WAR AND PROZORRO

Public Procurement in the Six Months of the Full-Scale Invasion
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The project team has created and administers the dozorro.org monitoring portal, as well as the public and professional BI Prozorro analytics modules. In addition, DOZORRO is developing the DOZORRO community, a network of civil society organizations which monitor public procurement and report violations to supervisory and law enforcement agencies.

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# CONTENTS

Summary .................................................................................................................. 4

Introduction ............................................................................................................. 5

Section I. Openness and Accessibility of Procurement in Martial Law ..................... 6

  What Influenced Data Openness during the War? ................................................. 6

  Overall Indicators of Openness and Accessibility ............................................... 7

  Dynamics of Publication of Procurement Data ..................................................... 8

  Amount of Procurement Data by Region ............................................................. 10

  Conclusions to the Section .................................................................................. 13

Section II. Procurement Performance ...................................................................... 15

  Performance in the Stages from Announcing Procurement to Signing the Contract .......................................................................................................................... 15

  Performance at the Contract Stage ........................................................................ 16

  Amendments to Contracts ..................................................................................... 21

  Amendment Dynamics .......................................................................................... 22

  Reasons for Amendment ...................................................................................... 23

  Conclusions to the Section .................................................................................. 23

Conclusions and Recommendations ........................................................................ 25

Annexes ..................................................................................................................... 27
SUMMARY

From the beginning of the full-scale invasion of the territory of Ukraine until the end of August 2022, the total number of lots in the Prozorro system fell 2.6 times compared to the same period in 2021, and the number of competitive lots fell more than 4 times. The decrease in the number of published lots is a consequence of both the overall decrease in procurement in the country and the decrease in the openness of the Prozorro system itself.

At the end of February 2022, the Cabinet of Ministers of Ukraine adopted resolution No.169, which changed the procurement procedure to simplify and accelerate procurement. Procuring entities were given the opportunity not to publish data about it in Prozorro and not to conduct competitive procedures. In the future, the resolution underwent changes which affected the number of published lots in the public procurement system. This is confirmed by the significant increase in the number of lots since the end of June — immediately after the authorities obliged to conduct procurement in Prozorro or publish information about it.

The impact of changes in the resolution on the openness of the public procurement system and the activity of procuring entities indicate that it is necessary to supplement the current Law of Ukraine “On Public Procurement” with provisions that allow for rapid, open, and competitive procedures in extreme conditions, such as war, pandemic, or natural disaster. Then there will be no need to immediately adopt regulations and numerous amendments to them to settle the situation, and the risk of legal conflicts will be reduced.

Currently, it is impossible to establish from open sources how many procurement transactions have taken place in Ukraine since the beginning of the full-scale invasion. Data are a crucial resource that allows the authorities themselves to make balanced and effective decisions. A significant amount of data on contracts concluded since February 24, 2022, should be in the State Treasury Service of Ukraine (STSU). After all, procuring entities who purchase with budget funds pass information to it to make payments under contracts. Therefore, to restore procurement information in Prozorro during the full-scale war, it is necessary to establish a data exchange between Prozorro and the STSU. In the future, the risk of such loss of information would be solved by a single system of reporting under contracts, which would replace the existing cumbersome and inefficient reporting mechanism in the three systems (Prozorro, Spending, STSU).

The evaluation of the procurement performance shows that during the full-scale war, only 42.5% of the announced competitive lots ended with the signing of the contract. For the most part, the unsuccessful procurement is due to the insufficient number of participants (95.2% of unsuccessful lots) and the disqualification of all participants (4.48% of unsuccessful lots). Perhaps the reason is the overall decrease in competitive lots published in the Prozorro system: procuring entities stop publishing procurement in Prozorro, as a result of which participants stop looking for potential buyers in Prozorro.

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1 Competitive procurement — types of procurement methods that directly provide for the competitiveness of participants and the ability of participants to freely submit their bids
2 Three Times Less: How to Improve Reporting under Contracts
3 Unsuccessful procurement - a procurement transaction that was completed, but it was not possible to determine the winner or sign the contract
Almost 30% of the contracts completed during the full-scale war were terminated. This is four times more than in 2021.

For contracts concluded under procedures that provide for mandatory reporting on the status of the contract, the main reasons for termination were a decrease in funding, changes in the cost of procurement, impossibility of fulfilling obligations. The largest percentage of terminated contracts, more than 90%, was in contracts related to health care and social assistance services.

The share of contracts with changes in 2022 is 11.6% of the total, which is slightly less than in the same period in 2021. Given the significant increase in the share of terminated contracts during the full-scale war of 2022, we assume that **counterparties are more likely to terminate the contract rather than reach new agreements.**

### INTRODUCTION

On February 24, 2022, Russia launched a full-scale invasion. The war, which began in 2014, covered the entire territory of Ukraine. All aspects of our lives have undergone significant changes, which is an expected response to changing environmental conditions and new challenges. Among other things, the full-scale war led to a number of factors that strongly influenced public procurement:

- changes in legislation regulating public procurement;
- restriction of information entering the public domain;
- changing needs of procuring entities in connection with the war;
- decrease in the number of suppliers;
- the necessity to quickly meet the needs of procuring entities;
- changes in the distribution and receipt of funds from the state and communities;
- occupation of towns, cities, and entire regions of Ukraine by the invader, which made it impossible to lead a normal life, including ensuring the needs of communities through public procurement.

We decided to evaluate how these changes affected the public procurement system. The study focuses on the analysis of the problems of the system openness and the performance of procurement in wartime.

We studied procurement transactions announced from February 24 to September 1, 2022, and procurement transactions for the same period in 2021. The study considers the fact that part of the data was removed from Prozorro (covered with "0" signs) due to the requirements of martial law.
SECTION I. OPENNESS AND ACCESSIBILITY OF PROCUREMENT IN MARTIAL LAW

Openness and transparency at all stages of procurement is one of the main principles enshrined in Article 5 of the Law of Ukraine “On Public Procurement.” It is that the state guarantees and provides citizens with the opportunity to receive information on what and how the state and local self-government spend the funds of the relevant budgets.

This is a fundamental factor in countering corruption, abuse, and misappropriation of public funds. The minimum manifestation of the principle of openness is informing that the procurement has taken place, whereas the maximum is the possibility to track all stages of the procurement, from the publication of the plan to the report on the implementation of the contract, to participate in the procurement, competing with other participants, to receive feedback from the procuring entity. Competition helps procuring entities purchase at a better price and higher quality, that is, to conduct procurement more efficiently.

Openness allows:
• the procuring entity and the supplier to find each other;
• the public to see how the taxpayers’ funds were spent;
• monitoring and supervisory bodies to prevent abuse and inefficiency;
• the authorities to decide on the regulation of procurement and related spheres of public life based on data, not guesswork.

What Influenced Data Openness during the War?

War is a highly difficult environment. It significantly complicates procurement, which consequently considerably affects the publication of procurement information, in particular, due to the following reasons:

• Requirements of the current legislation. Starting from February 28, 2022, the issues of public procurement were regulated by the Resolution of the Cabinet of Ministers of Ukraine No.169. From the date of approval until the end of August 2022, this resolution had ten revisions that changed the procurement rules and data publication requirements: from the actual permission to publish information about any procurement transaction 20 days after the end of the war (i.e., unknown when) to the requirement to publish information about the conducted procurement transactions and conduct most of them through the Prozorro system.

If regulatory acts allow procuring entities not to publish information in Prozorro, they will likely do so much less often.

• Physical inability to publish data. Threats of missile strikes, interruptions in energy supply, active hostilities, and occupation make it impossible for some procuring entities to conduct procurement in the electronic system and publish data about it.

• Possible security threat from publishing information. Sometimes data on procurement items, delivery locations, warehouse locations can potentially threaten security during the war. Thus,
the location of warehouses where humanitarian goods, armored vests, or medicines are supplied should not be disclosed, so as not to expose them to the additional danger of missile strikes.

- **Urgency of the need.** In a full-scale war, it is expected that certain goods / works / services will be needed super urgently. Accordingly, sometimes there is no time and opportunity not only to conduct competitive procedures, but even to publish information in Prozorro.

So, Prozorro does not have complete information about procurement conducted during wartime. Under such conditions, we tried to assess the openness of procurement that is now available in the Prozorro system, indirectly, comparing the procurement transactions in the system for March–August 2022 with the indicators for the same period in 2021. Currently, this is the only way how, based on open data, to estimate the volume of procurement, regarding which information is not available in Prozorro.

It should be noted that budget funds managers still have to submit information about procurement and concluded contracts to the State Treasury Service of Ukraine (hereinafter – STSU). But this information is unfortunately not available in the public domain. If the integration of Prozorro and STSU systems for data exchange is established, most of the critical data for procurement analysis during the period of the full-scale war can be restored. In the future, the risk of such loss of information would be solved by a single system of contract reporting, which would save both budget funds and the time procuring entities spend on reporting.⁴

### Overall Indicators of Openness and Accessibility

**Number of lots published from January to August, by year**

- **2015** 6,299
- **2016** 147,837
- **2017** 644,287
- **2018** 789,019
- **2019** 858,305
- **2020** 1,767,647
- **2021** 3,152,513
- **2022** 1,675,576

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⁴ *Three Times Less: How to Improve Reporting under Contracts*

⁵ The low number of lots announced in 2015 and 2016 is explained by the fact that at that time, the Prozorro system was only being tested. At that time, publication of procurement in the system was voluntary and available only for procurement that was not procedures in accordance with the law.

⁶ The sharp increase in the number of announced lots is due to changes in the requirements of the law on procurement reporting. Procuring entities started uploading reports on all contracts from 1 kopeck to the system.
Despite the full-scale war, procuring entities continue to post procurement information in the Prozorro system, but the number of published lots is significantly lower compared\(^7\) to the same period in 2021. In 2021, procuring entities published information about 2,474,951 lots, in 2022 — 925,794. That is, the number of lots is 2.6 times lower.

Competitive procurement requires special attention in the study of openness, since they provide for a reduction in the price, the opportunity for any participant to learn and participate in the procurement, and for all interested persons to learn what principles were used to select the supplier. The number of competitive lots for the specified period of 2021 was 321,859, in 2022 — 78,051. The number of competitive lots decreased 4.1 times.

We also compared the indicators of 2022 with other years in the period from January to August. Since 2015, the number of published procurement transactions has increased steadily. In 2022, this trend is changing for the first time. Moreover, 45.8% of all lots in 2022 were added to the Prozorro system in January–February, that is, before the full-scale war. This clearly illustrates the sharp decline in the amount of published information precisely because of the war.

### Dynamics of Publication of Procurement Data

The dynamics of publication of lots by months\(^8\) shows a significant decrease (3 times) in March compared to February. The fewest lots were announced in May: if compared to February, their number is 3.6 times lower.

**Number of announced lots by month (the whole February)**

![Graph showing the number of announced lots by month](image)

The dynamics of announcing competitive procurement looks much worse. March indicators are 7.6 times lower than February ones. The least competitive lots were announced in April. From May to August, their number increased significantly — the figures of August are almost 9 times higher than the April ones.

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\(^7\) The periods from 24.02 to 31.08.2021 and from 24.02 to 31.08.2022 are compared

\(^8\) For a more complete picture, we considered the data on all lots announced in February 2022
Changes in legislation also affected the publication of lots by procuring entities in Prozorro. Thus, on June 29, the Cabinet of Ministers of Ukraine published amendments to Resolution No. 169, which obliged procuring entities to conduct simplified procurement.

In July, the number of published lots for the type of procurement method “Simplified procurement” in the Prozorro system increased 3.2 times, and in August, the indicator approached the pre-war state. Thus, among the organizers from the regions that were not under occupation and in the territory of which there were no active hostilities, in August 2022, the number of simplified procurement transactions was 1.15 times higher than in August 2021. The same is true with the request for price offers: the August 2022 figure is 1.52 times higher than the August figure in 2021.

To make sure that the key influence on the dynamics was the decision of the authorities, rather than the seasonality, it is worth comparing the data with the indicators of the same period and the same type of procurement method in 2021. During the spring of 2021, the indicators decreased slightly, repeating the general trend of publication of lots in 2021, and from June to July, there was an increase, but by no means threefold.
Simplified procurement was allowed for any amounts, so it partially replaced other competitive types of procurement methods, including open bidding. This also explains the rapid growth in the number of precisely this type of competitive lots in Prozorro. Although, with other types of procurement methods, the number of lots has increased.

### Amount of Procurement Data by Region

Due to the war and legislative changes, the number of procuring entities in the comparable periods decreased 1.3 times. At the same time, **most procuring entities continued to publish information in Prozorro after February 24**, fulfilling the requirements of the Law of Ukraine “On Public Procurement,” and even conducted competitive procurement, despite the permission of the authorities not to do so.

In our opinion, this was influenced by the doubts of procuring entities, whether Resolution No. 169 is lawful and whether it can introduce changes to the procedure of conducting procurement at the budget expense. After all, the regulatory legal act issued by the government has lower legal force than the Law of Ukraine “On Public Procurement.”

After June amendments to Resolution No. 169, which obliged procuring entities to conduct simplified procurement, the number of buyers in the system increased. Therefore, it is likely that before these changes, **some procuring entities did not publish data, rather than not buy anything at all.**

#### Number of organizers by month

![Graph showing the number of organizers by month from February to August, with a significant drop in March due to occupation and active hostilities.](image)

To determine where the activity of procuring entities decreased the most, we compared the number of organizers in March 2022 and March 2021 by region. As we expected, the greatest losses were in the oblasts that were under occupation and where active hostilities took place.
We lost the least information about procurement in Chernivtsi (1.6 times decrease), Ivano-Frankivsk (1.6 times decrease) and Khmelnytskyi (1.7 times decrease) regions.

As expected, the biggest losses are in the occupied Luhansk (43.98 times decrease), Kherson (23.28 times decrease) and Donetsk (11.08 times decrease) regions. Zaporizhzhia and Kharkiv regions, which were partially occupied and where hostilities took place, also have a high rate of decrease in the number of published lots. These data confirm the point that the decrease in the number of published lots is directly related to the territory where procuring entities work.
We lost the least competitive procurement in Chernivtsi, Vinnytsia, and Kirovohrad regions. The largest data loss is in Kherson, Luhansk, and Donetsk regions.

"The number of declared competitive lots February 24 – August 31, 2021 and 2022 by the procuring entity's by region"
Obviously, such indicators are associated not only with the fact that the data are not published in Prozorro, but also with the fact that the bidding does not take place or its number has significantly decreased due to the military aggression of Russia. This is confirmed by the above indicators, where the largest losses account for the occupied territories, as well as communities that are in the zone of hostilities or encirclement.

The Ministry for Reintegration of the Temporary Occupied Territories of Ukraine constantly updates the current list of communities in the areas of hostilities, in the temporarily occupied territories, and those encircled. This list includes communities from nine oblasts of Ukraine (excluding the Autonomous Republic of Crimea), including Dnipropetrovsk, Sumy, Chernihiv, Mykolaiv, Zaporizhzhia, Kharkiv, Donetsk, Luhansk, and Kherson regions. It is also worth adding Kyiv, Zhytomyr and Odesa regions, whose communities also suffered from occupation or active hostilities.

In such oblasts, the number of published lots is 3.73 times lower than in 2021. Instead, the total number of published lots decreased 1.92 times in the regions that were not occupied and/or in the territory on which there were no hostilities.

At the same time, in the rear regions, in 2022, fewer competitive procurement transactions were announced than in the near-front and front-line ones — 46% of the total. This indicator is explained by the fact that the second group includes Kyiv and Kyiv Oblast, which was liberated in the first days of April. It was in this region that 25% of competitive lots were announced this year.

In general, the deoccupation of the oblasts affected the total number of lots in Prozorro — in the liberated oblasts, procurement was also announced. At the same time, for the most part, this was done not immediately after deoccupation, but after about a month and a half or two.

Conclusions to the Section

Due to the hostilities and occupation of the regions, the change in the regulatory framework for procurement and the potential damage from the publication of certain data, Prozorro does not contain complete information about the volume and details of procurement that took place since February 24, 2022. A significant part of these data should be in the State Treasury Service of Ukraine because procuring entities purchasing at the budget expense are still obliged to transfer information about contracts to it. At the same time, the STSU does not publish such data.

Therefore, to restore information about the procurement of the full-scale war in Prozorro, it is necessary to establish a data exchange between Prozorro and the STSU. In the future, the risk of loss of such information would be solved by a single system of reporting under contracts, which would replace the existing cumbersome and inefficient reporting mechanism in three systems (Prozorro, Spending, STSU). 9

Since there are no complete data on procurement during the full-scale war in the public domain, we compared the available information with the indicators of the same period in 2021 to assess procurement during this period. Since 2015, the number of lots in Prozorro has been constantly increasing, so, it is logical to assume that but for the full-scale war, in 2022 their number would have exceeded the indicators of 2021.

9 Three Times Less: How to Improve Reporting under Contracts
Instead, the total number of lots fell 2.6 times compared to 2021, and the number of competitive lots — more than 4 times. It is competitive procurement that allows any business to learn about the procurement and participate in it, and all interested parties to see what principles were used to select the supplier. Thus, the data indicate an overall decrease in the openness of public procurement, both in terms of the number of lots in general and the ability to observe the procurement process from the announcement to the contract implementation report.

As expected, the number of lots fell the most in March, with a further decline lasting another two months. However, in general, many procuring entities throughout the study period published at least minimal information in Prozorro and sometimes conducted competitive procurement — even despite the resolution of the Cabinet of Ministers of Ukraine No. 169, which allows them not to do so. Probably, this was also because procuring entities doubted the legality of such a resolution because the government regulatory act has lower legal force than the Law of Ukraine “On Public Procurement,” which defines the procurement procedure at the budget expense.

From June onwards, the number of procurement transactions — both competitive and in general — is constantly increasing. This trend is partly due to amendments to Resolution No. 169, which obliged procuring entities to conduct simplified procurement or request for price offer without an upper price limit from the end of June, which partially replaced other competitive procurement methods. Thus, in regions that have not undergone occupation or active hostilities, procuring entities in August 2022 announced 1.15 times more simplified procurement transactions than in August 2021. The same is the situation with requests for price offers — their number has increased 1.52 times.

The dynamics of the announcement of procurement in Prozorro was also influenced by the deoccupation of the regions. It had a slightly delayed effect in time — about a month and a half or two. In addition, the liberation of Kyiv region had a strong effect on the number of competitive lots — approximately 25% of such procurement transactions were announced by Kyiv procuring entities.

The fact that procuring entities announced procurement even in the first months of the full-scale war, as well as the interrelation of regulatory changes in the sphere with the positive dynamics of the number of published lots allow us to state that it is realistic to procure openly and competitively even during a full-scale war.

Of course, such conditions require separate procedures. Therefore, it is necessary to enshrine in the Law of Ukraine “On Public Procurement” mechanisms that will allow fast, open, and competitive procedures in extreme conditions, such as war, pandemic, or natural disaster. Then, in critical situations, there will be no need to urgently adopt regulations and numerous amendments to them to regulate the situation, and the risk of legal conflicts will be reduced. Moreover, in this case, all participants of the process will be able to prepare for extreme conditions in advance. To prescribe mechanisms for such situations, Ukraine can use the experience of procurement during the pandemic and active hostilities.
SECTION II. PROCUREMENT PERFORMANCE

When the procuring entity plans to purchase, they expect to receive works, goods, or services of the required quality, the required volume, by a certain time, and with the funds available to them, that is, to ensure the necessary result, for the sake of which procurement exists.

Even before the full-scale war, it was difficult to calculate what proportion of procurement achieves the desired result and what most often prevents it. After all, there was no information in the public domain about the need of each procuring entity, the problems they had during the search for the contractor and the conclusion of the contract, and no information was available regarding the volumes and time of receiving what had been purchased. In part, we only knew this for a limited list of procurement methods. For example, in competitive lots, you could see the details of the supplier selection.

In this section, we focused only on those procurement methods that can tell us about the new challenges procuring entities faced and that had the most impact on procurement performance.

Performance in the Stages from Announcing Procurement to Signing the Contract

In direct procurement, it is impossible to say how successful the process of finding and selecting a supplier was because there, procuring entities simply report on the concluded contracts to the system. Therefore, to assess the performance at the procurement stage, we focused on competitive lots that meet the following criteria:
- announced from February 24 to September 1, 2022, and from February 24 to September 1, 2021 (to compare the two periods);
- have a completed status (the contract is signed, the contract is terminated, the lot is canceled);
- acquired completed status by September 1 of the relevant year;
- lots were announced under competitive procurement methods.

During the full-scale war, the share of competitive procurement under which the contract was signed decreased. Thus, in 2022, only 42.5% of all competitive procurement ended with the signing of a contract, and in the same period in 2021, it amounted to 53.2%.

During the full-scale war, in almost 6 out of 10 cases, procuring entities did not indicate why the procurement transaction was unsuccessful. However, in the lots containing this information, the main reasons were the shortage or disqualification of participants — as in 2021.
### Number of unsuccessful lots in 2022, in which the procuring entity indicated the reason for failure / reason for failure of competitive lots

<table>
<thead>
<tr>
<th>Reason for failure of the lot</th>
<th>Number of lots 2022</th>
<th>% of the number 2022</th>
<th>Number of lots 2021</th>
<th>% of the number 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submission for participation of insufficient number of participants</td>
<td>10,272</td>
<td>95.20 %</td>
<td>54,694</td>
<td>92.26 %</td>
</tr>
<tr>
<td>Disqualification of participants</td>
<td>483</td>
<td>4.48 %</td>
<td>4,483</td>
<td>7.56 %</td>
</tr>
<tr>
<td>Other</td>
<td>12</td>
<td>0.11 %</td>
<td>48</td>
<td>0.08 %</td>
</tr>
<tr>
<td>Impossibility to eliminate violations</td>
<td>11</td>
<td>0.10 %</td>
<td>82</td>
<td>0.14 %</td>
</tr>
<tr>
<td>Lack of / decrease in financing</td>
<td>8</td>
<td>0.07 %</td>
<td>14</td>
<td>0.02 %</td>
</tr>
<tr>
<td>Impossible as a result of force majeure</td>
<td>5</td>
<td>0.05 %</td>
<td>5</td>
<td>0.01 %</td>
</tr>
<tr>
<td>Lack of further need</td>
<td>3</td>
<td>0.03 %</td>
<td>34</td>
<td>0.06 %</td>
</tr>
<tr>
<td>Change in / finalization of tender documentation</td>
<td>1</td>
<td>0.01 %</td>
<td>1</td>
<td>0.00 %</td>
</tr>
<tr>
<td>Refusal to sign the contract</td>
<td>1</td>
<td>0.01 %</td>
<td>4</td>
<td>0.01 %</td>
</tr>
<tr>
<td>Mechanical / technical error</td>
<td>1</td>
<td>0.01 %</td>
<td>9</td>
<td>0.02 %</td>
</tr>
<tr>
<td>Change in procurement volumes</td>
<td>0</td>
<td>0.00 %</td>
<td>2</td>
<td>0.00 %</td>
</tr>
</tbody>
</table>

At the same time, in 2022, the share of lots lacking participants for the tender increased, and decreased – where they were all disqualified. Perhaps the reason is the overall decrease in competitive lots published in the Prozorro system: procuring entities stop publishing procurement in Prozorro, as a result of which participants stop looking for potential buyers in Prozorro.

### Performance at the Contract Stage

The conclusion of a contract does not mean the effectiveness of the procurement. This requires that the parties fully comply with the terms and conditions of the concluded contract.

To analyze the contracts concluded as a result of the procurement of the war period, we selected the contracts that meet the following criteria:

- contracts concluded based on the results of procurement transactions, which were announced from February 24 to September 1, 2022, and from February 24, 2021 to September 1, 2021 (to compare the two periods);
- are completed (implemented, terminated);
- acquired their last status before 1 September of the relevant year;
- are concluded as a result of procedures that, in accordance with the law, provide for mandatory reporting on amendments to the contract.

The total number of contracts that meet the described criteria is 2,035 in 2022. This is 16.1 times less than in 2021.
It is also worth emphasizing that due to the closed data, we do not know the real number of concluded contracts and their further legal fate — were they implemented or terminated. The assessment of the impact of the war and the adoption of quality decisions could be significantly influenced by the information collected and validated by the STSU.

Table  Number of contracts \ contract status

<table>
<thead>
<tr>
<th></th>
<th>2021</th>
<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implemented</td>
<td>2,490</td>
<td>1,426</td>
</tr>
<tr>
<td>Terminated</td>
<td>30,292</td>
<td>609</td>
</tr>
</tbody>
</table>

Martial law had a dramatic impact on performance at the stage of contract implementation: the percentage of terminated contracts in 2022 increased almost fourfold compared to 2021 (from 7.60% in 2021 to 29.39% in 2022).

For contracts concluded directly, the percentage of termination due to the lack of or decrease in funding, changes in the cost of procurement, and inability to fulfill obligations has significantly increased. This is quite logical, since the consequence of the full-scale war is an economic crisis and the need to increase funding for the military-related spheres. Moreover, under such conditions, the change in the cost of procurement items due to a possible shortage of goods, the destruction of production and usual logistics chains, as well as significant fluctuations in the exchange rate are expected.

Number of terminated contracts (non-competitive procedures) / reason for termination

![Reasons for termination chart]

- Lack of / decrease in financing: 71 (2021), 38 (2022)
- By consent of the parties: 174 (2022)
- Change in the cost of procurement: 32 (2022), 34 (2021)
- Impossibility to fulfill obligations: 39 (2021), 22 (2022)
- Mechanical / technical error: 230 (2022)
- Impossibility to eliminate violations: 112 (2022)
- Violation of the terms of the contract: 28 (2022), 8 (2021)
- Other: 36 (2022), 8 (2021)
- Lack of further need: 62 (2022)
- Termination / change of supplier’s type of activity: 22 (2022), 2 (2021)
- Change in procurement volumes: 12 (2022), 1 (2021)
- Reorganization / change of details: 5 (2022)
- Procuring entity’s initiative: 4 (2022)
- Expiration of the contract: 3 (2022)
- Contract was implemented: 0 (2021), 3 (2022)
For terminated contracts that were concluded based on competitive procurement, the situation is somewhat different. Most often (35.43%), such contracts were terminated with the consent of the parties, which does not actually explain the real reason.

In 2022, the percentage (25.20%) of termination of contracts due to the inability to fulfill obligations increased significantly (more than twice). Among the most common reasons are also the change in the cost of procurement and the inability to eliminate violations.

**Number of terminated contracts, concluded as a result of competitive procedures / reason for contract termination**

<table>
<thead>
<tr>
<th>Reason for Contract Termination</th>
<th>Number of Contracts 2021</th>
<th>Number of Contracts 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>By consent of the parties</td>
<td>135</td>
<td>574</td>
</tr>
<tr>
<td>Impossibility to fulfill obligations</td>
<td>96</td>
<td>166</td>
</tr>
<tr>
<td>Impossibility to eliminate violations</td>
<td>38</td>
<td>253</td>
</tr>
<tr>
<td>Change in the cost of procurement</td>
<td>33</td>
<td>94</td>
</tr>
<tr>
<td>Violation of the terms of the contract</td>
<td>27</td>
<td>192</td>
</tr>
<tr>
<td>Mechanical / technical error</td>
<td>8</td>
<td>132</td>
</tr>
<tr>
<td>Lack of / decrease in financing</td>
<td>6</td>
<td>44</td>
</tr>
<tr>
<td>Lack of further need</td>
<td>6</td>
<td>72</td>
</tr>
<tr>
<td>Change in procurement volumes</td>
<td>21</td>
<td>6</td>
</tr>
<tr>
<td>Termination / change of supplier’s type of activity</td>
<td>25</td>
<td>3</td>
</tr>
<tr>
<td>Reorganization / change of details</td>
<td>3</td>
<td>17</td>
</tr>
<tr>
<td>Procuring entity’s initiative</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>Expiration of the contract</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Contract was implemented</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>With the purpose of conducting more cost-effective procurement</td>
<td>12</td>
<td>0</td>
</tr>
</tbody>
</table>

Most of the contracts that were subsequently terminated were signed in April, May, July, and August. At the same time, more than 56% of wartime contracts were terminated in August 2022.
For the most part, the reasons for the termination of the contracts in August were as follows:

- for April contracts: lack of funding, change in the cost of procurement, impossibility of fulfilling obligations;
- for May contracts: lack of funding in most terminated contracts;
- for July contracts: impossibility of fulfilling obligations and termination of contracts by consent of the parties;
- for August contracts: by consent of the parties, the impossibility of fulfilling obligations, the impossibility of eliminating violations.
62% of DK 021:2015 units have less than 30 contracts, which is not enough to draw conclusions about their problematic nature and reasons for termination. Therefore, for further research, we decided to analyze those units of DK 021:2015, in which the total number is equal to or more than 30 contracts. Among them, the most problematic during the full-scale war were the following units:

- 85000000-9 Health care and social assistance services;
- 90000000-7 Services in the spheres of wastewater and garbage management, services in the spheres of sanitation and environmental protection;
- 15000000-8 Food, beverages, tobacco, and related products;
- 03000000-1 Agricultural, farm products, fishery and forestry products, and related products.

In the listed units of DK 021:2015, 50% of the contracts or more were terminated. Most often, contracts were terminated due to lack of funding, inability to fulfill obligations, and change in the cost of procurement, which corresponds to the general trend of 2022.

The largest percentage of terminated contracts — more than 90% — is in contracts related to health care and social assistance services. In the same period of 2021, the percentage of terminated contracts under this unit of DK 021:2015 was 42%.

**Number of signed and terminated contracts by unit of DK 021:2015**

<table>
<thead>
<tr>
<th>Units DK 021:2015 (aggregated)</th>
<th>Total number of contracts</th>
<th>Number of contracts terminated 2022</th>
<th>% of terminated contracts from the total number by unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>85000000-9 Health care and social assistance services;</td>
<td>79</td>
<td>74</td>
<td>93.67 %</td>
</tr>
<tr>
<td>90000000-7 Services in the spheres of wastewater and garbage management, services in the spheres of sanitation and environmental protection;</td>
<td>39</td>
<td>24</td>
<td>61.54 %</td>
</tr>
<tr>
<td>15000000-8 Food, beverages, tobacco, and related products;</td>
<td>85</td>
<td>49</td>
<td>57.65 %</td>
</tr>
<tr>
<td>03000000-1 Agricultural, farm products, fishery and forestry products, and related products.</td>
<td>86</td>
<td>48</td>
<td>55.81 %</td>
</tr>
<tr>
<td>34000000-7 Transport equipment and auxiliary products</td>
<td>48</td>
<td>24</td>
<td>50.00 %</td>
</tr>
<tr>
<td>09000000-3 Petroleum products, fuel, electricity, and other energy sources</td>
<td>172</td>
<td>74</td>
<td>43.02 %</td>
</tr>
<tr>
<td>45000000-7 Construction work and maintenance</td>
<td>213</td>
<td>75</td>
<td>35.21 %</td>
</tr>
<tr>
<td>39000000-2 Furniture (including office furniture), furniture and decorative products, household appliances (except lighting equipment), and cleaning products</td>
<td>48</td>
<td>14</td>
<td>29.17 %</td>
</tr>
</tbody>
</table>

*Central Limit Theorem*
### Amendments to Contracts

Unfortunately, not for all contracts in Prozorro you can see changes and reports because according to the law, they are introduced in the system not for all types of procurement methods. At the same time, procuring entities who purchase at the budget expense, submit information about all changes to the contract to the State Treasury Service of Ukraine, as this is necessary to make payments. If these data were open, we would be able to see the full picture.

Given the realities, for the analysis of amended contracts, it is necessary to select those procedures for which reporting is provided. The sample of the study includes contracts in all statuses (active, terminated, completed) that meet the following criteria:

- concluded based on the results of procurement announced from February 24 to August 30, 2022, inclusive;
- date of amending the contract is between February 24 and August 30, 2022, inclusive;
- contracts are concluded based on the results of procedures, for which, in accordance with the law, mandatory reporting on amendments to the contract is provided.

#### Number of contracts by contract status

<table>
<thead>
<tr>
<th>Substatus of the contract</th>
<th>Number of contracts 2022</th>
<th>Number of amended contracts 2022</th>
<th>Number of changes 2022</th>
<th>Number of contracts 2021</th>
<th>Number of amended contracts 2021</th>
<th>Number of changes 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>43,009</td>
<td>4,991</td>
<td>6,850</td>
<td>257,695</td>
<td>32,906</td>
<td>49,640</td>
</tr>
<tr>
<td>Active</td>
<td>39,829</td>
<td>4,472</td>
<td>6,148</td>
<td>52,375</td>
<td>5,268</td>
<td>8,161</td>
</tr>
<tr>
<td>Implemented</td>
<td>2,339</td>
<td>343</td>
<td>459</td>
<td>196,680</td>
<td>25,960</td>
<td>38,025</td>
</tr>
<tr>
<td>Terminated</td>
<td>841</td>
<td>176</td>
<td>243</td>
<td>8,640</td>
<td>1,678</td>
<td>3,454</td>
</tr>
</tbody>
</table>

We expected that the full-scale war would greatly affect the number of changes made to the contracts, as this is a normal response to changes in external circumstances — exchange rate fluctuations and prices for raw materials and components, destruction of production, occupation of regions. However, the share of contracts with amendments in 2022 is 11.6% of the total. In 2021, the share was 12.7%.
The number of changes per contract decreased from 1.5 in 2021 to 1.3 in 2022. In addition, there are contracts that were first amended and then terminated. In 2022, one terminated contract accounted for 1.3 changes, while in 2021 it accounted for 2 changes. Given the significant increase in the share of terminated contracts during the full-scale war, we can assume that during this period, the counterparties are more likely to terminate the contract than to reach new agreements. This opinion is also confirmed by the fact that in 2022, contracts are mostly terminated due to lack of funding, impossibility of fulfilling the obligations, and changes in the cost of procurement.

Amendment Dynamics

The number of changes in the contracts from February to August was growing, and this was normal, the same was in 2021. This growth is explained by the fact that in general, the number of contracts increases during the year, and sometimes it is necessary to adjust the implementation over time. Although the dynamics of introducing changes in 2022 also shows a monthly increase, its value is minimal, but the dynamics of 2021 has a steady increase over time. At the same time, in 2022, the number of changes per contract decreased from 1.5 in 2021 to 1.3 in 2022.
of changes in August increased significantly, which can be explained by legislative changes and, as a result, an increase in the number of lots for which procuring entities are obliged to report on changes.

## Reasons for Amendment

Most often, contracts were amended to improve the procurement item — in four out of 10 cases. This reason is indicated in cases where the characteristics of the purchased product change, which will not lead to an increase in the amount specified in the procurement contract.

Moreover, in 2022, almost twice as often as in 2021, the term of the contract is extended. Probably, this was caused by delays in the funding of procuring entities, as well as disruption of supply chains — delays at the border, fuel problems, destruction of roads.

In addition, there has been a significant increase in the share of contracts that are amended due to a decrease in the volume of procurement — probably this is also due to a decrease in funding.

**Number of contracts with amendments, number of contract amendments/ reason for submitting amendments**

<table>
<thead>
<tr>
<th>Type of reason for submitting amendments</th>
<th>Number of amended contracts 2022</th>
<th>% of contracts from the total number 2022</th>
<th>Number of amended contracts 2021</th>
<th>% of contracts from the total number 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improvement of the procurement item quality</td>
<td>1,948</td>
<td>39.03 %</td>
<td>15,221</td>
<td>46.26 %</td>
</tr>
<tr>
<td>Extension of the contract term</td>
<td>1,199</td>
<td>24.02 %</td>
<td>3,816</td>
<td>11.60 %</td>
</tr>
<tr>
<td>Decrease in procurement volumes</td>
<td>907</td>
<td>18.17 %</td>
<td>5,353</td>
<td>16.27 %</td>
</tr>
<tr>
<td>Agreed price reduction</td>
<td>851</td>
<td>17.05 %</td>
<td>5,725</td>
<td>17.40 %</td>
</tr>
<tr>
<td>Increase in price per unit of goods</td>
<td>510</td>
<td>10.22 %</td>
<td>4,698</td>
<td>14.28 %</td>
</tr>
<tr>
<td>Changes in external indicators (consumer prices, exchange rates, regulated tariffs, etc.)</td>
<td>231</td>
<td>4.63 %</td>
<td>2,853</td>
<td>8.67 %</td>
</tr>
<tr>
<td>Price change due to changes in tax rates and fees</td>
<td>151</td>
<td>3.03 %</td>
<td>670</td>
<td>2.04 %</td>
</tr>
<tr>
<td>Extension of the contract for the next year</td>
<td>6</td>
<td>0.12 %</td>
<td>120</td>
<td>0.36 %</td>
</tr>
</tbody>
</table>

## Conclusions to the Section

During the full-scale war, less than half (42.5%) of the announced competitive lots ended with the signing of the contract. For the most part, the unsuccessful procurement is due to the insufficient
number of participants (95.2% of unsuccessful lots) and the disqualification of all participants (4.48% of unsuccessful lots). Perhaps the reason is the overall decrease in competitive lots published in the Prozorro system: procuring entities stop publishing procurement in Prozorro, as a result of which participants stop looking for potential buyers in Prozorro.

However, the fact that the lot ended with the signing of the contract does not mean that the procuring entity managed to receive the necessary goods, works, and services. **Almost 30% of the contracts completed during the full-scale war were terminated, which is four times more than in 2021.**

For contracts concluded directly, the percentage of termination due to lack of or decrease in funding (6.5 times), change in the cost of procurement (3.3 times), and impossibility to fulfill obligations (1.9 times) increased significantly compared to the same period in 2021. In contracts concluded under **competitive lots**, the percentage of termination due to inability to fulfill obligations has more than doubled. Moreover, procuring entities terminated the contracts due to the change in the cost of procurement and the impossibility of eliminating violations.

**From the point of view of the share of terminated contracts, the most problematic units of DK 021:2015 were:**

- 85000000-9 Health care and social assistance services;
- 90000000-7 Services in the spheres of wastewater and garbage management, services in the spheres of sanitation and environmental protection;
- 15000000-8 Food, beverages, tobacco, and related products;
- 03000000-1 Agricultural, farm products, fishery and forestry products, and related products.

In the listed units of DK 021:2015, more than 50% of the contracts were terminated. Most — more than 90% — in contracts related to health care and social assistance services.

The share of contracts with changes in 2022 is 11.6% of the total, which is slightly less than in the same period in 2021. The share of changes per contract also decreased from 1.5 in 2021 to 1.3 in 2022. Given the significant increase in the share of terminated contracts during the full-scale war in 2022, we can assume that at this time, **counterparties are more likely to terminate the contract than to reach new agreements.**
CONCLUSIONS AND RECOMMENDATIONS

Lack of procurement data during the full-scale war

Prozorro does not have complete information about procurement conducted during wartime. At the same time, the State Treasury Service of Ukraine should have a significant part of the data on concluded contracts of the period of the full-scale war, since procuring entities purchasing at the budget expense are still obliged to transmit information about contracts to it. At the same time, the STSU does not publish such data.

Therefore, to restore information about the procurement of the full-scale war in Prozorro, it is necessary to establish a data exchange between Prozorro and the STSU. In the future, the risk of loss of such information would be solved by a single system of reporting under contracts, which would replace the existing cumbersome and inefficient reporting mechanism in three systems (Prozorro, Spending, STSU).

State of procurement during the full-scale war

The total number of lots in the studied period fell 2.6 times compared to 2021, and the number of competitive lots — more than 4 times. The data indicate an overall decrease in the openness of public procurement, both in terms of the number of lots in general and the ability to observe the procurement process from the announcement to the contract implementation report.

From June onwards, the number of procurement transactions — both competitive and in general — is constantly increasing. One of the reasons for this trend was the amendments to Resolution No. 169, by which procuring entities were obliged to conduct simplified procurement or request price offers without an upper price limit starting from the end of June, which partially replaced other competitive procurement methods. Thus, in regions that have not undergone occupation or active hostilities, procuring entities in August 2022 announced 1.15 times more simplified procurement transactions than in August 2021. The same is the situation with requests for price offers — their number has increased 1.52 times.

At the same time, only 42.5% of the announced competitive lots ended with the signing of the contract. In 95% of cases, the unsuccessful procurement is due to insufficient number of participants. Almost 30% of the contracts completed during the full-scale war were terminated, which is four times more than in 2021.

Lack of procurement mechanisms for critical situations

As expected, the number of lots fell the most in March, with a further decline lasting for another two months. However, in general, many procuring entities throughout the study period published at least minimal information in Prozorro and sometimes even conducted competitive procurement, despite the Resolution of the Cabinet of Ministers of Ukraine No. 169, which allows them not to do so. Probably, this was also due to the fact that procuring entities doubted the legality of such a resolution because the government regulatory act has lower legal force than the Law of Ukraine “On Public Procurement,” which defines the procurement procedure at the budget expense.
The Law of Ukraine “On Public Procurement” needs to enshrine mechanisms that will allow for fast, open, and competitive procedures in extreme conditions, such as war, pandemic, or natural disaster. Then there will be no need to urgently adopt regulations and numerous amendments to them to regulate the situation, and the risk of legal conflicts will be reduced. Moreover, in this case, all participants of the process will be able to prepare for extreme conditions in advance. To prescribe mechanisms for such situations, Ukraine can use the experience of procurement during the pandemic and active hostilities.

The most problematic spheres

From the perspective of the share of terminated contracts, the most problematic units of DK 021:2015 during the full-scale war were:

- 85000000-9 Services in the sphere of health care and social assistance (93.67% of the signed contracts were terminated);
- 90000000-7 Services in the sphere of wastewater and garbage management, services in the sphere of sanitation and environmental protection (61.54% of the signed contracts were terminated);
- 15000000-8 Food, beverages, tobacco, and related products (57.65% of the signed contracts were terminated);
- 03000000-1 Agricultural, farm products, fishery and forestry products, and related products (55.81% of the signed contracts were terminated).

The performance under these units of DK 021:2015 is extremely low, which indicates that the problems of these procurement transactions require special attention of the authorities and procuring entities.

Problems causing contracts to be terminated

For contracts concluded directly, the percentage of termination due to lack of or decrease in funding (6.5 times), change in the cost of procurement (3.3 times), and impossibility to fulfill obligations (1.9 times) increased significantly compared to the same period in 2021. In contracts concluded under competitive lots, the percentage of termination due to inability to fulfill obligations has more than doubled. Moreover, procuring entities terminated the contracts due to the change in the cost of procurement and the impossibility of eliminating violations.
ANNEXES

- Lot IDs analyzed in the study.