

Position Paper on Public Procurements

Budapest, 10th January 2008

Following up on the bicycle tender of the Hungarian Post, studies ordered by the Prime Minister's Office and the forthcoming contracting of hospital safe boxes **Transparency International Hungary calls the attention of decision-makers to the anomalies of the Hungarian procurement system:** both regulations in force and practices undermine trust in the cleanness of public tenders.

The aim of public procurement is to use public funds for public interests, i.e. to provide value for public money. According to independent analysts in Hungary **only 10% of public tenders are contracted in a professional way.**¹ Bribery, networks of mutual favors, unprofessional operations, overregulation, individual favoritism and non-adequate strategic planning may all cause inefficient use of public resources. It is estimated that systemic corruption can add 20-25% to the costs of government procurement, and frequently results in inferior quality goods and services and unnecessary purchases.²

The findings of Transparency International Hungary's recent National Integrity System study show that **the Public Procurement Act is**

- **Overregulated and has loopholes;**
- **Includes too many exceptions which may allow circumventing the regulation;**
- **May create the possibility for abuse by imprecisely defining business secret; and**
- **Providing for a system of legal remedies which is not efficient.**

In Hungary the public procurement market is still very significant. In 2006 the total value of public procurement procedures was approximately 1 700 billion HUF (6.8 billion EUR) through cc. 5000 tender procedures. Both the value of public procurements and the number of tenders is expected to increase in 2008 due to the distribution of Structural Funds from the EU. Every effort needs to be made to keep public tendering procedures clean and efficient both at central and local level.

Transparency International Hungary makes the following recommendations:

- The Public Procurement Act should be simplified; at the same time it should be more vigorously enforced and its implementation monitored.
- After this simplification, frequent amendments to the law, as has been the practice in the past, should be avoided to reduce legal uncertainty.
- As several formal and material requirements can be used to exclude particular tenderers, the law should be changed to avoid arbitrary restriction of competition.
- Tendering companies should be obliged to implement a code of ethics.
- By current regulations, the public procurement procedure can be declared unsuccessful if the higher authority withdraws financial support. Possible abuse of this authority to favour a particular company should be prevented by the law.
- The monitoring system for public procurement procedures should be reinforced.
- The institutional guarantees of the independence of the Public Procurement Arbitration Committee should be reinforced.
- The present appeals system is not sufficiently effective, as under the existing regulations the company seeking legal remedy and damages may have to turn to five different forums. The number of forums should be reduced and those remaining should be provided with the necessary financial support in order to settle disputes more efficiently.

Transparency International Hungary in cooperation with the Hungarian Business Leaders Forum is working on the launch of Integrity Pacts. An Integrity Pact is a civil contract signed by the Authority and all bidders in which all parties commit to refrain from corruption and entrust an independent organization to monitor the project.

¹ Freedom House: Nations in Transit 2006

² //http://www.transparency.org/global_priorities/public_contracting

Transparency International Hungary

Transparency International (TI) is a non-governmental organization with the main goal of fighting corruption, advocating transparency and a clean, accountable environment by bringing together relevant players from government, civil society and business. TI is present in 9- countries. In order to change public perception and raise awareness TI carries out research projects and publishes policy recommendations. TI does not conduct investigations into individual corruption cases.

The Hungarian Chapter was launched in October 2006 as Transparency International Hungary Foundation.

Contact

Address: EMLA, 1079 Budapest, Garay utca 29-31.

Telephone: 06 70 409 7273

Fax: 06 1 352 9925

E-mail: info@transparency.hu

www.transparency.hu