

Public Procurement Development Stages in Georgia

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I. INTRODUCTION

Abstract—One of the best examples, in evolution of the public procurement, from post-soviet countries are reforms carried out in Georgia, which brought them close to international standards of procurement. In Georgia, public procurement legislation started functioning short after gaining independence. The reform has passed several stages and came in the form as it is today. It should also be noted, that countries with economy in transition, including Georgia, implemented all the reforms in public procurement based on recommendations and support of World Bank, the United Nations and other international organizations.

The aim of first adopted law was regulation of the procurement process of budget-organizations, transparency and creation of competitive environment for private companies to access state funds legally. The priorities were identified quite clearly in the wording of the law, but operation/function of this law could not be reached on its level, because of some objective and subjective reasons. The high level of corruption in all levels of governance can be considered as a main obstacle reason and of course, it is natural, that it had direct impact on the procurement process, as well as on transparency and rational use of state funds. These circumstances were the reasons that reforms in this sphere continued, to improve procurement process, in particular, the first wave of reforms began after several years. Public procurement agency carried out reform with World Bank with main purpose of smartening the procurement legislation and its harmonization with international treaties and agreements. Also with the support of World Bank various activities were carried out to raise awareness of participants involved in procurement system.

Further major changes in the legislation were filed bit later, which was also directed towards the improvement and smarten of the procurement process. The third wave of the reform more or less guaranteed the transparency of the procurement process, which later became the basis for the rational spending of state funds. The reform of the procurement system completely changed the procedures.

Carried out reform in Georgia resulted in introducing new electronic tendering system, which benefit the transparency of the process, after this became the basis for the further development of a competitive environment, which become a prerequisite for the state rational spending. Increased number of supplier organizations participating in the procurement process resulted in reduction of the estimated cost and the actual cost.

Assessment of the reforms in Georgia in the field of public procurement can be concluded, that proper regulation of the sector and relevant policy may proceed to rational and transparent spending of the budget from country's state institutions. Also, the business sector has the opportunity to work in competitive market conditions and to make a preliminary analysis, which is a prerequisite for future strategy and development.

Keywords—Public Administration, Public Procurement, Reforms, Transparency.

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IN our everyday life the significant role is held with the public funds distribution and utilization while financing and implementation of the population social and public significance programs

The totality of the costs and the expenses of the governmental bodies and the public organizations and institutions of any level belong to the public procurements, which shall be held in order to meet the societal necessities and for compensation of the services [11]

Starting from the second half of the 20th century, once the costs and the expenses rendered by the state increased significantly, it became necessary to develop the international standards related to the indicated field, which would define the general rule regarding the governmental procurements. All that was based upon the agreement on tariffs and commerce/trading, in which no public procurements regulations were clearly defined, though lately the World Trading Organization expanded and improved the indicated regulations, which entered into force since 1996. The indicated regulations are based upon the following general principles:

- Implementation of the procurements process in the transparent way;
- Forming of the competitive non-discriminating environment in the framework of the procurements process;
- Rational spending of the public finances.

Significant planning and systematization of the public procurements process in the countries with the economy in transition, where in phased manner the international standards were introduced. The indicated process has started since the post-soviet republics gained independence. For Developing countries initial condition of economy is a serious problem [10] For the newly developed public institutes the novelty was introduction of the new subject into implementation of the public liabilities represented by the private companies, as the market economy principles and the functioning basis were also the novelty for them.

Due to the above indicated, we set for the goal of the research to study the public procurements development stages in Georgia, the reforms implemented in this field and the obtained results, which would give us the basis for evaluation of improving of the system compliant policy.

II. RESULTS

In Georgia the public procurements system reform might be divided into four general stages. First stage might be considered for the year 1998, when for the first time the Law on the Public Procurements was passed. With the purpose to

improve the Law on Public Procurements great financial and technical assistance was held from the part of the international financial organizations aimed for the public procurements systematic reforming. The reform was oriented towards the economic securing of the radical changes and it is still in the process of amendments and improvement. The goal of the law was to submit to the public monitoring the procurements implemented with the public funds and to facilitate from this point of view to development of healthy, competitive and transparent system. Its introduction turned out to be impossible at the starting stage, which were followed by the legislative amendments by 2001 aimed for harmonization with the international norms (second stage). Nonhomogeneous interpretation of the legislation as well as neglecting of the norms defined by the regulatory legislation rendered ineffective the action of the reforms in the given field. [3] By that period achievement of the indicated goal turned out to be almost impossible, the main reason for which was the unhealthy environment existing with the public institutions and in the business sector of the country. The indicated was preconditioned by existence of corruption at all the levels of the state administration, which was negatively reflected on the country economic and political development. Besides, the law was adjusted to the real environment in the country and therefore, its purposed activation failed. All the more, the indicated law was developed as the main tool of violations of law and non-transparency. The indicated law failed to obtain the trust of the society. [2]

With the purpose of institutional and instrumental improvement of the public procurements, the basic reforms stage started in 2005. The amendments were introduced into the great part of the legislation, and the reforms system introduction started, though, notwithstanding that attempt, establishment of just and transparent environment for the public procurements principles failed.

The third stage of implementation of the public procurements reform started on January 1, 2010. The results of the indicated reform were recognized from the part of the international society, thus the indicated stage in particular is the field of our research and analysis.

While reforming the public procurements system the priorities and the demands were defined, which should have been meet by the legislative amendments for the private and the public sectors. The main goal of the reform was rising of trust towards the public procurements policy in the civil society. With that purpose several main issues were highlighted:

- Securing of the maximal transparency of the procurements procedures;
- Facilitation of rational spending of the public finances;
- While evaluation of the claimants providing objective decisions;
- Improvement of quality of planning and implementation of the procurement process;
- Establishment of effective and transparent mechanism for the dispute resolution;

- Rising of the public awareness/trust towards the public procurements field;
- Phased harmonization with the legislation of European Union and other leading countries in the field of procurements;
- Agency restructuration/modernization (*HR-system, electronic documents control system introduction, archive digitalization*). [8]

As the result of the amendments, the procedures and the bureaucratic steps were decreased to the minimum, which is one of the most successful achievements of the reform. By introduction of the indicated reform the procedures for participation into the tender were simplified significantly. The claimants had to undergo the following procedures in order to participate into the tender:

- Bank (tender fee) - 1 day;
- Public Registry (extract) - 3 days;
- Court (certificate of solvency) – 1 day;
- Tax body (certificate of arrears) – 1 day;
- Procurements agency (certificate of black list) – 1 day;
- Bank (bank guaranty) – 3 days.

Upon introduction of the reform among the above listed procedures the supplier had to undergo only three procedures:

- Bank;
- Court;
- Public Registry. [8]

Decrease of the above-indicated procedures drove the bureaucratic barriers for the supplier to the minimum, which was directly reflected in decrease of time and expenses. For the private companies one of the significant encouraging factors was the given bureaucratic simplicity, which lately was reflected in significant increase in number of the supplying organizations in the public procurements system.

In the framework of the reform also the significant decision was drawn, the fee for participation in the tender was decreased 4 times, and instead of 200 GEL is defined as 50 GEL, and that of course was positively reflected from the point of view of rational spending, to supplying as well as procuring organizations.

The main goal of the reform was administration of the procurements process in the transparent way, which was one of the basic problems of the indicated system. In order to solve the indicated problem the group working over the reform drew the decision to render the process completely transparent and to provide access for any interested person to the contracts drawn by the public institutions and render available the quality defining criteria set by them. In order to achieve the set goal the electronic portal was created and the electronic tender instrument was introduced, the main function of which was facilitation to implementation of the procurement process in the organized and transparent way. The liability to register at the indicated portal was defined by the legislation for the procuring organizations, their number by 2015 is 4480 [1], and registration for the procuring organizations was voluntary, but if they expressed their intention and will to participate in the public procurement, that would have been possible only upon registration with the electronic portal. The number of the

supplying organizations registered with the system according to the data of 2015 is 20 269 [1]. Their general system bases are established. Existence of the general electronic basis simplifies interchange of the information by and between the participants of the procurements process and the other formal parts.

The procuring organizations publish their proposals for all the interested personal the electronic portal. According to the law, due to the amount of the goods or the services to be procured, the tender types shall be defined, which afterwards will be reflected on the terms of uploading of the tender documents, the bidding announcement, revealing of the winner and drawing of the agreement. And as for revealing of the winner, one general criterion affect it only, which is defined by the legislation and it is the lowest price verified while trading in the electronic system.

The new system of revealing of the winner has been proportionally reflected on rational spending of the public funds, and as the result of the trading the difference between the probable value and the factual price is the economy – the saving for those institutes, which implement the public procurements.

Since establishing of the system to the date, number of the announced electronic tenders achieved 128 196. Among them in 2014, 36 104 tenders were held. As for the economy in the indicated tenders, in 2014 the economy was defined by 232, 370, 331 GEL, and starting from December 2010 to the date in total made 811,998,531 GEL, and that is 13% of the summarized probable value [1].

Scientists have different theoretical approach to the issue of competition. The common opinion about what should be attributed to the action of competition, market structure, rules of market operation or outcomes of the market still do not exist.” [9] In public procurement system, competition can be named as a “mechanism of process improvement”.

The main role in the electronic tenders is held by competition of the claimants, as higher is the competition greater is the economy obtained as the result of the trading. Throughout the years the trend of increase is traced, on average, the number of the participants in the tender in 2010-2011 was - 1.71, in 2012 - 1.75, in 2013 - 2.01, and in 2014 – exceeded 2,04. [1] The given dynamics provides us with the basis to suppose in the future vivid interest of the supplying organizations towards implementation of the liabilities undertaken due to the public contracts, which preconditions mutual benefits for the parties. On the one hand, the suppliers will receive profit, and on the other hand the state costs and expenses will be rationalized.

In the framework of the procurement reforming one new system has been introduced, emerged black and white lists. First of them, for the procuring organizations, implements the function of the defense mechanism. Those non-conscious supplying organizations are introduced into the black list, which by violation of the public procurement legislation participate in the tenders. Such suppliers, during one year, upon being put into the black list are banned from participation in the tender. Such restriction positively affect on

implementation of the procurement process, as the suppliers know in advance what kind of danger might incur to them in case of their non-conscious behavior. According to the data of 2015, among 20 269 supplying organizations 214 are registered with the black list only, and 395 have been warned. The white list is the encouraging system, where the conscious suppliers are put and those have to meet many criteria for that. Instead, they get simplified procedures in the procurement process and at the same time, being introduced into the white list indicates to their prestige. According to the data of 2015, 65 supplying organizations are registered in the white list. And that is naturally not a huge number, though their success is the incentive for the other suppliers.

For implementation of the procurement process in fair and competitive environment, the disputes resolution board established as the result of the reform is of utmost importance, the direct function of which is protection of the interests of the supplying organizations. The board consists of 6 members, 3 of them are the non-governmental organizations and they substitute each other at the board according to the rotation principle. Involvement of the non-governmental sector into the process of the disputes resolution assigns to the decisions drawn by board great legitimacy and reliability, as the suppliers do not depend only on the decisions drawn by the state representatives. Since its establishing to the date the board in total has reviewed 1156 claims, out of which 428 (37%) claims have been satisfied, 510 (44%) claims have not been satisfied, 183 (16%) claims have been recognized as inadmissible, and 35 (3%) claims have been cancelled. [1]

Naturally all the reforms entail particular negative factors. Among them significant is defining of the quality while procurement of goods and services. According to the electronic tender rule, the procuring organizations are not entitled to indicate to the goods of the particular firm, brand, and mark, as to avoid unfair restriction of the participants, those circumstances naturally have been negatively reflected on quality as the tender proposal set according to the general characteristics in some cases becomes the precondition for supply of the low quality goods or rendering of the improper service.

The consolidated tenders negatively affect forming of the competitive environment in the public procurement system. We deal with the consolidated tender when the government of Georgia draws decision and announces the consolidated tender for the homogeneous goods or service, in which the demands of all the procuring organizations are united. In 2014 consolidated tenders in four directions were announced, those were oil products, computer devices, printing paper and cell phone service. As the result of the given tenders the economy exceeded 23,810,000 GEL, though it was reflected negatively on small and medium-sized business, they were not allowed to participate into procurements taking into account their capabilities.

During the starting period of implementation of the reform the problems incurred also from the point of view of the qualified personnel. The personnel employed with the procuring organizations, the function of which was planning

and implementation of the procurements process, turned not to be ready for switching to the new electronic system, and that was reflected in number of the non-held/failed tenders. Lately, that problem was partially solved by training and education of the personnel, organized by the Public Procurements Agency training center.

III. CONCLUSION

Thus, as the result of assessment of the reforms held in the public procurements field of Georgia we might conclude, that by regulating correctly of the indicated field and implementing the relevant policy it is possible to provide rational and transparent disposal of the budget funds in the country. Besides, the business sector is enabled to introduce itself at the market in the conditions of the healthy competition, and on basis of the preliminary analysis, to plan the future activities. We base the given conclusion on the positive evaluation of the held reforms by various leading international organizations, among which the following should be highlighted: Organization of United Nations (UN recognized the electronic tenders system of Georgia as the best in the world, May, 2012 [6], World Bank [7], European Bank of Reconstruction and Development (EBRD) – Georgia is on the first place among EBRD regional 26 countries, on basis of self-evaluation of the regional public procurements legislation of 2012 by European Bank of Reconstruction and Development (EBRD)) [4], OECD (the organization for economic co-operation and development) (from the point of view of the public procurements Georgia gained the best evaluation among the countries of the eastern partnership) [5] and Transparency International. The latter according to corruption perception index of 2014 nominated Georgia as the best country among 19 countries of Eastern Europe and Central Asia. On basis of the research by Transparency International (TI) - Georgia: “Procurements system of Georgia complies with the modern standards of the technological expansion and is the most transparent and effective system in the world”.

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