

Workshop on European Assistance for Innovation Procurement

Innovation Procurement in Poland

4 December 2015

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Polish public procurement – the practice

- Polish public procurement is a part of EU law, but...
- The Polish practice might be different from public procurement practice in your EU country

Features of Polish public procurement

- Prevailing formal approach of awarding entities
- Almost 300 articles in the Polish public procurement law, secondary legislation, thousands of judicial decisions, many official interpretations
- Focus on avoiding any risk for awarding entity (due to, among others, many audits and formal approach of such auditing bodies)

Disputes in Polish public procurement

- Number of disputes:
2011 – 2820 cases, 2012 – 2942 cases, 2013 – 3044 cases,
2014 – 2775 cases, 2015 – 2371 until X 2015
- Special arbitration court – National Appeal Chamber
- Fast track – approx. 11 days from appeal to hearing,
app. 16 days for the decision

Transposition of the EU directives

- Old public procurement directives effectively transposed into Polish public procurement law
- Selected elements of the new directives have been already transposed (e.g. the exclusion for grave professional misconduct)
- New directives still waiting for the complete implementation
- It is still not decided whether the implementation of the new EU directives shall be in a form of brand new statute (written from the scratch) or through a modification of the current public procurement law
- A draft of new law has been already prepared – however it is subject of strong criticism

Status quo (1)

- Price is the most popular criterion
- Until October 2014 price could be the only criterion in any tender
- In result in most tenders the awarding entities used the sole criterion of price even in case of complicated services or construction works
- From October 2014 price can be used as the sole award criterion only in cases when the subject of the tender is commonly available and the quality standards are established
- The change does not seem to bring immediate effects in practice
- In 2015 open tender is still the most popular procedure (96%)
- The most commonly used criteria (in addition to price) are: time for realization, duration of the guarantee, terms of payment

Status quo (2)

- In only 8% of tenders the criterion of quality was used.
- In 2015 the technical dialogue was used in only 0,22% of cases
- In 2015 the competitive dialogue was used in only 0,05% of cases
- The innovation is very popular topic in media and in official policy
- The practice of public procurement is still behind the official message
- There are only selected examples of using public procurement in order to stimulate innovative economy
- Example: E-Pionier project of PCP (Pre-commercial procurement) initiated by the National Centre for Research and Development
- Still a lot to be done in order to introduce public procurement practices focused on effective promotion of innovation

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an EU perspective

