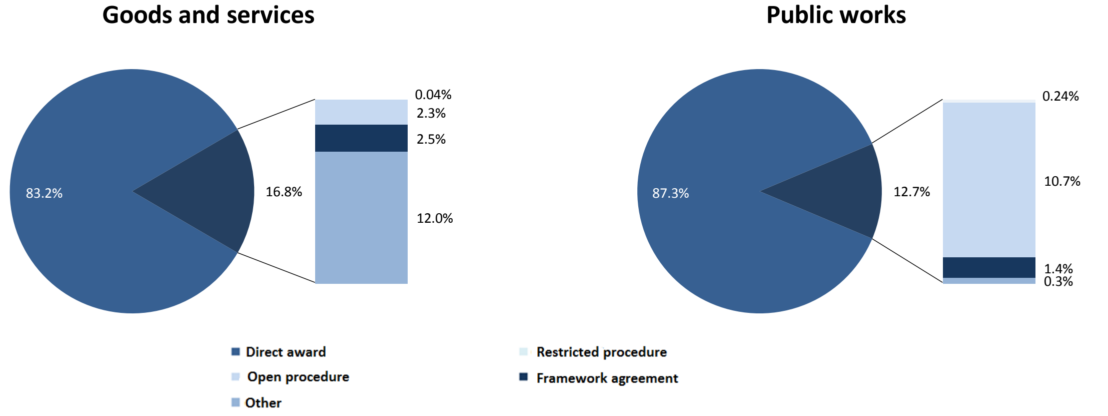


Source: BASE portal (October 2014)

[19] It should be noted, however, that there have been changes in the way these contracts must be reported when they are linked to a framework agreement 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 the following 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 public works (87.3 %) than for goods and services (83.2 %). Competitive procedures are also more significant for contracts relating to public works (10.9 %) than for contracts relating to the purchase of goods and services (2.3 %).

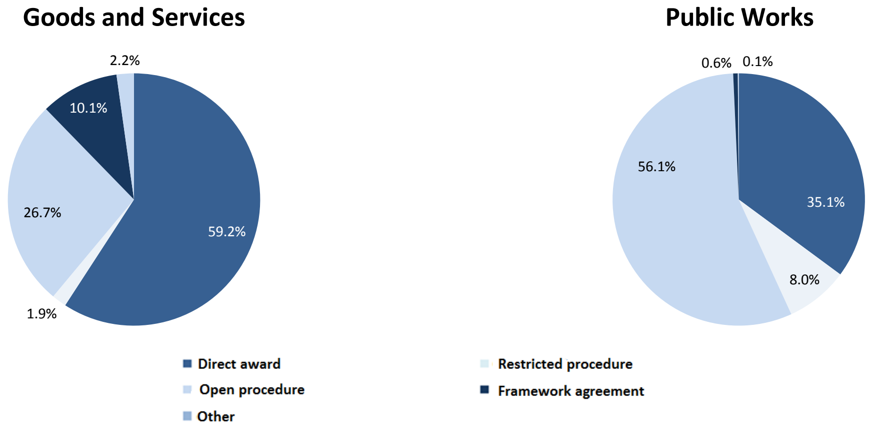
Graph 23- Number of contracts per type of procedure (2013)



Source: BASE portal (October 2014)

As regards the contractual amounts, the number of contracts concluded under competitive procedures is relatively more significant for public works (64.2 %) than for goods and services (28.5 %). Conversely, the contracts concluded following a direct award are the majority for goods and services (59.2 %) but represent less than 1/3 (35.1 %) for public works.

Graph 24- Contractual amounts per type of procedure (2013)

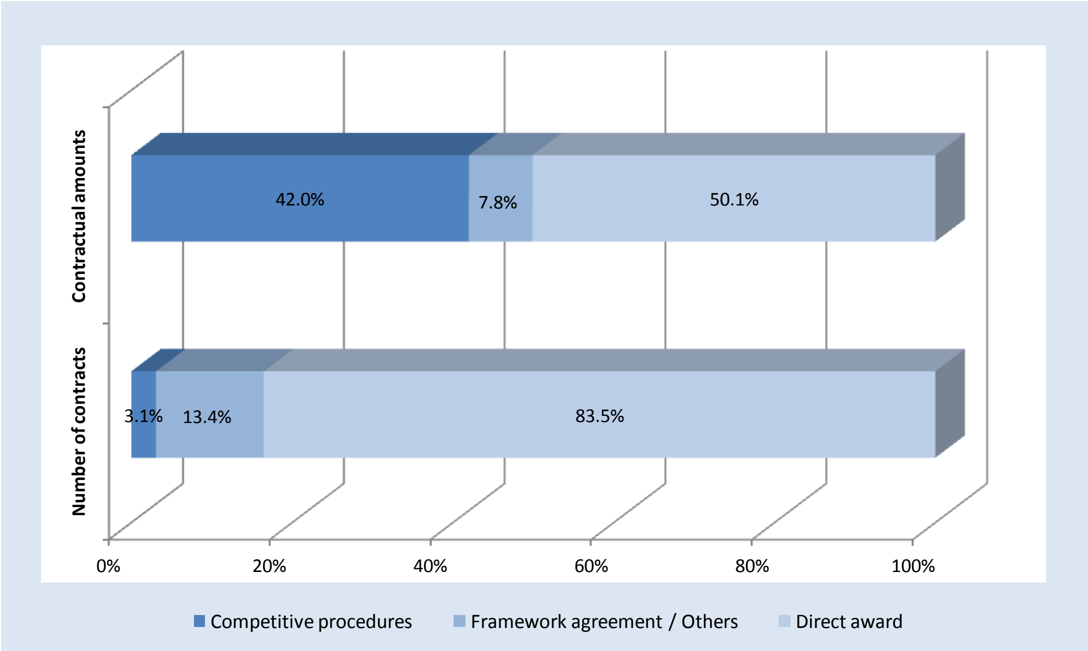


Source: BASE portal (October 2014)

3.5. COMPETITIVE PROCEDURES *VS* DIRECT AWARD PROCEDURES

The share of contracts concluded in 2013 following a competitive procedure was 3.1 % in terms of their number but 42 % in terms of contractual amounts. On the other hand, contracts concluded under a direct award procedure in 2013 represented 83.5 % of the total number of contracts and the majority (50.1 %) as far as the contractual amounts are concerned.

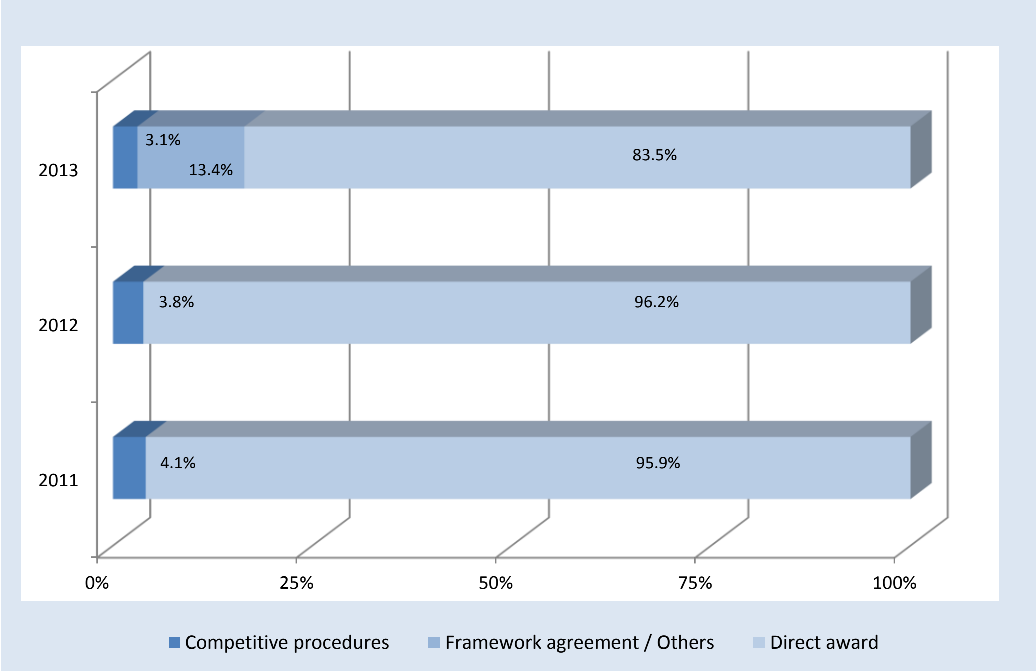
Graph 25 - Public procurement in 2013 per type of procedure



Source: BASE portal (October 2014)

Between 2012 and 2013, the relative weight of the number of direct award procedures has decreased from 96.2 % to 83.5 %. This difference can be the result of the inclusion of another type of procedure “Framework agreement/Others”, for which the reporting has become more relevant.

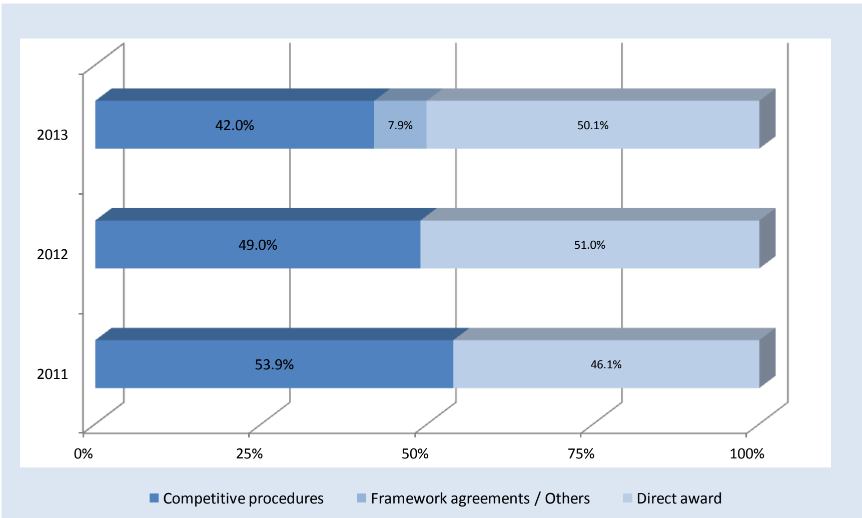
Graph 26- Relative weight of competitive procedures considering their number in 2011, 2012 and 2013



Source: BASE portal (October 2014)

Looking at the weight of the contracts per contractual amount, direct award procedures still represented the majority of the contracts concluded in 2013 (50,1 %), and the decrease in the weight of the competitive procedures (42 %, i.e. -7 pp compared to 2012) should be highlighted.

Graph 27 – Relative weight of competitive procedures, considering the contractual amounts, in 2011, 2012 and 2013



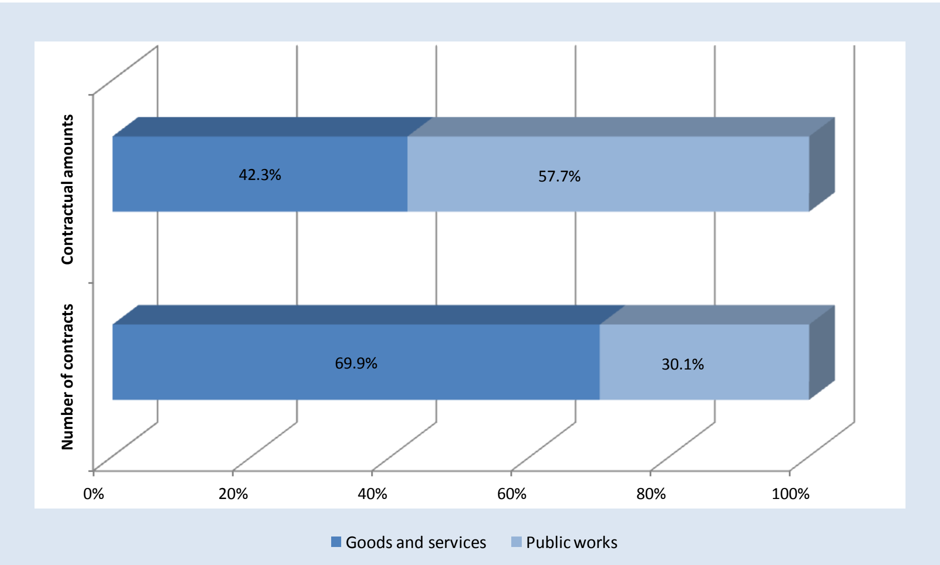
Source: BASE portal (October 2014)

3.5.1. COMPETITIVE PROCEDURES

Although the number and contractual amounts of the contracts concluded following a competitive procedure has increased in absolute terms from 2012 to 2013, its representativeness in public procurement in 2013 has lost some of its share to the other procedures.

In the case of competitive procedures, 69.9 % (3384) of the number of contracts, corresponding to 42.3 % (EUR 738 million) of the contractual amounts, related to goods and services, while the remaining 30.1 % of the contracts (1454) and 57.7 % of the contractual amounts related to public works.

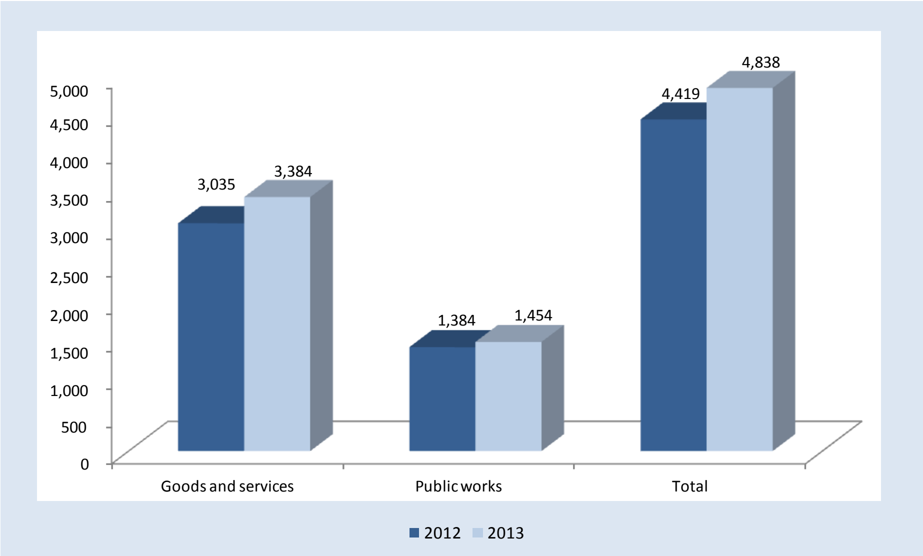
Graph 28 - Contracts resulting from competitive procedures in 2013



Source: BASE portal (October 2014)

The findings show that, compared to 2012, there was an increase in the number of contracts reported and that this increase was more significant for goods and services (+11.5 %) than for public works (+5.1 %).

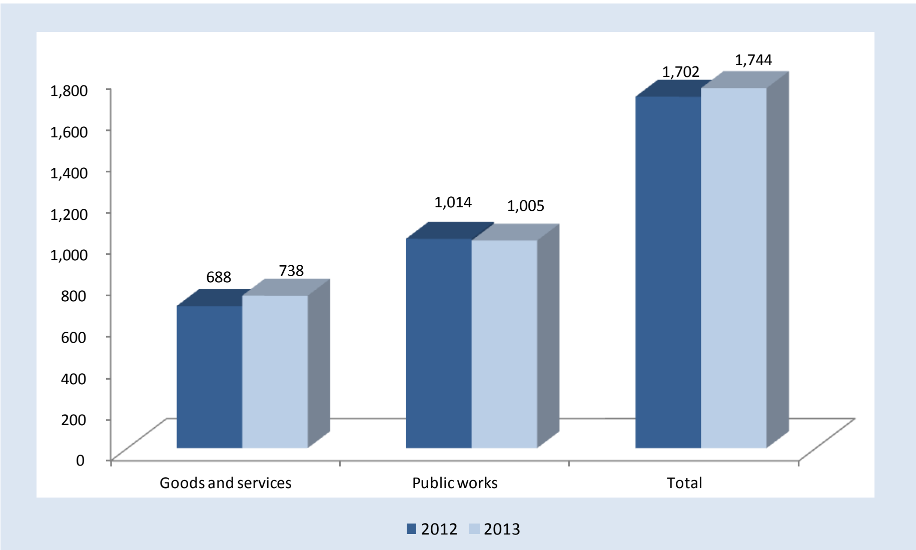
Graph 29 - Number of contracts resulting from competitive procedures: 2012/2013



Source: BASE portal (October 2014)

As for the contractual amounts, there was an increase in values (+2.4 %). This is the result of an increase in the case of goods and services (+7.3 %), since there was a decrease (-0.9 %) in public works.

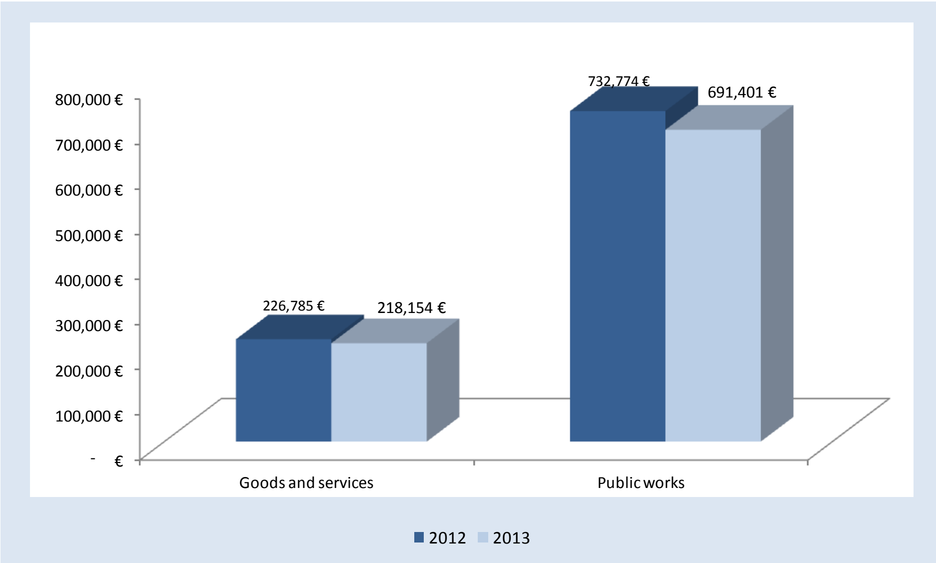
Graph 30 - Amounts of the contracts resulting from competitive procedures: 2012/2013 (EUR million)



Source: BASE portal (October 2014)

As regards the average value of the contracts concluded in 2013 following a competitive procedure, there was a decrease in both the contracts for the purchase of goods and services (-3.8 %) and the contracts for public works (-5.6 %) when compared to 2012.

Graph 31 - Average value of contracts resulting from competitive procedures, per type of contract: 2012/2013



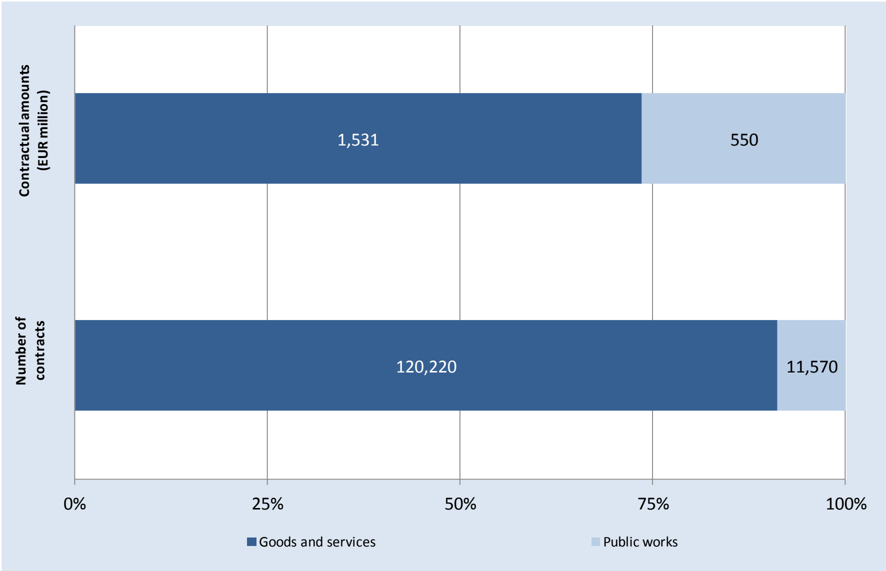
Source: BASE portal (October 2014)

3.5.2. DIRECT AWARDS

Among the 131,790 contracts concluded in 2013 under direct award procedures, 91.2 % (120,220) related to the purchase of goods and services, while the remaining 8.8 % (11,570) related to public works contracts.

As regards the contractual amounts, almost 3/4 (EUR 1,530 million) concerned the purchase of goods and services, and the remaining EUR 550 million (26.4 %) concerned public works.

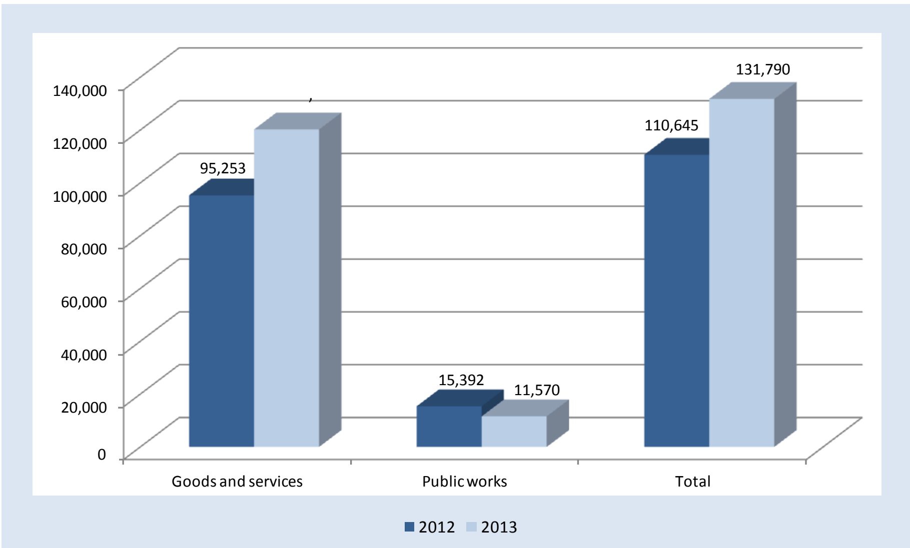
Graph 32 – Direct awards in 2013



Source: BASE portal (October 2014)

Compared to 2012, there was an increase in the number of contracts under direct award for the purchase of goods and services (26.2 %). Conversely, there was a decrease in the number of contracts under direct awards relating to public works (-24.8 %).

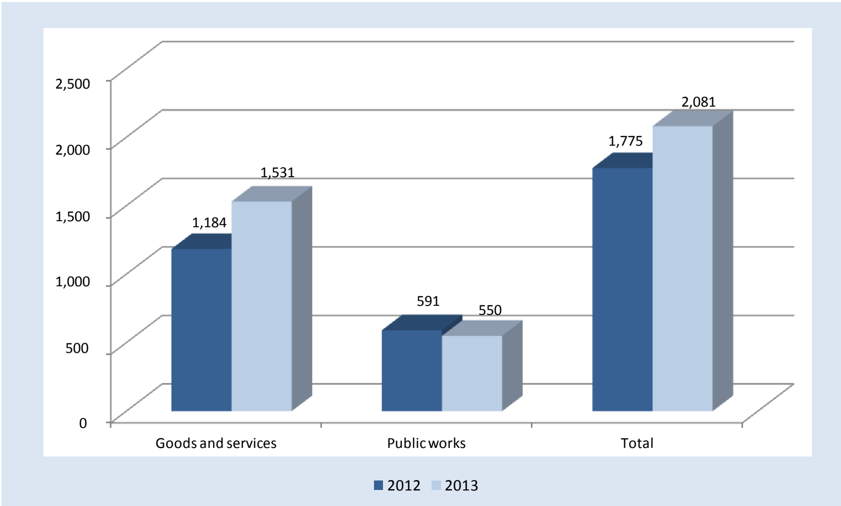
Graph 33 - Number of contracts under direct award: 2012/2013



Source: BASE portal (October 2014)

The contractual amounts concerned followed the same trend as the number of contracts for both goods and services (+29.3 %) and public works (-6.9 %).

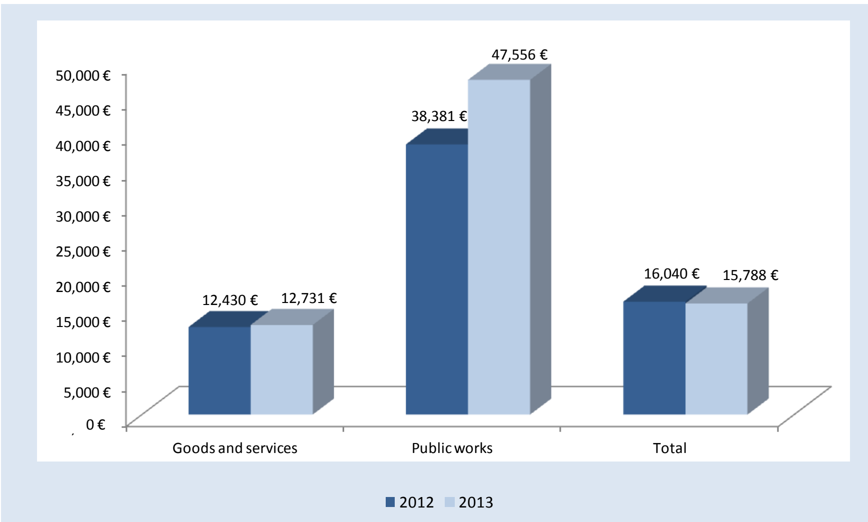
Graph 34 – Value of contracts under direct award: 2012/2013 (EUR million)



Source: BASE portal (October 2014)

Regarding the average contract values, the overall average value per contract was EUR 15,788 in 2013, corresponding to a decrease when compared to 2012 (-1.57 %, i.e. –EUR 252 per contract).

Graph 35 – Average value of contracts under direct award: 2012/2013

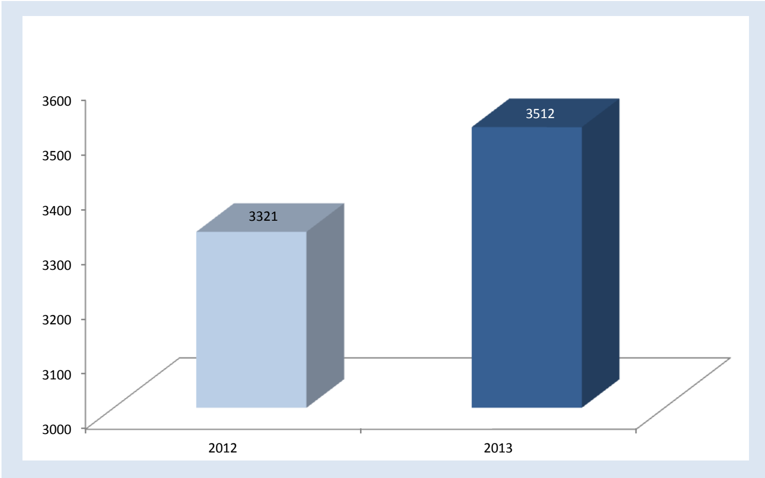


Source: BASE portal (October 2014)

As regards the contracts for goods and services, the average value per contract was EUR 12 731 in 2013, corresponding to an increase of 2.42 % over 2012 (+EUR 301 per contract). In the case of public works there was also an increase in the average contract value corresponding to 23.9 % (+EUR 9,175 per contract).

In 2013, the number of contracting authorities (other than groups of entities) that reported direct awards was 3,512, i.e. more 191 contracting authorities than in 2012 (+5.8 %).

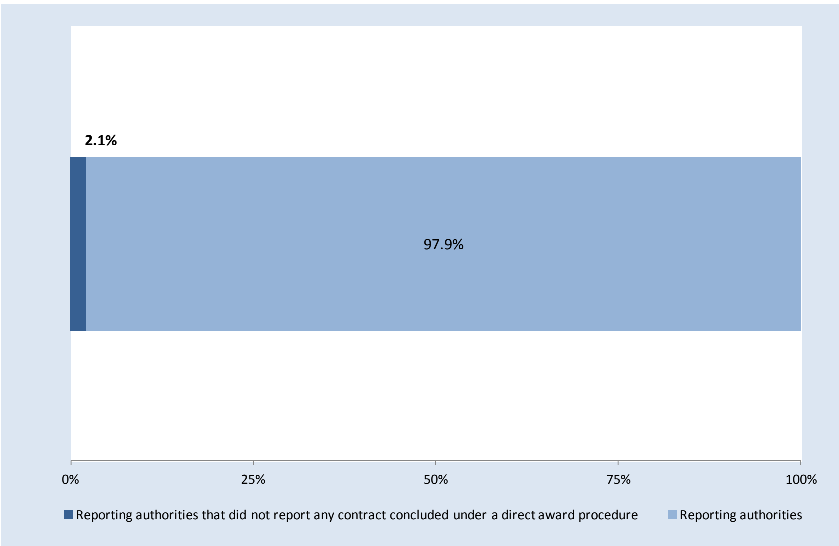
Graph 36 - Number of contracting authorities that reported direct awards



Source: BASE portal (October 2014)

Those authorities represented 97.9 % of the total number of contracting authorities (3,588) that reported contracts concluded in 2013 to the BASE portal. *A contrario*, this means that 2.1 % (76) of the authorities that reported contracts concluded in 2013 did not report any contract concluded under a direct award procedure.

Graph 37 - Number of contracting authorities that reported contracts concluded in 2013, including (or not) direct awards



Source: BASE portal (October 2014)

As regards the type of contracts classified according to the CPV and concluded under direct award procedures, “Construction work” comes first (18.9 % of contractual amounts), followed by “Medical equipments, pharmaceuticals and personal care products” (12.7 %), “Sewage-, refuse-, cleaning-, and environmental services” (8.2 %), “Repair and maintenance services” (7.1 %) and “Business services: law, marketing, consulting, recruitment, printing and security (6.8 %), which together represent more than a half of the total contractual amount under direct awards (53.7 %).

Table 5 – Direct awards in 2013, per CPV

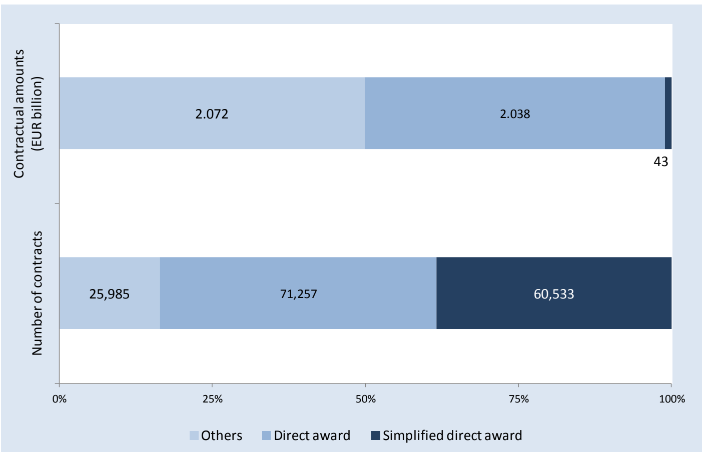
CPV Code	CPV Description	Number of contracts		Contractual values	
		Number	%	Amount	%
45	Construction work	9,289	7.0%	393,251,137 €	18.9%
33	Medical equipments, pharmaceuticals and personal care products	14,662	11.1%	263,458,472 €	12.7%
90	Sewage-, refuse-, cleaning-, and environmental services	2,341	1.8%	171,636,920 €	8.2%
50	Repair and maintenance services	16,742	12.7%	148,417,094 €	7.1%
79	Business services: law, marketing, consulting, recruitment, printing and security	8,276	6.3%	140,624,695 €	6.8%
72	IT services: consulting, software development, Internet and support	3,601	2.7%	105,904,038 €	5.1%
71	Architectural, construction, engineering and inspection services	3,756	2.8%	71,578,165 €	3.4%
92	Recreational, cultural and sporting services	3,911	3.0%	62,768,571 €	3.0%
55	Hotel, restaurant and retail trade services	1,841	1.4%	61,296,590 €	2.9%
09	Petroleum products, fuel, electricity and other sources of energy	1,711	1.3%	57,249,553 €	2.8%
30	Office and computing machinery, equipment and supplies except furniture and software packages	6,509	4.9%	44,959,681 €	2.2%
	Others	59,151	44.9%	559,582,687 €	26.9%
	Total	131,79	100%	2,080,727,604.17 €	100%

Source: BASE portal (October 2014)

3.5.2.1. SIMPLIFIED DIRECT AWARDS

The total 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 was 60,533 (38.4 % of the total number of contracts), corresponding to an overall contractual amount of EUR 43 million (1 % of total amount).

Graph 38 - Simplified direct awards in 2013

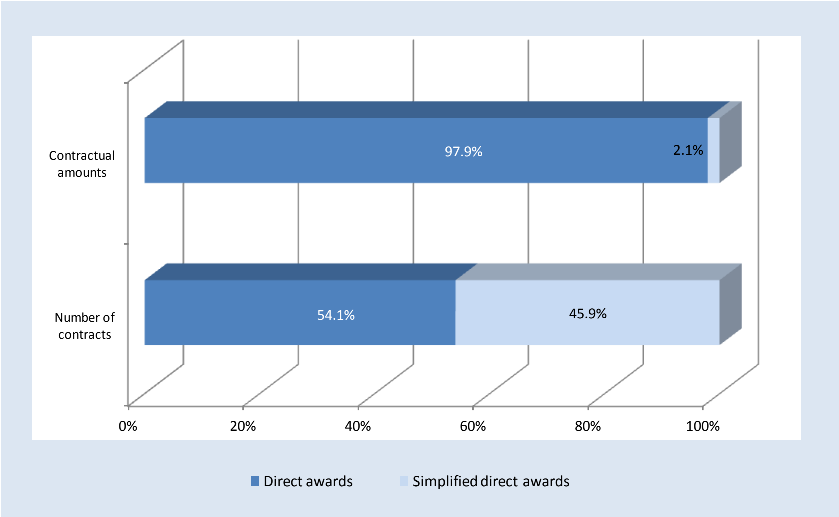


Source: BASE portal (October 2014)

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

Considering all direct awards, although the number of simplified direct awards accounted for 45.9 % of the total number of contracts, it only represented 2.1 % of the contractual amounts concerned.

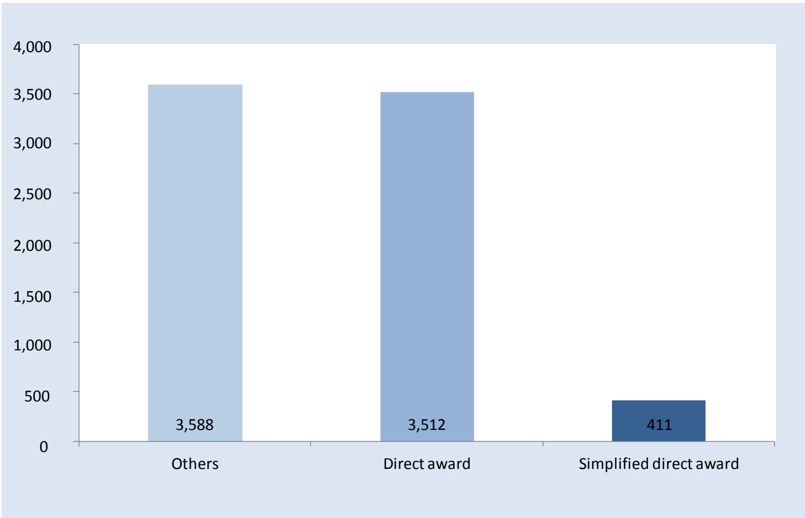
Graph 39 – Relative weight of simplified direct awards as compared to the total number of direct awards in 2013



Source: BASE portal (October 2014)

However, the actual weight of simplified direct awards might be underestimated, particularly because only 411 of the contracting authorities (11.5 % 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 2013



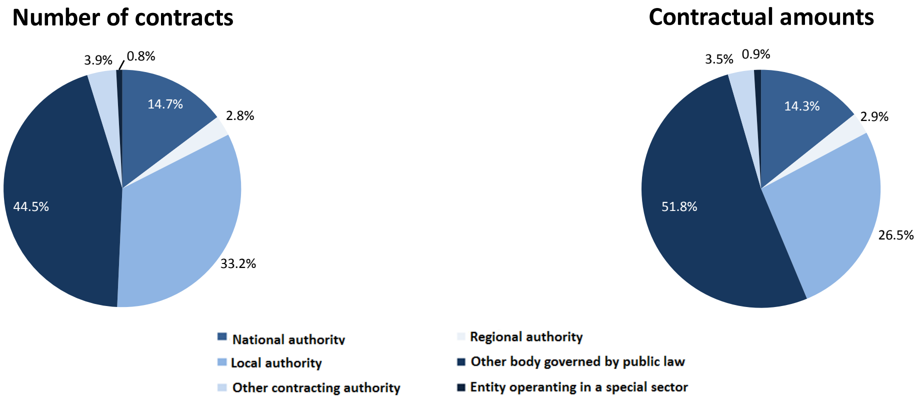
Source: BASE portal (October 2014)

Of course, a larger number of contracting authorities, in particular those entities that belong directly or indirectly to the central, regional or local administration, have necessarily used this type of procedure.

As the weight of simplified direct awards varied according to the authority concerned, among all the contracting authorities having reported at least 50 procedures of this kind (122, i.e. 29.7 % of the authorities that reported simplified direct awards) in 2013, the share of the value of these contracts in the total number of contracts concluded in the same period was 5.7 %.

Most of the 60,533 contracts concluded under simplified direct awards and reported in 2013 concerned "other bodies governed by public law" (44.5 %), followed by "local authorities" (33.2 %) and "national authorities" (14.7 %).

Graph 41 – Breakdown of simplified direct awards per type of authority in 2013



Source: BASE portal (October 2014)

An analysis per type of expenditure shows that contracts under simplified direct awards are mainly related to "Repair and maintenance services" (17.3 %), "Medical equipments, pharmaceuticals and personal care products" (11.5 %), "Construction structures and materials; auxiliary products to construction" (6.8 %), "Business services: law, marketing, consulting, recruitment, printing and security (5.9 %), "Office and computing machinery, equipment and supplies except furniture and software packages" (4.6 %) and "Recreational, cultural and sporting services" (4.0 %), which together accounted for 50.1 % of the overall contractual amount.

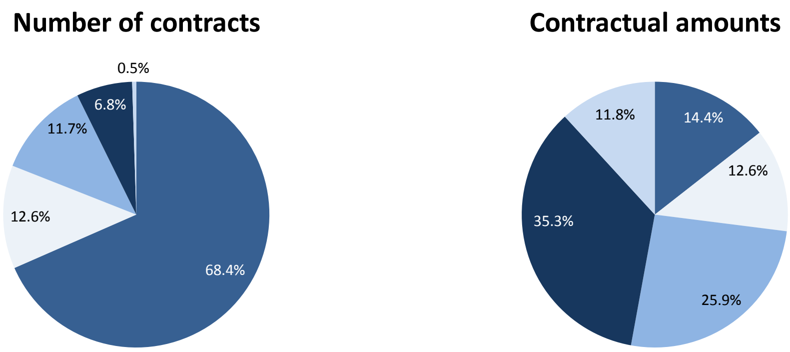
Table 6 – Simplified direct awards in 2013, per CPV

CPV Code	CPV Description	Number of contracts		Contractual values	
		Number	%	Amount	%
50	Repair and maintenance services	10,286	17.1%	7,428,286 €	17.3%
33	Medical equipments, pharmaceuticals and personal care products	3,950	6.7%	4,777,920 €	11.5%
44	Construction structures and materials; auxiliary products to construction (except electric apparatus)	5,847	9.6%	3,006,187 €	6.8%
79	Business services: law, marketing, consulting, recruitment, printing and security	3,320	5.4%	2,610,844 €	5.9%
30	Office and computing machinery, equipment and supplies except furniture and software packages	3,982	6.2%	2,157,458 €	4.6%
92	Recreational, cultural and sporting services	1,441	2.5%	1,607,956 €	4.0%
72	IT services: consulting, software development, Internet and support	798	4.2%	1,559,974 €	3.5%
39	Furniture (incl. office furniture), furnishings, domestic appliances (excl. lighting) and cleaning products	2,569	1.3%	1,514,219 €	3.5%
31	Electrical machinery, apparatus, equipment and consumables; Lighting	2,718	3.2%	1,411,476 €	3.2%
98	Other community, social and personal services	1,940	4.5%	1,395,839 €	3.2%
71	Architectural, construction, engineering and inspection services	919	1.6%	1,106,424 €	2.6%
22	Printed matter and related products	2,179	2.7%	1,081,778 €	2.5%
63	Supporting and auxiliary transport services; travel agencies services	1,592	3.4%	1,042,525 €	2.4%
34	Transport equipment and auxiliary products to transportation	2,391	3.9%	986,557 €	2.1%
42	Industrial machinery	1,429	2.4%	887,163 €	2.1%
80	Education and training services	920	1.9%	864,329 €	2.0%
	Others	14,252	84.4%	9,640,119 €	22.4%
	Total	16,889	161%	43,079,055.59 €	100%

Source: BASE portal (October 2014)

Considering the contract value, contracts with a value equal to or lower than EUR 500 predominated (68.4 % 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 (35.3 %).

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

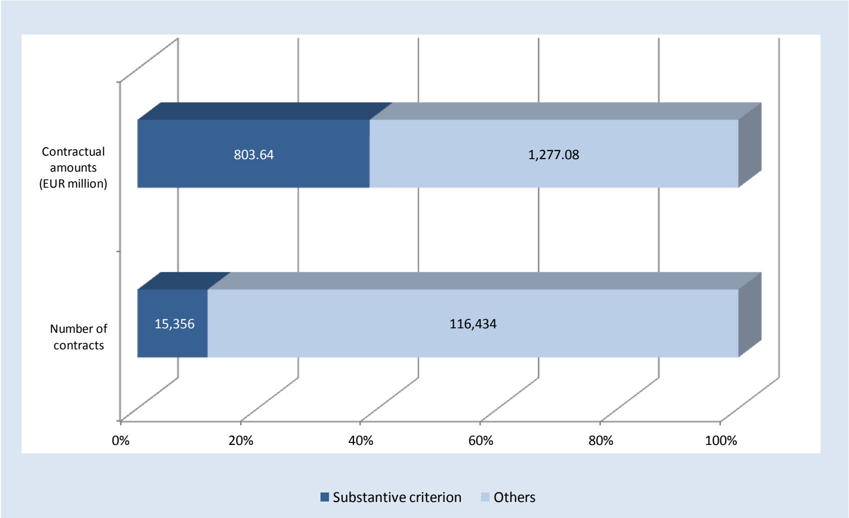


Source: BASE portal (March 2013)

3.5.2.2. Direct awards per substantive criterion

Contracts concluded in 2013 following a direct award procedure on the basis of substantive criteria (i.e. not focused on the contract value) represent 11.7 % of the number of contracts concluded under a direct award and 38.6 % of their respective contractual amount.

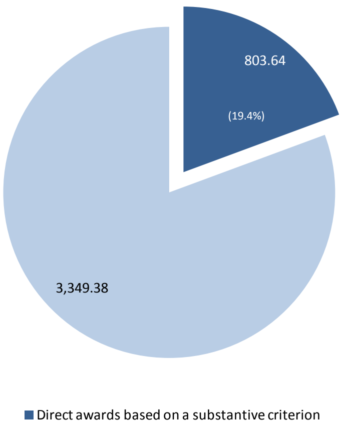
Graph 43 – Relative weight of contracts under direct award per substantive reasons



Source: BASE portal (October 2014)

Contracts awarded on the basis of substantive criteria, which by definition are not the result of a competitive procedure, represented 19.4 % of the value of all public contracts reported in 2013.

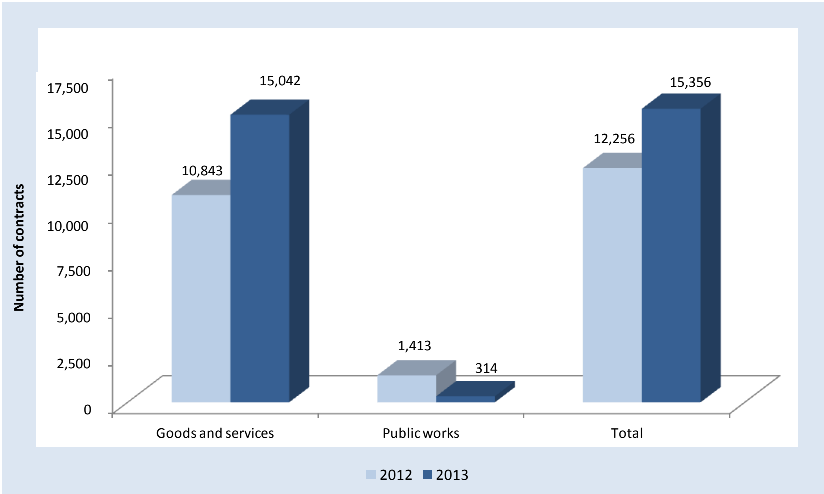
Graph 44 – Relative weight of contracts under direct award per substantive reasons in public contracts, in 2013



Source: BASE portal (October 2014)

Compared to 2012, the number of contracts concluded following a direct award procedure on the basis of substantive criteria increased by 25.3 %. This increase was concentrated in contracts for goods and services (+38.7 %, i.e. +4199 contracts), as in public works there was a decrease of 77.8 % (-1099 contracts).

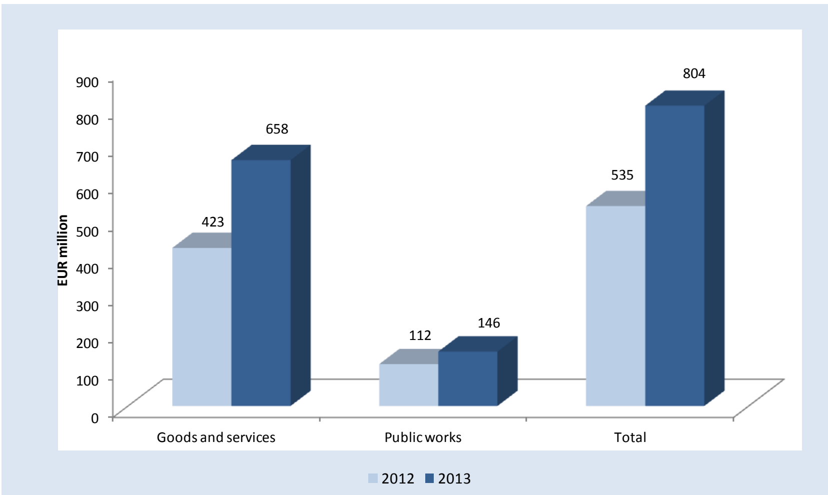
Graph 45 - Changes in the number of contracts concluded on the basis of a substantive criterion in 2013



Source: BASE portal (October 2014)

As regards the contractual amounts involved, there was a general upward trend (+50.2 % than in 2012, i.e. +EUR 269 million), although it was more pronounced in the case of goods and services (+55.6 %, i.e. +EUR 235 million) than in public works (+30 %, i.e. +EUR 34 million).

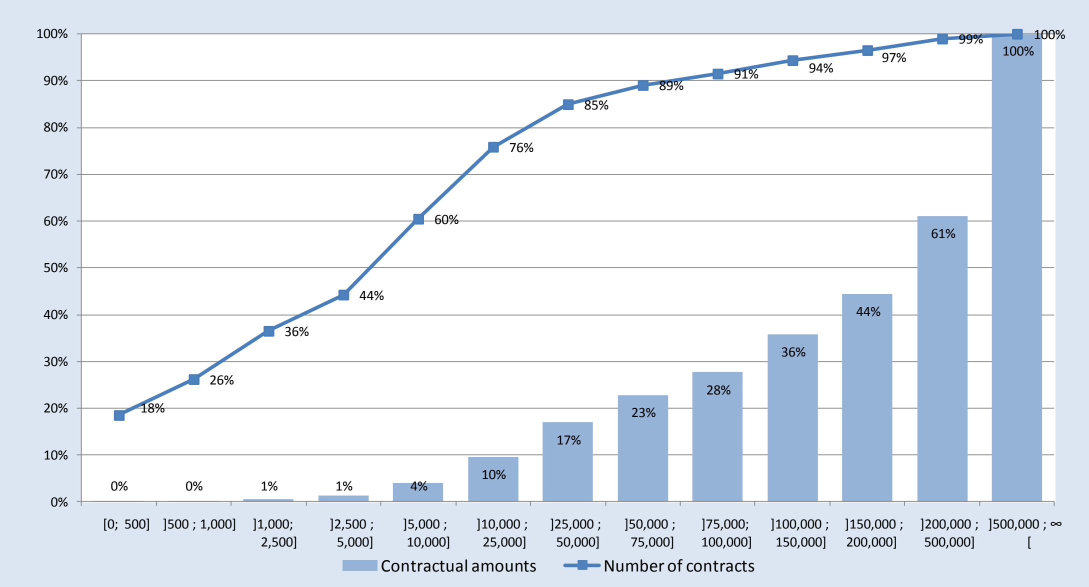
Graph 46 - Changes in the contractual amount of contracts concluded on the basis of a substantive criterion in 2013



Source: BASE portal (October 2014)

Most contracts for goods and services concluded in 2013 on the basis of a substantive criterion (60 %) had a contractual price of less than EUR 10,000 while more than ¾ (76 %) 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 2013



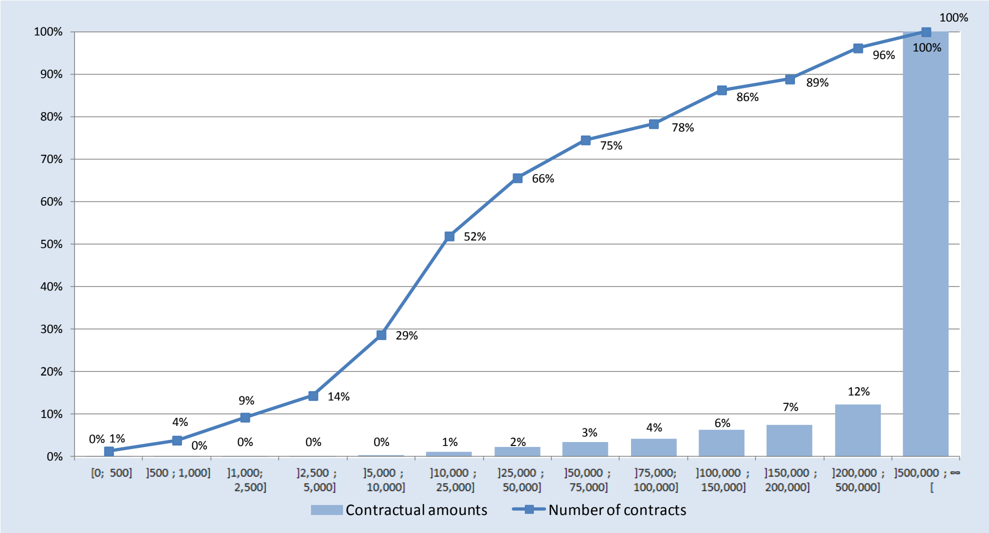
Source: BASE portal (October 2014)

On the other hand, considering the contractual amounts involved, the number of contracts with a contractual price of more than EUR 150,000 was more significant: 56 % of the overall contractual value of contracts concluded on the basis of substantive criteria related to contracts with a contractual price below that amount. It should, however, be highlighted that the weight of contracts with a contractual price of more than EUR 200,000[21] represented 39 % 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 52 % of the contracts and less than EUR 75,000 in 75 %. As regards the contractual amounts, 88 % 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 2013



Source: BASE portal (October 2014)

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" (57.3 % of their total number and 45.5 % of their contractual amounts), which together with other reasons "resulting from a procedure where all tenders were excluded" represented 61.7 % of the amounts involved. It should also be noted that "reasons of extreme urgency" were mentioned for 20.2 % of the number of contracts, corresponding to 11.4 % of the contractual amounts.

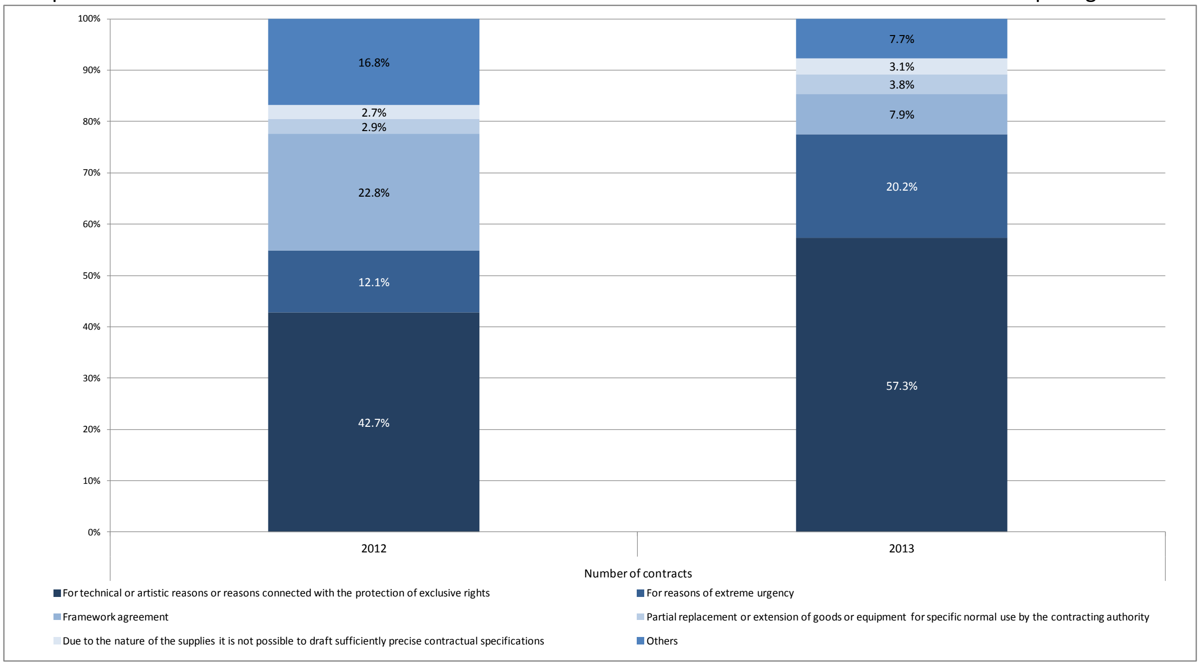
Table 7 – Breakdown of the contractual amounts of the contracts concluded on the basis of a substantive criterion in 2013, per substantive reason

Substantive reasons	Number of contracts		Contractual values	
	Number	%	Amount	%
For technical or artistic reasons or reasons connected with the protection of exclusive rights	8,804	57.3%	365,803,850 €	45.5%
Resulting from a procedure where all tenders were excluded	138	0.9%	130,333,907 €	16.2%
For reasons of extreme urgency	3,097	20.2%	91,512,778,€	11.4%
Framework agreement	1,214	7.9%	46,289,041 €	5.8%
Repetition of similar services	265	1.7%	41,071,822 €	5.1%
Due to the nature of the supplies it is not possible to draft sufficiently precise contractual specifications	476	3.1%	30,281,884 €	3.8%
Partial replacement or extension of goods or equipment for specific normal use by the contracting authority	590	3.8%	28,054,441 €	3.5%
For reasons of secrecy	54	0.4%	26,959,103 €	3.4%
Purchase of water or energy from a contracting authority engaged in the activity	25	0.2%	11,564,849 €	1.4%
Resulting from a previous procedure that had no response	200	1.3%	9,024,371 €	1.1%
Others	493	3.2%	22,748,569 €	2.8%
Total	15,356	100%	803,644,613.59 €	100%

Source: BASE portal (October 2014)

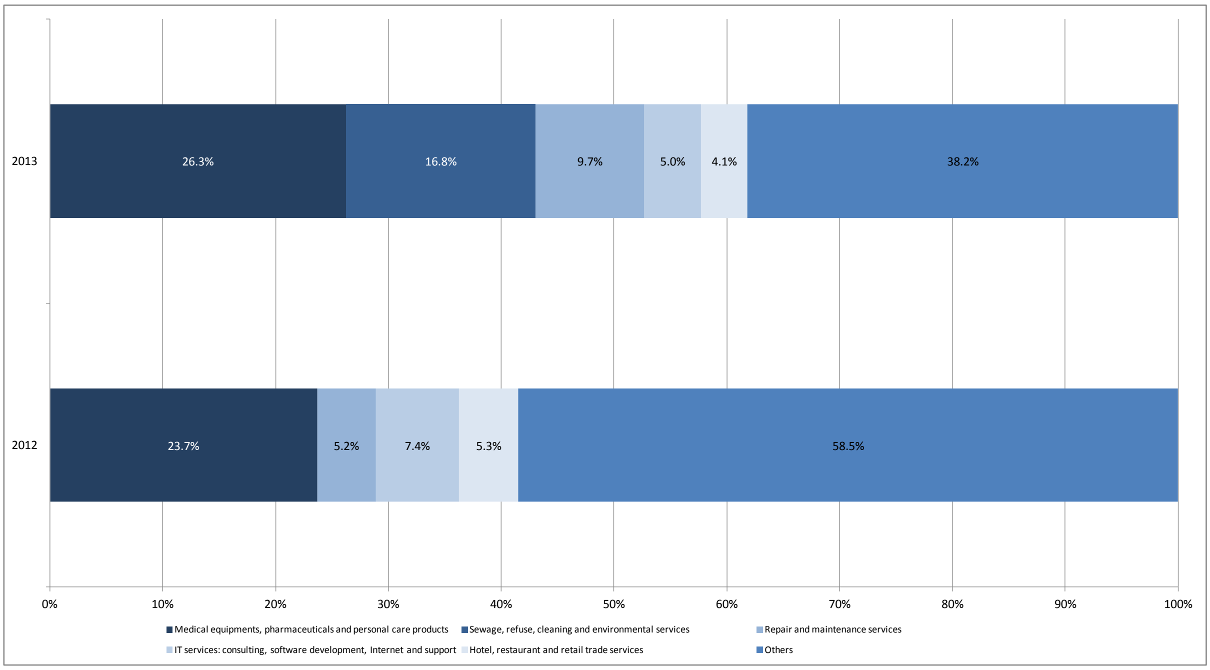
Compared to 2012, there was an increase in the predominance of “technical or artistic reasons or reasons connected with the protection of exclusive rights” (+3565 contracts, corresponding to an increase of EUR 166.7 million in contractual values), which represented the majority of this type of procedure (57.3 %), with a variation of 14.6 pp. It should also be noted the increased reference to “reasons of extreme urgency”, which was used in more 1620 contracts than in 2012 (+EUR 15 million), thus representing 20.2 % of the contracts based on substantive reasons.

Graph 49 - Breakdown of the number of contracts concluded on the basis of a substantive criterion: comparing 2012 and 2013



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” (26.3 %) and “sewage-, refuse-, cleaning-, and environmental services”, which together correspond to a 43.1 % “share“.

Graph 50 - Breakdown of the contractual amounts of the contracts concluded on the basis of a substantive criterion in 2013, per CPV: comparing 2012 and 2013



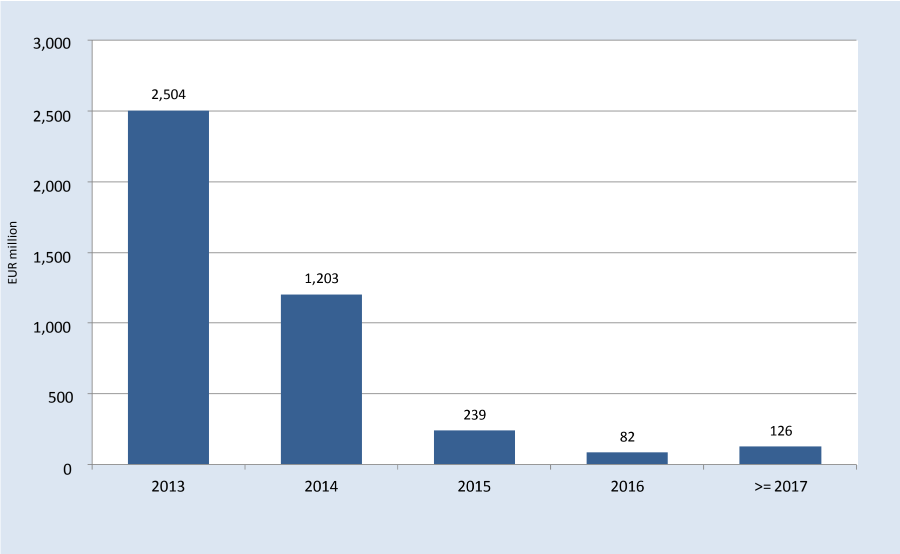
Source: BASE portal (October 2014)

______________________ * ________________________

4. FORECAST FOR CHARGES ARISING FROM CONCLUDED CONTRACTS

Among the contracts concluded in 2013, which amounted to EUR 4,153 million and were forecasted to be performed over time, more than a half (EUR 2,504 million, i.e. 60 % of the contract value) were designed to be executed during the same year.

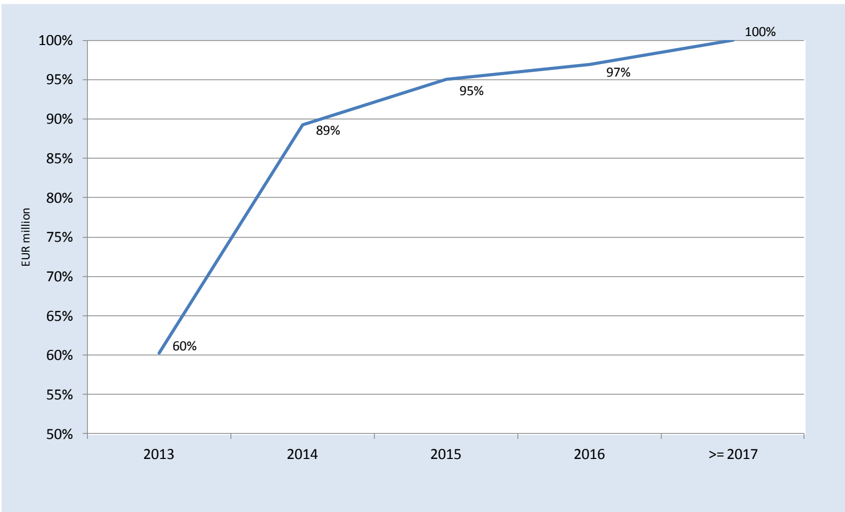
Graph 51 – Forecast for charges arising from contracts concluded in 2013 (EUR million)



Source: BASE portal (October 2014)

The graph below shows not only that 60 % of the value of the concluded contracts have an expected duration of at least one year, but also that 89 % of the value of all these contracts were expected to be executed until the second calendar year, i.e. until the end of 2014.

Graph 52 – Planned implementation rate for contracts concluded in 2013 (EUR million)



Source: BASE portal (October 2014)

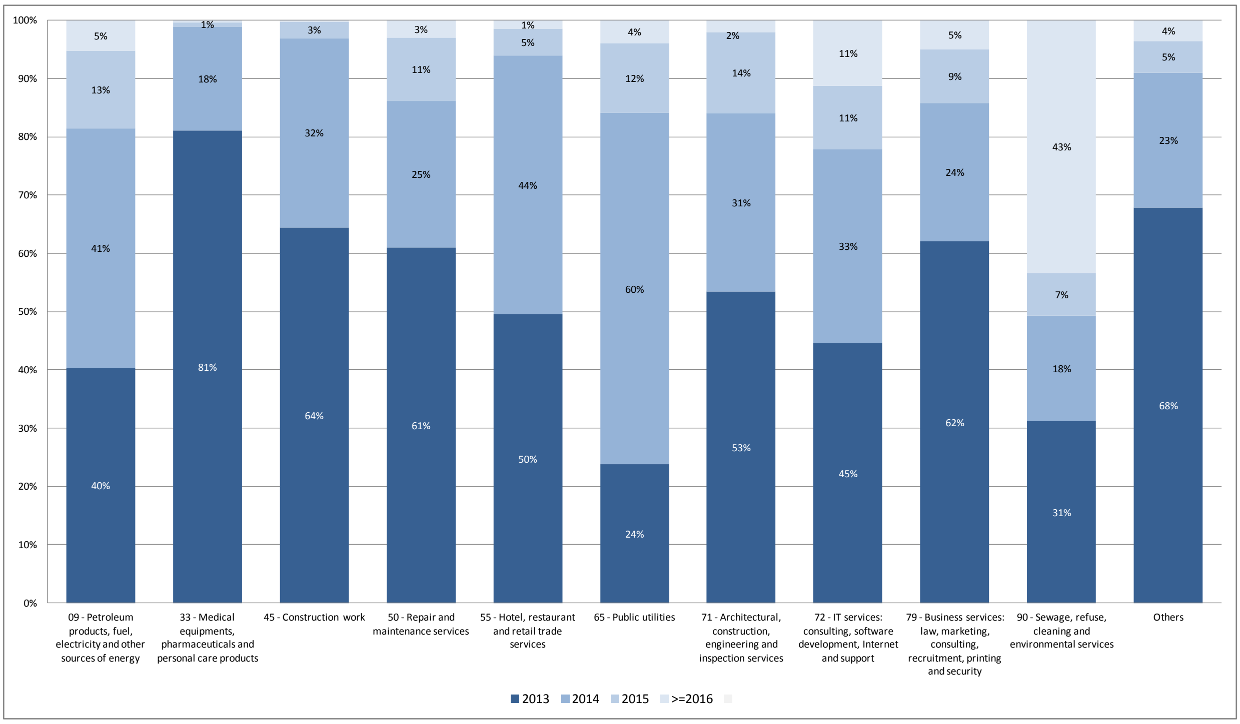
Since the Public Contracts Code establishes that, as a rule, a public contract should have a maximum duration of three years[22], it is expected that only 5 % of the value of the contracts concluded in 2013 will go beyond the end of 2015. Therefore, public contracts are basically short-term contracts.

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 contracts taking into account the CPV codes, we can see that the most significant ones in terms of contractual amounts were: “33 - Medical equipments, pharmaceuticals and personal care products” (81 %), “45 – Construction work” (64 %), “79 - Business services: law, marketing, consulting, recruitment, printing and security (62 %), “50 - Repair and maintenance services” (61 %), as well as the other codes not included in the “top 10“ (68 %). These groups had the highest performance rate in the same year when the contract was concluded (2013).

On the contrary, since the expected performance rate of contracts in 2013 was less significant (lower than 50 %) for codes “65 – Public services” (24 %), “90 - Sewage-, refuse-, cleaning-, and environmental services” (31 %), “09 - Petroleum products, fuel, electricity and other sources of energy” (40 %) and “72 - IT services: consulting, software development, Internet and support ” (45 %), it was in these headings that the long-term contracts were more predominant.

Graph 53 – Forecast of charges arising from contracts concluded in 2013, per CPV



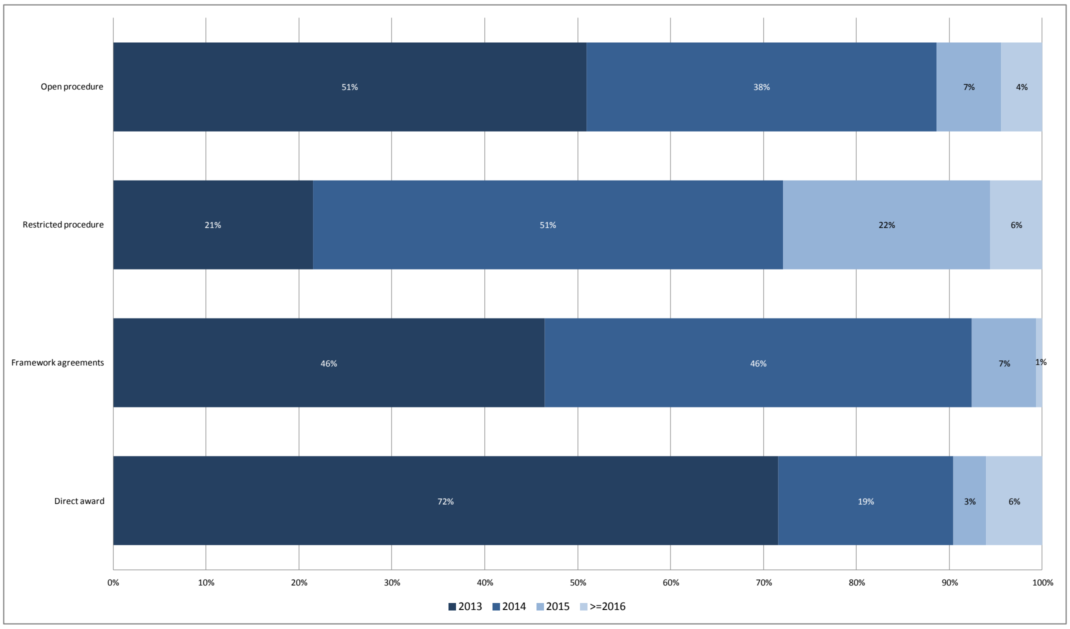
Source: BASE portal (October 2014)

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

Looking at the type of procedures preceding the contract, we can conclude that when the direct award is used, the time needed for performing the contract tends to be shorter: it was expected that 72 % of the value of contracts concluded under a direct award procedure would be executed in 2013.

On the contrary, forecasts for the performance of contracts concluded following a competitive procedure indicate a longer duration: it was expected that 11 % of contracts preceded by an open procedure and of 28 % of contracts preceded by a restricted procedure would be performed in 2015 and in following years.

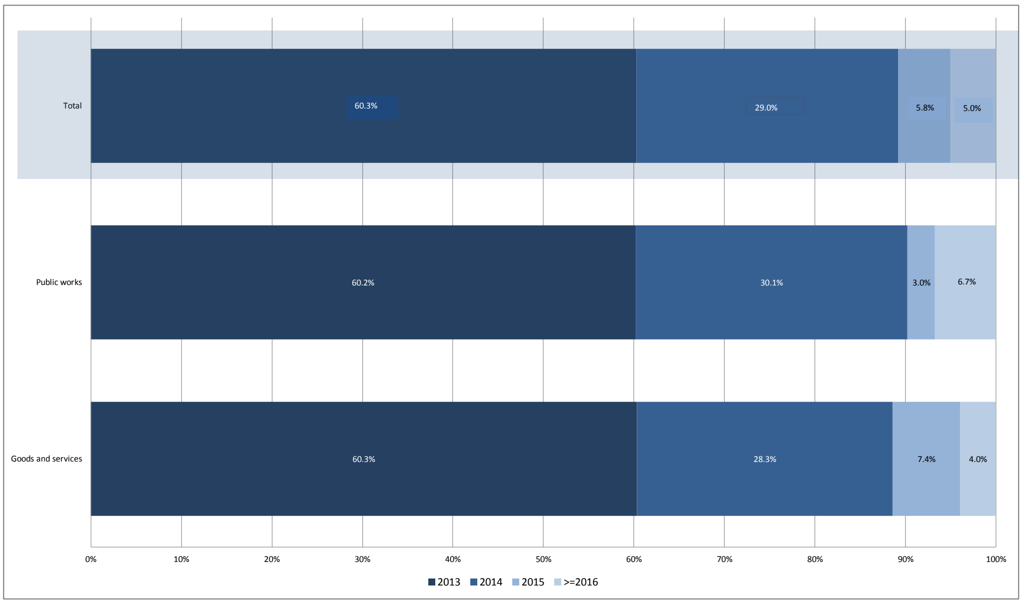
Graph 54 – Forecast of charges arising from contracts concluded in 2013, per type of procedure



Source: BASE portal (October 2014)

A similar analysis based on the type of contract shows that, contrary to what would be expected, there were no big differences in the breakdown of charges over the years of performance of the contracts. The breakdown of contracts is very similar whether they concern goods and services or public works.

Graph 55 - Forecast of charges arising from contracts concluded in 2013, per type of contract

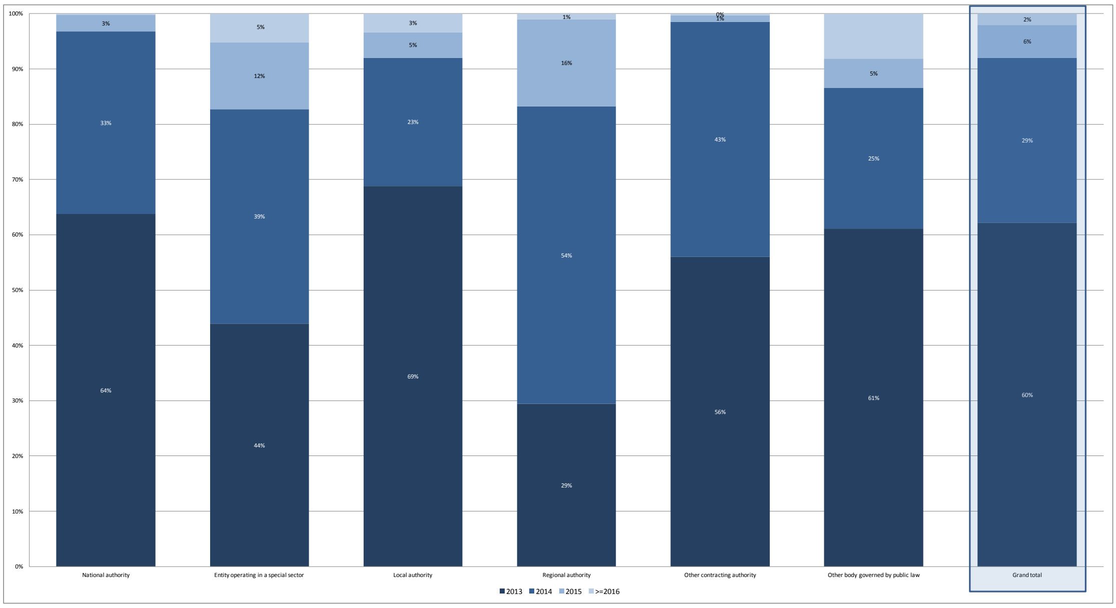


Source: BASE portal (October 2014)

Considering the multiannual nature of the contracts concluded in 2013 per type of authority, we can conclude that most short-term contracts were awarded (until late 2013) by “Local Authorities” (69 %), “National Authorities” (64 %) and “Other bodies governed by public law” (61 %).

“Regional Authorities” and “Entities operating in the special sectors” show an opposite trend, as their most significant contracts are to be performed in 2015 and following years.

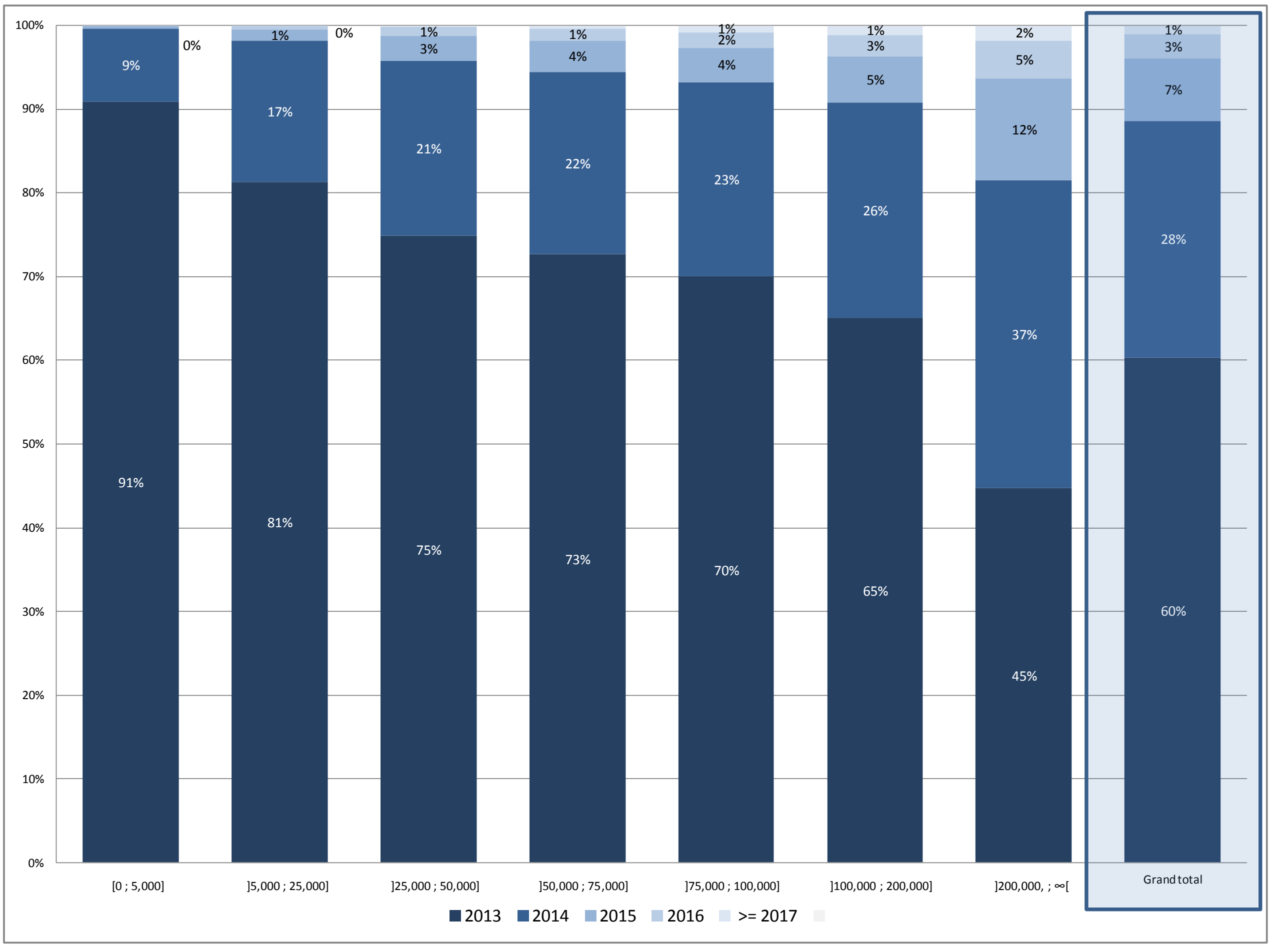
Graph 56- Forecast of charges arising from contracts concluded in 2013, per type of contracting authority



Source: BASE portal (October 2014)

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 multiannual contracts is in line with the increase in contractual amounts. Among the contracts with a value of less than EUR 5,000, 91 % of their contractual value was expected to be executed in 2013, while in the case of contracts with a value of more than EUR 200,000 only 45 % of their value was planned to be executed in the same year.

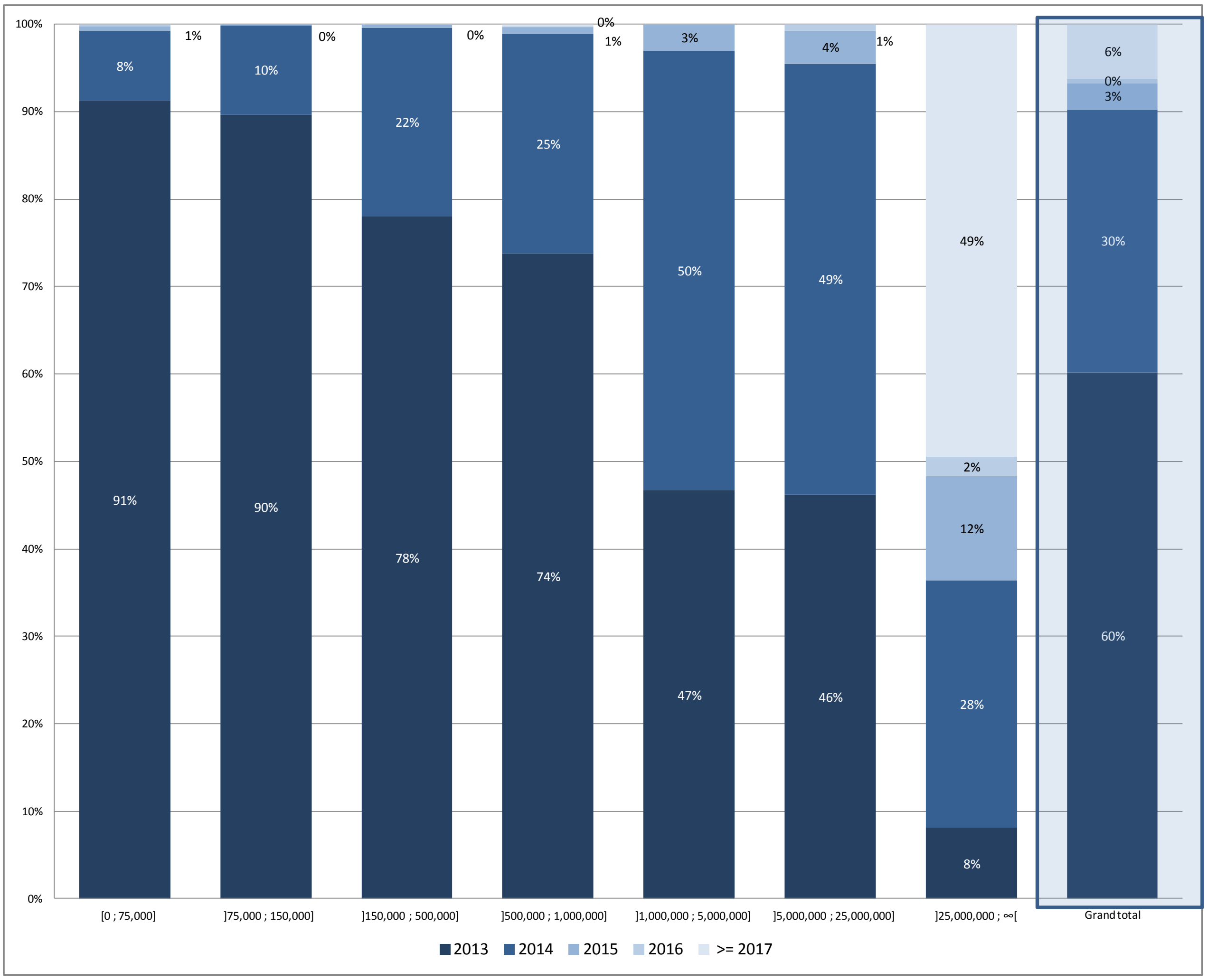
Graph 57 – Forecast of charges arising from contracts concluded in 2013, per range of contractual value – goods and services



Source: BASE portal (October 2014)

We can see the same trend in the case of public works, but it is not so clear-cut. In any event, in the contracts with a value of more than EUR 1 million, less than a half of the contractual value was planned to be executed in 2013. Particularly in the case of works with a value of more than EUR 25 million, only 8 % were planned to be executed in 2013, while 51 % had to be executed in 2016 and following years.

Graph 58 – Forecast of charges arising from contracts concluded in 2013, per range of contractual value – public works



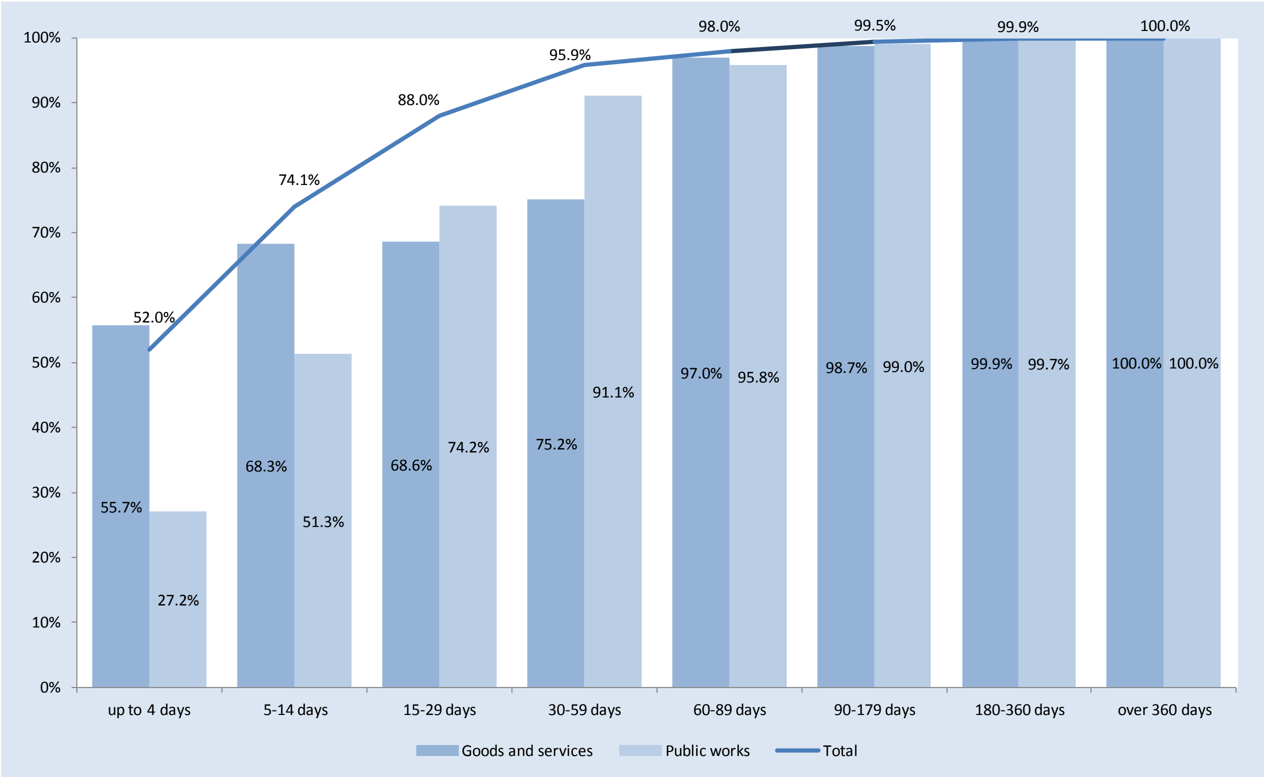
Source: BASE portal (October 2014)

*

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 (52 %) took up to 4 days until the corresponding decision was made, which appears to show that the conduct of the procedures was generally more efficient than in 2012 (48.6 %).

Graph 59- Length of procedures related to contracts concluded in 2013, per range and per type of contract (all contracts except simplified direct awards)



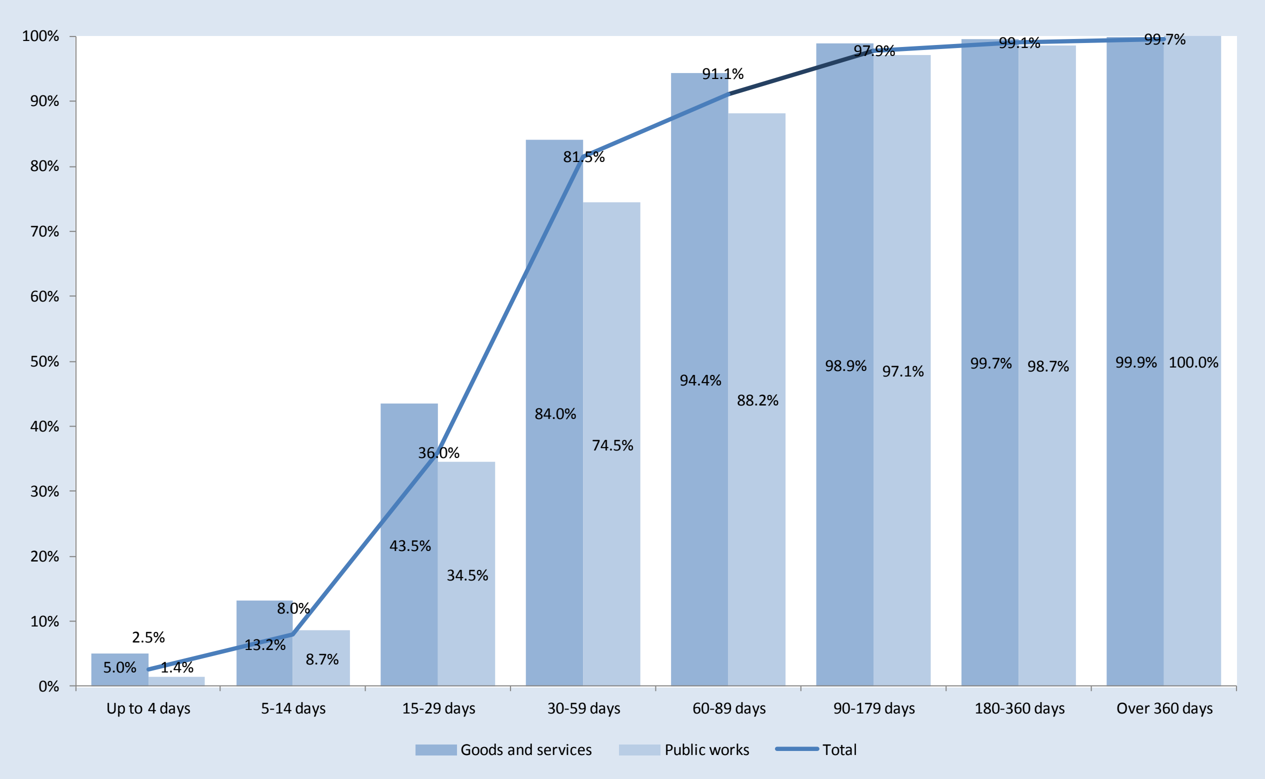
Source: BASE portal (October 2014)

Nevertheless, the length of procedures varies according to the type of contract: less than 4 days for goods and services 55.7 % (almost the same as in 2012 - 52.3 %), while for public works, in the same period, “only“ 27.2 % of the procedures had been completed, showing a lower degree of efficiency than in 2012 (33.3 %).

It should, however, be noted that in the case of public works almost ¾ of the procedures (74.2 %) have been completed in less than 30 days, while in the case of goods and services only 68.6 % have been completed within the same period of time.

Of course, the above mentioned figures are affected by the weight 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. In fact, as it could be expected, the average time limit for the completion of procedures for contracts preceded by an open or a restricted procedure was longer, and it should be noted that 45.5 % of the procedures have been decided upon between 30 and 59 days (inclusive).

Graph 60- Length of procedures related to contracts concluded in 2013, per time range and per type of contract (contracts resulting from competitive procedures)



Source: BASE portal (October 2014)

However, results obtained only for competitive procedures continue to show a noticeable degree of efficiency: 84.0 % of the contracts for goods and services and 74.9 % of the contracts for public works have been concluded within less than 60 days from the beginning of the procedure.

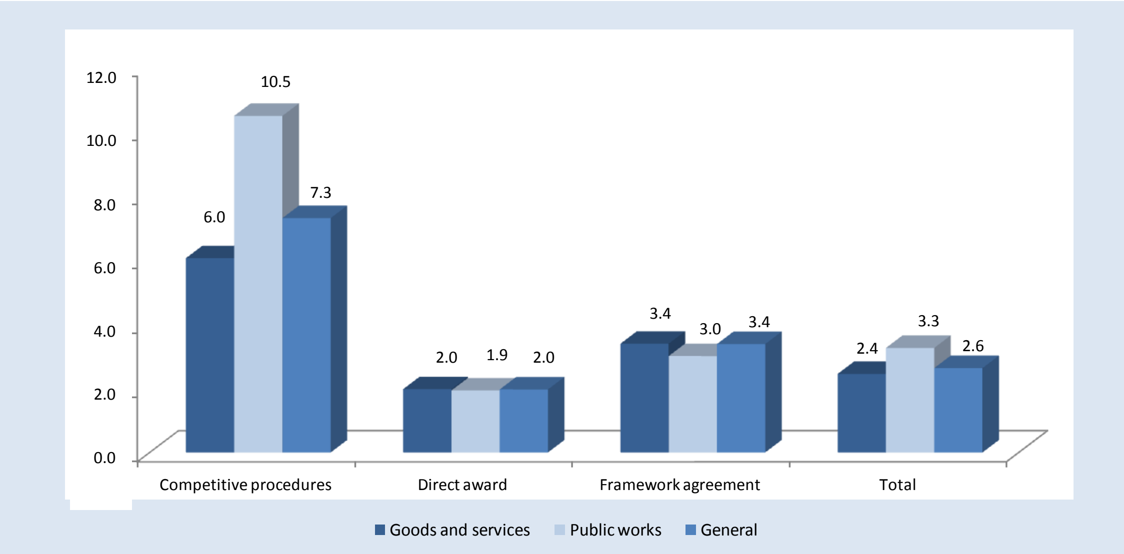
__________________________ * _____________________________

6. NUMBER OF COMPETITORS BY PROCEDURE

In order to assess the level of competition in public procurement, we analyzed a sample of 39,219[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 2.6, although there is a difference between contracts for goods and services (2.4) and contracts for public works (3.3).

Graph 61- Average number of tenders per procedure (2013)



Source: BASE portal (October 2014)

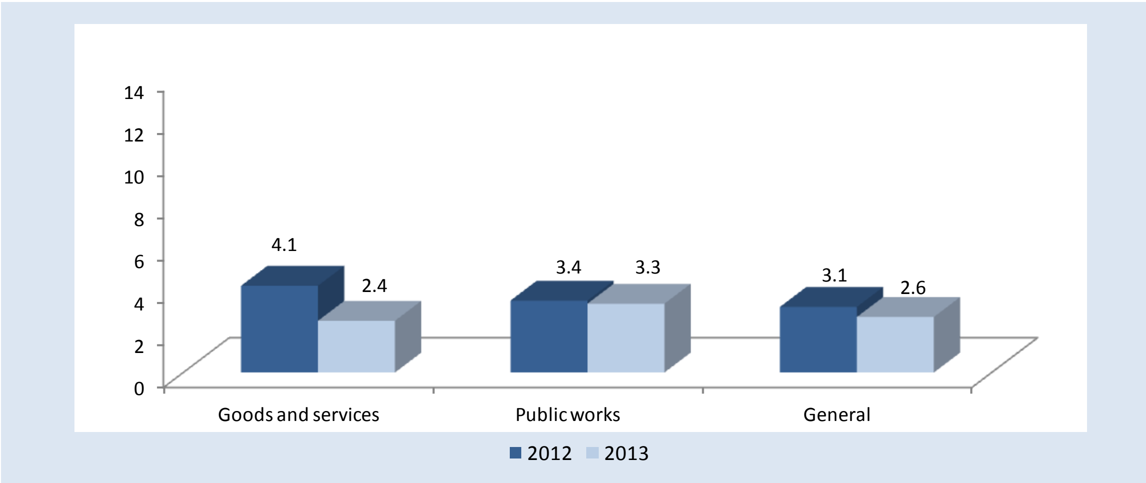
As might be expected, the number of competitors per procedure was higher in the case of competitive procedures (7.3 competitors per procedure) than in the other cases (2 and 3.4, respectively, in direct awards and framework agreements).

Considering the type of contracts, it is worth noting that competition in the area of public works (3.3 competitors per procedure) is greater than in goods and services (2.4). This difference is particularly obvious in competitive procedures, where the average number of competitors in the case of public works is 10.5, against 6 in the case of goods and services.

Compared to 2012, there was a decrease in the number of competitors per procedure. Overall, there was a decrease of 0.5 (from 3.1 to 2.6) in the number of competitors, especially in the case of goods and services (-1.7 competitors per procedure).

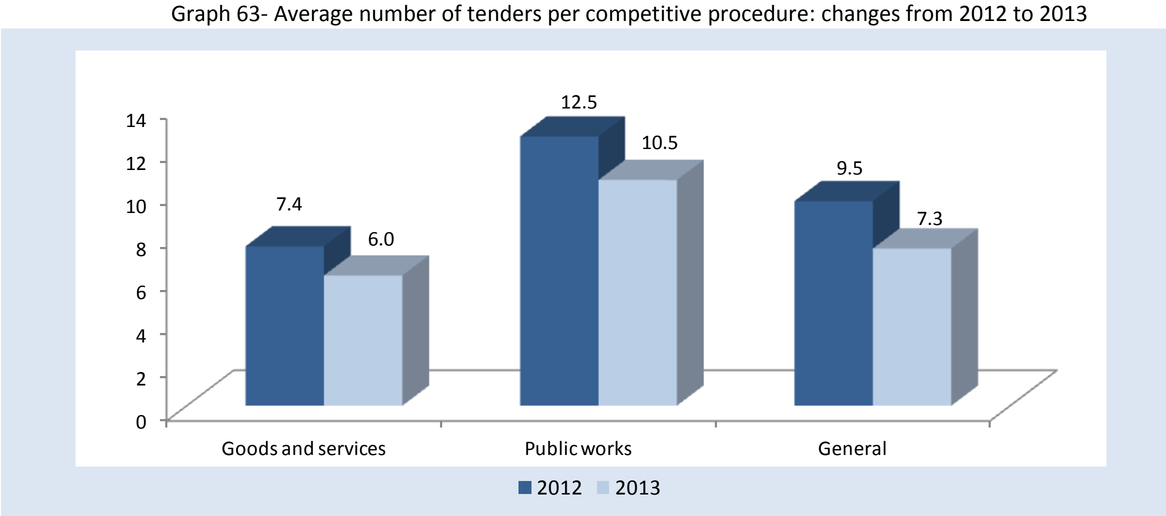
[23] Of which 31,542 negotiated/direct award procedures, 7,263 open procedures and 199 restricted procedures.

Graph 62- Average number of tenders per procedure: changes from 2012 to 2013



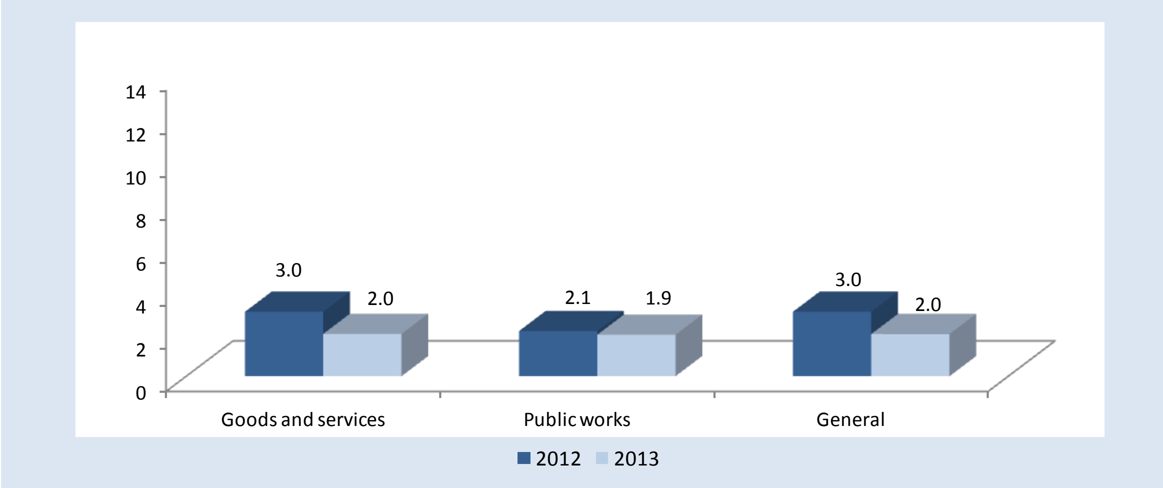
As for the competitive procedures, there was a decrease of 2.2 in the number of competitors, which is broken down between goods and services (-1.4 competitors) and public works (-2 competitors).

Graph 63- Average number of tenders per competitive procedure: changes from 2012 to 2013



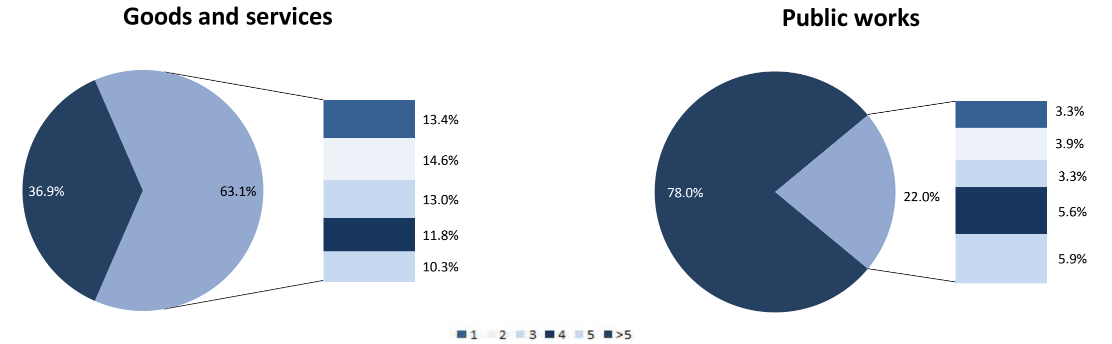
In the case of direct award procedures, the average number of competitors decreased from three to two per procedure, although the average number was lower than two for public works.

Graph 64- Average number of tenders per direct award procedure: changes from 2012 to 2013



A further analysis of competitive procedures shows that in 86.6 % of the procedures for the purchase of goods and services and in 96.7 % 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 (2013)



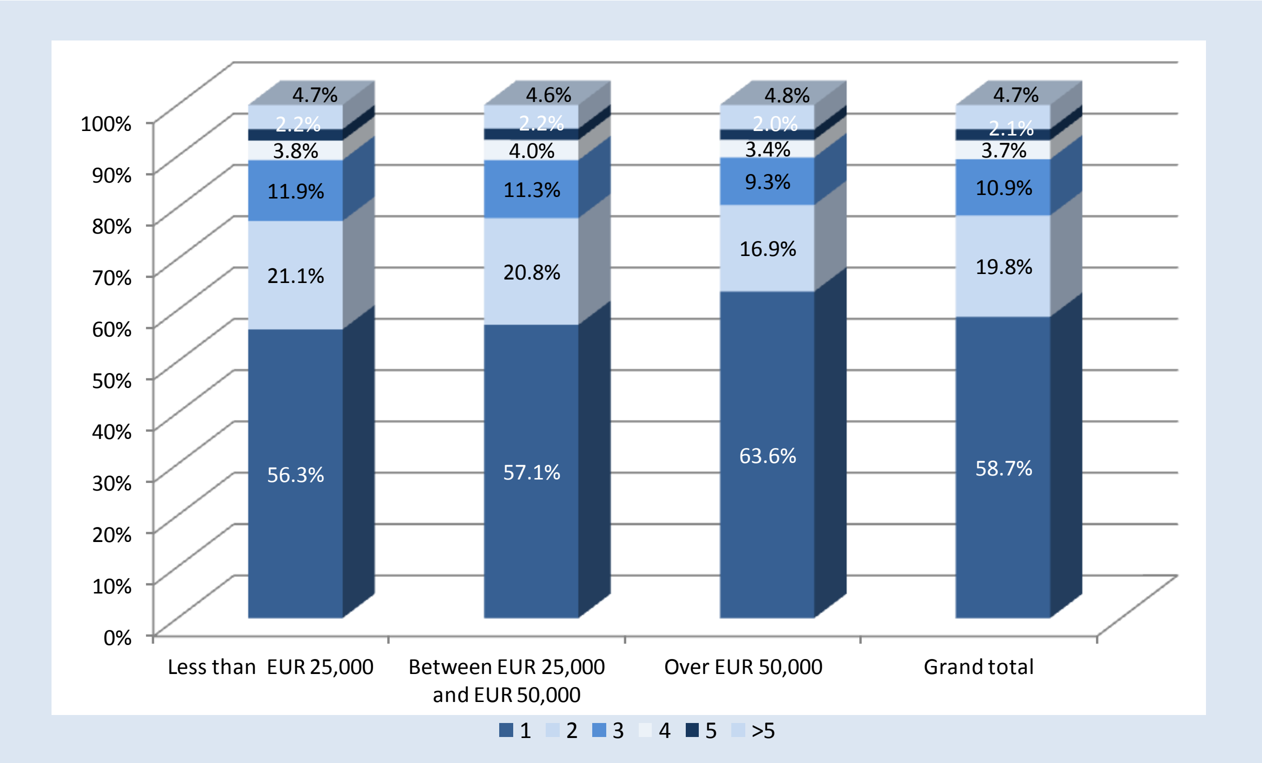
Source: BASE portal (October 2014)

Additionally, more than five tenders were submitted in a significant number of procedures, especially as far as public works are concerned (78 % of the procedures), although this was also relevant for goods and services (36.9 %).

In the case of direct awards for the purchase of goods and services, only one tender was submitted in 58.7 % of the procedures.

Curiously, the weight of contracts resulting from procedures in which only one tender was submitted increased in line with the contractual value: while 56.3 % 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 higher (63.6 %), i.e. there was an increase of 7.3 pp.

Graph 66- Number of tenders per procedure: direct awards for the purchase of goods and services (2013)



Source: BASE portal (October 2014)

*

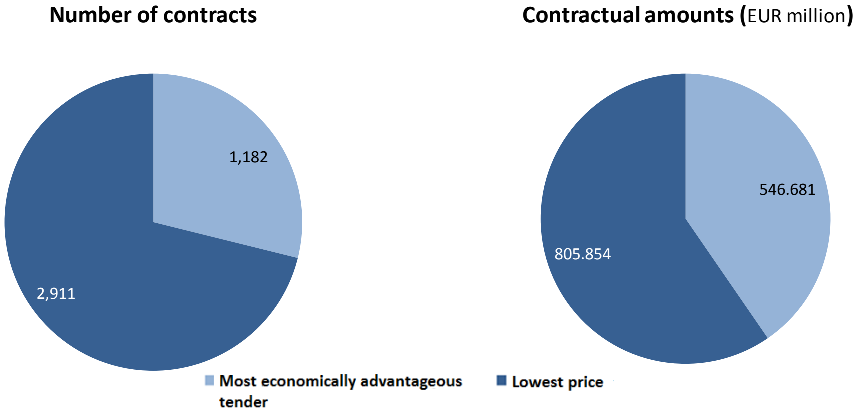
7. AWARD CRITERIA

7.1. "THE LOWEST PRICE" *VS* "THE 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 4093[25] competitive procedures, it was found that the award criterion "the lowest price" provided for in Article 74(1)(b) was used in 71.1 % (2911) of the contracts concluded in 2013, corresponding to 59.6 % of the contractual amounts.

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

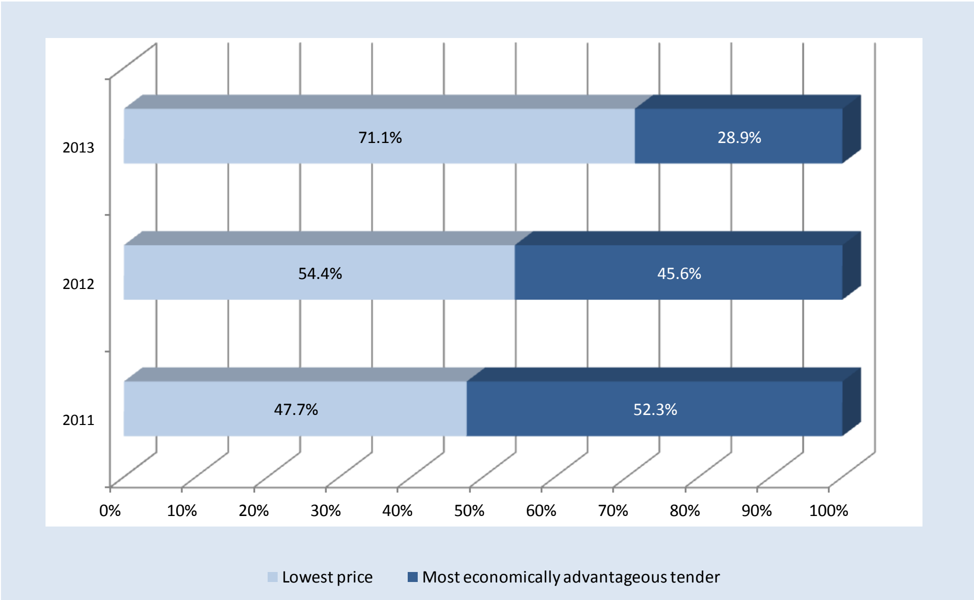


Source: BASE portal (October 2014)

The trend observed in the last three years indicates that "the lowest price" has been increasingly used as the award criterion. In fact, while the use of this criterion was somewhat limited (47.7 %) in 2011, it already represents almost ¾ of the contracts concluded in 2013.

[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 awards. This sample represents 84.6 % of the competitive procedures launched in 2013 and 77.6 % of the corresponding contractual amounts.

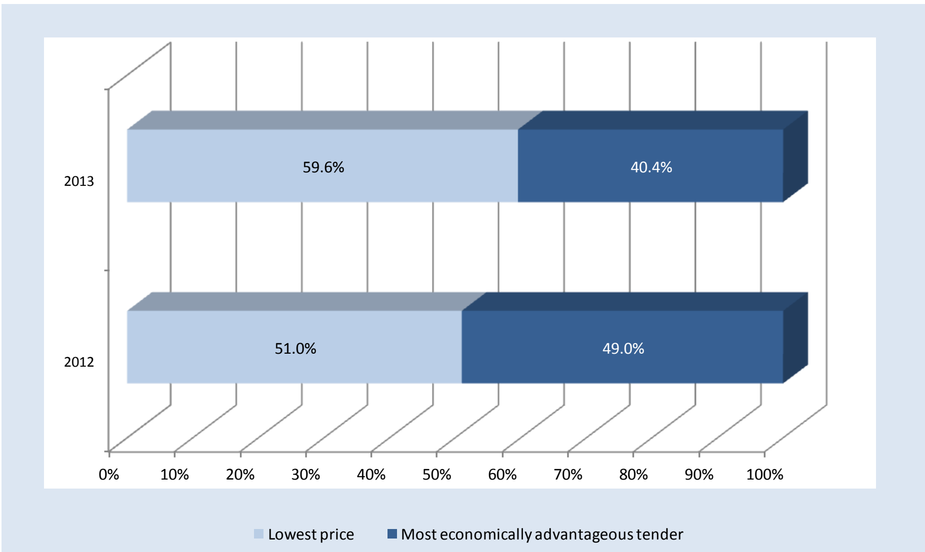
Graph 68 – Relative weight of the award criteria per number of contracts: change from 2011 to 2013



Source: BASE portal (October 2014)
Public procurement in Portugal – 2012

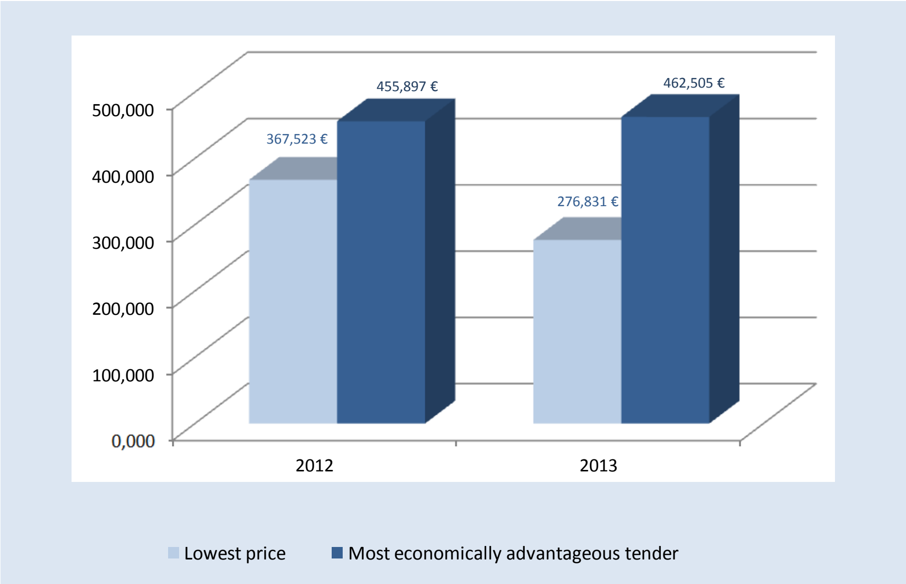
Regarding the contractual amounts involved, from 2012 to 2013, the predominance of contracts concluded on the basis of the "lowest price" when compared with those based on the "most economically advantageous tender" increased by 8.6 pp and reached 59.6 %.

Graph 69– Relative weight of the award criteria per contractual amounts: changes from 2012 to 2013



Source: BASE portal (October 2014)
Public procurement in Portugal – 2012

Graph 70– Average value of the contracts preceded by a competitive procedure, per type of award criterion: changes from 2012 to 2013



Source: BASE portal (October 2014)
Public procurement in Portugal – 2012

From 2012 to 2013, there was a decrease in the average contractual value for contracts awarded on the basis of the "lowest price" (-24.7 %, now amounting to EUR 276,831), but a slight increase in the case of contracts awarded on the basis of the "most economically advantageous tender" (+1.4 %, now amounting to EUR 462,505). The average value of the latter contracts in 2013 was 67 % higher than the average value of the former ones (in 2012, that ratio was 24 %).

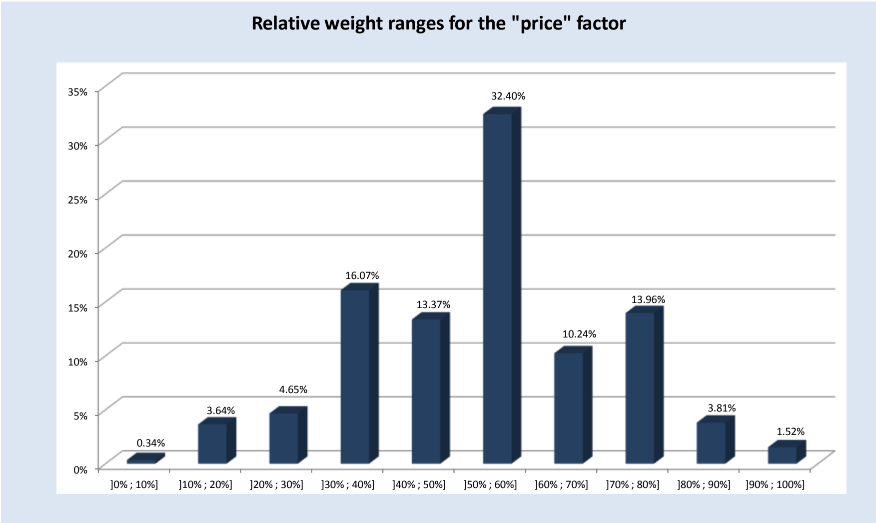
7.2. THE "MOST ECONOMICALLY ADVANTAGEOUS TENDER": THE WEIGHT OF THE PRICE FACTOR

If we consider only those contracts awarded on the basis of the "most economically advantageous tender" (1182), 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 ½ in 61.93 % of the competitive procedures launched in 2013 and included in the processed sample.

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

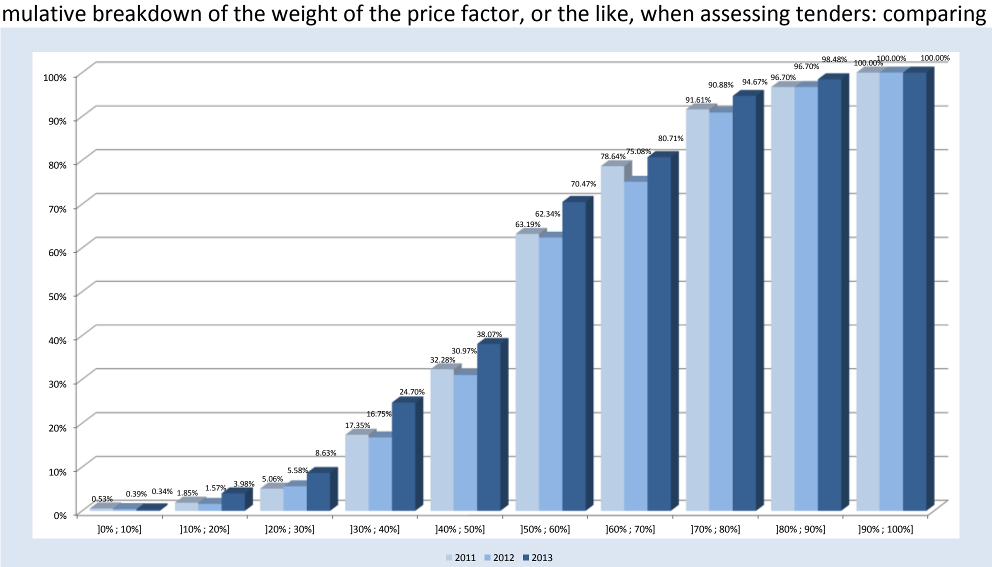
Graph 71- Breakdown of the weight of the “price” factor, or the like, when assessing the tenders submitted under open procedures in 2013



Source: BASE portal (October 2014)

Compared to 2011 and 2012, the contracts in which the price factor had a minority weighting corresponded to the lowest percentage in 2013 (61.93 % against 69.03 % and 67.72 %, respectively in 2012 and 2011). This is, nevertheless, a significant percentage as regards the weight of the “price or the like” factor when assessing tenders.

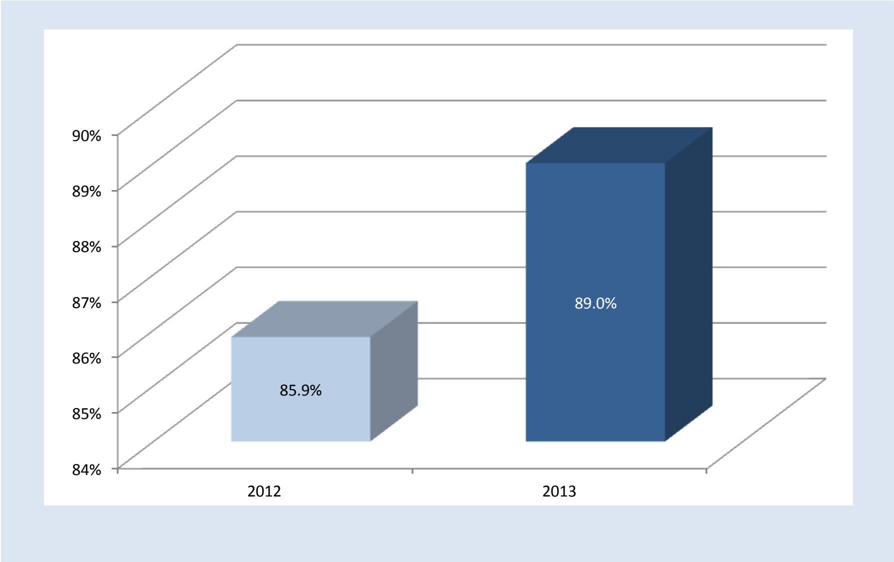
Graph 72- Cumulative breakdown of the weight of the price factor, or the like, when assessing tenders: comparing 2012 and 2013



Source: BASE portal (October 2014)

If we compare 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 out that in 89 % of the competitive procedures the price was the most important and dominant weighting factor and was even reinforced when compared to 2012.

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



Source: BASE portal (October 2014)

7.3. ABNORMALLY LOW PRICES

In the current economic and fiscal context, procurement procedures are particularly price-sensitive. On the side of the competitors, the need to maintain their activity in a context of low (if not negative) economic growth made them submit tenders whose value was below the prices they used to apply formerly, with prejudice to their profit margin. On the side of the 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" any potential competitors, and above all favoured the economic factor, by assigning it a greater weight than would 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].

[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).

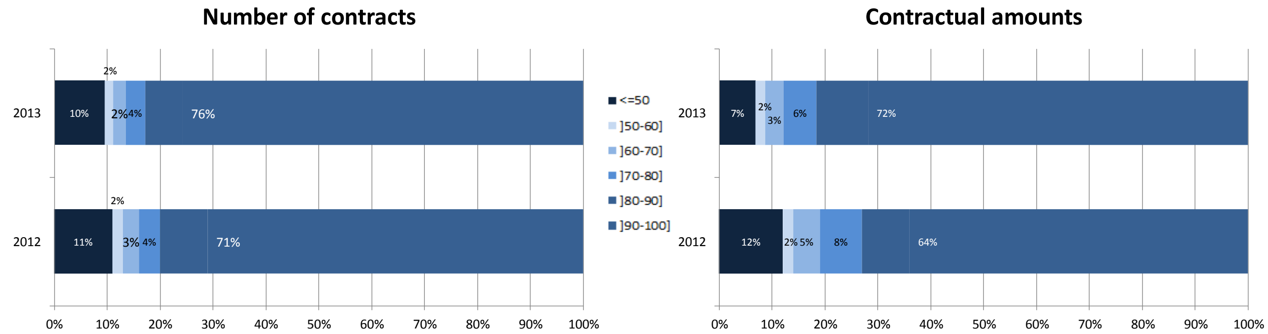
When we consider the contracts for **goods and services** (including those related to public works), regardless of the type of procedure, we see that in 9.52 % of the sample contracts[29] the final contractual amounts are close to or even lower than the abnormally low price calculated by reference to the basic price. Their representativeness in terms of overall contractual amounts is slightly lower (6.92 %).

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 2013

Source: BASE portal (October 2014)

Comparing to the contracts concluded in 2012 and considering the legal criterion used to identify (possible) abnormally low prices, there was in 2013 a slight decrease of 1 pp (from 11 % to 10 %) in the number of contracts and 5 pp in terms of contractual amounts (from 12 % to 7 %). In line with this change, there was an increase in both the number of contracts and the contractual amounts relating to contracts with a value of more than 90 % of the basic price.

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 2013

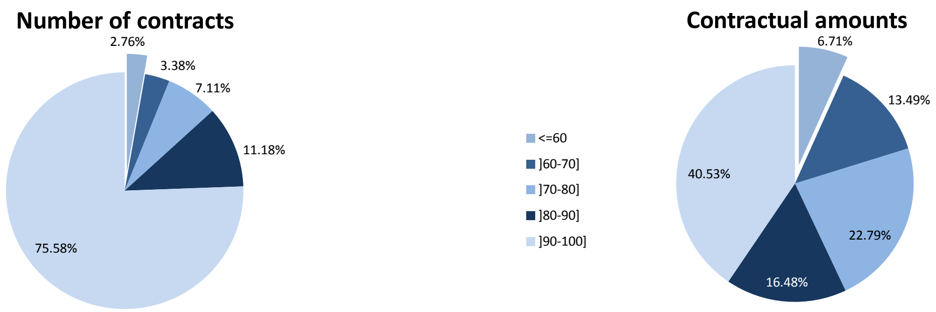


[28] According to Article 71(1) of the Public Contracts Code, … the *total price resulting from a tender shall be considered as abnormally low if it is: (a) 40 % or more lower than the basic price indicated in the specifications, when the procurement procedure is designed for public works contracts; (b) 50 % or more lower than the basic price indicated in the specifications, when the procurement procedure is designed for other contracts*.

[29] We took into account 47.8 % of the contracts, which corresponds to 85.7 % of the contractual amounts.

As regards the **public works contracts,** the contracts whose contractual value was close to the limit of the abnormally low price are less relevant: the values of the contractual prices of 2.76 % of the contracts, representing 6.71 % of the contractual amounts, were equal to or lower than 40 % of the basic price.

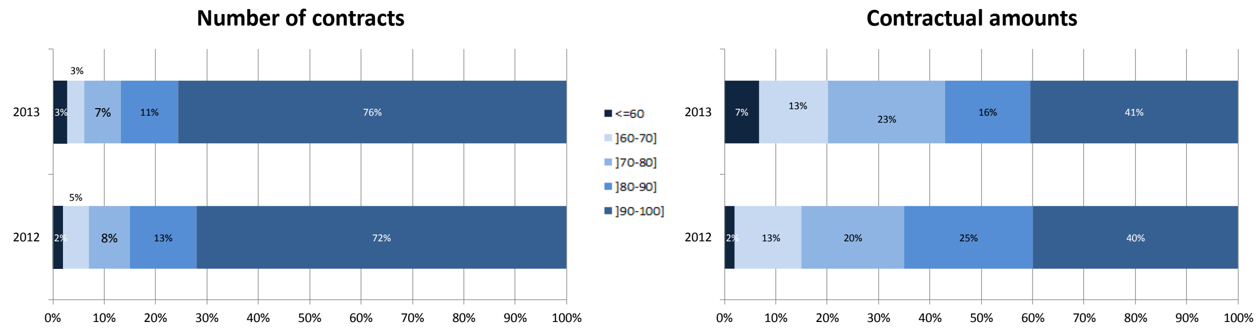
Graph 76 - The ratio between the basic price and the contractual price, per contractual price range, of contracts for public works in 2013



Source: BASE portal (October 2014)

Compared to 2012, public works contracts show an opposite trend: the number of contracts whose values fall within the criterion of abnormally low price increased by 1 pp (to 3 %) and 5 pp (to 7 %), respectively as regards their number and contractual amounts.

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 2013



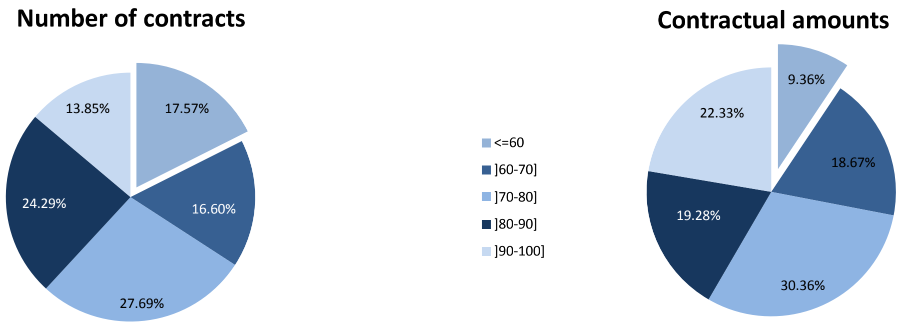
If we **only** look at the **competitive procedures,** we notice that contracts with a value that is close to the abnormally low price were awarded more often. In the case of goods and services, the number of contracts with a contractual value equal to or lower than 50 % of the basic price amounted to 32.91 %, representing 15.27 % of the contractual amounts.

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 2013

Source: BASE portal (October 2014)

The same happens with public works, where we can see that 17.57 % of the number of contracts and 9.36 % 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 2013



Source: BASE portal (October 2014)

_________________________ * ____________________________

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 33.5 % 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	18,813	6.9%	1,390,754,384 €	33.5%
33	Medical equipments, pharmaceuticals and personal care products	16,576	10.5%	361,538,604 €	8.7%
90	Sewage-, refuse-, cleaning-, and environmental services	2,678	1.7%	260,910,093 €	6.3%
09	Petroleum products, fuel, electricity and other sources of energy	1,996	1.3%	234,486,319 €	5.6%
79	Business services: law, marketing, consulting, recruitment, printing and security	8,704	5.5%	206,240,705 €	5.0%
72	IT services: consulting, software development, Internet and support	3,797	2.4%	175,175,956 €	4.2%
50	Repair and maintenance services	16,935	10.7%	170,187,441 €	4.1%
55	Hotel, restaurant and retail trade services	1,986	1.3%	145,148,430 €	3.5%
71	Architectural, construction, engineering and inspection services	3,995	2.5%	127,310,817 €	3.1%
65	Public utilities	1,202	0.8%	104,508,113 €	2.5%
	Others	89,093	56.5%	976,766,337 €	23.5%
	Total	157,775	100%	4,153,027,199.27 €	100%

Source: BASE portal (October 2014)

A comparison with 2012 figures shows distinct variations.

Table 9 – Breakdown of contracts per CPV: comparing 2012 and 2013

CPV Code	CPV Description	2012		2013		Variation	
		Amount	%	Amount	%	Amount	Δ %
45	Construction work	1,416,928,399 €	40.7%	1,390,754,384 €	34.3%	-26,174,015 €	-1.8%
33	Medical equipments, pharmaceuticals and personal care products	193,795,909 €	5.6%	361,538,604 €	8.8%	167,742,695 €	86.6%
90	Sewage-, refuse-, cleaning-, and environmental services	157,149,603 €	4.5%	260,910,093 €	6.3%	103,760,490 €	66.0%
09	Petroleum products, fuel, electricity and other sources of energy	135,608,424 €	3.9%	234,486,319 €	5.8%	98,877,895 €	72.9%
79	Business services: law, marketing, consulting, recruitment, printing and security	181,023,041 €	5.2%	206,240,705 €	4.9%	25,217,664 €	13.9%
72	IT services: consulting, software development, Internet and support	109,620,709 €	3.2%	175,175,956 €	3.7%	65,555,247 €	59.8%
50	Repair and maintenance services	210,762,719 €	6.1%	170,187,441 €	4.3%	-40,575,278 €	-19.3%
55	Hotel, restaurant and retail trade services	121,185,940 €	3.5%	145,148,430 €	2.3%	23,962,490 €	19.8%
71	Architectural, construction, engineering and inspection services	101,070,403 €	2.9%	127,310,817 €	3.2%	26,240,414 €	26.0%
65	Public utilities	-	-	104,508,113 €	2.7%	-	-
	Others	850,023,019 €	24.4%	976,766,337 €	23.5%	126,743,318 €	14.9%
	Total	3,477,168,166 €	100%	4,153,027,199.27 €	100%	444,607,601.86 €	19%

Source: BASE portal (October 2014)

On the one hand, we see negative variations in "Construction work" (-1.8 %) and "Repair and maintenance services" (-19.3 %). Conversely, we find significant increases in the fields of "Medical equipments, pharmaceuticals and personal care products" (+86.6 %), "Petroleum products, fuel, electricity and other sources of energy" (+72.9 %), "Sewage-, refuse-, cleaning-, and environmental services" (+66.6 %) and "IT services: consulting, software development, Internet and support" (+59.8 %).

As a result of these variations, there has been a change in the structure of expenditure, where the fact that “Sewage-, refuse-, cleaning-, and environmental services” slipped into third place and “Hotel, restaurant and retail trade services” dropped from seventh to tenth should be highlighted.

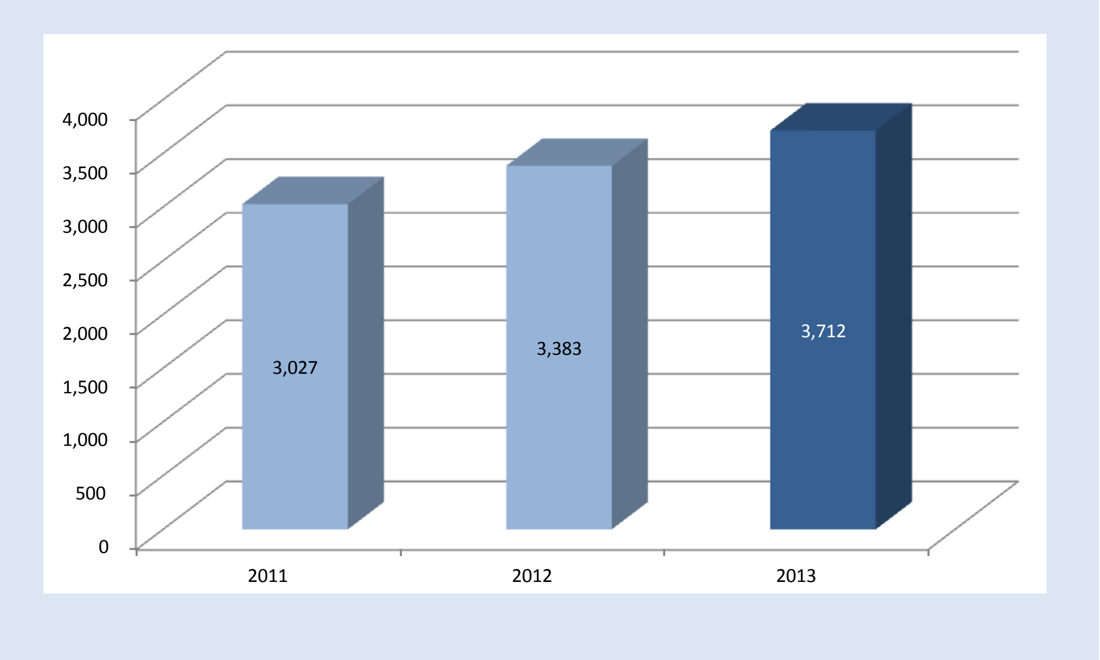
9. Stakeholders in public procurement procedures

9.1. Contracting authorities

9.1.1. The contracting authorities group

In 2013, the number of authorities that reported contracts to the BASE portal was 3712, which represents an increase of 329 (+9.7 %) and 685 (+22.6 %) in the number of authorities, respectively over 2012 and 2011.

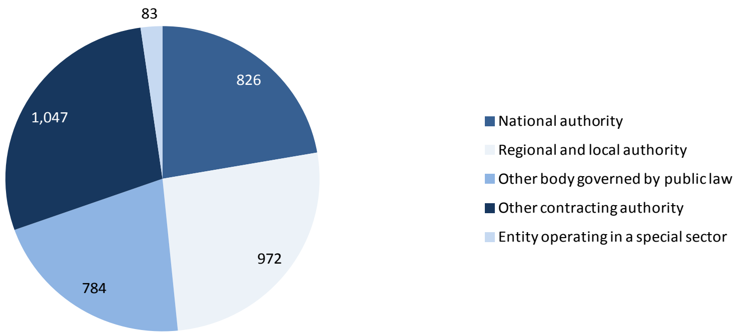
Graph 80 – Number of contracting authorities having reported contracts: changes from 2011 to 2013



Source: BASE portal (October 2014)

A breakdown per type of contracting authorities shows that the group “Other contracting authorities” is the largest one (1047), followed by “Regional and Local Authorities” (972), “National Authorities” (826), “Other bodies governed by public law” (784) and “Entities operating in the special sectors”.

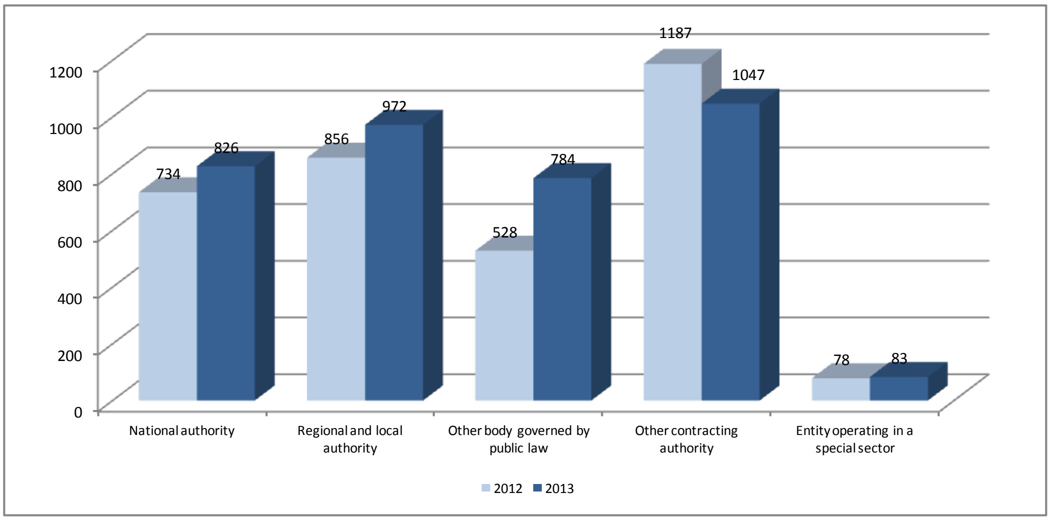
Graph 81- Number of contracting authorities per type of authority (2013)



Source: BASE portal (October 2014)

Compared to 2012, the only group with a decrease in the number of authorities was "Other contracting authorities", while all the others saw a positive change.

Graph 82- Number of contracting authorities per type of authority: changes from 2012 to 2013

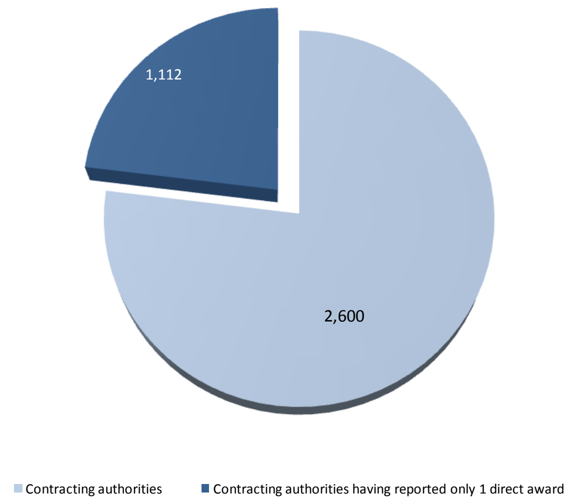


Although the number of reporting authorities has increased, it appears to fall short of the entire group of the contracting authorities that are covered by the Public Contracts Code and are therefore required to report their procedures and contracts to the BASE portal.

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, 34.6 % of the contracting authorities (1112) reported only one contract under direct award.

Graph 83 - Number of contracting authorities having reported only one contract under direct award, or having not reported any contracts under direct award, but having reported other contracts



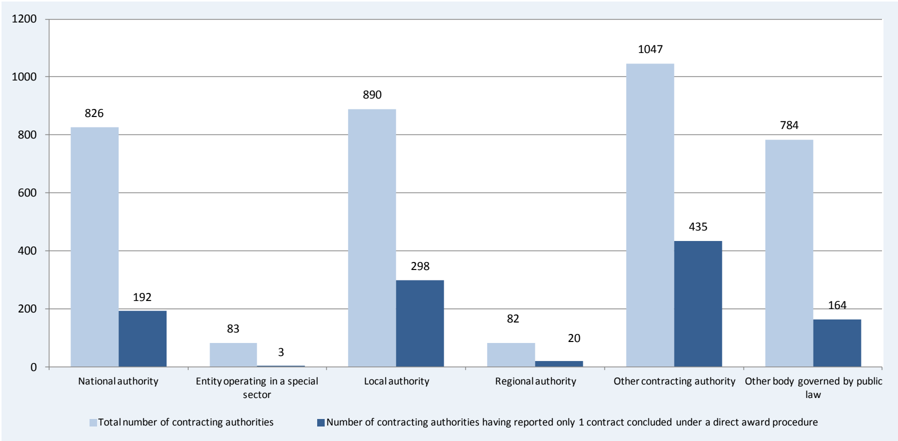
Source: BASE portal (October 2014)

This situation casts ever more doubts on whether the authorities/entities 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” (41.5 %) and “Entities operating in special sectors” (3.6 %), it would not be expected in the case of “Local authorities” (33.5 %), “Regional authorities” (24.4 %), “National authorities” (23.2 %) and “Other bodies governed by public law” (20.9 %).

[30] Article 127(3) of the Public Contracts Code.

Graph 84- Number of contracting authorities having reported only one contract under direct award, or having not reported any contracts under direct award, but having reported other contracts, per type of authority



Source: BASE portal (October 2014)

9.1.2. PUBLIC PROCUREMENT PER TYPE OF CONTRACTING AUTHORITY

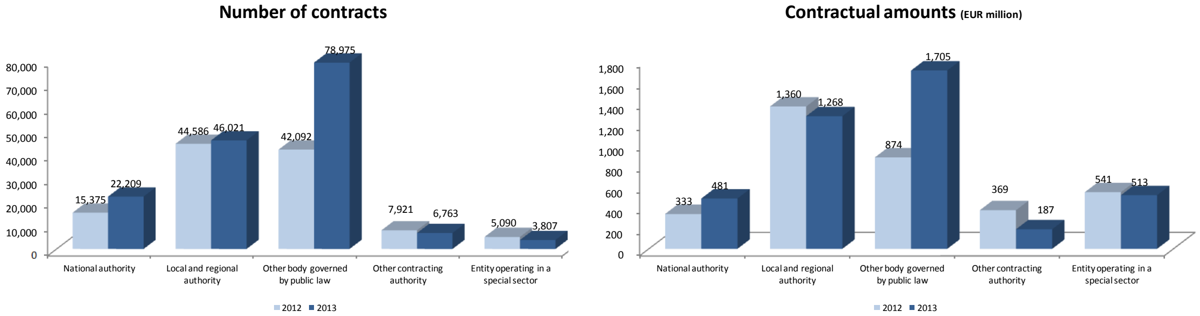
In 2013, the most representative entities as regards both the number of contracts concluded (50.1 %) and the contractual amounts involved (41.0 %) were "Other bodies governed by public law" followed by "Local and Regional Authorities", which are responsible for 29.2 % of the number of contracts and 30.5 % of the contractual amounts.

Graph 85- Public procurement in 2013 per type of contracting authority

Source: BASE portal (October 2014)

Compared to 2012, the change was more pronounced for "Other bodies governed by public law", as regards both the number of contracts (+50.1 %, corresponding to +36,883 contracts) and the contractual amounts (+30.5 %, corresponding to +EUR 831 million).

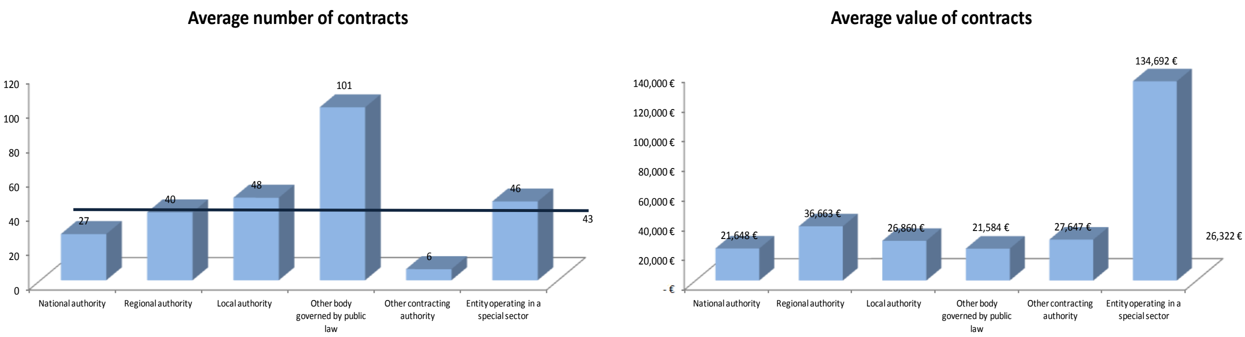
Graph 86- Public procurement per type of authority: changes from 2012 to 2013



Source: BASE portal (October 2014)

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 (101 contracts, well above the general average of 43 contracts per contracting authority). As regards the average contractual amounts, "Entities operating in a special sector" stand out as they reported contracts with an average value of EUR 134,692, well above the general average (EUR 26,322).

Graph 87 – Procurement profile in 2013 per type of authority



Source: BASE portal (October 2014)

The top 10 (ten) contracting authorities as regards the contractual amounts correspond to EUR 805 million, i.e. 19.4 % of the total value of the contracts reported to the BASE portal. This figure almost equals the value reached in 2012, when the top 10 (ten) contracting authorities as regards the procurement volume represented 20.3 % 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	%
EDIA - Empresa de Desenvolvimento e Infraestruturas do Alqueva, S.A.	104	0.1%	159,782,878 €	3.8%
Lipor - Serviço Intermunicipalizado de Gestão de Resíduos do Grande Porto	106	0.1%	115,487,519 €	2.8%
Município de Lisboa	1,104	0.7%	98,025,311 €	2.4%
EP - Estradas de Portugal, S. A.	303	0.2%	75,124,032 €	1.8%
Santa Casa da Misericórdia de Lisboa	288	0.2%	74,262,615 €	1.8%
Vice Presidência do Governo Regional	386	0.2%	64,018,757 €	1.5%
Rede Ferroviária Nacional - REFER, E. P. E.	35	0.0%	62,947,767 €	1.5%
DGEstE - Direção-Geral dos Estabelecimentos Escolares	23	0.0%	52,495,158 €	1.3%
Serviço de Saúde da Região Autónoma da Madeira, E. P. E.	677	0.4%	52,158,082 €	1.3%
Centro Hospitalar e Universitário de Coimbra, E. P. E.	3,398	2.2%	50,954,625 €	1.2%
Others	151,351	95.9%	3,347,770,457 €	80.6%
	157,775	100%	4,153,027,199.27 €	100%

Source: BASE portal (October 2014)

It should be noted, however, that this list includes six new contracting authorities not included in the 2012 list.

9.2. ECONOMIC OPERATORS

9.2.1. NUMBER OF ECONOMIC OPERATORS

Contracting authorities awarded contracts to 34,298 economic operators, which represents an increase of 20.5 % over 2012 (29,087).

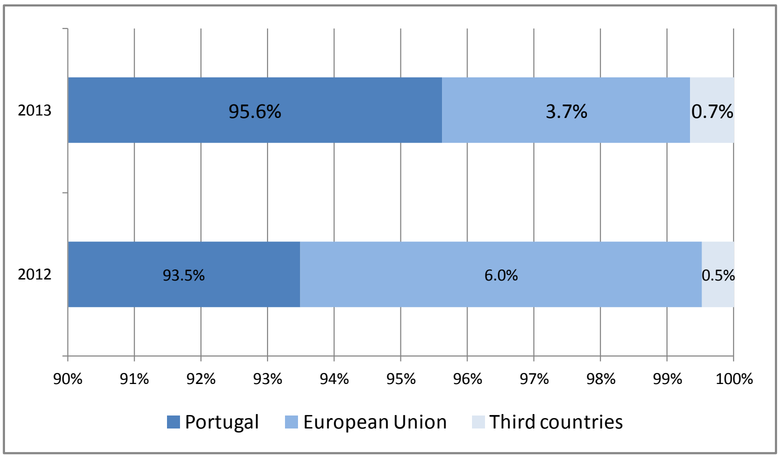
Table 11 – Contractors per nationality

Contractors	2013	
	Number	%
Portugal	33,556	95.6%
European Union	1,308	3.7%
Third countries	229	0.7%
Total	**33,039**	**100%**

Source: BASE portal (October 2014)

In most contracts concluded in 2013 (33,556, i.e. 95.6 % of the total number of contractors), co-contractors were economic operators established in Portugal. Economic operators from other EU countries represented 3.7 %, while 0.7 % came from third countries.

Graph 88 – Contractors per nationality



We can see, therefore, an increase in the number of national economic operators, with more 5585 companies (+20.5 %) with which contracts were concluded, although the number of operators from the European area (-465 operators, i.e. -26.5 %) shows an opposite trend. We can also see an increase in the number of third country companies (+91, i.e. +65.9 %).

9.2.2. CHARACTERIZATION OF NATIONAL ECONOMIC OPERATORS

Based on a sample of 17,201 companies (49 % of the companies with which public contracts were concluded), representing 67 % of the number of contracts and 70 % 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 2013.

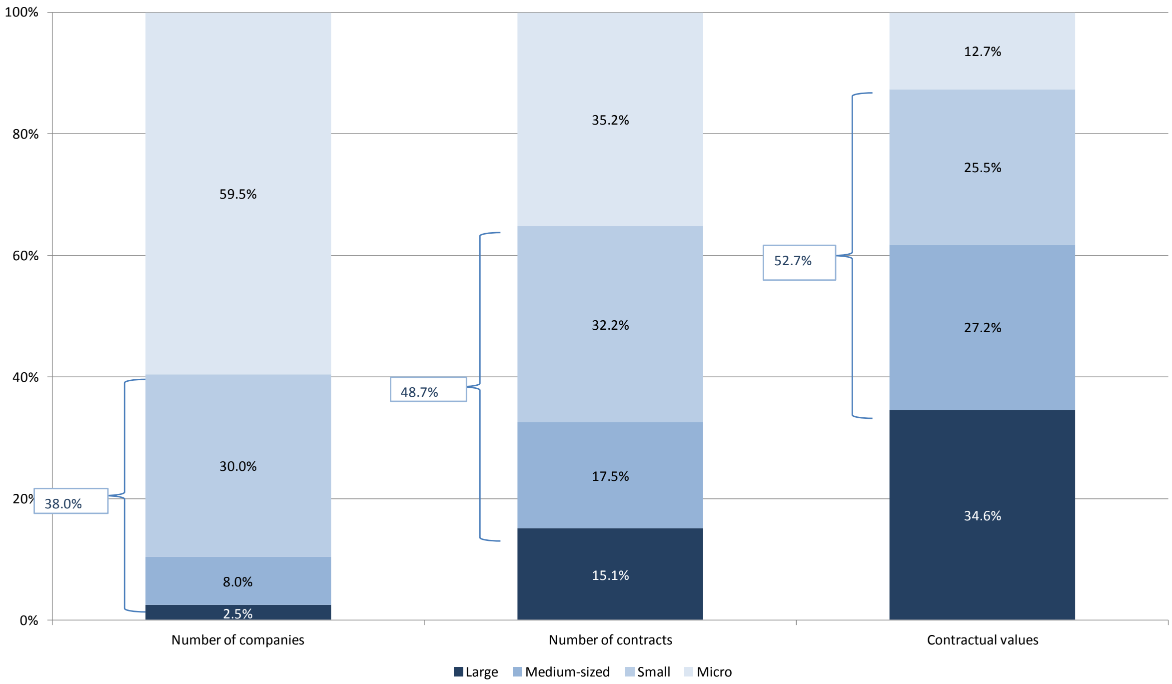
Most economic operators to which public contracts were awarded in 2013 were micro enterprises[32] (59.5 %). However, they only represented 35.2 % of all contracts concluded and only 12.7 % of the contractual amounts.

Small and medium-sized enterprises (SMEs)[33] representing 38 % of the economic operators accounted for nearly half of the contracts (48.7 %), i.e. more than half of the contractual amounts (52.7 %).

Lastly, large enterprises[34] represented just 2.5 % of all economic operators, having concluded 15.1 % of the contracts, which correspond to more than 1/3 (34.6 %) of the contractual amounts.

[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.

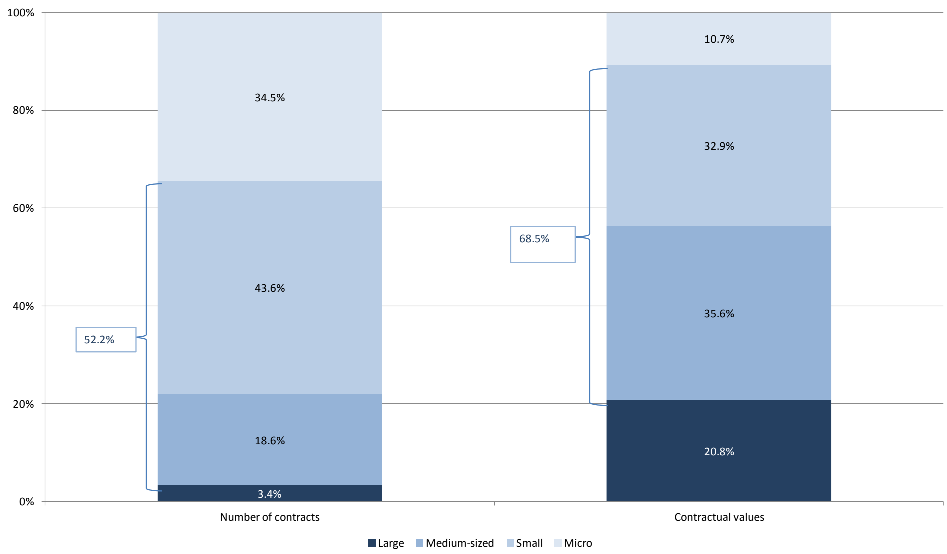
Graph 89 – Contractors representativeness, per company size



Source: BASE portal (October 2014)

If we only look at contracts for **goods and services**, we see that SMEs have a more significant weight, representing 52.2 % of the number of contracts and 68.5 % of the contractual amounts. Large enterprises obtained "only" 3.4 % of the contracts, while representing 20.8 % of the contractual amounts.

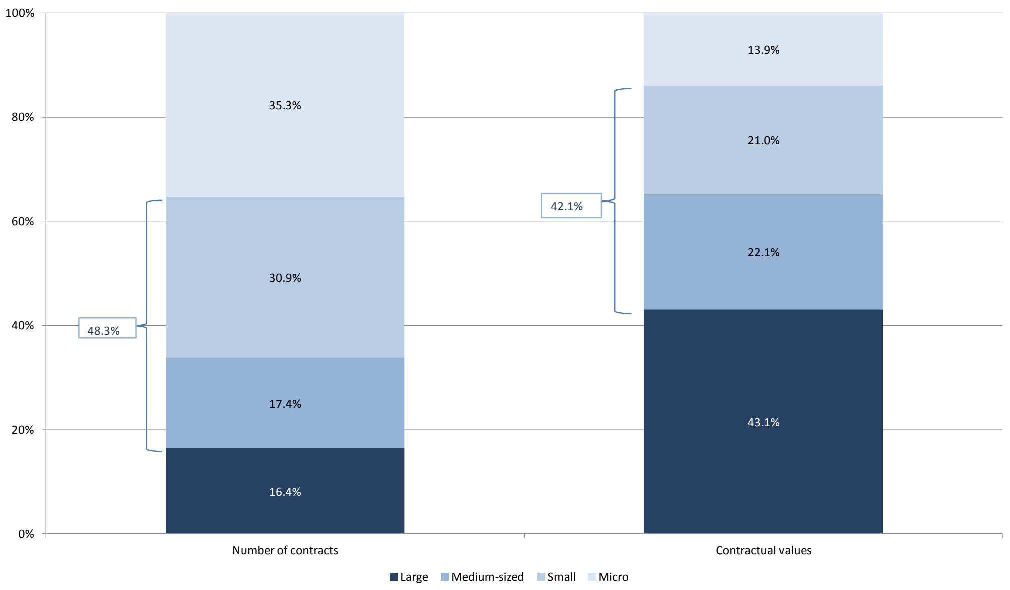
Graph 90 – Contractors representativeness per company size – Goods and services



Source: BASE portal (October 2014)

As regards public works contracts, SMEs represent a lower share (48.3 % of the contracts and 42.1 % of the contractual amounts) and are only surpassed by large companies when we consider the amounts involved (43.1 % of the contractual amounts, corresponding to 16.4 % of the number of contracts).

Graph 91 – Contractors representativeness per company size – Public works



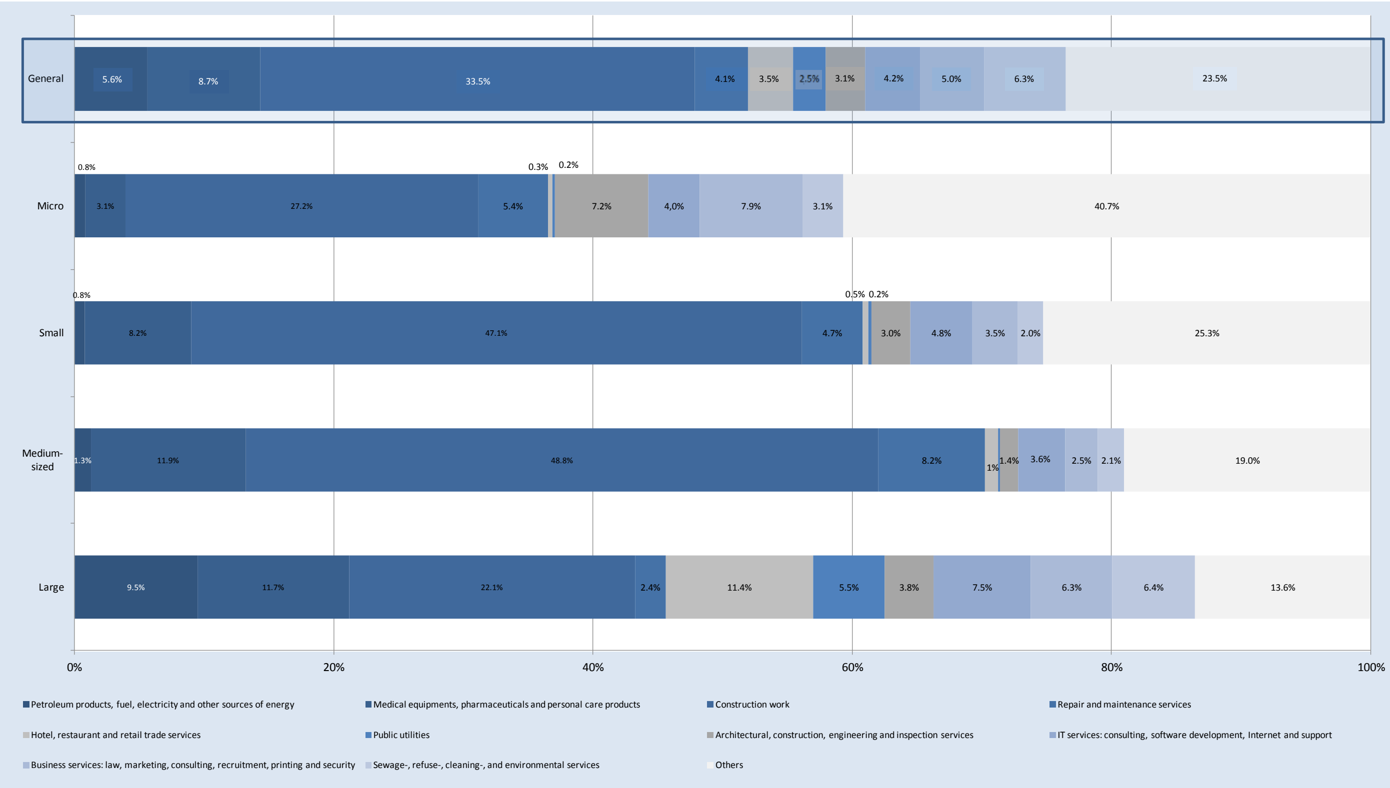
Source: BASE portal (October 2014)

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, contracts covered by the 10 codes of the CPV[35] represented overall 86.4 % of the contracts concluded with large enterprises, 81.0 % of medium-sized enterprises, 25.3 % of small enterprises and 59.3 % of microenterprises. As the company size increases, the contracts tend to focus on certain types of purchases.

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

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



Source: BASE portal (October 2014)

Although the category "Construction work" concentrates the largest number of contracts regardless of the company size, its weight is however more significant for small and medium-sized enterprises (respectively 47.1 % and 48.8 %), than for the others (22.1 % and 27.2 %, respectively for large and microenterprises). Linked to this category of contracts, category "Architectural, construction, engineering and inspection services" is quite relevant for the micro–enterprise segment (7.2 %) but less so for the remaining ones.

The category "Medical equipments, pharmaceuticals and personal care products" is quite relevant in terms of contracts for all company size-types, with the exception of microenterprises where it only represented 3.1 %.

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	9.5%	1.3%	0.8%	0.8%	**5.6%**
33	Medical equipments, pharmaceuticals and personal care products	11.7%	11.9%	8.2%	3.1%	**8.7%**
45	Construction work	22.1%	48.8%	47.1%	27.2%	**33.5%**
50	Repair and maintenance services	2.4%	8.2%	4.7%	5.4%	**4.1%**
55	Hotel, restaurant and retail trade services	11.4%	1.0%	0.5%	0.3%	**3.5%**
65	Public utilities	5.5%	0.1%	0.2%	0.2%	**2.5%**
71	Architectural, construction, engineering and inspection services	3.8%	1.4%	3.0%	7.2%	**3.1%**
72	IT services: consulting, software development, Internet and support	7.5%	3.6%	4.8%	4.0%	**4.2%**
79	Business services: law, marketing, consulting, recruitment, printing and security	6.3%	2.5%	3.5%	7.9%	**5.0%**
90	Sewage-, refuse-, cleaning-, and environmental services	6.4%	2.1%	2.0%	3.1%	**6.3%**
-	Others	13.6%	19.1%	25.3%	40.7%	**23.5%**

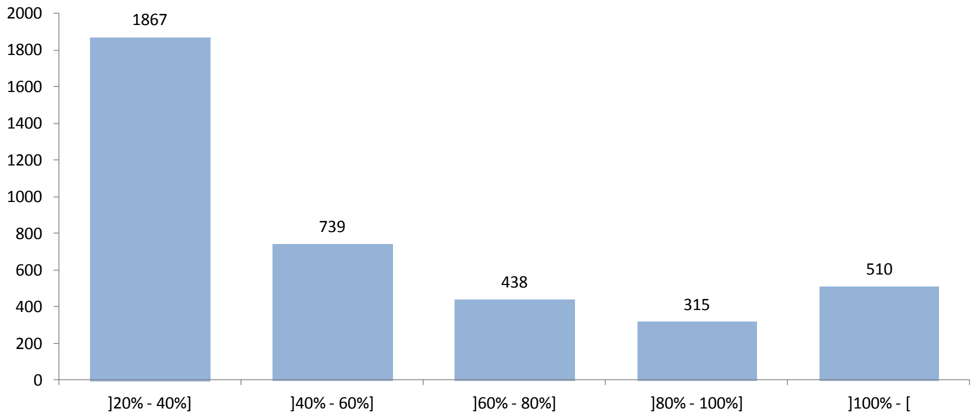
Source: BASE portal (October 2014)

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", "Public utilities", "IT services: consulting, software development, Internet and support" and "Sewage-, refuse-, cleaning-, and environmental services".

9.2.3. PUBLIC CONTRACTS SHARE IN ECONOMIC OPERATORS TURNOVER

Trying to analyze the possible impact of public contracts on economic operators, in a sample of 34,965 contractual relations between contracting authorities and economic operators[36], the share of the contracts concluded in 2013 with a given contracting authority represented less than 20 % of the economic operator's turnover in 89 % of the cases.

Graph 93– Number of situations in which the weight of the contracts concluded with a given contracting authority in 2013 represented more than 20 % of the economic operator's turnover

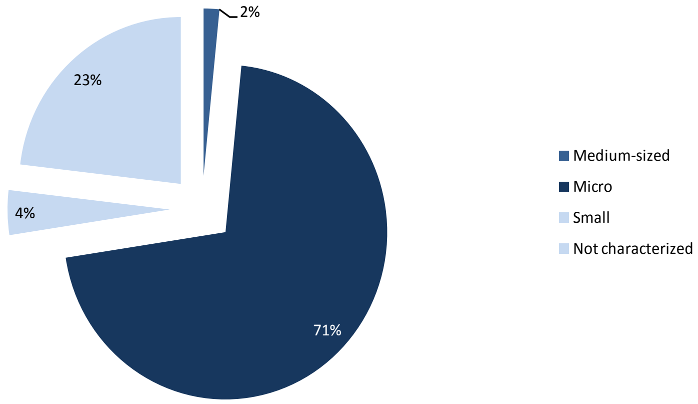


Source: BASE portal (October 2014)

[36] i.e. 34,965 contracts concluded between a given contracting authority and a specific economic operator, regardless of the number of contracts they might have concluded.

Considering the other situations, it is worth noting that for 2013 it was possible to identify 510 cases where the value of contracts awarded by contracting authorities was higher than the contractors turnover. Most of these economic operators (71 %) were microenterprises, although 8 medium-sized enterprises were also identified.

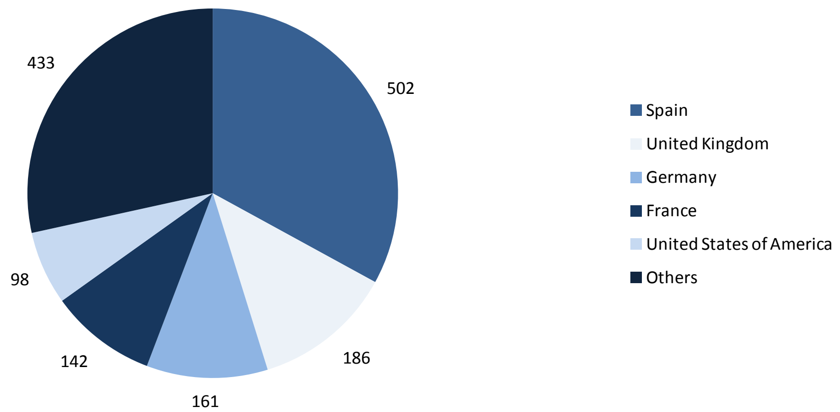
Graph 94- Classification per type of the companies whose turnover was lower than the value of the public contracts they concluded (2013)



Source: BASE portal (October 2014)

9.2.4. ORIGIN OF NON-DOMESTIC ECONOMIC OPERATORS

Graph 95- Number of contractors, per country (2013)



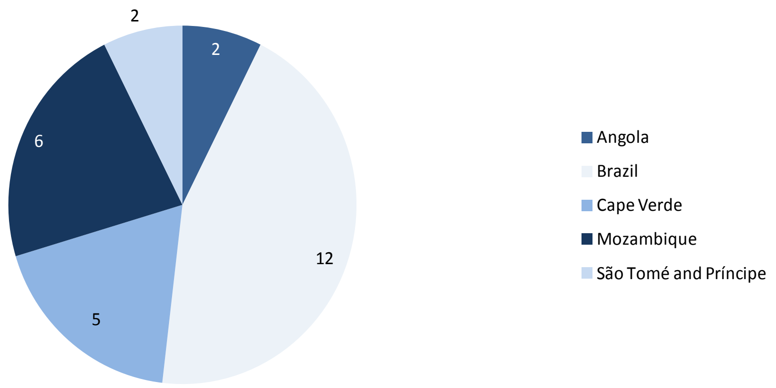
Source: BASE portal (October 2014)

Considering the origin of economic operators, the country with the largest number of enterprises with which at least one contract was concluded was Spain (502), followed by the United Kingdom

(186), Germany (161) and France (142). It is also worth noting that contracts were concluded with 98 enterprises from the United States of America.

Among the third-country contractors (174), 23 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



The top 10 (ten) economic operators as regards the number of contracts concluded in 2013 represented 13.4 % of the overall amount of contracts reported to the BASE portal during that same year (EUR 4,153 million). Among those enterprises, 7 (seven) were not in the 2012 ranking.

Table 13 – Ranking of the contractors with the largest procurement volume

Contractors	Number of contracts		Contractual values	
	Number	%	Amount	%
EDP	497	0.3%	107,497,897 €	2.6%
GERTAL - Companhia Geral de Restaurantes e Alimentação,S.A.	107	0.1%	78,148,628 €	1.9%
Petróleos de Portugal - Petrogal SA	373	0.2%	73,887,063 €	1.8%
DST – Domingos da Silva Teixeira, S.A.	24	0.0%	70,798,334 €	1.7%
PT Empresas	998	0.6%	44,728,040 €	1.1%
REFER TELECOM Telecomunicações Ferroviárias	7	0.0%	40,882,916 €	1.0%
Repsol Portuguesa, S.A	116	0.1%	40,022,399 €	1.0%
Iberdrola generación, S.A.U.	17	0.0%	39,904,592 €	1.0%
UNISELF - Sociedade de Restaurantes Públicos e Privados, S.A.	77	0.0%	31,256,191 €	0.8%
Ferrovial Agroman	3	0.0%	29,901,044 €	0.7%
Others	155,556	98.6%	3,595,991,095 €	86.6%
	157,775	100%	4,153,027,199.27 €	100%

Source: BASE portal (October 2014)

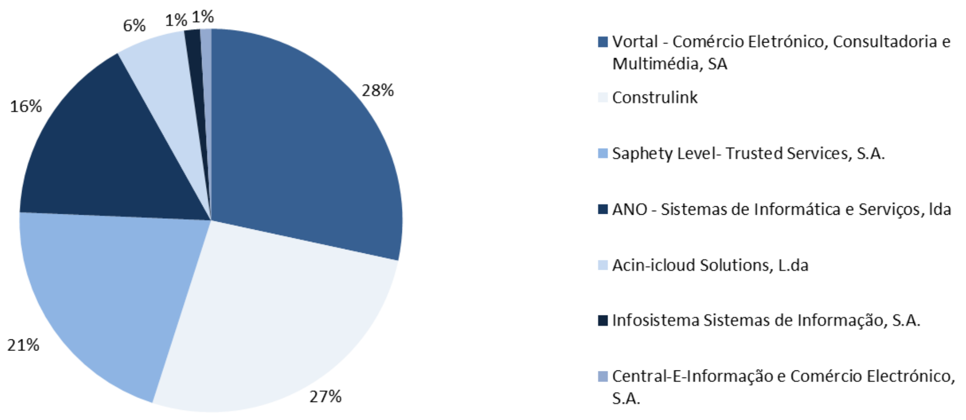
9.3. ELECTRONIC PLATFORMS

9.3.1. CONTRACTS CONCLUDED IN 2013 WITH ELECTRONIC PLATFORMS FOR THE PURCHASE OF ELECTRONIC PROCUREMENT PLATFORM SERVICES

Public procurement electronic platforms are a key tool in public purchasing, as competitive procedures are mandatorily carried out through them. As we saw above[37], in 2013 they were responsible for carrying out 22.4 % of the procedures launched in the same year, corresponding to 77.6 % of the underlying basic price.

Looking at the contracts concluded in 2013 for the purchase of services relating to the conduct of competitive procedures through an electronic platform, we can see some concentration: three suppliers had a market share of more than 20 % – Vortal - Comércio Eletrónico, Consultadoria e Multimédia, S.A. (vortalGOV), Construlink (Gatewit) and Saphety Level- Trusted Services, S.A. (saphetygov) – and were responsible for 76 % of all new contracts.

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

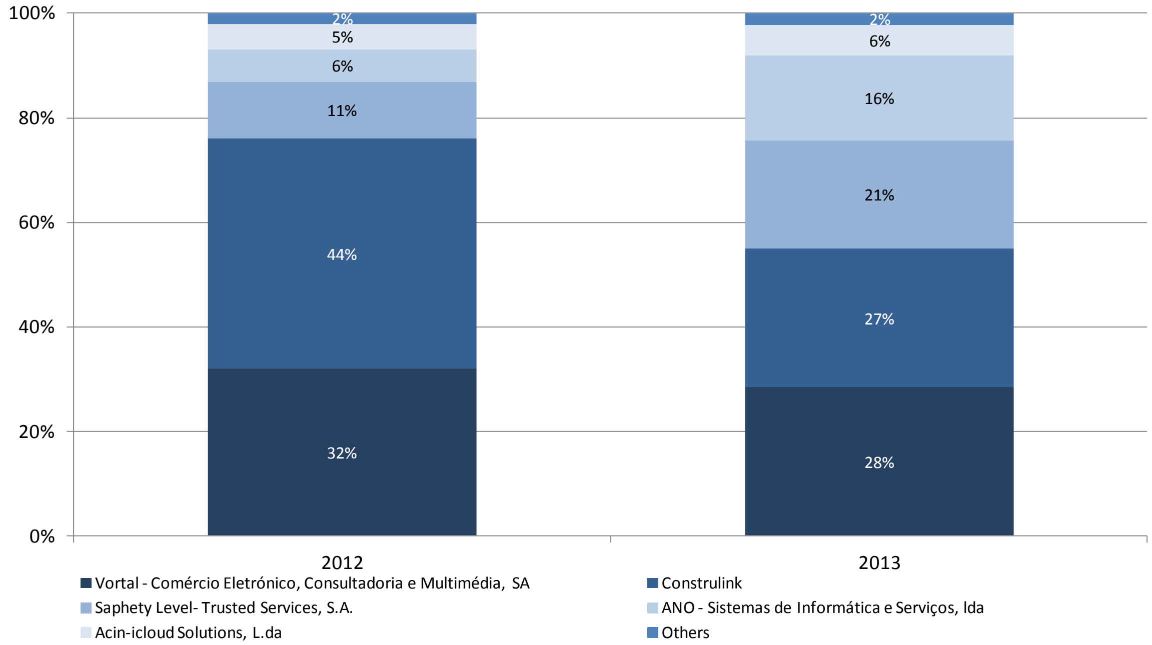


Source: BASE portal (October 2014)

Compared to 2012, it appears that there was a greater dispersion in the market of public procurement electronic platforms. Although this market is still dominated by 4 electronic platforms, representing 93 % and 92 % of the market, respectively in 2012 and 2013, the concentration was lower last year: 76 % of the market was secured by 3 platforms, while in 2012 that same share was secured by only two platforms, and the difference between the first and the second platform dropped from 12 to just 2 pp.

[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 2013



Source: BASE portal (October 2014)

9.3.2. CONTRACTS CONCLUDED IN 2013, PER PLATFORM THROUGH WHICH PROCEDURES WERE CARRIED OUT

A similar situation can be found when we examine the relevance of each platform in the context of public procurement, i.e. when we establish the relative weight of the number of contracts and the contractual amounts each platform carried out: these two platforms secured 76 % of all contracts reported to the BASE portal, representing 82 % of the overall contractual amount.

When we examine, in a sample of 26,692 contracts concluded in 2013, the share of each electronic platform as regards the number of contracts whose procedures were conducted through it, we see that these are concentrated in two platforms (Vortalgov and Gatewit), which were responsible for 77 % of all public contracts reported to the portal. Their share is even larger - 81 % - when we consider the contractual amounts.

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

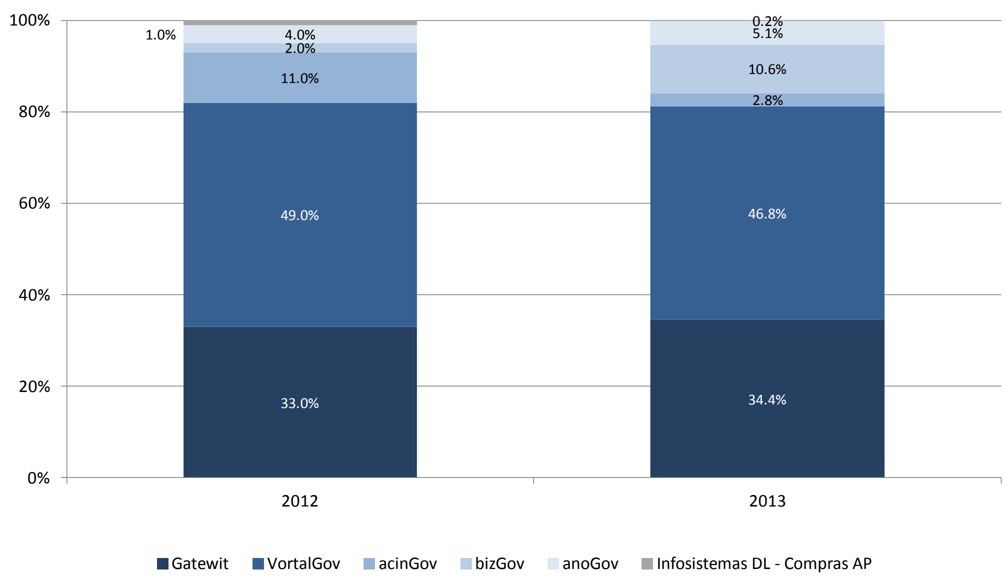
Source: BASE portal (October 2014)

Like in 2012, these two platforms change their relative position, depending on whether we examine the number of contracts or their contractual value. While Gatewit was dominant as regards the number of contracts (44 %), it was through Vortal that the highest contractual amounts were carried out (47 %).

Compared to 2012, there was a slight decrease in the joint relevance of these two platforms in relation to the global market. As regards the number of contracts, their share decreased by 4.4 pp.

A similar situation was found for the contractual amounts, where both platforms lost 0.8 pp of their market share.

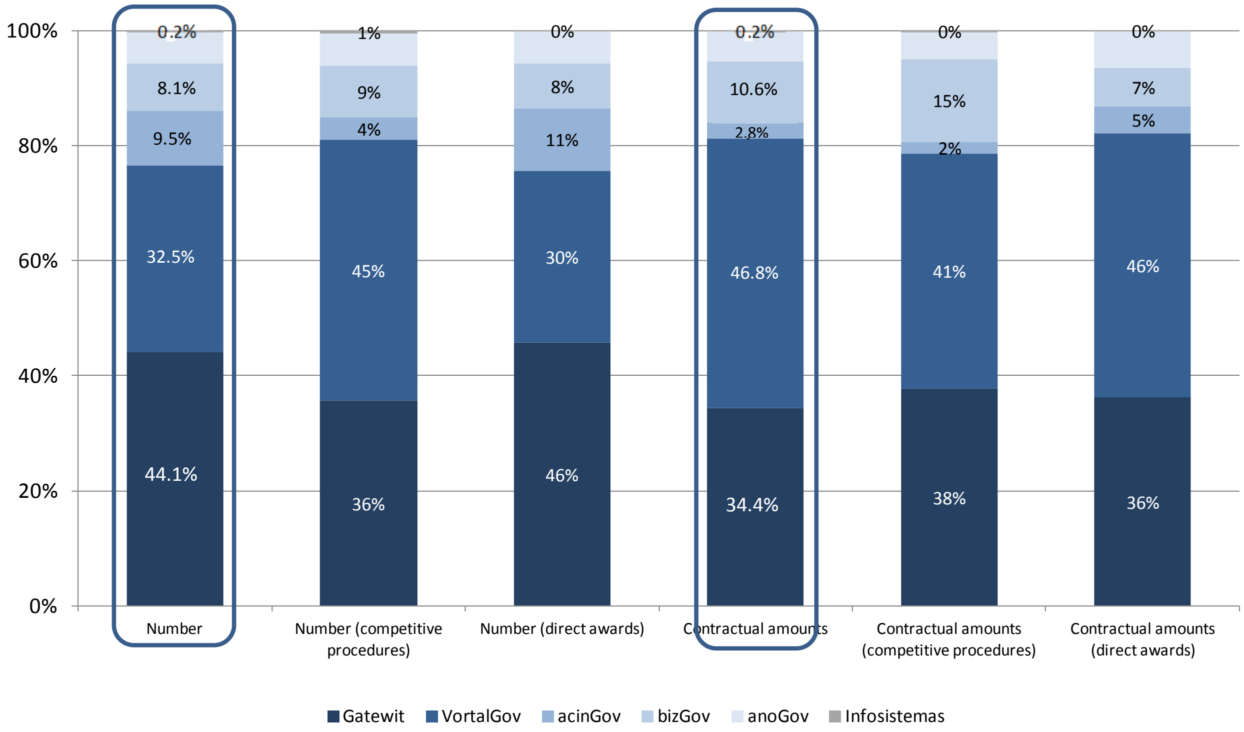
Graph 100- Breakdown of the contractual amounts, per platform: changes from 2012 to 2013



Source: BASE portal (October 2014)

As regards the type of procedure, the largest shares belong to Gatewit for the number of contracts under direct award procedure (46 %) and Vortal for the contractual amounts under the same type of procedure (46 %).

Graph 101- Breakdown of the contractual amounts, per platform: changes from 2012 to 2013



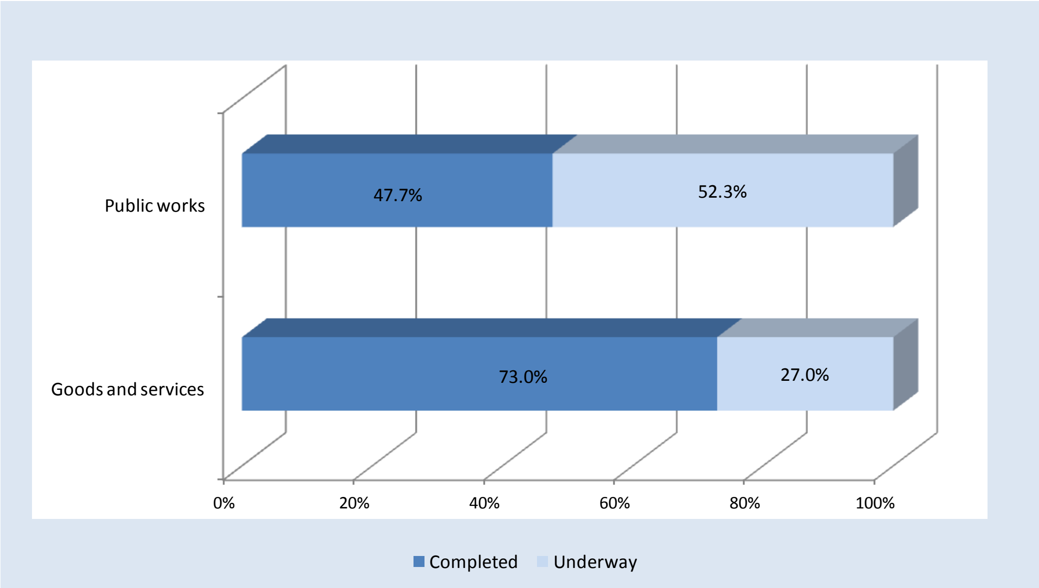
Source: BASE portal (October 2014)

10. CONTRACT PERFORMANCE

10.1. PRICE DEVIATION[38]

When data collection for this report took place, 55.2 % (111,751) of the concluded contracts already mentioned the actual total price. The recorded completion rate was higher for goods and services (73.0 %, corresponding to 105,432 contracts) than for public works (47.7 %, corresponding to 6,319 contracts).

Graph 102- Contracts indicating the actual total price

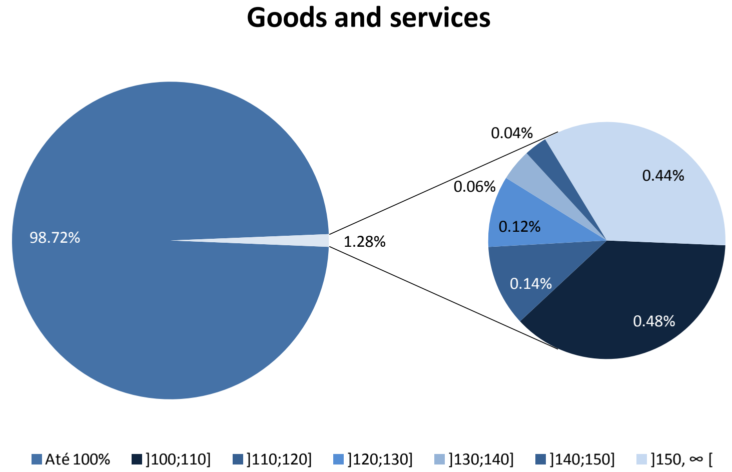


Source: BASE portal (October 2014)

When we compare the actual total value of each contract with the contractual price, we see that only 1.28 % 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.

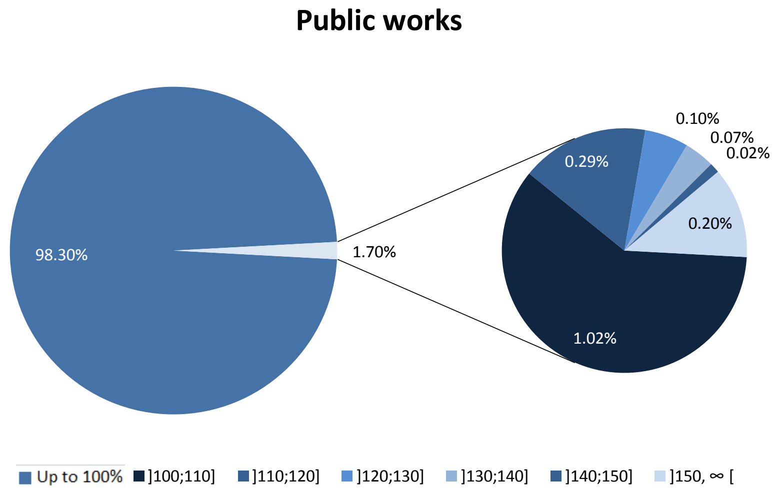
Graph 103- Price deviations per range: Goods and services



Source: BASE portal (October 2014)

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 1.7 % of the contracts relating to public works.

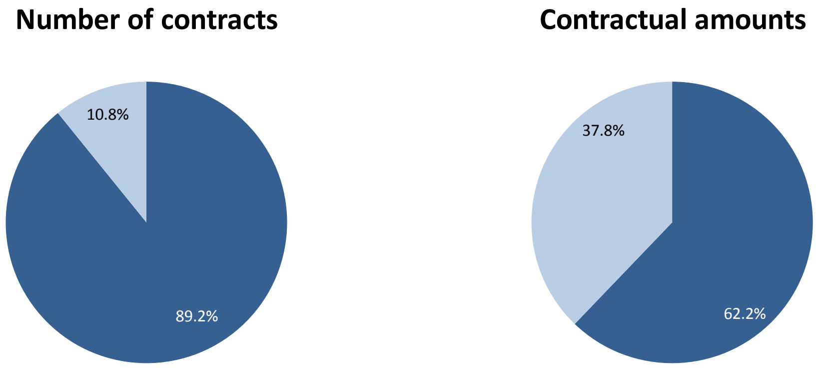
Graph 104- Price deviations per range: Public works



Source: BASE portal (October 2014)

Among the contracts concluded in 2013 with an actual total price higher than the contractual price, 89.2 % concerned the purchase of goods and services, corresponding to 62.2 % of the contractual amounts.

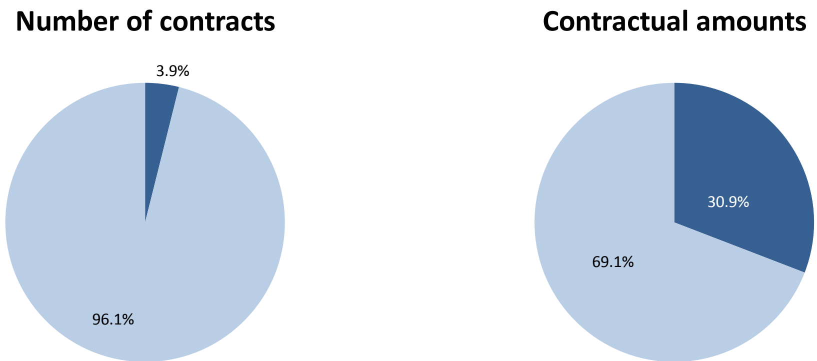
Graph 105 - Contracts with an actual price higher than the contractual price, per type of contract



Source: BASE portal (October 2014)

An analysis per type of procedure shows that most contracts (96.1 %) and more than 2/3 of the contractual amount (69.1 %) concerned direct award procedures.

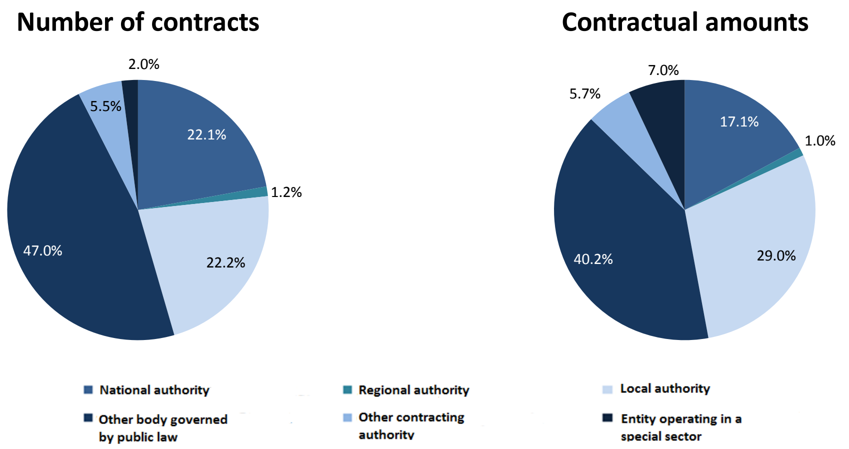
Graph 106 - Contracts with an actual price higher than the contractual price, per type of procedure



Source: BASE portal (October 2014)

Considering the type of contracting authorities that concluded contracts whose final actual price was higher than the contractual value, that was the case with “Other bodies governed by public law” (47.0 % of the contracts and 40.2 % of the contractual amounts) and “Regional and Local Authorities” (44.3 % of the contracts and 36.1 % of the contractual amounts).

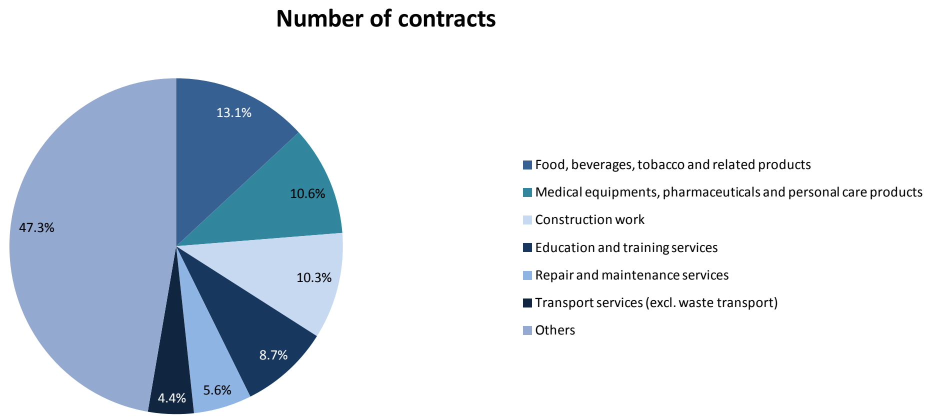
Graph 107 - Contracts with an actual price higher than the contractual price, per type of contracting authority



Source: BASE portal (October 2014)

Considering the type of expenditure, "Food, beverages, tobacco and related products" had the largest number of contracts (13.1 %), followed by "Medical equipments, pharmaceuticals and personal care products" (10.6 %) and "Construction work" (10.3 %).

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



Source: BASE portal (October 2014)

10.2. DEADLINE DEVIATION

When data for drafting this report were collected, 67.4 % of the concluded contracts mentioned the actual duration of the contracts (72.8 % in the case of contracts for the purchase of goods and services and 9.2 % in the case of contracts relating to public works).

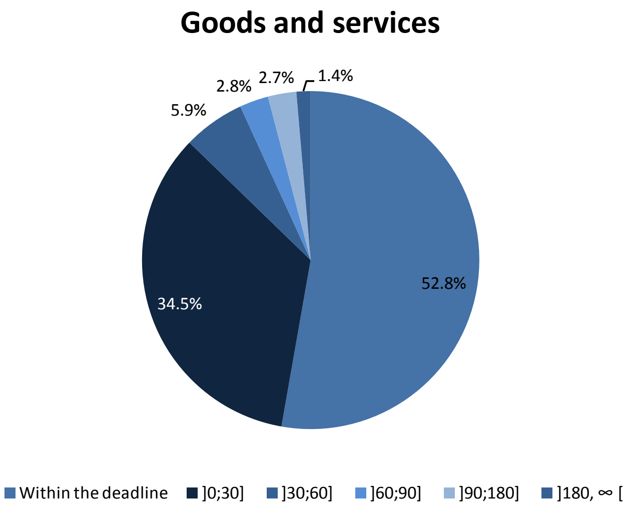
Table 14 – Contracts indicating the final deadline

Contracts	Number of contracts Total	Number of contracts Completed	Weight
Goods and services	144,524	105,180	72.8%
Public works	13,251	1,214	9.2%
Total	157,775	106,394	67.4%

Source: BASE portal (October 2014)

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 47.2 % of the contracts. However, that deadline was exceeded by more than 60 days in only 6.8 % of the contracts.

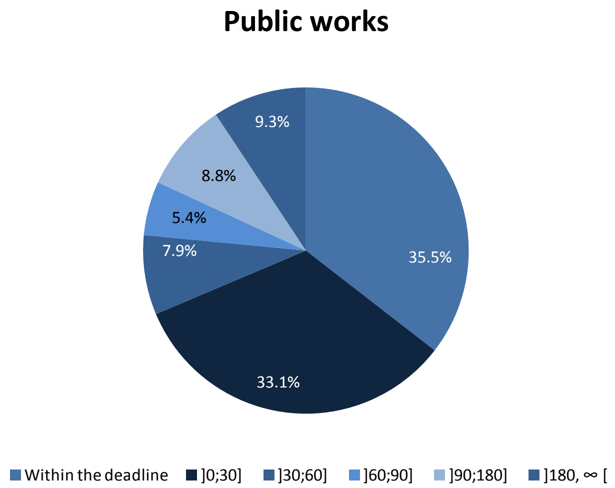
Graph 109 – Deadline deviations per range: Goods and services



Source: BASE portal (October 2014)

In the case of public works, most contracts were not completed within the established deadline: the deadline was met in only 35.5 % of the contracts, and it was even exceeded by more than 60 days in 23.5 % of the contracts.

Graph 110- Deadline deviations per range: Public works



Source: BASE portal (October 2014)

11. FINAL CONSIDERATIONS

1. Portugal's good performance as regards the Manchester commitment on electronic public procurement was confirmed once again in 2013. In fact, 87 % of the contracts concluded in Portugal in 2013 with a value above the Community thresholds were carried out electronically.

   Although in 2013 the Manchester Index reached its lowest level since 2010, it 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. The Electronic Public Procurement Index in Portugal (ICPEP) also recorded a very positive value (70 %), even though this was its lowest record since it was first calculated.

3. Both above mentioned indicators depend on the options made by the contracting authority on 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. 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 - 2.5 % - when the European Commission estimate for 2012 was 10.68 % - and to budgetary implementation (22.97 %).

5. The value of contracts concluded in 2013 and reported to the BASE portal amounted to EUR 4,153 million, representing an increase of 19.4 % over 2012 (+EUR 676 million than in 2012).
   However, in the case of public works there was a slight decline (-2.4 %, corresponding to – EUR 38 million), which was nevertheless lower than in the preceding year.

6. Although the average value of contracts decreased by 6.1 % in the case of goods and services, it increased by 23.6 % in the case of public works.

7. The purchase of goods and services in 2013 represented 62 % of the contractual amounts, thus reinforcing its weight against public works. Between 2010 and 2013 there was a reversal in terms of relative weight: in 2010, it was public works that represented 61 % of the contractual amounts.

8. Direct award procedures were the basis for 83.5 % of the contracts concluded in 2013, corresponding to 50.1 % of the contractual amounts.

   On the other hand, competitive procedures were the basis for 3.1 % of the contracts concluded in the same year, accounting for 42.0 % of the contractual amounts.

9. Simplified direct awards reported to the BASE portal represented 45.9 % of the number of contracts under direct award, corresponding to 2.1 % of the contractual amounts. However, only 411 contracting authorities (11.5 % of all reporting contracting authorities) reported such contracts.

10. Direct awards on the grounds of substantive criteria represented 19.4 % 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. Most of the EUR 4,153 million worth public contracts concluded in 2013 (60 %) were planned to be executed during the same year. It was expected that only 5 % of that amount would be executed after 2015.

12. In the case of contracts for goods and services, most procedures (55.7 %) on which they were based lasted up to 4 days. In the case of contracts for public works, 51.4 % of the procedures lasted up to 14 days. In both cases 5 % of the procedures lasted more than 60 days.

13. The number of competitors per procedure was 2.4 and 3.3, respectively for goods and services and public works. In the case of contracts based on competitive procedures, the average number of competitors (6 for goods and services and 10.5 for public works) was higher than for contracts resulting from direct award procedures (2 and 1.9, respectively).

14. The (increasingly) most used criterion for assessing tenders is the lowest price. It was used in 71.1 % of the competitive procedures.

In the other procedures the price factor (or the like) was dominant in 61.9 % of the cases. Therefore, in 89 % of the competitive procedures, the weight of the price factor (or the like) was higher than 50 %.

15. In 9.5 % of the contracts for the purchase of goods and services and 6.9 % 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 32.9 % and 15.3 % of procedures relating to goods and services and to public works, respectively.

16. In 2013, the number of entities having reported contracts to the BASE portal amounted to 3,712, an increase of 9.7 % over 2012. Besides the fact that this is a relatively low figure in view of what could be expected, 1,112 of these entities reported only 1 contract resulting from a direct award procedure.

17. The number of economic operators that concluded contracts with contracting authorities amounted to 35,093.

    Among these operators, 95.6 % were domestic, 3.7 % from other EU countries and 0.7 % from third countries.

18. From the domestic companies, 59.5 % were micro enterprises, 38 % were small and medium-sized enterprises and only 2.5 % were large ones.

    Small and medium-sized enterprises accounted for 48.7 % of all concluded contracts, followed by micro enterprises (35.2 %) and large enterprises (15.1 %).

    In terms of contractual amounts, more than a half (52.7 %) related to contracts concluded by small and medium-sized enterprises, followed by large enterprises (34.6 %) and micro enterprises (12.7 %).

19. The electronic platform market for public procurement is still dominated by two platforms – Gatewit and Vortal –, which together represent 77 % of all contracts and 81 % of the respective contractual amounts.

20. As regards the financial implementation of contracts, from the sample concerned, only 1.28 % of the contracts for goods and services and 1.7 % of the contracts for public works showed deviations in relation to their contractual value.

21. As far as the contract performance deadline is concerned, it should be noted that it was not met in 47.2 % of the cases.

________________________ * ___________________________