



# **Green Public Procurement - future of the EU?**

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# AGENDA

- **Background**
- **Legal Framework in Public Procurement**
- **Procurement Errors in EU Projects**
- **Changes in the Directives and "Green Public Procurement"**



# Background

## ➤ **Definition for public procurement:**

Process by which public authorities purchase work, goods or services from companies which they have selected for this purpose

## ➤ **EU Directives:**

Implementation of principles and freedoms established by EU Treaties

## ➤ **Procurement under EU Directives:**

About EUR 425 billion or 3.4 % of EU GDP

# Legal Framework in Public Procurement (1)

- **Initial Directives were adopted in 2004**
- **Need for reforms due to budgetary constraints and economic, social and political developments**
  - **Consideration of environmental objectives**
  - Simpler and more efficient rules for public purchasers and companies
  - Best value for money for public purchases
  - Respect of principles of transparency and competition

# Legal Framework in Public Procurement (2)

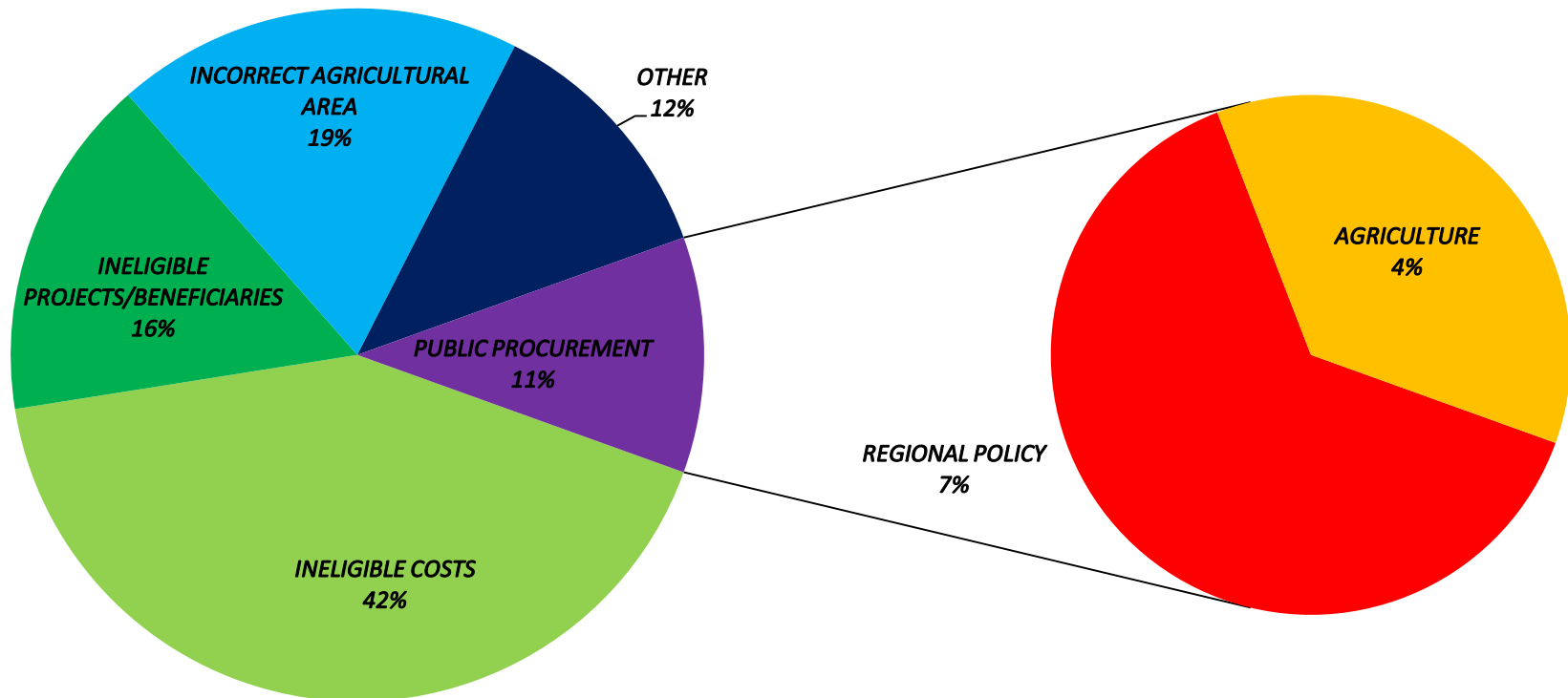
- **Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement**
  
- **Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors**
  
- **Transposition by the Member States in national law**
  - Deadline: April 2016
  - Exception e-procurement: September 2018

# Procurement Errors in EU Projects (1)

- **Main types of irregularities identified by European Court of Auditors ...**
  - Non-respect of publication thresholds
  - Unauthorised negotiation during award procedure
  - Substantial modification of contracts
  - Restrictive selection / award criteria
  - Disproportionate selection / award criteria
  - Lack of transparency and equal treatment
  
- **... leading to lack or distortion of competition**

# Procurement Errors in EU Projects (2)

*DAS 2015: Policy areas concerned*



# Procurement Errors in EU Projects in Croatia

- **Unclear and contradictory public procurement documentation**
- **Superfluous and unnecessary declarations demanded**
- **Expert references usually too demanding**
- **Clarifications and corrigenda often disrupt the integrity of the original documentation**
- **Flawed application of rules on supplementing the tenders**
- **Evaluation not done according to the criteria in the documentation**



# EU Discharge/Budgetary Authorities' concerns

- **European Parliament, Report on Discharge 2014:**

**§73. '... emphasises, however, that the sharp increase of serious errors in the context of public procurement procedures is a matter of grave concern, as Member States have had years of experience with the existing procurement rules, and that if they already face difficulties with these rules, this does not bode well for when they have to adapt national legislation and procedures to the new directives on procurement and concessions;'**

- **Council, Recommendation for Discharge 2014:**

**§10. 'The Council highlights the Court's finding that non-compliance with public procurement rules remains a major source of errors, affecting all spending areas. It recognises the complexity of those rules and welcomes the efforts made by the Commission to address weaknesses in this area. The Council encourages the Commission to aim at further simplification and together with Member States to further strengthen their efforts to prevent errors in public procurement ...'**

# Changes in the Directives - "Green Public Procurement" (GPP)

- **Procurement as policy instrument:**
  - **Environmental objectives** (e.g. life cycle cost and CO<sub>2</sub> footprint)
  - Social objectives (e.g. integration of vulnerable or disadvantaged workers)
  - Pro-innovation (e.g. new procedure for purchase of innovative products)
- **Incentive to develop e-Procurement**
- **Easier bundling of purchases**

# **"Green Public Procurement": Alignment of EU's Financial Regulation**

**Commission reinforced in 2015 the GPP aspects in  
its revised Financial Regulation**

- **Toolkit approach**
- **Clarification of practical implications**

# "Green Public Procurement" reinforced in Procurement Procedures (1)

## TECHNICAL SPECIFICATIONS

- Minimum requirements must always include compliance with environmental obligations (reference to Annex X of the Directive)
- Wherever possible and cost-effective, environmental and climate performance characteristics should be included (e.g. means of transport of goods purchased)

# "Green Public Procurement" reinforced in Procurement Procedures (2)

## EXCLUSION AND SELECTION CRITERIA

- Exclusion of operators having violated applicable laws, including environmental laws (Early Detection and Exclusion System – EDES)
- Certificates of compliance with environmental management systems or standards (reference to the Eco-Management Audit Scheme (EMAS) and/or to recognized systems or standards)
- Criteria have to be respected during all implementation phases of the contract

# "Green Public Procurement" reinforced in Procurement Procedures (3)

## AWARD OF CONTRACTS

- Technical award criteria can cover environmental performance (e.g. possibility of recycling)
- New award method based on lowest cost (i.e. cost-effectiveness approach including life-cycle costing, such as costs of use, maintenance, end-of-life, as well as environmental externalities)
- In case of quality criteria, possible combined award method of best cost-quality ratio
- Rejection of abnormally low tenders due to non-compliance with applicable obligations in the fields of environmental law

# Other Actions

- DG Environment : Dedicated section on website for GPP
- Inter-service group (DG Environment - Circular economy package)
  - Ways to increase the use of GPP in EU funds
  - Ways to reinforce inclusion of green elements in the Commission's own procurement

**Thank you for your attention!**