

OPEN PUBLIC PROCUREMENT IN BIH – SITUATION AND PERSPECTIVES IN THE LIGHT OF INTERNATIONAL STANDARDS

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Open public procurement in BiH – situation and perspectives in the light of international standards

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Background

The term public procurement refers to the process of procurement of goods, services and works by the public bodies that enable them to smoothly function and carry out their tasks as well as execute various projects, which are often major, strategic projects of great value and (public) importance.

(Public) procurement contracts are the most numerous among public contracts that public bodies conclude with private ones, in all economic spheres and sectors (also very important are concession contracts and generally speaking all forms of public-private partnership, contracts on the sale of public assets – privatization and others) and these vary from individual procurement contracts of lesser value to complex projects including the implementation of a large number of contracts.

According to assessments of relevant international bodies, states spend on average on an annual level between 15% and 25% of the gross domestic product (GDP) only on public procurement contracts, which makes them one of the most important, if not the most important, economic activity of the public sector. Consequently, a large amount of money in circulation, the money that goes „from hand to hand“, makes procurement especially susceptible to corruption, in the broadest

sense of this word.¹ This is unfortunately confirmed by numerous negative practices around the world, including high profile cases as well as relevant empirical research.² It is not possible to calculate economic costs of corruption in general, including those in public procurement, in a simple way, but the OECD estimates that corruption increases the price of public procurement contracts on average by 20% - 25%³. In some cases losses constitute even more than 50% of the total contract value.⁴ However, real costs of corruption go far beyond the monetary amount. Corruption jeopardizes competition, leads to bad decisions directing public funds into projects and procurement that do not satisfy the public interest, these are often of much poorer quality and potentially a risk to human health and life, environment and sustainability.⁵

On the other hand, good management of public procurement has a great impact on the economic stability and development. According to Vogel (2009)⁶, savings in public procurement can be directed to concrete macroeconomic benefits in terms of employment and GDP increase, reduction of fiscal pressure and creation of fiscal space⁷. These and related issues of strategic management of public procurement have especially become topical in the recent years, in attempts to find measures to reduce negative effects of, and overcome, the 2008 world financial crisis. Thus, among other things, within global austerity measures, governments increasingly opt for centralized procurement models, thereby using the benefits of economy of scales.⁸

¹ According to Transparency International, corruption is defined as an abuse of entrusted power for personal gain. See Transparency International, *Plain language guide*: http://www.transparency.org/whatwedo/publication/the_anti_corruption_plain_language_guide. See also the EU Anti-corruption report (2014): http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf

² See e.g. *EU Anti-corruption report* (2014): http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf

³ OECD (2013), *Implementing the OECD Principles for Integrity in Public Procurement: Progress since 2008*, OECD Public Governance Reviews, OECD Publishing

⁴ EU Anti-corruption report (2014)

⁵ Transparency International (2014), *Curbing Corruption in Public Procurement: A Practical Guide*

⁶ Vogel, L., *Macroeconomic effects of cost savings in public procurement*, European Economy, Economic Papers 389, November 2009, available at: http://ec.europa.eu/economy_finance/publications/publication16259_en.pdf

⁷ Peter Heller (2005) defines fiscal space as a space in the government budget whereby funds for the realization of a desired goal can be secured without jeopardizing its financial sustainability or the stability of economy.

⁸ OECD (2013), *Implementing the OECD Principles for Integrity in Public Procurement: Progress since 2008*, OECD Public Governance Reviews, OECD Publishing

In addition to the aforementioned, through a careful selection of certain goods and services, as well as certain bidders, it is possible in the longer term to encourage other development goals as well. The UN Secretary General, in his address in Madrid in 2010, speaks about procurement as a means to achieve the UN Millennium development goals and reminds that well designed procurement systems provide a possibility to put the whole supply chain in the function of improving quality of human life throughout the world.⁹ With the new post-2015 UN Agenda and adoption of Sustainable development goals, public procurement will take over the function of sustainable development support.¹⁰

So over time public procurement was increasingly looked at as a strategic instrument of economic development and achievement of a series of individual economic and social policies, such as: opening up of markets, stimulating the development of small and medium enterprises, social inclusion promotion, fair trade, innovation promotion, environment protection¹¹ (the so-called „green procurement“) and others, and the focus was being shifted from the regulation of contract award procedures to strategic management of the whole procurement cycle (from the planning phase, through bidding and evaluation of bids to the implementation and

control), while preserving the integrity and preventing corruption.

In accordance with this, a series of international instruments pertaining to this area have been reformed in the recent years, including the three most important ones:

- New Directives of the European Union dating February 2014¹²,
- Reformed model Law on procurement of goods, works and services of the UN Commission on International Trade Law (UNCITRAL) dated July 2011.¹³,
- Revised general Agreement on Procurement of the World Trade Organization that entered into force in 2014.¹⁴

Key words in these reformed documents refer to transparency and openness, ethics and integrity, prevention of corruption and conflict of interest, use of new technologies, competition, non-discrimination, efficiency and effectiveness, predictability, strategic approach, good management, economic and social development.

Standards, principles and good practices of public procurement, which are frequently an encouragement and inspiration for reforms of regulations, are also promoted by: EU Association Agreements, EBRD-UNCITRAL Initiative on public procurement¹⁵, SIGMA

⁹ See preamble – *UN 2011, Procurement and Millennium development goals, Appendix to the 2010 United Nations Annual Report on Procurement, available at: https://www.ungm.org/Areas/Public/Downloads/ASR_2010_supplement.pdf; as well as Olivier de Schutter (2014), *Power of procurement, Public procurement in the service of the realization of the right to food*, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/2014_0514_procurement_en.pdf*

¹⁰ See more on UN Sustainable Development Agenda 2015-2030 on: [na: https://sustainabledevelopment.un.org/](https://sustainabledevelopment.un.org/)

¹¹ http://www.eipa.eu/files/repository/eipascope/20110912110554_EipascopeSpecialIssue_Art7.pdf

¹² Directive 2014/24/EU on public procurement repealing Directive 2004/18/EC (the so-called Classic directive); Directive 2014/25/EU on procurement in the sectors of water supply, energy, transportation and postal services repealing Directive 2004/17/EC (the so-called Utilities directive) and new Directive 2014/23/EU on concessions contract award, which will be in effect for member states as of April 18, 2016, except for the provisions on electronic procurement whose full application is foreseen to happen in stages until 2018. Available at:

http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/new/index_en.htm

¹³ Work to reform the previous model Law dated 1994 which served as a basis for national legislation on procurement in at least 30 countries of the world, had started back in 2004 for there was a need to include new methods and technologies (electronic procurement etc.) and prevent abuses (taking into account provisions of the UN Convention Against Corruption –UNCAC, guidelines of the World Bank and other relevant documents, in addition to those of EU and WTO). The model of the Law is not legally binding, it is applicable to all procurement, including the sector of defence and security and irrespective of the procurement value. Available at: <https://www.uncitral.org/pdf/english/texts/procurement/ml-procurement-2011/2011-Model-Law-on-Public-Procurement-e.pdf>

¹⁴ Available at: https://www.wto.org/english/docs/e/legal_e/rev-gpr-94_01_e.htm

¹⁵ The project was initiated on May 19, 2011 with a view to promoting the new UNCITRAL model Law on public procurement in the countries of the former Soviet Union and Mongolia.

project (joint effort by the EU and OECD), UN Convention Against Corruption, the OECD Istanbul Anti-Corruption Action Plan¹⁶, Open Government Partnership (OGP), projects of the World Bank and UNDP, World Trade Organization etc.

Public procurement from the perspective of the Open Government Partnership

Open Government Partnership is the initiative started in 2011 as an international platform for domestic reformers dedicated to the process of opening the work of the government, its accountability and susceptibility to the needs of citizens. Bosnia and Herzegovina is currently one of 66 member countries.¹⁷ Ideas of transparency, participation and accountability are in the heart of the Partnership, and the following topics permeate all others coming into focus with time: disclosure of assets and conflicts of interest; budgets; citizen engagement; open government data; data privacy and protection; public contracting; public services; databases management; right to information; protection of whistleblowers.¹⁸

When it comes to public contracting, the term used is – open contracting, which reflects rising needs of the establishment of norms and practices of disclosure and participation during the entire contracting cycle, so as to hold governments really accountable for spending public funds. Open contracting may be applied to all types of contracts – procurement, concessions, public-private partnerships etc., as well as to contracts financed not only by public but also by private and donor funds. Within the initiative Open Contracting Partnership¹⁹, Open Contracting Global

Principles have been developed, which imply an affirmative disclosure of a series of information, while respecting Open Contracting Data Standard²⁰, so that these are simple to use and easily searchable.

Through Open Government Partnership, more than 40 countries have pledged so far to make their public contracts open, and some countries (e.g. Canada, Colombia, Mexico and Romania), apply Open Contracting Global Principles and the aforementioned Data Standard.

Taking into account these and other mentioned international standards, principles and recommendations, Transparency International has adopted minimum standards to be adhered to by both public and private sectors, so that public procurement, free from corruption costs, would achieve its goals and principles – integrity, transparency, accountability, fairness and efficiency, professionalism. The key principle, as an instrument without which practically it would not be possible to achieve other principles and goals of today's public procurement, is the principle of transparency.

Transparency makes it possible for the processes and decisions to be supervised, reviewed, commented on and be influenced by all stakeholders. Transparency shall not be achieved in a way in which governments and other public bodies share a limited number of information to the selected people (the reactive approach), but rather through a voluntary, proactive disclosure of information on possible options, plans, programs. Transparency should permeate all steps in the

¹⁶ Initiated in 2003 this project supports anti-corruption efforts in the countries of Eastern Europe and Central Asia that are promoting UNCAC and other international documents and monitors the application of taken measures and recommendations.

¹⁷ See more on this initiative at: <http://www.opengovpartnership.org/>, as well as: <http://ogp.ba/>

¹⁸ As a support to the Partnership for the implementation of individual measures the Open Government Guide has been developed. The Guide is a living document that is enhanced by incorporating innovative good practices throughout the world. Available at: <http://www.opengovpartnership.org/node/3685>

¹⁹ A partnership of a number of stakeholders is in question, including: GIZ, Oxfam, Transparency International, World Bank, Construction Sector Transparency Initiative, Integrity Action, Public Procurement Board of the Government of Philippines, National Public Procurement Agency of Colombia and others. See: <http://www.open-contracting.org>

²⁰ Open Contracting Data Standard is a key product of the initiative Open Contracting Partnership whose version 1.0 has been developed by the Foundation World Wide Web within the project financed by the Omidyar network and World Bank.

procurement cycle from the earliest decisions on the needs assessment, procurement plan development and budgetary allocations, to the evaluation of bids, implementation of contract and performance audit.

In practical terms, transparency means to make the following information publicly known, except in the case of legal exemptions that usually refer to the national security and defence, intellectual property protection and other confidential information:

- activities taken prior to the initiation of the contracting process, such as needs assessment, procurement plan development and budgetary allocations;
- procurement plans and budgets;
- tender opportunities;
- technical specifications;
- selection criteria;
- key elements of all bids from the public opening of bids, including the identity of bidders, actual owners for corporations and information pertaining to evaluation criteria;
- key elements of the bids evaluation process;
- decision on the award (of contract, framework agreement) with explanation;
- competent authority;
- contract and all possible changes (including significant changes of orders);
- reports on implementation, evaluation, supervision and audit;
- dispute resolution mechanisms and procedures.

It would be best to make all these information available through an open, centralized web portal, in the format that is simple to use, easily searchable and harmonized with relevant standards. At the same time, a timely (proactive) disclosure is of key importance, so that all interested parties could get involved in commenting and decision-making, particularly in cases of projects of local or wider public importance, as well as the accuracy of disclosed information, implying the keeping of business books that are the picture of real

financial situation and transactions in the public and private sectors.

As a segment of reforms regarding the use of information-communication technologies in government business (electronic government or e-government), the rising application of electronic procurement (e-procurement) represents a transformational element in the domain of their transparency, given that the whole procurement process is happening on-line. The centralization of these data in a single portal encourages the competition facilitating the access to information for a larger number of bidders, as well as the control of procedures for all interested parties, thereby reducing the possibility of discretionary decision-making and corruption.

System of e-procurement as a rule enables all interested parties to access budgets and procurement plans of all public bodies, notices of procurement and tender documentation, minutes on negotiations with bidders and information on possible bid clarifications, minutes from the public opening of bids, names of contract winners and pricing information, statistical data on bidders, procurement on the part of some public bodies and sectors, consolidated reports on all transactions (per territory, per contracting authority, per bidder, or other criteria, e.g. person who authorized the procurement).

Initially demanding, in terms of necessary financial resources and education of staff in the longer term, the concept of e-procurement brings significant savings, mainly due to the increase in efficiency.

[Bosnia and Herzegovina – advantages and disadvantages of new regulations](#)

Up until 2014 the public procurement legislation in BiH was to a large degree lagging behind the international trends and standards.²¹ The first single Law on Public Procurement (LPP) in the post-war BiH dated 2004, created within the framework of the

about the need to issue new regulations, harmonized with subsequently adopted EU directives.

²¹ European Commission, in its annual progress reports, was continuously warning the competent BiH institutions

process of harmonization with the EU regulations, had established the system and introduced basic rules, obligations and responsibilities. However, reports by relevant international and domestic institutions and organizations have been indicating in the course of the whole past decade at failures, illegalities and corruptive phenomena in all stages of the procurement procedure, which were violating the basic principles of fair and active competition, transparency, equal treatment of bidders and efficient and responsible spending of public money in BiH.²²

Finally, after several years of work of competent bodies and consultations of interested parties (with limited possibilities of influence, as it turned out to be the case later on²³) the Parliamentary Assembly of BiH adopted in May 2015 the new Law on Public Procurement of BiH²⁴, while most of the accompanying by-laws were adopted in the following months.

The new LPP represents an improvement, to the degree that it covers individual segments of the whole procurement cycle – from the plan to the implementation of contract (the scope of the previous law was ending with the conclusion of the contract), foresees the establishment of the central web portal, introduces modern instruments and techniques, defines, in a somewhat stricter way, exemptions from application and the like, however it has significant room for further enhancement in terms of consistency, transparency, integrity and control and sanctions mechanisms.

The new Law stipulates the procurement plan as one of the conditions for the initiation of the procedure, there are obligations foreseen to publish it on the web page of the contracting

authority (if it has one) within 60 days from the adoption of the budget, as well as fines for contracting authorities and responsible persons thereof for failures to enact and publish the plan.²⁵ The plan includes procurement above certain values²⁶, whereas the procurement below these values is conducted on the basis of a separate decision on the initiation of procedure. Regulations, however, do not contain the obligation to publish the procurement plan on the Public procurement portal, as an integral site for all information on procurement, which is especially important given that all contracting authorities do not have their respective web pages, which automatically exempts their plans from publication; they do not define how the procurement plan should look like, which categories it should contain, nor do they foresee the obligation to draft and publish the report on the execution of the plan, as a control mechanism. Also, given that competitive requests for quotations and direct agreements are precisely the most frequent procurement procedures in BiH, and that the stipulated value of small procurement is actually high taking into account the size and degree of development of the BiH market, a significant part of relevant information is not covered by the plan, nor is it public. Finally, the deadline for the procurement plan publication does not follow the logic of its existence nor that of the budgetary planning process. The procurement plan is a segment of the annual financial plan of public bodies and its development should occur in parallel, along with public consultations when it comes to projects of public importance. With the timely insight in procurement plans, the public could also comment on and influence the procurement that formally fulfills the legality criterion, but in reality represents a waste of public money (e.g.

²² See reports by Transparency International BiH: National Integrity System Study 2013 and 2007, Monitoring of the implementation of the Law on Public Procurement 2012; reports by the BiH Public Procurement Agency, Agency for the prevention of corruption and coordination of fight against corruption, Office for the Audit of the Institutions of BiH, Federation of BiH and RS etc.

²³ <http://ti-bih.org/open-letter-against-adoption-of-the-new-law-on-public-procurement/>

²⁴ Law on Public Procurement, Official Gazette of Bosnia and Herzegovina, no 39/14

²⁵ Law on Public Procurement, article 17 (Conditions for the initiation of the procedure) and article 116. (Misdemeanor provisions)

²⁶ Thresholds referred to in article 14 of the Law are in question, according to which values below 50,000 KM for goods and services and 80,000 KM for works are considered to be small values and allow for the application of the procedure of competitive request for quotations, and a direct agreement for values below 6,000 KM.

procurement of expensive vehicles that exceeds public needs and possibilities).

It is possible to compensate partly for some of these shortcomings by publishing on the Portal a prior information notice – a new institute that is published on an annual level for goods and services, and immediately upon issuance of decision for the procurement of works. However this institute does not have a binding application.

Further activities taken by contracting authorities in order to carry out procurement refer to the preparation of tender documents. Their basic elements are the following: notice of procurement, call for applications for participation/bids, technical specifications, criteria for qualification and selection of the best bid, draft or basic elements of the contract and other relevant documents and explanations.²⁷

Upon preparation of documents, the procurement procedure formally starts with the publication of the notice of procurement on the Portal, for all procedures except for the negotiated procedure without publication of notice and direct agreement. However, due to numerous abuses that earlier accompanied the negotiated procedure without notice, particularly in situations that were not fulfilling requirements for the application of this procedure (e.g. extreme urgency caused by unforeseeable events or exclusive rights protection), it has been stipulated now that the contracting authority publishes on its internet page information about that procedure as well, in a way to make the tender documents available to all interested candidates/bidders.²⁸ In addition, upon selection of the bid, the contracting authority may also publish the so-called ex ante notice of transparency in which it explains the fulfillment of legal conditions for the application of that procedure and the intention to conclude the contract with the

selected bidder, which defers the date of signing of the contract by 15 days.²⁹

Upon publication of notice, the contracting authority is required to put tender documents at the disposal of all interested parties. These can be personally taken with the contracting authority, on the basis of a written request, together with the call for bids or, if these have been published, they can be downloaded from the Public procurement portal (using the possibilities of Directive 2014/24/EU the obligation to publish tender documents on the Portal has been envisaged to occur gradually: for 30% of procedures for which notice of procurement is published in 2016; 60% in 2017, and only as of 2018 for all procedures).³⁰

The notices of contract award, cancellation of the procedure, voluntary ex ante notice of transparency and prior information notice, as well as the summary of the procurement notice in English are also published on the Public procurement portal, while the summary of all notices is also published in the „Official Gazette of BiH“.³¹

Contract award notices are published as a maximum 30 days upon conclusion of the contract or framework agreement for all procedures except for the competitive request and direct agreement.³² Taking into account that the publication of procurement notice has already been envisaged in the event of competitive bid request, it is not clear why the Law has not also foreseen the publication of the contract award notice, which would make possible for the whole contract award procedure to be transparent in this procedure. In the event of direct agreement, it is possible that public bodies from time to time resort to this procedure for some unforeseen procurements of small value that need to be urgently carried out, however the publication of the decision on awarded contracts, upon realization of procurement, would not slow

²⁷ Law on Public Procurement, Article 2. paragraph 4) item d)

²⁸ Ibid, Article 28

²⁹ Ibid, Article 27

³⁰ Instruction on amendments to the Instruction on conditions and manner of the publishing of notices and

submission of reports in public procurement procedures in the information system „E-procurement“

³¹ Law on Public Procurement, article 36, and Instruction on conditions and manner of the publishing of notices and submission of reports in public procurement procedures in the information system „E-procurement“

³² Law on Public Procurement, Article 74

down the process, and it would enable a timely control and prevention of earlier practices to split procurements of greater value into smaller ones, in order to facilitate the application of this non-transparent procedure.

Upon completion of the procedure, contracting authorities are required to submit to the Public Procurement Agency the Report on public procurement procedure³³, and to publish on their internet page, if they have one, basic elements of contracts for all procedures and all changes to the contracts occurring in the course of implementation.³⁴ The contracts themselves, as well as their possible annexes, have not been foreseen to be published. Good practices in various countries go in favor of the publication of contracts and changes thereto. Among others, this has been done by Georgia, Czech Republic, as well as Slovakia where the increase in public procurement transparency resulted in measurable data on competition increase – an average number of bidders in a tender has risen from 2.3 in 2009 to 3.6 in 2013.³⁵

The new Law on Public Procurement in BiH brought about significant changes in the legal protection procedure in public procurement, from the organization and competencies of the Appeals Office (AO) and further on. Although this is not the subject of this analysis, it is important to mention that the majority of these changes is the subject of criticism by relevant organizations.³⁶ However, one segment of transparency of the legal protection procedure has been enhanced, and it refers to the legal obligation to publish on the Portal the conclusions and decisions by the AO, as well as related judgments by the Court of BiH. Earlier these practices were not in existence which was conducive to frequently inconsistent decision-making by the AO and different legal practice in similar procedures. The Public sector auditing services have an extremely important role in the control of conducted public procurements. In the

previous decade their reports in BiH were mainly pertaining to the financial audit, focused on the formal compliance with laws. Failure to conduct procurement in line with stipulated procedures was one of the most frequent conclusions for the majority of audited public bodies. Less attention was paid to the performance audit i.e. assessment of cost-effectiveness, efficiency and effectiveness of the very processes, which is however of key importance to ensure the principle „value for money“ that each individual public procurement procedure should be guided by.

Recommendations

In order to enhance transparency of public procurement it is necessary to take the following measures:

- Introduce the obligation for contracting authorities to publish complete, detailed procurement plans, with all relevant categories and for all types of procedures foreseen by the Law on Public Procurement (LPP) (including competitive bid request and direct agreement) also on the Public procurement portal, so that these would be easily and quickly available to all potential bidders and other interested parties;
- Introduce the obligation for contracting authorities to publish also annual reports on the execution of procurement plans on the Public procurement portal, which would allow for additional control mechanisms and make contracting authorities tackle procurement planning with greater responsibility;
- Harmonize the process of public procurement planning with the budgetary planning process, ensure public consultations in the procurement planning process, particularly in projects of wider social significance and ensure a synchronized publication of documents on annual procurement plans and budget documents;

³³ Law on Public Procurement, Article 75, Instruction on conditions and manner of the publishing of notices and submission of reports in public procurement procedures in the information system „E-procurement“

³⁴ Instruction on the publication of basic elements of contracts and changes thereto

³⁵ <http://oecdinsights.org/2015/03/27/transparency-in-public-procurement-moving-away-from-the-abstract/>

³⁶ See, e.g., *Analysis of the new Law on Public Procurement and accompanying by-laws*, Transparency International BiH, May 2015.

- Encourage contracting authorities, which have necessary capacities, to publish, as much as possible, tender documents for all types of procurement procedures on the Public procurement portal;
- In the case of negotiated procedure without publication of procurement notice, consider the option of seeking concurrence of LPP for the application of this procedure in certain situations, and the publication of these opinions on the Public procurement portal;
- Introduce the obligation to publish notice of contract award on the Public procurement portal also for the competitive bid request and direct agreement;
- Foresee the obligation for the information on basic elements of contracts, and on possible changes of contracts in the course of realization, to be published also on the Public procurement portal, and similarly foresee the possibility to publish the very integral texts of

contracts and possible annexes thereto on the Portal.

When it comes to the integrity of the process and prevention of the conflict of interest and corruption, it is necessary to:

- Design regulations in a way that they include all persons who are involved or can influence the procurement procedure, and who have the interest that can jeopardize impartiality and independence of the procedure, including all related persons and sub-contractors;
- For the purpose of an easier control and monitoring of the application of provisions in practice, it is necessary for all mentioned persons in concrete procurement procedures to establish, publish and regularly update a register of interests, i.e. a list of business entities in which they or persons in connection with them have an interest that can influence the outcome of the procedure.

Integrity of public procurement in BiH – disqualification on the grounds of conflict of interest and corruption

New Directive 2014/24/EU, with which the BiH Law was being partly harmonized in the course of the preparation, in line with other international standards and recommendations, pays special attention to the prevention of conflict of interest and corruption.

The new BiH regulations partly treat the conflict of interest for managers of contracting authorities, members of the procurement commission and AO members, as well as for bidders if they participate in technical consultations in the preparatory phase.¹ The disadvantage is that these regulations refer to other regulations in BiH regulating the conflict of interest, and these are however numerous, non-harmonized, inefficient application-wise, and there are also public functions that are not covered by any regulation, as well as those inadequately treated. This could lead also to an unequal treatment of bidders, depending on the administrative level for which procurement is being carried out. Transparency of this segment is not adequately ensured and the public does not nearly have a complete insight into ownership and other interests of responsible persons in contracting authorities and persons connected to them, nor are the registries of companies, along with the data on real ownership structure, easily available. In this context particularly interesting is the case of Slovakia which, due to numerous scandals in procurements, decided on introducing a legal ban for the companies not publishing data on the real ownership to take part in tenders. As an incentive for corporate performance, in Georgia not only black lists of companies that were involved in irregularities are published, but also white lists of companies that achieved good performance.

Provisions on corruption in LPP BiH are fairly broadly defined and foresee a statement of a bidder/candidate that they did not succumb to bribery and other forms of corruption, and disqualification from the procedure on the grounds of corruption is also possible.

It can be concluded that the new Law on Public Procurement has partly improved transparency and integrity of the procurement cycle, and that a series of measures should be taken in order to additionally enhance this area.