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## REFORMATION OF THE SYSTEM OF PUBLIC PROCUREMENT IN UKRAINE

**Abstract.** In the article the theoretical and methodical aspects of the world experience of introduction of electronic public procurement are investigated.

A number of important trends of the obligations of Ukraine in the framework of the EU “Association Agreement” are summarized. It is proved that the use of electronic technologies in the international trade transactions requires the adoption of legislative and regulatory frameworks, both at the international and national levels. It is noted that, today, in Europe, as a rule, two models of electronic public procurement: centralized procurement and decentralized procurement are used. It is shown that in the short term, in Ukraine the transition of the public procurement into the electronic plane is implemented, which should lead to the increasing of the competition and reducing of the corruption element in this segment. The main vectors of development of the system of electronic public procurement “ProZorro” are substantiated.

**Keywords:** government procurement, e-procurement, e-marketplace, e-commerce, e-procurement system ProZorro.

## РЕФОРМУВАННЯ СИСТЕМИ ДЕРЖАВНИХ ЗАКУПІВЕЛЬ В УКРАЇНІ

**Анотація.** У статті досліджені теоретичні та методичні положення світового досвіду впровадження електронних державних закупівель. Узагальнено низку важливих тенденцій щодо зобов'язання України в рамках “Угоди про асоціацію” з ЄС. Доведено, що використання електронних технологій в міжнародних торгових угодах вимагає прийняття законодавчої і нормативної баз як на міжнародному, так і на національному рівнях. Зазначено, що сьогодні в Європі, як правило, використовуються дві моделі електронних державних закупівель: централізовані закупівлі та децентралізовані закупівлі. Показано, що у короткостроковий термін в Україні впроваджений перехід державних закупівель в електронну площину, що має зумовити підвищення конкуренції та зниження корупційного елементу у цьому сегменті. Обґрунтовано основні вектори розвитку системи електронних державних закупівель “ProZorro”.

**Ключові слова:** державні закупівлі, електронні закупівлі, електронний торговельний майданчик, електронна комерція, електронна система закупівель ProZorro.

## РЕФОРМИРОВАНИЕ СИСТЕМЫ ГОСУДАРСТВЕННЫХ ЗАКУПОК В УКРАИНЕ

**Аннотация.** В статье исследованы теоретические и методические положения мирового опыта внедрения электронных государственных закупок. Обобщен ряд важных тенденций об обязательствах Украины в рамках “Соглашения об ассоциации” с ЕС. Доказано, что использование электронных технологий в международных торговых сделках требует принятия законо-

дательной и нормативной баз как на международном, так и на национальном уровнях. Отмечено, что сегодня в Европе, как правило, используются две модели электронных государственных закупок: централизованные закупки и децентрализованные закупки. Показано, что в краткосрочный период в Украине внедрен переход государственных закупок в электронную плоскость, что должно привести к повышению конкуренции и снижению коррупционного элемента в этом сегменте. Обоснованы основные векторы развития системы электронных государственных закупок “ProZorro”.

**Ключевые слова:** государственные закупки, электронные закупки, электронная торговая площадка, электронная коммерция, электронная система закупок ProZorro.

Formulation of the problem. One of the priorities of reform in Ukraine is the institution of government procurement has always been nayzaanhazhovanishym and corrupt in our country. This is a serious problem for society and creates barriers to qualitative changes. The solution to this problem may become public procurement through electronic trading platforms, despite the fact that this way of contracts is quite widespread in the European Union, and also in view of Ukraine's obligations under the "Association Agreement" with EC.

Analysis of recent publications on issues. In recent years, Ukrainian scientists have paid much attention to the shortcomings of the existing system of public procurement, highlighting international experience of public procurement procedure, public procurement mechanism regulated by EU Directives and others. However, the question of the state and the readiness of Ukrainian market of electronic commerce for the transition to e-procurement, adapting the procurement system of Ukraine to EU standards in accordance with the provisions of the "Association Agreement" major flaws "paper" processes of public procurement and fundamental reform goals with the use of ProZorro, move the implementation of anti-corruption law "On state purchases" remained insufficiently studied.

The purpose of the article. The main purpose of this article is to review international experience Implementation of electronic public procurement obligations of Ukraine under the "Association Agreement" with the EU, features the introduction of electronic public procurement in Ukraine.

The main material research. In the era of digital technology commercial companies and government agencies are

increasingly using electronic systems for efficient, predictable, transparent and safer chain management of its procurement and supply. The electronic exchange and storage of data, instead of using paper documents, enhance transparency and accuracy. Electronic procurement provides predictability, because sellers know what to expect and can analyze the progress of the order, often in real time.

The use of electronic technologies in international trade agreements requires the adoption of legislative and regulatory framework, both at international and national levels. Many countries involved in international trade, have already adopted legislation adapting their legal systems to innovations in electronic trading. United Nations Commission on International Trade Law (UNCITRAL) developed a Model Law on Electronic Commerce [1] Convention on the Use of Electronic Communications in International Contracts [2] and the Model Law on electronic signatures [3]. Moreover, ECE CEFACT through the UN adopted a number of recommendations. In particular, Recommendation №26 [4] and Recommendation №31 [5] offer examples of transactions between trading partners to improve the legal security of their trading relationships. They also consider the need to adapt national legislation for electronic data interchange (EDI) in international trade agreements, including the use of electronic signatures. Recommendation №32 UNECE Code of Conduct provides for the exchange of electronic trade documents. [6]

In the most common kinds of e-procurement, there is a handful of others. It is the interaction of entrepreneurs with the state - electronic public procurement. In many countries - USA, Canada, Western Europe, Russia, Georgia and electronic public procurement has long

been implemented. Their governments and providers of public enterprises increasingly rely on electronic systems to reduce costs and increase efficiency and transparency in government procurement. Examples of such systems:

- Pan-procurement system in real time (PEPPOL) - Project development and implementation of technology standards for harmonizing business processes for e-procurement for all governments in Europe. This project aims at expanding the market interaction and interoperability between communities in the area of e-procurement;

- EU SIMAP, an electronic portal that provides information on public procurement in the European Union;

- GeBIZ, electronic portal where suppliers can do business with the government of Singapore.

Today in Europe, generally used two models of electronic public procurement: 1) centralized procurement - carried only body of public procurement to ensure common needs that customers entrust public procurement, on their behalf, centralized body; 2) Decentralized procurement - providing independent implementation of customer purchases, that allow each customer to make purchases of goods and services.

A classic representative of the EU, which is inherent centralized model of government procurement is Germany. Electronic purchases are made based on the platform E-Vergabe and is effective Fed eralnymy agencies. The interests of the private sector defends the NGO "Forum Government orders." It analyzes recent trends in public procurement, which regularly discussed with the government, which certainly is an indicator of the high level of civil society in the country and helps to strengthen the rule of law. The most decentralized system is Sweden. Electronic

procurement were enshrined in law back in 2001. In this country there are no mandatory national e-procurement platform, while municipalities have their own electronic platforms used on a voluntary basis. Overall, e-procurement system Sweden is characterized by a large number of private operators, a key feature that distinguishes it from centralized models. According to international experience in the application of electronic trading is a lot of positive things: publicity through tendering increasing transparency at all stages of procurement, increased competition among participants, efficiency of procurement procedures, significant cost savings budget for the procurement of goods, works and services. Also significant achievement procurement electronically is to reduce the influence of subjective factors in determining the winner of the bidding and reduce the risk of collusion between uchasnykamy.Dlya European Union public procurement mechanism in the form of an electronic auction, regulated Directives. [7] Note that in implementing EU e-procurement separated several forms that they enshrined in law the European Union or individual countries - EU members. However, there are also certain mechanisms of e-bidding, participants voluntarily apply public procurement. Examples of such forms of procurement are: - an electronic auction - an electronic marketplace - electronic katalog.Yak European practice shows, procurement through electronic trading platforms is relevant advantages both for customers trading (ie the state) and to suppliers (ie business). Also some positive moments and a community (including access to information, reduce corruption risks, reducing budget expenditures and increased competition among participants) .Do middle of 2016 all EU countries had to go to the compulsory use of electronic

forms of public zakupivel. Protyahom the past five years, the Ukrainian market of e-commerce showed annual growth of 50% -60%, irrespective of permanent economic fluctuations. Today, e-commerce in the country is not the only industry that continues to grow, although this year it is not as rapidly like 2 years ago. Following the 2014 and intermediate results of current, significantly reduced growth of the industry, but it was stable - 20-25% per year. Thus, the market has great potential. For example, in Germany the capacity of e-commerce market is about \$ 36 billion. In Ukraine the figure is no more than \$ 400- \$ 500 million. United Nations Conference on Trade and Development (UNCTAD) assessed the conditions for the development of e-commerce around the world. In the ranking of 130 countries were represented. In calculating the index, considered indicators of Internet use, safety, distribution of credit cards and quality of postal services. Ukraine took the 58th place, between the Dominican Republic and Virmeniyeyu. Lideramy rating for today is Luxembourg, Norway and Finland. Also in the top ten included Canada, Australia and South Korea. US settled for 15th place. Infrastructure, business representatives and buyers of these countries than in other countries contribute to the development of trade in Interneti. Sered developing countries, the favorites are South Korea, Hong Kong and Singapore. However, in fact, states with large populations, such as Brazil, China and Russia are big markets for electronic komertsiyi. Eksperty predict that countries with emerging economies will raise its global market share of electronic commerce. By 2018 40% of Internet commerce will take place outside of developed countries. The report attributed this to the improvement

of technical equipment of these states - the proliferation of mobile phones and the Internet, and also the advent of various electronic payment systems that simplify shopping at merezhi. Pidpysavshy "Association Agreement", Ukraine has assumed a number of responsibilities one of which is to bring the legislation on public procurement in line with EU legislation. The basic requirements "Association Agreement" are: - a central executive body that will ensure the coordination of policy in the field of public procurement and, separately, an independent body to review complaints; - Preparation of a comprehensive "road map" for reform and adaptation of legislation; - Gradual harmonization of legislation on public procurement with the acquis EU. Provisions of the agreement is required mandatory introduction of electronic procurement within the time limits set for the Member States, who are required to complete this process by the end of 2018. However, the provisions of "Association Agreement" provides for requirements that all contracts must be awarded through transparent and impartial procedures that will prevent the occurrence of corruption. This electronic procurement can be a tool that will help achieve the specified requirements. According to Annex XXI to the Association Agreement (hereinafter - Application) Ukraine has committed to implement the Directive №2004 / 17 / EC, №2004 / 18 / EC, №89 / 665 / EEC, №92 / 13 / EC and 2007/66 / EC relating to public procurement, in terms of installed applications. It Directives №2004 / 17 / EC and №2004 / 18 / EC allow the possibility of using electronic auctions to increase transparency and the introduction and development of e-procurement. However, in terms of implementation provided for in Annex contained only the current Directive, while not mentioned



Directive №2014 / 24 / EC №2014 / 25 / EC and №2014 / 55 / EC relating to electronic procurement directives adopted in 2004 in return and entered into force for the EU already in 2016 [7,8] the part of Ukraine, the provisions of the "Association Agreement" provides for a transitional period of eight years to fully adapt the procurement system of Ukraine to EU standards. First of all, reflected in the schedule of implementation of existing EU directives, but also provided them reliable and efficient performance. Although the "Association Agreement" does not refer to the provisions of four new Directives approach to harmonization of public procurement in Ukraine with the EU in the adaptation of the Agreement is that its provisions are "living instruments" and, therefore, this means that all novels EU legislation (including the historic decisions of the courts of the EU) should follow. For this reason, Ukraine will have no meaning to carry out implementation based on existing EU legislation on public procurement in respect of regulated or not regulated, four new Directives. Moreover, in a memorandum to the draft Law of Ukraine "On public procurement" indicates that the rule of law designed to meet the requirements of "AA" is a part of the implementation of Directive №2014 / 24 / EC and №2014 / 25 / EC containing provisions on the use of electronic communication in the implementation of public procurement zakupivel.Obsyah in Ukraine is about 250 billion. UAH. for a year. To purchase goods from the budget every state-owned enterprise or public authority must hold a tender in which the conditions of open competition must take several suppliers and offer the state the best price. In Ukraine, created the legal and institutional framework that

regulates the "paper" processes of public procurement. In general it can be said that the regulation of "paper" procurement procedures, mostly with international norms and standards in this area. However, in view of the practice, formal compliance with Ukrainian legislation does not guarantee transparent and efficient trading and does not solve probably the main problem in the field of public procurement - there koruptsiyi.Osnovni reform objectives: - the elimination and prevention of corruption act - the transparency of public procurement - non-discrimination and objective assessment of the proposals of participants - the transition to electronic document - complete reporting and analysis of all bids derzhzakupivel.Za initiative of public organizations, commercial areas, public authorities and entrepreneurs in Ukraine is implementing electronic public procurement system full cycle. This system is called ProZorro. Today ProZorro system deployed at the world-renowned nonprofit organization Transparency International, and donated to the state for deployment at the national level. Transparency International, among other things, the guarantor of transparency in the use of investors' money, since the development of the system was not spent a penny of public funds. Before the pilot project has already attracted Prozzoro Public Procurement in 2300, after he made purchases of 6.5 billion and savings of about 12% of the price of budget. President of Ukraine Petro Poroshenko has signed the anti-corruption law "On public procurement", adopted by the Parliament 25 December 2015 [9] The Act provides introduction of e-procurement for all public procurement of goods and services worth over 200 thousand for works worth more than 1.5 mln. For customers who operate in separate spheres of economic goods and

services - in excess of 1 mln. UAH for work - more than 5 million. Hrn.Vitchyznyani and foreign participants of all forms of ownership and organizational-legal forms involved in procedures procurement equal umovah.Zamovnyk independently and free of charge, through authorized electronic platforms, publish on the appropriate web portal about procurement. Purchase can be made by applying one of the following procedures: - public tender - competitive dialogue - negotiation procedure zakupivli.Zakon introduced with effect from 1 April 2016 for the central authorities and customers that operate in specific areas of management, and with August 1, 2016 - for all customers. On paper envelopes, dohovornyakamy, prejudiced and biased attitude of members of tender committees will be over! Already in 2016, the new law will save in the consolidated budget of 4.5 billion USD, and in 2017, when it will run the first full year - from 35 to 40 billion. The Cabinet of Ministers of Ukraine at the meeting of February 24, 2016 approved the Regulations on the operation of e-procurement and ProZorro authorization of electronic platforms. Consolidation of the detailed rules of ProZorro ensure timely transfer of all public procurement in electronic format [10] The Regulation details the key principles of interaction of ProZorro electronic platforms. In particular, the requirements for platforms, the procedure for their authorization, subscription and violations for which the sites are disconnected from the electronic system. Also, clearly defined responsibility for violation of the Regulation in systemi.Zhidno, electronic authorization platform provides special committee by one or more levels of accreditation, depending on the users

who are provided services and the exercise of purchase. Each site must provide, free of charge, equal access of all stakeholders to information on purchases, but also protect confidential information from unauthorized dostupu.Krim that set tariffs for participating in tenders for suppliers of goods and services. The cost of participation depends on the tender and range from 1 to 100 non-taxable minimum. Thus, using the system for government customers, is fully bezoplatnym.Zaprovadzheniya, during the year, e-GP «ProZorro» showed some significant issues not regulated by law, the use of negotiation procedure of purchase if the customer canceled the tender; on the use of e-procurement entities are not customers in the sense of the law; to publish a report on signed contracts; lack of forms in the field of public procurement; procurement of goods, works and services cost less cost limits set by the second and third paragraphs of Article 2 of the Law; procurement branches and branches participate in procurement procedures. All these issues are resolved promptly Minister of Ukraine [11] .Vysnovky and prospects for future research. Analyzed the legislation and experience of the EU public procurement organization, shows the state of the world and Ukrainian e-commerce market and its development prospects. Show main disadvantages of "paper" processes of public procurement and the main objectives of reform with the use of ProZorro. In the short term, the transition in Ukraine implemented electronic public procurement in the plane, which should lead to increased competition and reduced corruption element in this segment.



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