



Module 1. Procurement systems - New Directives, e-procurement, national legislation

Country: Bulgaria



The regulation of public procurements mainly aims at establishing rules to be complied with in the process of spending public funds.

Bulgarian legislation is compliant with the general principle of EU law: transparency, equality, avoidance of discrimination and free and loyal competition.

The annual public procurement's value in Bulgaria is about 1,5 billion EUR per year.

This important share of the economic life is due to public tenders managed by project beneficiaries, including public authorities, business sector and NGOs.

The legislative regulation in the field of public procurement in Bulgaria dates back from 1997, whenever the Law on the award of state and municipal procurement was adopted.

This law has been repealed by the adoption of the Public Procurement Law in 1999.

Effective to present day, the Public Procurement Law (prom. SG No 13/16 February 2016, in force as of 15 April 2016), replacing the version of the law from 2004, has been aimed to implement the new EU Public Procurement Directives (adopted by the European Parliament on 26 February 2014.):

- Directive 2014/24/EU of 26 February 2014 of the European Parliament and the Council on public procurement;
- Directive 2014/25/EU of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors.

Beside the framework law, the new rules for implementation have been drafted and adopted by CMD No 73 of 05.04.2016, prom. SG No 28/8 April 2016 r., which covers in detail the public procurement rules.

The **public procurement law** aims to ensure effectiveness in spending of:

- public funds;
- European funds and programs;
- funds related to the performance of certain activities of public relevance.

public procurement legislation in act

- Public Procurement Act (PPL), prom. SG No. 13 of 16.02.2016, in force since 15.04.2016;
- Rules for the Implementation of Public Procurement (PPP), adopted by Decree No 73 of the Council of Ministers of 5 April 2016; prom. SG No. 28 of 8 April 2016, in force from 15.04.2016;
- Tariff for the fees collected for proceedings under chapter twenty-seventh of the PPL before the Commission for Protection of Competition (CPC) and before the Supreme Administrative Court (SAC) adopted by Decree No 73 of the Council of Ministers of 5 April 2016; prom. SG No. 28 of 8 April 2016, in force since 15.04.2016;
- Ordinance No. H-18 of 8 August 2016 laying down the methodology for calculation of certain costs for the whole life cycle of road vehicles, prom. SG No. 66 of 23 August 2016, in force since 23.08.2016;
- Ordinance on the criteria and procedure for determining the presence of basic interests in the cases under Art. 13 para. 1, item 13, letters "a", "e" and art. 149, para 1, item 2 of the Public Procurement Act, which shall be protected upon conclusion of a public procurement contract or a competition for project, promulgated SG No. 83/19 October 2016, in force from 25.10.2016;



Public procurement legislation in act

- Decree No 191 of 29 July 2016 approving a list of goods under Art. 79, para. 1, item 7 and Art. 191, para. 1, item 6 of the Public Procurement Act. These are commodities traded on a commodity exchange and for which the negotiated procedure is permissible without publication of a notice;
- Decision No 591 of 18 July 2016 laying down a list of goods and services under Art. 12, para. 1, item 1 of the Public Procurement Act, i. goods and services intended for the assignment of specialized enterprises or cooperatives to persons with disabilities or to economic operators whose main purpose is the social and occupational integration of persons with disabilities or disadvantaged persons.

The institutional framework for public procurement covers several bodies:

- the Minister of Finance;
- the Public Procurement Agency
- the Commission for the Protection of Competition;
- the National Audit Office of the Republic of Bulgaria;
- the State Financial Inspection Agency;
- the Supreme Administrative Court.

Public contracts are awarded in accordance with the principles of the TFEU, and in particular with **the principles of free movement of goods, freedom of establishment and freedom to provide services and mutual recognition**, as well as with the principles of:

- **Equality and non-discrimination;**
- **free competition;**
- **proportionality;**
- **publicity and transparency.**

The main means of ensuring publicity in the award of public contracts are the publication of the appropriate information in:

- **the EU Official Journal;**
- **the National Public Procurement Register (RPO);**
- **the buyer profile of the respective assignor.**

Public Procurement Register (PPR)

unified electronic database with information on all procurement procedures in the country with free access

According to Art. 14 of the RIPP each procurement shall be entered in the register under a unique number consisting of three parts as follows:

- first part - the account of the contracting authority;
- second part - year of the decision to open the procedure for awarding the public procurement contract;
- third part - 4-digit number, which is the official number of the subsequent registration of the procurement procedure of the respective contracting authority for the year and is automatically received from the electronic database.

Buyer profile

Employers are required to maintain a buyer profile. It constitutes a separate part of their electronic pages or from another website for which publicity is provided.

The regulation of the buyer profile is in Art. 42 of the Public Procurement Act and Article 24 of the PPPP.

Public Procurement Portal (PPP) www.aop.bg

- centralized information system created and maintained by the PPA
- provides access to data on all aspects of public procurement, systemised in individual thematic areas and oriented to the specific interests of the main consumer groups.
- updated daily

The PPP presents the organisation and activity of the PPA, the legal framework and the practice in the field, as well as useful references to other Internet sources of information. The portal provides up-to-date information tailored to changes in Bulgarian and European regulations and well-established good practices.

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enables free access to:

- Public Procurement Register;
- Methodological Guidelines for PPL application;
- Standard forms of documents used by contracting authorities/entities in the award of public contracts;
- List of contracting authorities/entities;
- List of economic operators registered as contractors of public contracts;
- List of external experts under Article 229 (1) item 17 PPL;
- List of economic operators about which the circumstances under Article 54 (1) item 5, letter (a) and Article 55 (1) items 4 and 5 PPL exist;
- Results from public procurement monitoring performed pursuant to Article 114 (1) item 2 RIPPL;
- Results from the control performed by the PPA ;
- Monthly newsletter about the public procurement market in Bulgaria;
- Other information concerning public procurement.

Both Bulgarian and English versions of the Portal are supported

Public Procurement Portal (PPP) www.aop.bg

The Public Procurement agency created and published on its web site Practical Guide on the Implementation of Public Procurement Legislation.

It is intended for a wide range of persons, including the contracting entities, economic operators (in particular small and medium-sized enterprises) involved in the procurement and procurement process, practitioners and other experts specializing in public procurement.

The content of the management and the way in which it is structured are largely in line with the content and structure of the Public Procurement Act and its implementing regulations.

The main concepts and principles related to the award and implementation of public procurement contracts as well as the current national legislation are presented. It is also noted that the lawful organisation and conduct of the procurement process in many cases implies a good knowledge of the relevant European acts.

Single Information Web Portal | <https://www.eufunds.bg/index.php>

Contains information system for management and monitoring of EU funds, operational programs, open procedures and e-applications, electronic reporting to beneficiaries through the indicative annual work plans.

It contains the applicable national and European legislation related to the structural funds.

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Management Information System (UMIS 2020)

<https://eumis2020.government.bg/>

Beneficiaries - private companies or NGOs - are obliged to procure electronically or at least, to publish the open tenders via the UMIS and to receive bids

With the system the paperwork burden is very much reduced : once the applications are submitted online and no longer in paper.

For each tender there are specific templates which are customized to the needs of the procurer. The template can't be changed by the bidders, which facilitates the analysis to be made.

The usage of UMIS contributes also to an increasing transparency of all acts (legal steps) associated to the public tender, once the information is available to all parties registered within the platform.

Green Procurement

Green Public Procurement (GPPs) are an important tool for achieving environmental objectives related to climate change, resource use and sustainable consumption and production - especially given the importance of Europe's public goods and services spending.

On the portal of the Agency for PP is a detailed information about Green procurement and also a Guide in Green Procurement.

In a practical way, the opportunities offered by the European regulatory framework are explained and simple and effective approaches to the greening of public procurement contracts are addressed. The guidance follows the logic and structure of the procurement process. It also includes a number of examples of green orders.

http://www.aop.bg/fckedit2/user/File/bg/practika/handbook_2016_bg.pdf

Sustainable PP:

This means making smart decisions related to purchases of all kinds - from office supplies to energy suppliers, suppliers and building materials

Mainly application in construction and energy consumption services in public buildings, transport, food delivery and catering, lighting, office equipment.

Sustainable procurement should be a target for any organization as it increases its positive social, environmental and economic impacts.

The new ISO 20400 Sustainable Procurement Guidelines, provides guidelines for organizations wishing to integrate sustainability into their procurement procedures;

Sustainable public procurement is a key aspect of social responsibility

Publications

<http://zopplus.com/author/zopplus/>

Videos

<https://www.youtube.com/watch?v=7sMfT7t9AsM>