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REGULATORY PROVISION OF PUBLIC PROCUREMENT SYSTEM IN THE CONTEXT OF EUROPEAN INTEGRATION OF UKRAINE

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Introduction. One of the main directions of Ukraine in international cooperation is the Euro integration process. The main purpose of which is the implementation of national legislation to European standards, with further adaptation and modification in accordance with international rules and regulations.

Scientific research hypothesis. Any integration processes are quite complex and time-consuming, but they are necessary to improve the performance of the field in which they take place. Ukraine's European integration is aimed at ensuring the development of the spheres of political, legal, economic and social life of the country, including public procurement system in Ukraine.

The purpose of the study is to analyze the impact of integration processes on the current regulatory framework of the public procurement system in Ukraine.

Research methods. General and special methods, such as systematic analysis and generalization, were used to determine the state of disclosure of the research problem. The method of comparisons, analogies and systematization was used for the analysis of regulatory documents regulating the sphere of public procurement.

Results. On the basis of the author's study of the current state of legal

support of the public procurement system in the context of European integration of Ukraine, a gradual distribution of the evolution of national legislation in the field of public procurement to international standards was presented, with its further reformation into the field of public procurement. The basic functions of the institutional structure of the public procurement system are considered and the valid legal acts of the procurement process are summarized.

Conclusions. The analysis of the process of reforming the system of "public procurement" in the field of "public procurement" is characterized by a rethinking of the spending units of public funds with the need to approximate national legislation to international standards. For this purpose, a number of normative legal acts have been adopted by the state authorities aimed at accelerating the process of European integration of Ukraine, but some of them require further research and adjustments in order to adapt to national legislation.

Keywords: implementation, public procurement, public procurement, authorized body, e-procurement system, tenders, budgetary funds, Prozorro system.

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НОРМАТИВНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ СИСТЕМИ ПУБЛІЧНИХ ЗАКУПІВЕЛЬ В КОНТЕКСТІ ЄВРОІНТЕГРАЦІЇ УКРАЇНИ

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Вступ. Одним з основних напрямів України в міжнародному співробітництві є євро інтеграційний процес. Основна ціль якого є імплементація вітчизняного законодавства до європейських стандартів, з подальшою адаптацією та зміною згідно з міжнародними нормами та правилами.

Гіпотеза наукового дослідження. Будь-які інтеграційні процеси є досить складними та тривалими, однак їх проведення є необхідним з метою покращення показників ефективності тієї сфери в якій вони проходять. Євроінтеграція України спрямована на забезпечення розвитку сфер політичного, правового, економічного, соціального життя держави, в т.ч. системи публічних закупівель в Україні.

Метою дослідження є аналіз впливу інтеграційних процесів на сучасну нормативно-правову базу системи публічних закупівель в Україні.

Методи дослідження. Під час проведення дослідження було використано загальнонаукові та спеціальні методи, такі як метод системного аналізу та узагальнення – для визначення стану розкриття проблеми дослідження. Для аналізу нормативно-правових документів, що регулюють сферу публічних закупівель застосовувався метод порівнянь, аналогій та систематизації.

Результати. На підставі проведеного автором дослідження сучасного стану

нормативно-правового забезпечення системи публічних закупівель в контексті Євроінтеграції України, було представлено поетапний розподіл еволюції національного законодавства у сфері державних закупівель до міжнародних стандартів з подальшою реформацією його у сферу публічних закупівель. Розглянуто основні функції інституційної структури системи публічних закупівель та узагальнено чинні нормативно-правові акти процесу проведення закупівель.

Висновки. Аналіз процесу реформування системи «державних закупівель» в сферу «публічні закупівлі» характеризується переосмисленням розпорядників державних коштів з необхідністю наближенням національного законодавства до міжнародних стандартів. Для цього органами державної влади було прийнято ряд нормативно-правових актів, які спрямованні на прискорення процесу Євроінтеграції України, однак певна частина яких потребує подальших досліджень та коригувань з метою адаптації до національного законодавства.

Ключові слова. Імплементація, державні закупівлі, публічні закупівлі, уповноважений орган, система електронних закупівель, тендери, бюджетні кошти, система Prozorro.

Formulation of the problem and its relation to important scientific and practical tasks. The reform of the public procurement system in the field of public procurement has confirmed that Ukraine is working to stabilize the regulatory framework in this area by harmonizing national legislation with EU rules and bringing procurement procedures in line with international standards. However, the implementation of the public procurement system, in accordance with the principles and approaches applied by European countries, is currently in the implementation phase, so there are some gaps in the legal framework that impede the achievement of the set goals.

Analysis of recent research and publications and unresolved parts of the study. The study of regulatory support, reform, functioning of the system of public / public procurement in their works considered by domestic scientists, such as O. Ovsanyuk-Berdadin, Y. Falko, K. Khustakova, O. Shatkovsky, G. Sevastyanova, V. Minaylo, O. Kritenko, I. Vlyako [7–10]. Due to the acceleration of the pace of European integration of Ukraine, in accordance with the constant dynamic changes of the legislation in the field of public, the relevance of the study is being made.

Research results. Ukraine's integration process with the European Union can be characterized as a complex, long-lasting process with prolonged development and further rapid growth. In general, the reform of the public procurement system can be divided into several main stages (Table 1), the starting date of which is 14.06.1994, namely signing

Table 1

Evolution of Ukraine's public procurement system reform

Years	Legal acts	Major changes
Stage 1 December 1995 – March 2008 (period of origin of the tender legislation)	Law of Ukraine of December 22, 1995 № 43/95-BP «On deliveries of products for state needs»	- selection of contractors for the first time on a competitive basis; - defined the general list of state customers.
	CMU Resolution No.266 of 29.02.1996 “On the Procedure of Forming and Placing State Orders for Supply of Products for State Needs and Controlling Their Execution”	
	CMU Resolution No. 694 of 28.06.1997 “On the Organization and Conducting of Tenders (Tenders) in the Field of Public Procurement of Goods (Works, Services)	- development and adoption of the first provisions on conducting tenders by the Bidders.
	CMU Resolution of 13.09.1998 № 1369 «On tenders (tenders) in construction»	

End of the Table 1

Years	Legal acts	Major changes
	Law of Ukraine of February 22, 2000 No. 1490-III "On Procurement of Goods, Works and Services at Public Funds"	- adopted the first "tender" law, which provided for the creation of a competitive environment, ensuring transparency and fairness of competitive bidding; - the law stipulates the possibility of giving preference to domestic producers during the procurement.
	CMU Resolution No. 1312 of 10.10.2001 "Procedure for Interagency Coordination of Public Procurement"	- an attempt to apply an EU counterpart to framework agreements.
Stage 2 August 2005 – March 2008 (tender turmoil period)	Law of Ukraine of 16.06.2005. No. 2664-IV «On Amendments to Certain Legislative Acts of Ukraine on Additional Guarantees of Protection of the Financial Interests of the State»	- the absolute regulatory role of the Tender Chamber for the competitive bidding process; - Corruption schemes with a compulsory oversight of the Tender Chamber; - mandatory disclosure of purchase information on a private website.
Stage 3 March 2008 – August 2010 (transition)	CMU Resolution of 28.03.2008 No. 274 "On the implementation of goods, works and services at public expense"	- repeal of the Law of Ukraine of February 22, 2000 No. 1490-III "On Procurement of Goods, Works and Services at the State Funds"
	CMU Resolution of 17.10.2008 No. 921 «On Approval of the Regulation on Procurement of Goods, Works and Services at Public Funds»	- all purchases are governed by the resolutions of the Cabinet of Ministers of Ukraine, which are based on the principles of competitiveness, transparency and fairness of bidding.
Stage 4 August 2010 – December 2015 (tender revival period)	Law of Ukraine of 01.06.2010 No. 2289-VI "On Public Procurement"	- legislative implementation of the complaints mechanism through the Antimonopoly Committee of Ukraine; - implementation of flexible procurement rules for monopoly enterprises in socially important areas of activity (energy, - water, - heat, general transport); - adoption of a number of legislative acts for the implementation of procurement under framework agreements.

End of the Table 1

Years	Legal acts	Major changes
	Law of Ukraine dated 10.04.2014 No. 1197-VII "On Public Procurement"	- modernization of the negotiation procedure; - introduction of basic definitions in the area of procurement definitions in accordance with EU standards; - simplifying the procurement process.
Stage 5 December 2015 – September 2019 (period of approximation of public procurement to EU standards)	Law of Ukraine of 25.12.2015 No. 922-VIII "On Public Procurement" Law of Ukraine dated 19.09.2019. No. 114-IX, "On Amendments to the Law of Ukraine " On Public Procurement " and Some Other Legislative Acts of Ukraine on Improvement of Public Procurement"	- introduction of the system of electronic procurement - publication of information by the Customers independently about purchases through authorized electronic sites; - the possibility of creating centralized purchasing organizations; - introduction of electronic directories - ensuring transparency of procurement.

Source: author-based [1, 2, 10–12].

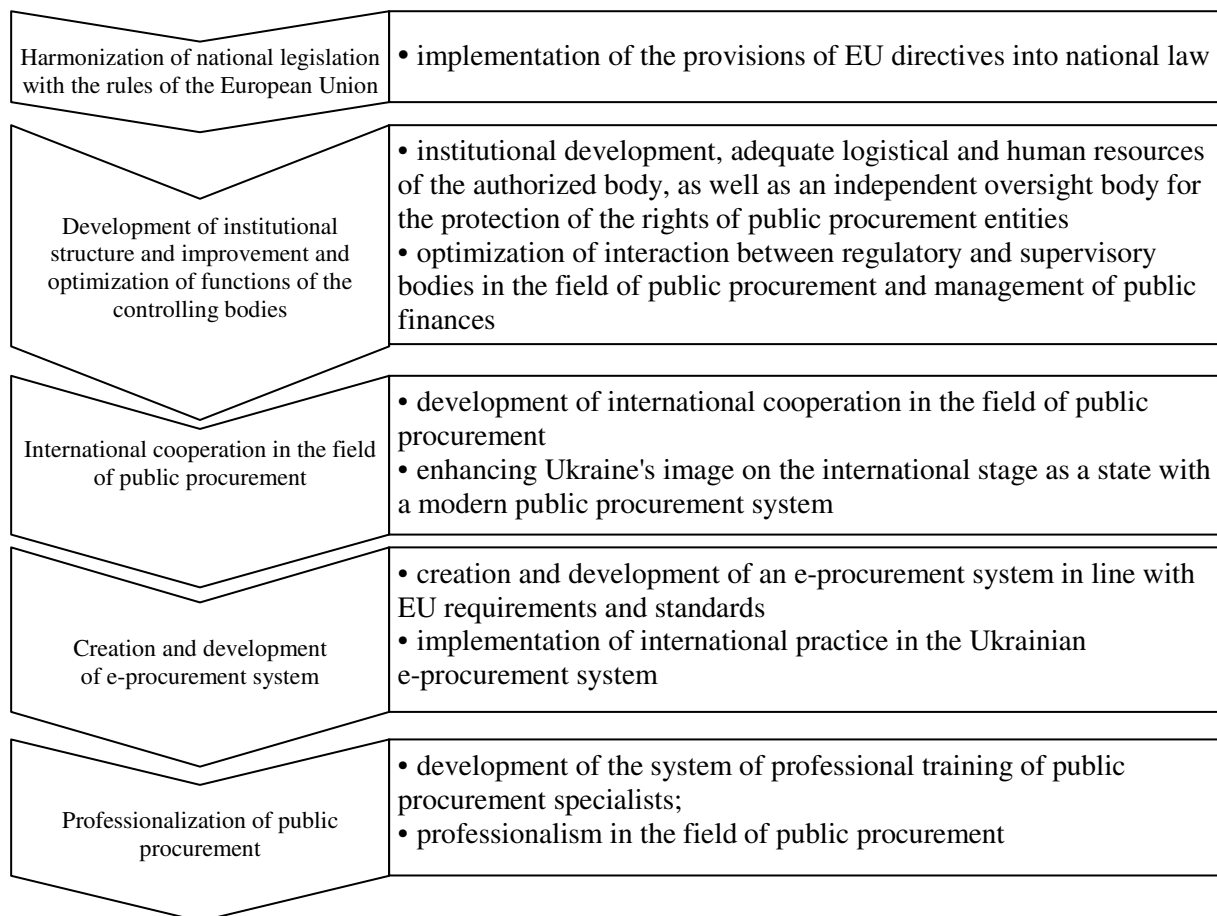
Partnership and Cooperation Agreements between the European Communities and Ukraine (hereinafter the PCA), which entered into force on 01.03.1998 through a lengthy ratification process. As can be seen from the table, the process of reforming the system of "public procurement" in the field of "public procurement" is quite lengthy and complicated. The first three steps reflect the process of rethinking public funds managers with the need to develop foreign trade between Ukraine and the EU, by opening up the EU market to domestic enterprises, creating a competitive environment when selecting suppliers and overcoming corruption at all levels of government.

The next stages are characterized by the approximation of national legislation in the field of public procurement to international standards and the subsequent reformation of it into the field of public procurement. Thus, the Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their Member States (hereinafter referred to as the Association Agreement), signed in Brussels on 27.06.2014, became the main legal instrument that defined the vectors for the development of political spheres, legal, economic and social life of the state, incl. public procurement system in Ukraine.

Within the framework of implementation of the Association Agreement by the Government of Ukraine during 2011–2019 a number of planned normative legal acts of implementation of the EU legislation in the field of public procurement were adopted. Among them, it was desirable to single out the

"Strategy of reforming the public procurement system" ("Roadmap") (hereinafter referred to as the Strategy), which was approved by the CMU decree of 24.02.2016 and included the measures, responsible contractors and timeframe necessary for the implementation of the provisions of EU directives into national procurement law.

The main directions of reforming the public procurement system of Ukraine, which are foreseen by the Strategy are presented in Figure 1.



Source: author-based [6].

Figure 1. Main directions of reform of the public procurement system of Ukraine

The first significant step towards the harmonization of national legislation in accordance with the rules of the European Union was the adoption by the Verkhovna Rada on December 25, 2015 of the Law of Ukraine No. 922-VIII on Public Procurement (hereinafter – Law No. 922-VIII), which practically implemented the conditions of the first stage of public reform. procurement identified in the Strategy.

Consider the main areas that were implemented during the implementation of Law No. 922-VIII [1]:

1) Ukraine was the first among the EU Member States to introduce the obligatory auctions for the procurement of goods, works / services, through the introduction of a single web portal of the Authorized Body: the electronic procurement system Prozorro at the Internet address: www.prozorro.gov.ua;

2) electronic complaint system was introduced with an open complaint process;

3) free publicity of the procurement information by the Customers through the automated electronic sites on the web-portal of the Authorized Body;

4) reduction of terms and types of tendering procedures: open tendering (basic procurement procedure), competitive dialogue and negotiated procurement procedure;

5) it is possible to use the electronic procurement system for purchases that are not covered by Law No. 922-VIII, but are in excess of UAH 3000;

6) obligatory reporting on the conclusion of contracts in case of not conducting electronic auctions for the purchase of goods / services worth from 50 thousand UAH up to 200 thousand UAH, works – from 50 thousand UAH up to 1.5 million UAH;

7) introduction of the national classifier of Ukraine DK 021:2015 for goods, services and works, which corresponds to the single Procurement Vocabulary (CPV), approved by the EU Regulation 2195/2002 of the European Parliament and the Council and the amendments in accordance with the EU Commission Regulation 213/2008;

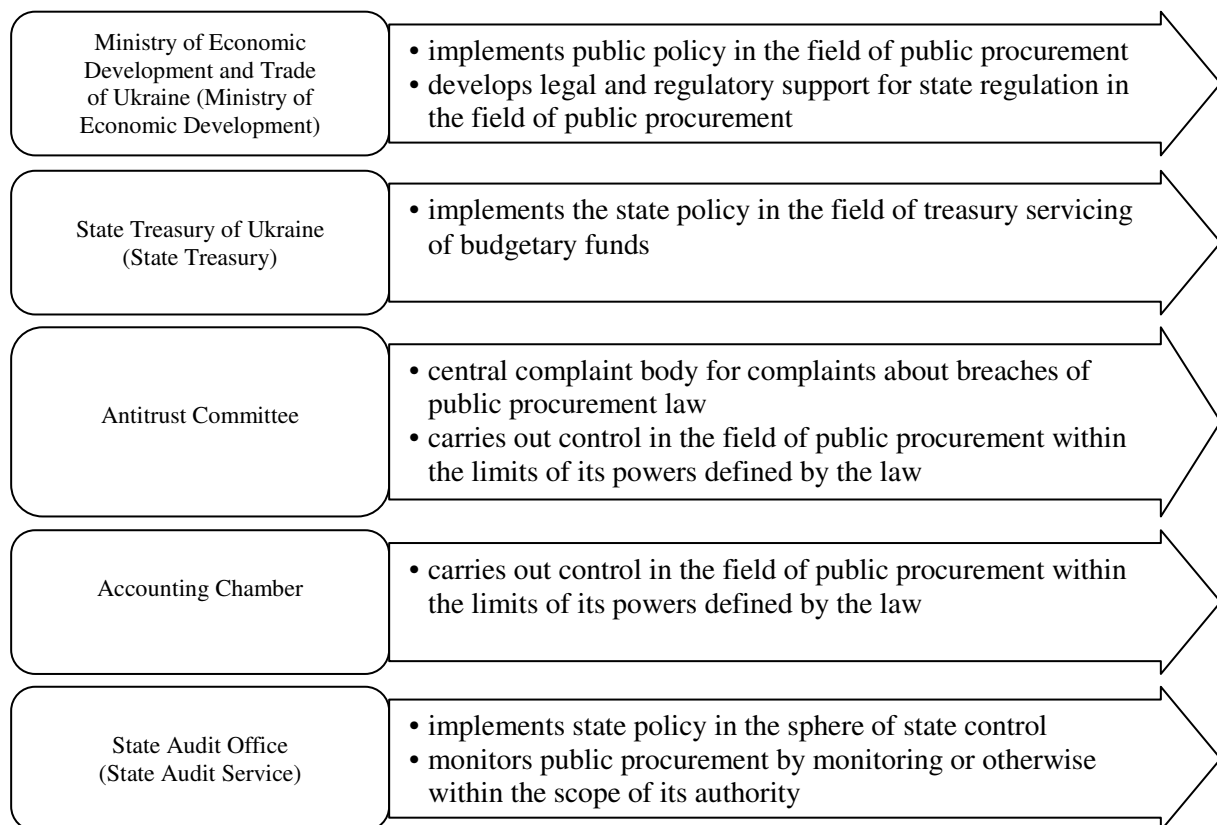
8) an obligation to use a digital signature that guarantees the complete protection of the signed document to all participants of electronic procurement;

9) there have been changes in the organizational activity of the Customer: in particular, the tender committee or the authorized person (s) may carry out the procurement;

10) the opportunity to create centralized procurement organizations, whose main task is the effective lawful use of budget funds.

Also for the first time is the concept of "public funds", which automatically transforms the sphere of "public procurement" into the sphere of "public procurement". In addition, the introduction of an electronic system has ensured transparency and openness at all stages of procurement procedures, created a fair and competitive environment among participants, allowed the most efficient use of public funds of enterprises, minimized corruption risks and abuses in the field of public procurement, etc.

Following the approval of Law No. 922-VIII, for the successful implementation of the Strategy and the goals set by the Strategy, a number of subordinate legal acts were developed by the institutional bodies of the public procurement system (Figure 2).



Source: developed by the author.

Figure 2. The institutional structure of Ukraine's public procurement system

In Figure 3 presents in general the procurement process by the contracting authorities, specifying the legal acts applicable at each of its stages. It should also be noted that all deadlines for disclosure of information pertaining to the organization, as well as the phased process of public procurement are clearly defined in Law No. 922-VIII, for which violations established administrative liability for all participants in accordance with the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine etc.

Equally important was the approval of the Ministry of Social Policy of Ukraine from 18.02.2019 to implement the Strategy in the field of professionalization in the field of public procurement. No. 234 "On Approval of the Professional Standard "Public Procurement Specialist" [3]. This order defines clear qualification requirements for specialists in public procurement, creates conditions for a simplified transition from the work of tender committees to authorized persons, etc. In general, it will accelerate the development of the system of professional training of specialists in the field of public procurement.

Final implementation of the reform of the public procurement system in accordance with the rules of the European Union, envisaged by the implementation of the adopted on 19.09.2019. The Verkhovna Rada of Ukraine

of the Law of Ukraine No. 114-IX "On Amendments to the Law of Ukraine "On Public Procurement" and Some Other Legislative Acts of Ukraine on Improvement of Public Procurement" (hereinafter – Law No. 114-IX), which enters into force on 04/19/2020. Since Law No. 114-IX has not yet been implemented, it remains a prospect for further study and research.

<p>Establishment and organization of the procurement activity of the tender committee or authorized person (s)</p>	<ul style="list-style-type: none"> • Order of the Ministry of Economic Development from March 30, 2016 No. 557 "On Approval of the Model Provisions for the Tender Committee or the Authorized Person (s) • Order of the Ministry of Economic Development of 02.12.2016. No. 217 "On Exemplary Initial Programs on Public Procurement Organization and
<p>Obtaining a digital signature for the members of the tender committee or an authorized person (s)</p>	<ul style="list-style-type: none"> • Law of Ukraine of May 22, 2003 №851-IV "About electronic documents and electronic document circulation" • Order of the Ministry of Economic Development of March 18, 2016 No. 477 "On Approval of the Procedure for Public Procurement Information"
<p>Registration on an authorized electronic site</p>	<ul style="list-style-type: none"> • CMU Resolution of February 24, 2016 "On Approval of the Procedure of Operation of the Electronic Procurement System and Carrying Out of Authorization of Electronic Sites" • Order of the Ministry of Economic Development of March 18, 2016 No. 473 "On defining the web portal of the Procurement Authorization Body in the electronic procurement system and ensuring its functioning"
<p>Identify the subject of the procurement and approve the annual procurement plan or annex thereto</p>	<ul style="list-style-type: none"> • Order of the Ministry of Economic Development from March 17, 2016 No. 454 "On approval of the procedure for determining the subject of procurement" • Order of the Ministry of Economic Development of March 22, 2016 No. 490 "On approval of forms of documents in the field of public procurement"
<p>Publication of information on sub-threshold procurement / open bidding / competitive dialogue / negotiated</p>	<ul style="list-style-type: none"> • Order of the Ministry of Economic Development of March 22, 2016 No. 490 "On approval of forms of documents in the field of public procurement" • Order of the Ministry of Economic Development from April 13, 2016 No. 680 "On approval of indicative tender documentation"
<p>Conclusion of the contract on purchase and payment</p>	<ul style="list-style-type: none"> • CMU Resolution of 23.04.2014 "On prepayment of goods, works and services purchased for budgetary funds" • Order of the Ministry of Finance of Ukraine dated 02.03.2012. No. 309 "On Approval of the Procedure for Registration and Accounting of Budget Obligations of Budget Managers and Budget Recipients in Bodies of the State Treasury of Ukraine"

Source: author-based [4, 5, 10–12].

Figure 3. Legal acts of the public procurement process in accordance with Law No. 922-VIII

Conclusions and prospects for further research. A number of legal acts are considered, which are the basis of the public procurement process in the context of Ukraine's European integration, and we can note its long and difficult path, characterized by rapid changes in development over the last years. The Government has developed and approved a number of legal acts whose main task is to accelerate the integration processes of Ukraine, but in order to adapt

them as quickly as possible, they need to be researched and improved in accordance with the requirements of the European Union.

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