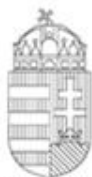


# Public procurement control experiences

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- Specialities of funded public procurements
- Control system
- Experiences

## Rules of public procurement + rules of EU Funds

### Treaty of Functioning of EU (TFEU)

- Free movement of goods, services

### **1083/2006 EK regulation (2007-2013)**

- Art. 2. point 7. definition of irregularity
- Principle of sound financial management

1. Breach of PP rules → Arbitration, Court by the parties during the procedure or after the result of the procedure (before the conduct of the contract, easy to repair irregularity)
2. Breach of PP rules in funded projects → above mentioned + irregularity procedure against the beneficiary. Control can be made ex ante but also ex post! (Controlling Authority, COM, ECA). Mostly not reparable problems, financial correction!

Importance of ex ante control system!

## Some special rules in the Hungarian PP Act

24. § exception of conflict of interest in case of collecting information for the application of the funded project but only if Contracting Authority has not given information about the details of PP procedure.

40. § Conditional PP procedure: beneficiary might launch a tender if there was no positive decision about the project by the NDA. This circumstance has to be written into the tender notice. Lack of financial support → result less procedure

# Controlling institutions in PPs

NDA → ex-ante, exceptionally ex post

Intermediate Bodies → ex post, in situ

Controlling Authority → ex post control

COM, ECA → ex post control

- One window (EMIR)
- Aim: one body is the „leader” of PP controlling (NDA DPPC)
- Uniformed and effective system is needed
- More transparency in the procedures
- Ex ante control above EU thresholds (1 million EUR in case of work or work concession tenders)
- Reparable irregularities

## Ex ante control system

- Quality control (IB: 7+5 days, NDA DPPC: 7+5 days)
- Regularity control (NDA DPPC: 15 days, before the publication of the procedure result)
- Contract amendments (IB: 15+7 days, NDA 15+7 days, before the conduct of the contract)
- Ex post by NDA (20 days, after the conduct of the contract)



## Importance of main procurement principles

- Proportionality: formal mistakes in the less expensive bid
- Interest of Internal Market : effect of „discouraging” by restrictive selection criteria (ex. Obligation of registration according to domestic law)
- Transparency: narrow way to apply not advertised procedures (ex. case of urgency, reserved rights, copyrights)

- ❖ Number of references
- ❖ Demand of EU co-financed references
- ❖ Contract performance date ↔ performance period determinate in days / month
- ❖ Not objective award criteria, not linked to the subject matter of contract, result unrestricted freedom of choice on contracting authorities
- ❖ Unjustified use of shortened deadline with prior notice



- Exceptional way to apply negotiated procedure / amendment for additional works.
- Unforeseen circumstances only exceptional cases
  - Not accepted: extra long expropriation procedures, design mistakes.

**Thank You for Your kind attention!**

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