

FEATURES OF THE PUBLIC PROCUREMENT MARKET IN ROMANIA

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Abstract: *The public procurement market in Romania has become increasingly important in recent years, in the context of the harmonization of the national legislation with the European one. Despite the progress made in recent years, public procurement in Romania continues to be a subject of concerns, due to frequent revisions of procurement regulations (secondary legislation). Absorption of EU funds is often delayed by the numerous complaints lodged by bidders. This paper aims at highlighting the features of the public procurement market in Romania, based on a complex analysis focused on the 2008-2016 period. The data analysis reveals the change in the structure of the public procurement market in Romania in the analysed period. We also notice a fluctuating dynamics of this market, under the impact of the economic factors, both internal and external.*

Key words: European directives; public procurement market; public contract; public procurement procedures.

JEL Classification Codes: H57.

1. INTRODUCTION

Public procurements play a major role in providing the efficient spending of public money and in promoting economic competitiveness.

Public procurements have an important role in achieving the objectives of the Europe 2020 Strategy. According to the European Commission (2010), public procurements "represent an important market, particularly in areas such as health, transport and energy. So, Europe has an enormous and overlooked opportunity to spur innovation using procurement. Moreover, public procurement of innovative products and services is vital for improving the quality and efficiency of public services at a time of budget constraints". 3 out of the 50 proposals made by the European Commission (2011a) with the purpose of a sustainable and equitable growth for business, of restoring confidence by putting Europeans at the heart of the single market, and of providing a good governance of the single market aim the legislation and the public procurement market in the European Union. In 2011, the European Commission specified that "EU public procurement legislation seeks to create an open and competitive pan-European procurement market for large procurement contracts, saving taxpayers several billion euros each year. At the same time, public procurement can be an important source of support for innovation, environmental protection and employment, to name some examples" (European Commission, 2011a). An important step in achieving the objectives proposed by the European Commission was the publication of the Green Paper on the modernisation of EU public procurement policy in which the milestones of the



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modernization of the European legislation on public procurement were explained (European Commission, 2011b). In February 2014 a new set of laws for the modernization of the European norms on public procurements was published in the Official Journal of the European Union. This legislation is intended to avoid situations that can't get the best value for public money through the statement of 3 key principles: equal treatment, non-discrimination and transparency. The European Union public procurement markets are not monitored very well, because the information available about public procurement on the Eurostat website is only focused on the announcements of contract awards published in Tenders Electronic Daily (which are only part of the total number of the announcements of contract awards in EU). Several indicators about performing on key aspects of public procurement (they measure whether purchasers get good value for money) are available on the European Commission website.

The performance evaluation for the Romanian public procurement market in 2016 generated unsatisfactory scores for 6 of the 9 indicators measured at EU level (European Commission, 2016). In May 2016 the new public procurement laws transposing the EU directives entered into force and all necessary secondary legislation was adopted by the end of 2016, but corruption remains a challenge (European Commission, 2017). In this context, an analysis of the Romanian public procurement market is useful and it could be a starting point for a study to identify measures to improve its functioning.

2. RESEARCH METHODOLOGY

The research was based on a large database representing announcements of public procurement contract awards published in the Electronic Public Procurement System (ESPP) in the 2008-2016 period. We were interested in information on the contracting date, the type of contract, the type of procedure and the type of contracting authority. The contracting authorities were divided into 4 categories: central public authorities (ministries, the chambers of the Parliament, the specialised bodies subordinated to the Government), the local public authorities (prefectures, town halls, local councils, county councils, intercommunity development associations), public institutions (educational units, medical and sanitary units, libraries, museums, etc.) and public companies (legal entities performing economic activities and which are directly or indirectly under the dominating influence of a contracting authority). Due to the fact that the ESPP can also be used by private beneficiaries, on the occasion of collecting the data, we also identified other private entities as contractors. Their number was insignificant (less than 0.5%).

Starting from the public procurement definition according to which public procurement refers to obtaining works, products and services by public authorities through a process which observes specific principles and laws, we took into account the following factors for the identification of their influence on the public procurement market in Romania:

- Public spending for goods and services;
- Capital public spending;
- Structural and cohesion funds absorbed – payments to the beneficiaries.

Based on the collected observations (given the monthly budget execution of the general consolidated budget on the website of the Ministry of Public Finance and the monthly report of the submission of projects for approval, the signature of financing agreements, and the payments made to the beneficiaries, available on the website of the Ministry of European Funds), I tested the relevance of several unifactorial regression models, taking into account the following monthly series:

- The number of notices of public supply and service contracts, published in ESPP – the dependent variable and the value of the expenses associated with goods and services – the independent variable;

- The number of notices of public work contracts, published in ESPP – the dependent variable and the value of the capital expenditure – the independent variable;
- The total number of public procurement contract notices, published in ESPP – the dependent variable and the value of the EU funds absorbed – payments to the beneficiaries – the independent variable.

The assumptions underlying the approach for the identification of the influence of the 4 above-mentioned factors on the public procurement market in Romania are:

- The decrease in the budgetary allocations for goods and service expenditure might be a cause of the decrease in the number of public procurement contracts awarded in the 2008-2016 period, thus justifying the argumentation according to which public expenditure with goods and services is factor that influences the public procurement market in Romania;
- The decrease in the budgetary allocations for capital expenditure might be a cause of the decrease in the number of public procurement contracts awarded in the 2008-2016 period, thus justifying the argumentation according to which public capital expenditure is factor that influences the public procurement market in Romania;
- The amounts available for investments from the structural and cohesion funds are important resources for the completion of investment projects, as well as for the procurement of goods and services. All the beneficiaries of the programmes financed from EU funds (public or private) should observe the public procurement provisions. Therefore, the volume of EU funds absorbed – payments to the beneficiaries, should be an influence factor for the public procurement market in Romania.

Due to the fact that the existence of the link between a numerical variable and a nominal one should be tested, I chose to use the Chi-Square test, using the SPSS software. The data were processed using the software Statistical Package for the Social Sciences, and the software Data Analysis – Excel.

3. EVOLUTION OF ROMANIAN PUBLIC PROCUREMENT MARKET

Number of public procurement award procedures has declined significantly over the 2008-2016 period (figure 1). This situation was generated by regulatory changes. For example, the publication of the announcement on the intention to conclude a public procurement contract in ESPP, as well as the announcement of the contract award was mandatory in 2012 for the contracting authorities that what to benefit from the reduction of the periods or the total estimated value of the contracts that are to be awarded in the following 12 months for the procurement of products and services from the same group, is greater than or equal to the equivalent in RON of 130,000 euros (with 5000 euro higher than the threshold used before 2012), while the estimated value of work contracts which are to be awarded in the following 12 months, is greater than or equal to the equivalent in RON of 5,000,000 euros (with 155000 euro higher than the threshold used before 2012 (Law no. 279/2011 for amending and supplementing the Government Emergency Ordinance no. 34/2006 regarding the award of the public procurement contracts, public works concession contracts and services concession contracts). The increase in the value thresholds related to the direct procurement of goods, services and works led to a reduction in the number of notices related to the award of public procurement contracts published in ESPP (for the period between January 2008-March 2009 it was not compulsory to publish notices for the award of goods, services or work procurement contracts with a value assessed/a CPV code lower than 10,000 euro without VAT in ESPP; for the period between April 2009 and June 2013 it was not compulsory to publish notices for the award of goods, services or work procurement contracts with a value assessed/a CPV code lower than 15,000 euro without VAT in ESPP; for the period between July 2013 and December 2014 it was not compulsory to publish notices for the award of goods, services or work procurement contracts with a value assessed/a CPV code lower than 30,000 euro

without VAT and for the purchase of works with a assessed/a CPV code lower than 100,000 euro without VAT in ESPP.

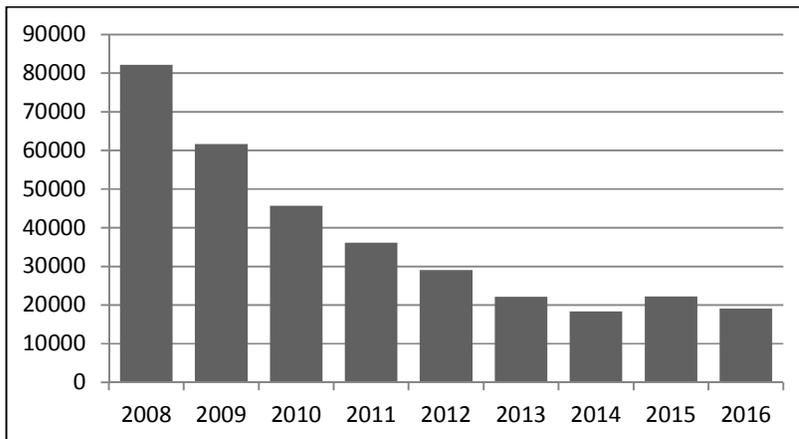


Figure 1. Number of public procurement award procedures

Source: Authors' calculations based on ESPP data

The public supply contracts (in terms of number) have the highest share in the total public contracts. Throughout the 2008-2014 period, the number of public contracts recorded a downtrend, the supply contracts having the sharpest decrease (figure 2). The year 2015 marked a slight increase of public contracts. Given the evolution in recent years, it seems that the number of public contracts stabilizes at 19,000-20,000 contracts.

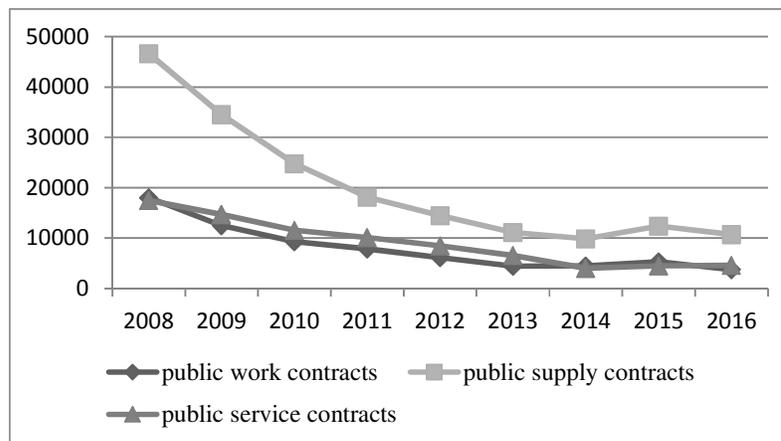


Figure 2. Number of public contracts during 2008-2016

Source: Authors' calculations based on ESPP data

In Romania, the most frequently used public procurement contract awarding procedures are the procurement notice and the open tender (Table 1). Their advantages are the shorter period of time (between the moment when the call is published and the moment when the public procurement contract is concluded) and the higher transparency, because ever since the tenders are submitted, economic operators must submit the technical proposal, the financial proposal and the proof that the minimum qualification requirements are met.

Table 1. Number of public contracts according to the type of procedure

Type of procedure	2008	2009	2010	2011	2012	2013	2014	2015	2016
Open tender	26465	20523	17959	14358	12788	9199	6812	8171	6422
Procurement notice	55070	40571	27263	21048	15693	12224	11186	13669	12441
Other procedures	619	570	429	715	571	729	369	387	216

Source: Authors' calculations based on ESPP data

We noticed preferences of the various types of contracting authorities for a certain public procurement contract awarding procedure. The calculation of the frequency of the use of the 7 types of awarding procedures, in the 2008-2016 period shows that the local public authorities prefer the accelerated negotiation and the procurement notice, public institutions frequently use all types of awarding procedures, and public companies prefer the open tender, the negotiation and the procurement notice (figure 3).

Type of procedure \ Type of contracting authorities	Local public authorities	Central public authorities	Public institutions	Public companies
Competitive dialogue	poor use	poor use	frequent use	poor use
Open tender	poor use	poor use	frequent use	frequent use
Restricted tender	poor use	poor use	poor use	poor use
Accelerated restricted tender	poor use	poor use	frequent use	poor use
Negotiation	poor use	poor use	poor use	frequent use
Accelerated negotiation	frequent use	poor use	poor use	poor use
Procurement notice	frequent use	poor use	frequent use	frequent use

Figure 3. Frequency of the use of public procurement contract awarding procedures depending on the type of contracting authority

Source: Authors' calculations based on ESPP data

Note: ■ - frequent use ■ - moderate use □ - poor use

As noticed in figure 4, public institutions have awarded most of the public contracts (in terms of annual average number) and the supply contracts have the highest share in the total public contracts awarded by the contracting authorities (approx. 60% of the total).

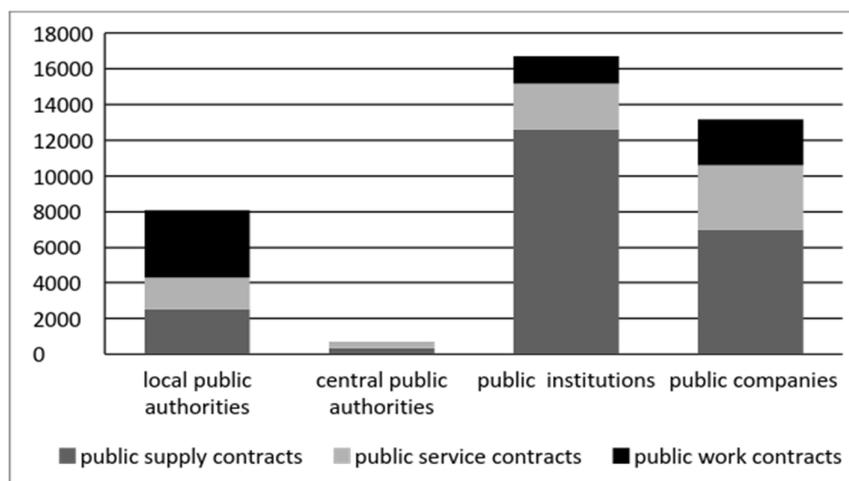


Figure 4. Breakdown of public contracts (annual average number) on categories of contracting authorities

Source: Authors' calculations based on ESPP data

In recent years a decrease in the estimated value of public contracts has been observed, due to the significant decrease in the value of works contracts (Figure 5). In 2016, supply contracts held the largest share in total public contracts in terms of estimated value.

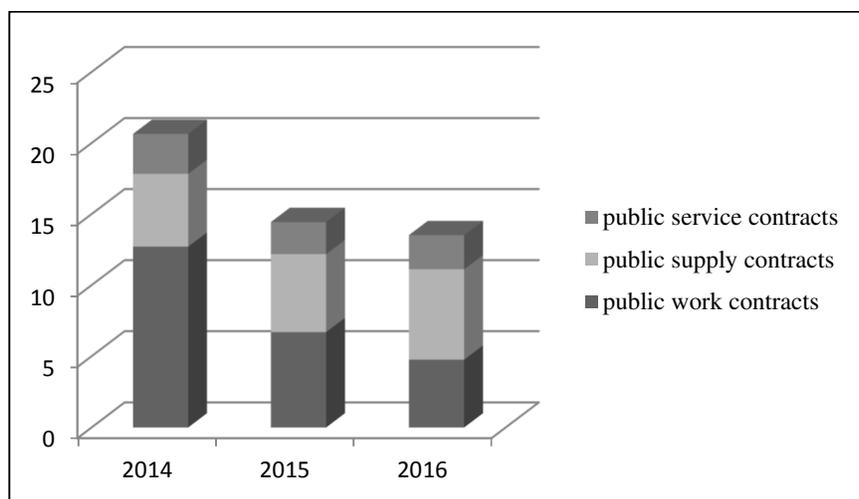


Figure 5. Evolution of the estimated value of public contracts

Source: Authors' calculations based on statistical reports concerning procedures for the award of public contracts pursuant to publication notice or invitation to participate in the ESPP

The decrease in the estimated value of public contracts has occurred amid reducing EU funding (from 8,682 million euros in 2014 to 1,875 million euros in 2016).

4. DATA ANALYSIS

The values of dependent variables identified in the methodology section are presented in table 2.

Table 2. The values of dependent variables (million euros)

Dependent variable	2008	2009	2010	2011	2012	2013	2014	2015	2016
public expenditure related to goods and services	9.029	6.801	7.079	7.493	7.723	8.729	8.915	9.191	9.120
public capital expenditure	6.305	5.466	4.601	5.438	4.328	4.040	3.860	4.113	4.235
value of absorbed EU funds - payments to beneficiaries	-	1.965	4.897	6.743	7.367	10.101	13.305	10.682	14.777

Source: Authors' calculations based on execution of the general consolidated budget and reports of the submission of projects for approval, the signature of financing agreements, and the payments made to the beneficiaries, available on the website of the Ministry of European Funds

The values of the public expenditure related to goods and services increased slightly in 2016 compared to 2008. On the background of the international economic crisis in the Romanian economy, we can notice an important decrease of this expenditure in 2009 compared to 2008 (by approx. 18 percentage points). The annual average values of the public capital expenditure decreased in 2016 compared to 2008 by approx. 33 percentage points.

The values of the structural and cohesion funds absorbed (payments to the beneficiaries) reveal an increase during the analyzed period reflecting the cycle of evolution of the 2007-2013 financial programming.

The public procurement market in Romania, reflected in the number of public procurement contract award notices published in ESPP, is influenced by a number of factors, as follows (table 3):

Table 3. Results of data processing using the regression

Impact factor	Regression function	R Square
value of public spending (goods and services)	Polynomial regression $y = 4E-09x^2 - 0.0003x + 12.644$	0.92
value of public investments	Liniar regression $y = 0.0002x + 3.4025$	0.85
value of absorbed EU funds - payments to beneficiaries	Exponential regression $y = 28.633e^{-4E-05x}$	0.97

Source: Authors' calculations

Consequently, the assumption that between the independent variables and the dependent variable there is high intensity is verified.

5. CONCLUSIONS

From the point of view of the contracting authority, the public procurement market in din Romania is dominated by public institutions and companies, and from the point of view of the public contract, by the supply contracts. Public institutions preponderantly award public supply contracts and the local public authorities award public work contracts. From the point of view of the type of public procurement award, the public procurement market in Romania is dominated by supply contracts. Due to the fact that the contracting authorities prefer the open tender and the inquiry for the award of public contracts, it can be mentioned that the Romanian public procurement market is transparent. The public procurement market in Romania was significantly decreased in 2012-2013, compared to the 2008-2009 period, on the background of the budgetary austerity measures adopted by the Government to cope with the challenges created by the international economic crisis. Also, the completion of the 2007-2013 programming period of structural and cohesion funds had a low influence on the decrease of the size of the public procurement market in Romania.

The Romanian public procurement market is influenced by the value of the of public spending (goods and services), value of public investments and value of structural and cohesion funds absorbed – a third of the payments to the beneficiaries

Then features of the public procurement market in Romania, as captured in this research, are somehow relative, because we did not take into account the public contracts awarded without the publication of a procurement notice, since there is no centralised information on their number and value.

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