



Special Law for EXPO and its Implementation

Billions of EUR not adequately protected

Special law – context and main problems

In the tradition of circumventing the implementation of the Law on Public Procurement through the provisions of *special laws*, which has entered its second decade, a notable place has been given to the Law on Special Procedures for the realization of the international specialized exhibition EXPO BELGRADE 2027 ("Official Gazette of the Republic of Serbia", No. 92/2023).

The works for the construction of the exhibition space for EXPO 2027, the facilities for the accommodation of participants and visitors, the National Stadium and the accompanying infrastructure, will be contracted without the implementation of the Law on Public Procurement, which creates a high risk that the costs will be higher than they would be under conditions of full competition.

The value of the procurements that will be exempted will be approximately one billion euros, judging by the data available in the Law on the Budget of the Republic of Serbia for 2024 (with projections for the next three years), which includes the so-called "national stadium."¹ However, as the total value of the project, officials mentioned significantly larger sums - from 2.5 billion to 18 billion euros, although there were explanations that this larger sum actually refers to the entire "Serbia 2027 - Leap into the Future" Program. And this program itself, although widely [promoted](#), according to the official response we received from the Government of Serbia, [does not exist](#).

[In addition to the Law on Public Procurement, the Special Law for EXPO 2027](#) also repeals certain provisions of other regulations (on expropriation, planning and construction). This "recipe" has already been tried in several other cases, the most famous of which are the laws that had the proclaimed goal of "encouraging the construction industry in the conditions of the economic crisis" (from 2010), the implementation of the "Belgrade Waterfront" project (from 2015), the construction of the "Morava Corridor" (from 2019), as well as the recently repealed Law on Special Procedures for the Implementation of Projects for the Construction and Reconstruction of Line Infrastructure Facilities of Special Importance for the Republic of Serbia (from 2021).

The Government of Serbia proposed a special law for this project together with the budget for 2024 and numerous other regulations, which significantly reduced the chances of it being adequately considered in parliament, while the Ministry of Finance did not organize a public debate on the draft, although it was mandatory under the Law on Public Administration. The Assembly decided to merge the debate on this law with a number of other unrelated issues. In the end, there was no even shortened discussion, because at the same session the opposition MPs asked for elections to be called.

The Serbian government proposed the law just five months after it repealed the Law on Line Infrastructure, following three years of criticism from the domestic public and the European Commission because of quite similar undermining of the public procurement system. At the time, Transparency Serbia [pointed out](#) that the government justified the repeal of the Law on Line Infrastructure only with the requirements of the EU, and not with its own position that it is wrong to abandon anti-corruption rules. With the adoption of a special law for the EXPO, it was shown that

¹ According to the draft budget of Serbia for 2024, the Ministry of Finance plans 67.8 billion dinars for EXPO 2027 in the next three years, as well as 49 billion dinars for the construction of the National Football Stadium, which totals about one billion euros. It can be assumed that most of this money will be spent on the execution of works, bearing in mind that the investor is exempt from the obligation to pay a fee for the development of construction land.

such understanding did not exist.

To make the paradox bigger, at the same session of the Assembly, a [proposal to amend the Law on Public Procurement](#) was also discussed. Numerous proposals by civil society to improve that law [have been rejected](#) only because the provisions of the Law on Public Procurement are "already harmonized with the EU Directives". On the other hand, the explanatory memorandum of the special law for the EXPO contained an obviously false claim – that "there are no relevant EU regulations with which it is necessary to ensure compliance".

The EXPO 2027 law provides for the formation of several state-owned enterprises, which will have the capacity of investors, some of which have been formed in the meantime. In Article 14. It is stated that these companies "will not apply the provisions of the law governing public procurement", and that they will regulate the rules for their procurement procedures and "the obligation to ensure transparency of the procedure". This was done through [the Decree on the Rules of the Procedure for the Procurement of Goods, Services or Works Necessary for the Realization of the International Specialized Exhibition EXPO BELGRADE 2027 \("Official Gazette of the Republic of Serbia", No. 8/2024\)](#), which was adopted on February 6, 2024.

The Government of Serbia did not even try to justify the abolition of public procurement for this valuable project in the explanation of the draft law. Even the urgency of implementation, which is cited as a reason for deviating from other regulations, would certainly not be a valid reason, because the Law on Public Procurement itself allows for the shortening of deadlines when justified.

Initiative to the Constitutional Court

At the end of January 2024, Transparency Serbia filed an initiative with the Constitutional Court to challenge the constitutionality of Article 14 of the Special Law for the EXPO, which describes in detail the violations of procedures during the adoption of the law, the unconstitutionality and harmfulness of its provisions.

Apart from the fact that the exclusion of the implementation of the Law on Public Procurement is controversial due to Serbia's international obligations, and above all the Stabilization and Association Agreement with the EU, the authorization of the Government to adopt this decree is undoubtedly unconstitutional. Namely, in Art. 14th century 2 of the Special Law, the Government is authorized to "regulate in more detail" the procurement procedure for special EXPO companies, and it is legally impossible to "regulate in more detail" in the secondary legislation something that is not regulated by the law at all. In some of its earlier decisions, the Constitutional Court has abolished norms that had the same flaw, so we do not see the possibility of it doing otherwise in this case. The only question that remains is whether the Constitutional Court will take this initiative into consideration in a timely manner and whether it will suspend the application of the disputed provisions until its decision is made, or whether it will decide on this only when all procurement for the EXPO has already been contracted and when it is too late to prevent the damage that can be expected to occur due to the restriction of competition for obtaining these contracts.

After the adoption of the Regulation, the Initiative was [supplemented](#) by a proposal to suspend the application of Article 14 of the Law and Decree until the final decision of the Constitutional Court. From [the Constitutional](#) Court's response from June 2024, it can be concluded that this issue was not perceived as particularly urgent, and that the only action taken was to deliver the initiative for a statement to the National Assembly. Parliament did not respond.

Impression that “everything is fine”

The first impression that someone familiar with the Law on Public Procurement may have, when encountering the Decree of as many as 62 members, which the Government adopted for procurement within the EXPO 2027 project, is that many provisions from that law have been transferred to it. Logically, the question arises – why was this done, if the application of the Law on Public Procurement was previously excluded by a special law for the EXPO?

The answer is partly hidden in the "little things", i.e. the differences that are noticeable in this decree in relation to the Law on Public Procurement. The first important difference is that the limits for the implementation of the procedure for which the public invitation is published are higher than those provided for by the Law on Public Procurement, so instead of the thresholds of one million dinars for services and goods and three million dinars for works, they are raised many times over - to 12 (goods, services) or 24 million dinars (works). For procurement of lower value, three bids are collected (from companies of the contracting authority's choice), without publishing a public invitation.

The second "little thing" that is omitted from the Decree, and exists in the Law, are the deadlines for submitting bids. The contracting authority must set a deadline for the submission of bids, but, unlike the Law on Public Procurement and elementary logic for a public call of any kind, there is no *minimum deadline* that can be set. Thus, there is no obstacle for one of the special EXPO 2027 companies to announce a public call for the procurement of works worth 100 million euros and to ask interested companies to send their bids by tomorrow. For comparison, in the Law on Public Procurement, when it comes to more valuable procurements, the shortest possible deadline is 15 days, and that is if there is an exceptional urgency. The existence of the possibility of shortening deadlines in the Law on Public Procurement is a key indicator that the application of that law is not excluded due to the alleged urgency of construction on the EXPO 2027 project, but for another reason - the desire to avoid any possibility of challenging the decisions on the award of contracts.

A far bigger problem than the bad solutions from the Decree is what is not regulated in the Decree, *nor could it be regulated by that type of legal act* – the protection of the rights of bidders. As Transparency Serbia warned as soon as the draft Law on EXPO 2027 appeared on the Assembly's website (there was no prior public debate or announcement), the only reason that the Government could have had to propose the exclusion of the application of the Law on Public Procurement was precisely the intention to exclude the possibility of legal protection in the event that the procurement conditions were rigged or the rules were violated in the selection of contractors. Namely, the fact that the principles from the Law on Public Procurement, such as the prohibition of discrimination, are prescribed in the Decree has no significance in a situation where a company that was interested in getting a job, but was prohibited, has no one to complain to. When procurements are carried out under Public Procurement Law, in such cases a request for the protection of rights is submitted, first to the contracting authority itself, and then to the Commission for the Protection of Rights in Public Procurement Procedures. Here, even if the public or some other state authority notices that the conditions and criteria of procurement are rigged, there would be no legal mechanism through which the contracting authority could undertake to cancel such procurement, i.e. it would only be a matter of its good will.

Recommendations

1. Development of the Program "Leap into the Future - Serbia 2027" in the manner prescribed by the Law on the Planning System, or the cessation of the practice of creating the impression in the public as if it is a program developed and applied by the state authorities of Serbia;
2. Elimination of dilemmas about what constitutes the EXPO 2027 project, i.e. which procurements will be carried out for its implementation and in what indicative value;
3. Publication of information on all procurements related to the EXPO 2027 exhibition, including those that are not carried out under the Decree, but on the basis of direct agreements (intergovernmental agreements) or (possibly) on the basis of regular public procurement procedures;
4. Urgent decision of the Constitutional Court on the initiative for the assessment of the constitutionality of Article 14 of the Special Law for the Expo and the decree adopted on the basis thereof;
5. Preparation and publication of corruption risk analysis in the adopted special law (Agency for the Prevention of Corruption);
6. Audit of public procurements conducted on the basis of the Decree by the State Audit Institution;
7. Publication of information on current procedures in a way that will allow for greater competition, even in cases where this is not required by the Decree.