



PROPOSED AMENDMENTS

PUBLIC PROCUREMENT LAW, LAW No. 04\L-042



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New PP EU Directives

- **Harmonization of PPL** with the new PP EC Directives
- **Actual legislation** fully compliant with the PP EC Directives currently in force
- Harmonization postponed to the **definitive approval** and entry into force of the EC public procurement legislative package



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Amendments

- **Article 32** - 1 responsive Bid – continue
- **Article 25** – Training of PO – permanent advance procurement certificates
- **New article** - division into lots - *limit the number of lots that may be awarded to a tenderer, provided that the maximum number is stated in the contract notice or in the invitation to confirm interest*



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Article 58

Opening of Tenders

- Article 58.3 - ... (ii) *the total tender price specified in such tender and, where possible, **the unit prices***
- *Each page shall be signed during the public meeting by the representative of the other tenderers*



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Article 59, Examination, Evaluation and Comparison of Tenders

- *59.3 ...the unit price as offered by the economic operator in his financial tender will always be considered as the prevailing price over any other conflicting price...*



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Article 61

Abnormally low tenders

- **Problem identified:** the method of determination is not identified by the primary and secondary legislation
- **Proposed solution:** amendment of the secondary legislation



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Article 61

Abnormally low tenders (2)

- all of the following conditions are fulfilled:
 - (a) the price offered is **more than 30 % lower** than **the average price** of the remaining tenders;
 - (b) the price offered is **more than 10 % lower** than the price of the **second lowest tender**;
 - (c) **at least 3 tenders** have been submitted.
- for other reasons CA may assess



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Article 87

Principal functions of the PPRC

- Article 87.2.4
- ***Receive reports ... PPRC's opinions ... have non-binding character for the CA, but the competent judicial authorities may take them into consideration***



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Article 89

Appointment of PPRC Members

- Article 89.1 - ...*shall serve until expiration of that appointment, and in any case until the new Board has been settled ...*



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Article 95

Procurement activities of the CPA

- **Article 8, paragraph 4:** MF shall authorize
- **Article 95, paragraph 2:** MF shall establish within the **31st of January** a list of any commodities or common use goods, works or services to be awarded by the CPA



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Article 100

Appointment of Members of the PRB

- Article 100.2 - ...*shall serve until expiration of that appointment, and in any case until the new Board has been settled ...*



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Article XXX

Preliminary dispute settling

- **New article – 2 instances**
- File an application for review **before the CA**
- Suspend the procurement activity
- **10 days** - following the date on which the CA has issued a reply



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Article XXX

Preliminary dispute settling (2)

- contract notice or the tender documents within **5 days** before the submission of the tenders
- contract award within **10 days** following the date the contract award notice is communicated to the complainant



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Article 109

Time Limits for Submission of a Complaint

- Against any decision taken by **the CA** file a complaint **within PRB**
- Such complaint shall be submitted **only after a preliminary dispute settling**
- Shall be submitted within **10 days** following the decision issued by the CA



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Article 118

Security, Penalties and Damages

- **Problem identified:** Fee for submitting complaints to be re-proportionated
- **Proposed solution:** amendment of the Primary and secondary legislation
- **Article 118.1** - *...fee whose amount is determined in the secondary legislation.*
- **Secondary legislation** - *fee depending on the value of the contract*



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