Ex-ante control and market monitoring performed by the Bulgarian Public Procurement Agency

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Public Procurement Law in Bulgaria

- 1999 – The first PPL was issued, which has elements of the European rules;

- 2004 – Full harmonization of the PPL in accordance to the European Directives and Regulations;

- Many amendments and supplements during the years;

- Currently drafting a new framework PPL transposing the new European Directives 2014/24/EU and 2014/25/EU
### Number of contracting authorities/entities and contractors in the Public Procurement Register

<table>
<thead>
<tr>
<th>Year</th>
<th>Contracting Authorities/Entities</th>
<th>Contractors</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>2585</td>
<td>5000</td>
</tr>
<tr>
<td>2011</td>
<td>3217</td>
<td>10000</td>
</tr>
<tr>
<td>2012</td>
<td>4662</td>
<td>15000</td>
</tr>
<tr>
<td>2013</td>
<td>5302</td>
<td>20000</td>
</tr>
<tr>
<td>2014</td>
<td>5674</td>
<td>25000</td>
</tr>
</tbody>
</table>

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![Bar chart showing the number of contracting authorities/entities and contractors from 2010 to 2014](chart.png)

- **Contracting authorities/entities**
- **Contractors**
Number of Public Procurement Procedures according to their object

- **Construction**
- **Supplies**
- **Services**

<table>
<thead>
<tr>
<th>Year</th>
<th>Construction</th>
<th>Supplies</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>1056</td>
<td>3463</td>
<td>2877</td>
</tr>
<tr>
<td>2011</td>
<td>1177</td>
<td>4025</td>
<td>2989</td>
</tr>
<tr>
<td>2012</td>
<td>1552</td>
<td>4679</td>
<td>3888</td>
</tr>
<tr>
<td>2013</td>
<td>1791</td>
<td>5162</td>
<td>4986</td>
</tr>
<tr>
<td>2014</td>
<td>2089</td>
<td>5309</td>
<td>4483</td>
</tr>
</tbody>
</table>
Total number of announced public procedures in the PPR

- Total number of announced public procedures
- Above European thresholds
- With European financing
Number of visits to the Public Procurement Portal

- 2014: 1,823,663 visits
- 2013: 1,801,809 visits
- 2012: 1,522,730 visits
- 2011: 989,300 visits
- 2010: 929,000 visits
Number of contracts and value

Total number of contracts — Value in billions

- 2010: 4.00, 15,755
- 2011: 5.78, 17,579
- 2012: 5.97, 20,813
- 2013: 7.53, 22,779
- 2014: 8.04, 24,872

Value in billions for 2013: 22,779
Value in billions for 2014: 24,872
Monitoring on the Bulgarian public procurement market

- Monitoring over the information to be published in Public Procurement Register
- Validation rules
- Supervising the notices before publication
- CA reminders and ex officio mails
- Percentage of information never sent to PPR
Monitoring on the Bulgarian public procurement market

National rules and additional standard forms:

• Case and procurement unique number (Family of documents);
• Decision for opening, prolongation and termination of a procedure;
• Information about review procedure and complaints;
• Information about completion of a contract or contract terminated before the determined deadline;
• Aggregated information for contracts below the national thresholds on annual basis;
Monitoring on the Bulgarian public procurement market

Imposing additional fields to be completed when publishing information:

• Information about initially estimated value of the procurement;
• Information about European funding;
• Information about Green procurement;
• CA’s and EO’s national identifiers;
• Information about members of a consortia, taken part in a procurement procedure;
Monitoring on the Bulgarian public procurement market

- Publication of contracts – exceptions to the law and obligation to notify the European Commission in pre-described cases;
- Notifying ex-post control bodies in some cases, when the lawfulness of the procedure chosen is not proved;
- Elaborating monthly statistical reports with information about number and value of the procurement, percentage of procedure being challenged before the Commission for protection of Competition and Supreme Administrative Court and also for percentage of successful complaints, etc.
Monitoring on the Bulgarian public procurement market

Feedback – monitoring procedures as a tool for tuning the rules and changes of the legal base:

- Introducing Green procurement;
- Encouraging wider usage of electronic tools;
- Procurement, reserved for disabled people and sheltered companies;
- National thresholds values adjustment;
Ex-ante control - implementation

- from 1 January 2009 г.

- limiting cases of illegal and non-transparent spending of public funds
Directions

- Procedures with European funds
  - all contracting authorities;
  - contracts above a certain value.

- Procedures of Negotiation without notice
  - Contracting authorities under Art. 7 items 1-4 PPL;
  - certain law grounds
Controlling procedures with European financing

- **Purpose**
  - ✔ opening procedures according to PPL

- **Development**
  - ✔ to feedback mechanism
First stage

- within 14 days

<table>
<thead>
<tr>
<th>Contracting authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision project*, notice, methodology*</td>
</tr>
<tr>
<td>Reasons for the selection criteria</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position (Standpoint)</td>
</tr>
<tr>
<td>Recommendations Instructions</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Send to: Contracting authority</td>
</tr>
</tbody>
</table>
Second stage

- within 10 days

**Contracting authority**
- Publication of the decision and the notice for opening the procedure
- Sending methodology for evaluation of offers
- Reasons for the selection criteria*

**PPA**
- Assessment of compliance with the recommendations and requirement of the law
- REPORT

**REPORT**
- Send to:
  - Contracting authority
  - Authorities for the ex-post control according to PPL
  - Responsible authority under the operational program
Characteristics

- Preventive
  - no sanction character
- Two stages
  - before and after opening the procedure
- Fast
  - does not change the duration of the procedure
- External/independant to the contracting authority
  - specialized body
**Common errors**

- Unclear subject and conditions;
- Not equal treatment of participants;
- Disproportionate requirements;
- Unclear and subjective evaluation methodology;
- Non updating/ Non reflecting the changes in PPL.
Results

- Effectively appealed procedures
- Appealed procedures
- Checked procedures
Results

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of checked procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>46</td>
</tr>
<tr>
<td>2010</td>
<td>86</td>
</tr>
<tr>
<td>2011</td>
<td>101</td>
</tr>
<tr>
<td>2012</td>
<td>380</td>
</tr>
<tr>
<td>2013</td>
<td>800</td>
</tr>
<tr>
<td>2014</td>
<td>507</td>
</tr>
</tbody>
</table>
Future plans - development of ex-ante control

- Expand the scope of ex-ante control
- Control on a random basis
- Control over the exceptions of PPL
Future plans

Electronic Public Procurement – stages on place and future intentions

- e-Publication and e-Notification – implemented;

- e-Documentation, Q&A phase – implemented;

- e-Submission – to be implemented until end of 2016;

- all phases to gain end-to-end e-procurement to be implemented gradually until 2020 (incl. e-Invoicing).
Percentage of documents submitted with electronic signature

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>93.97%</td>
</tr>
<tr>
<td>2013</td>
<td>87.91%</td>
</tr>
<tr>
<td>2012</td>
<td>72.59%</td>
</tr>
<tr>
<td>2011</td>
<td>39.00%</td>
</tr>
<tr>
<td>2010</td>
<td>30.95%</td>
</tr>
</tbody>
</table>
Future plans

The Bulgarian Council of Ministers has taken Decision 108 / 19.02.2015 to choose centralized web-based single platform model for development of e-procurement in Bulgaria.

The model is to be realized by acquisition of a unified electronic platform, and it will ensure integration of existing e-procurement systems owned and used by centralized public procurement bodies.
Lessons learned

- Legal basis – not to be changed very frequently;
- To provide methodological guidance and help to CAs;
- To ensure that ex-ante and ex-control bodies have the same rules and follow the same control procedures;
- To keep constant and uncontroversial judicial practice;
- To maintain a Hot line for quick help;
- To provide proper training of end users.
Thank you for your attention!