



# **SIGMA and its work in public procurement**

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# Presentation outline

- “Support for Improvement in Governance and Management”
- Development of public procurement
- GPA related issues





# What is SIGMA?

- **S**upport for **I**mprovement in **G**overnance and **M**anagement
- joint EU/OECD initiative, with EU financing
- founded in 1992
- **to assist beneficiary countries**
  - EU candidate countries
  - EU potential candidates
  - EU Neighbourhood countries (since 2008)
- **in promoting and strengthening public governance**
- Staff: subject specialists, different nationalities with direct experience of public administration

# SIGMA areas of work

- Policy-making and Coordination, Regulatory Management
- Civil Service and Administrative Law
- Public Finance, including:
  - Budgeting,
  - Financial Management and Control
  - Internal audit
  - External audit
- Public Procurement
- Strategy Development, Change Management and Implementation

# SIGMA's counterparts

SIGMA's usual counterparts are:

- General Secretariats / Government Offices
- Ministries of Public Administration
- Ministries of Finance
- Other ministries (e.g. Justice)
- Supreme Audit Institutions
- Public Procurement bodies
- Parliaments
  - including Budget and Finance Committees



# What does SIGMA do?

Basis: long term partnership with our counterparts in the countries

- Short term interventions, e.g.:
  - Support in preparing strategies and reform plans
  - Advice in planning larger technical assistance projects
  - Awareness raising events
  - Advising and training senior and middle level officials
  - Peer reviews of specific systems or organisations
- In accession countries, annual assessments on public governance systems for the EU
- Policy papers, studies in public governance



# Regional Context – EU Candidates

- Preparing horizontal governance systems of countries to be ready for EU membership (W Balkans & Turkey) for public administration
  - Croatia: candidate country → accession country (2013 July)
  - Serbia: potential candidate → candidate country (2012 March)
  - Montenegro: potential candidate → candidate country → started accession negotiations (2012 June)
- Good governance is key to achieve higher quality public services and growth
- New stages, new approaches in the integration process include new requirements: more emphasis on rule of law; country commitment; coherence and sustainability of reforms; effects for the citizens

# Regional Focus – EU Neighbours

- Increased emphasis to supporting European Neighbourhood countries
- East
  - Eastern Partnership - Public Administration Reform Panel - PEMPAL
- South
  - Fundamental changes in the countries
  - Synergies with OECD/MENA programme
    - Supporting political dialogue and policy discussions with practical assistance
    - Bringing in reform experiences of transition countries from other regions





# Development of public procurement – EU regulatory basis: the ‘*acquis*’

- EU Treaty – fundamental principles
- EU Directives – specific prescriptions
  - ‘Classical’ sector and utilities (2004/17 & 18)
  - Remedies (2007/66 and earlier ones)
  - Defence and security (2009/81)
- Coming changes to the Directives
  - Revised versions of 2004/17 & 18 (in 2013)
  - New concessions directive (2013 or later)
- Rulings of the Court of Justice of the European Union
- Little covered or not at all: value for money; preparation, contract management; organisation



# Key features of EU Directives

- Common principles and policies; some more specific, detailed requirements
- Binding on Member States, candidates; harmonisation agreed with others
- Not single law text; needs transposing
- Emphasis on cross-border internal market access: publication, non-discrimination
- Focus on award stage; preparation and contract management almost absent



# Key objectives for candidates

- Align with EU legal requirements (the *acquis*)
- Focus on the efficiency and effectiveness of the national public procurement system
- Ensure that value for money is among the overriding goals for public procurement, fully supported by policies, procedures and practices, while in line with the *acquis*

# Other regulatory frameworks

- Government Procurement Agreement
- UNCITRAL model laws 1994, 2011
- Multilateral development bank rules
- National laws
- Other national regulations
- Internal rules of contracting authorities





# Common principles and rules

- **Publication** of contract opportunities and contract awards (transparency)
- **Rules** clear in advance (transparency)
- **Competitive** procedures (competition)
- **Variety** of procedures (efficiency)
- Rules on **qualification** and specifications (non-discrimination)
- Review and **remedies** (accountability)



# General measures for development

- Design legal and administrative framework
- Ensure that contracting authorities employ trained personnel
- Invest in systems for information dissemination and management
- Inform and train suppliers access to training and information
- Design and implement effective mechanisms to curb fraud, waste, abuse and corruption





# Challenges frequently encountered

- Legal alignment and institutional set-up advance fast but implementation lagging
- Tendency to overregulation, formalism - endangers efficiency, value for money
- Primary and secondary legislation often fails to correctly reflect operational needs
- Central institution know-how often ahead of contracting authorities – insufficient for efficient functioning of the whole system, need for capacity building
- Supplier markets not competitive enough

# Assistance by SIGMA

- Advice on reform process, design and implementation of strategic development plans
- Peer reviews/assistance
- Analysis and assessment of legal frameworks, methodologies, systems and institutions
- Training: advice on approach; manuals, briefs; workshops, seminars on specific topics
- Methodological, technical and strategic input for optimising other external assistance
- Support to networks (regional, bilateral); regional meetings
- Publications on general public procurement topics



# Key features of GPA

- central government only
- non-discrimination: supporting market access, driving market-opening reforms
- fair and transparent procedures
- review and enforcement provisions
- recognised best practice; compatibility
- minimum standards, focus on essentials
- may require legal & institutional reforms
- flexible implementation, coverage defined through negotiations and put into annexes



# Success factors for adhesion

- Formalise negotiation process
  - Confirm and clarify mandates, guide process
- Suggest, discuss, formulate positions
  - Inform and consult widely
  - Evaluate alternatives
  - Prepare lists of items, institutions
- Prepare accompanying measures
  - Mobilise industry resources; activate support
  - Amend regulations and practices; implement
  - Restructure institutions, build their capacity

# Examples of SIGMA support

- Review of legislation
  - Check alignment, revise as needed
- Institutional development
  - Systems and procedures for publication, monitoring and reporting
  - Central public procurement organisation
  - Complaints review body
- Capacity building
  - training programme and materials
  - specific training as needed



# Situation of Montenegro – SIGMA's point of view

- Directives meet GPA requirements
- Candidate country, aligning with *acquis*
- GPA accession becomes less difficult
- GPA commitments must align with EU
- EU Commission stronger negotiator
- Limited local resources: need to prioritise, put into the right sequence
- Observer status very useful!