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CHANGES IN THE LEVEL AND STRUCTURE OF PUBLIC PROCUREMENT CONTRACTS IN POLAND AFTER JOINING THE EUROPEAN UNION

Abstract. The paper presents changes in the public procurement law after 2004 when Poland became a member of the EU. On the basis of Reports on functioning of public procurement system dynamics of value and changes in structure of public procurement contracts in Poland in the years 2004–2008(9) are analysed.

Key words: public procurement, public procurement procedures, changes in thresholds of public procurement values, structure of public procurement contracts.

1. INTRODUCTION

Public procurement practices are a significant non-tariff barrier to trade flow. The opening up of the public procurement is a significant measure in the single market package¹.

Poland started with the European public procurement rules in 1995 with the Act of Public Procurement. Many changes in this law have taken place trying to facilitate a system that will be compatible with the public procurement provisions of the General Agreement and Tariffs and the Procurement Directives of the European Union.

The most important event in this field was the Public Procurement Law in 2004 when Poland became a member of the European Union.

The opening up of the new markets for public procurement, as a result of the joining the EU by 10 and then by 2 new Central and Eastern European countries introduced a new era for European integration. The public procurement market has been changing since 2004.

Many amendments have been introduced. Only in 2009 four changes in Law of Public Procurement were entered into force. Improved conditions for competition play a crucial role in maintaining downward pressure on costs of goods

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¹ D. Mardas, The profile of the industries supplying the utilities sectors in the southern regions of the E.C., Public Procurement Law Review 1994, No. 2, p. 87.

and services purchases, giving taxpayers value for money, improving the quality of government services and permitting better allocation of resources.

The objective of this work is to present a synthesis of the Polish procurement market after joining the European Union.

The paper tries to present size and structure of public procurement markets in the years 2004–2008 with special focus on structural changes, i.e. types and procedures of public procurements, regional distribution and some statistical indicators.

The gathered data come from the official reports of Public Procurement Office in Warsaw.

2. THE VALUE OF PUBLIC PROCUREMENT CONTRACTS AND MEMBERS OF PUBLIC ENTITIES IN THE YEARS 2004–2008

In the "old" European Union public procurements were estimated at about 16 per cent of GDP in 2002. Since then EU public procurement have increased as a consequence of enlargement and economic growth. The Polish market is relatively young, moreover number of amendments to Public Procurement Law affected the transparency of statistical data that could be obtained from the Public Procurement Office (PPO) *web portal* and *PPO web site*.

Some part of public procurement with the highest value which is above the thresholds fixed by EU directives are published in the Official Journal of the European Union (OJ).

There are different sources of obtaining data on public procurement. The so-called "bottom-up" approach refers to the process of gathering national data on procurement expenditure directly from national entities responsible from procurement decision². They are obliged to report annual statistics on their procurements, including the estimated value of contracts awarded, both above and below specified thresholds values broken down by types of entities. However changes in thresholds (2004, 2006) cause that the reliability of such approaches stems, to a large extend, from the homogeneity and consistency of compilation and reporting processes over time.³

Nevertheless, the information and data obtained on the basis of bottom-up approaches are basis for annuals reports of Public Procurement Office. Among other things, the Directives of the EU and the Polish Law of Public Procurement require procurement entities to publish in the Bulletin of Public Procurement in

² See OECD, *The Size of Government Procurement Market*, March 2002.

³ See *Prawo zamówień publicznych po nowelizacji z dnia 4 września 2008 r. Urząd Zamówień Publicznych*, Warszawa 2008.

the EC Official Journal tender notices and a contract award notice for each contract awarded.

Information from the reports of the Public Procurement Office in Warsaw are collected, among others, from these sources⁴.

Table 1 presents trends of analysed sector in the years 2004 – 2008.

Table 1. Total value of public procurements in Poland in the years 2004–2008

Years	Value in bln. zł.	Dynamics 2004 = 100	Dynamics Previous year = 100
2004	48.0	100.0	129.7
2005	68.1	141.9	141.9
2006	79.6	165.8	116.9
2007	103.1	214.8	129.5
2008	109.5	228.1	106.2

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2004–2008.

As we can see total value of public procurement contracts in 2008 was estimated at 109.5 bln zł, what means an increase of more than 6 per cent in comparison with the previous year. The highest positive impacts were observed in 2005 what was resulted from opening the Polish market for the European Union and joining the EU (2004).

The demand side of this market is represented by awarding authorities which number is estimated at about 12 thousand entities.

Table 2. Number of public entities participated in public procurement in the years 2004–2008

Years	Awarding entities	Dynamics (%) Year 2004 = 100	Dynamics (%) Previous year = 100
2004	11 248	100.0	–
2005	12 200	108.5	108.5
2006	12 932	115.0	106.0
2007	11 701	104.0	90.5
2008	12 183	108.3	104.1

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2004–2008.

From 12.183 reports prepared in 2008 only 4 per cent were classified as public utilities in the energy, heating, and transport sectors.

⁴ See W. Starzyńska, *Rynek zamówień publicznych w procesie integracji z Unią Europejską. Analiza sektorowa dostaw*, Difin, Warszawa 2003, p. 39–41.

Among so called classical bodies the most important part was represented by local authorities (44.6 per cent), national and regional government bodies (8 per cent), health protection entities (7 per cent), bodies governed by public law (4.4 per cent). More than 30 per cent of public procurement entities were classified as “other”.

3. CHANGES IN STRUCTURE OF PUBLIC PROCUREMENT CONTRACTS IN THE YEARS 2004–2008

Table 3 shows the country’s distribution of public procurement value by types of contracts between 2004 and 2008.

The percentage of construction works from 50 per cent in 2004 dropped to 37 per cent in 2007, however 2008 was characterized by important increase of this share (about 10 percentage points). It is connected with the process of absorbing the European structural funds under the EU Program for the years 2007–2013. The positive tendency of increasing importance of services, from 21 in 2004 to 40 percent in 2007 has been stopped by thresholds changes in 2007 and priority of public works supported by the EU funds.

Table 3. Value structure of realised public procurements in the years 2000–2008

Years	Works	Supplies	Services	Total
2004*	50.0	29.0	21.0	100.0
2005	39.0	37.0	24.0	100.0
2006	37.0	35.0	28.0	100.0
2007**	37.0	23.0	40.0	100.0
2008	47.0	26.0	27.0	100.0

* the value threshold from 30 th. zł to 60 th. zł

**in 2007 of the threshold of 60 th. zł was changed into the European thresholds.

Source: Own elaboration on the basis of PPO reports in Warsaw from the years 2004–2008.

Generally speaking, increasing tendency in percentage of services seems to be similar to the structure of the “old” European countries.

The Law of Public Procurement lays down specific procedures for contract awards which are consistent with the EU directives. Contracts broken down by their types are presented in the Table 4.

The most important procedure is an open tender which was represented by more than 70 per cent in 2008. Changes in thresholds in 2007 caused that number of non-competitive procedures such as single-source procurement and request-for-quotations significantly increased, from 16 per cent and 1 per cent in 2006 to 22 per cent and almost 6 per cent in 2008, respectively.

Table 4. Structure of awarding public procurement contracts by types of procedure in the years 2004–2008

Procedures	Years (%)				
	2004	2005	2006	2007*	2008
Open tendering	83.01	84.9	76.81	63.08	70.4
Restricted tendering	1.72	4.4	4.15	1.30	1.0
Negotiated procedure with publication	2.47	5.9	1.41	0.14	0.11
Negotiated procedure without publication	0.59	1.2	0.47	0.54	0.53
Single-source procurement	6.67	3.6	16.06	28.3	22.2
Request-for-quotations	2.85	–	1.05	5.9	5.7
Electronic auction	–	–	0.03	0.05	0.05
Competitive dialogue	–	–	0.02	0.04	0.03

*in 2007 the thresholds of value increased from 60 th. zł to the EU thresholds.

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2004–2008.

The most important regions from public procurement perspective are: Mazowieckie, Śląskie, Wielkopolskie, and Małopolskie (see Table 5 and 6).

Shares of total value on this market do not change very much, however significance of Mazowieckie is decreasing from 22 per cent in 2007 to 14 per cent in 2009. The structure of contract number is hardly changing.

Table 5. Voievodships rank by public procurement values in the years 2007–2009

Region	Percentage of total contract value		
	2007	2008	2009
Mazowieckie	22	18	14
Śląskie	11	10	10
Wielkopolskie	9	9	9
Dolnośląskie	8	8	8
Małopolskie	8	8	8
Łódzkie	5	7	6
Podkarpackie	4	6	6
Kujawsko-Pomorskie	6	5	5
Pomorskie	6	6	5
Lubelskie	4	5	5
Świętokrzyskie	3	3	5
Zachodniopomorskie	5	5	4
Warmińsko-Mazurskie	4	4	4
Opolskie	2	2	3
Lubuskie	2	3	3
Podlaskie	2	2	3

Source: own elaboration on the basis of the Public Procurement Office's reports from the years 2007–2009.

Table 6. Voievodships rank by public procurement contracts in the years 2007–2009

Region	Percentage of contract number		
	2007	2008	2009
Mazowieckie	19	18	18
Śląskie	11	11	11
Małopolskie	9	9	10
Wielkopolskie	8	8	8
Dolnośląskie	7	8	7
Pomorskie	6	6	6
Łódzkie	6	6	5
Podkarpackie	5	5	5
Kujawsko-Pomorskie	5	5	5
Lubelskie	6	5	5
Zachodniopomorskie	4	5	4
Warmińsko-Mazurskie	4	4	4
Świętokrzyskie	3	3	3
Opolskie	2	2	3
Podlaskie	3	3	3
Lubuskie	2	3	2

Source: own elaboration on the basis of the Public Procurement Office's reports from the years 2007–2009.

4. COMPETITIVENESS IN THE PUBLIC PROCUREMENT

Poland adopted a series of the EU directives regulating in detailed award procedures with extent improvements in the competitiveness and transparency of public procurement markets focusing on works, supplies, and services.

One of the most important indicators showing relation demand-supply on the market, being subject of investigations, is an average number of bids per one award contract of value below the EU thresholds.

Table 7 presents results of such an analysis conducted for the years 2004–2008.

Table 7. Average number of bids per one award in the years 2004–2008

Years	2004	2005	2006	2007	2008
Average number	3.95	4.40	3.62	2.29	2.41

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2004–2008.

The tendency is quite negative, i.e. every year is characterized by lower number of enterprises participating in public procurement. Starting from 2004 with the mean of 3.95, the lowest indicator with value of 2.29 was observed in

2007. In last three years, i.e. in 2006, 2007, and 2008 changes in thresholds of value appeared. Many contracts with lowest value were organized by using non-competitive procedures. The rules were liberalized in that sense that if the number of suppliers or contractors was not sufficient for a given kind of public procurement the procedure might be preceded even for one supplier or contractor. Also possibility to subcontract firms by one main company may significantly reduce number of offers in statistics. The types of public procurements by the same indicator are presented in the table 8.

Table 8. Average number of bids per one award by types of contracts in the years 2006–2008

Types of contracts	Years		
	2006	2007	2008
Works	3.24	2.57	3.05
Supplies	4.01	2.35	2.40
Services	3.64	1.94	1.96
Total	3.62	2.29	2.41

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2006–2008.

In 2007–2008 the highest number of tenders was placed in case of works. Negative tendency was stopped in 2008 when bigger value of average numbers in all types of public procurement were noticed.

Contracting authorities may apply different criteria when checking the suitability of candidates (selection criteria) and awarding criteria (award criteria).

Table 9 presents average number of award criteria used in the procedure of public procurement with value below the EU thresholds in the years 2003–2008.

Table 9. Average number of criteria used in the public procurement procedures in the years 2003–2008

Years	2003	2004	2005	2006	2007	2008
Average number	2.00	2.06	2.40	2.24	2.31	2.69

Source: Own elaboration on the basis of Public Procurement Office's reports from the years 2003–2008.

Having in mind changes in Law of Public Procurements and joining the Polish economy with the EU (2004) number of award criteria has been significantly increasing where public procurers used two models of award criteria: “lowest price” and “most economically advantageous offer”.

5. CONCLUSIONS

Many important changes took place in the public procurement market in Poland in the period under investigation. Implementation of the Law of Public Procurement in March 2004 and the Poland's entrance into the European Union (May 2004) resulted in attempting to open up competition in this market.

Statistical analysis has been made on the basis on notices published in the Bulletin of Public Procurement from the years 2004–2008. The analysis did not take into account other contracts with the values over so called the EU thresholds.

There were important changes in the value structure started from 2005. Shares of supplies and services rose, about 6–8 points (supplies) and even 19 points (services), while the percentage of construction works dropped from 50 per cent to 39 per cent (in 2005).

Last three years characterized by further liberalization of public procurements, i.e. on application of less restrictive procedure for public procurements of the value below the EU thresholds. Absorption of the EU structural funds after 2007 caused that the role of construction work is highly increasing.

Those processes caused that indicators connected with non-competitive procedures such as single-source procurement and request-for- quotations significantly increased. Fortunately, last year (2008) is characterized by rising average number of bids per one award in all types of public procurements. It might be resulted from economic crisis which is characterized by fact that public contracts become more interesting for companies which are able to meet public needs.

Recent changes, especially in 2008, influenced on further effectiveness of public procurement procedures, i.e. gave possibilities to facilitate competitiveness by adding needed documents by offers during the whole procedure.

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**ZMIANY W POZIOMIE I STRUKTURZE ZAMÓWIEŃ PUBLICZNYCH W POLSCE
PO WEJŚCIU DO UNII EUROPEJSKIEJ**

Artykuł prezentuje zmiany w ustawodawstwie dotyczącym zamówień publicznych po 2004 r., gdy Polska została członkiem UE.

Na podstawie sprawozdań Urzędu Zamówień Publicznych przeprowadzono analizę dynamiki i zmian w strukturze zamówień publicznych w Polsce w latach 2004–2008(9).

Słowa kluczowe: zamówienia publiczne, tryby zamówień publicznych, zmiany progów wartościowych zamówień publicznych, struktura zamówień publicznych.