

Chapter 2

THE USES AND ABUSES OF PUBLIC PROCUREMENT IN HUNGARY

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INTRODUCTION

This chapter is about a priority conflict between particular public procurement values and general policy values. Particular public procurement values are well-known and generally accepted throughout Organisation for Economic Co-operation and Development (OECD) countries, such as transparency, efficiency and anti-corruption. However public procurement is part of wide administrative and policy systems that have their own priorities. Such policy priorities have arisen due to EU integration or to other circumstances such as fiscal policies or economic crisis.

The EU concepts of modernizing public procurement focus on using it for general purposes. One of the most important aims in the EU regulation of public procurement is to prioritize SMEs, though the practical implementation of this is not delineated clearly. On the basis of the Hungarian example, our article gives a detailed account of the results of a given policy at national level. We analyze how a Member State is able to utilize public procurement activity and the conditions of shaping public procurement rules to meet requirements. SME support was the first objective that legislators began to focus on in the wake of Hungary's accession to the EU in 2004.

The most comprehensive reports on SMEs were prepared in 2004¹ and in 2007² by the European Union. These reports intended to emphasize the opportunities of SMEs in public procurement procedures. In order to increase the role of SMEs, these reports

focused on the basic opportunities provided by information technology (e-mail, Internet), emphasized the importance of easy access to documentations and to general information. The report also contained significant observations on the application of technical-professional and financial-economic eligibility criteria, short-offer deadlines, the cost of the offers, too strict administrative limitations, vague language, and the lack of basic information about public procurement rules (Tátrai & Vörösmarty, 2010).

The Code of Best Practices (http://ec.europa.eu/internal_market/publicprocurement/key-docs_en.htm) lists solutions to the main difficulties encountered and reported by SMEs:

- Overcoming difficulties relating to the size of contracts;
- Ensuring access to relevant information;
- Improving the quality and understanding of the information provided;
- Setting proportionate qualification levels and financial requirements;
- Alleviating administrative burden;
- Placing emphasis on value for money rather than on price;
- Giving sufficient time to draw up tenders; and
- Ensuring that payments are made on time.

From this list Member States did not receive direct answers about what and how to introduce in their own market, but they could help identify some steps to be taken in order to increase the role of SMEs, and adapt general guidelines to particular market environments, such as Hungary (<http://ec.europa.eu/enterprise/policies/sme/business-environment/public-procurement>). The first timid solutions were followed by ones requiring advance payments in public procurement regardless of the size of tenderers. According to our findings, objectives should be assessed individually, and legislators should be oriented against building up multi-purpose regulatory systems with contradicting objectives.

New developments regarding general policy priorities infiltrating the realm of public procurement were surveyed empirically by the Corvinus University of Budapest. At the University we conducted

several surveys asking relevant questions from public procurement experts and legislators about their opinion and feelings concerning e.g. ethical problems, efficiency, transparency, overregulation and competition in the Public Procurement market. Our research process involved several questionnaires Tátrai (2006), Tátrai, Chikán, Kétszeri & Szakál (2009) and Tátrai (2010), conducted in a two-year-period. This study is based on the most recent and most detailed one, completed in 2012. In the questionnaire, we used closed questions, and the respondents also had to answer an open question in order to highlight their personal opinion about the new regulation background. The number of respondents (average $N > 100$) and the quality of the answers show that public procurement experts understood the aim of the research and could focus on the real problems and opportunities of public procurement. Respondents mainly included experts, regulators, bidders, representatives of contracting authorities and members of public procurement organisations. Though the sample cannot be regarded as a representative one, these empirical researches demonstrate that contradicting goals and solutions weaken the competitiveness of a national economy.

The focus of the study is to show how public procurement is used for attaining different aims, which sometimes run against each other.

METHODS

At the International Public Procurement Conference in 2010, we had the opportunity to present about the misinterpretation of the EU Directives in Hungary (Tátrai, 2010). Our conclusion was that wrong and distorted practices lead to inefficient spending of public money, which is aggravated by the economic depression. The Hungarian example seems to be relevant in showing how public procurement is used as an economic policy tool.

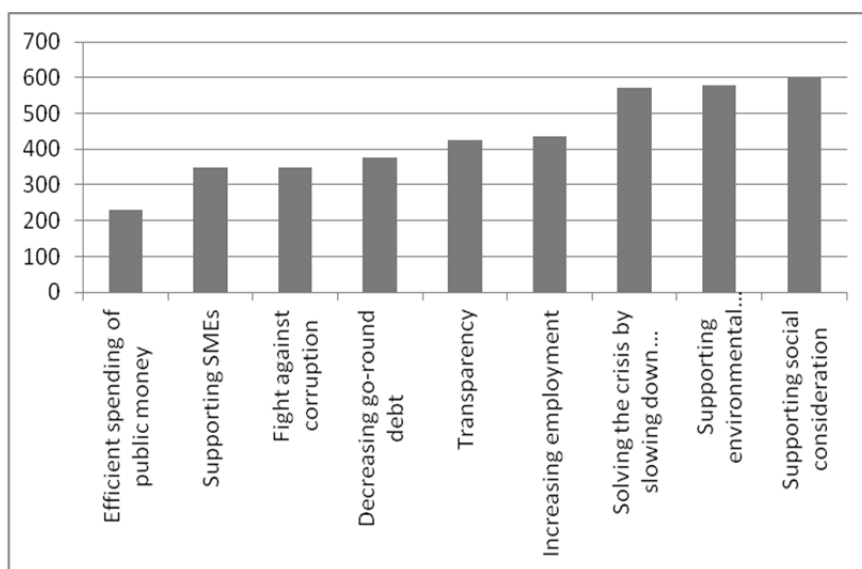
The 2009 research at Corvinus University of Budapest on “Morality and efficiency in public procurement” (Tátrai, 2010) featured several questions directly regarding the relation between public procurement and competition. In 2011, we tried to widen the scope of our research, and ask respondents about the importance of purposes of public procurement.

Our goal is to identify the most important aim of public procurement, how to use or abuse spending public money for various

purposes and to analyze the effect of using public procurement as a general tool of regulation.

With a view to the current situation, respondents, when asked to rank objectives listed and named or identified in the preamble of the Act CVIII of 2011 on Public Procurement made the following preferences (See Figure 1). On the basis of our researches, it is a warning sign that respondents are able to establish an order where efficiency, SMEs and the fight against corruption (Figure 1) are in the first three places. It would thus be reasonable to concentrate on these top three and subordinate all other objectives to them. In what follows, we will seek to analyze the realization of objectives and the effects of contradicting objectives. It is essential to note that our results were obtained through examples where the effects of one set of objectives are examined in relation to other objectives, not questioning their appropriateness. We studied the solutions to the crisis irrespective of whether we agree with their application in public

FIGURE 1
The Main Objectives of Public Procurement as Ranked by Respondents



Note: The lowest point shows the stronger priority.

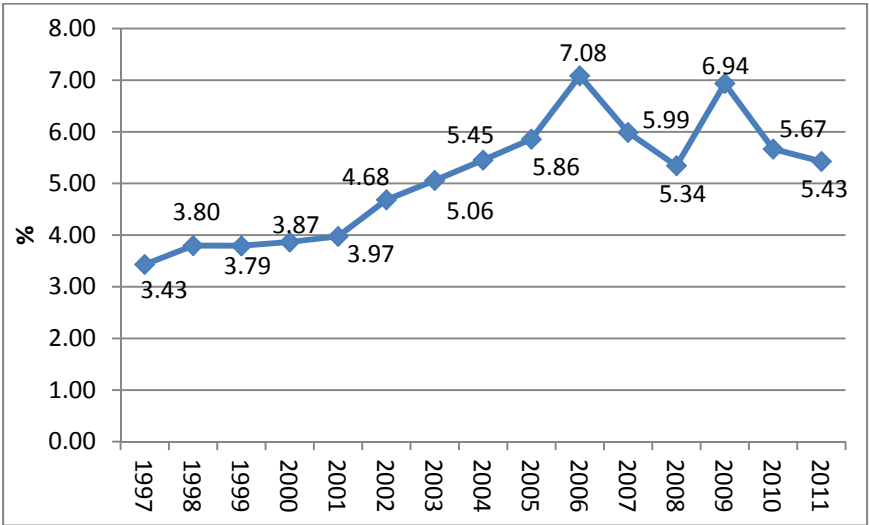
procurement. The analysis thus focuses on the relevance of systems of multi-vector aims by way of examples.

After two years of research, our opinion concerning public procurement market remains critical. We have limited information about the market players and their actions, about their purchasing practices (what is purchased at what price) and about the important factors influencing certain changes in these practices, that deeper conclusions could be based on. This paper analyzes the main aims of public procurement as reflected in the 2011 survey on “Sustainable Public Procurement” carried out by Corvinus University of Budapest.

From various Parliamentary reports of the Hungarian Public Procurement Authority (1996-2011), one of the most interesting pieces of data is the indicator that shows how the value of procurement in public procurement contracts has changed in the percentage of the GDP. As the EU average is above 10%, it is surprising that this ratio has been declining since 2009 (Figure 2).

Public procurement currently amounts to over 5 % of the GDP, which is a drop from almost 7 % in 2009. The data do not show

FIGURE 2
The Value of Public Procurement Contracts in the Percentage of the Hungarian GDP (1996-2011)

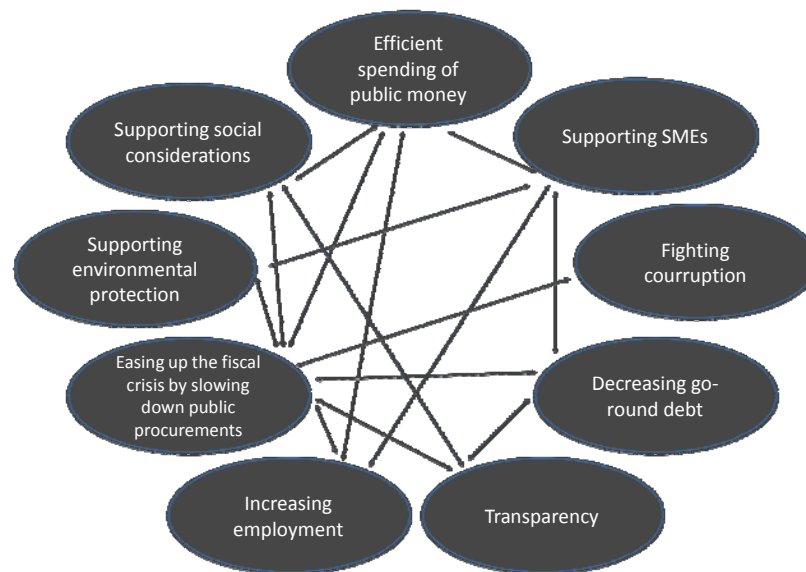


exactly which players of the public procurement market have reduced their spending via public procurement but some practical reasons for this behaviour can certainly be identified. The government uses public procurement as a means to combat illegal employment, to protect SMEs as well as to improve compliance with invoicing deadlines or to increase employment rates (Tátrai-Nyikos, 2012). Now, however, we seek to examine the real mission of regulators and decision makers when they use the public procurement market as a regulatory experiment.

RESULTS

Public procurement can be used for many purposes (Figure 3). Following the lead of European Union SME-focused and Social Aspects trends, Member States have devised their specific policies,

FIGURE 3
The Contrasts of the Main Objectives of Public Procurement



Source: "Public Procurement Researches of Corvinus University of Budapest" (2009, 2011).

models, and solutions. Based on the Hungarian case, our paper shows how ideas, when taken over from their inventors, can be misunderstood or occasionally misused.

Based on the effects and counter-effects of the objectives discussed below, we state that over-complicated models bearing multiple messages are likely to fail. It is impossible to simultaneously defend SMEs, to stop public procurement in order to balance the budget and to increase employment, which could be solved by supporting SMEs. Objectives expressly stated are sometimes bound to lead to deformations. For example, if social considerations come to include employing the jobless while prisons manage to have regulations passed whereby the police and public hospitals are to buy goods and services provided by prisons, local enterprises will be ruined, though the employment of prisoners has factually increased.

We will describe these examples, contrast them, attributing meaning to the contraries in the diagram as follows.

DISCUSSION

According to our understanding, priorities forming public procurement can be categorized as the following:

1. Particular public procurement priorities:
 - A. Transparency,
 - B. Efficient spending of public money, and
 - C. Fighting corruption.
2. Sustainability priorities:
 - A. Supporting environmental protection,
 - B. Supporting social considerations, and
 - C. Increasing employment.
3. Economic priorities:
 - A. Supporting SMEs,
 - B. Decreasing go-round debt, and
 - C. Easing up the fiscal crisis by slowing down public procurements.

In order to facilitate the better overview of priorities affecting public procurement, we elaborated the listed categories. The priorities are illustrated by examples that shed light on their (conflicting) relationship. The categories are formed by the priorities that have little or no contradiction to each other and have a common purpose.

Particular Public Procurement Priorities

Transparency

In order to ensure the publicity of public procurement procedures³ a contracting authority has to publish notices, guidelines, the full content of the contracts, completion and legal remedy data, etc. concerning the particular procurement procedure on its homepage or if it does not have one, on the homepage of the Public Procurement Authority.

Example:

Mandatory publicity: it could be said that Hungarian publicity rules go well beyond European practice, where besides the notices and guidelines, only the most important parts of the contracts are to be electronically published. The mandatory publishing of the full contracts has some competitive disadvantage for two groups concerned. On the one hand, by publishing contracts, competitors could gain important information about the particular contracting authority, which can have negative effects on its competitive positions, since the contracting authorities include players such as Hungarian Post Office Corp. or Hungarian Oil Company. This forced publicity, which disregards the particular characteristics of contracting authorities and subject-matters of procurement, obviously has a negative effect on competition, especially in the case of utility companies, which could be operating in a competitive environment; furthermore, publishing of the sometimes very costly-to-prepare contracts makes it possible to simply copy them. Publicity rules were incorporated into the legislation obviously in order to combat corruption, but disregarded the extensive administrative burdens on contracting authorities in ensuring continuous publicity, and wanted to utilise a non-existing service of the Public Procurement Authority in publishing data.

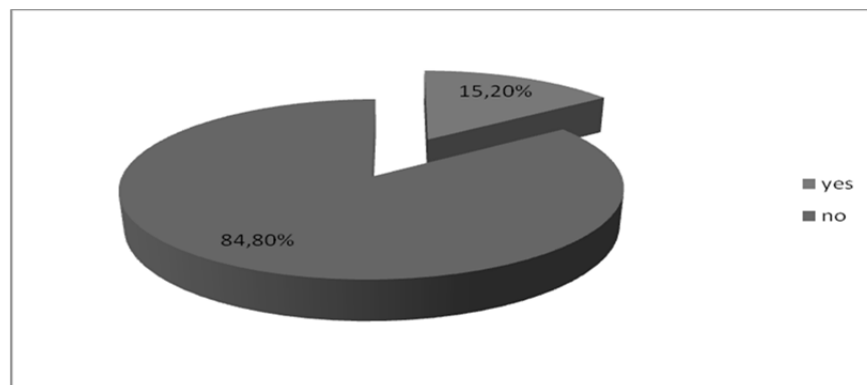
The results of forced publicity are controversial. All notices and guidelines were published earlier on but making structured data publishing mandatory for everybody ignores local governments' (municipalities) lack of resources, introduces a new risk factor into the procurement procedure for contracting authorities, and makes them more vulnerable by unnecessarily duplicating data.

On the other hand, in spite of mandatory publicity, there is no aggregate data about the practices of contracting authorities, for example concerning their environment-friendly, SME-friendly or socially sensitive policies and subject-matters of procurement. Publicity does not mean the existence of aggregated up-to-date data about the public procurement market.

Efficient Spending of Public Money

We sought to shed light on the opportunities of efficient spending of public money. In our survey (2011), we asked whether public procurement can attain the efficiency level of profit-oriented sectors. Though there has been a slight improvement in recent years, an unequivocal 84% regard this as unrealistic (Figure 4). We now go on to discussing a most interesting example of efficiency decrease, which even puts at risk the right to legal remedy.

FIGURE 4
Can Public Procurement Attain the Efficiency Levels of Profit-Oriented Sectors?



Source: "Public Procurement Researches of Corvinus University of Budapest" (2011).

Example:

Redress fee: the willingness to seek redress is rather high in Hungary, which often delays performance. So, in order to curtail it, a government decree increased the administration fee to 1%, which can mean up to HUF 25 million (approx. 113,000 USD) depending on the number of items in an application for legal remedy. In our research in 2011, $\frac{3}{4}$ of our respondents stated that the fee had a medium or high effect on the willingness to seek redress. Thus the legislator undermined the ability of SMEs to start legal action for securing their interests.

It is difficult to discuss efficiency separately, when division into lots is to be preferred in the interest of SMEs, but economies of scale would call for more efficient integration. Taking social considerations and employment into account would indirectly require a more efficient public role, but, alongside the application of social criteria as exceptions, no direct effect of increasing efficiency can be discerned. With objectives proliferating, the aim of spending public money efficiently is automatically relegated into the background, and competitiveness drops.

Beside centralization and assisting smaller enterprises, there are also regulations that hinder the normal operation of the public procurement market and reduce its competitiveness. Carayannis and Popescu (2005) state regarding the connection between procurement and competitiveness especially in the Central and Eastern European countries, that the introduction of new Internet technologies will make public procurement much more transparent and efficient. Competition in the public procurement market will be more directly stimulated this way, information will be available in a wider circle, and this will lead to the further reduction of competition limits. The authors question the idea that electronic procurement and especially public procurement are good policy means for creating a basis for an efficient market economy, and that this in itself would directly increase the economic performance of the country, eliminate all the obstacles hindering cross-border cooperation, and automatically increase efficiency. Their analysis focuses on the efforts of the European Union to make public procurement processes more cost-effective and innovative. The goal is to demonstrate that information technology can be the right tool to assist structural reforms in the countries concerned, and later it will stimulate the

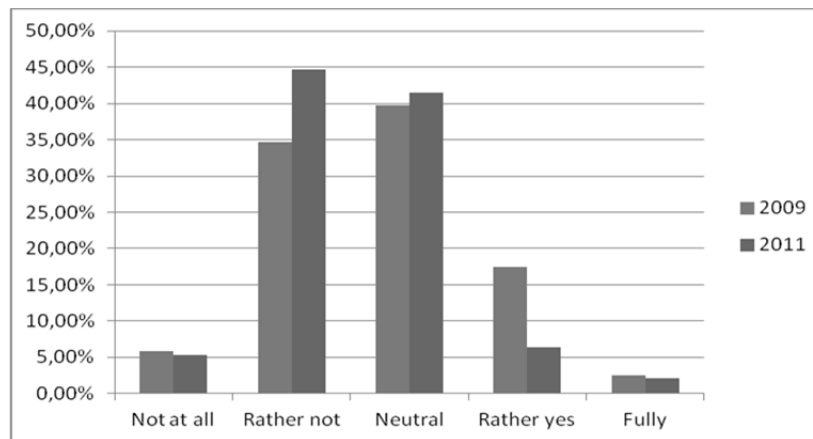
smoother flow of procurement-sensitive goods and services, making European transport more competitive in both the local market and the world market. By this approach, public procurement policy can provide the basis for the success of a unified market, long-term, sustainable development, creating new jobs and providing value-for-money public services for the taxpayers and users.

Contradicting goals and solutions actually weaken the same competitiveness, the growth of which could, for example, assist to achieve the employment goals, decrease go-round debt, and support SMEs (Tátrai & Vörösmarty, 2010).

Fighting Corruption

The 2009 and 2011 research⁴ at Budapest Corvinus University on public procurement featured several questions directly regarding the relation between public procurement and competition. The most interesting questions were how and in what extent public procurement regulations let market processes freely develop. According to most respondents, these expectations are not sufficiently satisfied by public procurement regulations as shown in Figure 5.

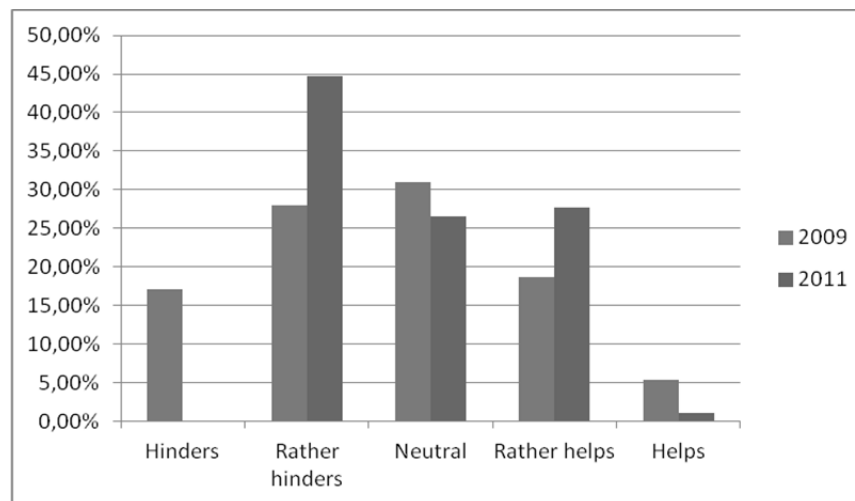
FIGURE 5
In What Extent Did Public Procurement Regulations Let Market Processes Freely Develop?



Source: "Public Procurement Researches of Corvinus University of Budapest," 2009, 2011.

When asked if public procurement helps competition or hinders it, $\frac{3}{4}$ of the respondents judged public procurement as not really helping competition (Figure 6). Compared to 2009 data recent statistical data show a grimmer picture about the ability of public procurement to hinder unfair competition.

FIGURE 6
Does Public Procurement Help Competition or Hinder It?



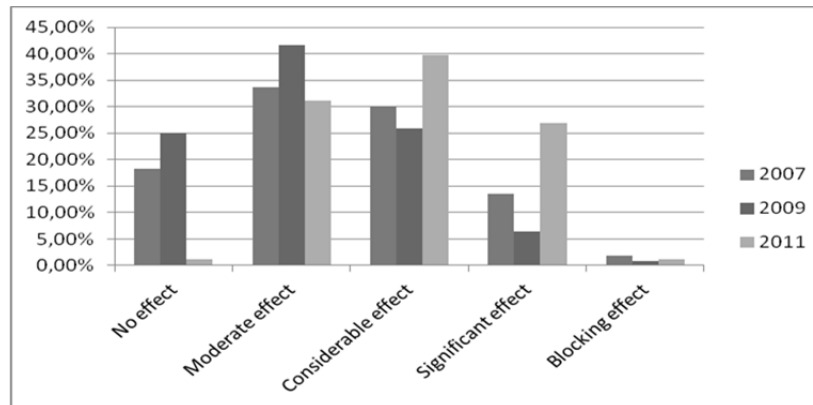
Source: Public Procurement Researches of Corvinus University of Budapest 2009, 2011.

As displayed in Figure 7, public procurement regulations can hinder unfair competition only marginally. Among the questions concerning morality, the question about the extent of morality of the players showed that both the contracting authorities and tenderers are considered less moral or not sufficiently moral rather than moral.

Examples:

Invoice control is meant to control the implementation phase and make the whole payment process transparent. But it in fact slows down the payment for contractors, so their interest is to hide their subcontractors and present themselves as sole performers. The

FIGURE 7
In What Extent Can Public Procurement Hinder Unfair Competition?



Source: “Public Procurement Researches of Corvinus University of Budapest,” 2007, 2009, 2011.

example is similar to “public dues” and shows that a solution can backfire. These unreasonable regulations, which were in principle intended to help SMEs, have in practice had the opposite effects, i.e. have been detrimental to SMEs and have hindered competition.

Sustainability Priorities

Supporting Environmental Protection

Our studies show that the level of green public procurement in Hungary is very low, which is clearly indicated by the Figure 8.

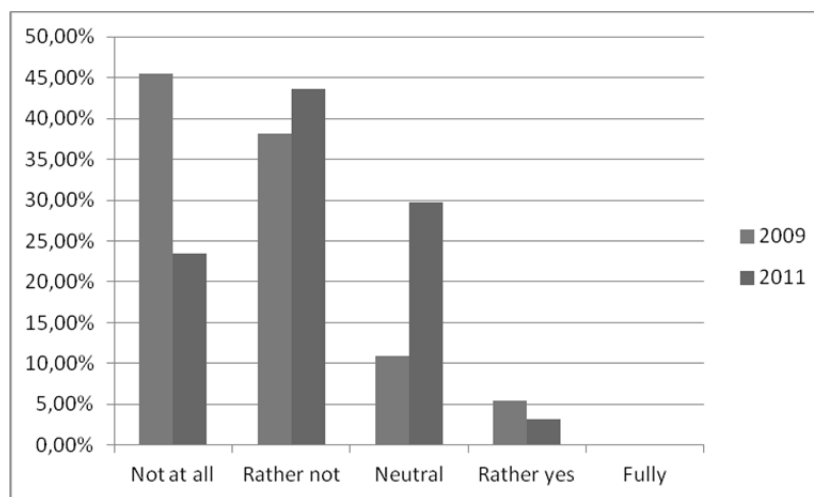
Example:

Centralization: As a result of earlier bad experience, the application of obligatory environmental evaluation criteria rendered public procurement for construction works impossible in 2010, now there are no regulations to speak about. Earlier the situation was critical, because of the obligatory use two of the following criteria:

- quality,
- environmental .and climate protection characteristics

- maintenance, operating costs
- time of guarantee
- deadline of the performance.

FIGURE 8
In What Extent Can Our Public Procurement Be Regarded As Green?



Source: "Public Procurement Researches of Corvinus University of Budapest," 2009, 2011.

In certain types for tender these criteria were inapplicable. For example in practice it was difficult to define the "quality" and the "environmental climate protection characteristics" of demolition projects. Even the objective becomes blurry as the special regulation on it has now been delayed for months, and its draft includes centralization efforts which will make it impossible for SMEs to comply with the complicated details of the rules. If the regulators want to determine the environment-friendly subject-matters of procurement and specify all the details, this centralised way of thinking directly hinders competition and efficient procurement, and limits the remaining freedom of contracting authorities to frame their own environment-friendly policy.

A strongly law-determined approach cannot serve creative aims, which are difficult to measure, but it certainly defines conditions that only big firms are able to meet.

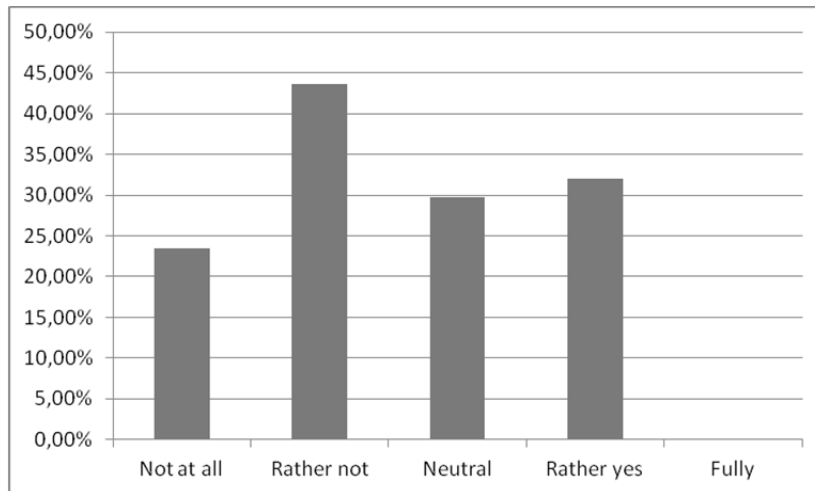
Supporting Social Considerations

The theme of social considerations is similar to green procurement as another area of sustainable public procurement. Our survey question (2011), how far our public procurement is socially sensitive in terms of division into lots and shaping procurement objectives, received answers tending to the negative. However, the prescription of social considerations in public procurement took a direction quite different from that of environmental protection (Figure 9).

Example:

Exceptions: in this regard, regulations have come to include a whole series of exceptions to meet social criteria. Employment in

FIGURE 9
How Far Can Our Public Procurement Be Regarded As “Socially Sensitive”?



Source: “Public Procurement Researches of Corvinus University of Budapest,” 2011.

prisons and service provision in public employment provide legal means of bypassing the law. The social considerations can thus be used for objectives beyond open public procurement.

Increasing Employment

Supporting SMEs, as the most important source of employment in the economy, is closely connected with the aim of increasing employment. The example below shows that some solutions have contradictory effects.

Example:

Employing prisoners: supporting SMEs is directly linked to increasing employment, as they employ the greatest number of employees. Under a new government decree (44/2011. (III. 23.)), the police and public hospitals are obliged to procure goods and services from prisons capable of providing them. There is no opt-out from the "obligation to supply." This takes away opportunities from local enterprises, though increasing the internal employment of prisons.

The example proves how an objective sounding positive - driven by social considerations - can be easily misdirected and achieve contrary aims.

Economic Priorities

Supporting Small and Medium Sized Enterprises

The relevance of the issue was demonstrated by Morand's discussion of SMEs and public procurement policy (Morand, 2003). He characterizes an optimal procurement policy as a "mechanism design problem when allotment of the contract is available, i.e., when a government faces both SMEs and large firms for carrying out a heterogeneously divisible project" (Morand, 2003, p. 304). Morand (Morand, 2003, p. 303) points out that the European "Community approach tends to rely on improving access for SMEs only through a non-discriminatory approach. With no preferential rules, SMEs compete on an equal footing with larger firms. Nevertheless, there are other different practical possibilities."

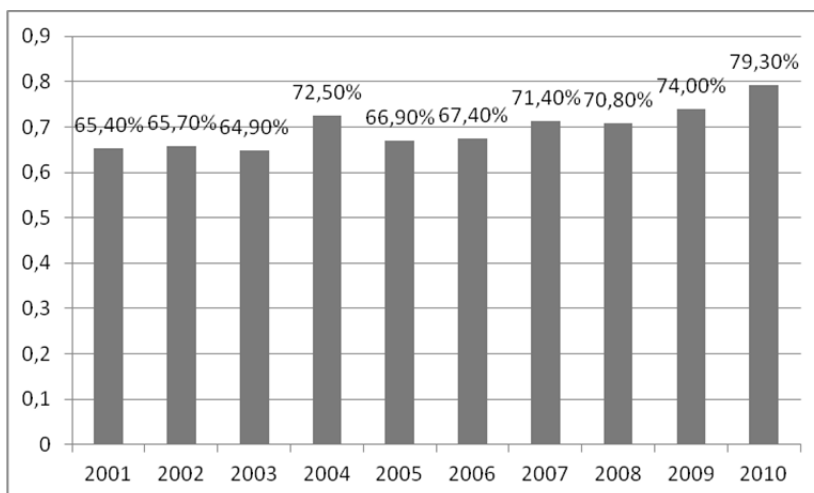
In the Hungarian economy, SMEs play a particularly significant role. Their conditions of operation and competitiveness influence the overall performance of the economy, and determine employment. As

a result of the changes in the 1990s, the number of SMEs has continually increased. The sector accounts for 99.9% of domestic enterprises, produces half of the GDP, and employs 71.7% of the work force (2.5 million persons). Two-thirds of the SMEs involve self-employment and one-third partnerships. The proportion of microenterprises, involving self-employment or 1-9 employees, is high (94.2%), while medium-sized enterprises have a markedly low rate by international comparison. The average size of Hungarian SMEs (4 persons) is small in comparison with old EU Member States. Big companies employ 28.3% of the work force.

In 2008, SMEs employed 71.7% of the labour force in the private economy, accounted for 55.4% of added value, produced 61.3% of the net return from sales, and had a 27.8% share of exports. SMEs have a prominent role in employment. However, the great number of 'forced' enterprises means that SME employment is much more unstable than in big companies. The average Hungarian SME is thus smaller at least in respect of the number of employees than in other EU Member States, employing on average one person less than their EU counterparts (3.3 vs. 4.3). The public-procurement conditions of Hungarian SMEs are quite advantageous, the total value of public-procurement contracts awarded to SMEs being 50% higher than the EU average (56% vs. 38%). Payment delays by public offices are somewhat less than EU average, the former being 20 days, the latter 25. Data on the more concrete category of 'expounding and simplifying regulations and systems' place Hungary behind EU average, as well (Tátrai, Nyikos & Krausz, 2011).

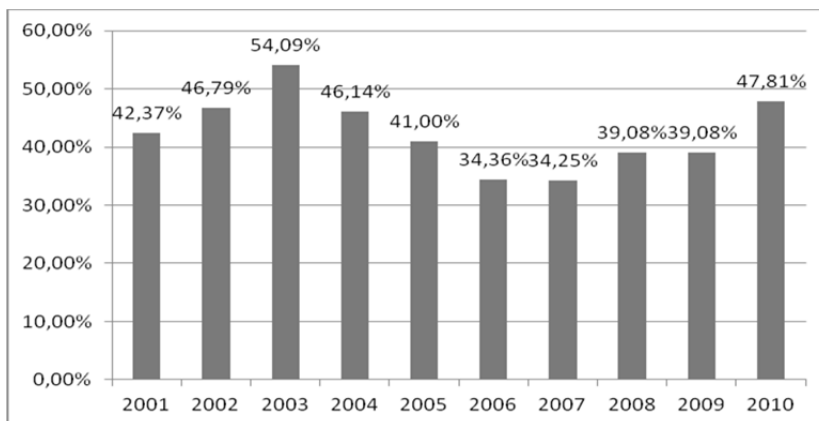
It is a false approach that the SMEs can be treated as a homogenous group. Many of them are very experienced, and have achieved major results in Hungary, but we have too little information about the conditions of Hungarian SMEs in general, so we have only indirect knowledge about their particular problems and needs in the public procurement market (Tátrai & Vörösmarty, 2010). About Hungarian SMEs, we can safely say that their support is reasonable, but they are not subject to serious disadvantages according to our figures below. There is a difference between the volume based on the number of public procurement procedures and the volume based on the value of public procurements. Almost 80% of public procurement procedures are won by SMEs, but the value of these public procurements is only 47.81%.

FIGURE 10
The Share of the SMEs Based On Number Of Public Procurement Procedures (2001-2010)



Source: Public Procurement Authority (2011).

FIGURE 11
The Share of the SMEs Based on Value of Public Procurement Contracts (2001-2010)



Source: Public Procurement Authority (2011).

The examples below show the relevance of the SME-friendly policies and their contradictory aims.

Examples:

Only SMEs: in order to support them, new regulations have been adopted to enable the invitation of only small firms in the case of smaller procurements. All bigger enterprises have now established their small, independent counterparts to meet the requirement, so the solutions don't achieve the desired effect.

Division into lots: A new element introduced in 2010 in order to promote the participation of the SMEs in public procurement, made it mandatory for contracting authorities to divide the subject-matters of procurement into lots if its type and other considerations make it feasible. As Morand pointed out, "the very first way of enabling direct SME participation in Public procurement is to divide proposed acquisitions of suppliers and services into reasonably small lots to permit offers on quantities less than the total requirement. But the consequence is that this allotment favours wide small business participation. But it also leads to competition between small and larger firms" (Morand, 2003, p. 302). If contracting authorities split the subject-matters of procurement, they do not utilize economies of scale, and the whole solution does not prevent big companies from winning tenders.

Making payments: The new Act revoked the regulations concerning the payments to sub-contractors, has thereby caused a lot of practical problems, and maximized the payment deadline in 60 days, where the 30-day prolongation can only be applied for good reasons. The goal is to avoid a situation where smaller enterprises are forced to accept extremely long payment deadlines, which are a significant burden for them. However, regulations on payments are linked to invoice control in the case of construction projects. So far as a contractor does not certify that it has not paid its subcontractor, contractor will not receive its own portion. This however leads to contractors concealing their subcontractors, which are in most of the cases SMEs.

Advance Payment: There is an interesting innovation that will probably improve the chances and performance abilities of not only the small and micro-enterprises; in the case of all the construction projects and services above EU threshold, the bidder will be entitled

to an advance payment.⁵ This advance is to help small enterprises in commencing a project. The amount of the payment in advance is maximized in HUF 10 million (approx. USD 45 thousand) in order to assist specifically those small and micro-enterprises that do not have the necessary finances to start a project. Though compulsory advance payment is theoretically meant to benefit SMEs, all bidders may request it, while contracting authorities have an interest in engaging bigger firms who are more unlikely to request advance payments.

Decreasing Go-round Debt

Using public procurement to decrease go-round debt has been applied for 3 years, but the efforts are not elaborated.

Examples:

Invoice control: as a part of making payments may seem to be a good way of prioritizing SMEs. The essence of this is that the contracting authority obtains direct information from the tenderers on the amount of payments to their sub-contractors, which are first transferred to the tenderers, and are then, following certification, transferred to the sub-contractors, and thus the tenderers can receive the part they are entitled to. This concept based on the French regulatory model was meant to decrease go-round debts, but it also contributed to the improvement of payment discipline and the shaping of stricter implementation-control methods, particularly in the case of larger contracting authorities.

Public dues: Another good example for different rules running counter to each other was the application of § 36/A of Act of XCII of 2003 on Taxation, according to which contracting authorities were prohibited from paying contractors and sub-contractors with public dues. Although this can reduce public dues and decrease the number of companies indebted to the state, but, at the same time, it will increase go-round debts, which it tries to address by directly defining payments to contractors. The example shows that a solution itself can spoil the intended effect.

Nevertheless, these rules cannot result in significant success; they can only achieve moderate results. This means, for example, that the over-regulation of payments results in a growing tendency among contractors to hide their sub-contractors, which is the exact opposite of the preferred result, namely, that the payments to sub-

contractors should be made transparently and controllably. So, despite the more entitlements of parties to examine documents and initiate remedy procedures, the too strict and over-regulated rules result in creative, often unlawful responses by those concerned.

Easing up the Fiscal Crisis by Slowing down Procurements

As a result, Hungary – also encouraged by the public procurement approach of the EU focusing on particular means – wishes to meet the challenges of our time by suspending purchasing in general and slowing down the procurement procedures.

Hungary has a long tradition of strong centralization in public procurement, which has resulted in the strong centralization of control in recent years. Interestingly, our researches (2011) show that over 60% of respondents answered positively to the question whether direct control of public procurement procedures is needed.

Example:

Controlling systems: the control of procedures begins by a mandatory check of the publication of notices in return of compensation. The Ministry of National Development directly authorizes and controls all procedures by government agencies; and a special central authority controls hospitals. Certain procurements can only be carried out by way of the so-called centralized procurement for government agencies, which is expected to be extended to state-owned enterprises. Notices can only be published via one institution; in other words, this is a centralized system easy to control in theory, but has very poor IT support to back it. However, especially in regard of government agencies, it is easy to stop or limit certain budgetary provisions. Currently, we are undergoing the third public procurement standstill in recent years, i.e. the government wants to save on public procurement. The results of this are contradictory as yet, because official public data and aggregated private data demonstrate a significant difference; it is not proved whether results can be achieved by stopping procurement or continually hindering them through control. Where, however, there is no procurement, nothing is procured from SMEs either; thus no employment is increased, go-round debts are not decreased, nor are there environmentally and socially aware procurements. Indeed, the shortage situation leads to the purchase of unwanted stocks,

characteristic lower-than-limit purchases, i.e. breaches of law, and the evolvment of arrangements wholly lacking transparency by contracting authorities. Within the given aims, this is certainly the one that takes the lead among most of the contraries.

The decrees mentioned above are quite controversial concerning their public procurement professionalism, legality and especially the range of organisations concerned, and suggest that public procurement has been used as a tool serving the short-term interests of the budget. These regulations hinder the competition for spending public money, increase the amount of unlawful spending, and, as a result, they can jeopardize the efficiency of future public procurement procedures and, due to their urgency, can hinder correct competition.

SUMMARY

Hungarian public procurement has had an unchanged institutional system since 1996, but has had an ever-changing regulatory system since joining the EU in 2004, with market players gradually departing from it. Due to the economic crisis, the Hungarian public procurement market has been used as a tool for reducing public spending, and as a result it is in a double squeeze. It was either by postponing public procurements or swiftly changing their framework that legislators tried to achieve with it changing and complex aims.

Whether it was the support of the SMEs due to the economic crisis, or reducing go-round debts, the public procurement market had to serve a huge variety of tasks. Public procurement used as a crisis management tool reached its peak with the official confirmation of public procurement procedures and with the moratorium on public procurements.

Public procurement could stimulate not only the growth of the economy (Schwarz, 2010) but it's exact opposite as well, and if it is used too "creatively," it can cause irreparable damages to the economy, to public procurement culture and the trust of contracting authorities. Morand was justified to say: "there are other different practical possibilities" (Morand, 2003, p. 303) on prioritizing SMEs via public procurement. Loader (2005) systematizes the most important report, initiatives of the development of public sector purchasing in the UK. The experience, the opportunity for data-

mining, the features of the traditional and modern approaches to purchasing in Great Britain show that the same model works in a completely different way in another country and can be a catalyst to achieve best value for money

The Hungarian ongoing centralization, the general standstill in public procurement and the widening scope of control are unlikely to increase efficiency or employment rate and will no doubt cause serious concerns for the contracting authorities and for SMEs as well. The time has come to forget about public procurement as a means, and we ought to start focusing on particular public procurement priorities such as the efficiency of public procurement having the right data, sufficient and transparent information in order to create more competitive services and a unified market.

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NOTES

1. The Access of SMEs to Public Contracts (2004) - EIM Business and Policy Research, KMU Forschung Austria, DG Enterprise and Industry.
2. Evaluation of Small and Medium-Sized Enterprises Access to Public Procurement Markets - GHK, Technopolis, DG Enterprise and Industry.
3. 17/C. 30-30. § of the Act on Public Procurement
4. These data are based on a survey questionnaire carried out by Corvinus University of Budapest, The article refers to three similar surveys done in 2007, 2009, 2011. The results can be downloaded from www.kozbeszkut.hu.
5. According to the relevant rules, if the subject matter of public procurement is a construction project or a project reaching the Union threshold and the completion period of the contract is over two months, the contractor can ask for an advance payment of 5% of the total price stated in the contract or maximum 10 million HUF.

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