



SIGMA

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ALBANIA

PUBLIC PROCUREMENT SYSTEM

ASSESSMENT MAY 2009

1. Summary

1.1 Main Developments since last year

The legislative framework has not changed substantially since 2008. It is based on the Public Procurement Law (henceforth referred to as the PPL) that entered into force on 1 January 2007. During 2007 the PPL was amended twice. The implementing regulations were amended in 2008. These changes were supplemented by the Decisions of the Council of Ministers on centralised procurement dated 16 January 2008 and 1 January 2009.

The Public Procurement Agency (PPA), which is the central government institution responsible for co-ordination of public procurement activities, has been strengthened in terms of human resources (the staff of the PPA now total 36, twice the number of two years ago). The Public Procurement Advocate, a new institution created by the PPL, became fully functional in 2008. Furthermore, an efficient platform for electronic procurement has been built and developed since 2008, following the adoption of the Decision of the Council of Ministers no. 659 dated 3 October 2007.

1.2 Main Characteristics (strengths and weaknesses)

The public procurement system in Albania has developed in the right direction due to the adoption in 2006 of a new Public Procurement Law (PPL). The PPL is based mainly on the provisions of Directive 2004/18/EC (henceforth referred to as “the Directive”), but it also reflects influences from other sources, particularly the UNCITRAL Model Law on public procurement. It applies to all contracts for supplies, services or works awarded by contracting authorities, unless explicitly exempted. The procedures provided for by the PPL are basically in line with the requirements of the Directive. The same applies to the scope and coverage of the PPL (although certain discrepancies remain).

The PPL has significantly improved the access to information on bidding opportunities by obliging contracting authorities to publish both procurement notices and tender dossiers (instructions for bidders) on the website of the Public Procurement Agency.

By contrast, the PPL does not implement the provisions of Directive 2004/17/EC co-ordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (“Utilities Directive”). Moreover, the review procedures still do not comply with the requirements of the EC Remedies Directives (89/665/EEC, 92/13/EEC and 2007/66/EC)¹.

The PPL is still considered to be too complex, inflexible and bureaucratic, which in turn affects the operational efficiency within contracting authorities. There is also a strong need to strengthen the institutional capacity generally, but in particular to enable the PPA to carry out its important regulatory and advisory functions efficiently.

The restructuring of the complaints review mechanism remains a high priority task (we note that a draft proposal changing the current system is in parliament).

In addition, the Law n° 9963 on Concessions adopted on 18 December 2006, which is based on the UNCITRAL rules, does not comply with the Directive (2004/18/EC). It should be amended to avoid any discrepancy with EU law.

1.3 Recommendations for Reform

Although a great deal has been done in the last two years in terms of legislation, there is still considerable room for improvement, especially with regard to the institutional framework. The greatest priority should be to provide contracting authorities and suppliers with more detailed written guidance to assist them in the practical application of the law. Further work to improve the

¹ A draft law amending the PPL, aimed at addressing these two issues, is expected to be submitted to parliament by the end of May.

professionalism of contracting authorities is also necessary. Moreover, the electronic system is currently capable of dealing only with the open procedure and the request for proposals. It should be extended to all types of public procurement. In view of this situation, priority should be given to the following concrete actions:

- ***In a short-term perspective:***

- Streamline various initiatives undertaken in the area of public procurement (e-procurement, concessions, utilities procurement, review measures and procedures). All of these activities, even if they are initiated and directly run by players other than the PPA, should be co-ordinated by the PPA;
- Amend the rules on review procedures so as to fully comply with EC requirements and good international practice;
- Adopt rules implementing the provisions of EC Directive 2004/17 (Utilities Directive);
- Strengthen the capacity of the PPA, especially to assist contracting authorities and suppliers in the application of the new Law by providing them with more practical guidelines and advice on the elements of the law that are new (such as the rules on e-procurement; procedures involving abnormally low tenders; conditions for selection of a procedure other than the open procedure; proper application of the contract award criteria, specifically the most economically advantageous tender; difference between qualification and award criteria).

- ***In a medium-term perspective:***

- Continue the process of alignment with the *acquis* by removing the remaining discrepancies with the EC directives;
- Prepare a draft law amending the Law on Concessions in order to avoid any overlapping between the legal concepts of “concession” and “procurement contract” and bring the procedures laid down to award concessions into compliance with the principles of the EC Treaty and, concerning works concessions the value of which equals or exceeds 5,150,000 EUR, with the relevant provisions of the Directive (2004/18/EC);
- At an appropriate time, complement this law with guidelines;
- Continue the work of developing the e-procurement system;
- Consider a number of procedural improvements to establish a legal framework that both promotes sound procurement practices and reduces the current overly bureaucratic approach (develop the instruments and methods provided by the EC Directives – such as framework agreements – and provide support for their practical implementation).

2. Legislative Framework

2.1 Public Procurement

The cornerstone of the Albanian legal framework in the area of public procurement is Law no. 9643 on Public Procurement (PPL), which was adopted on 20 November 2006 and entered into force on 1 January 2007. The PPL is based mainly on the provisions of Directive 2004/18/EC, but it also reflects influences from other sources, such as the UNCITRAL Model Law on public procurement, the World Bank guidelines and the WTO Government Procurement Agreement (GPA). The PPL does not provide any preferential treatment rules. All suppliers, independent of their origin, are to be treated equally. Equal and impartial treatment of all economic operators has also been imposed by the rules concerning access to information on the envisaged contracts.

Secondary legislation

On the basis of the PPL, the Council of Ministers adopted implementing regulations in the form of Decision no. 1 dated 10 January 2007 (henceforth referred to as “regulations”). The regulations supplement the legal framework set out in the PPL. They cover issues such as details concerning the award of consultancy services, thresholds of application of the PPL, detailed methods of calculating the value of contracts, content of the public procurement notices, and opening and evaluation of tenders.

Scope of application

The PPL applies to all contracts for supplies, services or works awarded by contracting authorities, unless explicitly exempted. The PPL has significantly improved the access to information on bidding opportunities by obliging contracting authorities to publish both the procurement notices and the tender dossiers (instructions for bidders) on the website of the Public Procurement Agency.

The procedures for award of contracts provided for by the PPL are basically in line with the requirements of the EC directives. The same applies to the scope and coverage of the PPL (although certain discrepancies concerning exempted contracts still remain – see below for details).

Although basically consistent with the provisions of the Directive 2004/18/EC (hereafter referred to as “the Directive”), the law in certain aspects is not fully harmonised. Apart from the explicit exceptions referred to in article 5-9 (consistent with the *acquis*), the PPL also provides for the rather vague exception of “other contracts which are regulated in other than PPL legal provisions”. This exception may lead to the exclusion of contracts that are covered by the Directive.

On the other hand, some provisions in the PPL are stricter than those of the Directive. For example, the PPL does not reflect the two-tier approach to services contracts taken in the Directive. Since the PPL does not provide for the division of services into “priority” and “non-priority” services, all services (with the exception of those that are explicitly excluded from the law) are treated alike.

Tender documents and technical specifications

The rules governing the tender documentation establish the possibility to define technical specifications either by reference to national standards implementing European standards, European technical approvals and common technical specifications or in terms of performance and functional requirements. From the practical point of view, at the level of the contracting authorities, there is a lack of know-how regarding the implementation of these provisions. The PPL contains no specific provisions regarding the possibility to lay down environmental characteristics within the tender documentation.

Award procedures

The PPL provides for open, restricted and negotiated procedures, in the last case with or without a prior publication of a notice, as well as the request for proposals procedure for small contracts. There are no provisions regarding competitive dialogue. Contracting authorities are free to use the open

procedure. They are allowed to use the restricted procedure only if two conditions (similar to the UNCITRAL rules) are met: the concerned product, service or work – due to its complexity – can only be supplied/provided/performed by an economic operator having a specific capacity; and it would be more economically efficient to first review the qualification of the interested economic operators and then to invite those possessing certain minimum qualifications to submit tenders.

The negotiated procedure with prior publication of notice is allowed in the event of irregular or unacceptable tenders and in exceptional cases when the nature of the works, supplies or services or the risks attaching thereto do not permit prior overall pricing. The contracting entities from the utilities sectors do not benefit from the normal flexibility provided by Directive 2004/17/EC (Utilities Directive). Indeed, the negotiated procedure with prior publication of notice is allowed only under the same conditions as in the case of the classical sectors.

The provisions allowing the use of the negotiated procedure without prior publication of notice are to a great extent in line with the provisions of the Directive (2004/18/EC). This procedure is allowed only in cases of extreme urgency when the following conditions are cumulatively met:

- a) it is strictly necessary, for reasons of urgency;
- b) it has been brought about by causes unforeseeable by the contracting authority (such as earthquakes, floods);
- c) the time limits for open, restricted or negotiated procedures with publication cannot be complied with; and
- d) the circumstances invoked to justify urgency are not attributed to the contracting authority.

For works contracts below 25,000 EUR and supplies or services contracts below 16,500 EUR, the contracting authorities may apply a simplified procedure that is called the request for proposals. In accordance with this procedure, they may either seek offers from at least five tenderers of their choice or publish an electronic notice on the website of the PPA.t

Qualification criteria and award criteria

The PPL provides for a distinction between, on the one hand, criteria for qualitative selection (“exclusion criteria” and “qualification criteria”) and, on the other hand, contract award criteria. In the first category are included elements regarding the personal situation of the candidate/tenderer, professional suitability, economic and financial standing, technical and/or professional capability and quality assurance standards, including environmental management standards.

The lowest price criterion represents the general practice. The contracting authorities can use the most economically advantageous tender criterion, but in this case, they have to express in monetary terms all of the sub-criteria used, such as quality, technical merits, aesthetic and functional characteristics, environmental characteristics, running costs, and period of completion. In practice, due to the lack of knowledge, they avoid using criteria other than the lowest price, the only exception being consultancy services.

Framework agreements

Although the concept and rules on framework agreements are largely modelled on the provisions of the Directive (2004/18/EC), unlike in the EU, this instrument is available only in the particular case of purchasing of electricity and hydrocarbons. Moreover, the maximum duration of such agreements is limited to 24 months, and they can only be awarded following open or restricted procedure. By contrast, the agreements can be used for the purchase of electricity by any public contracting authority, even if this public authority does not act as an entity within the meaning of the Utilities Directive (2004/17/EC). Thus, in future, Albania should correct this discrepancy with EU law.

Utilities

The PPL does not implement the provisions of Directive (2004/17/EC) coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (Utilities

Directive). The upshot is that, with the exception of energy utilities, which have benefited from the latest amendment concerning the purchase of electricity, the utilities sector entities have to apply the same public procurement rules as classical sector entities, while the EC rules allow for a more flexible approach.

A draft law implementing the provisions of the Utilities Directive was prepared in 2007, with Sigma's assistance. At the time of this assessment (middle of April 2009), this draft was practically ready to be submitted to the government. It was foreseen to submit it to parliament by the end of May 2009, before the general elections. If it is not amended in a manner that is contrary to the Utilities Directive, it should bring the PPL into compliance with it.

2.2 Concessions

The award of concession contracts is regulated by Law no. 9663 on Concessions, which was adopted on 18 December 2006 and entered into force in February 2007. The law covers the following sectors:

- a) transport (railway system, rail transport, ports, airports, roads, tunnels, bridges, parking, public transport);
- b) generation and distribution of electricity and heating;
- c) production and distribution of water, treatment, collection, distribution and administration of waste water, irrigation, drainage, cleaning of canals, dams;
- d) collection, transfer, processing and administration of solid waste;
- e) telecommunications;
- f) education and sport;
- g) health;
- h) tourism and culture;
- i) prison infrastructure;
- j) recycling projects, rehabilitation of land and forests, industrial parks, housing, governmental buildings, service of maintenance of IT and database infrastructure;
- k) natural gas distribution;
- l) management contracting or provision of public services, including those related to the sectors specified above.

The law is inspired by the UNCITRAL rules. The concept of work concessions, as provided by the Directive, is not clearly defined. For this reason, there always remains the risk of confusion when a contracting authority has to determine whether a contract is to be included in the public procurement contracts category or in the concession contracts category.

The procedure for awarding concession contracts is a two-stage procedure with or without prequalification. This procedure is similar, to some extent, to the competitive dialogue procedure provided by the Directive. A problematic issue is the fact that there are no provisions for establishing a minimum time limit for the submission of applications.

Summary

The legislative framework needs to be improved in three areas: the review procedures (see 2.5.1), the utilities sector, and the award of works and services concessions. The adoption of the amendments foreseen to be submitted to parliament in May should settle the first two issues. In addition, the Law on Concessions should be amended in order to comply with the principles of the EC Treaty and the Directive (2004/18/EC) and to thus not overlap with the PPL.

2.3 Central Public Procurement Organisation

2.3.1 Public Procurement Agency

With regard to the institutional framework, the central body responsible for public procurement is the Public Procurement Agency (PPA). The PPA has a legal personality, is financed from the state budget and reports to the Prime Minister. The PPA is not a central procuring entity. Its main responsibilities are to:

- draft legislation and regulations;
- monitor procurement activities;
- produce the *Public Procurement Bulletin*;
- promote and organise the training of central and local government officials involved in public procurement activities;
- assist procuring entities with advice and other support to ensure proper and uniform application of the PPL; and
- perform administrative review of complaints.

According to the law, the PPA is the highest body in the area of public procurement – its decisions and instructions are administratively final. An important concern is that the PPA reviews appeals but is also responsible for giving advice on public procurement matters to contracting authorities, which may lead to a conflict of interest.

In accordance with the Law no. 9663 on Concessions of 6 December 2006, the PPA is also the body responsible for supervising the implementation of concessionary procedures. Unfortunately, the PPA was not properly consulted during the preparation of the Law on Concessions.

The staff of the PPA are recruited and promoted in accordance with the Civil Service Law. This law does not apply, however, to the Director of the PPA, who is appointed and dismissed by the Prime Minister. Since Sigma's last assessment, the PPA has been strengthened in terms of its human resources. The total number of staff at the time of the assessment was 36 (twice more than in 2007).

2.3.2 Public Procurement Advocate

The new institution established by the PPL is the Public Procurement Advocate (PP Advocate). Its role in accordance with the PPL is to safeguard the legal rights and interests of suppliers against irregular actions or omissions of contracting authorities in the area of public procurement by monitoring and investigating administrative procedures in public procurement. The PP Advocate is appointed by parliament upon a proposal by the Council of Ministers for a five-year term of office (with the possibility of renewal).

In 2008 the PP Advocate carried out 400 investigations, 350 as a result of complaints from economic operators and 50 started on his own initiative. 80% of the recommendations of the PP Advocate have been implemented; the other 20% have not been taken into consideration. The PP Advocate has no power of his own and his functions duplicate the monitoring tasks of the PPA to a large extent. However, the investigations carried out by the PPA Advocate play a supportive role to the reviews or investigations conducted by either the PPA or other competent authorities.

In future, once a review system complying with the EC remedies directives has been set up, the PP Advocate's role could be more limited.

2.3.3 Centralisation of procurement

The Council of Ministers, by its Decision no. 53 dated 16 January 2008, decided to create a centralised procurement body. The central purchasing body is the Ministry of Interior, which created a special directorate for these activities, the Directorate for Central Purchasing. Its task is to carry out – for the needs of central administrations – public procurement procedures concerning goods and

services listed in the Decision. The Council of Ministers Decision no. 33 of 1 January 2009 extended the initial list, so that it now contains 17 items – cleaning materials, catering services, spare parts for vehicles and painting of buildings are some examples of the new items introduced in the extended list.

Within the Directorate for Central Purchasing there are two departments. A technical department is in charge of the collection of requests from contracting authorities and the preparation of technical specifications. Another department is in charge of the organisation of the award procedures. The total number of staff has been increased from five in 2008 to 16 in 2009.

In 2008 the directorate awarded 30 contracts, for a total amount of approximately 100 million EUR. To award these contracts, only the open procedure and the lowest price criterion were used. The directorate estimates that centralised procurement provides up to 20% savings in contract prices.

Summary

The central procurement organisation has been strengthened since 2008, thanks to better staffing of the PPA, the appointment of the Public Procurement Advocate, and the setting up of a central purchasing body. In future, once a review system complying with the EC remedies directives has been set up, the respective roles of the review body and the PP Advocate may have to be reappraised and, if necessary, redefined.

2.4 Procurement Operations and Practices

The provisions for the publication of procurement opportunities are basically in line with the requirements of the Directive. The PPL requires all bidding opportunities to be published in the *Public Procurement Announcements*, which is published every Monday. In 2008 there were 52 issues of the *Public Procurement Announcements*, containing 8299 contract notices. All of the information is available free of charge on the PPA website. Thus suppliers who are interested in competing for public contracts need to refer only to the PPA website instead of perusing dozens of publications and websites.

The minimum requirements concerning the content of notices are provided by regulations. A contracting authority has to publish a contract notice when it intends to conduct an open, restricted or negotiated procedure with prior publication. The obligation of publishing a contract notice was also extended to the request for proposals. There are standard formats for all of the notices.

The publication system should also facilitate the gathering of procurement data and the compilation of statistics, which should assist the PPB in its monitoring functions.

In Albania there are 1700 contracting authorities, including classical and utilities sectors. Both contracting authorities and suppliers are now fairly familiar with the rules provided by the PPL. However, interviews held during the assessment mission indicate that there is a constant need for more training, in particular for more practice-oriented seminars or workshops. Contracting authorities would especially appreciate sessions during which they could exchange views freely with the PPA concerning the application of the PPL, in particular the implementing rules.

Also to be noted is the increased relevance of training in the activities of the PPA (creation of a separate unit directly responsible for providing training and for co-operation with trainers). In addition to training provided directly by the PPA, there is also a group of certified trainers, whose role is to share their knowledge and experience with employees of contracting authorities.

The practical application of some provisions of the PPL is still problematic for contracting authorities. These problems concern the distinction between selection (qualification) and contract award criteria, the procedure for tenders identified as abnormally low, the use of the “most economically advantageous tender” as criterion for awarding the public procurement contract, the methodology for establishing weights for the various criteria, and the manner of dealing with certain problems during the procurement process. The contracting authorities need guidelines, and the PPA may also have a role in preparing this type of operational tool.

One of the peculiar characteristics of the PPL is that the contracting authorities are obliged to disclose at the outset of the procurement procedure (in the contract notice, for example) the maximum amount of money that may be spent on a particular subject of public procurement. As a result, and not surprisingly, as the interested suppliers know before formulating their tenders how much money contracting authorities have at their disposal, the tenders submitted oscillate close to the maximum limit, and those tenders containing tender prices significantly lower than the fund limit are perceived as abnormally low.

The level of the tender securities is 2% of the estimated contract value. The requests for tender securities may affect participation and restrict competition. In particular, small and medium-sized companies may be discouraged from participating. In the case of performance guarantees, the level is established at 10% of the contract value.

Since Sigma's 2008 assessment, the most important achievement has been the introduction of electronic procurement as a common way of applying award procedures. On 3 October 2007 the Decision on endorsing e-procurement rules was adopted by the Council of Ministers. This Decision established 1) the necessary operational and legal requirements for contracting authorities to conduct procurement procedures by electronic means; and 2) the main technical, functional and security-related requirements that should be met by the system of e-procurement.

In 2008 only few contracting authorities applied procurement procedures exclusively by electronic means. Since 1 January 2009, all contracting authorities have had the obligation to award their contracts by using the e-procurement platform. All tender documents prepared by the contracting authority have to be published on the PPA website. Economic operators have to prepare their documents in PDF format and scan certificates issued by certain competent authorities. All tenders prepared by economic operators have to be sent by electronic means. The whole process is free of charge. There are no specific restrictions in the case of foreign tenders.

The electronic system permits the tenders to be opened only at a pre-defined moment and only if all of the members of the evaluation committee have introduced a specific password. The level of security seems to be high and, in any case, the system ensures total traceability of an eventual incorrect intervention.

In general, the introduction of e-procedures is perceived as the best tool for increasing transparency and reducing the costs of conducting the procurement process, for both contracting authorities and economic operators. If, in 2008, the vast majority of purchasers expressed concern about their capacity to use electronic procurement, for the time being the majority - particularly those who have already gained some experience in dealing with electronic processes - are satisfied with this new approach, which is considered simpler and more convenient. The fewer number of complaints compared with previous years and the growth of the number of tenders per procedure could be relevant indicators suggesting that the introduction of e-procurement in Albania has been a success.

Several contracting authorities experienced certain technical difficulties, with Internet connection being the main problem. To reduce the initial impact of all of these new challenges, the PPA has organised training sessions to familiarise contracting authorities with the electronic system. Usually contracting authorities can benefit from the PPA's support when practical problems arise. However, all contracting authorities would like the guidelines on this matter to be improved and made more detailed.

In general, economic operators have not encountered major problems when they participated in electronic procedures. Interestingly, they have not yet full trust in the security of the system and for this reason they prefer to send the tenders only a few minutes before the established deadline for submission. As a result of such a practice, there have been cases where the submission of the tender was not possible in due time (failure of the Internet connection or slow transmission).

Summary

The Public Procurement Agency (PPA) plays a key role in developing the public procurement system of Albania through its advisory and training activities. The first results of the introduction

of e-procedures seem to be quite positive, particularly thanks to the PPA's support, even if there remain technical, or sometimes legal, difficulties. In this context, it is essential to strengthen the advisory capacity of the PPA.

2.5 Control, Review and Integrity

2.5.1 Review procedures

The remedies system has not changed since the last assessment in 2008. The Public Procurement Agency (PPA) is still the body responsible for the handling of administrative complaints concerning public procurement proceedings. The number of appeals submitted to the PPA against the decisions of procuring entities was 600 in 2008, which was fewer than in 2007. In the opinion of the PPA, the reduction in the number of complaints in 2008 was due to a combination of the following factors:

- enhanced transparency : the obligation of contracting authorities to disclose tender dossiers on the Internet reduced the number of appeals against the failure of purchasers to disclose these dossiers;
- increased awareness of economic operators concerning the organisation of the review system and procedures;
- adoption of standard forms for the submission of complaints, requiring the provision of factual and legal justifications on the part of the appellant.

The complaint procedure is basically a two-stage process. The complainant first of all lodges an objection with the procuring entity; he can subsequently appeal to the PPA if he is not satisfied with the decision of the contracting authority. The time period for submitting a complaint is only five days from the date on which the complainant was informed by the contracting authority. The PPL provides for automatic suspension of the procedure when a complaint is submitted to the PPA.

The institutional framework does not meet the requirements of the EC Remedies Directive 89/665. This directive leaves to EU Member States the choice of arrangement concerning the organisation of review structures and does not oblige the body responsible for the review of appeals to be a court or tribunal. It does require, however, the possibility for an appeal against the decision of such a body to be made to an institution that meets the conditions provided for in the EC Treaty concerning courts or tribunals; in particular, this institution must be independent from both the contracting authority and the government.

The organisation of the review process within the PPA also raises another concern. The PPA does not have a separate unit dealing with review cases. The decisions on appeals are taken by the same unit that is responsible for interpreting the law and giving advice to contracting authorities. Basically, the staff are also the judges at their own trial. PPA employees may be reluctant to take the side of the appellant in the case of an appeal against a decision of the contracting authority which had previously been advised by the PPA.

This fundamental flaw must be remedied. A new complaints review mechanism, in line with the EC Directives 89/665/EEC and 92/13/EEC as amended by Directive 2007/66/EC, needs to be elaborated and implemented.

In this respect, the Albanian authorities intend to introduce new amendments to the PPL in order to improve the remedies system, particularly by establishing a Public Procurement Review Commission. At the time of this assessment (middle of April 2009), a draft amendment to the law was under examination by the government. It was expected to be submitted to parliament by the end of May 2009, before the general elections. If it is not adopted by parliament before the elections, this reform should be considered as a high priority task by the newly elected parliament.

2.5.2 External audit

The external audit of public procurement procedures is conducted by the supreme audit institution of the Republic of Albania, the High State Control (HSC). This audit takes place *ex post* with regard to

public procurement procedures that have already been concluded. So far, in the first quarter of 2009, 161 public procurement procedures have been verified. The most usual types of violation that were identified refer to improper calculation of the estimated value of contracts, incorrect disqualification of tenderers, or improper examination, evaluation and comparison of tenders.

HSC representatives expressed concern about the practicality of verifying electronic procurement procedures. For the time being, the only possibility for entering the system is to use the contracting authority's line, due to the fact that the electronic system recognises only two types of "roles": contracting authority and tenderer. In the near future, a new "role" – auditor – is expected to be introduced into the electronic system; as this is a technical problem, it could be resolved in the coming months.

2.5.3 Integrity of procurement operations

The PPL is considered to be an important tool against fraud and corruption in the area of public procurement. This is the main reason why the rules do not permit greater flexibility, why the open procedure is imposed as the main procedure in the procurement process, and why contracting authorities prefer to use the lowest price criterion. Similarly, e-procurement is perceived as one of the most efficient instruments to ensure fair competition and the integrity of procurement operations.

Summary

The Albanian authorities are aware that public procurement may be subject to corrupt practices and more generally to mismanagement of public money and are endeavoring to overcome this problem. In this respect, the establishment of an independent review body and the development of the e-procurement system should contribute significantly to making public procurement in Albania safer and more efficient.

3. Capacity to Further Develop the System

Since 2006 the public procurement system has undergone a number of positive changes, in particular with regard to the adoption of the PPL as well as a comprehensive set of implementing regulations, templates of standard bidding documents and other documents, training of contracting authorities and suppliers.

There is now a good basis for continuing reform work. The restructuring of the complaints review mechanism in order to meet the requirements of EU law as well as good international standards has become a high priority task. The same priority should be given to the implementation of Directive 2004/17/EC. Moreover, there is a further need to strengthen the central capacity of the PPA and to develop training activities.

The implementation of the electronic system has now provided many opportunities for the collection of statistical data, and this system should constitute a very efficient tool for increasing understanding of what is happening in the public procurement system, of the type of behavior of contracting authorities, and of the specific problems that have arisen in a given period.

In order to finalise the actions mentioned above, the Albanian authorities may require additional support in the form of external assistance. Such assistance could be envisaged to strengthen the PPA's advisory capacity, particularly in designing guidelines that should complement the amendment of the PPL relating to utilities, which is currently under examination by the government. Moreover, training activities will also be necessary for the members and staff of the review body (Public Procurement Review Body, which should be set up within the coming months) and more generally for persons involved in public procurement procedures.