

Rule of law mechanism: competition and transparency ensured

In many cases, the European Commission contradicts its own data and ignores information that it has been officially informed of in advance and statistics on the domestic public procurement market that are regularly published on the website of the Public Procurement Authority.

On 27 April, the European Commission initiated the rule of law (conditionality) procedure against Hungary. Although the Public Procurement Authority is officially unaware of the content of the letter on the subject, it considers it necessary to make the following facts more widely known in connection with rumours in the press:

1. In the opinion of the Authority, the European Commission is working with distorted data when compiling public procurement statistics. Its database is not suitable for comparisons between Member States, as a significant number of EU countries, although obliged to do so, only publish the contract award notices required for the extraction of statistics in the Official Journal of the European Union, TED. However, according to the Commission's own findings, Hungary pays special attention to upload its notices containing relevant public procurement data. The Public Procurement Authority has officially indicated the problem on several occasions - in 2018, 2019 and then in 2020 - but no substantive response has still been received from the Commission.

2. According to the Commission's statistics based on data from notices published on TED, which are not uniformly uploaded by Member States, the proportion of domestic single bidder public procurement is, in the Commission's view, very high. However, the [Internal Market Scoreboard published by the European Commission](#) shows, on the one hand, that the high proportion of single bidder public procurements is not typically a Hungarian problem. According to the Commission's calculation method, 19 (!) Member States is in similar situation. The data also show that our values (39%) are better than in Romania (41%), Greece (42%), the Czech Republic (43%), Slovenia (47%) and Poland (51%). However, no rule of law proceedings were initiated against them. On the other hand, the high rate of single bidder procurement cannot always be due solely to a lack of competition. The European Commission itself stated in its 2019 country report for Austria that the share of single bidder public procurement in the Austrian health sector is exceptionally high, but explains that this is due to market specificities. However, in the case of Hungary, where the high proportion of single bidder procedures is also mainly in the health sector, the Commission regularly ignores market specificities.

3. The existence of widespread competition is supported by the fact that in the last two years, about 5,000 bidders have participated in domestic public procurement every year, of which roughly 3,500 different companies have won. According to the data of the Public Procurement Authority in 2020, 65% of the winners of the 50 highest value public procurement procedures were domestic and 35% were foreign companies - so the Hungarian market is open to all potential participants. Nevertheless, the Authority

agrees that in order to achieve the widest possible competition, it is an important goal to reduce the proportion of single bidder public procurements, which is why [contracting authorities in Hungary can count on strict controls and stronger controls than ever before on behalf of the Public Procurement Authority.](#)

4. [According to the last report of the European Commission, which also includes the 2020 data,](#) the 100% transparency of public procurement in Hungary is outstanding. All this is due to the fact that Hungarian contracting authorities fully comply with their disclosure obligations imposed by the EU. That is why the complaints concerning the transparency of domestic public procurement are incomprehensible, as this is refuted by the Commission's own statement.

5. Finally, as regards the case of public-interest trust foundations, in principle the foundations are obliged to carry out public procurement. The Public Procurement Authority has already expressed its standpoint on the previous year's rule of law report, but [the European Commission has not taken this into account in its report.](#) The Public Procurement Authority maintains its position that foundations are, as a general rule, required to conduct public procurement.