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TPP-RATING.ORG

Transparent Public Procurement Rating is a bilingual (English-Russian), easy to use, online platform dedicated to public procurement.

What can the website be used for?

- Compare countries according to their public procurement legislations and find areas that need improvement.
- View assessments of how the legislation is being put to practice.
- Get the latest news about public procurement related matters.

Advocacy Visit in Kazakhstan: Where Kazakhstan Stands and What Can Be Done?

On 18th of March, 2019 TPPR network held an advocacy visit in Astana Kazakhstan. The Institute for Development of Freedom of Information, together with its partner Zertteu Research Center (based in Astana), met with the representatives of the Agency for Civil Service Affairs and Anti-Corruption and the Ministry of Finance of Kazakhstan to discuss the results of TPPR network research.

A full day of consultations with different public institutions focused on Kazakhstan's score and ranking in the TPPR Rating, advantages and disadvantages of Kazakhstan's Public Procurement Law (PPL), levels of transparency and efficiency and what could be improved.

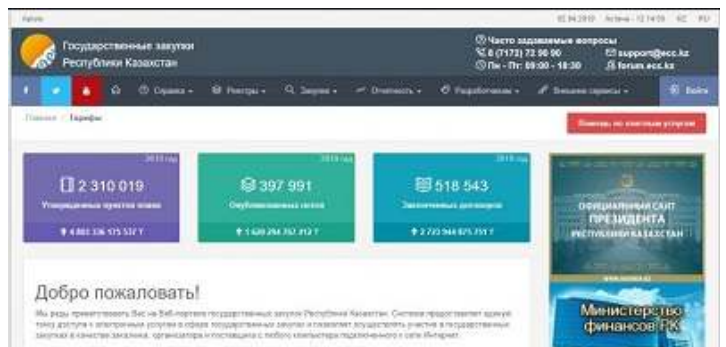


The first meeting was held with the Chairman of the Agency for Civil Service Affairs and Anti-Corruption of Kazakhstan Alik Shpekbaev and representatives of different departments of the Agency, where general findings were presented as to where Kazakhstan stands in terms of efficiency, accountability and transparency of its public procurement system. The second meeting with the representatives of the legal department of the Ministry of Finance focused on legislative recommendations, where experience of over 25 countries were proposed to the Ministry, to make relevant legislative changes in the PPL.

Kazakhstan is currently 9th out of 25 countries currently present on the TPPR Rating. The country ranks rather well in terms of PPL guarantees on ensuring competitiveness, efficiency and transparency. Unlike most countries on the TPPR network, Kazakhstan has fully electronic procurement, with paper-based procedures eradicated completely. This is a definite step towards more efficiency in many directions. E-procurement allowed Kazakhstan to create a modern public procurement system with a unified website, providing information on the whole process of procurement – from planning till execution.

Important aspect of the transparency is that the information is provided in open data format via an API, creating immense possibilities for analysis of the public procurement system.

What is more interesting is that Kazakhstan even provides information on sub-contractors (name, ID, portion of contract received, credentials and contact information), which is still a novelty across all countries present in the TPPR Rating.



Despite these evident advancements, legally speaking TPPR experts identified several crucial flaws. Firstly, the machine-readability of data is not guaranteed by the PPL. The law does not mention the open data format and access to information in such format. Despite the fact that in practice access to data is possible, legal guarantees should solidify this advanced level of openness currently available through the goszakup.kz.

Additionally, there is one particularity in terms of access to open data on procurement, which we believe is a significant setback. It is mandatory to file a written request to the Ministry of Finance to receive authorization to access information on the site in open data format. Such additional step is considered to be a flaw by the TPPR network, as it may hypothetically cause unwarranted blocking of access to information in open data format. Another issue identified by the experts is the fact that law does not apply to state-owned companies or joint stock companies and any legal entity associated with these companies.

There are separate rules for these companies, which include important areas such as transportation, railway, energy etc. Therefore, a big portion of the economy is outside the PPL. The special rules for such sectors lacks the same transparency guarantees, as well as e-procedures.

Another issue related to accountability and efficiency is the fact that the PPL has around 49 premises to conduct direct procurement (single source), which is an oddly high number. In fact the reformation process has resulted in the reduction of such premises as before 2018 their number was 55.

Specific focus was paid to dispute settlement in Kazakhstan, which lacks public involvement as according to TPPR Standard. Different models were proposed to the Ministry of Finance, including the Georgian model, which includes CSO representatives and Armenian model based on rotation principle among civil servants (members of Dispute Settlement Body). The Georgian model was of particular interest to the Agency for Civil Service Affairs and Anti-Corruption of Kazakhstan.

After the meeting a press conference was held within the premises of the Agency for Civil Service Affairs and Anti-Corruption of Kazakhstan, where prospects for future changes as according to TPPR Network Recommendations were voiced before the public. Kazakhstan scores high on the TPPR Rating and in many ways is has a sophisticated e-procurement system. Nevertheless, changes can be made to make the PPL of Kazakhstan more directed towards efficiency and accountability.

Transparent Public Procurement Rating Armenia: Progress Made



With current developments in mind, on March 23rd, 2019, TPPR network held an advocacy meeting in Yerevan to discuss Armenia's Public Procurement Legislation Assessment results. The results focuses on two major PPL assessments based on the TPPR Methodology – 2016 and 2019.

The Institute for Development of Freedom of Information (IDFI) together with its partner National Center of Public Policy Research (NCPPR) held a meeting with representatives of the Ministry of Finance, procurement specialists of major procuring entities of Armenia as well as the civil society. The advocacy meeting focused on the improvements made since the first assessment of 2016 and how the score improved, while at the same time offering proposals on how to further enhance the public procurement system.

In 2016, Armenia scored rather low on the TPPR index, with only 59,7% compliance with the standard, leaving major areas such as transparency, efficiency and accountability vulnerable. However, over the period of 2 years, Armenia managed to improve its PPL significantly. Levels of transparency, efficiency and accountability related legal safeguards increased significantly. Most importantly, the public procurement information portal ARMEPS (PPCM module) currently provides much of the existing data in machine-readable format (CSV) and in Excel, which was not the case in 2016. Nevertheless, improvements can be made and the visit focused on areas most important for the healthy performance of the public procurement system.

2018 data on ARMEPS shows that the number of registered users in ARMEPS is on the rise. In 2011, there were only 125 registered suppliers, in 2012 – 1,000, in 2013 – 1,425, in 2014 – 2,555, in 2015 – 4,391. At the end of reporting period (2017) there were around 5,500 registered economic operators. This growing trend is a positive sign, however the number of economic operators in the system needs to increase. For example Georgia, which is a country of a relatively similar population, territory, economic capacity and output, has almost 35,000 registered users on its e-procurement system. The low number of registered users reflects the low level of average competition per tender in Armenia, which is at 1,9 participants on average. One of the things Armenia could do to attract more users for e-procurement is to shift towards full electronic procurement.

According to Article 8 of the Law on Public Procurement - Within the scope of the functions defined by the law, communication between procuring entities and economic operators can be carried out electronically, and the announcement and invitation **may be provided electronically**. Therefore, electronic procedures are an option, not an obligation. One of the information portals on public procurement “procurement.am” shows that paper-based procurement outnumbers e-procurement significantly. This implies that a fair portion of economic operators may not be interested in registering on the e-portal. By making e-procurement a default procedure, the number of registered suppliers will increase, making information gathering and monitoring of the procurement system more reliable and trustworthy, in addition to potentially boosting competition.

Out of 14,233 contracts (available in ARMEPS portal), which constitute 180,1 bln AMD, 5,820 contracts (41%) constituting 87,8 bln AMD (49%) are done via non-competitive methods. Therefore, competitive procurement procedures account 59% in number and around 51% in volume.

Out of 5820 non-competitive contracts, around 4,062 are below threshold (1 mln AMD). In total these single source below threshold contract volume is around 0,9 bln or 0.5% of the total spending on public procurement.

Hence, a fair portion of the financial resources are spent through non-competitive procedures. This does not mean that all such procurement can be faulty or mishandled, nevertheless, non-competitive procedures still pose a higher risk for corruption. Armenia, should work on reducing the use of non-competitive procedures and there are different methods to be relied upon. IDFI's recommendation was to use a system similar to that of Georgia, where single source procurement needs a prior approval, with standardized questions filled in by the procuring entity (transparency of the process ensured through a separate module in the e-procurement system).

Transparency related guarantees can further be improved to ensure compliance with the TPPR standard. The graph below shows that contract performance information along with payments, inspection of quality reports and audit reports can be ensured to be public through the law or a sub-legal act.

This would be fairly easy to do, considering the fact that part of information is already being published in practice on ARMEPS.

Yet one of the most important things Armenia can do is to unify all procurement portals it currently operates. ARMEPS and procurement.am host vast amount of information. ARMEPS hosts information in machine-readable format, whereas procurement.am in electronic formats such as – Word or PDF. It would be reasonable to unite the two, so that information tracking on individual tenders is easy. For example if one wishes to see contract amendments on a certain tender in detail, procurement.am can be used, while at the same time, contract information on the same contract is stored on ARMEPS. This makes the use of e-resources inconvenient and may hinder external monitoring process.

Type of document	Is this information required to be public by law?	Is this information publicly available?	Is the database complete?	Electronic	Machine-readable *	Free of charge	Exact format
Contract performance information	No	Yes	No	Yes	No	Yes	PDF, Scans
Payment receipts	No	Yes	No	Yes	No	Yes	No
Inspection and quality control reports	No	No	No	No	No	No	No
Internal and external audit reports	No	Yes	No	No	No	Yes	PDF

Overall, Armenia has made strides towards more efficient and transparent public procurement system and currently a new wave of reforms is looming. Throughout the advocacy visit, IDFI and its Armenian partner NCPPR attempted to convince relevant stakeholders that TPPR network recommendations coupled with the energy of the new government and the will to reform can bear fruit and make the e-procurement system more efficient, reliable, transparent and accountable.

Costa Rica's Public Procurement: Current State and Challenges

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Public procurement represents a substantial part of Costa Rica's economy. For example, Costa Rica's public procurement budget reached $\$5,265,857$ million in 2017, equivalent to 15.5% of GDP, even though the budget allocations that make up public purchases historically have not presented satisfactory levels of execution: on average during the 2010-2015 period, only 57.1% of the budget was executed.

The main legislation related to public procurement has been in place since 1996 - the *Law on Administrative Procurement*, along with its corresponding Regulation which was approved in 2006. This law has received a number of modifications, clarifications and improvements through the years, and it's complemented by a series of regulations and directives that deal wholly or in part with the procurement system.



It must be noted that there are certain public enterprises, like the Telecommunications and Insurance Institute, that have their own regulations regarding their public procurement, and while these regulations must be in line with the principles of the Law on Administrative Procurement, certain aspects of their procedures are different.

In general terms, the legislative framework related to public procurement in Costa Rica stands out particularly for its upholding of the principles and values of Transparency, Efficiency, and Competitiveness and Impartiality. This has a lot to do with the relatively comprehensive nature of the legislation (even though it has gaps in some areas) and its explicit requirement for public institutions to comply with a number of best practices, along with multiple efforts in recent years to regulate and implement a single unified digital system for public procurement.

The legislation stipulates that all procurement procedures must be fulfilled digitally through an online portal, named SICOP and which is free for the general public to use, and that any and all documents and information related to the procedures must also be uploaded to the portal. The legislation also stipulates that all these documents must be presented in open and interoperable formats in order to ensure their neutrality, equal access and integrity.

Nevertheless, there's an important gap between what's written in the legislation and what's actually being implemented in this area: according to a [recent report](#) by the office of the Comptroller General, by September 13th 2017, the date by which according to the law all procurement activity should have migrated to SICOP, only 35.8% of the public institutions were using the system. There are important steps being taken currently to include more procedures and public institutions in the portal, but at the moment at least 30% of the public institutions still don't use SICOP.

Part of the difficulties with the effective implementation of initiatives such as SICOP have to do with the absence of a single and independent procurement regulatory body with the faculties to manage and coordinate the whole public procurement system. Another problematic area has to do with the amount of public procurement that is currently channeled through direct procurement procedures.

According to [the data](#) collected by the office of the Comptroller General, in 2017 almost half (45,93%) of all procurement value was conducted through these direct procedures, with the added problem that these types of procedures have insufficient timeframes for the preparation and submission of bids (only between one and five days) and they also fall outside the fiscalization of the Comptroller General. The use of direct procedures is an example of a legal exception that through its overuse is effectively undermining the transparency of the whole procurement system.

Other weaknesses and opportunities for improvement regarding public procurement processes, [according to the office of the Comptroller General](#), are:

- ❑ ***Weaknesses in the phases of: a) planning of purchases, b) development of contracting procedures, and c) contractual execution, factors that may enhance an eventual chain that generates risks of corruption.***
- ❑ ***Deficiencies in the storage of goods and the previously indicated concentration of direct procurement processes in goods, services and infrastructure works.***
- ❑ ***Outdated internal regulations in the management of the administrative contracting process.***

Ensuring transparency and prevention of corruption risks in public finance and public procurement

The Action Plan for 2017-2018 envisaged integration of state procurement system with other state electronic services (eTreasury, RS, eBudget) (measure 7.1.4.2). Based on the observation on the state electronic system, we believe that there was no significant progress in this direction. Consequently, based on the importance of integration of state e-services, IDFI believes that the commitment needs to be transferred to the 2019-2020 Action Plan. At the same time, it is important to specify what services (eTreasury, RS.GE, eBudget, automated withdrawal of information from the Revenue Service and the National Agency of Public Registry) are inclined, which will enable us to assess progress.

Additionally, to protect the state procurement system from the threats of corruption, it is necessary to take important steps towards transparency and efficiency. Namely:

❑ **Increase the competition in state procurement**

Improvement of Subscription Function - adding more parameters for subscription function of the state procurement announced in the unified electronic system, e.g. specific buyer, sum, more detailed CPV codes and tender location.

Business Analytical Module of State Procurement - adding the free and universal business analytical module based on the open data in the unified electronic system of public procurement. Research of the needs of potential suppliers - preparing a research paper on the needs for potential suppliers across the country and on reasons for them not to be included in the electronic procurement system.

❑ **Adding information types in the unified electronic system of procurement**

Subcontracting in state procurement - adding new fields (on tenders and direct procurement) in the electronic procurement system, where comprehensive information will be uploaded on subcontractor and on the subcontract. Quality Control on Service Procurement - adding quality control fields to the electronic system for service procurement (on tenders and direct procurement), where it will be obligatory to publish exhaustive information on the quality control performed on the completed work, including quality assessment documents. Municipal location of the tenders - adding the field to the tenders announced at the state procurement electronic system at the municipality level. More Accuracy in Annual Plans – indicating probable date specified by month (instead of quarter) for each procurement in the Annual Plan.

❑ ***Improvement and simplification of the data publication form***

Recommendation 15 of the OECD-ACN Fourth Round Report envisages improvement of public procurement and draws special attention to the refinement of the publication of data on state procurement. IDFI believes that the following activities are important in this context: API (Application Programming Interface) - adding full API technology to the electronic procurement system. Aggregated data in CSV format - adding the possibility of downloading information to CSV format to the state procurement aggregated data website (<http://opendata.spa.ge>).

Aggregated data filtering - adding supplier and date fields to the information filtering of the aggregated data website of the state procurement (<http://opendata.spa.ge>) and the possibility of downloading the filtered data into a single file.



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