

Transparent Public Procurement Rating



Fundacja
ePaństwo

Poland

Public Procurement Legislation Assessment

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The opinions expressed in this draft document belong to the Institute for Development of Freedom of Information (IDFI) and its partner organizations, and do not reflect the positions of Open Society Institute Budapest Foundation (OSI). Therefore, this organization is not responsible for the content of this report.

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Introduction

The TPPR Methodology is envisioned to be a universal methodology for assessing public procurement legislations (PPLs) with the ultimate goal of identifying the strengths and weaknesses of legal frameworks and their enforcement around the globe.

Structure and Logic

The Methodology is composed of 64 indicators, each of which holds a similar degree of importance. A number of these indicators are further broken down into scoring components.

The Methodology covers all the major components of any public procurement system, from the nature of the legislation to the complaint review process, with focus on the transparency of public procurement systems.

The selection of indicators for the Methodology was largely based on international best practice, international standards and aspects of other existing methodologies in the sphere of public procurement, such as:

- EBRD Methodology and Standard
- GPA Standard (WTO)
- OECD Methodology and Principles
- EU Standard (Directive 2014/24/EU)
- Open Contracting Data Standard (OCDS)

Several indicators have been directly taken from one of the sources listed above as examples of best international practice. All of these indicators have been properly referenced.

During the indicator selection and elaboration process, an effort was made to ensure that the Methodology can be used to assess many different kinds of public procurement systems, but at the same time set high standards.

The indicators are separated into 5 groups (benchmark indicators) that represent the key characteristics (values) of a well-functioning, transparent and accountable public procurement system:

1. **Uniformity of the Legislative Framework** – 14 indicators
2. **Efficiency** – 10 indicators
3. **Transparency** – 18 indicators
4. **Accountability and Integrity** – 7 indicators
5. **Competitiveness and Impartiality** – 10 indicators

The methodology also includes 5 indicators that are used to assess legal components **that are not directly part** of the public procurement legislation but are crucial in terms of creating a transparent environment necessary for a proper functioning of any public procurement system. These indicators are grouped separately under '**Transparency Environment**'.

Indicators are also arranged according to the procurement process:

1. **Pre-tendering Phase** – procurement processes leading up to the publication of a notice of intended procurement.
2. **Tendering Phase** – procurement processes between publication of a notice of intended procurement and selection of a tender winner.
3. **Post-tendering Phase** – procurement processes after the selection of a tender winner.

These two arrangements allow for both process and value-based assessments of public procurement legislations.

Limitations

Public procurement systems vary significantly by country. The TPPR Methodology is intended to be applicable on a global scale, meaning that the indicators cannot be too specific and cannot cover all the possible variations and exceptions.

For the same reason, the TPPR Methodology can only be used to assess public procurement legislations on the national level, and it does not include indicators for any industry specific rules.

About the Project

The Methodology has been developed within the framework of the project [Transparent Public Procurement Rating \(TPPR\) – Assessing Public Procurement Legislation and the Enforcement Process in the Eurasian Region](#).

The project was funded by Open Society Institute Budapest Foundation (OSI) and has been implemented by a Georgia-based civil society organization [Institute for Development of Freedom of Information \(IDFI\)](#) together with 5 partner organizations from each country in the Eurasian region covered by the project:

Armenia – [Freedom of Information Center of Armenia](#)

Azerbaijan – [Transparency International \(TI\)](#)

Belarus – [BIPART](#)

Moldova – [Expert-Grup](#)

Ukraine – [Transparency International \(TI\)](#)

In its initial stage, the TPPR project only covers the Eastern Partnership (EaP) Region; however, it plans to scale the methodology up to larger regions in the future.

Scoring System

Each indicator included in the TPPR Methodology is granted equal weight and receives a maximum of 1 point. With a total of 64 indicators, public procurement legislations are rated on the scale of **0 to 64** (converted to percentages for easier understanding and visualization).

Indicators that are further broken down into scoring components are nevertheless worth 1 point. Each scoring component is evaluated separately.

The Methodology uses two ways to distribute points among scoring components of an indicator:

1. **'Scoring method'** is used when scoring components of an indicator overlap (meaning they do not add up as points) or have an unequal distribution of points.
2. **'Point distribution'** is used when each scoring component of an indicator is given an equal share of the overall point granted to that indicator.

This scoring system and the structure of the Methodology allow for the results to be presented in three ways:

1. **Country Overall Results and Rating** – country overall results on the scale of 0-64 are converted into and presented using percentages (0-100%). Countries are then ranked by their overall results.
2. **Results by Benchmark Indicators** – results for benchmark indicators are presented only through percentages, since benchmark indicators include an unequal number of indicators (and, therefore, unequal number of maximum points).
3. **Results by Procurement Process** – results for different phases of the procurement process are presented only through percentages, due to unequal number of indicators included in each phase.

Countries are also ranked and compared by their results for each benchmark indicator.

Visualization

Visualizing the results of the assessment is crucial to the goal of the methodology. For this purpose, the overall points received by each country shall be shown graphically using the scale of 0-100%, divided into 4 quarters of a specific color:

- Low compliance with TPPR Standards – 0% to 25% (red)
- Average compliance with TPPR Standards – 26% to 50% (orange)
- Good compliance with TPPR Standards – 51% to 75% (yellow)
- Excellent compliance with TPPR Standards – 76% to 100% (green)

Visualizations will also include spider graphs depicting country results by benchmark indicators and the procurement process, and multi-colored bar graphs for comparing country results in these categories.

Terminology

This methodology uses universally accepted procurement terminology as well as a few terms of its own design, in order to make key distinctions easier.

Acceptance act – A document signed by parties through which they agree on the terms by which a bargain is concluded.

Bid – Price offered by a tender participant during the bidding procedure.

Bid Security – A refundable amount of money paid by tender candidates validating their participation in a tender.

Coordination – Providing assistance to economic operators and procuring entities to engage in procuring activities.

Day – In the context of this methodology a day implies a calendar day.

Economic Operator – business or other organization which supplies goods, works or services.

Legal entity of public law (LEPL) (Public Legal Entity) – Organization created by the government or a government body, but separated from state management, and performing public authority independent of state control.

Machine-readable – A data format that can be processed (i.e. extract, transform and process) by a computer.

Monitoring – Data collection and analysis.

State non-commercial legal entity – A body governed by public law, having legal personality, not having an industrial or commercial character, and funded or managed, for the most part, by state entities.

Non-competitive procedure (direct procurement) – A type of public procurement procedure that does not involve prior publication of a notice of intended procurement.

Notice of intended procurement – A call for participation in an open tender issued by procuring entities.

Open tender – A type of tender, in which any economic operator can request participation.

Post-tendering phase – procurement processes after the selection of a tender winner.

Pre-tendering phase – procurement processes leading up to the publication of a notice of intended procurement.

Procurement regulatory body – a state body responsible for managing the public procurement system without necessarily incorporating lawmaking and law enforcement functions.

Procuring entity – A state budget and local government entity (including their respective LEPLs and state owned companies).

Public procurement annual plan – A document issued by procuring entities that contains information about all procurements planned within a fiscal year.

Tender – A type of public procurement procedure that involves bidding.

Tender application – An economic operator's official request to participate in a tender that includes all the documents requested by the procuring entity.

Tender candidate – An economic operator willing to participate in a tender.

Tender commission – A group of persons within a procuring entity responsible for conducting procurement (this function can also be performed by a single person).

Tender documentation – A collection of documents containing full information about the procurement, such as its subject-matter, technical requirements/specification, eligibility and evaluation criteria, draft contract conditions etc.

Tender participant – An economic operator that has been allowed to participate in a tender.

Tendering phase – procurement processes between publication of a notice of intended procurement and selection of a tender winner

TPPR Methodology Indicators

Transparency Environment			
#	Indicator	Score	Relevant Article, Law and excerpt (if applicable)
1.	Business registry is publicly available. – [1 point]	1	Act of 20 August 1997 on the National Court Register. Article 8 1. The register is open. 2. Everyone has the right to access the data contained in the registry through the Central Information. 3. Everyone has the right to receive, including electronically, certified copies, extracts, certificates and information from the registry.
2.	Budgets of all public procuring entities are publicly available. – [1 point]	1	Act of 27 August 2009 on Public Finances Art 33. Managing Public Finances is open. And art 6 of Act of 6 September 2001 on Access to Public Information in the case of state and communal owned entities and enterprises
3.	Public officials are required by law to file asset declarations. – [1 point]	1	Several legal acts depending on specific group of public officials, for example central administration is covered by The Act on limitation concerning the freedom of running business activities by persons holding public positions from the 21st of August 1997.
4.	The country has adopted legal provisions ensuring the right to request public	1	Art. 61 of the 1997 Constitution of the Republic of Poland, Act of

	information. – [1 point]		6 September 2001 on Access to Public Information
5.	Legislation includes provisions regulating whistleblower protection. – [1 point]	0	

Indicators by Procurement Process

General Characteristics of the Procurement System			
#	Indicator	Score	Relevant Article, Law and excerpt (if applicable)
1.	<p>Public Procurement Legislation (PPL), which may include primary and secondary legislation, lays out the basic principles and general framework of the procurement process, makes it operational and indicates how the law must be applied to specific circumstances. – [1 point]</p> <p style="text-align: center;"><i>Uniformity of the Legislative Framework</i></p>	1	<p>Act of 29 January 2004 - Public Procurement Law (PPL)</p> <p>Article 1. This Act specifies the rules and procedures for awarding public contracts, legal protection measures, control of the award of public contracts and the competent authorities with respect to matters addressed in this Act.</p>
2.	<p>PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point]</p> <p>Scoring Method</p>	1	<p>www.isap.sejm.gov.pl</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>		
3.	<p>PPL applies to all state budget and local government entities (including their respective Legal Entities of Public Law (LEPLs), state owned companies and non-commercial legal entities) and all exempted entities are clearly indicated. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) All state budget entities – [0.2] b) Local government entities – [0.2] c) Legal Entities of Public Law (LEPL) – [0.2] d) State owned companies – [0.2] e) State non-commercial legal entities – [0.2] <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.2 b) 0.2 c) 0.2 d) 0.2 e) 0.2 	<p>Article 3.</p> <p>1. This Act shall apply to public contracts, hereinafter referred to as "contracts", awarded by:</p> <ul style="list-style-type: none"> 1) the public finance sector units within the meaning of provisions on public finances; 2) state organisational units not having legal personality, other than those specified in item 1; 3) legal persons, other than those specified in item 1, established for the specific purpose of meeting needs in the general interest, not having industrial or commercial character, if the entities referred to in these provisions and in items 1 and 2, separately or jointly, directly or indirectly through another entity: <ul style="list-style-type: none"> a) finance them in more than 50%, or b) hold more than half of shares or stocks, or

		<p>c) supervise their managerial board, or</p> <p>d) have the right to appoint more than half of the members of their supervisory or managerial board</p> <p>– unless the legal person operates in ordinary market conditions, its aim is to generate profit, and incurs losses resulting from operations;</p> <p>3a) associations of the entities referred to in items 1 and 2, or entities referred to in item 3;</p> <p>4) entities other than those specified in items 1-3a, if the contract is awarded for the purposes of exercising one of the activities referred to in Article 132, if such an activity is exercised on the basis of special or exclusive rights, or if the entities referred to in items 1-3a, separately or jointly, directly or indirectly through another entity, have a dominant influence over them, in particular:</p> <p>a) [repealed]</p> <p>b) hold more than half of the shares or stocks or</p> <p>c) have more than half of the votes resulting from the shares or stocks, or</p> <p>d) [repealed]</p>
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			<p>e) have the right to appoint more than half of the members of their supervisory or managerial board;</p> <p>5) entities other than those specified in items 1-4, if the following circumstances occur:</p> <p>a) more than 50% of the value of the contract awarded by them is financed from public funds or by the entities referred to in items 1-3a,</p> <p>b) the value of a contract is equal to or exceeds the amounts specified in the provisions issued under Article 11 para. 8,</p> <p>c) the subject-matter of contract are: civil engineering works defined in Annex II to Directive 2014/24/EU, construction of hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes – or services connected with such works;</p>
4.	<p>The scope of coverage of PPL includes all sectors of the economy where competition is possible and exemptions are clearly listed in the PPL. – [1 point]</p> <p>Point Distribution</p> <p>a) The scope of coverage of PPL includes all sectors of the economy where competition is possible. – [0.5]</p> <p>b) PPL clearly lists or refers to all exemptions. – [0.5]</p>	<p>Overall: 0.5</p> <p>Components:</p> <p>a) 0</p> <p>b) 0.5</p>	<p>See point 3 above and art. 4 of PPL for exceptions.</p>

	<i>Uniformity of the Legislative Framework</i>		
5.	<p>PPL determines a separate state body (procurement regulatory body) responsible for managing public procurement or assigns this function to a subordinate public body(ies). – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • PPL determines a separate state body responsible for managing public procurement which is authorized to have income in addition to state funding. – [1] • PPL determines a separate state body responsible for managing public procurement. – [0.75] • PPL assigns this function to a subordinated public body(ies). – [0.5] • There is no responsible state body. – [0] <p><i>Uniformity of the Legislative Framework</i></p>	1	PPL. Article 152.1. The PPO President is a central government body competent for matters concerning public contracts.
6.	<p>PPL stipulates that the procurement regulatory body is responsible for at least coordination and monitoring (i.e. data collection and analysis as opposed to regulation and control) of public procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Article 154.</p> <p>The PPO President:</p> <ol style="list-style-type: none"> 1) prepares drafts of normative acts on public contracts; 2) takes decisions on individual issues stipulated in this Act; 3) issues by electronic means the Public Procurement Bulletin, where all the notices provided for in this Act are placed;

		<p>4) [repealed];</p> <p>5) keeps and publishes on the PPO website a list of organisations authorised to submit legal protection measures;</p> <p>5a) [repealed];</p> <p>6) ensures the functioning of the system of legal protection measures;</p> <p>7) prepares training programmes, organises and encourages training in the field of public procurement;</p> <p>8) prepares and disseminates standard criteria for assessment of the substance of the training;</p> <p>9) [repealed]</p> <p>10) prepares and disseminates exemplary standard forms of public procurement contracts, rules of procedures and other documents used when awarding public contracts;</p> <p>11) watches over observance of the public procurement system rules and in particular carries out controls of the contract award process within the scope stipulated in this Act;</p> <p>12) disseminates the principles of professional ethics of persons performing tasks within the public procurement system;</p>
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		<p>13) aspires to provide uniform application of the procurement provisions, considering the judicature of courts and the Constitutional Court, in particular dissemination of decisions of the National Appeal Chamber, courts and Constitutional Court which refer to public procurement;</p> <p>14) maintains international co-operation on issues relating to public contracts;</p> <p>15) analyses the functioning of the system of public contracts;</p> <p>16) prepares and presents to the (Polish) Council of Ministers and to the European Commission annual reports on the functioning of public procurement system, including information on performance of task, referred to in point 10;</p> <p>16a) submits to the European Commission, once every three years, a procurement system monitoring report and a statistical report on contracts whose value is lower than the amounts specified in the provisions issued under Article 11 para. 8;</p> <p>17) presents to the minister responsible for economy an annual information on the functioning of the National Appeal Chamber, which considers the problems resulting from the adjudication;</p> <p>17a) presents to the minister responsible for economy not less than once every three years a plan on the manner of performing the tasks, referred to in point 10, for the next years;</p>
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			<p>18) proposes candidates for the post of President and Vice-President of the National Appeal Chamber;</p> <p>19) puts forward a motion to appoint the disciplinary agent of the National Appeal Chamber;</p> <p>20) carries out activities which refer to e-Procurement;</p> <p>21) delivers to the European Commission, every year by the 31st March, the decisions passed by the National Appeal Chamber in the previous year with regard to appeals concerning contract award procedures, where the contract was not annulled due to important public interest, referred to in Article 192, together with the justification.</p>
7.	<p>Legislation provides for a mechanism of consultation with the private and civil society sectors that is aimed at receiving feedback and identifying problems in the procurement system. PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [1 point]</p> <p>Point Distribution</p> <p>a) Legislation provides for a mechanism of consultation with the private sector. – [0.25]</p> <p>b) Legislation provides for a mechanism of consultation with the civil society sector. – [0.25]</p> <p>c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [0.5]</p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p> <p>c) 0</p>	

	<i>Accountability and Integrity</i>		
8.	<p>PPL stipulates that electronic means is the primary method of conducting public procurement and of communication between procuring entities and tender participants. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that electronic means is the primary method of conducting public procurement. – [0.5]</p> <p>b) PPL stipulates that electronic means is the primary method of communication between procuring entities and tender participants. – [0.5]</p> <p style="text-align: right;"><i>Efficiency</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>PPL, Article 10a.1. In contract award procedure, the communication between the contracting authority and the economic operators, in particular the submission of tenders or requests to participate in a contract award procedure, as well as declarations, including declarations submitted on the European Single Procurement Document form drawn up in line with the standard form defined in the Commission Implementing Regulation issued pursuant to Article 59 para. 2 of Directive 2014/24/EU and Article 80 para. 3 of Directive 2014/25/EU, hereinafter referred to as “Single Document” shall be conducted by electronic means of communication.</p>
9.	<p>PPL establishes a single official point of access (i.e. an online portal) for all procedures and information related to public procurement. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i></p>	0	<p>https://bzp.uzp.gov.pl/WebService.aspx</p> <p>PPL, Article 11. 1. Notices referred to in this Act:</p> <p>1) shall be placed in the Public Procurement Bulletin available on the portal of Public Procurement Office;</p>
10.	<p>Legislation requires that software used for electronic procurement and related communication shall be non-discriminatory, free to use and interoperable with the ICT products in general use and shall not restrict economic operators’ access to the procurement procedure. – [1 point]</p>	1	<p>Art 1 point 3 of Act of 17 February 2005 on the Informatization of Entities Performing Public Tasks applies such a rule to all public software.</p>

	<i>Competitiveness and Impartiality</i> <i>Source: EU Standard</i>		
11.	<p>PPL ensures that tender candidates must be given equal treatment, without regard to nationality, residency or political affiliation: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) PPL should not allow domestic preferences. – [1/5] b) Participation of any candidate or group of candidates is based on qualification. – [1/5] c) Ensures that registration if required does not constitute a barrier to participation in tenders. – [1/5] d) State owned companies are not given any preference. – [1/5] e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates.– [1/5] <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/5 b) 1/5 c) 1/5 d) 1/5 e) 1/5 	<p>Article 7. 1. The contracting authority shall prepare and conduct contract award procedures in a manner ensuring fair competition and equal treatment of economic operators as well as in accordance with principles of proportionality and transparency.</p> <p>1a. The contracting authority, in the scope defined in the Government Procurement Agreement of the World Trade Organisation and other international agreements to which the European Union is a party, shall ensure to economic operators from the States-Parties to this Agreement and to economic operators from the states-parties of these agreements, and to works, supplies and services coming from these states, a treatment no less favourable than treatment accorded to economic operators from the European Union, and works, supplies and services from the European Union.</p>
12.	<p>PPL stipulates that a procuring entity shall, consistent with its own reasonable needs, provide sufficient time (based on the GPA standard - Article XI) for candidates to prepare and submit tender application. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	0	<p>PPL, Article 9a.</p> <p>1. Setting the time limits for the submission of requests to participate in a contract award procedure or tenders, the contracting authority shall take into account the complexity of the contract and, in the case of tenders, the time necessary to prepare them, in compliance with the minimum time limits for the submissions of requests to participate in a contract award procedure or tenders provided for in the Act.</p>

			<p>2. Where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the contract performance by the economic operator, the contracting authority shall set time limits for the submission of tenders with account taken of the time necessary for the economic operators to be aware of the information necessary to produce tender, whereas the time limits must be longer than the minimum time limits for the submission of tenders, defined in the Act. (...) <u>For example in open tender:</u> Article 43.</p> <p>1. Where the value of the contract is less than the amounts specified in a provisions issued under Article 11 para. 8, the contracting authority shall fix the time limit for submission of tenders taking into consideration the time necessary for preparation and submission of tender, however, in case of contracts for supplies or services, the time limit shall not be less than 7 days from the day, on which the contract notice is placed in the Public Procurement Bulletin, and in case of contracts for works- not less than 14 days.</p>
13.	<p>PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [1 point]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	1	<p>Article 18.</p> <p>1. The head of the contracting authority shall be the person responsible for the preparation and conduct of the contract award procedure.</p> <p>2. Other persons shall be also responsible for the preparation and</p>

	<p>conduct of the contract award procedure to the extent to which they have been entrusted with actions related to the conduct and preparation of the contract award procedure. The head of the contracting authority may entrust the performance of actions reserved for him, which are specified in this Chapter, to the employees of the contracting authority.</p> <p>3. Where the preparation and conduct of the contract award procedure is reserved under separate provisions to a body other than the head of the contracting authority, the provisions relating to the head of the contracting authority shall apply to that body respectively.</p> <p>Article 19.</p> <p>1. The head of the contracting authority shall appoint a tender committee for the conduct of an award procedure, hereinafter referred to as the “tender committee”, where the contract value is equal to or exceeds the amounts specified in the provisions issued under Article 11 para. 8.</p> <p>2. Where the contract value is less than the amounts specified in the provisions issued under Article 11 para. 8, the head of the contracting authority may appoint a tender committee. The provisions of this Chapter shall apply accordingly.</p> <p>3. Tender committee may be of a permanent character or be appointed for a particular procedure.</p>
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14.	<p>PPL references sanctions for violations of the PPL. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i></p>	1	PPL consists of: Title VII. Liability For Breach Of Provisions Of This Act
15.	<p>Legislation explicitly defines fraud and corruption / abuse of public office and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i> Source: OECD Methodology</p>	1	<p>Art.305.§1 of the Penal Code is dedicated solely to crimes connected with public procurement.</p> <p>Some others, although general may also refer to corruption connected with public procurement:</p> <ol style="list-style-type: none"> 1) passive bribery, article 228 of the Polish Penal Code; 2) active bribery, article 229 of the Polish Penal Code 3) paid protection, article 230 of the Polish Penal Code, 4) active paid protection (influence trading), article 230a of the Polish Penal Code; 5) abuse of public function (abuse of power), article 231 of the Polish Penal Code.
16.	<p>PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • PPL ensures the right to review, for general public, tender participants and potential suppliers. – [1] 	0.75	<p>Article 179.</p> <ol style="list-style-type: none"> 1. Legal protection measures specified in this Title are granted to economic operators and participants of the design contest, as well as to other persons if they have or had interest in being awarded the contract and suffered or may suffer a damage as a result of the violation of the provisions of this Act by the

	<ul style="list-style-type: none"> • PPL ensures the right to review, for tender participants and potential suppliers. – [0.75] • PPL ensures the right to review, for tender participants. – [0.25] • No one has the right to review. – [0] <p style="text-align: center;"><i>Uniformity of the Legislative Framework</i></p>		<p>contracting authority.</p> <p>2. Legal protection measures against the contract notice and specification of essential terms of contracts shall be also available to organisations entered in the list, referred to Article 154 item 5. [professional self-governments for architects and construction engineers.]</p>
17.	<p>PPL ensures the right to review throughout the procurement process. – [1 point]</p> <p>Point Distribution</p> <p>a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [1/3]</p> <p>b) A procurement contract cannot be awarded with a pending complaint. – [1/3]</p> <p>c) A reasonable amount of time should be left between publication of the contract award decision and the signing of the contract, in order to give any stakeholder the opportunity to challenge the award decision. – [1/3]</p> <p style="text-align: center;"><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 1/3</p> <p>b) 1/3</p> <p>c) 1/3</p>	<p>a) PPL, art. 182</p> <p>b) PPL, Article 183. 1. In case of appeal being lodged, the contracting authority may not conclude a contract until the Chamber passes its judgment or decision which ends the appeal procedure, hereinafter referred to as “ruling”.</p> <p>2. The contracting authority may put forward a motion to the Chamber in order to revoke the ban on conclusion of contract, referred to in para. 1. The Chamber may revoke the ban on conclusion of a contract, if non conclusion of a contract might cause a negative effects for public interest, in particular in the field of defense and security, exceeding the benefits related to the necessity of protecting of all interests, with reference to which a possibility of sustaining a loss due to actions conducted by the contracting authority in contract award procedure occurs.</p> <p>c) Article 94, Para 1.</p>
18.	<p>PPL ensures the existence of an independent (from parties involved in a</p>	<p>Overall: 0.7</p>	<p>PPL, Article 172.1. The National Appeal Chamber hereinafter</p>

	<p>procurement dispute) review body with the authority to review complaints and grant remedies. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL ensures the existence of an independent review body. – [0.7]</p> <p>b) The review body includes civil society members. – [0.3]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	<p>Components:</p> <p>a) 0.7</p> <p>b) 0</p>	<p>referred to as the “Chamber” shall be established shall be competent for the examination of the appeals lodged in contract award procedures.</p>
19.	<p>PPL ensures electronic, machine-readable and free of charge access to submitted complaints, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.5	<p>Article 185.</p> <p>1. The contracting authority shall forthwith dispatch, not later than within 2 days from the date of receipt, a copy of appeal to all other economic operators who participate in the contract award procedure, and if the appeal refers to the content of contract notice or provisions of specification of essential terms of contract, shall also place it also on the website, where the contract notice is placed or specification is made available, calling upon the economic operators to access the appeal procedure.</p>
20.	<p>PPL ensures electronic, machine-readable and free of charge access to dispute resolutions (of the independent review body), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p>	1	<p>§ 37 of Regulation the Prime Minister of March 22, 2010 on the rules of procedure for the recognition of appeals ftp://ftp.uzp.gov.pl/KIO/Wyroki/</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
Pre-tendering Phase			
#	Indicator	Score	Relevant Article, Law and excerpt (if applicable)
1.	<p>PPL obligates procuring entities to publish as early as possible in each fiscal year a notice regarding their future procurement plans - "public procurement annual plan". The annual plan must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [0.25] b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [0.25] c) Estimated value of procurements. – [0.25] d) Source of funding. – [0.25] 	<p>Overall: 0.75</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0.25 d) 0 	<p>Article 13a.</p> <p>1. Contracting authorities referred to in Article 3 para. 1 point (1) and (2), and associations of such contracting authorities, no later than 30 days as of the day of adoption of the budget or financial plan by their authorised body, shall draw up plans of contract award procedures they intend to conduct in a given financial year, and shall post these plans on their website.</p> <p>2. A plan of contract award procedures shall contain in particular information concerning:</p>

	<p style="text-align: right;"><i>Efficiency</i></p>		<p>1) the subject-matter of contract;</p> <p>2) type of contract (work, supplies, or services);</p> <p>3) envisaged procedure or other manner of awarding the contract;</p> <p>4) estimated contract value;</p> <p>5) estimated date of commencement of the procedure, on quarterly or monthly basis.</p> <p>3. Contracting authorities other than listed in para. 1 may post plans of contract award procedures on their websites.</p>
2.	<p>PPL ensures electronic, machine-readable and free of charge access to public procurement annual plans of all procuring entities or key information included in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.5	<p>1. Contracting authorities referred to in Article 3 para. 1 point (1) and (2), and associations of such contracting authorities, no later than 30 days as of the day of adoption of the budget or financial plan by their authorised body, shall draw up plans of contract award procedures they intend to conduct in a given financial year, and shall post these plans on their website</p> <p>2. Website of each entity</p>

3.	<p>Legislation stipulates that the planning of procurement and estimation of associated expenditures are part of the state budget formulation process in a fiscal year. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i> Source: OECD Methodology</p>	1	<p>Art 44 2009 Act on Public Finances</p> <ol style="list-style-type: none"> 1. Public expenditure can be incurred for the purposes and in the heights set out in: 1) budget law; 2) budget resolution local government unit; 3) financial plan public finance sector. <ol style="list-style-type: none"> 2. public finance sector make spending in accordance with the provisions relating to each type of expenditure. <ol style="list-style-type: none"> 3. Public expenditure should be made: 1) in a targeted and cost-effective, with due respect for the rules: a) to obtain the best results with data inputs, b) optimum methods and measures for achieving the objectives; 2) in such a way that timely implementation of tasks; 3) in height and deadlines arising from earlier commitments entered into. <ol style="list-style-type: none"> 4. public finance sector entities conclude contracts involving services, supplies or works on the principles set out in the legislation on public procurement, unless separate legislation provides otherwise.
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4.	<p>PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i></p>	1	<p>Even though the PPL does not explicitly state this, legislation on public finances ensures that procurement processes are not normally initiated until the appropriate financial resources have been identified.</p>
5.	<p>PPL defines the composition, powers, responsibilities and decision-making procedures of the body (tender commission or a person) responsible for conducting tender within the procuring entity. – [1 point]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	1	<p>PPL, Article 20.1. The tender committee is an auxiliary team of the head of the contracting authority appointed to evaluate the fulfilment of the conditions for participation by economic operators in a contract award procedure and to examine and evaluate tenders.</p> <p>2. The head of the contracting authority may also entrust the tender committee with actions related to the conduct and preparation of a contract award procedure other than those specified in para. 1. The provisions of this Chapter shall apply accordingly.</p> <p>3. The tender committee shall, in particular, submit to the head of the contracting authority proposals to exclude an economic operator, reject a tender and to select the most advantageous tender, and also, to the extent referred to in para. 1, shall make a request to cancel the contract award procedure.</p> <p>PPL, Article 21.1. Members of the tender committee shall be appointed and recalled by the head of the contracting authority.</p>

			<p>2. The tender committee shall be composed of at least 3 persons.</p> <p>3. The head of the contracting authority shall specify the organisation, composition, working procedure and scope of duties of members of the tender committee to ensure its efficient operation, individualisation of responsibility of its members for performed actions and transparency of its work.</p>
6.	<p>Minimum monetary thresholds exist for different types of procurement. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i></p>	1	Art. 4.8 and Art. 11.8 of PPL
7.	<p>PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – [1 point]</p> <p>Point Distribution</p> <p>a) Open tender is the default procedure for any public procurement. – [0.5]</p> <p>b) All exceptions are clearly listed by the PPL. – [0.5]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>a) PPL, Article 10.1. The primary procedures for awarding contracts are open tendering and restricted tendering.</p> <p>b) 2. The contracting authority may award a contract under negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, single-source procurement, request-for-quotation, innovation partnership, or electronic bidding only in the cases stipulated in the Act.</p>
8.	<p>PPL stipulates that justification for using a non-competitive procedure must be made public by the procuring entity. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i></p>	1	<p>Art. 96. 11.</p> <p>In the course of a contract award procedure the contracting</p>

			<p>authority shall prepare a written record containing at least:</p> <p>9) in the case of a negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, or a direct contract procedure, indication of the circumstances substantiating the selection of a given procedure type;</p> <p>Art. 66.13</p> <p>The contracting authority shall announce immediately, but no later than within 14 days as of the conclusion of the contract, on the website of the Public Information Bulletin, and if there is no such a website – on its own website, the information about:</p> <p>1) awarding the contract under para. 1 (12) to (15), including at least:</p> <p>a) name and address of the contracting authority, b) specification of the subject-matter, volume or scope of the contract, and the contract value; c) name and address of the economic operator with which the contract has been concluded, d) legal grounds for and justification of the selection of a contract award procedure,</p>
9.	PPL stipulates that provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against foreign suppliers or protects domestic suppliers, a procuring entity may use non-	0.5	PPL, Art. 67

<p>competitive procedure (direct procurement) when: – [1 point]</p> <ul style="list-style-type: none"> a) Where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist. b) For additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; or would cause significant inconvenience or substantial duplication of costs for the procuring entity. c) Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering. d) Where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. e) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers. – [1] <p>Scoring Method</p> <p>In case of any additional exceptions – [0.5]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i> Source: GPA Standard</p>		
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Tendering Phase

#	Indicator	Score	Relevant Article, Law and excerpt (if applicable)
1.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any. – [1/8] b) A description of the procurement, including the nature and the quantity of the goods or services (including construction) to be procured or, where the quantity is not known, the estimated quantity. – [1/8] c) CPV codes (or other classificatory system of a similar nature). – [1/8] d) Estimated value of the goods or services to be procured. – [1/8] e) The time-frame for delivery of goods or services or the duration of the contract. – [1/8] f) The procurement method that will be used. – [1/8] g) The address (where applicable) and any final date for the submission of requests for participation in the procurement. – [1/8] h) A list and brief description of any conditions (eligibility criteria) for participation of candidates, including any requirements for specific documents or certifications to be provided by candidates in connection 	<p>Overall: 7/8</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/8 b) 1/8 c) 1/8 d) 0 e) 1/8 f) 1/8 g) 1/8 h) 1/8 	<p>c) Art 30.7</p> <p>d) - PPL, art 86.5. Immediately after opening of the tenders, the contracting authority shall post on the website the information about: 1) the amount which the contracting authority intends to earmark for financing of the contract.</p> <p>PPL, art. 41 The contract referred to in Article 40 para. 1 shall contain at least:</p> <ul style="list-style-type: none"> 1) name (company name) and address of the contracting authority; 2) type of the contract award procedure; 3) the website address where the specification of essential terms of contract is posted; 4) definition of the subject-matter of contract and of the volume or scope of the contract, stating whether it is possible to submit tenders for lots;

	<p>therewith. – [1/8]</p> <p style="text-align: center;"><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>	<p>5) information concerning the possibility or requirement of submitting variants;</p> <p>6) contract execution date;</p> <p>7) conditions for participation in the procedure and grounds for exclusion;</p> <p>7a) list of declarations and documents confirming the fulfilment of the conditions for participation in the procedure and the lack of grounds for exclusion;</p> <p>8) information concerning the deposit;</p> <p>9) criteria for evaluation of tenders and their significance;</p> <p>10) time limit for the submission of tenders, address to which they have to be sent, and language or languages in which they have to be prepared;</p> <p>11) time limit during which a economic operator must maintain his tender;</p> <p>12) information on the intention to conclude a framework agreement;</p> <p>13) information on the intention to establish a dynamic purchasing system including the website address where additional information concerning the dynamic purchasing system</p>
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			<p>shall be posted;</p> <p>14) information on the envisaged selection of the best tender with the use of electronic auction including the address of the website where the electronic auction shall be held.</p> <p>15) information about the contracts as referred to in Article 67 para. 1 (6) and (7) or Article 134.6 (3), if the contracting authority plans to award of such contracts.</p> <p><u>See also art 36</u></p>
2.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include: – [1 point]</p> <p>Point Distribution</p> <p>a) Payment conditions – [0.2]</p> <p>b) Information about bid security (if required) – [0.2]</p> <p>c) Source of funding – [0.2]</p> <p>d) Payment information for multi-year contracts – [0.2]</p> <p>e) Draft of contract – [0.2]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	<p>Overall: 0.8</p> <p>Components:</p> <p>a) 0.2</p> <p>b) 0.2</p> <p>c) 0.2</p> <p>d) 0.2</p> <p>e) 0</p>	<p>See above. As for e). It <u>might</u> attach the contract template.</p> <p><u>See also Art 36</u></p>
3.	<p>PPL defines all eligibility criteria for participation in tender that must include at</p>	<p>Overall: 1/3</p>	<p>PPL, Art 22.</p>

	<p>least: – [1 point]</p> <p>Point Distribution</p> <p>a) Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities. – [1/3]</p> <p>b) Financial position. – [1/3]</p> <p>c) Grounds of restriction for participation. – [1/3]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: EBRD Methodology</p>	<p>Components:</p> <p>a) 0</p> <p>b) 0</p> <p>c) 1/3</p>	<p>As for a) and b) it may but not must:</p> <p>PPL, Art 22 1b. Conditions for participation in a procedure <u>may concern</u>:</p> <p>1) competences or authorisations to carry out specific professional activity, if required under separate regulations;</p> <p>2) economic or financial standing;</p> <p>3) technical or professional capability.</p> <p>c) Article 22. Para 1.</p>
4.	<p>PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement (drafting of tender documentation) from independent experts or market participants. In such cases, these experts or market participants may not take part or benefit from tenders they helped plan unless it can be demonstrated that there is no conflict of interest (as defined by the national legislation). – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement from independent experts or market participants. – [0.5]</p> <p>b) PPL prohibits these experts or market participants from taking part or benefiting from tenders they helped plan, unless it can be demonstrated</p>	<p>Overall: 1</p> <p>Components:</p> <p>a)0.5</p> <p>b)0.5</p>	<p>PPL, Art 21. 4. If the performance of specific actions in connection with the preparation and conduct of a contract award procedure requires special knowledge, the head of the contracting authority may at its own initiative or at the request of the tender committee appoint experts. The provisions of Article 17 [exclusion on conflict of interest basis] shall apply accordingly.</p>

	<p>that there is no conflict of interest (as defined by the national legislation). – [0.5]</p> <p style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>		
5.	<p>PPL ensures electronic, machine-readable and free of charge access to notices of intended procurement (including tender documentation), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	http://bzp.uzp.gov.pl/
6.	<p>PPL ensures electronic, machine-readable and free of charge access to tender documentation amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] 	1	

	<ul style="list-style-type: none"> • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
7.	<p>PPL ensures electronic, machine-readable and free of charge access to tender candidate applications (all documents needed for the request to participate in a tender), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	
8.	<p>PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] 	0.5	Art 86.5

	<ul style="list-style-type: none"> • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
9.	<p>PPL ensures electronic, machine-readable and free of charge access to decisions of the tender commission, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	Art. 86.5, 92.2
10.	<p>Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterizes the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favoring or eliminating certain undertakings or certain products. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: EU Standard</p>	1	<p>PPL, Art 30.4. When describing the subject-matter of the contract with the use of standards, European Technical Approvals, approvals, technical specifications, and technical reference systems referred to in para. 1 (2) and 3, the contracting authority shall be required to indicate that it admits solutions equivalent to those described and to add an expression “or equivalent” to such an indication.</p> <p>Article 29, para 7. - The subject-matter of contract may not be described by designation of trademarks, patents, or origin, source or specific process characteristic of the goods or services</p>

			delivered by a specific economic operator, if this could result in any favourable treatment or an elimination of certain economic operators or goods, unless this is justified by the specificity of the subject-matter of contract and the contracting authority cannot describe the subject-matter of contract with sufficiently exact expressions, and the said designation is accompanied with the wording "or equivalent"
11.	<p>PPL stipulates that procuring entities may require tender candidates to confirm the validity of their bid with a bid security that is refunded once the procedure is completed. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i></p>	1	<p>In open tender: PPL, Article 45.</p> <ol style="list-style-type: none"> 1. The contracting authority shall require the economic operators to pay a deposit where the value of the contract is equal to or exceeds the expressed in PLN equivalent of the amounts specified in the provisions issued under Article 11 para. 8. 2. The contracting authority may require the economic operators to pay a deposit where the value of the contract is less than the amounts specified in the provisions issued under Article 11 para. 8. 3. The deposit shall be paid prior to the final date for submission of tenders. 4. The contracting authority shall define the amount of the deposit, however not more than 3 % of the contract value.

<p>12. Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [1 point]</p> <p>Point Distribution</p> <p>a) The concept of conflicts of interest covers at least any situation where staff members of the procuring entity or of a procurement service provider acting on behalf of the procuring entity who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure, have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. – [1/3]</p> <p>b) PPL stipulates that persons responsible for procurement decision-making in procuring entities must declare in writing any conflict of interest with tender participants. – [1/3]</p> <p>c) The legislative framework prohibits the participation of active public officials and former public officials for a reasonable period of time after leaving office in public procurement procedures in ways that benefit them, their relatives, and business or political associates financially or otherwise. – [1/3]</p> <p style="text-align: right;"><i>Accountability and Integrity</i> Source for a): EU Standard Source for b): OECD Methodology</p>	<p>Overall: 2/3</p> <p>Components:</p> <p>a) 1/3</p> <p>b) 1/3</p> <p>c) 0</p>	<p>Article 17.</p> <p>1. Persons performing actions in connection with the conduct of award procedures shall be subject to exclusion, if:</p> <p>1) they are competing for a contract;</p> <p>2) remain in matrimony, consanguinity or affinity in direct line or consanguinity or affinity in indirect line up to the second degree, or is related due to adoption, legal custody or guardianship with economic operator, his legal deputy or members of managing or supervisory bodies of economic operators competing for a contract;</p> <p>3) during the three years prior to the date of the start of the contract award procedure they remained in a relationship of employment or service with the economic operator or were members of managing or supervisory bodies of economic operators competing for a contract;</p> <p>4) remain in such legal or actual relationship with the economic operator, which may raise justified doubts as to their impartiality;</p> <p>5) have been legally sentenced for an offence committed in connection with contract award procedures, bribery, offence against economic turnover or any other offence committed with the aim of gaining financial profit.</p> <p>2. Persons carrying out activities in a contract award procedure</p>
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		<p>shall submit, under the pain of criminal liability for misrepresentation, in a written form a statement on the lack or existence of the circumstances referred to in para. 1. Before taking the statement, the head of the contracting authority or a person to whom the managing officer has entrusted activities in the procedure, shall advise the persons making the statement of criminal liability for misrepresentation.</p> <p>2a. The head of the contracting authority or a person to whom the head of the contracting authority has entrusted activities in the procedure, in case of a justified suspicion that between the employees of the contracting authority or other persons employed by the contracting authority who has direct or indirect influence on the result of the procedure and the economic operators there exists a relationship defined in para. 1 point (2) to (4), shall take from these persons, under penalty of criminal liability for misrepresentation, a written statement regarding the circumstances referred to in para. 1. Before taking the statement, the head of the contracting authority or a person to</p> <p>28</p> <p>whom the head of the contracting authority has entrusted activities in the procedure, shall advise the persons making the statement of criminal liability for misrepresentation.</p> <p>3. Actions in connection with the contract award procedure undertaken by a person subject to exclusion after they became aware of the circumstances referred to in para. 1 shall be</p>
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			repeated, except for the opening of tenders and other factual actions having no influence on the outcome of the procedure.
13.	<p>PPL stipulates that award decisions must be made solely on the basis of evaluation criteria that have been precisely specified in advance in the tender documentation. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	1	PPL, Art 91.1 The contracting authority shall select the best tender on the basis of contract award criteria laid down in the specification of essential terms of the contract.
14.	<p>PPL stipulates that upon modification of any criteria and requirements set out in tender documentation prior to the completion of tender application submission period, a procuring entity shall transmit in writing all such modifications: – [1 point]</p> <p>Point Distribution</p> <p>a) To all tender candidates; and – [0.5]</p> <p>b) Give additional adequate time (either by extending or restarting the time) to allow such candidates to modify and re-submit amended tender application. – [0.5]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a)0.5</p> <p>b)0.5</p>	<p>39.6,</p> <p>If due to the modification of the content of specification of essential terms of contract which does not lead to the modification of the content of the contract notice an additional time is necessary to make changes to the tenders, the contracting authority shall extend the time limit for the submission of tenders, and shall notify it to the economic operators who have received the specification of essential terms of contract, and shall likewise post this information on its website if the specification is available on this website.</p> <p>b) PPL, Art. 12a,</p>
15.	<p>PPL stipulates that procuring entities shall inform each tender participant of the decision reached about the winner of the tender, including failure to do so, as soon</p>	1	<p>PPL, Art 92.</p> <p>1. The contracting authority <u>shall immediately</u> inform all the</p>

	<p>as it is made, but no later than the end of the following working day. – [1 point]</p> <p style="text-align: right;"><i>Transparency</i></p>	<p>economic operators about:</p> <ol style="list-style-type: none"> 1) the selection of the best tender, providing the company name or the first and last name, registered office or place of residence and address, where such an address is the place of business of the economic operator whose tender has been selected, and the company names or first and last names, registered office or place of residence and addresses, where such addresses are places of business of the economic operators who have submitted tenders, as well as scores assigned to the tenders in each contract award criterion, and the total scores, 2) excluded economic operators, 3) economic operators whose tenders have been rejected, reasons for the rejection, and in cases referred to in Articles 89 para. 4 and 89 para. 5, lack of equivalence to or lack of compliance with the performance or functionality requirements, 4) economic operators who have submitted tenders not subject to rejection but have not been invited to the next negotiation or dialogue stage, 5) admitting to a dynamic purchasing system, 6) no dynamic purchasing system set up, 7) cancellation of the procedure
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			<p>– providing factual and legal substantiation.”,</p> <p>1a. In cases referred to in Article 24 para. 8, the information referred to in para. 1.2 shall contain explanation of the reasons for which evidence presented by the economic operator was deemed by the contracting authority to be insufficient.</p> <p>2. The contracting authority shall make the information referred to in para. 1 (1) and (5) to (7) available on the website.</p>
16.	<p>PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [1 point]</p> <p>Point Distribution</p> <p>a) Any unsuccessful tender candidate of the reasons for the rejection of its request to participate (if such approval is required). – [0.5] ***</p> <p>b) Any unsuccessful tender participant of the reasons for the rejection of its bid. – [0.5]</p> <p>*** If a) is not applicable, b) equals [1 point].</p> <p style="text-align: right;"><i>Transparency</i> Source: EU Standard</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>See PPL, Art 92 above.</p>
17.	<p>PPL stipulates that in cases when evaluation criteria include both price and quality, the winner shall be chosen using a cost-effectiveness approach, such as: – [1 point]</p>	<p>Overall: 1</p> <p>Components:</p>	<p>a) Art 91.2b, 2c, 2a, 5b</p>

<p>]</p> <p>Point Distribution</p> <p>a) Life-cycle cost – [1/3] b) Best price-quality ratio – [1/3] c) Environmental and/or social costs – [1/3]</p> <p style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>	<p>a)1/3 b)1/3 c)1/3</p>	<p>b) Art. 91. 2a c) Art. 91.2. 3)</p>
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Post-tendering Phase

#	Indicator	Score	Relevant Article, Law and excerpt (if applicable)
1.	<p>PPL stipulates that upon successful conclusion of tender (upon choosing and announcing of the winner) the following information must be made public as soon as it is available: – [1 point]</p> <p>Point Distribution</p> <p>a) Name, type, identification number, address, telephone, fax number (where applicable), email and internet address of the procuring entity and, where different, of the service from which additional information may be obtained. – [0.1] b) Subject of procurement. – [0.1]</p>	<p>Overall: 1 Components: a)0.1 b)0.1 c)0.1 d)0.1</p>	<p>See PPL, Art 92, Art 96, Art 139.3</p>

	<p>c) CPV codes (or other classificatory system of similar nature). – [0.1]</p> <p>d) Description of the procurement: nature, extent, quantity or value of goods, works and services. Where the contract is divided into lots, this information shall be provided for each lot. – [0.1]</p> <p>e) Type of award procedure; in the case of negotiated procedure without prior publication, justification. – [0.1]</p> <p>f) Date of the signing of contract(s) or of framework agreement(s). – [0.1]</p> <p>g) Duration of the contract. – [0.1]</p> <p>h) Number of bids and their respective amounts received. – [0.1]</p> <p>i) Name, address, telephone, fax number (where applicable), email address and internet address of the successful tender participant(s) including: information whether the contract was awarded to a group of economic operators (joint venture, consortium or other) (where applicable). – [0.1]</p> <p>j) Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number (where applicable) and email address of the service from which this information may be obtained. – [0.1]</p> <p style="text-align: right;"><i>Transparency</i> Source: EU Standard</p>	<p>e)0.1</p> <p>f)0.1</p> <p>g)0.1</p> <p>h)0.1</p> <p>i)0.1</p> <p>j)0.1</p>	
2.	<p>PPL stipulates that the information on subcontractors must be made public upon successful conclusion of tender (upon choosing and announcing of the winner). – [1 point]</p> <p>Point Distribution</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p>	<p>PPL, Article 36b. 1. The contracting authority shall require from the economic operator to indicate contract lots that the latter intends to entrust to subcontractors, and to provide company names of the subcontractors.</p> <p>PPL, Article 96.1.5) first and last name or company name of the</p>

	<p>a) Procurement contracts include information on what proportion of the contract can be subcontracted to third parties. – [0.5]</p> <p>b) Information on subcontractor/s (if any): name, address, ID, contact information, is made public as soon as this information is available. – [0.5]</p> <p style="text-align: right;"><i>Transparency</i></p>	<p>b) 0.5</p>	<p>economic operator whose tender has been selected as the best one, as well as reasons for selecting this tender, indication of the contract lot or part of a framework agreement which the economic operator intends to sub-contract to third persons, and – if know at that time – first and last names or company names of possible subcontractors;</p> <p>PPL, Art. 143b. 1. The economic operator, subcontractor or further subcontractor of contract for works contract intending to conclude a subcontract, having works as its subject matter, is obliged during the execution of contract for works, to submit to contracting authority a draft of subcontract, whereas subcontractor or further subcontractor is required to enclose consent of the economic operator for conclusion of a subcontract, which contest is in accordance with the draft subcontract.</p> <p>PPL, art 139. 3. Procurement contracts shall be open and shall be made accessible pursuant to rules laid down in the provisions concerning public information.</p>
<p>3.</p>	<p>PPL ensures electronic, machine-readable and free of charge access to procurement contracts, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] 	<p>0.5</p>	<p>Art. 139. 3 PPL</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
4.	<p>PPL ensures electronic, machine-readable and free of charge access to contract amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.5	As above
5.	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone reports), either the full text or key information included in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] 	0	

	<ul style="list-style-type: none"> • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
6.	<p>PPL ensures electronic, machine-readable and free of charge access to payment receipts, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	
7.	<p>PPL clearly defines the procedures for inspection and quality control procedures: – [1 point]</p> <p>Point Distribution</p> <ol style="list-style-type: none"> Quality control (QC) procedures for goods, works and services are well defined in the draft contracts/documents or in the regulations. – [0.5] Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. – [0.5] <p style="text-align: right;"><i>Efficiency</i></p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	

	Source: OECD Methodology		
8.	<p>PPL ensures electronic, machine-readable and free of charge access to any inspection and quality control reports, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	
9.	<p>Procedures for acceptance of final products and processing of final payments are clearly defined by the PPL or contract law and are incorporated as standard clauses in contracts. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i></p> <p style="text-align: right;">Source: OECD Methodology</p>	1	It is regulated by the Civil Code
10.	<p>PPL defines specific procedures for modifying contracts. – [1 point]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	1	PPL, Art. 144

11.	<p>PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	0	
12.	<p>PPL stipulates that all procurement related documentation must be maintained: – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • In electronic form for a period of at least 10 years. – [1] • In paper form for a period of at least 3 years. – [0.5] <p style="text-align: right;"><i>Transparency</i></p>	0.5	<p>PPL 97.1. The contracting authority shall keep the record together with its annexes for a period of 4 years from the closing date of the contract award procedure in a manner which shall guarantee its inviolability. If the agreement duration exceeds 4 years, the contracting authority shall store the agreement for the whole its duration period.</p>
13.	<p>PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) PPL stipulates that public procurement operations must be subject to internal audit conducted by qualified specialists. – [0.5] b) PPL stipulates that public procurement operations must be subject to external audit conducted by qualified specialists. – [0.5] <p style="text-align: right;"><i>Accountability and Integrity</i></p>	<p>Overall: 0.5</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 b) 0.5 	<p>b) PPL Chapter 3. Control of the award of contracts. Starting from article 161.</p>