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Fighter aircraft acquisition in Croatia: failure of policy delivery

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ABSTRACT

The possibility for Croatia to obtain new fighter aircraft is not new, as this option has been publicly debated for at least a decade. A sudden decision to advance the acquisition of a limited number of fighter aircraft was made in 2017 with an international tendering process concluding in early 2018. Through open source material, this paper will look at this procurement process by examining the relationship between policy and strategic thinking on the one side, and policy delivery on the other, and evaluate why the tendering process failed in achieving envisaged results. The paper concludes that the problems facing the Croatian aircraft acquisition process stem from at least two interrelated factors: firstly, at the operational level, the failure of the procurement was the direct result of mismanaged tendering procedures linked to the wider public administration reform process; and secondly, at the strategic level, inherently complex civil-military relations and related cultural aspects which have not been adequately addressed over the past decades. The result was a failure to deliver on government policy, something which this paper argues will need to be addressed over the medium to long term.

KEYWORDS

Croatia; acquisition; procurement; offset; fighter aircraft; effectiveness; civil-military relations; culture

Introduction

Croatia is now a NATO member state and fields an Armed Forces some 15,000 strong. Through a variety of processes such as the NATO Defence Planning Process (NDPP), NATO has assisted a serious and systematic effort to modernise the Croatian Armed Forces (CAF), and replace outdated Yugoslav weapons as well as other systems imported into the country during the liberation war 1991-95.¹

However, the country's economic situation has been a major detriment to these efforts. Over the past decade, i.e. since 2006 the defence budget has been in decline from 1.6% of GDP to the current 1.2% of GDP.² While this is in line with trends across Europe, inappropriate distribution of funding within the defence budget means that less than 10% of the approximately \$750 million budget is allocated to procurement.³ This has allowed for some modernisation effort in lower cost items such as artillery and APCs, as well as ad-hoc acquisitions such as US military surplus (excess defence articles--EDA) Kiowa helicopters, but more expensive systems have taken longer to approve.⁴ One example is certainly the procurement of new fighter aircraft, which would cost anything between \$600 million to \$1.2 billion

in initial costs, alone taking up the bulk of the annual procurement budget over a 15-20-year period.

In 2017 Croatia decided to address the requirement for a replacement fighter aircraft and an international tender was launched shortly thereafter. The whole process came to an abrupt end in early 2019 when an Israeli delegation informed the Croatian Ministry of Defence (MOD) that it was not able to deliver on its \$500 million F-16 Barak offer which had won the tender.⁵

Unlike the modernisation of other CAF service branches, the issue with the Air Force is more complex as any decision not to obtain new fighter aircraft would be seen by the Croatian leadership as a major downgrading of this branch, with only lighter aircraft and helicopters remaining. However, as this paper will argue, this argumentation is overly simplistic and should be explored further, especially considering the scare financial resources available and other possibilities being available.

This paper will examine the procurement process from both a broader strategic and operational perspective and attempt to answer relevant questions, most importantly the fundamental reasons for the failure of this procurement process in early 2019.

Strategic thinking

The starting point for any question relating to strategic acquisition must rest with national strategic documents. Taking the classical US Lykke strategy model, it should answer the question how (*ways*) governments will use available resources (*means*) to address their stated or desirable objectives (*ends*).⁶

The Croatian National Security Strategy⁷ (2017) document, as the most recent and highest-level policy document, should provide insight into long term strategic thinking and policy options at any particular time and should reflect environmental (neighbouring and global) issues as well as domestic budget/resources concerns.⁸

According to the *National Security Strategy*, the likelihood of serious security threats to the country is limited, mainly arising as part of limited border security disputes.

Regardless of the complexity of the security and political situation, owing to the existing and foreseeable political and security circumstances, and with the guarantee of national and collective defence, **the likelihood of a direct conventional military threat to the Croatian territory is very low**, yet it must not be ignored or rather dismissed due to the possible major ramifications of such an event. **Unresolved border demarcation issues** with particular neighbouring states could have negative impacts on the effective control of state borders and control of Croatian territory.

This policy statement has an inbuilt contradiction. On the one side it states that the possibility of conflict which would require the use of armed forces is low, while on the other it states that border issues are a security concern, which would in most cases be dealt with by internal security forces. It is therefore difficult to see how the procurement of F-16 fighters is directly related to the latter unless a broad justification is applied.

Procurement of F-16 multirole fighters could only fit under the listed national security **strategic aims** found in the document (page 18); one of which is to “*Develop and maintain a strong and active defence.*” Specifically, it is stated (page 25):

The control and protection of Croatian airspace will be carried out by means of national capabilities integrated with the appropriate allied system. The decision to continue building the capability to control and protect Croatian airspace will be made by the end of 2017.

This rather vague and brief statement says that Croatia needs to have its own capabilities to control its airspace. So, a political decision, as an important component of all strategy is clearly implied in this policy document, echoing Clausewitz' famous dictum, "War is merely the continuation of policy by other means." This provides the opening door for possible procurement of new fighter aircraft – although it is not clear "which threat they would address" apart from air policing duties.

Another key document is the overall Long-Term Development Plan (LTDP) 2015-24⁹ which provides a declaratory or desirable planning framework for a 10-year period. This MOD-led document states:

While the Republic of Croatia could be indirectly affected by possible regional conflict, within the context of current strategic circumstances there is no threat of armed aggression on its territory

This slightly older document which was drafted in 2014 provides an optimal date by which a decision on the aircraft procurement programme should be made. As the Soviet era MiG-21 fighters will need to be retired at the latest in 2024, the LTDP argues a decision either way will need to be made in 2016, which is a year earlier when compared to the National Security Strategy, indicating a postponement in the decision.

In terms of methodology, the latest LTDP shows signs of improved thinking and planning.¹⁰ Specifically, it shows light evidence of resource-constrained planning, which is an advancement from the previous LTDP in terms of being more realistic and achievable. However, in reading the few strategic documents available, it remains difficult to find justification for the new fighter aircraft. For the few times they are referred to, it is as if they are parachuted into the documents based on thinking guided only by procurement requirements. By adopting the widely regarded "Ends, Ways and Means" strategic model, we fail to get a sense of the ways in which the ends will be met, creating a gap in strategising and planning, as shown in Figure 1.¹¹ The Croatian case reinforces the notion that "ways" simply implies where *means* should be allocated.

According to Jack Treddenick, to address the gap, the government can either pretend the gap does not exist or revisit some of its thinking, including thinking on national

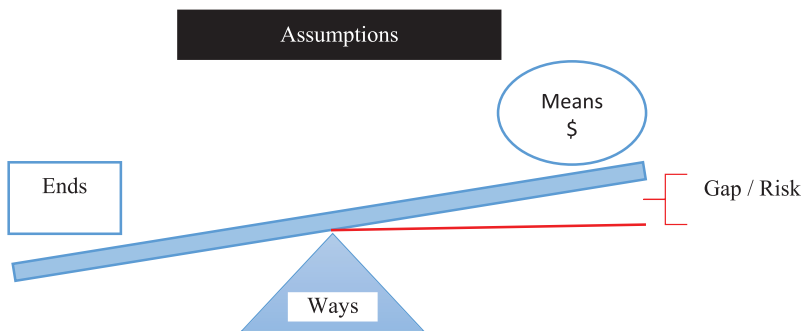


Figure 1. Defence gap.

security, thinking on force structure or, if consensus exists, increase defence spending and close the gap.¹² Assumptions are made for each of the three elements in the Figure 1 and how they relate to each other. As such, the defence planning and acquisition process is vulnerable to mistakes which can be made at each stage of the process, exacerbated by weak evidence-based planning.¹³ The problem with Croatia is that we do not see from available sources clearly what capabilities are being addressed, as there is a visibly inconsistent mix of ad hoc activity and strategic thinking, especially when it comes to acquisitions based on evidence-based prioritisation. For example, while the National Security Strategy clearly supports the NATO “Sharing and Pooling” concept, and while the LTDP gives importance to values such as “affordability” in defence prioritisation, there is little evidence these were seriously considered when deciding on the future development of the Air Force as opposed to significant security requirements on the Adriatic Sea.

The lack of more extensive analysis and thinking related to all aspects of fighter aircraft acquisition including doctrine, indicates that the *means* are inadequately addressed, and the likely risk is therefore increased. Reflecting on the overall process applied, several examples of risk must be highlighted as they exemplify many of the arguments in the paper:

- Entering risk by clearly ignoring or snubbing clearly communicated American advice that the Israeli transfer would not be approved by the U.S.
- Following the tender failure, the Defence Minister publicly lobbied that instead of 12 older aircraft he now preferred 6 new aircraft, which represented a major change in operational capacity and questions the desirable objectives i.e. capability requirements of the CAF / Air Force, reinforcing the above note about inconsistency;
- Lack of evidence that the overall (lifespan) financial implications of this procurement have been adequately assessed, thus minimising the long-term gap and/or risk.

Finally, it is important to view these strategic documents in the context of the overall planning capacity within the subject of public sector management. Overall, it can be argued that while there is room for improvement considering the above arguments, the quality of MOD planning has seen some improvement when compared to many other government entities.¹⁴

The time factor: why the rush?

Defence procurement exercises are relatively complex undertakings for any nation and the high frequency of failure serves as confirmation. In this sense adequate preparation and due process is required to guarantee successful delivery and subsequent implementation. For this reason, it is interesting to look at the most likely reasons for the timing related to the hasty decision to initiate the tendering process, which directly impacted the quality of the action and ultimate negative outcome.

At least *three factors* could have impacted the decision in 2017 to move quickly on procurement.

The most basic reasoning is that the timing was simply based on forward planning and strategic documents. An alternative justification can be the recent U.S. pressure to increase defence spending within NATO to the required 2% of GDP which Croatia is not fulfilling.¹⁵ However, minus clear evidence, both of these scenarios are unlikely especially

considering the strategic importance and related costs of the acquisition in question. A third justification could be found within the regional security dimension, i.e. the decision of Serbia to modernise its Air Force, primarily by acquiring a small number of MiG-29 fighters from Russia, with a contract value of just under \$200 million.¹⁶

Croatia at the moment operates a very small number of Soviet era MiG-21 fighters which are long overdue for retirement and do not offer any real NATO level compatibility, not to mention the costs and risk factors in flying them. So these aircraft are due for replacement if indeed Croatia wants to maintain this service branch. However, outright procurement of fighter aircraft was not at the top of policy priorities with only vague and sporadic political statements made up until late 2016.¹⁷ At the operational level the MOD did pursue analysis and several queries were sent out as early as 2012.¹⁸ Up to late 2016 it appeared that a variety of options were on the table, although acquisition of aircraft seems the preferred option, backed up by the National Security Strategy.¹⁹ As noted above the uncertainty in the decision making is clearly visible by comparing the two strategic documents, in which dates for any final decision relating to procurement of fighter aircraft moved from 2016 to 2017.

It was not until late 2016 when Serbia announced the procurement of a limited number of reasonably modern Russian MiG-29 fighters that Croatia started looking at this issue more seriously with a view to a final decision which was made in early 2017.²⁰ Taking this timing factor into account, it can be argued that Croatia did link its decision making to some extent to the regional security perspective, specifically the Serbian re-armament and modernisation initiative.

The argument presented is that the “rush to acquire” was *the first sign of a “fault” in the process* which was carried out in haste in a country with little capacity or experience to properly engage in a complex procurement process.²¹ The many questions over the management of MiG-21 fighters and Mi-8/17 helicopters by Ukraine past few years, including the delay due to the Crimea crisis, was one further reason for those deciding on any new procurement exercise to be cautious and limit risk gaps to an absolute minimum.²²

If strategic thinking is about “control” and “controlling the environment,” then this hasty decision implies there was limited strategic thinking on the Croatian side, rather a *reactive decision* was made by a centre right government, not least to appease various domestic factions.

NATO requirements

Before looking at the procurement process, it is useful to look at other policy and strategic options Croatia faced before making the decision to initiate a procurement process. This is something the LTDP states when it hints that a final decision will have to be made in 2016, implying that other options are also possible.

Croatian membership in NATO in 2009 relieved the pressure to modernise its Air Force, which in terms of modern combat effectiveness was “non-existent” due to fielding of obsolete Soviet MiG-21 fighters. However, what was required was a capacity for air policing which is defined as a peacetime collective defence setup, safeguarding the integrity of the NATO Alliance Member’s airspace, something which is at the very heart of NATO’s founding treaty.²³ But what does this mean for Croatia and its oft debated fighter procurement requirements?

The reality is that while all NATO member states contribute in some form to NATO's air policing peace-time collective defence requirements, this is not only through making fighter aircraft available.²⁴ Other options include the use of national aerial surveillance systems, air traffic management or other air defence measures. In this sense the air policing requirement was clearly overplayed by the MOD and the procurement lobby as the only option available.

Other possible options include bilateral agreements with neighbouring states and/or other types of security provisions, especially within the NATO collective security framework. Under NATO regulations, alliance air forces must have at least two fighters on 24/7 readiness. Alternatively, allies lacking a fighter component can seek multinational solutions to guard their airspace or joint air policing might be agreed, such as in the case between the Czech Republic and Slovakia.²⁵ Slovenia is a good example of a small neighbouring state, which has the means to procure aircraft, but has decided to use the NATO mechanism through air policing agreements with Italy and Hungary.²⁶

Although collective defence is at the core of NATO thinking, the inherent memories of the 1991-95 war in Croatia could partially justify a lack of appetite to rely on others for defence. However, an alternative option could have been the lease of combat aircraft, which was done by Slovakia and Hungary in opting to lease Swedish JAS-39 Gripen fighters as interim measures based on cost factors.

Considering the low to medium threat another option for consideration would be to lower some operational demands and consider advanced lighter multirole aircraft such as the European latest twin engine Alenia Aermacchi (Leonardo) M346FA or the supersonic South Korean KAI T50 both of which could provide air policing and many other roles envisaged for the Croatia Air Force.²⁷ Several countries have recently developed such aircraft models which offer more than sufficient operational capability in various scenarios and are seen as a viable and cost-effective solution.²⁸ An example is Argentina, a country several times the size of Croatia, which is replacing its 1990s A-4AR Skyhawks for air policing roles, with both of the abovementioned aircraft being seriously evaluated.²⁹

The role of civil-military relations: “ask a general are more guns desirable”

Civil-military relations provide a strategic context within which all of the decisions and actions operate, especially in small states such as Croatia. This is recognised within the Croatian National Security Strategy (2017) as a core value which focuses on building a high degree of citizen trust in the CAF, and ensuring social responsibility as well as civilian control and oversight. Any analysis of defence issues must ideally start from this perspective, which provides important underlining clues as to the issues at hand, including important decision making and management processes.

While civil-military relations focus in most cases on civilian control, they also have an impact on policy effectiveness, a notion presented in Samuel Huntington's *The Soldier and the State* (1957). A related argument is made by David Lake (1992) and Reiter and Stam (2002) when arguing that modern democracies are more likely to win wars due to their accountability to voters i.e. citizens.³⁰

This paper does not attempt to enter this debate but does propose that Croatia's recent military history and its impact on civil-military relations does have a role to play in providing for an environment which should in one way or another impact effectiveness.

Contrary to Huntington's "objective control" factor, in the case of Croatia the military does not generate optimal effectiveness, as shown in this aircraft procurement exercise. Short term limitations stem from a lack of a "military" culture in Croatia reflected at the very least in the very few numbers of civilians engaged or interested in defence and security issues.

The role of culture is well documented globally and exemplified by writings of people such as Edgar H. Schein and Peter Drucker, the latter often being credited by the famous quote "culture eats strategy for breakfast." As such, culture must be recognised as a critical contributor to organisational effectiveness in Croatia, especially considering "weak" institutional capacities.³¹ In the existing environment, culture will play a fundamental role in explaining Croatian defence thinking and the current procurement programme is no exception.³² The War of Independence 1991-95 resulted in the emergence of some aspects of national security thinking, but this was largely kept alive by war veterans' associations and the centre right political elite.

While it is accepted that culture has positively shifted within the Croatian defence sector thus affecting civil-military relations, there is still evidence of the "old" culture like in most other Central and South Eastern European countries.³³ For example, while there has been a visible reduction in the degree of secret or classified defence acquisition (allowed under the Law on Public Procurement 2016³⁴), this degree of openness can still be improved as there were complaints about transparency relating to this procurement from several local experts and the media.³⁵ After all, as Kopric (2017) argues public administration reform, of which procurement is a constituent part, "has been a component of wider societal changes of post-socialist transition."³⁶

Looking at the Quinn and Cameron (1999) *Competing Values Framework*, one can define the prevailing culture being a mix of hierarchical and clan.³⁷ Fitting this into the Geert Hofstede culture model, we can state that Croatia is dominated by a culture which prefers collectivism and large power distance characterised by centralisation and employees expecting to be told what to do.³⁸ This includes the very important **uncertainty avoidance factor**, with Croatia scoring 80 as compared to the EU average of 70.³⁹ In other words, in an environment where work relationships are built on the belief that confrontation is too risky, and that going along with the flow and pleasing those in positions of authority is the best way forward it, is difficult to envisage an entirely impartial procurement process.⁴⁰

Furthermore, we can add that the culture's factor extends beyond the military into other associated structures, professional bodies and the wider public sector which should have – considering the overall public importance – been more engaged and constructive in evaluating and proposing options which would no doubt have led to improvements in the overall acquisition process.

Independent civilian or academic capacity in Croatia for expert debate on defence issues is limited, relying only on a handful of actors. Worse still, there are limited university level academic study programs available on the subject, and few have opted to address defence issues through associated programs such as international relations or economics. An analysis of civilian-led defence debate on this issue, mostly through the daily media, reveals its inconsistent quality with most voices favouring the procurement of new aircraft.⁴¹ Moreover, most importantly co-operation with civilian universities is weak and not holistic.⁴² For example, the subject of procurement discussed in this paper is seen

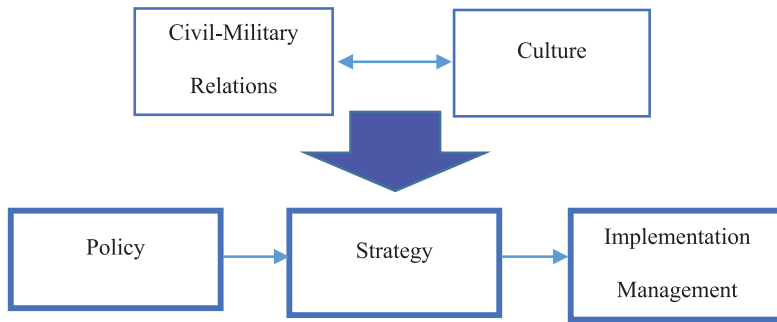


Figure 2. The problem tree.

as a defence issue, rather than a public management issue, which is a fundamental fault as this paper has argued.

As a result, issues of defence are largely seen as the “ownership” of the Ministry of Defence and the Armed Forces. Very often this will be augmented by current or former defence officials making public statements or being asked for opinion on defence matters.⁴³ Thinking on issues such as procurement is discussed largely within a group of personnel who will have a natural tendency to support defence spending, with few exceptions.⁴⁴

Hence, the ramifications of such a situation go beyond the issue of a quality public debate. They directly impact the quality of defence-related thinking and operational decisions such as complex procurement processes which lack transparency, whole of government thinking, and availability of appropriate expertise, as argued further below. **Figure 2** depicts the importance of civil military relations and prevailing culture upon the overall defence process from the strategic to the operational levels. *This state of affairs will limit the effectiveness of defence related actions in Croatia for the foreseeable future.*

The procurement processes: a military exercise?

The overall procurement process can best be characterised as a military and public relations exercise rather than a genuine public sector procurement exercise. Emphasis was on military capability rather than financial aspects and strategic economic possibilities which such an acquisition could offer. Finally, communications management by key stakeholders created an illusion that this was a done deal which was well under control. So, where and why did the process malfunction?

This brings the subject of public sector management into the spotlight, as this procurement exercise, as any other, is firmly part of this subject matter. While this paper has no intention to enter this broader debate, the quality of human resource management is a key pre-requisite for an effective and efficient organisation, and Croatia is no exception. This will include competencies of civil servants, including specialist skills and know-how relevant to subject areas such as long-term planning and complex procurement procedures.

According to the latest Croatian Strategy of Public Administration Development 2015-20, “in-house training is not being estimated in any objective manner” and “provision of public administration related education and training needs to be improved in line with a new competency framework which is yet to be developed.”⁴⁵ The recent Strategy for Public

Administration 2018-20 document (objective 3) reinforces the need for improved competencies among civil service employees.⁴⁶ This would to a large extent explain the state of public sector in Croatia and the failure to deliver on this complex acquisition process, which Kopric (2017, p. 368) termed “muddled governance” concept and originally developed among other by Charles E. Lindblom (1959).⁴⁷

Looking at regulatory provision for public procurement formally, there is an array of documents formally addressing public procurement. The primary document is the Law on Public Procurement 2016 and most recently the Regulation (bylaw) on Public Procurement in Defence (2018).⁴⁸ In terms of ensuring internal capacity for the application this complex regulation and related processes, the Strategy for the Development of the Public Procurement System clearly envisages the delivery of adequate training and other means to ensure civil servants possess the required know how.⁴⁹

According to Transparency International, Croatia has improved its defence procurement system to a more regulated and transparent model, although it also makes clear that there is room for improvement.⁵⁰ There is no doubt that efforts were made to make this procurement exercise a *par excellence* model. However, *inherent weaknesses within the system* worked against this notion. The *first weakness* rests at the strategic policy and design level, reflected in this being largely a MOD exercise. The *second weakness* lies at the operational level and concerns the insufficiently robust risk mitigation mechanisms to be administered during the tendering processes. Both weaknesses are inherent within the prevailing “culture” and will not be easy to resolve in the short term. Let us address them in turn.

Single agency exercise

Formally, or *de jure*, this was a multi-agency exercise at all levels. At the operational level, a multi-agency special committee was set up to administer the procurement, consisting amongst others of representatives from the Ministry of Finance, Ministry of Economy, and the intelligence services. At the highest level it is the government which ultimately approves the purchase. Considering the public interest, the process was run relatively transparently if compared to previous practice, i.e. it included an assessment of potential senior level “conflict of interest.”⁵¹

However, in reality, *de facto*, the whole process was largely administered by the MOD. The special committee gave its recommendations to the country’s Defence Council, which then made the final recommendation to the Government. The presentation on the winning bidder and its defence was made by the MOD alone, with little visibility of other ministers despite the significance of this transaction for a small country.⁵²

Best practice dictates that because procurement (as a subset of defence acquisition) is expensive and complex, it should include a variety of personnel and expertise.⁵³ Indeed, the latest Ministry of Public Administration Strategy (objective 1) confirms the need to improve horizontal work across the Croatian government as a priority.⁵⁴ Considering the size of the investment and possible broader business and/or scientific opportunities, this was a missed opportunity for Croatia to take advantage of the procurement process to get some value added in the form of return investment ideally through a carefully managed indirect offset package, which should have been a critical selection criterion in the fighter aircraft evaluation.

US objections

For the Israeli sale to go forward, the US demanded that Israel remove the indigenous systems installed on the F-16s and return the jets to their original condition before transferring them to Croatia. Up to late 2018 all seemed to be running smoothly with the Israeli F-16 Barak offer, which won the Croatian tender earlier that year, beating US, Greek and Swedish offers primarily due to low price for indigenously upgraded aircraft and a solid supporting logistical package with state level guarantees. First public reports of problems however began to emerge in early December 2018.⁵⁵

According to Croatian sources, the US originally gave assurances that the sale was possible with several Croatian officials stating the Israeli offer included a letter from the US certifying the possible sale. Washington, on the other hand, accused Jerusalem of selling the F-16 fighter jets equipped with new and sophisticated Israeli made electronic systems, so as to give an edge compared to the US offer. Moreover, the US has stated that objections to the Israeli sale were repeated several times to the Croatian government.

Although the truth possibly lies somewhere in between, this does not change the paper's main argumentation.⁵⁶ While it is impossible to get all the details, it is standard procedure that countries and organisations need to protect themselves from such occurrences through strict risk mitigation strategies. Considering the recent Croatian experience with Ukraine, it is highly surprising that Croatia did not invest more effort in this direction, through the application of a lessons learnt process.

Procurement risk mitigation

There is no doubt that some effort went into this tender, at least at the operational level, within the short space of time available due to political pressure, which cannot be ignored as a powerful influencing force seriously undermining the administrative capacity of the system.⁵⁷

Operational level personnel engaged in the “tender design” did indeed visit several relevant countries to learn from their experience, carefully studied tendering procedures and external assistance was provided. Even the Chairman of the Defence Committee of the Croatian Parliament Igor Dragovan (opposition MP) stated that “the procurement efficiency of the Ministry of Defence, managing highly complex procurement deals, should serve as a model to other government bodies, also in view of its public dimension and transparency for the fifth consecutive year, and also praised the excellent co-operation between the Parliamentary Defence Committee and the Ministry of Defence.”⁵⁸

Ultimately, most tenders fail at the operational or technical levels and this is the case here as well. The specific issue is that operational level processes were clearly not sufficient to secure the expected result, which is the delivery of the selected aircraft. Either the required input was not sufficient, or the selection committee did not follow set procedure, or most likely a combination of both.⁵⁹

The key objective of defence procurement is to obtain value for money (VFM). The tender that offers best VFM will not necessarily be the tender which offers the lowest price. Defence officials need to assess which tender has the best offer strictly adhering to an agreed evaluation criterion – including price and equally importantly risk.

The problem stemming from US objection to the Israeli sale may have uncovered at least one serious flaw in the tendering process. The lack of adequate risk-mitigation mechanisms meant that a measure which is designed to protect the home buyer and reflect standard operating procedure was not administered adequately, having an adverse strategic impact. The same can be said for the earlier MOD overhaul agreements with Ukraine.

The EU operates procurement standards, as does the OECD, via its Indicators of Procurement Risk 2009 document. Under UK/EU procurement guidelines, “capability” refers to the supplier’s ability to fulfil the tendering requirements and should be determined during the supplier selection, i.e. early stages of the process.⁶⁰ Considering this was an international tender, it might be useful to look at one of the more advanced tendering standards, operated by the Australian Government, noted in the *Defence Procurement Policy Manual* and the *Tender Evaluation in Complex Procurement: Better Practice Guide 2017*:

The Procurement Rules require that Defence ‘should consider risks and their potential impact when making decisions relating to value for money assessments’ (CPRs paragraph 8.2). Accordingly, evaluation teams need to ensure that the tender evaluation includes an assessment of the level of risk associated with each tender. Insufficient information or lack of clarity in a tender will have an impact on the assessment of risk and, as a consequence, the robustness of the evaluation.⁶¹

Croatia should have been aware that the Israeli offer was based on “third party technology transfer” which has been a well-known issue for decades and Israel being an established supplier of modified US and other defence equipment.

Last, but not least, it seems the Croatian side was well aware of US objections; but did not take them seriously, possibly hoping a political solution would be found based on good US-Israeli relations. According the Croatian Prime Minister,⁶² the risk was the responsibility of the supplier side, i.e. the Israelis:

There is no pressure for the Croatian side ... No indications existed that a problem will arise. Any risk or responsibility for obtaining US approvals, which has to go to Congress, lies with the Israeli side. Croatia moved in good faith in line with procurement procedure and this matter is strictly a matter between Israel and the US.

Contrary to the statement given, which was clearly a political statement for domestic purposes, this paper argues that risk was indeed on the Croatian side, should have been managed in line with procurement standards and that it was indeed in Croatia’s direct interest to assure its own process would deliver expected results. It is Croatia that is at a loss if this deal does not move forward, both in terms of opportunity, as well as resource, costs. This falls within the risk mitigation chapter in any such tendering and contractual procedure, and obviously this part of the process was overlooked.

Finally, what is not clear is the requirement that the offer have a “government-to-government” stamp on it, i.e. be guaranteed at the state level, which only the Israeli offer provided according to Croatian interpretation. This requirement in reality means very little, as subsequent events have shown. It could be argued that an offer which is directly made by a large and credible company, naturally with state-backing and approval, would have been more flexible and hence more viable, offering better VFM.

Accountability

During the NATO accession process, Croatia established a reasonable framework for formal or state-level accountability. This includes parliamentary and judicial accountability mechanisms.⁶³ The focus here is on individual-level accountability, including state officials, as this directly impacts the decision-making and management process.

The subject of accountability should not be analysed from a “western” viewpoint, as such a “robust” mechanism might call for direct responsibility, especially in terms of failure to deliver on policy. Rather, accountability or at least in terms of expectations, should be addressed from a Central and Southern European post-Communist mind-set, which is, as noted above, characterised by a culture of risk avoidance and top down centralisation, *de facto* meaning an *accountability vacuum*. It results from an intentional “process structure setup” whereby everyone is responsible and hence no one is responsible. In the case of the procurement process, it was the expert team and the special committee which had operational (and technical) responsibility at the mid- to senior-level and can thus be said to be accountable for the process. However, each document, including the procurement methodology was approved at the senior-level, which ultimately agreed the final decision. As such they are also responsible and ultimately accountable for any failure.

This is best highlighted by Thomas-Durell Young in his recent paper on post-communist defence institutions:⁶⁴

By any objective measure, defense institutions in Central and Eastern Europe have all but universally been incapable of producing viable defense plans that are based on objective costing and operational planning data. This situation exists in spite the provision of considerable Western advice and assistance, let alone reporting to and receiving assessments by NATO’s International Staff under Partnership for Peace, as well as via the integrated defense planning and reporting systems.

Indeed, the same has been noted in the classic work by Edmunds, Cottey and Forster (2006) on civil-military relations for more than a decade⁶⁵ when they say: “One of the most significant challenges facing reforming defence institutions in CE Europe is the distinct problem of establishing effective control over defence policy.” As such, no accountability should be expected from the failure of this tendering process. Indeed, the most senior Croatian leadership is quite clear on this subject matter when they state that “all responsibility is on the Israeli side.”⁶⁶ Lack of accountability, at its minimum defined as public transparency, is demonstrated by the fact that 6 months after the failed procurement, i.e. by summer 2019, there was no official information released relating to the question why the initial procurement process failed. Moreover, there was no clarity provided on the way forward especially in terms of corrective measures to be taken in any new procurement process, which was initiated July 4th 2019 with the establishment of the second multi-agency special committee tasked to deal with the future aircraft acquisition.⁶⁷

Was a better deal possible?

The answer to this question goes to the core of any tendering process, i.e. the VFM concept. The VFM consist of three measurable parameters: economy, efficiency, and effectiveness. While economy will largely relate to price (spending less) and efficiency to the input/output ratio (spending well), the most questionable in this case is the effectiveness

principle which is all about spending wisely: did the procurement process improve the control and protection of the Croatian air space given “the likelihood of a direct conventional military threat to the Croatian territory is very low,” as stated in the recent National Security Strategy.

What is missing is a capability requirement definition, which is not visible from the available documentation. In other words, what capabilities should the new multirole fighter aircraft have in light of threats, missions and scenarios? If “air policing” is the only real usage of such aircraft, i.e. the ultimate desired result, then one could argue that a low-cost option such as the Israeli offer was the best possible choice, at least in terms of initial costs. However, this argument has many weaknesses. Air policing, which is after all a civilian and not military jurisdiction, can be done by other means, such as the mentioned lower cost aircraft or through collective defence (pooling and sharing) as practiced by other smaller NATO member states. Adding other missions and hence capability requirements to the argument supports the VFM effectiveness parameter, such as supporting Naval and Coast Guard forces on the Adriatic and Peace Support operations with Allies.

The four final offers have been analysed elsewhere.⁶⁸ However, it is useful to look at the Israeli offer in more detail when it comes to the VFM argumentation. Following MOD justification for selecting the Israeli offer, let us look at the selection criteria in more detail:

- (1) It was the cheapest offer at only \$500 million – this argument is questionable once the all-important operational costs over the expected 20 years is factored into the calculation.⁶⁹ Analysis has shown that subsequent operational costs can be as much as 80% of the original acquisition cost, depending on the age of the aircraft and other factors.⁷⁰ Figure 3 clearly shows the location on the chart of the potential procurement of the F-16 Barak and likely increased operational costs.
- (2) Overall life-span costs lower – while the MOD stated that overall “life span” costs savings of the F-16 Barak when compared to the next best offer (the Swedish Gripen) would be approximately 40%, a similar Slovak estimate showed the difference at only 8%,⁷¹ which is not taking into account the fact that the Israeli F-16 Barak is much older than the selected Slovak F-16V latest generation fighter.⁷²

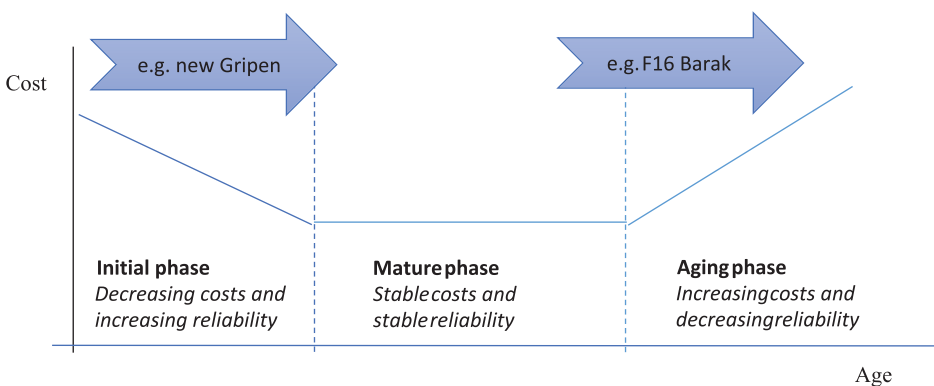


Figure 3. Aircraft “life span” cost estimates.

- (3) It offered the most advanced aeroplanes for the price – this is an accurate statement from the FVM perspective, but only by not taking into account the US request or condition for sale which required Israel to remove some of its avionics and make the plane compatible to NATO standards. Moreover, if all other offers meet the capability requirement then this additional equipment should have not played such an important factor in the evaluation, as other bidders did not appear obliged to provide such modern avionics from reading the technical requirements;
- (4) It was apparently secured by government level guarantees – this does not provide any additional value added when compared to other international contracting options;
- (5) It offered a new strategic partnership, as well as a quality supporting element such as training. As the country is a NATO member state already, this statement is questionable. Moreover, the Swedish offer, resembling a limited offset, was very attractive in terms of technology transfer.

Considering the above, it can be concluded that the tendering documentation demonstrated a lack of clarity which was reflected in the great divergence amongst the offers and resulting in the South Korean side to withdraw mid-way through the process and the Greek offer not to be considered. No doubt the Swedish offer was highly competitive at a reported \$1.3 billion for a newer aircraft, which by all accounts has far lower operational costs and greater resale value compared to the older F-16 Barak which had only a maximum of 3,000 remaining flying hours at best. It is worth noting that Croatia's calculation of 3,000 flying hours would have meant at least 25 years of service, which means that the aircraft could not be used for any overseas deployments in support of NATO or any other operations.

Furthermore, it appears that the selection process awarded few points to offset possibilities and too many points to strategic factors, which is a sufficiently vague category that it questions the entire selected scoring system and eventual outcomes.

Offset possibilities

Offsets are a popular mechanism to get something back from the supplier and are a frequent practice in defence procurement. That is not to say that offsets will automatically guarantee returns, or that they are always cost-effective. To have a desirable positive effect they need to be well planned and managed, which is a serious effort in its own right. Offsets, particularly indirect offsets in the case of Croatia which does not really have a defence industry, could have been an interesting avenue to explore. Hence in this paper, we look at offsets only in terms of a possible option for the procurement process, and do not look at the wider picture of such mechanisms and how they might be implemented or managed.

European policy on defence related to offsets is still regulated by the Treaty establishing the European Community. The most recent is Art. 346 of the Treaty of Lisbon (2009) which protects member states' weapons production and trade from competition rules of the common European market.⁷³ As such the EU has very little real oversight over the offset market and any efforts in this regards are primarily focused toward the EU and its defence industry.

The most recent common European Union attempt to address offsets is the *The Code of Conduct on Offsets* signed by all EU countries (with the exception of Romania and Denmark) in October 2008.⁷⁴ The primary purpose of this voluntary and non-binding code is to promote a “European Defence Technological and Industrial Base” and to outline a road map to arrive to a complete elimination of offset practices within the domestic EU market. However, as this is ambitious, a more realistic target would limit the offset quantity to 100% of the contract value. Hence, offsets still represent an important component of any defence contracting. The average volume of EU offset agreements in 2006 was above 4-5 billion Euro, distribution as: Direct Offsets (40%), Military Indirect Offsets (35%), and Civilian Indirect Offsets (25%).

As such it is surprising that Croatia did not place more weight on the offset factor. All that was required is for the government, i.e. the MOD, to show that this acquisition was of vital or “essential” security interest in terms of its military capability. This is a decision and/or statement which should have been made at the outset of the tendering process, thus making Article 346 TFEU applicable to this particular procurement.

For Croatia, the above-mentioned recent study by a Croatian NGO centre, which looked at this issue noted:

Probably the most poorly regulated area in public procurement for the needs of defence is the area of offset. It is minimally regulated by the recently adopted new Instruction on the Manner and Conditions of the Application of the Offset Program which has been implemented by the Ministry of Defence and the Ministry of Economy, and which has been put into effect at the beginning of 2014. This Instruction has to some extent improved the area of offset compared to the previous regulation but is still inadequate.⁷⁵

Reference must be made to an Offsets Committee, which represents the state in the contracting and implementation of the offset programme. The instruction requires that the committee is appointed by the Minister of Economy. This committee is not mentioned in any communication relating to the procurement of the multi-role fighter aircraft. While it is possible that potential members of an offset committee were included in the committee dealing with this fighter-aircraft procurement, this cannot be considered as equivalent and will not achieve the same effect, as the interests of the two committees are obviously opposing and a prioritisation decision would need to be made at a higher level.

If it is accurate that the Swedish bid was the only one that included what could be termed a light offset arrangement through research and development, as well as related technology transfers, then it can only be concluded that the Croatian side did not value the offset sufficiently in terms of value added.⁷⁶

Future policy options

Considering political commitments made toward acquisition of a new fighter aircraft, it is highly unlikely this Croatian government will reverse its thinking at this stage. As such, the failure of his recent international tender will lead to renewed efforts to acquire a new multi-role fighter aircraft by 2020-23. However, even in this case the Croatian side could pursue several options, as portrayed in [Figure 4](#). Considering the many specific realities which Croatia has acknowledged, in particular time and budget restrictions, while

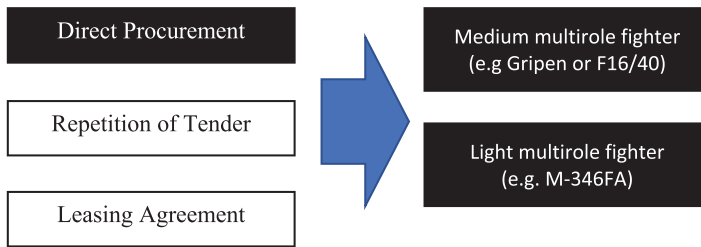


Figure 4. Policy options for Croatian Fighter Aircraft Acquisition 2019.

stating a host of desirable capabilities to fulfil multiple missions, the best option would be direct procurement of a most likely older medium multirole fighter such as the F-16/40 or even the Gripen C/D fighters which Sweden is replacing by the new and larger E version. New aircraft, whilst offering many advantages, are beyond the resources Croatia is able and willing to spend at this time, unless a “special offer” was negotiated most likely with the United States.

In terms of visible gaps in strategic thinking, the more Croatia spends on fighter aircraft the more risk it enters in terms of other priorities, such as the security of the Adriatic Sea, both in terms of free trade, natural gas facilities, strategic bridges (Neum) and tourism development. Hence, serious consideration should be given to lighter multi-role and training aircraft, which can meet most of the CAF requirements at a fraction of the cost.

Leasing modern fighter aircraft is a viable option as well, politically allowing for a win-win scenario. Like Hungary and the Czech Republic there are at two important arguments in favour of this option. First, in terms of strategic threat (e.g. Russia) Croatia has low- to medium-risk which means leased aircraft would satisfy any possible missions and scenarios. Secondly, if the cost factor is an important element in the decision-making process, then leasing aircraft should be considered, which would cost approximately \$60-75 million per annum, depending on the number of aircraft and supporting arrangements.

This current tender has revealed the budgetary limitations for the Croatian government. Hence, a key question will be: which capabilities does the CAF require in terms of the ends it wants to meet over the medium term? The option of offsets could be pursued with more vigour in all the above options but only through the engagement of other government bodies, i.e. the foreseen offset committee.

Concluding remarks

Perhaps Lawrence Freedman’s definition of strategy as “the art of creating power” most credibly describes the ineffectiveness of this and some other Croatian procurement exercises. Strategy is indeed an art which needs to be given serious thought, time and attention.⁷⁷

Let us be clear. There are many cases of failed tenders, or changes in political thinking when it comes to strategic acquisition and procurement. Almost all Central and Eastern European states have had trouble in this subject area, reinforcing the point made earlier by Young – that this process is not easy and is a “skill” yet to be mastered. The paper has argued that when it comes to complex issues such as long-term planning and

defence acquisition, a multitude of interrelated factors come into play to ensure VFM is achieved, especially *efficiency* and *effectiveness*. While this example highlights the propensity for tenders to fail largely for technical reasons, the root cause can very often be found at a more a more strategic level. Specifically, for organisations to prosper long-term, there must be an appreciation of the direct impact of “culture” on performance.⁷⁸

At the operational level, despite some efforts the fighter aircraft procurement process was administered in a poorly manner, showing a lack of satisfactory management capacity. It has been argued that this is a direct result of inherent inadequacies within the public sector management process, which over the past decades had not really addressed core inefficiencies, especially relating to human resource management issues. Taking a more holistic view, prevailing Croatian civil-military relations and the cultural context is negatively impacting any real advancement in defence thinking, including defence acquisitions over the short- to medium-term. These inefficiencies are not unique to Croatia. The country shares many of the symptoms of other recent central European NATO member states which will take time to overcome.

Short- to medium-term solutions to address these issues include, among other, addressing human resource management shortcomings, and increasing transparency by the MOD in line with values and objectives found in above mentioned strategic documents, which would in turn allow for a more strategic and inclusive decision-making process. Longer-term solutions for such a small country are beyond the MOD and government alone and only by taking a holistic view will policy delivery be more successful and provide better VFM.

With all these factors in mind, it is hoped that an adequate investment is made in a lessons learned process, not in the sense of “who is to blame,” but rather to ensure outcomes are more positive in the future, and to ensure desirable delivery of a Government’s policy priorities. This will be a particularly challenging exercise considering the specific role of culture plays in defining the organisational and public sector “scene” in Croatia.

Notes

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