

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN CROATIA

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>The legal framework for PPPs in Croatia consists of: (1) Act OG 78/2012 amended by Act OG 152/2014 dated 12.12.2014 (hereinafter “PPP Act”) and the accompanying (2) Regulation on Implementation of PPP Projects OG 88/2012 amended by OG 15/2015 dated 5.02.2015 (hereinafter “PPP Regulation”). Croatia defines a PPP as a long-term contractual relationship between the public and the private partner subject of which is construction and/or reconstruction of public infrastructure for the purpose of rendering public services within the area of the public partner’s competence. (Article 2(1), PPP Act).</p> <p>(3) Concession Act OG 143/2012 (hereinafter “CA”) and Building Act dated 06.12.2013 (hereinafter „Building Act”) generally applies to PPPs in cases when implementation of a PPP project involves a transfer of the right to build from the public partner to the private partner or a concession. (Article 6, PPP Act).</p> <p>(4) The Act on Strategic Investment Projects of the Republic of Croatia dated 25.10.2013 (hereinafter „Investment Act”) applies to PPPs, which are large in scale and fall under a category of strategic projects.</p> <p>(5) Public procurement regulations also generally apply, including Public Procurement Act OG 90/2011 (hereinafter “PPA”) amended by (7) OG 83/2013 dated 21.06.2013 (hereinafter “AAPP”) and the new Law on Public Procurement of January 1, 2017 (hereinafter “New PPL”) (Article 13, PPP Act; Article 8, PPP Regulation).</p> <p>(6) We will also use Ordinance OG 23/2015 on small value PPP projects (hereinafter “Small PPP”), Ordinance OG 16/2013 on the organization and management of the register of PPP Contracts (hereinafter “Register PPP”), as well as Act on the Establishment of the Agency for Investments and Competitiveness dated 27.04.2012 (hereinafter “Agency Act”) establishing a PPP unit.</p> <p>(7) In addition, European Concessions Directive 2014/23/EU applies.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://www.aik-invest.hr/en/ppp/legal-framework/acts/
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or	Yes

<p>in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</p>	
<p>Please describe:</p>	<p>New Law on Public Procurement (Official Gazette 120/16) has entered into force on 1 January 2017, whereas the public procurement procedure has been, amongst others, simplified and aligned with the EU acquis (hereinafter “New PPL”)</p>
<p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>Agency for Investments and Competitiveness is currently developing a methodology for combining EU funds (as sources of funding) and the PPP model (as a procurement model) and the regulatory framework for small value PPP projects (e. g. street lightening, invest in Broadband, etc.)</p>
<p>3.1 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	<p>n/a</p>
<p>3.4 Besides national defense and other matters of national security, does the regulatory</p>	<p>No</p>

framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom	
If yes, please provide the relevant legal/regulatory provisions:	n/a
3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other	No
If yes, specify and provide the relevant legal/regulatory provisions:	n/a
4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?	No
If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in Croatia and provide their website(s) (if available):	Agency for Investments and Competitiveness (hereinafter "AIK") can procure in cooperation with over 500 ministries, cities and counties in the Republic of Croatia. Up until June 1, 2017, Agency for Investments and Competitiveness procured projects in cooperation with only three local governments: Varaždin County, Grad Split and Grad Osijek. Link: http://www.aik-invest.hr/en/ppp/registry/ (Croatian version).
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	<p>Agency for Investments and Competitiveness (Croatian: Zakon o osnivanju Agencije za investicije i konkurentnost, Official Gazette of the Republic of Croatia No, 53/2012, 56/2013, 152/2014) (hereinafter "Agency Act"), enacted by the Croatian Parliament at its session on 27 April 2012, establishes a PPP unit of Croatia - National Agency for Investments and Competitiveness (hereinafter "Agency") "as a public institute for structural support to increase the competitiveness of the Croatian economy to stimulate investments of legal persons, and governs the activity, organization, rights, obligations and sources of funding of the Agency." (Agency Act, Article 1) The website of the agency is www.aik-invest.hr.</p> <p>The role of the PPP Unit has been previously performed by the Agency for Public-Private Partnerships, established by the articles 21 and 22 of the PPP Act. In 2014, this agency was merged into the Agency for Investments and</p>

	Competitiveness (PPP Amendment, Article 17).
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	No
6.5 Identification and selection of PPP projects from the pipeline.	Yes
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	Yes
6.11 please specify:	Co-operate with public bodies in the procedure of selection of private partner; constitute and keep the Register of public private partnership contracts; co-operate with foreign state bodies entitled to apply PPP models and implement PPP projects (Article 22, PPP Act)
Please provide the relevant legal/regulatory provisions:	Article 22 of the PPP Act outlines the following functions of the Agency for Public-Private Partnerships, which in 2014 merged into the Agency for Investments and Competitiveness. According to the Article 22, the Agency shall: “a) conduct the procedure for the approval of PPP project proposals, b) publish the list of information on projects that are intended to be implemented according to the public private partnership model, c) publish the list of the approved PPP projects, d) co-operate with public bodies in the procedure of selection of private partner, e) constitute and keep the Register of public private partnership contracts, f) monitor implementation of PPP projects according to the provisions of this Act, g) propose to authorized proposers amendments to this Act, h) participate in proposing drafts of bylaws from the field of public private partnership,

	<p>i) make and publish guides and handbooks for preparing, concluding and implementing PPP projects, gives directions and explanations from the field of PPP,</p> <p>j) pass decisions in relation to performance of tasks under the competence of the Agency provided by this Act,</p> <p>k) participate in informing the subjects on the market of public private partnership on legal and institutional frame of PPP, in transfer of PPP know-how and in promotion of the best practices, co-operate with foreign state bodies entitled to apply PPP models and implement PPP projects, and with the international organisations and institutions for the purpose of advancing the national PPP model theory and implementation, and for the purpose of fulfilling the international obligations of the Republic of Croatia that were transferred to the competence of the Agency,</p> <p>l) co-operate with the national scientific and research institutions, social partners, economic and non-governmental organisations and other stakeholders for the purpose of advancing the national PPP model theory and implementation,</p> <p>m) perform other tasks in accordance with the provisions of this Act and the Statute of the Agency.”</p>
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to Article 9 (10) in the PPP Act, the Agency on Investment and Competitiveness (hereinafter ‘AIK’) shall approve PPP project proposal that fulfils prescribed criteria for the approval of PPP project proposals, after acquiring a prior consent from the Ministry of Finance, pursuant to Article 11 of this Act.</p> <p>“PPP Act” Article 11: (1) AIK shall without any delay, deliver part of documentation accompanying the project proposal, filed in accordance with article 9 of this Act, to Ministry of Finance for the prior consent. (2) The Ministry of Finance shall grant the prior consent with regard to compatibility of estimated direct financial liabilities of the public body with budgetary plans and projections, as well as with conditions and restrictions specified in special regulations. (...) (4) The Ministry of Finance may, beside the prior consent, give to the Agency its opinion on all other elements of PPP project proposal, especially regarding direct and indirect fiscal effects and risks. (...) (6) The Ministry of Finance shall grant the prior consent and its opinion to PPP project proposal, if it decides to give one, to the Agency within 30 days from the day of receiving PPP project proposal referred to in paragraph 1 of this article.</p>
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 4b(1) of the PPP Regulation, the application for issuance of prior consent of the Ministry of Finance over the take-over of long term liabilities of a PPP project shall include the following: (1) adopted budget plan for the year when the PPP project starts, (2) projections for the budget revenues and expenditures, including compensation ensuing from the project for the following three years.
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	PPP treatment by the European System of Accounts (ESA 2010)
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	PPP treatment by the European System of Accounts (ESA 2010)
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	No
Accounting and reporting according to other international standard (e.g. European System of Accounts).	Yes
Please specify:	European System of Accounts 2010
Other.	No
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes

If yes, please specify the relevant authority	The Agency for Investment and Competitiveness
and provide the relevant legal/regulatory provisions (if any):	According, to Article 3(1 and 2) of the PPP Act, a project must be approved by the Agency for Investments and Competitiveness or registered with the Register of public private partnership contracts to be considered a PPP project in Croatia. A PPP project proposal is defined as “documentation submitted by the public body to the Agency for the approval” (Article 3(2))
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 16 of the PPP Act:(1) The Agency constitutes and keeps the Register of public private partnership contracts. (2) The public partner shall submit to the Agency two copies of the concluded public private partnership contract, as well as all amendments and annexes thereto, within 30 days from the date of the beginning of application of PPP contract or from the date of its amendment. Concluded PPP contract with all annexes thereto, as well as all the amendments to the contract and its annexes, shall be registered with the Register kept by the Agency. (3) After receiving PPP contract, Agency shall without the delay deliver one copy to the Ministry of Finance. (4) The Register referred to in paragraph 1 of this article shall be public and the excerpt from the Register shall be published on the Agency’s web page.
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 3 of the PPP Act: For the purposes of this Act, the following terms have the following meanings(...) 12. An advisor is natural or legal person or a group of those persons with the expertise necessary for the preparation, contracting and implementation of PPP projects. “PPP Act” Article 8: (1) The public body or the public partner may engage the advisor for rendering expert support in preparation of PPP project proposal, negotiating a PPP project and during managing a PPP contract. (2) The advisor is liable for rendering his services in accordance with general laws, rules regulating his field of expertise and the provisions of the contract concluded with the public body or the public partner. (3) The advisor cannot be engaged both by a public body and by the economic operator who is participating in the procedure of selection of private partner, in the same project.
11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national	No

<p>public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	n/a
<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>The AIK conducts a proactive approach to promoting investments in accordance with the Investment Promotion Strategy (Article 3, Agency Act). Moreover, Law on Strategic Investment Projects of the Republic of Croatia provides that amongst others, PPP project may be declared as a strategic investment project.</p> <p>PPPA Article 11 (2) The Ministry of Finance shall grant the prior consent with regard to compatibility of estimated direct financial liabilities of the public body with budgetary plans and projections, as well as with conditions and restrictions specified in special regulations.</p> <p>Article 2 of the Act on Strategic Investment Projects of the Republic of Croatia:(1) Strategic projects of the Republic of Croatia may be private investment projects, public investment projects or public-private investment projects in the field of the economy, energy, tourism, transport, infrastructure, electronic communication, postal services, environmental protection, public utilities, agriculture, forestry, water management, fishery, health care, culture, science, defense, judiciary, technology and education, which include the construction of buildings, and that under this Act shall be proclaimed by the Government of the Republic of Croatia.</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	No

If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	No
If yes, please specify:	n/a
If no, please elaborate:	According to our contributors, the Investment Promotion Strategy has not been adopted by the Government of the Republic of Croatia in practice.
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	Article 9 of PPP Act provides that PPP project proposal shall contain at least 1. Public Sector Comparator (PSC) with layout of financial sustainability of the project; and 2. PPP contract proposal with content stipulated in article 4 of this Act. The PSC is defined as Public Sector Comparator (PSC) is the comparison of present value of total living costs in the period related to the project according to the traditional (budgetary) model of financing with the same type of costs according to PPP model. PSC includes calculation of

	<p>monetary compensation for covering total costs, expenditures and outflow of the project, allocation of risks between the parties and quantification of allocated risks. Furthermore, the Budget Act also sets a limitation on the amount of money to be paid by public partners to the private ones in PPPs - with a budgetary reference: Art 89 (1) of the Budget Act: Local and regional governments, institutions founded by local and regional governments and companies under the majority ownership of local and regional governments (hereinafter: public partners) may conclude public-private partnership agreements if the total annual amount of all fees paid by the public partner pays to private partners on the basis of all public-private partnership agreements does not exceed 25 percent of the budgetary revenues in the preceding year less capital revenues, subject to the opinion of the Ministry of Finance and other bodies according to special regulations governing public-private partnerships.</p>
Is there a specific methodology for the assessment?	No
If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	All contributors confirm that the affordability assessment is done in practice.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	<p>Article 11 (4) of the PPP Act provides that the Ministry of Finance may, beside the prior consent, give to the Agency its opinion on all other elements of PPP project proposal, especially regarding direct and indirect fiscal effects and risks. Article 4c of PPP Regulation provides that the Study on the feasibility of the investment in a small value PPP project shall contain identification and allocation of project risk. According to Article 5 of PPP Regulation, risk allocation matrices and risk quantification layouts shall also be included in the Public Sector Comparator (PSC).</p> <p>Further, according to Article 5 of PPP Regulation, risk allocation matrices and risk quantification layouts shall also be included in the Public Sector Comparator (PSC).</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Handbook 8.2 Risks in public-private partnership projects provides methodology for risk assessment (identification and risk allocation)
Is the assessment done in practice?	Yes
Details:	All contributors confirm that the risk assessment is done in practice.
12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement	Yes

alternatives (i.e. value for money analysis, public sector comparator)	
Relevant legal/regulatory provision (if any)	Article 4c of the PPP Regulation provide that a PPP proposal shall contain a qualitative and/or quantitative analysis of value for money
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	AIK issued ten manuals which describe the methodology for comparative assessment in a great detail. Manual 3 “Public Sector Cost Comparison” outlines a step by step process for conducting a comparative assessment. The methodology includes (1) calculating value for money analysis, defined as a positive difference between the present values of total lives the cost of traditional (budget) and PPP models, (2) public sector cost comparator justification, based on the positive value for money, private partner Investment and borrowing, and (3) calculating the difference between the discounted present value of net cash flows of future benefits (operating difference income and expenses) and investment costs (Article 8, Manual 3).
Is the assessment done in practice?	Yes
Details:	All of the contributors confirm that comparative assessment is carried out in practice.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Article 4b (2) of PPP Regulation, the following shall be enclosed to the application from paragraph 1 of this Article: –proposal of the PPP contract, –Study on the feasibility of the investment of the small value PPP project, –adopted budget plan for the year in which the procedure to prepare the small value PPP project shall begin, –projections of budget revenues and expenditures, with included compensation ensuing from the project for the following three years, –certified financial reports for the previous year, in line with the provisions from the area of financial reporting and budgetary accounting, –report on the repayment of borrowing, issued guarantees and agreements on the form prescribed by the Ministry of Finance at the time of submission of the application, and –information on compensation the public body already pays or will pay ensuing from the concluded PPP contract, pursuant to the Budget Act.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	According to Article 5 of PPP Regulation, financial feasibility analysis shall be included in the Public Sector Comparator (PSC). Article 5(14) outlines components of the financial analysis (PPP model): –structure of capital costs and projection of asset amortization; –structure of operational costs; –structure of sources of financing and projection of debt amortization; –projection of financial reports;

	<ul style="list-style-type: none"> –analysis of project liquidity; –analysis of profitability; –analysis of coverage of sources of financing for the project;
Is the assessment done in practice?	Yes
Details:	All contributors confirm that the bankability assessment is done in practice.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	<p>According to Article 8.2 (2) of the Law on Environmental Protection, the Council shall give opinions, proposals and assessments on the harmonization of environmental and economic development issues and the proposals submitted by the Government and the Parliament. Article 24 of the Law on Environmental Protection provides that (1) For certain products, devices, equipment and production processes that may cause environmental risks or threats to specific regulations, technical environmental standards shall be determined. (2) The technical standards referred to in paragraph 1 of this Article shall determine the emission and emission limit values for the production process and the use of devices and equipment, or the limit value, in with respect to the composition of products, equipment and punitive provisions for violation of the provisions of the regulations. (3) Technical standards may also prescribe the method of manufacturing, manufacturing, marking, treatment and use of products, devices, equipment and production processes, and handling products, devices and equipment after the use of the product. (4) The regulations referred to in paragraph 1 of this Article shall determine the procedure and deadlines for achieving technical standards and their application to existing products and devices. (5) If the technical standards are not specified by the special regulation referred to in paragraph 1 of this Article, they shall be prescribed by the Government.</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Article 25 of the Law on Environmental Protection provides details on what the environmental assessment should contain: (1) The environmental impact assessment should ensure the achievement of the prevention principle by harmonizing and adapting the intended operation, construction or renewal of the facility and / or performance of the activity with the private environmental

	capabilities in a particular area. (2) The environmental impact assessment shall examine the possible adverse impact of the intended action on soil, water, sea, air, forests, climate, human health, plant and animal life, landscape, spatial and cultural values, their interrelations, taking into account other planned interventions and possible interaction with existing or planned interventions in the area where impact assessment is perceived. (3) The environmental impact assessment should include evaluating the impact of the intended environmental or environmental impacts and environmental measures in order to minimize adverse impacts and to achieve the highest possible environmental quality preservation. (4) The environmental impact assessment shall be carried out within the framework of the transfer of the intended operation, that is, prior to the issuance of a location permit or a long authorization for which the location permit is not mandatory.
Is the assessment done in practice?	Yes
Details:	Majority of the contributors confirmed that environmental assessment is done in practice.
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
and specify which of the assessments are included in the request for proposals and/or tender documents:	No specific provisions stating which assessments are included
13.1. Are the assessments published online?	No

If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
specify the website	n/a
please specify which of the assessments are published online:	n/a
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 34 of the European Concessions Directive, Contracting authorities and contracting entities shall offer by electronic means unrestricted and full direct access free of charge to the concession documents from the date of publication of a concession notice or, where the concession notice does not include the invitation to submit tenders, from the date on which an invitation to submit tenders was sent. The text of the concession notice or of these invitations shall specify the internet address at which the concession documents are accessible.
and please specify the website:	https://eojn.nn.hr/Oglasnik/
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No

To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No

To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 197, PPA 2017: (1) Prior to the commencement of the public procurement procedure, the contracting authority shall appoint an expert commission for public procurement by an internal decision. (2) The Public Procurement Expertise Commission shall prepare and implement the public procurement procedure. (3) Members of the public procurement commission shall not be employees of the public procuring authority. (4) At least one member of a public procurement commission must possess a valid certificate in the field of public procurement.
The bid evaluation committee members are not required to have any specific qualifications.	No
Please elaborate and provide examples:	n/a
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 244 of the PPA: A public contracting authority is obliged to submit a public procurement notice for all procurements which have estimated value equal to or greater than the amount referred to in Article 12 of this Act. Article 12 of the PPA: This Act shall not apply to: 1. Purchasing A) goods and services and the execution of project tenders of an estimated value less than HRK 200,000.00; B) Works estimated at less than HRK 500,000.00; 2. Procurement in diplomatic missions and consular offices of the Republic of Croatia abroad A) goods and services and the execution of project tenders of an estimated value of less than HRK 950,000.00; B) public works estimated at less than HRK 4,000,000.00. (2) The contracting authority is obliged to apply

	the provisions of this Act for the procurement of goods, works or services and the execution of project bids whose estimated value is equal to or greater than the thresholds referred to in paragraph 1 of this Article.
19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	https://eojn.nn.hr/Oglasnik/ (national website); https://www.ojec.com/ (EU website)
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 228 of the PPA: In the open tender procedure, the minimum deadline for the submission of tenders is 35 days from the date of the call for tenders.
and the time in calendar days:	35
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	<p>Article 85 of the PPA: Public Procurement Procedures within the meaning of this Part of the Act are: 1. open procedure; 2. restricted procedure; 3. competitive procedure with negotiation; 4. competitive dialogue; 5. Partnership for Innovation; 6. negotiation procedure without prior publication of a call for tenders</p> <p>Article 86 of the PPA: (...) A public contracting authority shall be free to choose between an open and restricted procedure. (...)</p> <p>Article 88 of the PPA Chapter 2 "Open Procedure": A public contracting authority intending to award a public procurement contract in open procedure is obliged to announce a call for tenders.</p> <p>Article 89 of the PPA Chapter 2 "Open Procedure": In the open procedure, each interested economic operator may submit a bid within the deadline for the submission of tenders.</p>
22.2. Restricted tendering (with pre-qualification stage): Available	Yes
Default	No

Relevant legal/regulatory provision (if any)	<p>Article 85 of the PPA: Public Procurement Procedures within the meaning of this Part of the Act are: 1. open procedure; 2. restricted procedure; 3. competitive procedure with negotiation; 4. competitive dialogue; 5. Partnership for Innovation; 6. negotiation procedure without prior publication of a call for tenders.</p> <p>Article 86 of the PPA: (...) A public contracting authority shall be free to choose between an open and restricted procedure. (...)</p> <p>Article 91 of the PPA Chapter 3 “Restricted Procedure”: In a restricted procedure, each interested economic operator may submit a request for participation within the deadline for submitting the application.</p> <p>Article 92 of the PPA Chapter 3 “Restricted Procedure”: (1) The Public Contractor shall, on the basis of the terms of the procurement documentation, assess the timely submitted requests for participation and prepare a record thereof. (2) A public contracting authority may limit the number of eligible competitors to be invited to bid. (3) A public contractor shall be obliged to submit a decision on the inadmissibility of participation to competitors who will not be invited to submit a tender.</p>
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	<p>Yes</p>
Default	<p>No</p>
Relevant legal/regulatory provision (if any)	<p>Multi-stage tendering in Croatia is referred to as “Natjecarelnjski Postupak uz Pregovore”, which means a competitive procedure with negotiations (Chapter 4, PPA).</p> <p>According to Article 97 of the PPA, in the competitive procedure process, any interested economic operator may submit a request for participation within the deadline for submitting the application. Further, Article 100 of the PPA provides: (1) The Public Procurement Officer shall negotiate the initial and all the following tenders with the bidders in order to improve their content, except in the case of the Final Bid, and draw up a record thereof. (2) The minimum requirements and criteria for selecting the bidding from the procurement documents shall not be negotiated.</p>
22.4. Competitive dialogue: Available	<p>Yes</p>
Default	<p>No</p>
Relevant legal/regulatory provision (if any)	<p>According to Article 104 of the PPA, a public contracting authority may use a competitive dialogue for the procurement of works, goods or services under the terms of Article 94 of this Act.</p> <p>According to Article 110 of the PPA, (1) a public contractor with selected competitors shall initiate a dialogue with the aim of finding and determining one or more solutions that best meet his / her needs and a record thereof. (2) During a dialogue, a public contractor may consider all the features of a procurement with selected competitors, and must ensure equal treatment for all participants, and in particular should not disclose information in a discriminatory manner that could be favored by particular participants in relation to others. (...)</p>
22.5. Direct negotiation with more than one candidate: Available	<p>No</p>

Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	Partnership for Innovation
Available	Yes
Default	No
Relevant legal/regulatory provision (if any)	Article 85 of the PPA: Public Procurement Procedures within the meaning of this Part of the Act are: (...) 5. Partnership for Innovation; Chapter 6 of the PPA, Innovation Partnerships should strive for the development of innovative goods, services or works and their subsequent procurement, provided they are consistent with performance levels and maximum costs agreed between the public contracting authority and the participants.
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 96 of the PPA: (1) The contracting authority shall, in addition to the criteria for qualitative selection of the economic operator, specify in the procurement documents: 1. the subject of the procurement describing its needs and the required features of the goods, works or services; 2. Selection Criteria, and 3. Which elements in the description form the minimum requirements that all bids must meet. (2) The information in the procurement documentation must be sufficiently clear and precise in order to identify the nature and scope of the procurement and to decide whether to apply for participation.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 143 of the PPA: A public contracting authority is obliged in the invitation to bid to state the objective, non-discriminatory criteria or rules it intends to apply for the reduction of the number of eligible competitors, the minimum number of eligible competitors (...) and, if needed, the maximum number. Article 329(4) of the PPA: If the number of participants in a project bid is limited, the contracting authority must specify clear and non-discriminatory criteria for the selection of participants.

22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Contributors confirm: for all competitive procedures, prequalification/shortlisting criteria are made publicly available assuring equal information availability to all interested bidders.
If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 202(1) of the PPA: The economic operator may request additional information, explanations or alterations regarding the procurement documentation within the time limit for the submission of the request for participation and the offer. Article 48(5) of the PPA: Participants may be invited, if need be, to answer questions which the jury has recorded in the minutes to clarify any aspects of the projects. Complete minutes shall be drawn up of the dialogue between jury members and candidates.
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 202(2) of the PPA: Provided that the request referred to in paragraph 1 of this Article is submitted in a timely manner, the public contracting authority shall provide the reply, additional information and explanations without delay, and no later than six days before the deadline for submission of requests to participate or tenders, and in the case of an expedited procedure From Article 234 of this Act and the procedure of public procurement of a small value no later than on the fourth day before the deadline for the submission of requests for participation and bids shall be made available in the same manner and on the same web site as the basic documentation without giving details of the applicant.
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Contracting authority provides the reply, additional information and explanations to all submitted questions and inquiries according to the law.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the	Yes

procuring authority conduct pre-bidding conference?	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Article 198 of the PPA "Previous market analysis": (1) Prior to the initiation of a public procurement procedure, the contracting authority shall, as a rule, conduct market analysis for the purpose of preparing procurement and informing economic operators of their plans and procurement requirements.</p> <p>(2) A public contracting authority may seek or accept the advice of independent experts, competent bodies or market participants who may use it in the planning and implementation of the procurement procedure and in the drawing up of procurement documents, provided such advice does not lead to distortion of competition and does not violate the principles Prohibition of discrimination and transparency.</p> <p>(3) Prior to the initiation of an open or restricted public procurement procedure for the procurement of works or public procurement procedures of high value for the procurement of goods or services, the contracting authority shall be obliged to describe the subject of procurement, technical specifications, criteria for qualitative selection of the economic operator, tender selection criteria and special The conditions for the performance of the contract shall be put on prior consultation with the interested entities for at least five days.(...)</p>
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>Article 198 of the PPA "Previous market analysis": (...) (4) After the consultation has been carried out, the public contracting authority is obliged to consider any comments and suggestions of the interested economic operators, draw up a report on the accepted and unapproved remarks and suggestions and publish it on the web site. (5) The content of the report, the manner and timing of the release, and other issues related to the previous consultation and analysis of the market shall be prescribed by the head of the central state administration body responsible for public procurement policy, the rulebook.</p>
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	<p>Yes</p>
If yes, please specify:	<p>The public contracting authority issues a report on the accepted and unapproved remarks and suggestions and publishes it on its web site.</p>
If no, please elaborate:	<p>n/a</p>
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a	<p>Yes</p>

financial model with their proposals?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 4(5) of the PPP Act: PPP Contract shall contain at least the following appendixes concerning: (...) financing and refinancing
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 283 of the PPA: The criterion for selecting a bid in public procurement procedures is the most economically advantageous tender. Article 284 of the PPA: (1) The most economically advantageous tender shall be determined on the basis of cost or by using cost-effectiveness approaches such as cost of service (...) and may include the best price-to-quality ratio that is assessed on the basis of a specified criteria , including qualitative, environmental or social features related to the subject of procurement.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	No
Please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	Yes
Please provide the relevant legal/regulatory provisions (if any):	Article 179 of the PPA provides that, in the event that the procuring authority determines, on the basis of a full initial evaluation, that there is only one valid proposal, an electronic auction need not be executed and that the contracting authority may in such case award the contract to such sole bidder (or cancel the public procurement procedure if there are grounds for cancellation, e.g. if the sole proposal does not meet conditions outlined in tender documents); Further, Article 145(3) of the PPA which provides that in case of reduction of proposals or bids to only one valid proposal, it is permissible to negotiate or to conduct a dialogue with only one bidder; and At last, Article 306(2) which provides that the standstill period does not apply

	to situations where there is only one valid proposal (only one capable bidder) which has also been chosen (meaning it is permissible to award the contract even in cases where there is a sole proposal).
The procuring authority does not award a PPP contract if only one proposal is submitted.	No
Please provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework does not include any provisions.	No
28. Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Article 248 of the PPA provides that the procuring authority send out the award notice. The details to be contained in the award notice are outlined in the appendix VD.
28.1. If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	eojn.nn.hr
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 248 of the PPA provides that the procuring authority send out the award notice. The award notice must outline all the bidders participating, provide information about them, about the winning bid and the reasons for a final bidder selection. (appendix VD of the PPA)
If no, please elaborate:	n/a
29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 302 of the PPA - On the basis of the results of the review and evaluation of the tender and of the selection criteria, the public contracting authority shall make a decision on the selection. (...) The Selection Decision contains: (...) the reasons for selection, characteristics and advantages of the selected offer; reasons for the exclusion of the bidder; reasons for rejection of the bid (...).
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in	Yes

order to allow unsuccessful bidders to challenge the award decision?	
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 306 of the PPA: (1) The public contracting authority shall not conclude a public procurement contract or framework agreement within 15 days of the date of delivery of the decision on selection (hereinafter: the term of rest). 2) The term of rest shall not apply if only one tenderer whose tender was selected at the same time was selected in the public procurement procedure, in the case of contracts concluded under the framework agreement and the conclusion of the contract within the dynamic purchasing system.
and the time in calendar days:	15
30.1. Is the standstill period set out in the notice of intention to award?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Article 302 of the PPP Act specifies that notice of the standstill period is a mandatory part of the Award Decision notice.
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Article 37.6 of the European Concessions Directive, The contracting authority or contracting entity may hold negotiations with candidates and tenderers. The subject-matter of the concession, the award criteria and the minimum requirements shall not be changed during the course of the negotiations.
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	No
If yes, please specify:	n/a
If no, please elaborate:	Restriction on negotiations with the selected bidder between the award and the signature of the PPP contract is not always respected in practice.
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP	No

contract including all its annexes and appendixes	
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	Yes
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	Yes
If yes, please specify the website:	http://www.aik-invest.hr/jpp/registar/
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to Article 17 of the PPP Act, (1) The Agency monitors the implementation of PPP projects registered with the Register of public private partnership contracts throughout their entire duration. (2) During monitoring of implementation of PPP projects, Agency shall observe the performance of contractual obligations of both the public and the private partner.</p> <p>(3) The Agency monitors the implementation of PPP projects on the basis of the Report on implementation of PPP project, in accordance with article 18 of this Act.</p> <p>Article 18 of PPP Act describes a reporting system of the private partner.</p>

41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
Elaboration of a PPP implementation manual or an equivalent document	Yes
Relevant legal/regulatory provisions (if any):	Also, on the basis of the Article 3(18) of the Act on Establishing the Agency for Investments and Competitiveness (Croatian: Zakon o osnivanju Agencije za investicije i konkurentnost, Official Gazette of the Republic of Croatia No, 53/2012, 56/2013, 152/2014), the Agency develops and publishes guides and manuals for preparation, contracting and implementation of PPP projects and provides guidance and explanations from the PPP area. Moreover, the Statute of the Agency provides that it shall adopt regulations regulating the conduct and rules of procedure for its organizational units (among others, the Service for evaluation, approval and supervision of PPP projects (Croatian: Služba za ocjenu, odobravanje i nadzor JPP projekata)). However, such regulation is not published on the Agency's website, so specific information about procedures and mechanisms for monitoring of PPP contract implementation are not in public domain.
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	No
Relevant legal/regulatory provisions (if any):	n/a
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please	No

select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
The PPP contract management team members are not required to meet any specific qualifications.	No
Please elaborate and provide examples:	n/a
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18 (1) of the PPP Act, the public partner shall within the term of 6 months from the date of registration of PPP contract with the Register of public private partnership contracts, submit to the Agency a first Report on Implementation of PPP project, that shall be signed and certified with the official seal by the public and the private partner. (2) The form of the Report, referred to in paragraph 1 of this article, shall be stipulated in Regulation passed by the Government of the Republic of Croatia. (3) After the first Report, public partner shall submit further Reports each 6 months. (4) The last Report shall be submitted at latest within 6 months from the expiry of the term contracted upon for implementation of PPP project. (5) The Agency can demand additional explanations, clarifications and replies from the parties regarding specific statements of the Report.
42.1. If yes, is the PPP contract construction performance information made available to the public?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
42.2. If yes, is the PPP contract construction	No

performance information made publicly available online?	
If yes, please specify the website:	n/a
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to Article 18 (1) of the PPP Act, the public partner shall within the term of 6 months from the date of registration of PPP contract with the Register of public private partnership contracts, submit to the Agency a first Report on Implementation of PPP project, that shall be signed and certified with the official seal by the public and the private partner. (2) The form of the Report, referred to in paragraph 1 of this article, shall be stipulated in Regulation passed by the Government of the Republic of Croatia. (3) After the first Report, public partner shall submit further Reports each 6 months. (4) The last Report shall be submitted at latest within 6 months from the expiry of the term contracted upon for implementation of PPP project. (5) The Agency can demand additional explanations, clarifications and replies from the parties regarding specific statements of the Report.
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
The procuring or contract management authority must periodically gather	Yes

information on the performance of the PPP contract	
Relevant legal/regulatory provisions (if any)	Pursuant to Article 18 (1) of the PPP Act, the public partner shall within the term of 6 months from the date of registration of PPP contract with the Register of public private partnership contracts, submit to the Agency a first Report on Implementation of PPP project, that shall be signed and certified with the official seal by the public and the private partner. (2) The form of the Report, referred to in paragraph 1 of this article, shall be stipulated in Regulation passed by the Government of the Republic of Croatia. (3) After the first Report, public partner shall submit further Reports each 6 months. (4) The last Report shall be submitted at latest within 6 months from the expiry of the term contracted upon for implementation of PPP project. (5) The Agency can demand additional explanations, clarifications and replies from the parties regarding specific statements of the Report.
The PPP contract performance information must be available to the public	Yes
Relevant legal/regulatory provisions (if any)	No regulatory basis
43.2. Is PPP contract performance information made publicly available online?	Yes
If yes, please specify the website:	www.aik-invest.hr
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 43 of the European Concessions Directive that makes a general reference to modification but treats change of the concessionaire provides: where a new concessionaire replaces the one to which the contracting authority or the contracting entity had initially awarded the concession as a consequence of either: (i) an unequivocal review clause or option in conformity with point (a); (ii) universal or partial succession into the position of the initial concessionaire, following corporate restructuring, including takeover, merger,

	<p>acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or</p> <p>(iii) in the event that the contracting authority or contracting entity itself assumes the main concessionaire's obligations towards its subcontractors where this possibility is provided for under national legislation;</p>
<p>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</p>	No
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	n/a
<p>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 43 of the European Concessions Directive that makes a general reference to modification but treats change of the concessionaire provides: where a new concessionaire replaces the one to which the contracting authority or the contracting entity had initially awarded the concession as a consequence of either:</p> <p>(i) an unequivocal review clause or option in conformity with point (a);</p> <p>(ii) universal or partial succession into the position of the initial concessionaire, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or</p> <p>(iii) in the event that the contracting authority or contracting entity itself assumes the main concessionaire's obligations towards its subcontractors where this possibility is provided for under national legislation;</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	Yes
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	No regulatory basis

46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 19 of the PPP Act outlines the mechanism of amendments to the contract initiated by either party. Such an amendment can only be done with the approval of the Ministry of Finance.</p>
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 19 of the PPP Act outlines the mechanism of amendments to the contract initiated by either party. Such an amendment can only be done with the approval of the Ministry of Finance. (19(4))</p>
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 19 of the PPP Act calls changes in a scope of a contract a “substantial amendment”: Amendments of PPP contract made during the term of that contract are considered to be a new contract for which public partner is obliged to initiate new procedure of proposing PPP project if those amendments are substantial with regard to the content of the initial PPP contract and if they represent the intention of the parties to rearrange the basic elements of that contract. (9) Substantial amendments of PPP contract in the sense of paragraph 8 of this article are the amendments which it substantially expands the subject matter of PPP contract to works and services which were not within the scope of the initial contract, (...)</p>
A change in the risk allocation of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>No regulatory basis</p>
A change in the financial and/or economic balance of the contract.	<p>Yes</p>
If yes, please provide the relevant legal/regulatory/standard	<p>Article 19 of the PPP Act calls changes in economic balance a contract a “substantial amendment”: Amendments of PPP contract made during the term of that contract are considered to be a new contract for which public partner is obliged to initiate new procedure of proposing PPP project if those</p>

contractual provisions (if any):	amendments are substantial with regard to the content of the initial PPP contract and if they represent the intention of the parties to rearrange the basic elements of that contract. (9) Substantial amendments of PPP contract in the sense of paragraph 8 of this article are (...) changes in the economic balance of PPP contract for the benefit of private partner in a manner not prescribed by the provisions of the initial PPP contract.
A change in the duration of the contract.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
A change in the agreed price or tariff.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Pursuant to Article 19 of the PPP Act, amendments of PPP contract made during the term of that contract are considered to be a new contract for which public partner is obliged to initiate new procedure of proposing PPP project if those amendments are substantial with regard to the content of the initial PPP contract and if they represent the intention of the parties to rearrange the basic elements of that contract. (9) Substantial amendments of PPP contract in the sense of paragraph 8 of this article are (...) introduction of conditions which would, were they a part of the initial procedure of private partner selection, allow submitting different offers than those which were submitted in the initial procedure or that would allow the selection of different offer than the offer selected in the initial procedure.
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 4(4) of the PPP Act: PPP Contract shall contain at least the provisions concerning (...) Force majeure (...)
Material Adverse government action .	No
If yes, please provide the relevant	n/a

legal/regulatory/standard contractual provisions (if any):	
Change in the Law.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Refinancing.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 4(4) of the PPP Act: PPP Contract shall contain at least the provisions concerning (...) financing and refinancing (...)
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Article 13 (1) of the PPP Act as well as Article 8(1) of the Regulation provide a general rule that relevant provisions of public procurement legislation shall apply accordingly on the procedure of choosing the private partner for PPP projects (or concession law, where applicable). Furthermore, Article 13(2) of the PPP Act provides that provisions of public procurement legislation regulating subcontractors and association of bidders and joint proposal regulating the obligation to specify a part of the contract to be executed by each member of the association of bidders and the issue of paying a member of that community, shall not apply.</p> <p>However, there are no particular provisions regulating subcontracting (or replacement of subcontractors) that may occur once a PPP contract is awarded (and executed). Moreover, subcontracting or replacement of subcontractors during the life of a PPP contract is not expressly envisaged as a significant (material) change of an approved PPP project, as are the changes which affect (i) the purpose and subject of the approved PPP project; (ii) conduct of commercial activities in accordance with the purpose of the PPP project; (iii) a division of risk that is not consistent with the change of remuneration; (iv) envisaged the contract period of the PPP project (Article 7 of the Regulation).</p>
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard	Article 4(4) of the PPP Act: PPP Contract shall contain at least the provisions concerning (...) procedure of dispute resolution between the parties (...)

contractual provisions (if any):	
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	Croatia is a signatory of ICSID convention. Article 31 of the PPP Act: (1) For disputes between the parties arising from PPP contract, parties can agree upon arbitral dispute resolution or mediation before some of the mediation centers. (2) In the procedures referred to in paragraph 1 of this article, the law of the Republic of Croatia shall apply. (3) If parties did not agree upon the arbitral dispute resolution or mediation, exclusive jurisdiction shall have the Commercial Court on whose territory the real estate, from article 2 paragraph 1 of this Act, is situated.
48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Arbitration Act, Article 39(1): The court shall enforce a domestic award, unless it establishes the existence of grounds for setting aside provided by Article 36 paragraph 2, subparagraph 2 of this Law.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Arbitration Act, Article 40(1): A foreign award shall be recognized as binding and shall be enforced in the Republic of Croatia unless the court establishes, upon a request by the opposing party, the existence of a ground referred to in Article 36, paragraph 2, subparagraph 1 of this Law, or if it finds that the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made.
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Croatia is signatory of both ICSID and the New York Convention.
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of	No

a PPP private partner (SPV) in financial difficulty prior to insolvency?	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
50.1. If yes, which of the following options best describes the lender step-in right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant	n/a

legal/regulatory/standard contractual provisions (if any):	
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Article 4(4) of the PPP Act: PPP Contract shall contain at least the provisions concerning (...) Settlement of mutual relations in case of previous termination of contract (...)
Unsolicited Proposals	
34. Are unsolicited proposals in Croatia: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	Yes
Explicitly allowed by the legal framework?	No
Not regulated by the legal framework, but do happen in practice?	No
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	No
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	Article 9 (1) PPPA act says that only public body is exclusively authorized to propose PPP projects.
35. Does the procuring authority conduct an	n/a

assessment to evaluate unsolicited proposals? (if not, skip to question 37)	
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.	n/a
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	n/a
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding	n/a

with the unsolicited proposal?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	n/a
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	n/a
39.3 Bid Bonus.	n/a
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	n/a
39.5 Other.	n/a
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a