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# BULGARIAN PUBLIC PROCUREMENT MARKET AND EX-ANTE CONTROL PERFORMED BY PUBLIC PROCUREMENT AGENCY

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The main principles in public procurement law:



- 1. Publicity and transparency;
- 2. Free and loyal competition;
- 3. Equality and non-admission of discrimination.

The general purpose of Public Procurement Law (PPL) is to guarantee observation of these main principles and obtaining best value for taxpayers' money.

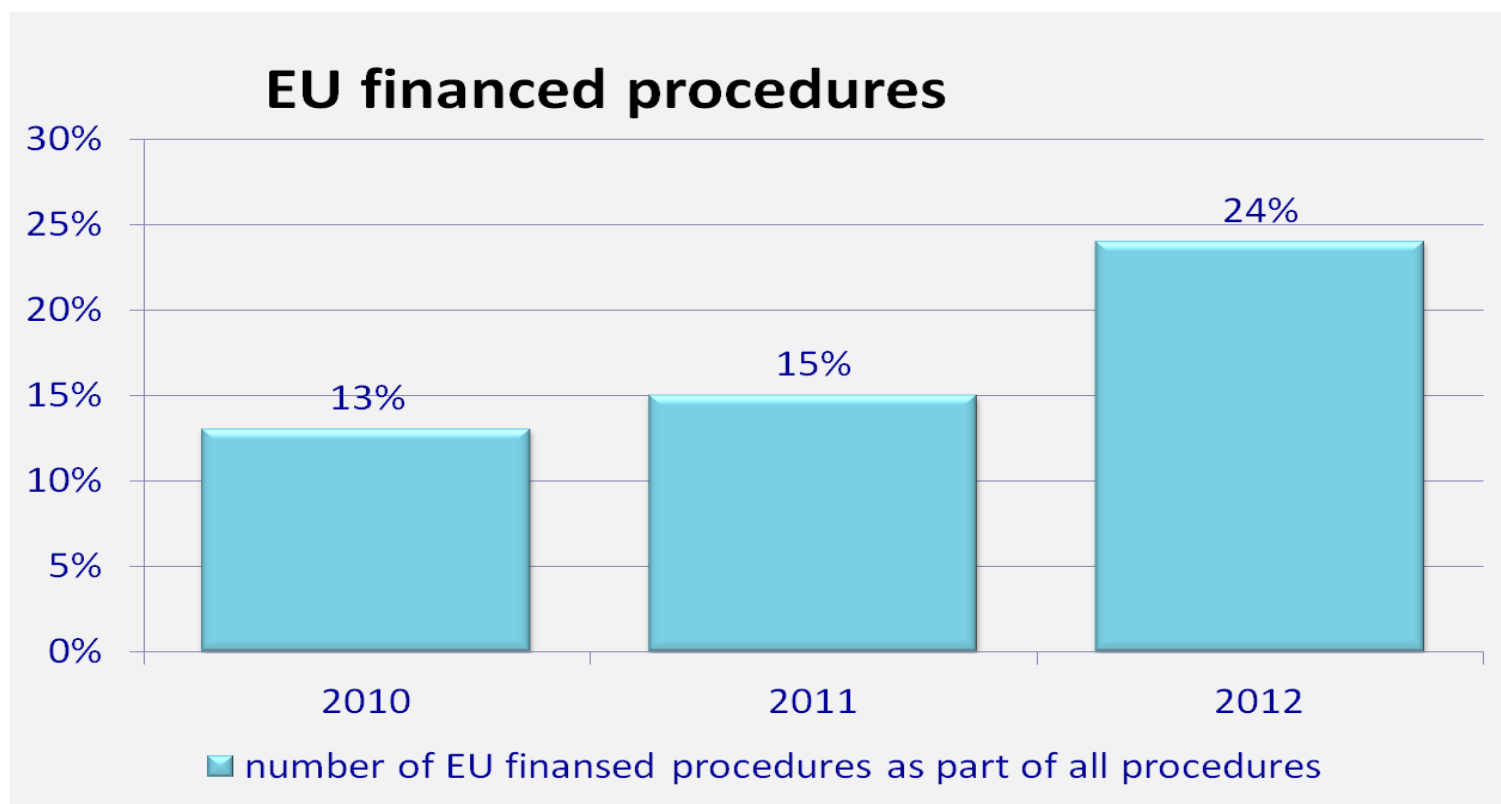


## Bulgarian Public procurement market – figures:

- More than 5 200 Contracting authorities / Contracting entities;
- More than 20 000 economic operators – legal and physical persons, branches and consortia, being awarded a contract at least once;
- 10 130 public procurement procedures launched during 2012;
- more than 10 500 public announcements (below the national thresholds) published on Public Procurement Portal;
- More than 20 900 contracts signed during the period;
- Total value of the contracts – more than 5 941 158 000 BGN net of VAT.

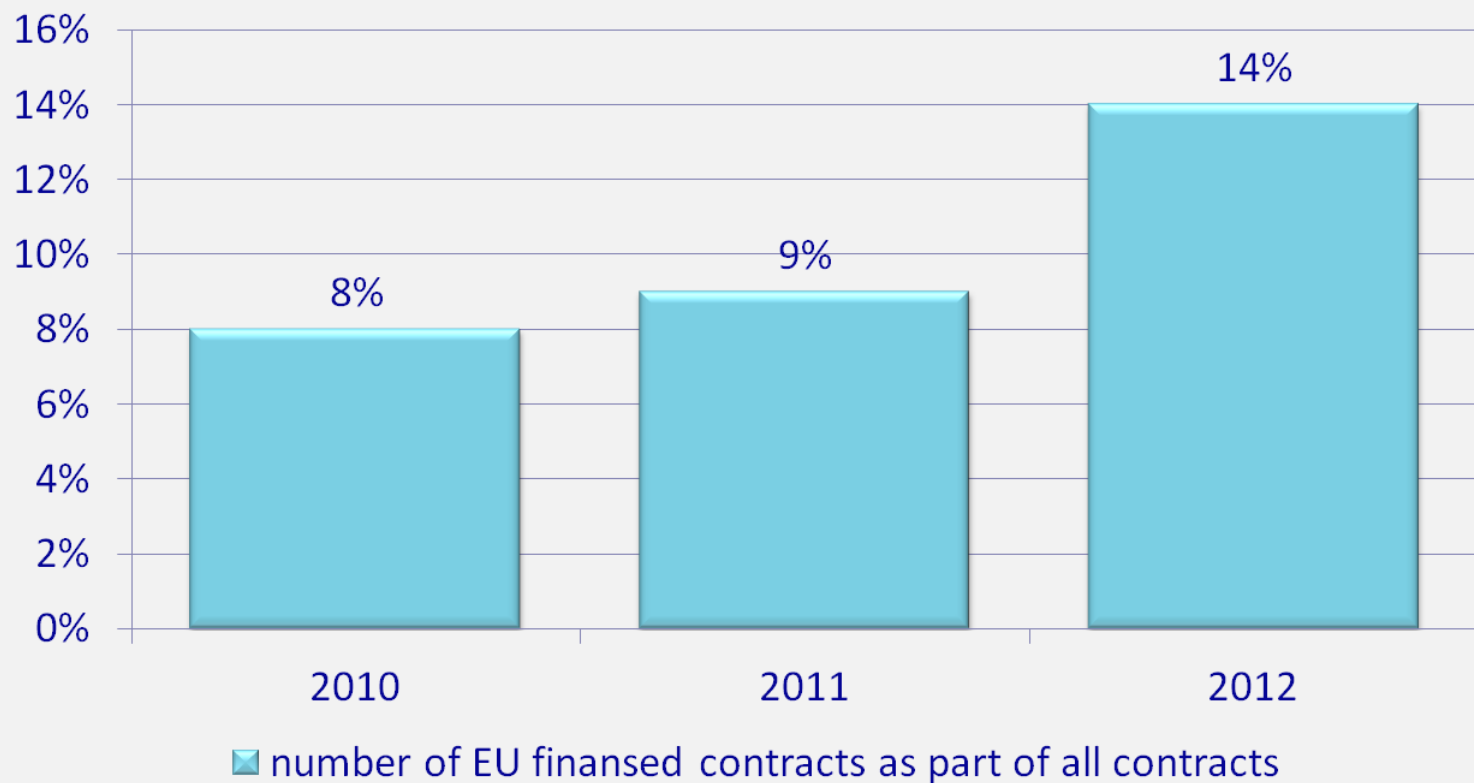


What is the share of European funding?



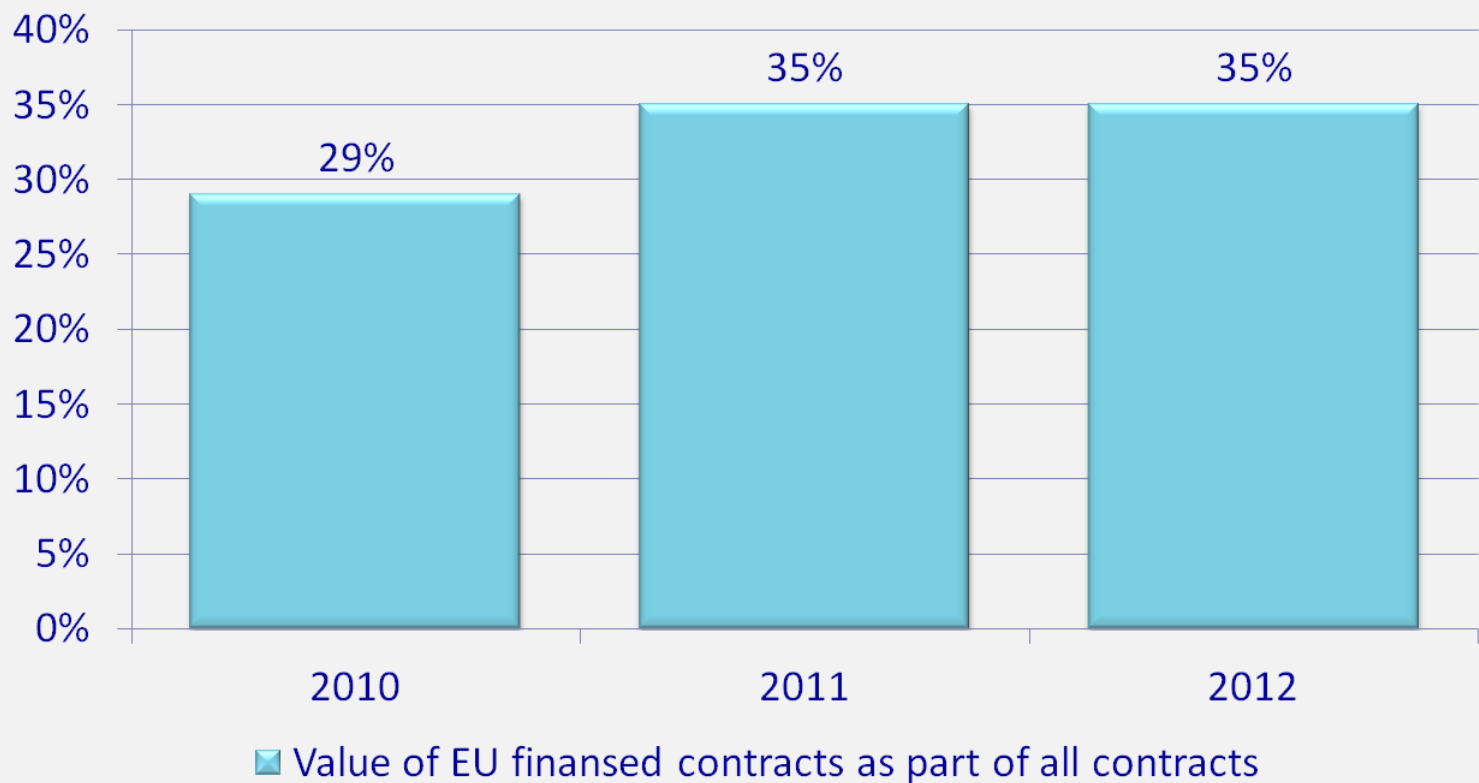


## EU financed contracts





## Value of EU financed contracts

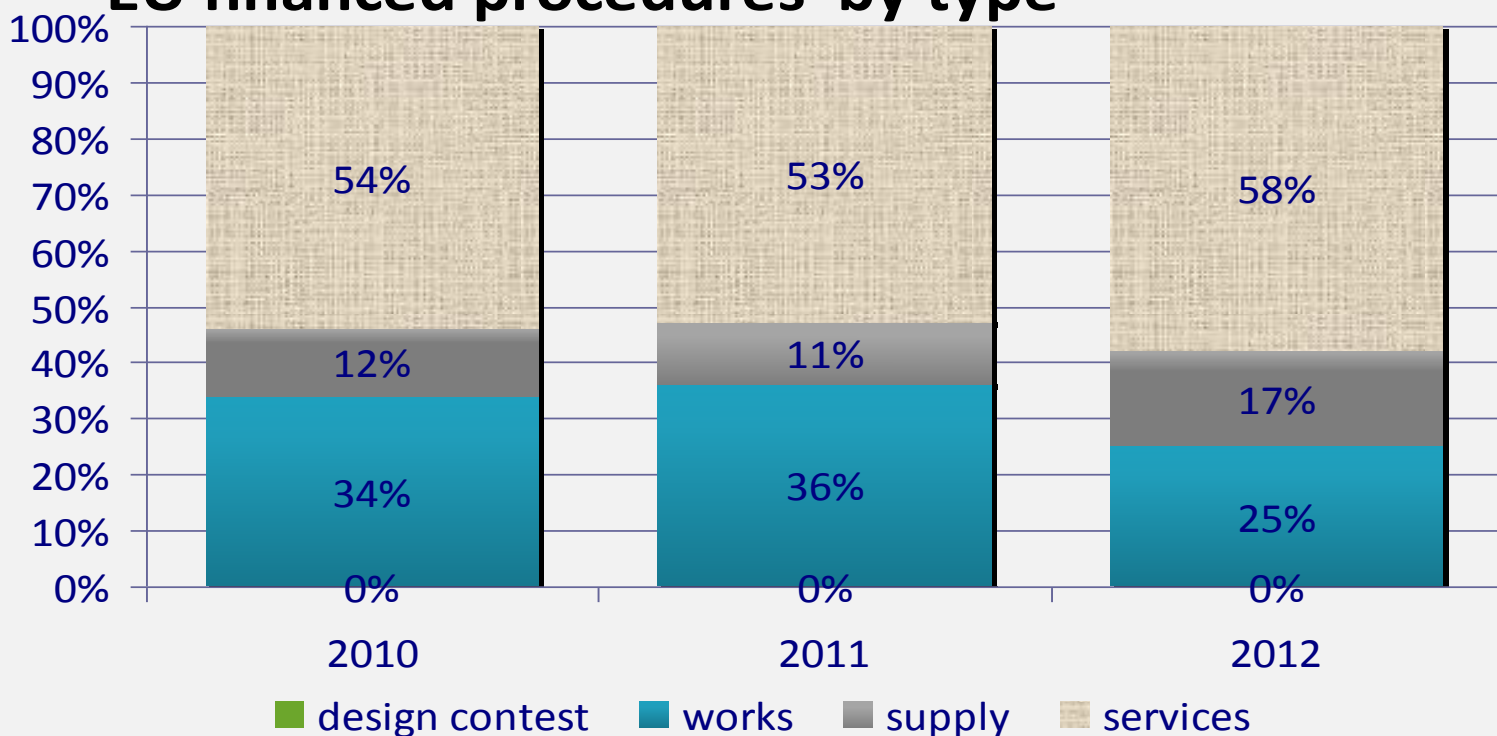




Works, supply, services - financed by EU funds



## EU financed procedures by type



# BAD PRACTICES IN PUBLIC PROCUREMENT PROCEDURES:



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- To divide the procurement in order to avoid conducting procurement procedure according to the law;
- To settle minimum requirements aiming to benefit a certain economic operator;
- To give advantages to certain candidate during technical documentation elaboration through inclusion of special requirements;



# BAD PRACTICES IN PUBLIC PROCUREMENT PROCEDURES:



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- To demand unjustified financial, technical and human resources requirements on the pre-selection phase;
- To manipulate evaluation criteria for the ranking of offers including qualitative criteria under which it is not clear how the scale of assessment refers to the technical and functional characteristics;
- During the contract implementation – to deviate from conditions offered during the awarding process;

# BAD PRACTICES IN PUBLIC PROCUREMENT PROCEDURES:



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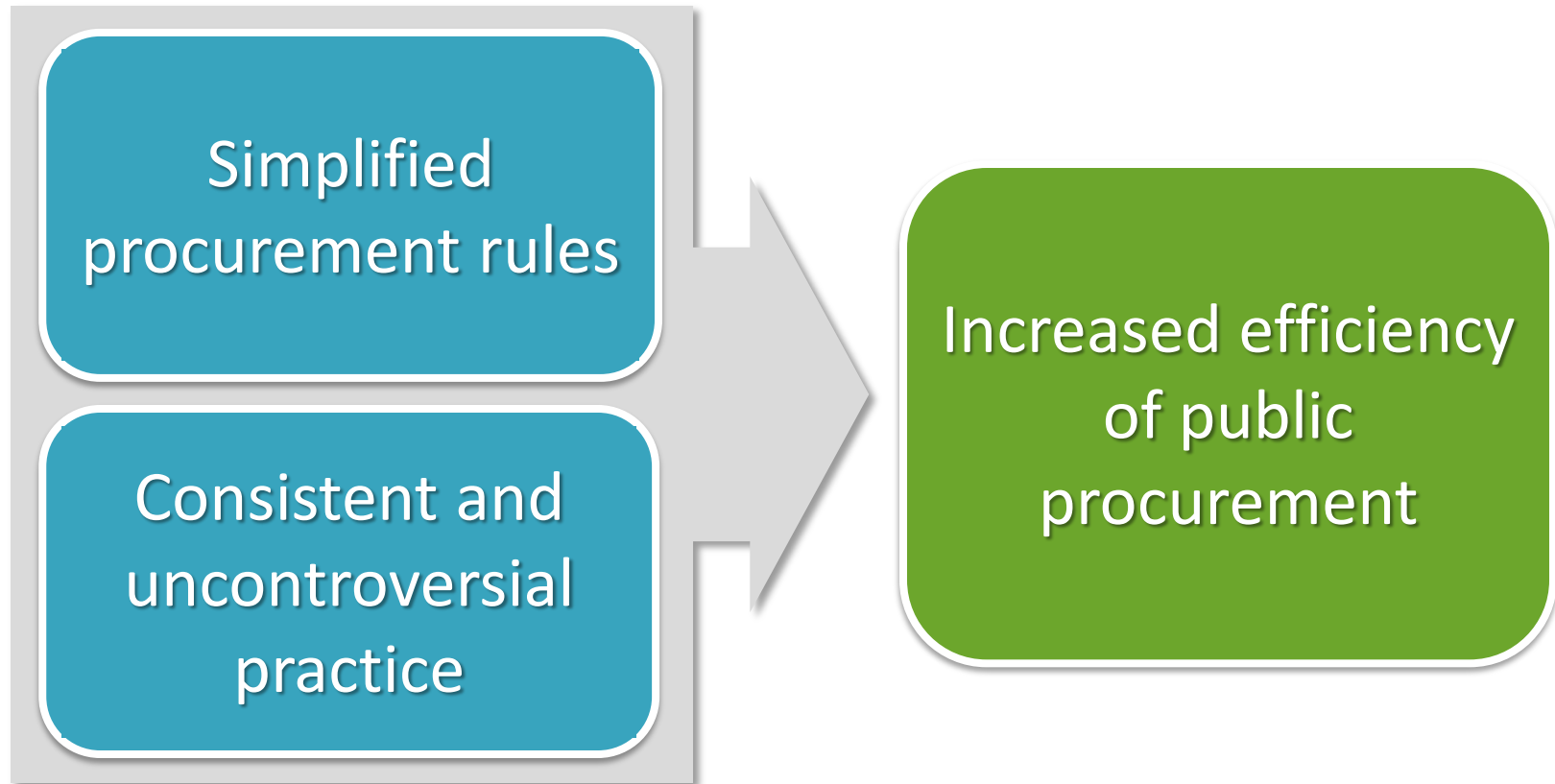
- Not to provide timely publication of the procurement results;
- To terminate procurement procedure not having sound legal grounds;
- To allow subsequent negotiation of more favorable conditions to the winner;
- To use negotiation procedure without notice not having legal grounds and proper justification;



## Possible solutions:

- Proposing further improvements of the legal framework;
- Ensuring transparency and publicity through national Public procurement Portal;
- Performing ex-ante control  
PPA performs two types of ex-ante control:
  - According the Art 20a PPL over procurement financed fully or partially by EU funds;
  - According the Art 20b PPL over negotiation without prior notice procurement;
- Performing ex-post control – done by National Audit Office and Public Financial Inspection Agency;

# CONCEPT ON AMENDMENTS TO PUBLIC PROCUREMENT LEGISLATION



# EX-ANTE CONTROL OVER PROCEDURES, FINANCED WITH EUROPEAN FUNDS

- Introduction of control
  - 1 January 2009
- Objective of control
  - Prevention against mistakes and violations in the preparatory phase and at procedure launch

# EX-ANTE CONTROL OVER PROCEDURES, FINANCED WITH EUROPEAN FUNDS

## ● Extended scope of control

	Before 25.02.2012	After 26.02.2012
Works	Over € 4 845 000	Over € 1 350 000
Supplies Services	Over € 511 000	Over the respective EU threshold (€ 130 000/ € 200 000 / € 400 000)

# EX-ANTE CONTROL OVER PROCEDURES, FINANCED WITH EUROPEAN FUNDS

## Introduced feedback mechanism

- Before the launch of the procedure
  - check of draft documents
- After the launch of the procedure
  - assessment for compliance with law requirements and PPA recommendations

# EX-ANTE CONTROL OVER PROCEDURES, FINANCED WITH EUROPEAN FUNDS

- Procedure for execution of ex-ante control
  - Stage I





# EX-ANTE CONTROL OVER PROCEDURES, FINANCED WITH EUROPEAN FUNDS

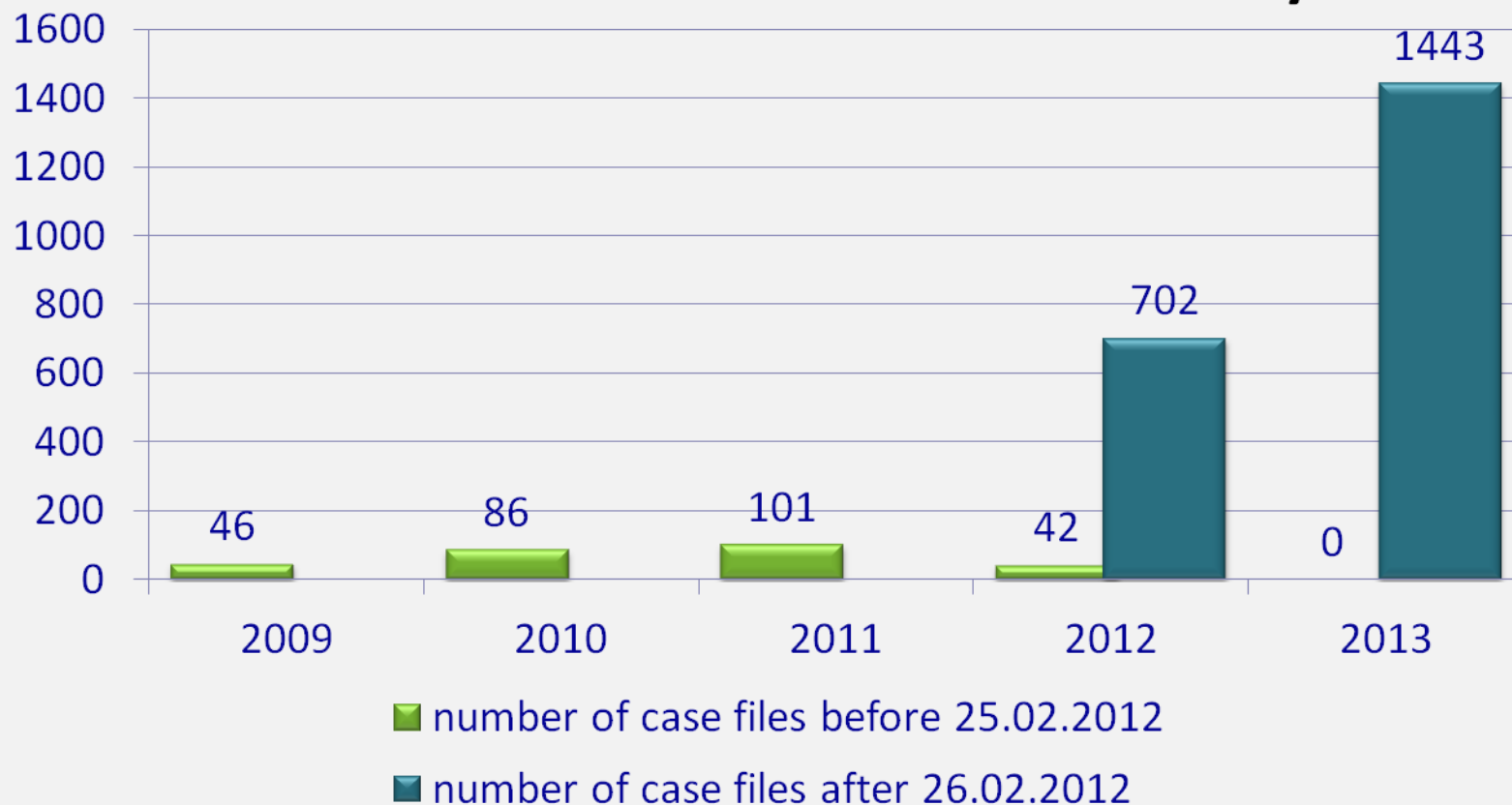
- Procedure for execution of ex-ante control
  - Stage II



# EX-ANTE CONTROL RESULTS – Art.20a PPL

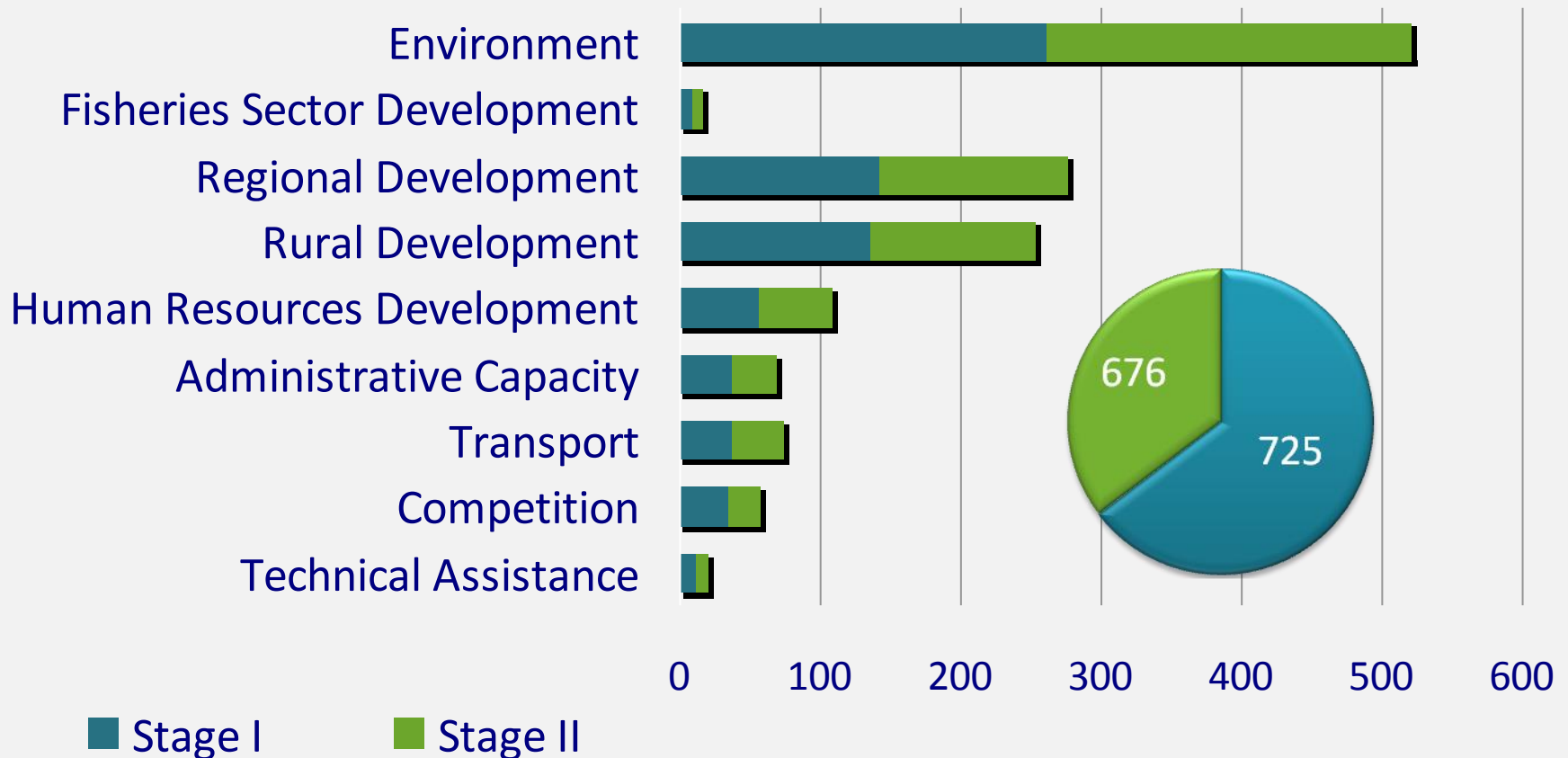


## Increased volume of control activity



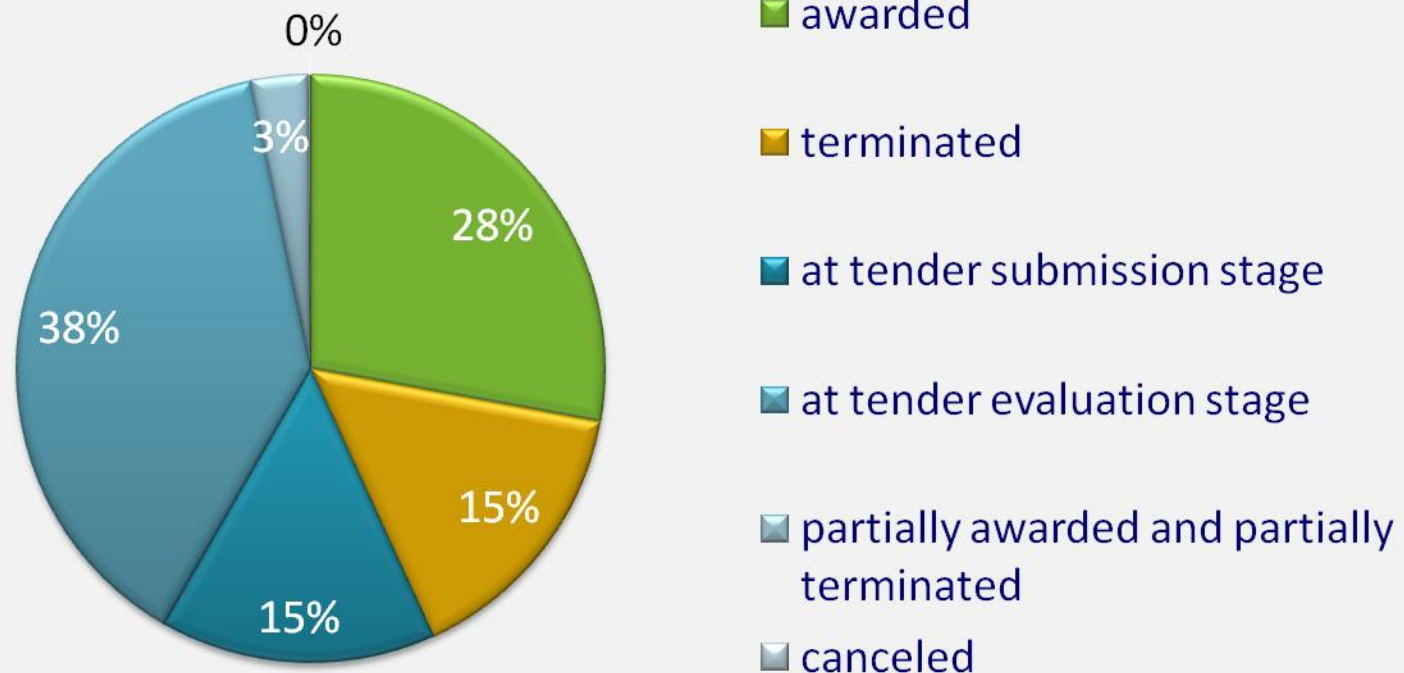


## Activity by Operational Programme





## Procedure status, after Stage II of control





### **Most common recommendations after document checks:**

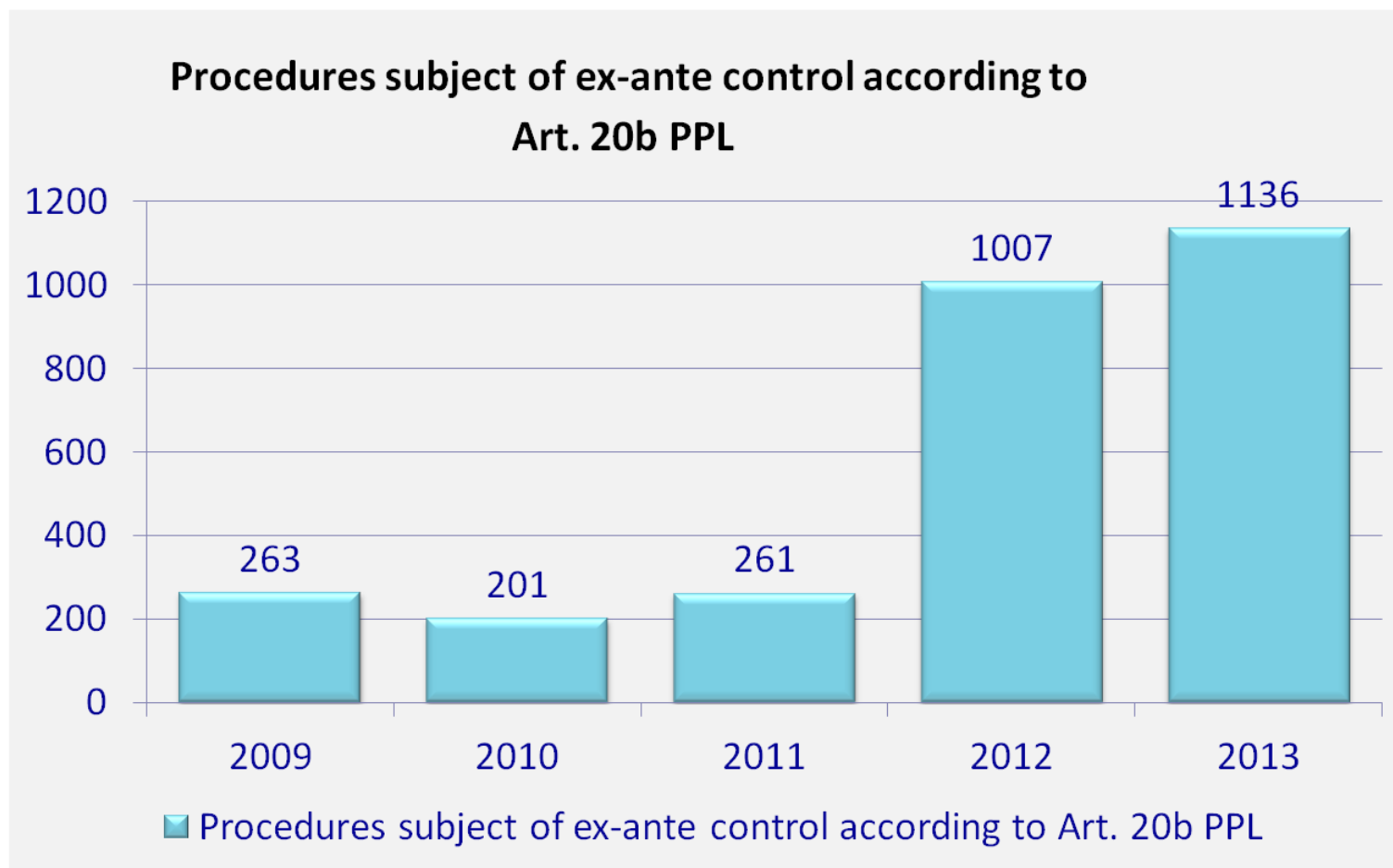
- Clear definition of the subject matter of the public contract
- Provision of equal treatment of tenderers
- Limitation of type and scope of required documents
- Clarity and consistency in formulation of evaluation criteria in tender evaluation methodology



### **General findings and conclusions:**

- The most part of PPA recommendations are taken into account;
- After the launch of procedures, mainly technical omissions and inconsistencies in time limits are found;
- The Public Procurement Portal is widely used during the post-control activities;

# EX-ANTE CONTROL RESULTS – Art.20b PPL



## COLABORATION WITH OTHER CONTROL BODIES

- A tripartite Agreement between PPA, National Audit Office and Public Financial Inspection Agency;
- Once a month a list is sent by PPA to post- control bodies – the list contains information about awarded negotiation procedures without a prior notice, which lawfulness is not indisputably proved and has to be additionally checked.



**THANK YOU FOR YOUR ATTENTION!**

