

PUBLIC PROCUREMENT

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Establish closer co-operation between, on the one hand, the Public Procurement Authority and the Republic Commission for protection of rights in public procurement procedures and the Administrative Court in order to exchange knowledge and information.	2022		√	
Improving the administrative and expert capacity of the Commission for protection of rights in public procurement procedures and the State Audit Institution so that they can effectively monitor the planning and execution of public procurement.	2013		√	
Contracting exemptions from the implementation of the Law on Public Procurement in international agreements with third countries should be significantly reduced.	2022		√	

CURRENT SITUATION

On December 23rd 2019, the Serbian Parliament adopted the new Law Public Procurement Law (RS Official Gazette No 91/2019 and 92/2023), hereinafter: the New Law). The New Law entered into force on January 1, 2020 and started to be applied as of July 1 2020. The law is to a significant extent harmonized with EU acquis, notably Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport, and postal services sectors and repealing Directive 2004/17/EC.

POSITIVE DEVELOPMENTS

The public procurement market in the Republic of Serbia in 2023 accounted for 10,5% of GDP, which is higher compared to 2022, when it was 9,34%. The average number of bids per tender is 2.4, but that is still lower than 2017 when the average number of offers per procedure was 3.5. The number of contracts awarded to foreign bidders is 4%, which is the difference compared to the previous year when it was only 1%.

When it comes to contracts awarded in the negotiation procedures without prior notice their values accounted for 2% which represents a decrease increase compared to previous year.

The value of public procurements that are exempted

from the application of the Law on Public Procurements amounted to about 831.6 billion dinars, of which the largest percentage (38.03%) refers to procurements in accordance with the procurement procedures established by an international agreement or other act on the basis of which an international obligation was created, and which the Republic of Serbia concluded with one or more third countries or its narrower political-territorial units and which refers to goods, services or works intended for joint implementation or use by the signatories

REMAINING ISSUES

In the previous year, progress was made in the field of fight against corruption and integrity in the field of public procurement. To strengthen mutual cooperation, improve the exchange of information and data between competent public prosecutor's offices for dealing with cases of criminal offenses of organized crime, corruption and money laundering and the Office for Public Procurement ("KJN"), an Agreement on cooperation between the KJN and the Republic Public Prosecutor's Office was concluded. The Agreement regulates the manner of cooperation, the means and rules of communication, i.e. the exchange of information and data between the signatory parties to increase efficiency in the detection, prosecution and trial of criminal offenses to which the Law on the Organization and Competence of State Authorities in Suppression of Organized Crime applies. terrorism and corruption. Competent prosecutor's offices that acted on the submitted criminal reports sent their requests to the KJN. The above-mentioned requests mainly require the provision of professional assistance in the consideration and clarification of specific issues in the field of public pro-

curement of importance for the further work of the prosecution, consideration of the regularity of the actions of the contracting authorities in the implementation of certain public procurement procedures, monitoring of the implementation of the Public Procurement Act by specifically designated contracting authorities, as well as the submission of data which KJN has at its disposal.

During 2023, the KJN cooperated with the anti-corruption departments of the Higher Public Prosecutor's Offices based on 21 requests. The requests included a total of 45 public procurement procedures over which the KPL conducted a monitoring procedure, after which the competent public prosecutor's office was informed of the observed irregularities.

Furthermore, intergovernmental agreements with third countries continue to violate the principle of equal treatment of bidders, the prohibition of discrimination, transparency and the protection of competition. The implementation of these agreements is often inconsistent with the adopted solutions in both domestic and EU law. In 2023, the Law on linear infrastructure projects was repealed, which enshined discretionary decision-making, which is good news.

The capacities of the Commission for protection of rights in public procurement procedures and KJN remain limited. Also, the professional capacity of the Administrative Court to decide in complex and numerous cases remains low due to the lack of adequate training.

FIC RECOMMENDATIONS

- Improving the administrative and expert capacity of the Commission for protection of rights in public procurement procedures and the State Audit Institution so that they can effectively monitor the planning and execution of public procurement.
- Establish much closer co-operation between, on the one hand, the KJN and the Republic Commission for protection of rights in public procurement procedures and the Administrative Court in order to exchange knowledge and information.
- Contracting exemptions from the implementation of the Law on Public Procurement in international agreements with third countries should be significantly reduced.