



**PUBLIC
PROCUREMENT
AGENCY**

ANNUAL REPORT

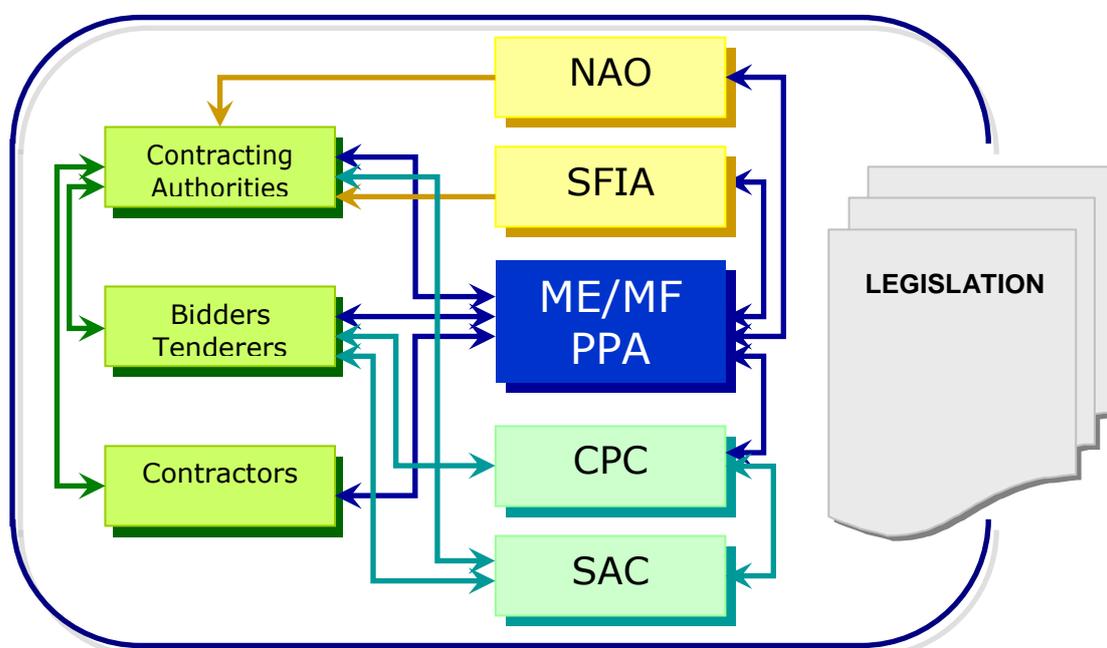
2015

Introduction

This report has been prepared on the grounds of Art. 19, Subparagraph 2, item 12 of the Public Procurement Law (PPL). It contains data and conclusions related to the activity of the Public Procurement Agency (PPA), as well as information about the substantial indicators characterizing the public procurement system and public procurement market in Bulgaria in 2015.

Public Procurement System

The public procurement sector is a range of numerous factors, which interaction could be viewed as system. This system includes the legislative and institutional framework for public procurement awarding and implementation of the policies in the field, as well as the relations between all the entities and bodies, connected with the public procurement procedures, the awarding of the contracts, the appeal and control over the activity of the contracting authorities.



A characteristic feature of the system is that it is significantly influenced by the overall economic environment. In terms of the legislative basis upon which the public procurement system is developed, it is also dependent on the commitments pursuant from Bulgaria's membership in the European Union. The effective application of the legislation requires the correct actions of a wide circle of stakeholders. Among them are over five thousand and nine hundred contracting authorities in the country, bidders and tenderers for the public procurement, as well as the bodies responsible for methodology, ex-ante and ex-post control, and remedy procedures. The rules regulating the actions and relations of the entities on the public procurement market are based on the principles pursuant from the Treaty on the Functioning of the European Union: non-discrimination and equal treatment, transparency, proportionality and mutual recognition. These principles are introduced in the Public Procurement Law, which set requirements for:

- Publicity and transparency;

- Free and loyal competition;
- Equality and non-discrimination.

● **Institutional framework**

A central place among the national bodies in the public procurement field is held by the Public Procurement Agency /PPA/. According to the functions entrusted to it pursuant Art. 19, subpara. 2 from PPL and Art. 5, subpara. 3 from its Statutes it helps the Minister of economy for implementing state policy in the field. During its implementation, it carries out activities and measures, PPA cooperates with the following bodies, responsible for specific aspects from the overall policies in the public procurement field:

- National Audit Office of the Republic of Bulgaria (NAO) – an independent body for ex-post control on the activities of contracting authorities spending public funds;
- State Financial Inspection Agency (SFIA) – a body of the executive power responsible for ex-post control of contracting authorities' activities;
- Competition Protection Commission (CPC) – a body responsible for the appeal of public procurement procedures as a first instance;
- Supreme Administrative Court (SAC) – a judicial body responsible for the appeal of public procurement procedures as a second instance.

● **Legislative framework**

The applicable legislation regulates the relations which arise in connection with the preparation, conducting, awarding, control and appealing of public procurement and defines the status and the powers of the authorities in this field. It is main mechanism for implementing of the policy in the public procurement field. Through the package of legal acts the applicable European directives have been transposed. The national legal framework includes:

- Public Procurement Law (PPL);
- Regulations on the application of the Public Procurement Law (RAPPL);
- Ordinance on conducting competitions for urban development and investment design;
- Ordinance under Art.13, Subparagraph 3 from Public Procurement Law (PPL) for the criteria and order for defining basic national interests in the field of security and defense within the meaning of Art. 346 from the Treaty on the Functioning of the European Union (TFEU) and the order for conclusion of contracts.

In accordance with the engagements pursuant the membership of Bulgaria in the European Union, to the legislation should be added the directly applied Regulations of the European Commission, which determine the applicable thresholds for the award of public procurements, the standard forms for publishing notices and information, as well as the Common Procurement Glossary, which aims to standardize the approach in determining the subject of public procurements.

There are also aspects related to the control and appeal of public procurements in the Act on the National Audit Office, the Act on the State Financial Inspection and the Competition Protection Act. The Law on concessions and the Law on public-private

partnerships contain rules for the provision of services of public interest and promotion of private investment in terms of long-term contractual cooperation with public partners.

Public Procurement Agency

● Structure and composition

Public Procurement Agency was established by a Council of Ministers Decree (CMD) No 56 from 12.03.2004 as a legal entity with the status of an executive agency at the Minister of the Economy. Its establishment laid the foundation of an independent administrative structure with clearly delineated rights in the public procurement system. The act for its establishment was also in reply to a specific requirement related to the conditions for the country's accession to the European Union. Under it, the implementation of a sustainable policy in the field of public procurement and the fulfillments of the commitments for introduction of the European provisions in this field in the national legislation require establishing of a separate body, responsible for achieving of the abovementioned goals. This commitment is permanent, which continues to be fulfilled at the moment, as with the directives during certain time period the rules for awarding of public procurement are updated in order to be increased the efficiency in public funds spending and to be reflected the endorsed practice of the European Court in this field. These circumstances lead to necessity of current update and modernizing of the national legal framework.

PPA is a body which assists the Minister of economy in the implementation of the State policy in the field of public procurement. With the Act for Amendment and Supplement of the Public Procurement Law (amend. and suppl. SG 79 PCs. of 13 October 2015), the implementing of the state policy in the public procurement field becomes part of the powers of the Minister of Finance, supported by Public Procurement Agency.

PPA is a legal entity on budgetary support based in Sofia. In accordance with the current Statutes of the PPA the Agency is a secondary authority with budget. Cost of PPA is formed by budget revenues, as all its services are provided free of charge.

PPA's responsibilities and functions are focused on the provision of establishing conditions for lawful the award of public procurement contracts, as well as on the application of a horizontal Community policy related to the efficient spending of public funds, including EU funds, in observance of the principles of publicity, transparency and loyal competition. The Agency is responsible for the preparation of draft legislative acts, the development of methodologies, as well as ex-ante control on the lawfulness of public procurements.

The main functions of the Executive Director are regulated in Art. 19, Subparagraph 2 from PPL and are developed in detail in the Statutes of the PPA. In exercising their rights, the Agency's head is assisted by administration, whose functions are divided between one general and two specialized directorates.

■ General administration

Financial-economic, administrative-legal and information activity Directorate – performs financial accounting and reporting activity; ensures the budget implementation; performs ex-ante control on the lawfulness in public funds spending; provides technical assistance to the activity of the Executive Director and the specialized administration, as well as the administrative service activities to citizens and legal entities.

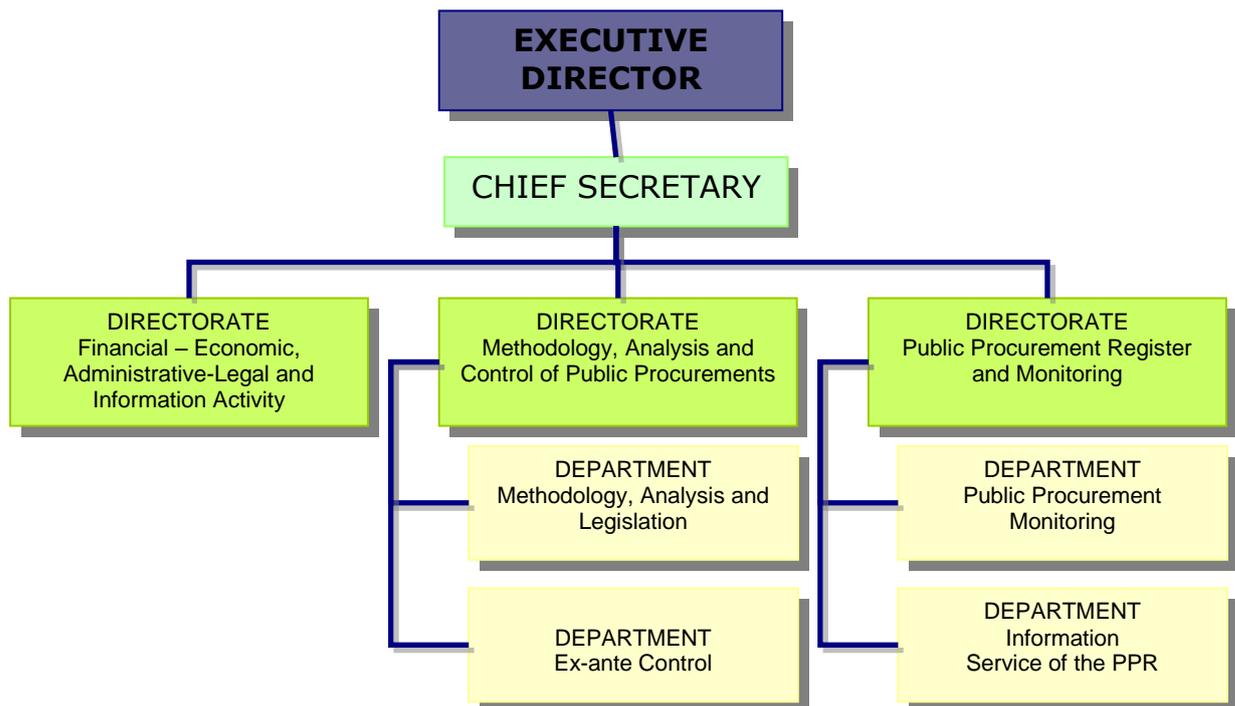
■ Specialized administration

Methodology, Analysis and Control of Public Procurements Directorate – prepares methodological instructions; summarizes and analyzes the practice of the application of the

PPL; participates in the development of draft acts; performs ex-ante control on public procurement procedures specified in the law; participates in the working groups and meetings of the Consultation Committee and the Governmental Expert Group on public procurement at the European Commission.

Public Procurement Register and Monitoring Directorate – builds and maintains a Public Procurement Register (PPR) and Public Procurement Portal (PPP); monitors the information subject to submission to the PPR; studies and introduces the best practices in awarding e-procurement.

In graphic form, the Agency's structure can be presented by the diagram below:



● Main functions

The main functions of the agency, regulated by PPL could be summarized in the following groups:

- Preparation of legislative acts in the field;
- Provision of methodology and spreading best practices;
- Monitoring over the public procurement market and ensuring publicity;
- Exercising ex-ante control over procedures, fully or partially funded by European funds, including control over procurements with national funding, as well as over negotiated procedures without prior notice;
- Maintaining a Public Procurement Register – an activity through which it is ensured the applicability of the principles for publicity and transparency;
- Cooperation with other institutions and organizations on national and international level.

● **Administrative capacity**

The total headcount at the Agency is 70 permanent positions, of which 52 are state servants and 18 are under labor contracts. These include 10 positions whose remuneration and benefits are provided for through the Technical Assistance Operational Programme.

In 2015, 5 competition procedures were conducted for the recruitment of 7 employees. 7 employees left the Agency in 2015. In fact, as at 31.12.2015, 64 permanent positions were taken.

According to their educational degree, the employees are distributed as follows: 58 with higher education and 6 with secondary education.

According to age: under 29 years of age – 8; between 30 and 59 years – 52; 60 and over 60 years – 4.

● **Aims**

In accordance with the Agency functions in 2015 the following aims are set:

- Preparation of new legislation in the public procurement field in accordance with the new European legislation – Directive 2014/24/EU and Directive 2014/25/EU;
- Providing of methodology for lawful application of the legislation in the public procurement field and validation of single awarding practice;
- Realization of the ex-ante control model over public procurement procedures, fully or partially financed by European funds, including public procurements with national funding, pursuant PPL, as well as controlling the negotiated procedures without prior notice;
- Monitoring of public procurement;
- Validation of the PPA role as a trustable partner for cooperation;
- Developing of the cooperation with different organizations in the public procurement field on international level and other international bodies;
- Publicity and transparency of the information, related to the awarding of public procurements;
- Promoting the good practices in awarding of public procurements related to ecological requirements.

● **Implementation of the PPA budget for 2015**

On the grounds of Art. 34 of the State Budget Structure Act, the PPA's approved budget for 2015 was BGN 1 169 417. The total amount of the Agency's expenses as at 31.12.2015 was BGN 1 155 061. The absorption of the Agency's costs as per the approved plan for the year was 98.77%.

PERFORMANCE OF THE FUNCTIONS AND TASKS

Legislation

● **Updating of the legislative base in order to be maintained in accordance to the European Directives and Regulations**

In 2015 continues the active work on preparation of draft for new Public Procurement Law, with which in the national public procurement legislation five European directives in

the field are introduced. Two of the directives are completely new, adopted by the European Parliament and the Council on February 26th 2014. (Directive 2014/24/EU for public procurement and repealing Directive 2004/18/EO; Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services and repealing Directive 2004/17/EO).

With Prime Minister's order on February 26th 2015, an inter-departmental working group is established under the governance of the Minister of economy, to review the prepared in PPA first PPL draft and to prepare a final text for draft law, which to be presented for public consultation through the Portal for public consultations. Within the working group, the comments and proposals of the representatives of the participating departments have been discussed. It is conducted inter-departmental voting for the draft law, together with public consultation through the Portal for public consultations. Within the voting process in PPA almost 700 proposals have been processed. All of them are examined and discussed, and the approved notes are marked in the new law draft.

In July 2015 the draft law is adopted with Council of Ministers Decision and on 12.08.2015 is submitted to vote in the National Assembly of Republic of Bulgaria. At this time the Agency took active participation in the discussions of the new PPL draft in the parliament commissions.

At the same time, with order from the Executive Director of PPA, a working group is formed, which start working on preparation of new Rules for application of the PPL.

● **Amendment and updating of the legislative base in relation to conducting of state policy in the area**

At the beginning of the reported period, according to an analysis of the practice for applying the public procurement legislation, including after amendments and supplements into force from July 1st 2014 is established the necessity of performing changes, aimed to overcome some problems in the awarding of public procurement process. It is prepared draft of the Act for amendment and supplement of the Public Procurement Law, by which the following changes are proposed:

- Optimizing the process of establishing central purchasing bodies in the limits of the executive authorities.
- Clarification of the order and the conditions for participation in public procurement procedures of specialized enterprises and cooperatives of disabled persons. The aim is to prevent the use of this preferential treatment by unscrupulous persons, which on the one hand, puts at risk the award of the contract, and on the other leads to discrediting the effect of such retention.
- The State policy in public procurement field to be implemented by the Minister of finance, with the support of Public Procurement Agency. This proposal is related with the optimizing of the process for implementation of the National strategy for development of the public procurement in Bulgaria in the period 2014-2020.

The draft bill is promulgated in the SG PCs. 79 of 13.10.2015 and shall enter into force on the 16.10.2015.

● Other initiatives

The Agency has prepared also opinions for the following legal acts drafts:

- Council of Ministers Decree Draft for establishing of Central Purchasing Body in the Healthcare sector;
- Draft of the plan for implementation of the measures from the National strategy for preventing and combating corruption in Republic of Bulgaria 2015/2020;
- Draft of Council of Ministers Decision for approving a Report for the activity of the Council for coordination in the fight against infringements affecting the European Union financial interests in 2014 and approving of Action plan for the period 2015-2016 for implementation of the National Strategy for preventing and combating irregularities and frauds affecting the European Union financial interests 2014-2020;
- Draft of Council of Ministers Decision for supplement of Council of Ministers Decision from 2014 for endorsement of a List of the manufactured and delivered goods, of the performed building works and the services provided, which are awarded to specialized enterprises and cooperatives of disabled persons by the means of PPL;
- Draft of Law for amendment and supplement of the State Fees Law;
- Draft of Council of Ministers Decree for the activity of the Central Purchasing Body;
- Draft of Law for amendment and supplement of the Subsurface Resources Act;
- A concept for establishing of Central Purchasing Body in the Healthcare sector.

Methodical assistance

Another important function of the Agency is devoted to the methodological assistance given to all subjects related to the award and performance of public procurement contracts. The aim of providing services connected with supporting the participants in the awarding process is to be ensured unified practice regarding the application of the legislation and to be guaranteed the compliance with the principles of publicity and transparency, free and loyal competition, equality and non-discrimination. The performance of the methodological function is in several main directions:

● Replies to written inquiries

This is the most frequently used approach for providing methodological assistance in the process of awarding public procurement contracts. This form of communication is preferred by the people, since through it they receive an official position on the questions asked.

In 2015 283 methodical guidelines, replies and statements were prepared, referring to a wide range of cases in the application of the provisions of the law and bylaws. Many of the questions asked are related to the separate stages from the application of public procurement procedures for whose implementation EU funds are used. Quite substantial is the proportion of inquiries related to various aspects of the performance of the public procurement contracts, the possibility for their amendment and termination.

The analysis of the inquiries received shows that the indicators from previous years regarding contracting authorities' activity were preserved. The biggest number of questions

were asked by the administration of the central executive power bodies, followed by municipal mayors and utility contracting authorities. There are also frequent inquiries from tenderers, bidders and contractors of public procurements.

● **Direct consultations**

Another preferred form for the provision of methodological and practical assistance to the public procurement subjects is the holding of direct consultations. This assistance approach allows a complex discussion of all facts and circumstances related to the case, especially in cases with higher complexity. Due to that, the interest in consultation meetings is very high.

Over the reporting period, over 148 consultations and work meetings were held at the Agency with representatives of the central and local administration – ministries, agencies and municipalities, as well as utility contracting authorities, bidders and tenderers.

The subject of the consultations with contracting authorities was the lawful application of the grounds for negotiation, as well as different questions related to application of several exceptions from the law, awarding in the area of commercial and media services, the possibilities for amendment of a public procurement contract etc.

● **Hotline**

Another means for the provision of methodological support for issues, related to the Standard forms for public procurement and the applicable software for their filling, as well as to the information subject to submission to the PPR, are the specialized phone lines maintained by the Agency. The phone consultations are a possibility for receiving quick cooperation in the solution of arising technical issues that require urgent directions and guidances. This makes this form of administrative service the most preferred and most frequently used one by all subjects related to the award of public procurements. In 2015, around 8000 calls with requests for practical and methodological instructions were registered related to the Standard forms for public procurement and the applicable software for their filling, as well as to the information subject to submission to the PPR.

● **Organizing and conducting of trainings**

Essential condition and a prerequisite for efficient and lawful public procurement is professionalism in the sector, which implies the presence of qualified staff responsible for the management of the processes related to the award of public contracts. In this connection, the experts of the Agency participate as speakers in seminars organized by other institutions, which matters for the implementation of public procurement legislation in the country are discussed.

In collaboration with the Institute of Public Administration (IPA) a program is developed for organizing and conducting of trainings on PPL for employees involved in the process of awarding contracts. A total of 12 training sessions are realized – 3 introductory and 9 upgrading, in which have taken part 234 employees in management and expert positions from the Central and territorial administration.

In the implementation of the activities under the project "Strengthening the capacity of the Public Procurement Agency and development of public procurement sector", implemented with the financial support of the Operational Program "Technical Assistance", co-financed by the European Union through the European regional development fund were

made 7 trainings for employees engaged in the processes of procurement. 271 employees from central and municipal administration are trained. The topics are related to the practice of PPA in application of current law, new moments in the draft of the new PPL and the implementation of ex-ante control.

In December, PPA organized international seminar on public procurement and the applicable rules in the framework of the TAIEX Peer To Peer initiative. The aim of the training is the exchange of experience and knowledge in connection with the use of techniques of centralized procurement, as well as familiarizing the participants with new European rules in this area. It was paid attention on the legal framework for the provision of centralized purchasing activities and on certain specific aspects related to the preparation and implementation of public procurement procedures by the Central Purchasing Bodies. In the seminar took part 63 participants, including speakers from Consip - Italy, Federal Public Procurement Agency - Austria, The Central Authority for Public Contracts – Republic of Croatia, Central Purchasing Body – Bulgaria and the Association of Hospitals in Vienna – Austria.

● **Promoting the “green” public procurement**

Methodological competence of PPA includes the promotion of good practice in the award of contracts associated with the implementation of environmental, social and innovative requirements.

Green public procurement is means of awarding by which products and services that have a reduced environmental impact are purchased.

In the section "Green public procurement" on the Public Procurement Portal is designated a special section "Green public procurement". There reports on the number of detected and awarded "green" public procurement are published, including the value of the concluded contracts.

In 2015 the publicity measures are implemented in the framework of executing by PPA project "Methodological support for the development of green public procurement in Bulgaria" under Bulgarian-Swiss Cooperation Program.

The project is implemented with the purpose of practical assistance to the contracting authorities and businesses for the wider use of environmental criteria in the award of public procurement. In this connection on 15.06.2015 a contract was signed for the implementation of the project between the "Monitoring of EU funds" Directorate in the Council of Ministers (NCU), Executive Agency for Promotion of Small and Medium-sized Enterprises (IB) and PPA. The project is implemented with the financial support of Switzerland in the limits of Swiss Contribution to the Enlarged European Union.

During the reporting period was drawn up also a specialized report from Public Procurement Register in relation to the National Action plan for promotion of the production and the accelerated introduction of environmentally friendly vehicles including electric mobility in the Republic of Bulgaria for the period 2012-2014.

- **Ensuring of the implementation of strategic documents in the public procurement field.**

In the implementation of the National strategy for development of the public procurement sector in Bulgaria for the period 2014-2020 are implemented the following activities:

- A draft practical guidance is prepared for conducting of two main procedures, which describes the procedures step by step;
- The practice in the field of e-procurement in two Member States, successfully entered a centralized and decentralized model of procurement is studied. On the basis of the developed models for e-procurement the Council of Ministers, by its Decision of 19 February 2015, selects centralized single platform model for the development of e-procurement in Bulgaria, which to be realized through the acquisition of a single electronic platform and integrating existing systems for e-procurement, owned and used by the central authorities for public procurement;
- A functional analysis of the administrative capacity of the Public Procurement Agency is prepared;
- Three meetings with representatives of the European Commission are conducted, on which issues are discussed related to the policies in the field of public contracts, the introduction of package directives in the field and the implementation of the national strategy.

Control on Public Procurement

Ex-ante control as a function of the PPA was introduced on 1 January 2009 as a tool for assuring lawful, transparent and effective spending of public funds. The system of public procurement in the country is dynamically developing, resulting that the control over the years has changed repeatedly. At present, the Agency carries out ex-ante control on those procedures for public procurement, which concentrated the highest financial resources provided both from EU funds and from the national budget. The control function covers also negotiated procedures without prior notice, i.e. this order of assignment as well, in which in the slightest degree the principles on which it is built the legislation on public procurement are protected.

- **Ex-ante control of public procurement financed by the European funds and construction financed by the national budget**

PPA carries out ex-ante control of procedures, to which there is a high public interest due to the values and sources of funding, i.e. to the riskiest and sensitive procedures. With the introduction of the control on 01.01.2009 are covered procedures financed with resources from the European funds, and with the changes of the 01.07.2014 in its scope are included procedures with subject "construction", financed by the national budget over certain thresholds. In accordance with the legislation in force in 2015, public procurement procedures are subject to ex-ante control:

1. Funded in whole or partially by European funds:
 - for construction of a value equal to or higher than BGN 2 640 000;

- for delivery or service of value equal to or higher than the value specified in Art. 45c, Subparagraph 2 from PPL.

2. Funded by funds, other than those referred to in paragraph 1:

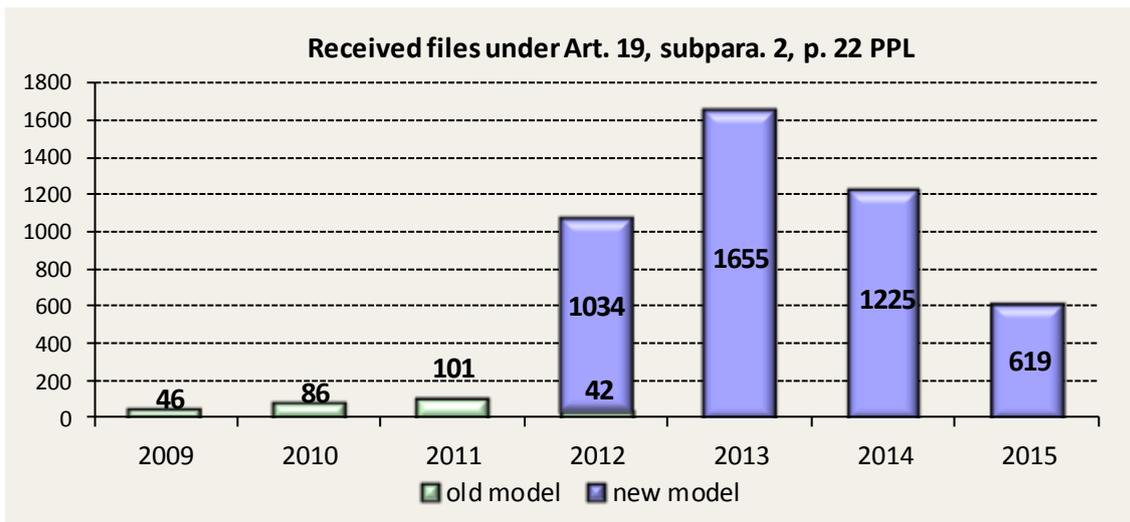
- for construction of a value equal to or higher than BGN 9 779 000.

Control is implemented through examination of the decision to open the procedure (if applicable), the contract notice, the methodology for the evaluation of offers (if applicable) and the motives of the contracting authority to set selection criteria. The appointed documents contain the conditions for participation in the procedure and for the award of the contract. In this way selected by the contracting authority requirements for economic and technical condition of applicants or participants, the indicators for the comprehensive evaluation of the tenders and the rules under which the contractor is chosen are placed under observation. The aim is, through prior checking to be limited the cases of unlawful and non-transparent spending of public funds, which, to contribute to the effective and accelerated absorption. In its nature this control is distinguished from the ex-post control conducted by National Audit Office and the Agency for State Financial Inspection, which has basically sanctions character. The ex-ante control is a form of methodological assistance to the contracting authority. Its implementation aims prevention of errors and infringements in awarding of public procurement. In essence, prevention involves the identification and analysis of a problem and the preparation of a system of measures to influence it and/or to prevent its occurrence.

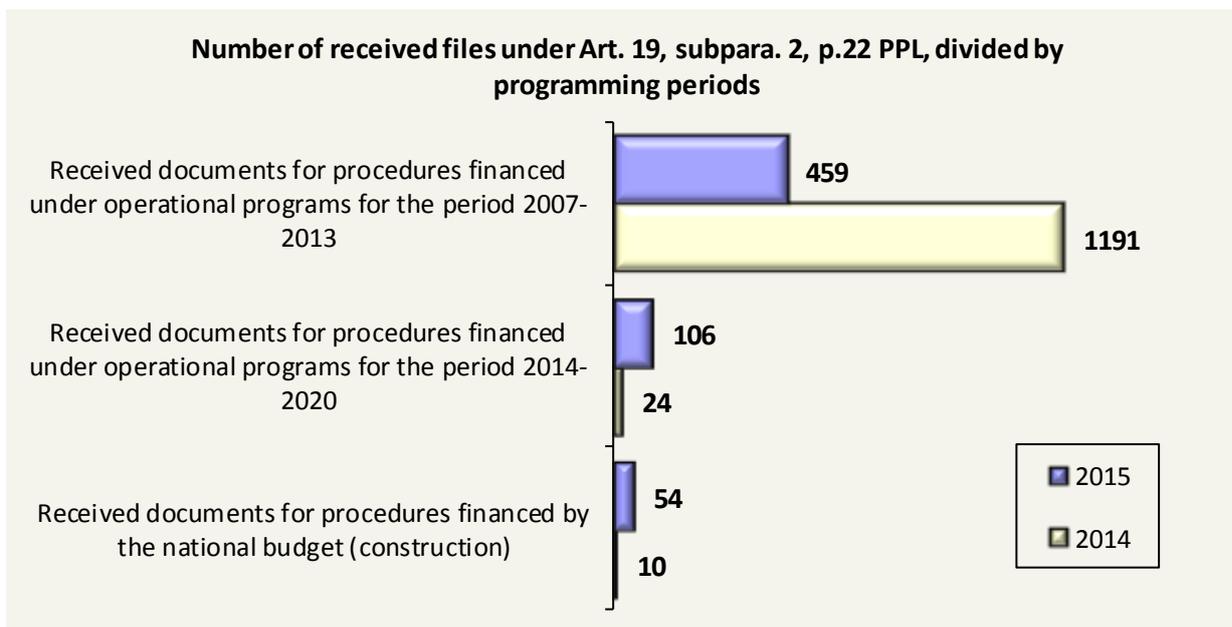
The control is carried out in two stages. The first stage takes place before the opening of the procedure, and on the second stage evaluation is done on already published documents with the requirements of PPL and with the recommendations of the PPA. Both stages of the examination end with a document in which the Agency notes the shortcomings and inconsistencies with PPL, which are made because of mistakes or not correct understanding and application of the law. After each of them, the contracting authority may remove the inaccuracies, which creates the preconditions for the opening of a legitimate procedure and/or for correction of errors at a very early stage of its conducting. This specific of the ex-ante control is of primary importance for contracting authorities which do not have sufficient administrative capacity. With the help of the control carried out by the Agency the contracting authorities substantially increase their knowledge and improve their understanding regarding the correct application of the law in the field of public procurement. The two stages of the check on one hand ensure feedback through which it is followed the performance of the guidances from the first stage, and on the other hand double the possibility of the contracting authorities to receive recommendations for ensuring the accordance with the PPL. As a result, the reduction of the commonly done errors contributes to better and more effective utilization of public funds.

An important feature of the ex-ante control is its implementation in a very short time limits (first stage - 14 days, second stage - 10 days), without prejudice to the minimum time limits laid down in the law for carrying out the procedures and without extending the time for the awarding. Practically, the length of procedure, on which shall be carried out ex- ante control by the PPA, is not different from the time of the award of the contract in case the procedure is not subject to review by the Agency.

During the accounting year 2015 in PPA are received 619 files for carrying out ex-ante control according to art. 19, subpara. 2, p. 22 from PPL.

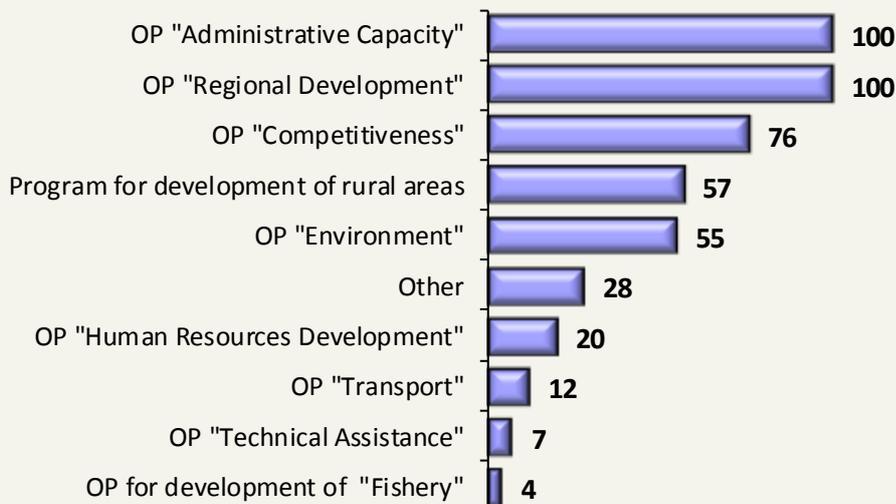


Compared with the previous 2014, it is noticed a drop half of incoming documents, which can be explained by the completion of the operational programs for the programming period 2007 – 2013. At the same time it is noticed enhanced sending of documents for procedures, financed by operational programs from the programming period 2014-2020, as well as for procedures with subject "construction" under Art. 19, subpara. 2, p. 22, l. "bb" PPL (respectively more than 4 and more than 5 times) compared to 2014.



Of all incoming procedures cases for control, funded by programs in the period 2007 – 2013, the largest is the number of these connected with public procurement, the performance of which was funded under the Operational Program "Administrative Capacity" and the Operational Programme "Regional Development" - 22% each, and OP "Competitiveness" - 17%.

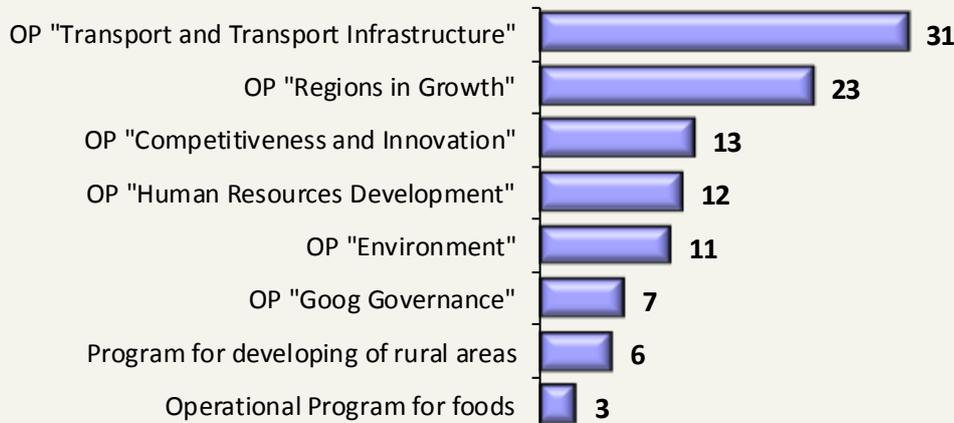
Number of files for procedures financed by programs in programming period 2007 - 2013, filed in PPA in 2015



Next are documents for public procurements in Rural Development Program and OP "Environment" - 12% of the total. Lowest number occupy the documents checked for public procurements in OP "Human Resources Development" - 4%, OP "Transport" - 3%, Operational Programme "Technical Assistance" - 2% and Operational Programme for the development of "Fishery" - 1%.

From the files for procedures financed under programs from the programming period 2014-2020, with the largest number are these under OP "Transport and Transport Infrastructure" - 29% and OP "Regions in Growth" - 22%. With relatively equal share are the documents for public procurement under OP "Competitiveness and Innovation" - 12%, OP "Human Resources Development" - 11% and OP "Environment" - 10%. Least are the documents for public procurements under OP "Good Governance" - 7%, Rural Development Program - 6% and Operational Program for foods with 3%.

"Number of files for procedures, financed by programs from programming period 2014-2020, filed in PPA"



For the reported 2015 the highest number of cases received for implementing of ex-ante control are from the municipalities and ministries, respectively with 191 and 181,

followed by the agencies – 116, public-private organizations – 106 and other contracting authorities – 25.

From the point of view of the distribution of the procedures by the subject of the procurement there is no change in the distribution of procedures compared with previous years, as the highest rates are for the procedures with the subject "services" – 47.5%, followed by those for "supplies" - 31.50% and for "construction" – 21%.

The role and importance of this type of control function of the Agency can be evaluated objectively and unambiguously through the below results from the execution of the activity.

In 2015 are processed in total 625 files (279 on first stage, 291 on second stage, 53 - returned to the contracting authorities, after during a review and assessment has found that there are the necessary preconditions for the implementation of ex-ante control and 2 unfulfilled controls due to rejection by the contracting authority). In 104 of the cases (3 of which on first stage) inconsistencies with PPL are not found. This represents 18.3% of all drawn up opinions and reports for the period. Compared to the results for the previous year, there is an increase of 1.6% in the proportion of procedures "without notes", which is in support of the conclusion on the effectiveness of this form of assistance for the contracting authorities. Documents for procedures of estimated total value BGN 2 710 193 423 exclusive of VAT are checked, as of them by March 31st 2016, already there are contracts concluded for BGN 980 514 973.

As a result of the reviewed draft notices of public procurements stand out flaws and errors, which contracting authorities continue to make during the preparation of procedures, among which:

- is not taken into account the importance of the information on the data for the quantity and volume of such activities, which leads to their systematic skipping when filling out the notice of initiation of the procedure;
- obscure described conditions for the payments, often allowing the linking of the payment on completed activities subject to future funding provided to the contracting authority by the funding program;
- putting heavier requirements than those laid down in the PPL, which leads to the aggravation of the administrative procedure (e.g. placing of lengthy periods of warranty and the performance guarantee requirement of notarized documents, etc.);
- incorrect formulation of selection criteria, leading to disproportionate requirements by the contracting authority towards the main characteristics of the awarded contract;
- presenting general and formal reasoning, which not clarify why specific criteria for selection are set; the factual circumstances which require the use of each criterion are not exposed;
- subjective methodology.

In respect of the reviewed draft methodologies for evaluation subjectivity in assessing the qualitative indicators is noticed. In practice, part of the methodologies do not give clear guidance on the factors that influence the choice of the contractor. Shortcomings in the methodology, random or targeted, can result in improperly chosen contractor, regardless

of the previous lawful completed stages in the course of the procedure. Still in the methodologies for evaluation it is allowed evaluation of proposals with shortcomings, as when there are such findings the tenders are subject of elimination. In the procedures checked in 2015, almost there is no mixing in the selection criteria and indicators for the evaluation, a common practice in previous years.

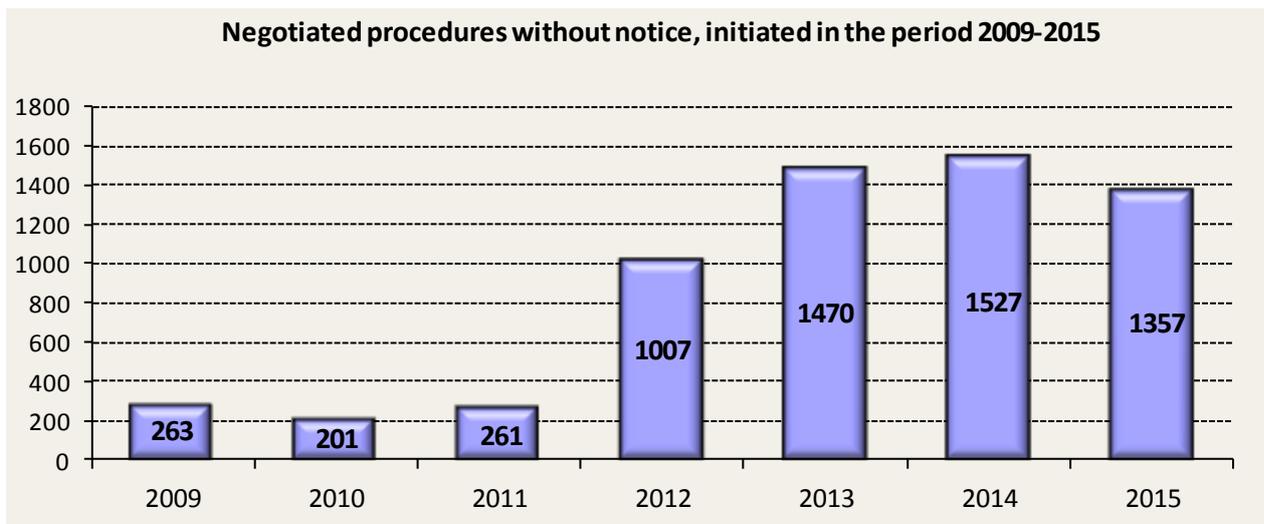
Another indicator that takes into account the effect of ex-ante control is the practice of the appeal of the procedures. According to the CPC, from all verified in 2015 procedures, only in 24 cases an appeal against the decision to open, which has been subject of control by the PPA, is lodged. Illegality of the decision is set out in six of the cases, i.e. in 2% of the reviewed procedures.

These results confirm the positive effect of the control. Its implementation leads to a reduction in unlawful conditions of ongoing procedures and reduction of common mistakes, which is valued highly by the contracting authorities, because it gives positive influence over their administrative capacity as well, which capacity is busy with organizing and conducting of public procurement procedures.

The performing of ex-ante control contributes to the lawful expenditure of European funds and the national budget, which reduces errors and mistakes that have limited the ambiguous and disproportionate requirements into procedures for the award of public procurement contracts. This accelerates and improves the absorption of those public funds.

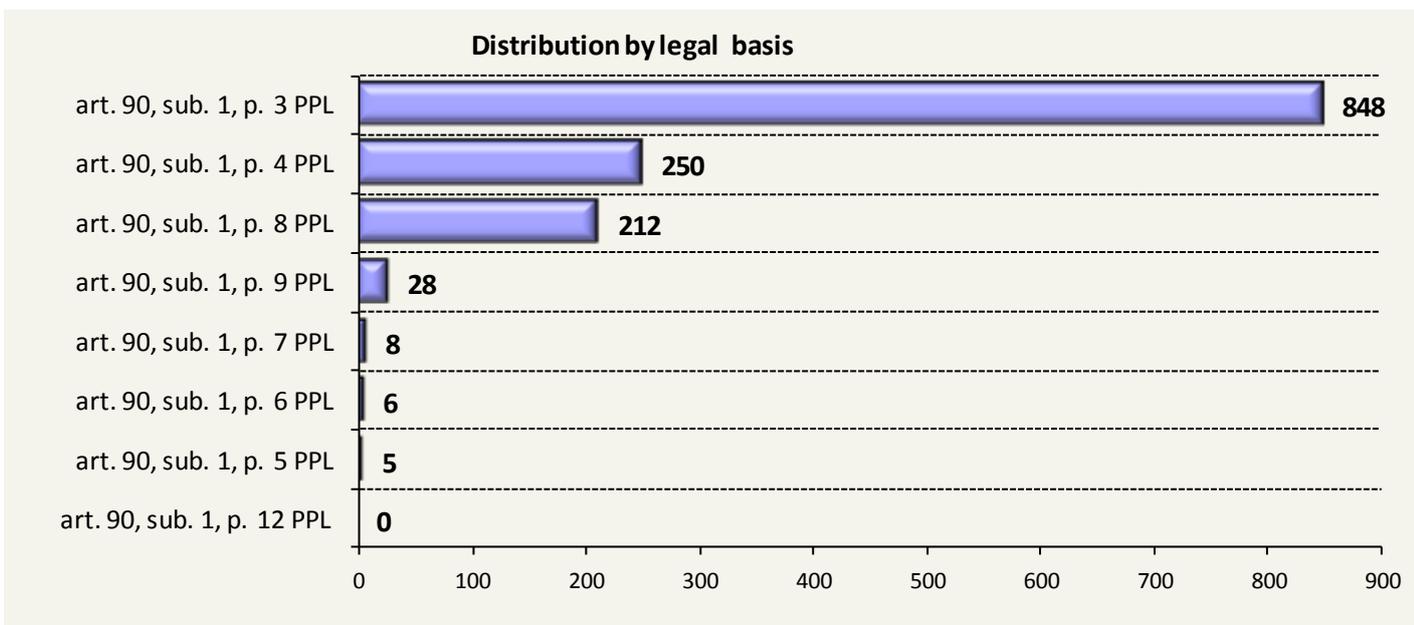
● **Control over negotiated procedures without notice**

Negotiation without notice is a procedure that contracting entities may apply only exceptionally and by terms and conditions expressly referred to in the Public Procurement Law. Cases in which conducting of such procedure is allowed, are tied to the presence of specific, objective circumstances which arose at the time of the initiation of the procedure. The reason for this is that due to the nature of the negotiations, this kind of procedure includes the least the principles of PPL. In this connection, it is also the function of the Agency related to the control on legality of the negotiated procedures without notice, introduced from 1 January 2009. The ex-ante control, carried out by PPA, covers the decision and the invitation for opening of negotiated procedures without notice, initiated by contracting authorities under art. 7, p. 1-4 from PPL on the grounds of art. 90, subpara. 1, p. 3-9 and p.12 from PPL, as well as evidences relating to the selection of this type of procedure. By its conducting is intended to be checked the conformity of the reasons contained in the decision to open, with the supporting evidences, so to determine whether in the present case, the choice of legal basis under art. 90, subpara. 1 from PPL complies with the requirements of the law (art. 50, subpara. 1 and 4 RIPPL).



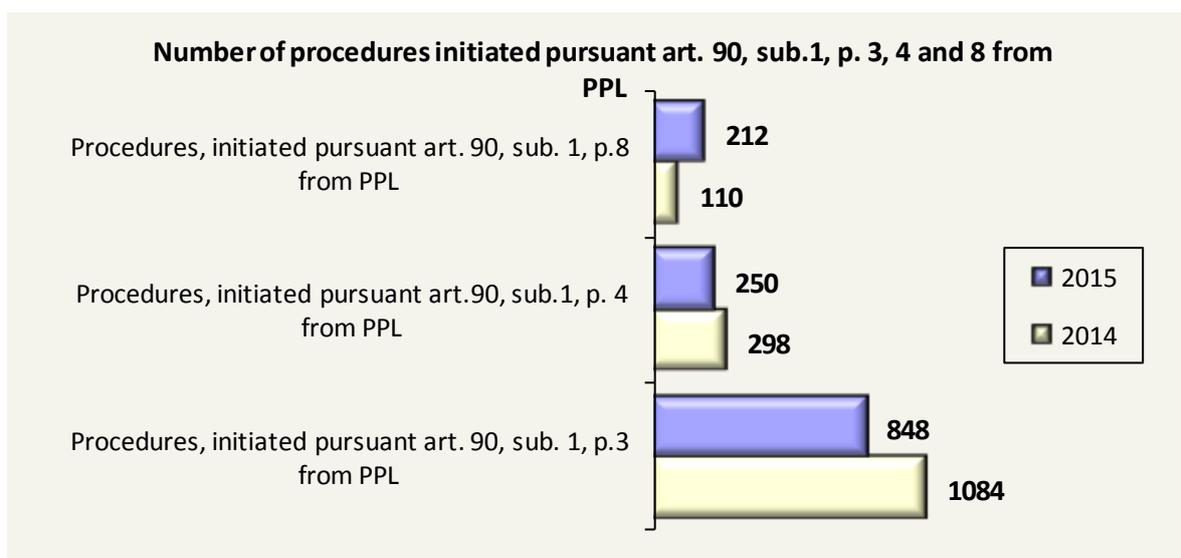
Evident from the graphic, the number of negotiated procedures without notice pursuant to art. 90, supara. 1, p.3-9 and p.12 from PPL by contracting authorities under art. 7, p. 1-4 from PPL in 2015 is 1357. Statistics show that after significant growth over the period 2012-2014, in 2015, has seen a slight decrease in the number of initiated negotiated procedures.

Due to the introduction of minimum value thresholds in force from 01.07.2014, 46% of the procedures initiated in 2015 (619), are not subject to the ex-ante control according to art. 19, subpara. 2, p. 24 from PPL.



Of all documents subject to control referred to in art. 19, sub. 2, p. 24 from PPL for 2015, the highest share occupy the procedures initiated on the grounds of art. 90, sub. 1, p. 3 from PPL – 63% of the total. The mentioned legal basis suggests for copyright or other intellectual property rights, or of exclusive rights acquired under the law or administrative act. For the realization of such activities the contracting authorities have no alternative for a supplier of goods or services and therefore they invite the person bearer of the rights. This factor determines also the high number of procedures, conducted pursuant Art. 90, subpara. 1, p. 3 from PPL – all contracting authorities are using utilities (electricity and heat, water and gas), and all the procurements for construction obligatory are accompanied by the service author supervision. The lawfulness of the awarding directly depends on conditions which originate from other legal acts (Energy Law, Law on Copyright and Neighboring Rights, Law on Territory Planning, Water Act etc.) and they reflect the State policy in the relevant areas.

Next rank procedures found on the grounds of art. 90, sub. 1, p. 4 and p. 8 from PPL, approximately 18.4% and 15.6% of the total number of open procedures. These grounds are used in case of necessity of taking urgent action due from occurring to exceptional circumstances (§ 1, p. 8 of the AP of PPL) or, where appropriate, by the award of additional service or construction of the same contractor, due to unforeseen circumstances (§ 1, p. 14 (b) of the AP of PPL). It should be noted that the first of those legal basis is used in circumstances brought about by unforeseen for the contracting authority events, such as natural disasters, accidents, crashes, different situations caused by the refugee crisis as well as others, which threaten the life and health of the people. In them, the contracting authority should take urgent actions, because of which cannot be complied the time limits for open or restricted or negotiated procedures with publication of a contract notice. In procedures under art. 90, sub. 1, p. 8 from PPL, the situation is different. Negotiation on that basis takes place in addition to the already concluded (available) active contract for construction or service, in which case the award of the contract to a new contractor would significantly hamper the contracting authority and would not lead to a full and complete performance of the original contract.

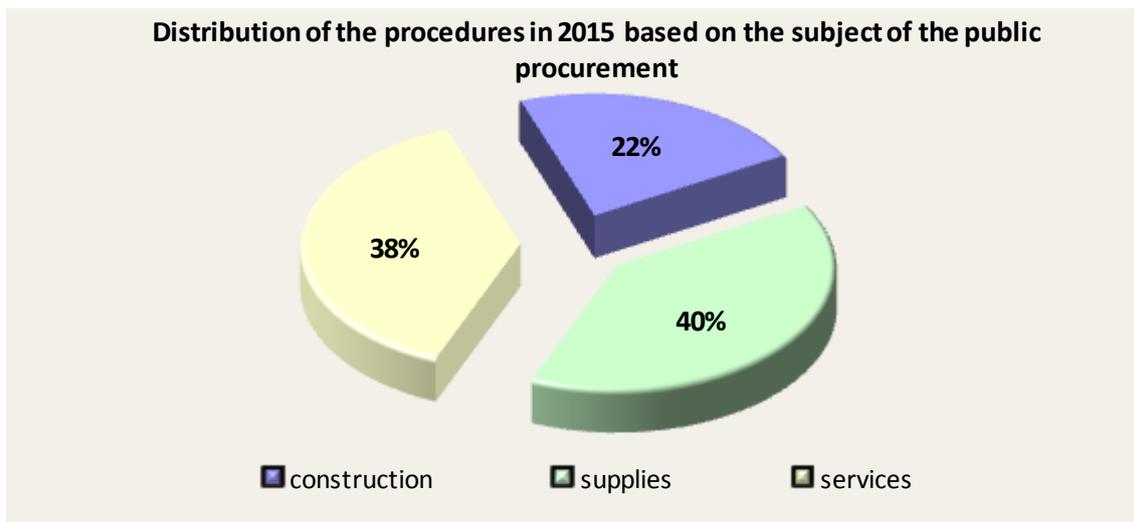


Evident from the graphic, the number of initiated negotiations pursuant to art. 90, sub. 1, p. 3 from PPL (and most common) marks a decrease of 27.3% compared to the previous 2014. The proportion of procedures conducted pursuant to art. 90, sub. 1, p. 4 from PPL have declined with about 19.2%. At the same time, it is noticeable that in the past year there has been a significant increase in negotiations, initiated on the grounds of art. 90, sub. 1, p. 8 from PPL, with about 92.7% compared to the previous 2014.

Relative to the total number of negotiations the proportion of the procedures initiated pursuant to art. 90, sub. 1, p. 5, 6, 7 and 9 from PPL (respectively – 5, 6, 8 and 28) is relatively small. Statistics show that in 2015 are not initiated procedures pursuant to art. 90, sub. 1, p.12 from PPL.

In 2015, the biggest share of the negotiated procedures is for the municipalities with 619 procedures, followed by educational institutions – 188, ministries - 119, agencies - 118, hospitals – 114. After them are public-private organizations with 39, foresters - 17, hunting estates - 7 and other types of contracting authorities – 136.

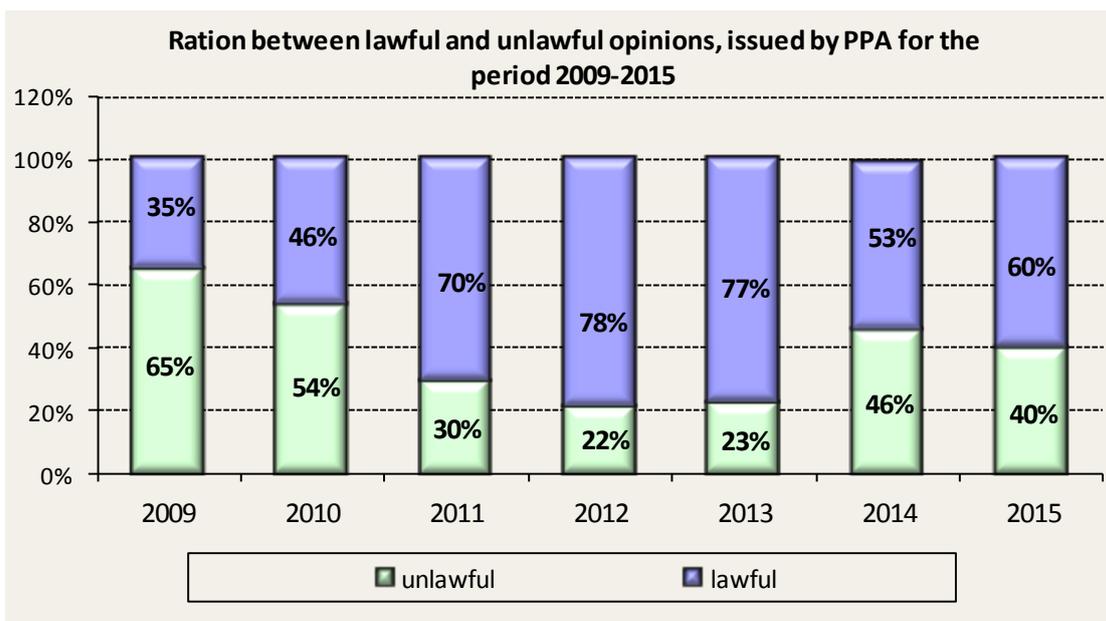
From the point of view of the subject of the public procurement with the highest share are the negotiated procedures without notice with subject "supply" – 540, followed by those for "services" – 510, and with the smallest share are procedures for "construction" – 307.



In 2015, are expressed opinions on the legality of 1285 procedures applied for ex-ante control in the same year. Conclusions are expressed on 326 more procedures subject to ex-ante control, filed before the beginning of 2015. With them, the total number of prepared statements for legality in 2015 is 1611.

In the next graphic it is shown the ratio between the procedures in which the requirements of PPL are fully complied (lawful) – with the blue color, and the procedures in which inconsistencies with these requirements are permitted (unlawful) – with green color.

In the past year a slight increase in the proportion of the lawful opinions issued by the PPA is noticed, in comparison with the previous 2014 – from 54% to 60%.



As regard to the expressed by the PPA conclusions of illegality, the following most common errors in the preparation of the procedures stand out:

- formal set out reasons in the decision to open the procedure without being referred to specific facts and circumstances by which to justify the selected type of procedure in violation of art. 91, sub. 1 from PPL;

- non-submission of evidences by which to clarify the factual decision and to justify the selection of the specific type of procedure;

- omission of the contract value, resulting in impossibility to be evaluated whether it falls within the scope of ex-ante control;

- unforeseen the value of the service to carry out author supervision in defying the procedures for the award of the design, leading to easier award of the author supervision;

- argumentation of the choice for procedure by prior opinions expressed by the PPA to the contracting authority. There is a neglecting of the actual facts and circumstances relevant to the reasons for the selection of procedure, indicating the factual situation which applies to the past;

- not initiating in time a new procedure for selection of a contractor for the supply of food products, resulting in supply disruption;

- products which are the subject of the delivery are not of urgent necessary;

- an inappropriate choice of legal basis by the contracting authority in relation to the particular factual situation;

- for award of contracts under art. 90, sub. 1, p. 4 from PPL, an indication of the circumstances that can not be defined as "exceptional" in accordance with the provisions of § 1, p. 8 of AP of PPL;

- not foreseen in some cases, that the period between the occurrence of exceptional circumstances and the initiating of the procedure implies a choice for contractor through competitive procedure by PPL (including in the cases under art. 76, sub. 3 and art. 86, art. 3 from PPL);

-insufficiently good planning by the contracting authority for preparation of procedures under art. 90, sub. 1, p. 8 from PPL. Description of the circumstances which can not be perceived as "unforeseen" according to the definition of § 1, p. 14 (b) of the AP of PPL. Lack of evidence that these circumstances have occurred regardless of the care of the contracting authority and that could not be included in the subject of the main contract;

-non-submission of arguments and evidences that it is impossible for the contracting authority to ensure their need in a manner different from applications.

Regardless of these shortcomings, it is important to be noted that there is an aspiration of removing already performed such in the previous procedures, which facilitates the prevention of already established corrupt practices. In a review of the ratio between lawful and unlawful procedures, compared to the previous year it grew, which is in support of the effectiveness of this kind of control.

In connection with the foregoing, it can be concluded that the implementation of the ex-ante control by the Agency assists the main purpose of the preventive approach, namely restricting the unlawful using of negotiated procedures without notice. At the same time the responsibility of the contracting authority should not be taken by the authorities with control functions. In relation to this when there is negative opinion issued by the Agency the contracting authority has the right to terminate the procedure. It has also the right to conclude a contract if it sees that the reason for such opinion is the not good motivation or not presenting of the suitable documents of evidence to support the motives. Not at last place the conclusion of the contract could be crucial because of the public interest which the contracting authority serves through the imposed to it functions and obligations.

Next, it should be noted that in 2015, again it is observed inability to timely processing of incoming correspondence by the Agency. The reason for this is the unequal distribution of the declared procedures by the contracting authorities as a result of factors and circumstances (disasters and accidents, obtaining funding, etc.), as well as the insufficient administrative capacity of PPA.

The reported results justify the need for the implementation of the ex-ante control under art. 19, sub. 2, p. 24 from PPL to continue in order to be overcome the risk of impact and manifestation of corrupt mechanisms specific to this type of procedures.

Remedy and control

● Summarizing the remedy practice for the public procurement procedures.

In the practice of the remedy procedures is observed keeping the traditionally low percentage of effectively appealed procedures according to the number of complaints admitted. The reasons for that could be searched in different directions. At first place should be placed the natural objective of the economic entities, candidates and participants for participation, respectively winning the given public procurement. In this relation cases are observed, in which the right to appeal is used mainly in the competitive race between the participants, not as a tool for effective overcoming of irregularities in the procedures.

The non-effective appeal could be a result as well of not good knowing of the rules of the public procurement legislation.

● **Preparation of reports and references for the awarded public procurements**

In 2015, were prepared and submitted 60 specialized references for the purposes of inspection and investigation bodies (NAO, SFIA, Sofia District Court, Public prosecutor's Office, State Agency for national security, Ministry of the Interior, etc.) and such for the needs of contracting authorities.

Internal and international cooperation

● **Cooperation with other institutions**

PPA has established itself over the years of its existence as a sought-after partner for interaction with other institutions regarding the conduct of discussions, participation in working groups and round tables for assisting in commenting on issues of public procurement.

● **Working groups**

During the year, PPA is represented in the establishing of various interdepartmental working groups where it participates as administration, with a leading role in the public procurement system in Republic of Bulgaria. The Agency's experts have taken part in the meetings of the following working groups of interinstitutional level for the preparation of various normative acts and other documents:

- Working group for amending Council of Ministers Decision No 551/2014 for approval of a list of goods produced and delivered, of the construction to be performed and of the services provided, which are awarded to specialized enterprises or cooperatives of disabled persons under Public Procurement Law, to the Ministry of finance;
- Board for coordination in the fight against offences affecting the financial interests of the European Union (Directorate AFKOS in Ministry of the Interior);
- 1st session of the Bulgarian-Pakistani intergovernmental Commission for economic cooperation, organized by Ministry of economy;
- 1st session of the Bulgarian-Korean intergovernmental Commission for economic cooperation, organized by the Ministry of transport;
- Participation in a meeting of the CEI in connection with the approval of the draft of the position in case C-129/15, Council of Ministers.

● **Round tables and discussion forums**

PPA cooperates actively with representatives of various organizations, with a view to improving the conditions for participation in public procurement procedures. One of the forms for this cooperation are the conducted round tables, discussion forums and other events, during which practice, experience and ideas are shared for improvement of the functioning of the public procurement system.

During the year, representatives of the PPA took part in:

- Fourth round table entitled "Modernization of public procurement", organized by the Chamber of constructors in Bulgaria;
- National meeting of municipal enterprises and trade companies, organized by the National Association of Municipalities in Republic of Bulgaria. At the Forum is presented presentation "New legislative opportunities for business communities for the municipalities - In house award";
- Discussion forum on "Public-private partnerships and public procurement: Better regulatory environment for more business opportunities", organized by the American Chamber of Commerce.

● **Monitoring committees**

Experts from PPA are included as members and observers in the Monitoring committees (MC) of The National Reference Framework and the operational programs for the new programming period. During the reporting period, representatives of the Agency participated in meetings of the MC on the following operational programmes:

- Operational Program "Environment" 2014-2020;
- Operational Program "Regional Development" 2007-2013 and MC "Regions in Growth" 2014-2020;
- Operational Program "Innovation and Competitiveness" 2014-2020 and OP "Initiative for small and medium-sized enterprises" 2014-2020;
- OP "Transport and Transport infrastructure"

● **International activity**

In the performance of their powers, PPA collaborates actively with the European Commission and a great number of foreign organizations. Normally, such cooperation is implemented by the form of participation in bilateral meetings, work groups and conferences, dialogue with the institutions from the EU Member States and implementing projects with international participation.

PPA participates in the governmental expert working group to the European Commission. For the reported period Agency's experts have taken part in two meetings. In addition, the PPA is presented in 5 meetings of the Advisory Committee for Public Procurement.

The cooperation in the area of e-procurement is especially important for carrying out the functions of the Agency. It is directly related to the maintenance and development of electronic services that provide PPA, including the forthcoming development of a single national electronic web-based platform for the award of public contracts. In this connection, a representative of the Agency is included in the Working Group "Interested parties in the process of e-procurement", as for the reported period was involved in two meetings. For the reporting period PPA is presented also in meeting of the Working Group on electronic submitters (e-Sender).

The Agency's experts have taken part in:

- international discussion forum entitled "Control and monitoring of public procurement" held in Batumi, Republic of Georgia, and organized by the World Bank;
- training in connection with the Commission's pilot project for the use of Information Internal market system, held in Brussels, Kingdom of Belgium;
- Regional Conference "Evaluation of corruption risk, procurement and open award in Southeastern Europe", organized by the United Nations Development Program, Regional Cooperation Council and Regional Anti-corruption Initiative.

In 2015, has been conducted a research of the best practices and models for ex-ante control of public procurement procedures, is the exchanged experience with other Member States of the European Union (Poland, Belgium, the Czech Republic and Austria). With local experts in the field of public procurement institutions by analogous to PPA were commented and discussed models and mechanisms for carrying out the ex-ante control, common problems, successful entrusting decisions on engineering, project management services, services for information and publicity, the award of services to tour operators, etc. Questions related to new EU directives in the field of public procurement and their transposition are discussed.

● **Providing connections with European Union institutions for issues, related to the public procurement**

Sending of annual statistical reports for the awarded contracts in the country:

Under the Public Procurement Law and the Rules for its Implementation, the PPA is obliged to send the European Commission annual statistical reports with detailed information for the awarding of public procurements in the country. The report for the previous financial year was sent in October 2015.

PUBLICITY AND TRANSPARENCY OF THE INFORMATION, RELATED TO THE PUBLIC PROCUREMENT AWARDING

● **Public Procurement Portal (PPP)**

The portal is a centralized information system that provides access to data on all aspects of procurement, organized into separate themed areas and oriented towards the specific interests of the main user groups. It is updated daily. Is available on Bulgarian and English languages, and is adapted for use by disabled persons.

In PPP is presented the organization and activity of PPA, the legal framework and practice in the field, as well as useful links to other Internet resources. The Portal provides up-to-date information, consistent with the changes in Bulgarian and European regulations and established best practices. The aim is to be achieved greater publicity and transparency on matters relating to public procurement, as well as to be provided methodological assistance for the persons involved in this process.

The portal provides free of charge software "Editor of forms".

PPP provides the possibility of contracting authorities alone to manage and edit their own subpages with personal information, as a condition for this is that they are authorized users in the RPP. In the window "Presentation of the contracting authority" each

organization could provide variety of information about its activities, including presentations, pictures, useful links and more. In this way, the contracting authorities who do not have the means or the ability to build and maintain their own websites are assisted, as well as those who want to further publicize their functions and activities.

Through the portal, the Agency conducts surveys on a variety of topics related to the practice of public procurement, thus carry out feedback from the users of the portal. In 2015, 2 consultations on the following topics are made:

- Do you consider that the national thresholds for the award should be increased?
- According to you, where should be kept the physical electronic tenders prior to their public opening?

There are registered over 900 opinions on the questions asked.

In accordance with one of its powers, the Executive Director of the Agency shall, with the assistance of professional associations and organizations in the industry, maintains a list of external experts that contracting authorities may use in the preparation and implementation of procedures for the award of public contracts.

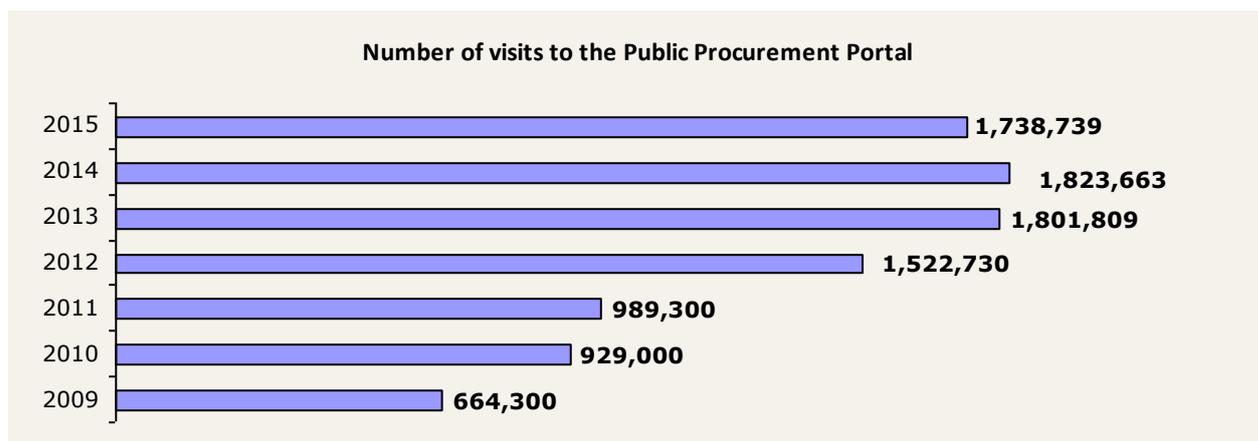
By the end of 2015 registration of 824 external experts is active, as from them 54 are submitted by 7 organizations and the rest have filed individual claims.

In 2015, were conducted 290 lots for the selection of external experts.

In 2015, 5 news concerning different initiatives, events and activities carried out by the Agency are published.

In 2015, PPA continues to keep Public Procurement Newsletter in Bulgarian and English languages. It contains data about the volume and dynamics of public procurement market in the country, on an annual basis and compared with the previous three years, as well as information on the public procurement market in the country on a monthly basis.

In 2015, the visits to the Portal of Public Procurement are 1 738 739.



● Public Procurement Register

One of the main functions of the Agency is the maintenance of a Public Procurement Register. PPR is an electronic database of information for all announced public procurement procedures and the results of their award, including information on their implementation. It

is an essential tool for ensuring compliance with the principles of publicity and transparency, that provide the conditions for fair and honest competition when awarding public procurements. The access to the information in the Register is free of charge and is carried out by means of Public Procurement Portal.

For the award of a public procurement different standard forms of documents are used. For their filling is developed specialized software product "Procurement Form Editor". Provision is made for the contracting authorities to authorize their employees to fill out the information in the validated models, to sign them with electronic signature and to send them to the PPA. These are the so-called "authorized users" of the PPR. For them, the Agency provides two mechanisms for automatic registration of documents in PPR:

- by filling the on-line standard forms in PPP;
- by using the application "Procurement Form Editor" which allows automatic input of documents in the database of the register.

In this form of communication, the contracting authorities are sending the information subject to publication in electronic form in accordance with Electronic Document and Electronic Signature Law, without submitting a paper.

Authorized users can use free of charge e-service "Electronic sender" (e-Sender), through which the Agency refers to official publication in the Official Journal of the EU (OJ) notices for public procurements. The number of contracting authorities which have used this service in 2015 is 655. The number of forwarded for publication documents in the OJ of the EU in the year is 9 753.

The above described represents the first phase of the overall process of e-procurement – electronic announcement.

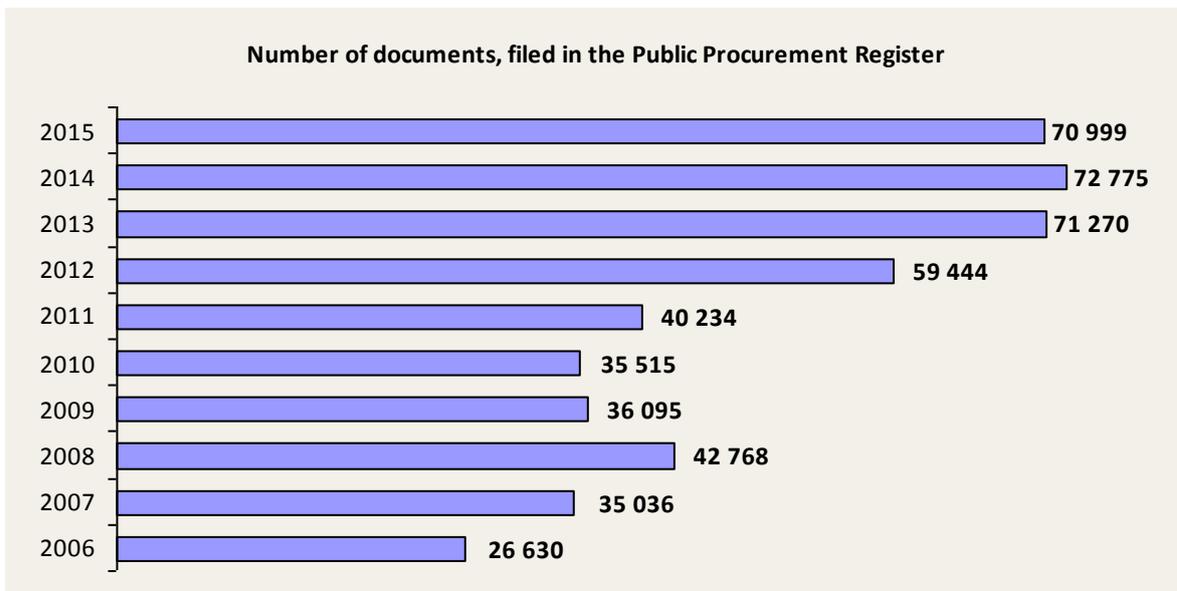
Other electronic service is the possibility of obtaining the documentation for participation in a public procurement and the exchange of questions and answers between the contracting authority and stakeholders electronically. Provision of electronic documentation is the next phase of e-procurement and one of the means to adopt and promote the electronic form of communication between the participants and contracting authorities. In 2015, in 251 procedures the documents for participation are provided electronically through the Public Procurement Portal. PPA's efforts are aimed at promoting this opportunity, which speeds up the procurement process and facilitates the exchange of information between the entities involved in the process of procurement.

One of the important features of the register is the quick and advanced search in the database. Using advanced search, users can save a combination of criteria such as a template that can be reused. Anyone can subscribe and receive automatic notification by email of published documents in the PPR which meet the selected criteria. Data shows that by the end of 2015 in PPR are registered 20 710 search template and are submitted 16 698 requests for electronic subscription, which are performed on a daily basis.

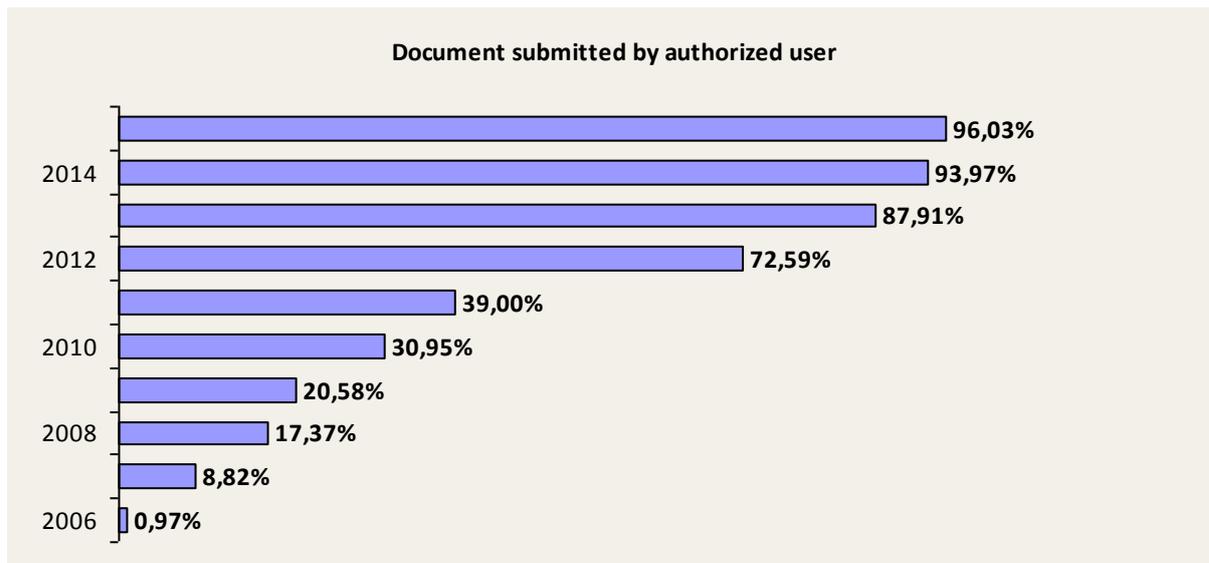
Even though the main purpose of PPR is to provide information to the stakeholders, it is also a reliable source of statistics on the basis of which the surveillance on the market in public procurement is conducted. Through the PPR is provided also implementation of the obligation of the country to provide annual statistical reports to the EC. The information filled in the register helps the activity of the control authorities as well in relation with the verifiable procedures and contracts.

The abovementioned illustrates the importance of the register for the functioning of the public procurement system, and hence for one of the main tasks of PPA – the maintenance of the register in excellent technical condition, which allows the existing in it information to be available to users at any time.

In 2015 in the Register are filed 70 999 documents (incl. 56 326 published, 11 384 small notices and 3 289 summarized informations under art. 44, sub. 10 from PPL)



PPA takes into account the continuous and sustainable increasing in the number of documents sent by the use of an electronic signature. For 2015 96.70% of all documents, including small notices were filed directly in the database of the register by the so-called authorized users. For the purposes of benchmarking by this item should be excluded the number of small notices. For them the publication using electronic signature is mandatory and is the only option, e.g. 100% of the papers from this kind are digitally signed. If we exclude the small notices, 96.03% of the documents are submitted by using of digital signature. Evident from the graphic, percentage of digitally signed documents marks a significant growth in recent years. This result was seen as an important prerequisite for the future development of the next stages of e-procurement.



By the end of 2015 in the register exist data for 5 913 contracting authorities and 24 488 contractors in public procurement contracts.

During the reporting period 14 existing standard procurement forms are updated. PPA has provided the users with updated version of the specialized software "Procurement Form Editor", as well as of the on-line standard forms.

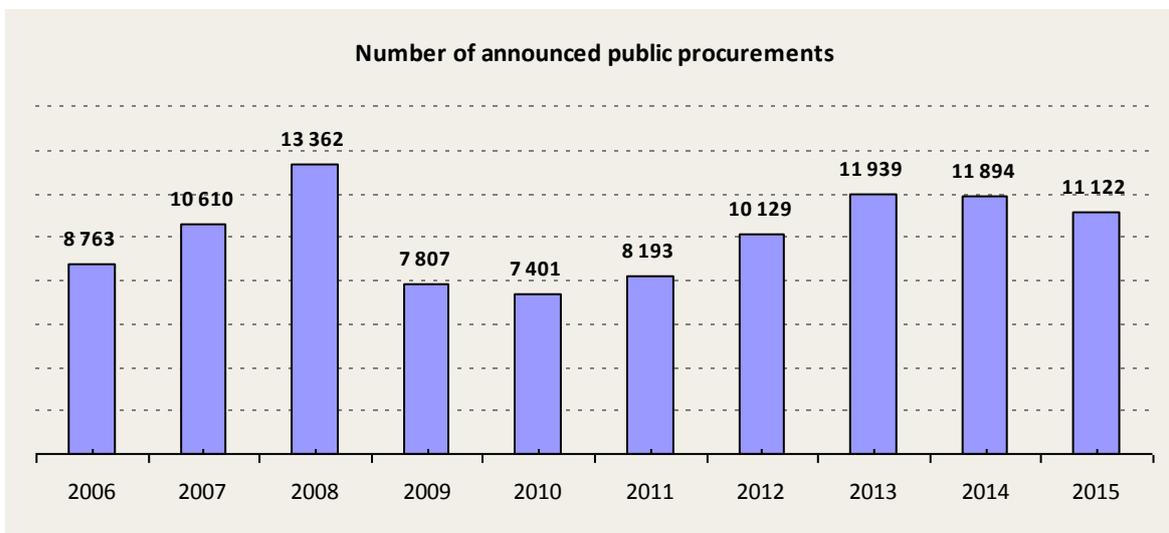
CONDITION OF THE PUBLIC PROCUREMENT MARKET IN BULGARIA

Public procurement is a tool for redistribution of a substantial part of the gross domestic product of the country through the various budgets. That is why the State is expected to manage the effective and transparent use of public funds as well as funds for activities of public importance. The aim is that objective to be achieved by means of appropriate legislation and the work of implementation institutions, including the administrations of the contracting authorities.

The condition of the public procurement market in its turn is a reflection of the general economic situation in the country. In carrying out the State policy in the field of public procurement is of particular importance to explore and know the characteristics and the volume of this market, as well as data that describe it as a specific part of the common European market.

PPA is the national body, whose function is the monitoring of public procurement. This report contains data on some of the main observed by the Agency indicators that give an idea of the condition of that market.

The first of the studied indicators refers to the volume of the market and its dynamics.



The total number of announced public procurements for 2015 is 11 122.

Another observed indicator is the number of the concluded contracts.

Total number of contracts		currency	Value	
2015	2014		2015	2014
23270	25350	BGN	7 589 649 432	7 489 842 102
		EUR	62 677 837	66 364 838
		USD	467 312	6 122 066
		JPY	35 079 850	-
		CHF	20 388	22 119
		GBP	36 340	25 270

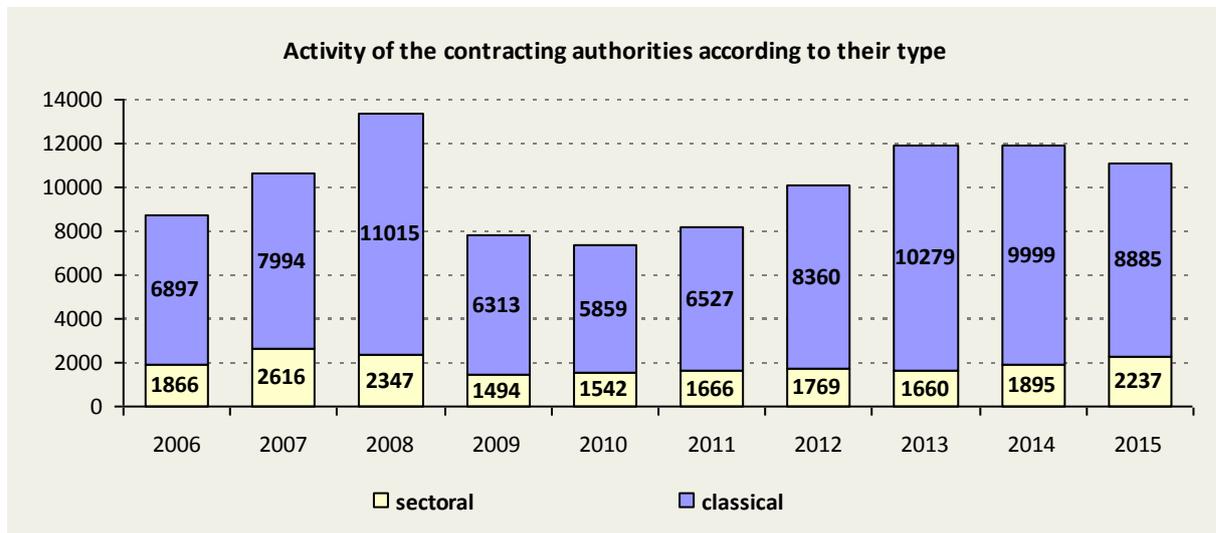
**In the chart are included also the contracts concluded in the exceptions from the scope of PPL*

The value of contracts concluded during the year is over BGN 7.71 billion. The average value of a contract is BGN 331 498. The value of the contracts concluded in a foreign currency, is restated in the BGN using BNB Exchange rates to 30.12.2015.

Indicator of the activity of the contracting authorities according to their type is the distribution of procedures between the classic contracting authorities (under art. 7, p. 1-4 from PPL) and sectoral authorities (referred to in art. 7, p. 5 and 6 from PPL). While the classic contracting authorities are all those who spent budget resources, in the group of the

sectoral are included companies that carry out activities of public importance – such as water supply, power supply, service of transportation networks, and others.

The following graphics shows the distribution of contracts announced by the two main groups of contracting authorities.



The ratio of the number of procedures announced by the classical and sectoral contracting authorities is 80% to 20% in favor of the classical. Naturally this result stems from the larger number of classical authorities.

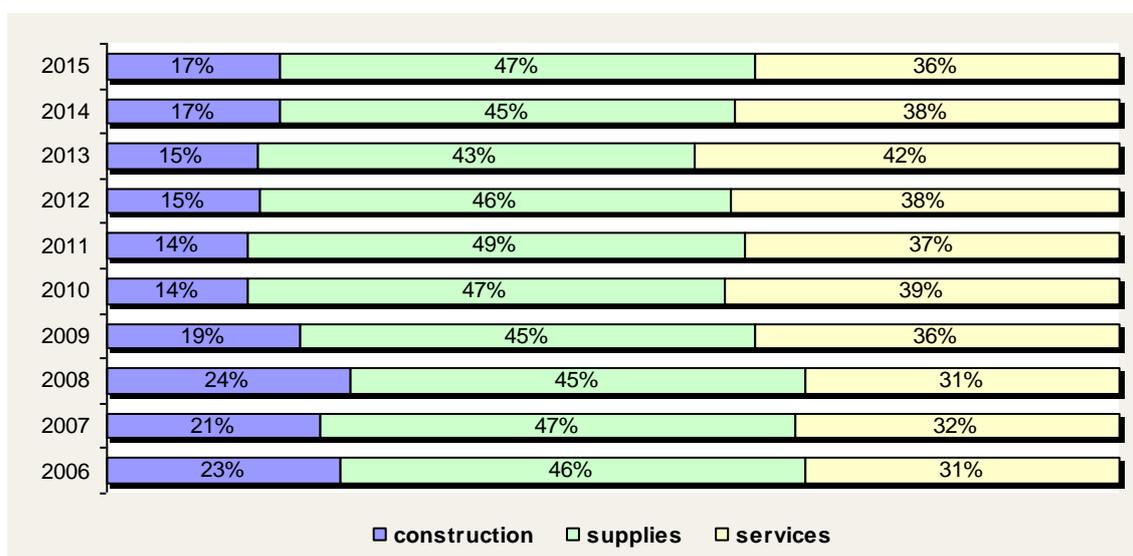
In the table below, contracting authorities are represented, ranked according to the number of contracts concluded by them in 2015.

Contracting authority	Number of contracts
Multi-profile hospital for active treatment "Tokuda Hospital Sofia" EAD - /old name Multi-profile hospital for active treatment "Tokuda Hospital Sofia" JCS/	844
Electricity System Operator /ESO/ EAD	498
Sofia Municipality	324
"Kozloduy NPP" EAD	277
TPP "Maritsa East 2" EAD	263
Military Medical Academy /MMA/	226
Varna Municipality	225
Dobrichka Municipality	224
National Railway Infrastructure Company (NRIC) - Sofia	218
EVN Bulgaria Electricity Distribution EAD /old name EVN Electricity Distribution JSC - Plovdiv /old name: Electricity Distribution Plovdiv JSC/	212
Mini Maritsa Iztok EAD	205
Multi-profile hospital for active treatment /MPHAT/ - Burgas JSC	204
Burgas Municipality	198
"Sofiyska Voda" JSC	188

"Central Finance and Contracts Unit Directorate"/CFCUD/ in Ministry of Finance /MF/	180
University multi-profile hospital for active treatment /UMPHAT/ "St. Ivan Rilski" EAD - Sofia	175
Plovdiv Municipality	172
Road Infrastructure Agency /RIA/ - /old name - /National Agency "Road Infrastructure"/NARI/ - /old name - Фонд "Republican Road Infrastructure" Fun/ /RRIF/	171
University multi-profile hospital for active treatment /UMPHAT/ "St. Ecaterina" - /old name - University specialized hospital for active treatment of cardiovascular diseases /USHATCVD/ "St. Ecaterina" EAD /old name - Specialized hospital for active treatment of cardiovascular diseases "St. Ecaterina" EAD /old name - University National Specialized hospital for active treatment /SHAT/"St. Ecaterina" EAD/	162
Gabrovo Municipality	156
Multi-profile hospital for active treatment – National Cardio Hospital /MPHAT – NCH/ - Sofia /old name – Specialized Hospital for Active Treatment of cardiovascular diseases – University National Cardio Hospital /SHATCVD – UNCH/ EAD – Sofia/	151
Ministry of health /MH/	142
University Multi-Profile Hospital for Active Treatment /UMPHAT/ "St. George" EAD - Plovdiv	142
Stara Zagora Municipality	142
University Multi-Profile Hospital for Active Treatment /UMPHAT/ "Dr. Georgi Stranski" EAD - Pleven	141

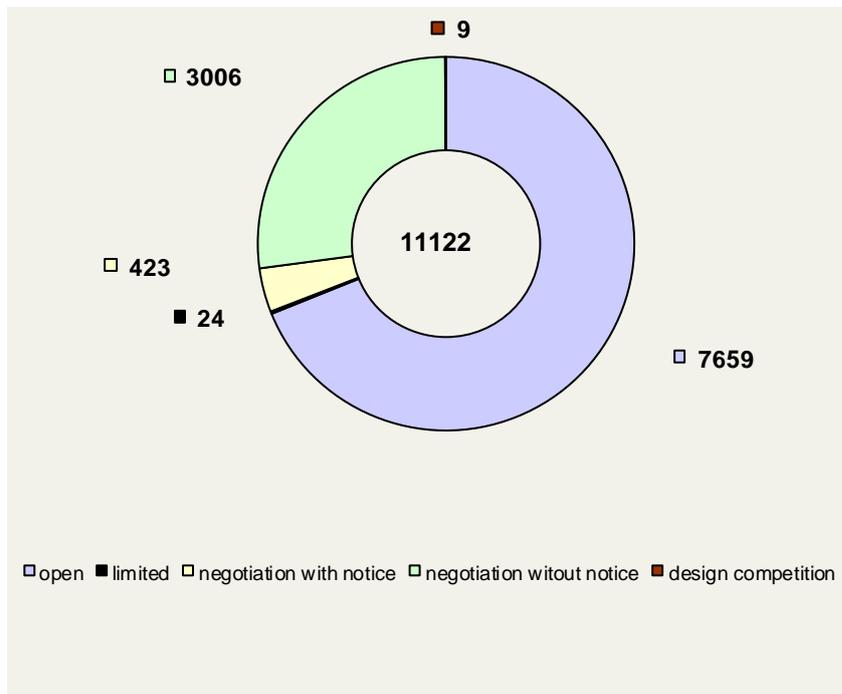
According to this ranking, the leading places take the hospitals. On the large number of contracts concluded by these contracting authorities affects the fact that the procedures carried out by those contracting authorities normally include multiple lots.

The distribution of the number of procedures on the basis of their subject – construction, services or supplies, gives an idea of the structure of needs of the contracting authorities.



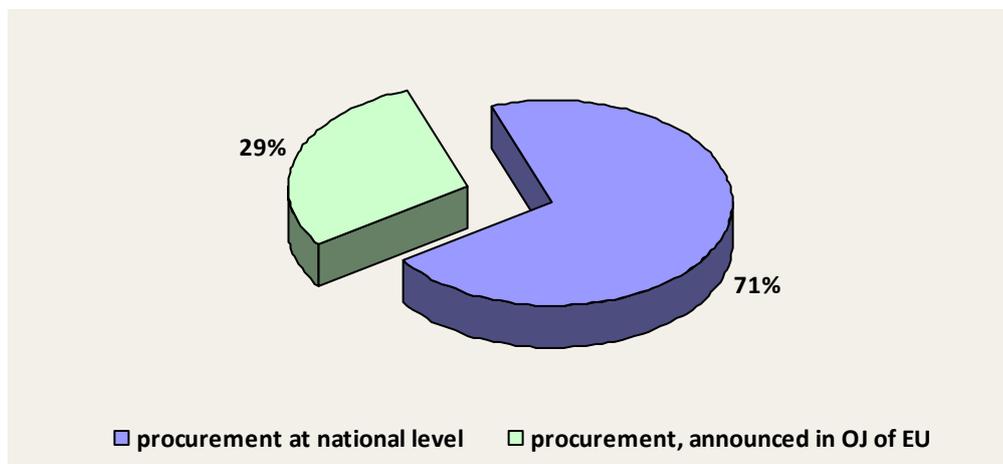
The distribution over the last 10 years shows preservation of the ratio between works, services and supplies. Traditionally, the largest is the share of deliveries, followed by services and construction.

The next significant indicator for the analysis is the distribution of contracts according to the type of the chosen procedure.



Visible from the graphic over the years is preserved the established trend of the largest percentage of procedures which guarantee the principle of publicity in the awarding -open procedure under PPL. They take up 68.86% of the total number of procedures.

As regard to the evaluation of the importance of public procurement in the country announced to the total European market it is necessary to submit the data for doing the procedures, which are announced by the EU and OJ. These are contracts which estimated value is above the thresholds referred to in art. 45 in PPL.



In 2015 the Bulgarian contracting authorities have announced in total 3 213 procedures at the European market, which indicates 28.89% of the total amount of procurements.

CONCLUSIONS

Based on the presented data and the review of the activities of PPA some important conclusions might be brought out and should be accepted as a basis on which to develop future goals of the administration.

1. The decision to be established a specialized body that is committed to the implementation of the national policy in the field of public procurement and to ensure synergy with the European partners of the country, continues to be assessed as extremely positive. The experience gained over the years in the field of methodology and ex-ante control of public procurement make the Agency a suitable partner for cooperation with the Commission as regards the application of legislation in the field, in connection with the requirements of new European directives on public procurement.

2. The importance of the PPA will continue to grow, given the expansion of the functions of ex-ante control and the dynamics in the development of the system of public procurement. During the reporting period, the Agency's efforts are directed to proper and timely transposition of EU directives in national law. The process of drafting the new regulations is implemented in an environment, which is characterized by an increased public interest in the efficient spending of public resources. With the proposed texts in the draft of a new Public Procurement Law, also in terms of the enlarged scope of the controls carried out by the national methodological authority, PPA meets the public expectations for ensuring more publicity, transparency and legality in the activities of the responsible entities.

3. The analysis of the performance of the functions indicates that the insufficient administrative capacity and budgetary resources give impact on the realization of some of them. For example, the provision of the methodology and implementation of control entails the use of a resource for attracting, training and retaining specialists in the PPA, as well as the opportunity to develop more extensive programs for training of staff involved in procurement in ministries, agencies and municipalities. At the time the good results of the PPA are due to built and maintained over the last years team, whose core is the employees working since the establishment of the Agency specialize in studying, applying and developing of European and national legislation. Their keeping is of the utmost importance to provide administrative resources in a qualitative aspect to meet the new challenges. The existence of a sustainable policy on employees, providing stability and conditions for development of employees is at the heart of the expectation to provide consistent results. In this sense, the main risks in 2015 will be associated with it to maintain and develop the staff resource, in terms of the restrictive budget. Without this resource essential functions, such as ex-ante control and methodological work will be affected negatively, and through them proper spending of billions of Bulgarian leva is ensured.

4. PPR is the main instrument which ensures the conduct of the principle of publicity. The content of the PPR is complicated all the time. This database is essential for the State as a whole. Its maintenance and improvement is among the priority tasks of the PPA. Along with this, it should be noted that the maintenance of PPR is a process that requires

financial security accordingly, given that in this case, the main risks are related to insufficiency to ensure quality work and registry security. In front of the employees working in the specialized directorate in PPA is set the difficult task to ensure normal operation of the PPR, in terms of very limited financial resources.

CONCLUSION

In the past 2015 PPA successfully meet difficulties and deal with most of the assignments. A draft of Public Procurement Law was drawn up and preparation began on the development of a draft of new Rules for the application of the law. The adoption of the Strategy and Plan to it by the Council of Ministers are a guarantee for the sustainability of its objectives and the implementation of actions to achieve them.

The partnership agreement with the European Commission, which negotiated the conditions for funding of projects under the structural funds of the Union during the programming period 2014-2020 is linked to the existence of a workable and secure environment for the award of public contracts, in accordance with the applicable rules. Given that one of the tasks is to support the fulfilment of the preconditions for signing The Agreement in the public procurement part.

At the same time, it is necessary to be ensured the achievement of the national objectives, determined in accordance with the "Europe 2020" Strategy for smart and sustainable economic growth.

In this connection, the objectives and the challenges for the next period are clearly outlined. They are related to the implementation of the activities in the national strategy for the sector of public procurement and in general can be divided into the following main areas:

- Practical assistance for the implementation of the new legislation by:
 - Issuing of methodological guidelines, consultations and preparation of manuals and practical guides;
 - Coordination of the process for preparation of minimum standardized requirements for certain standard contracts;
- Enhance professionalism in the sector through organizing of trainings and seminars (general and targeted) and assistance for the creation of specialized training programs to Universities in the section "Public procurement";
- Preparing for the introduction of e-procurement;
- Monitoring of public procurement – with widening of the scope of ex-ante control carried out by the PPA, in particular the successful introduction in the practice of control by random selection;
- Keeping the PPA's role as a reliable partner for cooperation with the various organisations in the field of public procurement on a national and international level;

- Increasing the visibility and transparency of public procurement through publication of the necessary information;
- Promotion of good practice in procurement related to environmental requirements.

MIGLENA PAVLOVA

EXECUTIVE DIRECTOR