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**Results from the European Commission's Control over the
Expenditure cofinanced by the European Agricultural Fund
for Rural Development**

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INTRO

From 2010 until now a criminal corruption scheme in [the State Fund "Agriculture" \(SFA\)](#) has taken place which is responsible for the diversion of millions of euros from the Program for Rural Development 2007-2013 which has been financed by the European Agriculture Fund for Rural Development¹. Though slightly modified and adjusted, this scheme will be functioning in the new program period 2014-2020. The main parties involved in this scheme are:

- The [Ministry of Agriculture and Food of Bulgaria](#) (through amendments of regulations);
- The [Executive Director](#) of the SFA (through changes in the work regulations).

The scheme has been functioning under the strict control and participation of European Commission's officials (the audit missions in Bulgaria have been managed by [Wolfgang Kahlenborn](#), Directorate J.4, Directorate-General for Agriculture and Rural Development). In the EC's annual audit reports the infringements have only been mentioned but the corrupted practices continue since no further disciplinary actions have taken place.

The project costs are being overestimated by millions of euros. Projects and public procurements of key municipalities are patronized by certain political parties and by the Executive Director of the SFA.

There is not a single directorate in [the structure of the SFA](#) that has exercised efficient monitoring and control over the work of the expert personnel and the executive staff. At the same time there is a huge financial interest - every expert (monthly gross income of 562.42 EUR) individually controls the granting of a financial aid to amounts over tens of millions of euros per year (a single project costs up to 3 000 000 EUR and the cost of a public procurement could reach up to 10 000 000 EUR).

If a tax-inspection is conducted over the SFA's personnel and their families, a huge gap will be discovered between their official income and the spending made. Those unregulated benefits are gained exclusively due to the functioning of the corruption scheme and the lack of proper monitoring and control by the European Commission.

The topic of corruption in Bulgaria is a dead horse that has been kicked around the block a few times. Every statistic for the last decade shows that Bulgaria is one of the most corrupt member states of the European Union (only Greece has a hair-line lead). The purpose of the current report is to give firsthand information and to show a disturbing tendency in the work of European Commission's officials. In one of the most corrupt member states EC's officials execute a fictitious control over the usage of European funding and in this way they allow different criminal schemes to function during whole programming periods and longer. This fictitious control could be used as an example for the Commission's control in all other member states.

APPRAISERS

Stage 1: The scheme began on 18.05.2010 with the amendment of [Regulation № 25 from 29.07.2008](#) for conditions and the order for granting of a gratuitous financial aid for the measure "Basic services for the population and the economy of the rural regions" (Regulation № 25). According to art. 23, par. 12 of the amended regulation the Executive Director issues an order for assignment of an Appraiser (evaluating) Commission, which should determine the validity of the expenditures in one project, i.e. it should reduce the single prices to match their market values. A certain appraiser company had been chosen through a public procurement procedure which could not be appealed. Subsequently, a contract was signed with executors, who were not independent appraisers according to the [Independent Appraiser Law](#) and they have no proven experience in assessing projects. Regardless of the fact that a certain company has been chosen to execute the appraising, the Executive Director additionally appoints through an internal order the members of the Appraiser Commission and replaces any member who has a dissenting opinion.

Despite the identical method of price-formation in every project the Appraiser Commission under the pressure of the Executive Director approves in protocols different single prices for similar projects depending on the applying municipality. In this way the municipalities of the parliamentary opposition receive less funding while the municipalities of the ruling party and its partners receive the full amount of financing requested.

There is also a second way of evaluation. In a protocol the single prices are reduced to their minimum. But in one week's time after conducting "negotiations" with the beneficial municipality a new protocol is signed by the SFA with unreduced (overestimated) single prices. The new protocol is considered valid over the initial one. The explanation given by the SFA is that a technical mistake had been made in the initial protocol.

The European Commission's officials have exclusively identified the different single prices and the SFA has defended the decisions on the varying specificities in the regions of the municipalities. This is accepted by the European Commission, despite the fact that all municipalities are situated in rural regions and expenditures such as transport costs have been separated from the other expenses and do not take part in the formation of the single prices. A check of the single prices can easily be performed by comparison of the single prizes in an appraising protocol with reductions and the single prizes from a protocol with no reductions from another project.

The unequal treatment of applicants by the appraising of the single prices of different projects is a direct indicator for the operation of a corruption scheme. Nevertheless, no measures have been taken neither by the European Commission nor by the external auditing company Deloitte Bulgaria.

TECHNICAL CRITERIA

Stage 2: After a contract for financial aid has been signed² the beneficiary submits a draft methodology for evaluation of public procurement procedures³ to the SFA. As of today the SFA continues to approve illegal evaluation methods (criteria) which contradict with the rules of art. 28a of [Public Procurement Law/Act](#) (PPL) concerning the evaluation criteria - instead of evaluating the advantages of the technical offers concerning the final result of the fulfillment of the public procurement, the used criteria focus on the thoroughness, particularity and clarity of the technical offers.

The criteria evaluate the thoroughness and the clarity of the planned schedules and the sequence of fulfilment and participants are being disqualified for the most insignificant inaccuracy. At the same time, by the fulfilment of over 90% of the projects, unforeseen circumstances emerge which always lead to the impossibility of meeting the initial planed schedules and it also leads to the replacement of construction works, which on the other hand results in the impossibility to fulfil the offered sequences of fulfillment. Every qualified engineer or experienced construction company will confirm that during the execution of the construction works unforeseen circumstances always occur, which lead to changes in the execution plan and those changes are entered in the construction's order book. As a result, the ground for the assignment of a public procurement to a particular participant in the tender procedure is completely eliminated during the execution of the construction works because the offered conditions (planned schedules and sequences of fulfillment) are not met.

For example, when the project is related to rehabilitation of a road surface (which consists of replacement of the asphalt layer) the evaluation includes detailed and specific description of the technological sequence of the laying of the asphalt. The offered measures for the preservation of the environment are subject to evaluation as well, despite the fact that the contracting party requires the possession of certificates for environment control and the project undergoes a separate evaluation procedure for environmental impact. Additionally, evaluations include the measures for prevention of risks despite the facts that: all technical offers must correspond to the provisions of the Law for safe and healthy working conditions; the participants should hire a specialist in charge of safety and healthy working conditions; each participant should have access to 50% of the prospective value of the procurement in order to tackle all financial risks. Last but not least, a description of the planned schedules and the sequences of fulfillment may consist of hundreds of pages while at the same time it is likely to offer no advantages concerning the final result of the fulfilment of the public procurement.

The following criteria are not included in the evaluation process: the quality and the technical indicators of the construction materials used; the quality of the construction works or the quality of the offered technologies and organization for execution of the construction works according to art. 28a, par. 1, p. 3 of PPL. By the evaluation of the technology offered and organization for execution of the construction works, possible advantages coming from technology and

organization may be disregarded and instead offers get pushed forward for their “thoroughness” and “clarity”. According to the last amendment of art. 34, par. 2 of PPL only half of the members of the offer-evaluation commission must have the appropriate qualification. It is obvious that for members who lack the appropriate qualification the offers will appear to be incomplete and unclear.

Practically all similar evaluation criteria contradict with the aims of PPL, proclaimed in art. 1, and particularly the effectiveness of spending of the budget and non-budget resources. Despite the described violation during the whole program period SFA approves such evaluation methods and it also approves the public procurement procedures without imposing any financial corrections (sanctions).

The European Commission’s officials haven’t made remarks on the described evaluation.

The same evaluation methods are used in Operational Programs "Environment" and "Regional Development".

EVALUATION STEPS

Stage 3: By the execution of preliminary control of tender procedures the SFA approves illegal evaluation methods with exaggerated range between the evaluation steps of the technical criteria⁴. The infringement can be determined when a calculation is made of what price a participant in the tender procedure (whose technical offer is evaluated with the lowest evaluation step) should offer to get the assignment. It should be taken into consideration that the only offers that are being evaluated are those which fully correspond to the requirements of the Contracting Authority and guarantee the fulfilment of the contract according to all technical specifications.

Example:

The technical offer of **Participant A** is evaluated with 50 points. The technical offer of **Participant B** receives the minimum of 10 points. The gap between the evaluation steps is 40 p. (There are many different formulas for evaluation of the technical offers. The infringement consists in the final difference between evaluation steps.)

The predictive value of the tender procedure is 3 000 000.00 EUR (the amount of financing for one project in Measure 321).

The financial part of the offer is evaluated by the formula **(Minimal offered price/The evaluated price of the current offer)*50p. = Evaluation of the current participant.**

To get the procurement contract Participant B should gain at least the same total amount of points as Participant A according to art. 71, par. 4 of PPL. If the financial offer of Participant B gets the

maximum of 50p. and it gets the total of 10p. + 50p. =60p., the total evaluation of Participant A should not go over 60p. That means that the financial offer of Participant A should be evaluated with no more than **10p. (60p. – 50p.)**. The best case scenario for Participant B is that the financial offer of Participant A is equal to the predictive value of the tender procedure (for offering of a lower price he will get more points and he can't offer higher price than the predictive). Participant A will get 10p. for his financial offer, if Participant B will offer the following price:

(Minimal offered price/3 000 000 EUR)*50p. = 10p. (10p. are the maximum Participant A should get so Participant B could win)

Minimal offered price = 10p.*3 000 000 EUR/50p. = 600 000 EUR

In the end, Participant B should offer less than 600 000 EUR for a procurement with a predicted value of 3 000 000 EUR or 5 times less than the predictive price. According to art. 70, par. 3 of PPL the Contracting Authority is allowed to disqualify an applicant whose price offer is 0.2 times (20%) lower than the average price offer of all other applicants and whose price offer is unusually low (art. 70, par. 4 of PPL). Under these circumstances Participant B does not stand a chance in getting the contract.

This part of the scheme is the main reason why most of the public procurements are assigned to the participants who have offered the highest, instead of the lowest price.

The European Commission through its auditors has not been able to identify the huge gap between the lowest and the highest evaluation steps as an infringement. The SFA continues to confirm such procurements without sanctioning them.

Evaluation procedures with overestimated gaps between the evaluation steps are also used in the Operational Programs "Environment" and "Regional Development".

WORK GROUP

Stage 4: "Porozhanov-Alieva" Amendment

In 2012, the SFA Executive Director - [Rumen Porozhanov](#) (in office in the periods of March 2011 - August 2013 and again since November 2014) assigned the task of amendment of the work regulations⁵ to [Atidje Alieva-Veli](#) who was head of "Methodology and Control" department at the time and now is deputy Executive Director and head of the permanent work group for implementation of financial sanctions). By doing so Rumen Porozhanov aimed at gaining complete control over the implementation of financial sanctions for public procurements.

Atidje Alieva-Veli`s Department of "Methodology and Control" proposed an amendment of the work regulations and the Executive Director Rumen Porozhanov approved it in a report filed

under entry number 03-0416/5501 dated 1 August 2012. The permanent work group was created and a completely new order for implementation of financial sanctions was established. According to the amendment when an irregularity resulting in financial correction is found in a public procurement procedure, a Chief Expert conducts a draft report for implementation of financial correction and sends it **per email** to the head of the department. By sending the report per email any audit trail of the initial findings and propositions for financial sanctions are obliterated without any trace. What follows is a meeting of the permanent work group which decides in the final version of the report what the sanction should be and whether to impose or not a financial correction and how big it should be. Initially the expert who monitors the procurement and who has written the report was present at the meeting, but the expert did not have the right to vote, make reservations or to record a dissent. Another amendment of the work regulations (filed under entry number 03-0416/1498 dated 18 March 2013) completely ruled out the presence of the reporting expert in the work group's meeting. In the work regulations it is not specified how the decisions for implementation or abolishment of financial corrections should be made (majority, unanimity, by decision of the head of the work group or else). The members of the work group also do not have the right to make reservations or record a dissent. When a decision is made to impose a sanction, the Executive Director has the right to give a negative resolution on the report. According to the amended work regulations, in this case the report is not reconsidered and the public tender is directly approved without imposing any sanctions.

The final report does not get signed by the expert who has checked the public procurement procedure and who has written the initial draft version of the report, which leads to loss of the connection between the final report and the carried out checks during the subsequent control over the procurement. The report is signed only by the head of the work group and its members who do not examine the documentation from the procurement procedure, neither do they seal their meetings with a protocol, nor do they sign a control sheet for the carried out checks. The audit trail is completely missing from the moment before sending of the draft version of the report per email until the moment of receiving the final resolution of the Executive Director of the SFA. In this way every personal administrative or criminal liability of SFA's officials is eliminated.

In addition to the lack of an audit trail of the meetings of the work group, in the SFA there is no archive of the approved public procurement procedures. Since the beginning of the program period in 2007 to this day not a single procedure has been archived. In this way parts of the procedure's documentation is being replaced or complemented when there is an irregularity which should otherwise be sanctioned. This has been done many times during audit missions of the European Commission and Deloitte Bulgaria. For example, in the summer of 2014, during a visit of representatives of the SFA in Brussels they assured the European Commission that all necessary checks for unlawful division of procurements had been carried out, whereas in fact all those checks were performed at the end of 2014 and in the beginning of 2015 and were subsequently added to the latest controlled procurements.

The European Commission notices the lack of archives year after year ever since 2011 but it has not imposed any sanctions, which is one of the main reasons why nothing has changed and the fraud and irregularity continues to exist.

With the same amendment of the work regulations mentioned above, the period for execution of the consecutive control over the procurements was reduced from 4 months (acc. art. 41, par. 9 of Regulation № 25) to 30 days which increased the risk of mistakes and oversight and made the whole control procedure absolutely fictitious. Having in mind that the beneficiaries have 30 months since the last approval of their public procurement procedure (art. 41, par. 1, p. 2 of Regulation № 25) there is no objective reason for shortening the period for consecutive control. It should be taken into consideration that the period of 4 months hasn't been changed in Regulation № 25.

FINANCIAL CORRECTIONS

Stage 5: According to the amendment of the work regulations dated 1 August 2012 when imposing financial corrections (sanctions), the final report is not to be submitted to "Authorization of payments" Directorate⁶. In violation of art. 8, par. 1 and art. 9, par. 1 of [the Methodology for determining financial corrections to be made to expenditure co-financed by the Structural Funds, the European Agricultural Fund for Rural Development and the European fisheries fund for non-compliance with the rules on public procurement \(Methodology\)](#) the financial sanction is executed not over the amount of the used financial aid but over the value of the contract for public procurement. By those means the beneficiary fulfills only part of the project to the cost of the reduced contract's value and finally he declares the reduced value as expenditure and receives as a payment 100% of what is declared. The aim of the imposed financial corrections is to correct (reduce) the value of the carried-out construction works, but in this case the amount and the quality of the works are reduced and their overestimated value is kept.

Example 1: In a project with a contract for public procurement for 3 000 000 EUR a sanction is imposed for the amount of 10% (300 000 EUR). Afterwards, a part of the project which costs 300 000 EUR is not fulfilled and the beneficiary declares and receives 2 700 000 EUR. In this way the financial reduction is fully eliminated and the losses from the overestimated single prices are still present.

Example 2: The prospective values of the procurements for consulting services and project expenses are purposefully overestimated above their limits. After imposing a financial correction over the value of the procurement's contracts, the value of the authorized payment is reduced to the limit and the beneficiary receives 100% of the possible payment.

Example 3: The projects for afforestation contain technical cards for implementation of the afforestation. Those cards describe the main species of saplings and the possible substitute species. In the tendering procedures the offer covers only single prices for the main species. After the contract is assigned the chosen Contracting Party plants substitute species at main species single prices. In this way the species of winter oak (est. cost 0.2 EUR) are replaced with saplings of the substitute species of acacia (est. cost 0.08 EUR). In a single afforestation project over 500 000 saplings can be planted. Through such practices the "Authorization of payments" directorate ends up paying up to three times more than it should. The European Commission's officials and Deloitte Bulgaria have overseen this fraud over and over again.

When irregularity in public procurement procedure favors a particular participant (the cases when all but one participants are illegally disqualified) a sanction of 100% of the payment should be imposed according to art. 10, par. 4 of the Methodology. The SFA's practice contradicts with this regulation because the highest imposed sanction reaches only 10%. Again, the EC and Deloitte Bulgaria haven't sanctioned this irregularity in the work of the SFA.

Stage 6: On preliminary-control stage the beneficiaries present for approval to the SFA draft versions of admission and evaluation criteria that are going to be used in public procurement procedures. The SFA purposely approves illegal admission and evaluation criteria and on the subsequent-control stage those illegal criteria are used as a ground for the implementation of financial corrections (when the bribe wanted by the Executive Director is not payed). The situation is aggravated by the amendment of art. 41, par. 7 of Regulation № 25 - the implementation of the approved criteria becomes obligatory since 25.07.2014. Subsequently, sanctions are being imposed exactly for the use of the approved and obligatory admission and evaluation criteria.

In this way, during the terms of one and the same executive director of the SFA, due to the usage of the approved admission and evaluation criteria from 2012 and 2013, sanctions are imposed in 2015. At the same time for the usage of identical illegal evaluation criteria sanctions are imposed only to certain municipalities. The European Commission's officials do not notice the unequal treatment of the beneficiaries when financial sanctions are imposed. The unequal treatment is the main indicator for corruption practices.

On the other hand, in contradiction with art. 10, par. 6, p. 4 of the Methodology, after the admissibility requirements and evaluation criteria are approved and have become mandatory, the financial sanctions for their usage are imposed to the beneficiary despite the fact that it has followed the instructions of the SFA. When sanction is imposed due to faulty instructions of the SFA the beneficiary is not obliged to pay it. This irregularity is used by the SFA as a repression measure against the opposition municipalities or against the ones which do not pay the bribes wanted.

CONCLUSION

In short, the scheme represents a closed process from the submission of the application form to the final payment of the financial aid. Through the orders for assignment the Executive Director controls the decisions of the Appraiser Commission and the work group for financial sanctions. By this scheme the overestimated single prices are corrected according to the will of the Executive Director and the experts from "Control of Public Procurement" Department cannot impose any financial sanctions or the sanctions are being imposed in contradiction to their checks.

In 2012, under the false pretense that the government was going to "save" European financial aid, 122 686 668 EUR were transferred from the financial aid for small and medium enterprises to the budget of Measure 321 by the seventh amendment of the Program for rural development. The excuse reported by the media was that there wasn't any time left to invest in the business and if that money had not been transferred to Measure 321 they would have been lost. The delay of investments in business was deliberate and it was latter used as a cause for the transfer of the budget. Proof of this deliberate action is the fact that there weren't any unforeseen circumstances out of the control of the SFA which had objectively slowed down the investment in business. The excuse that there was a lack of personnel is more than absurd, having in mind that the SFA operates with billions of euros. And finally, the transferred financial aid was not actually invested. It was just paid as advance payment for projects whose implementation hadn't even begun.

According to art. 12, par. 1 and par. 3 of Regulation № 25 in the period of three months after signing the contract for financial aid an advance payment is paid to the amount of 50% of the financial aid. That money stays in the beneficiaries' bank accounts (including the notorious Corporate Commercial Bank – Belitsa Municipality, Sungurlare Municipality, Borino Municipality) for many years and during that time the execution of the project might not even start. The time limit for the fulfilment of an investment project is 30 months but this time limit starts over every time when a new procurement is approved by the SFA (art. 41, par. 1, p. 2 of Regulation № 25). In that way, for example, a contract was signed in 2010, a public procurement procedure for project management was approved in 2011; a public procurement for construction control was approved in 2013; and finally a procurement procedure for construction works started in 2015. The advance payment may stay in the bank for over 5 or 6 years before the project implementation even begins. Until the middle of 2015, not a single contract was canceled due to delay in the start of public procurement procedures.

The losses from the overestimated single prices could have been prevented had the public procurement procedures been legal. The Methodology defines the amount of the financial sanctions that should be imposed to insure the lack of losses for EU's budget. The described scheme completely eliminates this possibility by false control over the overestimated single

prices followed by the illegal procurement procedures and the practical lack of possibilities to impose financial sanctions. All this leads to final losses for EU's budget.

The scheme is used in Measure 313 "Stimulation of tourist activities", Measure 322 "Renewal and development of the populated areas", Measure 41 "Implementation of local development strategies", Measure 223 "Initial forestation of non-agricultural grounds" and Measure 226 "Recovery of forestry potential and implementation of preventive measures". The described irregularities concerning the procurement procedures are used in the Operational Programs "Environment" and "Regional Development".

In conclusion according to art. 3, par. 1 of Regulation (EC, EURATOM) No 2988/95 the period of liquidating prescription is four years from the moment the irregularity is committed, but when it is continuing or is multiplied the prescription period starts from the date when the irregularity is terminated. This means that the European Commission still has the means to correct the flaws in its work for the whole program period of 2007-2013 and to recoup EU-budget losses.

EXAMPLES OF PUBLIC PROCUREMENT WITH IRREGULARITIES

I. Program for Rural Development 2007-2013

1. Kaynardzha Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
2. Elena Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
3. Kovachevtsi Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
4. Perushtitsa Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
5. Varbitsa Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
6. Kotel Municipality
 - a. [Information from the Public Procurement Register](#) ;
 - b. [Information from the official web site of the Contracting Authority](#).
7. Shabla Municipality
 - a. [Information from the Public Procurement Register](#) ;

- b. [Information from the official web site of the Contracting Authority.](#)
- 8. Petrich Municipality
 - a. [Information from the Public Procurement Register ;](#)
 - b. [Information from the official web site of the Contracting Authority.](#)

II. Operational Programme "Environment"

Montana Municipality

- a. [Information from the Public Procurement Register ;](#)
- b. [Information from the official web site of the Contracting Authority.](#)

III. Operational Programme "Regional Development"

- 1. Stara Zagora Municipality
 - a. [Information from the Public Procurement Register ;](#)
 - b. [Information from the official web site of the Contracting Authority.](#)

- 2. Blagoevgrad Municipality
 - a. [Information from the Public Procurement Register ;](#)
 - b. [Information from the official web site of the Contracting Authority.](#)

- 3. Veliko Tarnovo Municipality
 - a. [Information from the Public Procurement Register ;](#)
 - b. [Information from the official web site of the Contracting Authority.](#)

- 4. Sofia Capital Municipality
 - a. [Information from the Public Procurement Register ;](#)
 - b. [Information from the official web site of the Contracting Authority.](#)

IV. Afforestation Technical Card

Belogradchik Municipality

- a. [Information from the Public Procurement Register ;](#)
- b. [Information from the official web site of the Contracting Authority.](#)

APPENDIX

¹ To get an idea about the scale of the funding that is affected by the described criminal scheme it is enough to mention that the budget of the Program for Rural Development 2007-2013 is 3 241 938 392 EUR and the budgets of Measure 321 and Measure 322 are 458 337 046 EUR and 208 445 838 EUR respectively.

The main group of beneficiaries in Measure 321 are rural municipalities. The admissible investments are listed in art. 4, par. 1 of Regulation № 25 and the most funded projects are for the rehabilitation of roads and sewage networks. The financial aid for a single project according to art. 8, par. 2 of Regulation № 25 is 3 000 000 EUR and the maximum amount of funding by Measure 321 for a single municipality is 10 000 000 EUR according to art. 10, par. 1 of Regulation № 25.

² Sequence of fulfilment of an investment project.

The order for submitting of an application form, its approval and the payment of the financial aid in Measure 321 is determined in Regulation № 25 from 29 July 2008 adopted by the Ministry of agriculture and food.

The following order is regulated:

- 1) The rural municipality (beneficiary) submits in State Fund "Agriculture" (SFA) an application form with technical project documentation and bills of quantities.
- 2) SFA checks the submitted application's documentation for completeness and the declared investments for compliance with the admissions criteria.
- 3) When the wanted investments are approved a contract is signed between SFA and the beneficiary (user of the financial aid). Within 3 months the beneficiary receives 50% of the financial aid as an advance payment.
- 4) The beneficiary submits a draft version of the public procurement procedure's documentation where the admissibility requirements of the participants and the evaluation (award) criteria of the offers are stated. SFA checks them for compliance with the Public Procurement Law (PPL) and approves them if they are legal.
- 5) The beneficiary carries out a public procurement procedure by using the approved admissibility requirements and the evaluation criteria.
- 6) After the procedure is carried out and an executor of the public procurement is chosen, the complete procedure's documentation is submitted to SFA for a subsequent control. SFA examines the carried out procedure for compliance with PPL. If an irregularity is noted a financial correction (sanction) is imposed by SFA.
- 7) After the fulfilment of the investment the beneficiary declares the made expenses in SFA and it pays the financial aid.

The application forms and the public procurement procedures are controlled according to the internal work regulations which are approved by the Executive director.

³ In short about how public procurement works in general. When a state institution or a public law organization (contracting authorities) needs something to be built, delivered or a certain service to be provided (subjects of public procurement), it conducts a competition (public

procurement procedure) in which firms and companies (participants) are presenting their offers for the accomplishment of the procurement.

To guarantee that the executor will be able to accomplish the public procurement, the contracting authority sets requirements about the financial and technical status of the participants in the procedure (admissibility requirements). The received offers of the participants, who meet the admissibility requirements, are evaluated according to predefined award (evaluation) criteria. The participant with the highest evaluated offer signs a public procurement contract and becomes its executor.

There are two kinds of award criteria: lowest cost (the lowest offered price is chosen) and most economically advantageous offer (the technical and financial parts of the offer are evaluated). The criteria for evaluation of the technical part of the offer could be numerically measurable (execution time, guarantee period, etc.) and non-numerically measurable (execution technology and etc.).

⁴ The non-numerically measurable criteria are evaluated with evaluation steps (example: 1st step - 50 points, 2nd step - 30 points and 3rd step - 10 points). The offer that meets all advantages that are required by the contracting party is evaluated with 50 p. and the offer with the least advantages receives 10 p.

To seemingly guarantee the economic interests of the European Union the SFA approves the correlation of 50/50 between the financial evaluation criteria and the technical evaluation criteria (the weight of the financial criteria should not be less than 50%). At the same time the evaluation steps of the technical parts of the offers (which has been approved by SFA during the whole program period of 2007-2013) distort this correlation to such a degree that the weight of the financial part is fully eliminated. This is a direct violation of art. 28a of PPL because there is no correlation between quality, and price and finally only the quality is evaluated.

Example:

- Evaluation of the financial part of the offers - 50 points (max);
- Evaluation of the technical part of the offers - 50 points (max):
 - Evaluation steps for the technical part of the offers:
 - Offers that have all of the required advantages - 50 p.
 - Offers that have some of the required advantages - 30 p.
 - Offers that have none of the required advantages - 10 p.
- The final score is the sum of the evaluations of the financial and technical parts.

It only seems that the proportion of 50/50 is kept.

Information about the public procurement procedures is published in [the Public Procurement Register](#) and since 01.10.2014 the documentation for participation in a

procedure and all protocols are published on the official web site of the contracting authority.

⁵ After a public procurement procedure has been conducted and a contract with the chosen executor is signed, a copy of the whole procedure's documentation is submitted to SFA for subsequent control according to art. 41, par. 6 of Regulation № 25.

The subsequent control over the procurement procedure is carried out by junior and chief experts of the "Control over the Public Procurement" Department. The junior expert checks if all the necessary documents are submitted and then the procurement procedure is checked for conformity with the law. All the results of the carried out checks are entered in control sheets and after that the results are uploaded in the Administration and Control System (IACS). Afterwards, a chief expert carries out a second check and examines the correctness of the actions of the junior expert. The results of the chief expert's check is also entered in control sheets and IACS. The purpose of the control sheets and IACS is to fulfil the minimum requirements for audit trail and to provide documentary evidence of the checks that have been executed.

⁶ Till 2012, when an irregularity was noted in a public procurement procedure and a financial correction was imposed, the experts used to send a report concerning the imposed sanction to the "Authorization of Payments" Directorate. In this way the regulation is followed that the financial correction should be imposed over the amount of the expended financial aid according to art. 8, par. 1 and art. 9, par. 1 of the Methodology for determining financial corrections to be made to expenditure cofinanced by the Structural Funds, the European Agricultural Fund for Rural Development and the European Fisheries Fund for non-compliance with the rules on public procurement (Methodology).