



Public  
Procurement  
Office

**Audit mechanisms in Poland  
and their approach to sustainable  
public procurement**

**Prague, 4 October 2019**

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# Institutional framework

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## Decentralised system

- 1. Minister of Entrepreneurship and Technology**
- 2. PPO President** – central government body competent for public procurement matters
- 3. National Appeals Chamber and district courts**
4. Supreme Audit Office
5. Regional Accounting Chambers
6. Institutions that are part of the EU funds management system
7. Office of Competition and Consumer Protection
8. Central Anticorruption Bureau



# PPO President competences

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- **Legislation:** preparation of drafts of normative acts on public contracts;
- **Formation of the uniform application of the public procurement rules:** issuing legal opinions, preparation and dissemination of exemplary standard forms of public procurement contracts, rules of procedures and other documents used when awarding public contracts;
- **Dissemination of information on public procurement:** Public Procurement Bulletin – publicator of notices for contracts below EU thresholds;
- **Control:** conducting controls of the contract award process within the scope stipulated in PPL;
- **Education:** preparation of training programmes, organizing and encouraging trainings in the field of public procurement;
- **Analysis:** gathering and analysis of data, preparation of the annual report on the functioning of public procurement system;
- **International cooperation** on issues relating to public contracts.



# Control conducted by the PPO President

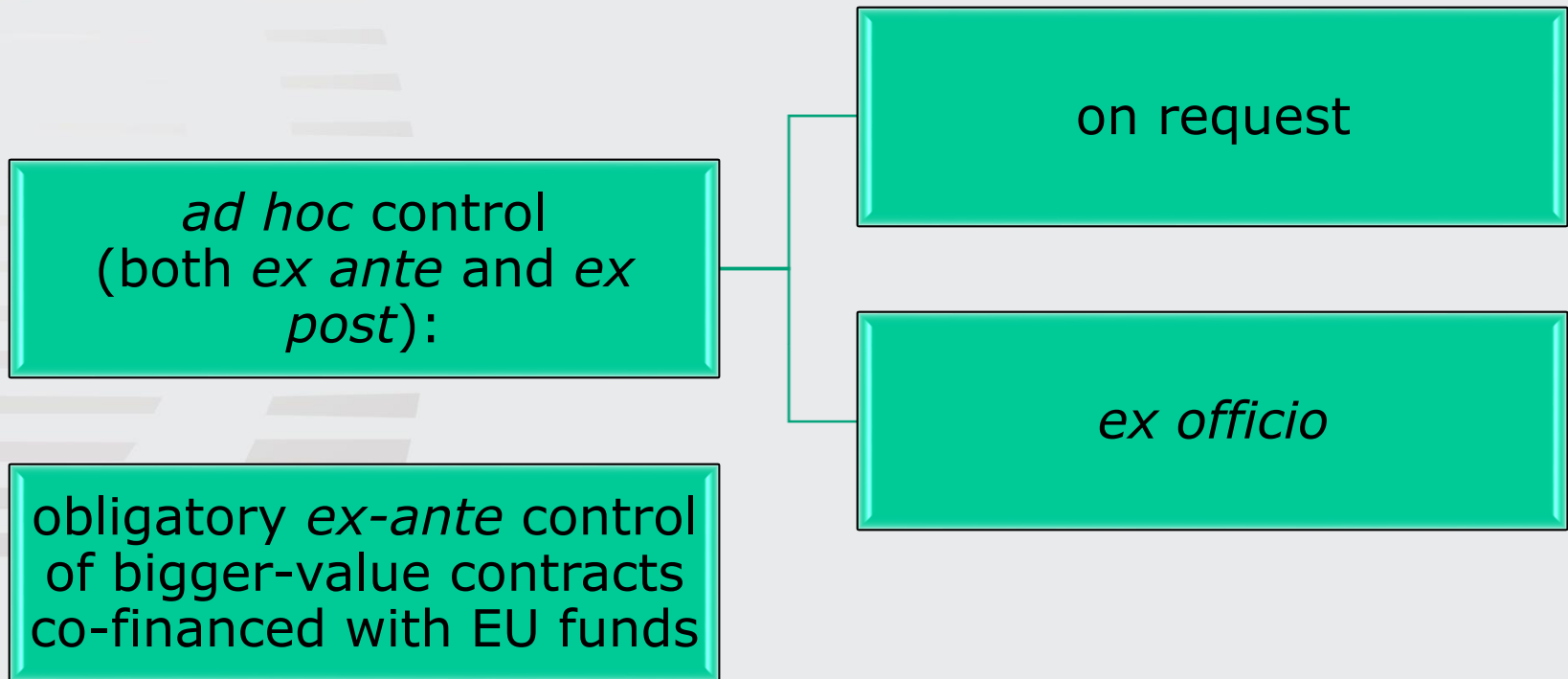
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- The PPO President controls:
  - **legality** of contract award procedures, i.e. a conformity of public procurement procedures with provisions of PPL
  - from the commencement of contract award procedure to the conclusion of a contract (modifications of contracts as well)



# Types of control

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# ***Ad hoc control***

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- Where **reasoned presumption** that in course of the contract award procedure a breach of the provisions of the PPL appeared, which might have influenced the outcome
- May be preceded by an **inquiry proceeding**
- Non-mandatory



# *Ex ante control*

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mandatory in case of contract award procedures for:

- supplies or services whose estimated value **=/ > 10 mln EUR**
- works **=/ > 20 mln EUR** and
- co-financed with EU funds

on request of managing authority PPO may refrain therefrom



# Results of PPO control

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## Results of *ex ante* control:

lack of infringements

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formal infringements

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infringements which might have influenced the outcome of the procedure

recommendation to remove the infringements

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recommendation to cancel the procedure

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# Results of PPO control

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## results of *ex post* control:

lack of infringements

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formal infringements

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infringements which  
might have influenced  
the outcome of the  
procedure

notification of violation of  
public finance discipline

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financial penalty

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recourse to the court for  
invalidation of the  
contract

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# PPO control in numbers

- In 2018, the PPO President completed **in total 286** control checks of contract award procedures:
  - **218** obligatory ex ante checks
  - **68** ad hoc checks

## Ad hoc checks

- **11** procedures without any infringements
- **57** procedures with breaches of the PPL: **48** infringements which might have influenced the outcome of the procedure

## Ex-ante checks

- **129** procedures without any infringements
- **94** procedures with breaches of the PPL: **12** infringements which might have influenced the outcome of the procedure



# Main findings

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- **Breaches of the PPL typical for sustainable public procurement identified only in social public procurement.** These are mainly:
  - Incorrect application of reserved contracts – incorrect qualification of suppliers eligible to apply for reserved contracts
  - Incorrect evaluation of conditions for participation in the reserved contract in case of consortia
  - Inaccurate description of activities carried out in the course of contract performance which require employment on the basis of employment contract
- Other typical breaches identified in sustainable public procurement procedures appear also in other types of public procurement contracts. These are i.e.:
  - incorrect application of selection criteria
  - incorrect description and application of the award criteria
  - description of the subject-matter of the contract with the effect of favouring or eliminating certain undertakings or products
  - inaccurate description of the subject-matter of the contract



# Report of the Supreme Audit Office

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- **Report of the Supreme Audit Office on application of social clauses in public procurement contracts awarded by public administration (2017)**
- Main findings:
  - government administration units audited by the Supreme Audit Office followed the recommendations of the Council of Ministers and, as a rule, correctly fulfilled their obligations related to the planning, implementation and control of public procurement, in which they applied social clauses;
  - some best practices were identified (Brzeziny, Ministry of Finance);
  - there are also some shortcomings that require correction:
    - not sufficient analysis at the stage of preparation of public procurement procedure in terms of rationality of application of social clause
    - lack of proper supervision over the implementation of contracts in the part concerning social clauses.





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*Thank you for the attention!*

