Public Procurement and Gender Equality: Its Impact on Women in the Security Sector in Serbia

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Introduction

Despite the fact that public procurement systems in general bear a substantial impact on any given country’s economy, and, subsequently, on the everyday lives of their respective citizens, the social dimension of Serbia’s own public procurement system has been left neglected. Albeit that Serbia’s 2012 Public Procurement Law presents a positive step in its continuous effort to reform public procurement, the fact still remains that Serbia’s professional and academic community, as well as other parties involved in this process, have focused solely on the economic role of public procurements in terms of “procuring goods, services or labour assignments”. The result has been a serious lack of attention paid to the due impact of public procurements on social categories as a whole. Bearing in mind that gender perspectives are relevant to all sectors of society, it is important to understand how gender patterns differently affect the organization, implementation, and realization of public procurements as well as the consequences they produce. In this same unique regard, this paper takes as its focus public procurement in Serbia’s security sector in order to better understand the impact public procurements have on both women and men.

Serbia’s Ministry of Interior (MoI) and Ministry of Defence (MoD) represent the two largest state budgetary recipients within the Republic of Serbia; combined, they have been allocated 11% of Serbia’s 2015 national budget alone. Since public procurements in security sector institutions might bear a direct effect on access to and the realization of human rights, it is thus necessary to ensure that funds are spent properly, under best practices, in order to ensure that equal security is provided to all citizens. Given that the public image of Serbia’s security institutions is still associated with that of a repressive organ of the Serbian State, as well as one in which there are but still few women active, it is important to consider how the needs of women themselves are taken into account in the expenditure of public funds.

The goal of this analysis is to urge public policy makers as well as the wider academic and professional community to view the procurement processes from the perspective of social development as to specifically draw attention to the differing outcomes experienced by women and men in their interaction with security institutions. Therein, based on guidelines provided by experts in the field, this paper shall present examples of good practices, conclusions, and recommendations as to further develop the public procurement system in Serbia from a gender perspective.

RECOMMENDATIONS

- Gender-sensitive statistics are necessary in public procurement planning so as to ensure that the procurements implemented are connected to the object of procurement per se and in respect to gender equality principles.

- Clearly distinguish the dimension of gender in procurement plans in order to better take into consideration the needs of both women and men, as well as to provide more beneficial insight into the consequences which procurements have on women and men.

- A gender-responsive program budget is needed that will not merely give direct response to planned and implemented public procurements but will also provide answers as to whether the existing redistribution of resources meets the needs of women and men equally.

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1 Public Procurement Law, Sl. glasnik RS, no. 124/2012 and 14/2015, article 2.
Public Procurements Are Not Gender-neutral

One may put forth the argument that a correlation between the processes of public procurement and gender equality is non-existent or that public procurement itself lies outside the field of relevance as to better actualize social objectives (respect for equality between men and women among them). Yet, when public procurements are viewed solely in relation to economic development then their wider social impact is commonly disregarded. The dimension of gender is not to be based on a simple head count alone of women and men jointly, rather it must account for decisions and implementation thereof that might bare immediate influence on the quality life. To illustrate, whether intentional or unintentional, seemingly neutral policy measures might work against themselves by furthering deepen social norms that prevail in certain communities, thereby worsening the discrimination women already must face.

Decisions on purchases, the means and methods by which they are conducted, final price, and supplier all have a gender dimension that result in consequences that affect men and women separately.

It is essential that the introduction of gender mainstreaming into the public procurement process be seen as an effort to “reorganize, improve, develop and evaluate policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages by the actors normally involved in policy-making”.

INTERFILE 1: PUBLIC PROCUREMENT, GENDER EQUALITY AND THE EU INTEGRATION PROCESS

A general consensus exists that public procurement is a key instrument by which governments may better achieve their strategic goals, Given that one of the Republic of Serbia’s chief goals at present includes attaining membership in the European Union, it must be underscored that gender equality policies in the European Union are assigned a higher ranking within EU legislation and directives, representing a non-negotiable requirement in the accession process. Since respect for gender equality is one of the EU’s main strategic goals as well as a point in further negotiations between the Republic of Serbia and the EU, it is therefore reasonable to claim that public procurement represent “an instrument of public policy to promote gender equality”.

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c Sonja Tošković, Gender equality as an important aspect of the negotiations with the EU, EurAktiv: <http://www.euractiv.rs/srbija-i-eu/8171-rodna-ravnopravnost-vaan-deo-pregovora-sa-eu> 14.03.2015.


Gender-sensitive Program Budgets and Public Procurement

In order to ensure that public procurement best achieves its intended purpose, the object of the procurement itself firstly needs to be in accordance with the strategic objectives of the contractor and defined specifically in advance within the budget of the program from whose funds it is purchased. More precisely, as opposed to a linear budget, a program budget redistributes funds according to specific programs that are based on objective achievements and are linked with midterm plans and other strategic documents.

In order to mainstream gender policy implementation, a budget needs to not only be program based, but to include a gender dimension as well. A gender-responsive budget must recognize gender differences and be allocated accordingly, as well as provide defined direction to existing fund redistribution as corresponds to the needs of women and men; moreover, such a budget ensures that its funds are redistributed in accordance with measures, policies, and programs that derive from strategic objectives that improve the impact of gender mainstreaming. Case studies from countries such as France and Spain demonstrate that gender-responsive budgeting is an indicator of achieving gender mainstreaming objectives:

Graph 1: Public procurement performance in the interest of citizens

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4 Data presented at “Public Procurement Performance in the Security Sector” workshop by Hajrija Bogujevci in Niš which was held on 14-16 of April 2015. and organized by Belgrade Center for Security Policy.

• The Republic of France, when constructing a budget draft, must separately draw up a special report on results achieved in gender mainstreaming;
• Spain’s budget presents gender-oriented objectives, such as the integration of women into the labour market and social benefits.⁶

Therefore, the association of public procurement between gender-responsive budgeting and a program budget are inseparable. In order to achieve these above mentioned objectives and others similar to them, it is obligatory that gender-sensitive and expedient public procurement correspond to a program oriented gender-responsive budget.

MOD AND MOI BUDGETS DO NOT RECOGNIZE GENDER IN FUND DISTRIBUTION

Considering that public procurement performances are determined in relation to the strategic objectives of representative of the contracting authority, it is thereby of note that as of 2010 Serbia adopted a National Action Plan for the Implementation of Resolution 1325 of the UN Security Council – Women, Peace and Security in the Republic of Serbia (NAP 1325) to be carried out from 2010-2015, whose main actors are the Ministry of Interior and Ministry of Defence. NAP 1325 has directly aimed to create a better environment in which gender equality policies may be better reflected in the actual policies of Serbia’s security sector. Despite the magnitude of NAP 1325, Serbia’s Ministry of Interior have not reciprocally reflected the perspective of gender in their priorities for the timeframe of 2015 – 2018⁷ which directly disregards the different security needs of men and women in the community, which are inherent in order to improve citizens’ security and further advance the work of community policing.

To exacerbate the situation, the program budgets of Serbia’s MoD and MoI have yet to be launched in full. When examined, it is readily found that these same budgets, despite providing for defined programs, possess no clearly defined objectives which therefore render it impossible to measure their respective outcomes. Moreover, these budgets fail to recognize the impact of allocating funds to both women and men, although this activity has been explicitly stipulated in the NAP 1325 objectives.

At the conclusion of 2015 (the current year in which this paper is being written) NAP 1325 shall expire and its review is in preparation. It is therefore necessary to recognize the NAP’s shortcomings and focus on the introduction of gender budgeting that corresponds in a more immediate manner to planned and already carried out public procurements in Serbia’s security institutions.

In respect to the aforementioned budgetary issues, although gender equality is partially incorporated into the strategic objectives of security institutions, it has of yet not been implemented in practice through the allocation of a true gender-sensitive budget, which bears a direct consequence on the process and actualization of public procurements. Taking into consideration that public procurement must be carried out in relation to strategic objectives and plans, it can be further concluded that the performance of public procurement is hampered in regards to respecting gender equality principles in Serbia’s security institutions.

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Public Procurement Performance from a Gender Perspective

The previous Directives 2004/17/EC4 and 2004/18/EC5 superficially incorporated the implementation of a gender perspective into the public procurement process, proving themselves insufficient due to the requirements upon the part of the contract authority in which the subject of the procurement proper could be found to not be directly related to the purpose of procurement. However, the 2014 European Parliament and EU Council Directive8 thoroughly redefine social considerations of public procurements. As regards the fact that this new Directive now enables the perspective in which requests may be conducted by the contract authority to be broadened, gender equality needs to also be made relevant for each subject of procurement and in accordance with important gender mainstreaming issues, such as advancing workplace gender equality, increasing the participation of women in the labour market, and harmonizing the balance of women’s professional and private lives.

While the Law on Public Procurement of the Republic of Serbia does not explicitly define the implementation of gender equality in the public procurement process itself, the principles by which Serbia’s State Audit Institution Law (DRI)9 reviews business performance can be read to stipulate gender equality and can be legally interpreted to define public procurement objectives as relates to furthering gender equality. For instance, in the same Law’s Principle of Economy, it is clearly specified that minimum expenditure of funds be ensured without sacrifice to corresponding quality of goods or services delivered, by default providing for an extension of protection to gender equality and blind purchasing in procurement. Therein, as a basis upon which to rate whether a procurement has successfully met its objectives, the Law can be also read to specify through its Principles of Efficiency and Effectiveness the importance of respecting gender equality in public procurements, in that when procurement may be unsuccessful in meeting the desired objective, a negative effect on felt by subsequent, further giving rise to gender inequality as regards to original faulty procurement.

GENDER STATISTICS AS A PREREQUISITE FOR GENDER-SENSITIVE PUBLIC PROCUREMENT PLANNING

In the course of planning public procurement, a preliminary study must be conducted in which the procurement subject is scrutinised vis-à-vis its gender aspect, according to whose purposes all available data are collected and analysed. To achieve this aim, the collected data must be desegregated according to gender, utilizing gender-sensitive statistics wherever applicable. Gender weighted statistics thereby act not only as a key prerequisite but as an indispensable basis as well in order to determine gender differences and assess the impact of gender on public procurements.10 Through the utilization of gender statistics, objective indicators are acquired which may account for the differing status of men and women respectively.

Gender statistics as applied to Serbia’s security sector have been primarily based on quantitative data on the presence of women in the public security sector (i.e., Serbia’s police and military). Nevertheless, as concerns public procurement,

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8 Directive 2014/24/EC
10 Equal opportunities for women and men in public procurement contracts: a few recommendations, Institute for equality of women and men, 2014.
gender statistics in these institutions need further improvement in order for public procurement to be better in accordance with procurement objectives as well as to better respect gender equality principles. To illustrate, in the procurement of socks for police officers, it is necessary to obtain data on feet sizes worn both by men and women and to plan their procurement in accordance with the same data. As another case in point, in procuring staff-training services, a foundation of gender statistics is primary so as to determine the number of men and women who have had previous opportunities to attend such training, which, by default, also allows for the identification of gender differences or current trends in staff training.

**MO AND MOI PROCUREMENT PLANS ARE NOT GENDER-SENSITIVE**

Gender perspective as integrated into the public procurement system from the start of planning procurement is of crucial import as it ensures that the needs of both women and men in the later phases of procurement be taken into account.

According to Serbia’s Public Procurement Law (2012), any contracting authority may initiate a public procurement procedure only if the respective procurement has been pre-defined in the procurement plan. The plan determines the subject of procurement, its estimated value, type and the date of its initiation, as well as its conclusion and execution of contracts. The contracting authority needs to state the reason and justification for public procurement in the procurement plan. In this regard, it is necessary that the contracting authority, whenever possible, analyses the object of the procurement so as to consider its effects on men and women. If the procurement has any different effect on men and women, it is vital to identify it in the procurement plan.

In its procurement plans, Serbia’s MoI and MoD must clearly state the exposition and justification of public procurements. However, as concerns the procurement of goods/services which may have different effects on women and men, a procurement plan needs to take into account such differences. For instance, the procurement plan of the MoD states the need for providing clothes for outdoor conditions in which the rationale would be that uniforms are required to be provided, specifically official uniforms for Serbia’s professional army and ceremonial uniforms for students of the Military Academy. Taking into account that 10% of women in the military are employed as military professionals, rather than as support staff, as well as 90 females having been admitted to Serbia’s Military School this

**ANTRFILE 2: CONTROVERSIAL PROCUREMENT IN SERBIA’S MOI: HOW FEMALE POLICE OFFICERS ENDED UP WITHOUT SOCKS**

One illustration that best demonstrates the issues facing proper public procurement within Serbia’s MoI as well as how the needs of women in the security sector are often overlooked and sometimes even forgotten can be best related in a recent example concerning the procurement of socks. Altogether this oversight might have had serious consequences not only on women who are directly affected, but also on the performance quality of everyday duties that need to be carried out in the public interest of all citizens. Namely, the public procurement of socks in the MoI has presented an interesting example of how pro-

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12 Skrozza T., Bjełoš M., Nezavisni izveštaj o sprovodjenju NAP za primenu Rezolucije SB UN 1325 u Srbiji, Belgrade Center for Security Policy, Belgrade: 2013.
The MoI conducted the procurement of 72,500 pairs of summer socks and 29,000 pairs of winter socks for 2015. The agreement was made with the wholesale retailer “Fruit.” This procurement was not appropriate from the perspective of gender equality stemming from the fact that all the socks procured were size 45, according to the contract documentation. While planning the procurement itself, the fact that not all women (let alone men) in the MoI have the same or above average sized feet completely failed to be taken into account.

It is therefore obvious that the need analysis for this particular procurement in the MoI had not been adequately carried out and the number of women in the MoI had not been included as a key statistical indicator. The procurement conducted was carried out randomly which might have had serious consequences on police performance and, at the very least, was a causeless inconvenience to them (both women and men). First, it may be assumed that female police officers will not want to expose themselves to operational activities if they lack a proper uniform, but would prefer to perform administrative ones instead, which could consequently limit their promotion prospects in the police service. Moreover, as studies have shown that women report violence more often to a female police officer rather than male one, a greater presence of women in operational posts means a more efficient response to gender-based violence. Finally, this example shows that gender equality policy, as well as the objectives of the NAP, have not been implemented sufficiently in the MoI.

The procurement plan specifies the need to procure staff training services for the purposes of police reform and migration management in order to reveal and detect criminal activities. This service can bear different effects on employees as well as service users if gender aspects are not duly recognized. It has been observed and noted that the MoI not infrequently provides trainings for male members of the police only, while women receive far fewer opportunities to build up their capacities, especially when operational tasks are in question. Thus, the police must train both women and men in order to be able to approach the problem of migration in accordance with human rights. The training of female police officers affects the advancement status of gender equality within the MoI and the provision quality of police services.
MO AND MOI LACK PUBLIC PROCUREMENTS INTERNAL PLANS

An internal act and internal plan might be able to contribute a great deal to gender equality goals within the Serbian security sector. More precisely, an internal act does define the rules for procurement planning, objectives, implementation, the manner of public procurement realization, and market analysis\textsuperscript{16}. It is therefore of significant impact that the internal act states the capabilities of gender analysis in public procurement and is essential that every representative of a contract authority develop an internal act that will define planning procedures and public procurement implementation in more detail.\textsuperscript{17}

Internal plans also carry the benefit of being primarily intended as tools to prevent corruption in public procurement. Therein, neither Serbia’s MoD nor MoI have yet adopted internal plans that closely define the public-procurement implementation process. Bearing this in mind, as well as the fact that an internal plan presents an additional measure in strengthening the implementation of anticorruption policies\textsuperscript{18}, one may argue that public procurements present one of the greatest risks of corruption in Serbia’s security institutions. In addition, according to data suggesting that corruption affects women more often than men,\textsuperscript{19} it can be assumed that corruption in public procurement processes will affect women and their needs, if not equal to, then more than men.

\textsuperscript{16} Public Procurement Office. Model internog akta, Pravilnik o bližem uređivanju postupka javne nabavke. Accessed on 01.06.2015.
\textsuperscript{17} Article 21. of the Public Procurement Law („Službeni glasnik RS“, No 124/12)
\textsuperscript{18} Public Procurement Law „Sl. glasnik RS“, No 124/2012 and 14/2015
Conclusion

Public procurement has a gender dimension and greatly affects the process of achieving gender equality. For this very reason it is imperative that in the process of a specific procurement gender perspective be taken into account from its initial planning until the conclusion of the contract. It is necessary to analyse the subject of procurement plans in relation to the effects that it produces on both women and men. To this end, it is necessary to use gender-sensitive statistics and a gender-responsive program budget that shall have direct consequences on the processes and conduct of the public procurement in action.

Gender equality in public procurement processes in Serbia’s security institutions has not been duly respected and since women in the security sector have inadequate access to resources compared to men, this often puts women in an inferior position. In addition, public procurements that do not achieve its intended purpose prevent these institutions, which have a mandate to ensure the safety of all citizens, from performing their jobs responsibly. If control and accountability is to be established in the public procurement system to a full extent, it is central to recognize the impact of public procurement on women and men and the effects they produce.
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