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**MODERN ECONOMICS IN THE CONTEXT OF SECURITY: EFFICIENT USE OF FUNDS AND
REDUCTION OF RISKS AS ONE OF THE AIMS OF PUBLIC PROCUREMENT**

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Abstract. The purpose of this research is to analyse efficient use of contracting authority funds and reduction of its risks. Since all legal norms should be understood in the light of the aims of the law, this aim, together with others, is important in the interpretation of the Public Procurement Law. To interpret the aim correctly, it is important to understand its origins, history, how it is further reflected in law and how it is applied in practice. Therefore, authors analyse all those aspects using historical, descriptive, dogmatic and analytical research methods. Understanding of this principle is important in practice since it should be applied together with other principles, for example, equal treatment of tenderers and transparency, but it sometimes can even contradict them. Therefore, lack of understanding of this aim can lead to incorrect application of law. There is no publicly available research on this topic and, as one of the aims of the law, it is further developed and applied in practice. It is important for contracting authorities and tenderers to understand the meaning, possibilities and limitations of this principle. Therefore, this research is both original and practically applicable. As a result of the study, readers can gain more insight into the impact of this aim on public procurement.

Keywords: public procurement; aims; efficiency; principles; risks.

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1. Introduction

Different kinds of secure development and sustainability of countries, financial sector, market development, market performance, market mechanisms, marketing, marketing strategy and many others areas were considered by different scientists but specific issues in regulation of public procurement have never been addressed and require more in-depth analysis.

The aim of this research is to analyse one of the aims of the Public Procurement Law of the Republic of Latvia (hereinafter the PPL) provided in Article 2 – efficient use of contracting authority funds and reduction of its risks. Since all legal norms should be understood in the light of the aims of the law, this aim, together with others, is important in interpreting the PPL. This view is supported by S. Arrowsmith who concludes that there has been some uncertainty and confusion over the purposes of the procedural rules in the co-ordination directives, including regarding precisely how these rules are intended to contribute to the internal market. A precise understanding of these purposes is, however, of fundamental importance in developing and interpreting the rules. (Arrowsmith 2014) Efficient use of public funds is always an important issue for the society due to the fact that these funds are limited, but the needs of the society are not. Therefore, research on use of such an aim in public procurement is also topical. As U. Skrastiņa pointed out already in 2015, efficient public procurement politic is becoming increasingly topical in Latvia because it is a way to save budget funds, especially in a time when the number of workers in the government has fallen but the money should be given the greatest value (Skrastiņa 2015), and this observation is still valid today.

The hypothesis of this research is that the abovementioned aim is directly inferable from the public procurement directives of European Union (hereinafter the EU). To interpret the aim correctly, it is important to understand its origins, history, how it is further reflected in law and how it is applied in practice. Therefore, authors analyse all those aspects using historical, descriptive, dogmatic and analytical research methods, describing the emergence of this aim in the PPL and analysing both legislation and case law, as well as available publications on the topic.

The research results are that, in fact, efficient use of contracting authority funds is not directly listed as one of the principles of public procurement in the Directive 2014/24/EU, even though it is reasonably attributable to the procurement process. Therefore, it should be used with caution in cases when it contradicts aims explicitly listed as principles of procurement in the directive.

2. The history of the aim of efficient use of funds in public procurement

Article 2 of the PPL sets the aims of the law, i.e., the aim of this law is to provide 1) transparency of procurement; 2) free competition, as well as equal and fair treatment of suppliers; 3) efficient use of the contracting authorities' funds, minimizing its risks. Further we will analyse the origins and application of the third aim - efficient use of the contracting authorities' funds, minimizing its risks (PPL 2017).

Looking at the history of this aim on the national level and comparing previous versions of the procurement regulation from the restoration of the independence of the Republic of Latvia, formulations of this aim were as follows:

- Cabinet Regulation of 1 March 1994 No 60 “On Works and Supplies for State Needs” did not stated any aims of the regulation (Par darbiem un piegādēm valsts vajadzībām 1994);
- The law “On State and Municipal Orders” formulated it as follows – “to ensure rational use of state and municipal funds” (Par valsts un pašvaldību pasūtījumu 1996);
- The law “On Procurement for State or Municipal Needs” formulated it as – “efficient use of funds of state or local government, minimizing the risks of contracting authority” (but in the first version until 27

November 2002 – “efficient use of funds of state or local government”) (Par iepirkumu valsts vai pašvaldību vajadzībām 2001);

- The Public Procurement Law formulated is as – “efficient use of funds of state and local government, minimizing the risks of contracting authority” (PPL 2006);
- The latest Public Procurement Law contains formulation “efficient use of the contracting authorities’ funds, minimizing its risks” (PPL 2017).

It can be concluded that the idea of rational or efficient use of funds was included as an aim already in the law of 1996. However, only with the law of 2001 there was a necessity to coordinate the national regulation with EU regulation. Nevertheless, the annotation of the law does not contain any explanation regarding aims specified in the law, in annotation of amendments there is also no explanation on why the formulation was changed (Par iepirkumu valsts vai pašvaldību vajadzībām, Draft 2001). Annotation of the PPL of 2006 transposing Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts does not contain any explanations regarding aims of the law, as well as the annotation of the PPL of 2017, even though the latter contains a reference that the purpose of the Directive 2014/24/EU was *inter alia* the review and modernisation of procurement regulation to increase the efficiency of public spending by facilitating the participation of small and medium-sized enterprises in the procurement and to enable purchasers to make better use of public procurement to support common public objectives (*Recital 2 of the Directive 2014/24/EU quoted*).

Regarding the history of this principle in EU, the PPL of 2017 transposed the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (hereinafter the Directive 2014/24/EU), therefore it is important to understand whether the principle of efficient spending is derived from this directive since authors will not further explore the relationship between this aim and previous directives due to the limited volume of the article.

3. The place of efficient use of funds as an aim in Directive 2014/24/EU

The Recital 1 of the Directive 2014/24/EU sets that the award of public contracts by or on behalf of Member States’ (hereinafter MS) authorities has to comply with the principles of the Treaty on the Functioning of the European Union, and in particular the free movement of goods, freedom of establishment and the freedom to provide services, as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency.

Article 18 “Principles of procurement” provides that contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner; the design of the procurement shall not be made with the intention of excluding it from the scope of this Directive or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators; MS shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law. (Directive 2014/24/EU 2014) It can be seen that efficient use of funds is not explicitly listed beside other principles guiding public procurement on EU level.

However, the Recital 2 provides that public procurement plays a key role in the Europe 2020 strategy, set out in the Commission Communication of 3 March 2010 entitled ‘Europe 2020, a strategy for smart, sustainable and inclusive growth’, as one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth while *ensuring the most efficient use of public funds* [emphasis added by authors]. For that purpose, the public procurement rules adopted pursuant to Directive 2004/17/EC of the European Parliament and of the

Council and Directive 2004/18/EC of the European Parliament and of the Council should be revised and modernised in order to *increase the efficiency of public spending* [emphasis added by authors], facilitating in particular the participation of small and medium-sized enterprises in public procurement, and to enable procurers to make better use of public procurement in support of common societal goals. (Directive 2014/24/EU) As Mario E. Comba notes, the Directives of 2014 introduce for the first time in their recitals efficiency in public spending and, at the same time, reinforce the importance of the approximation of laws as a legal basis (Comba 2014).

This suggest that, at least when drafting the Directive 2014/24/EU, efficiency of public spending has been on the minds of the lawmakers. Also, the term “best value for money” is used in few places (Recital 47, 91), however, only in relation to the research and innovation and environmental protection. The wording suggests that best value for money is one of the aims of contracting authorities (for example, Recital 91 provides that this Directive clarifies how the contracting authorities can contribute to the protection of the environment and the promotion of sustainable development, whilst *ensuring that they can obtain the best value for money for their contracts*).

Therefore, it can be concluded that the idea of efficient spending of funds is present in the Directive 2014/24/EU, but it is not explicitly listed as one of its principles.

But, as S. Arrowsmith explains, in fact, the directives cannot be concerned directly with value for money as the internal market provision on which the directives are based do not confer a power to regulate for this purpose. These may be invoked only for two purposes that relate to the internal market, namely to support the “four freedoms” and to eliminate appreciable distortions of competition – as Advocate General Fennely has emphasised, “the internal market is not a value-free synonym for general economic governance”. Ensuring value for money, either in a wide sense of deciding how to balance costs with other elements in a project, or in a sense of obtaining the best possible terms from the market for what is required, has no connection to either supporting the four freedoms or eliminating distortions of competition (Arrowsmith 2014).

Also Mario E. Comba, analysing the idea of efficiency of public spending in depth, has concluded that, as for efficiency for public spending, the first problem is if the EU has competence in this field, considering articles 2 ff of the Lisbon Treaty and considering the subsidiarity principle. All the other new objectives of the Directive (green, social, innovative, corruption) can be connected to specific EU policies. Efficiency in public spending cannot, because it rests exclusively with the competence of MS. He further states that according to the doctrine analysed in his paper, one has to conclude that efficiency in public spending cannot be an objective of the Directive and that the citations of that scope in the recitals of the 2014 Directive are only the result of “confusion”. The consequence is that all the rules contained in the Directive which seem to be grounded solely on efficiency in public spending have to be carefully examined and their effects verified in the light of the legitimate objectives of the Directive. Just to give an example, arts. 37 and 38 of Directive 2014/24/EU, allowing provisions on centralised purchasing and occasional joint procurement, should be strictly interpreted and verified against their effect on cross-border procurement (as it is in fact warned by recital 53) because the fact that they are often proclaimed, especially by MS (like Italy), as a perfect tool for efficiency in public spending is not sufficient to justify in light of the Directive a possible negative effect on cross-border procurement (Comba 2014).

This conclusion is based *inter alia* on view of other authors, e.g., as Mario E. Comba puts it, one of the most accurate studies on the subject by Arrowsmith and Kunzlich states that the only legal objective for the public procurement directives is the development of the internal market, through three main means: the prohibition of discrimination, the requirement of transparency in order to prevent discrimination and finally the removal of restrictions on the access to the market. In this framework, there is no room for pursuing efficiency in public spending, which, according to Arrowsmith and Kunzlich, is not and cannot be an autonomous objective of EU Directives on public procurement (Comba 2014).

Therefore, as far as the EU is concerned, this aim is not directly inferable from the procurement directive and it is even suggested that it should be used with caution if it contradicts the principles explicitly listed in the Directive 2014/24/EU. This creates a question on relationships of different aims, and one must admit that there is a room for possible conflicts between different aims in practice and risks for contracting authority to apply the regulation incorrectly.

Regarding case-law Mario E. Comba has concluded that the relevant European Court of Justice case law does not analyse carefully the issue of the purpose of the public procurement directives, limiting itself to repeat the formula which refers to the elimination of trade barriers and fostering competition (Comba 2014).

4. Possible conflicts of aims when applying the law

It is important to highlight that MS's approach to value for money in its narrow sense may differ according to their factual circumstances, such as the degree of training of officials, extent of corruption and nature of the market. This may be reflected in, *inter alia*, the different emphasis given by different MS to transparency and, in particular, to the role of discretionary decision-making. This creates significant potential for conflict between national interests in value for money and the EU's own transparency principle as it is employed to address the issue of the internal market (Arrowsmith 2014). According to S. Arrowsmith so far as the objective of best value is concerned, the transparency is seen in government procurement systems as the most appropriate means of ensuring best value in general, as well as an essential means of ensuring that procurement is not influenced by protectionist considerations in contravention of international rules prohibiting discrimination. However, the extensive limitations on the discretion of procurement officials which the concept of transparency demands may prevent officials from maximising value for money, particularly in complex and high-value procurement transactions. *For example*, while formal tendering procedures which forbid negotiations with suppliers may help to remove opportunities for improper influences on the selection process, it may be difficult to elicit the most appropriate proposals from bidders without such negotiations (Arrowsmith 1998).

From similar perspective, according to Dekel, on the one hand, commitment to equality may be viewed as an intrinsic value of the public tender mechanism, in light of the Government's status as the public's trustee. On the other hand, it can be argued that Government's commitment to equal opportunity in its contracting is purely instrumental and only justified if it promotes economic efficiency or prevents corruption. It follows from the latter that if the commitment to equal opportunity fails to serve these purposes or even runs counter to any of them, it should give way to these more important, independent values. Typically, this distinction will have practical significance when a particular public tender process pits equality against efficiency. The following example can serve to illustrate this distinction: kept by a traffic jam from reaching the procuring entity's office on time, an offeror is slightly late in submitting her offer. It later transpires that hers was the best offer, far better than the runner-up's. If equality is considered to be of instrumental value only, the tendency to overlook the flaw and accept the better offer will be greater than if the equality is perceived as an intrinsic public tender value (Dekel 2008).

These are only two examples, but they remind us about the practical importance of understanding the application and hierarchy of different aims. It is also important to understand the value national legislator is allowed to allocate to each aim, i.e., whether and to what extent it is allowed for the MS or contracting authority to modify those principles in case of EU public procurement regulation. This should be explored further in another article.

5. The view of the Supreme Court

It seems that the Latvian legislator has not paid special attention to the fact that the Article 18 of the Directive 2014/24/EU does not refer to efficient use of funds as one of the principles of procurement, at least explicitly.

In the light of the above it is interesting to see that the Supreme Court of the Republic of Latvia has done the same – in its summary of case law in public procurement it starts first chapter “Legal regulation and Principles” by referring to the EU directives 2004/17/EC and 2004/18/EC and further provides that from these legal acts the basic principles of public procurement can be concluded, quoting Article 2 of PPL, *inter alia*, efficient use of state and municipality funds (Supreme Court 2017). The same conclusion is drawn also in its judgements, taking it even one step further – the Supreme Court has concluded that the basic purpose of public procurement law is to ensure equal treatment in the award of procurement, which would exclude unfair competition between tenderers, and grant pre-known advantages to a particular tenderer against other competitors; thus, *the main objective of the public procurement regulation is achieved – to save public funds* [emphasis added by authors] (Supreme Court SKA-58/2013).

Also in a case regarding contracting authority rights to issue a complaint on decision of the Procurement Monitoring Bureau, the Supreme Court has stated that, even though for the contracting authority it might seem that the decision of the Procurement Monitoring Bureau is directed against the contracting authority, the difference in interests is apparent; *the common and only interest is to use the state budget resources as efficiently as possible*, and the higher authority in the procurement process, like in any administrative process, prevents errors of the lower authority (Supreme Court SKA-446/2008). The same idea appears later – court stated that requirement for the association of suppliers to establish itself according to a specific legal status, if this is necessary for the successful implementation of the terms of the contract, is an exceptional case. However, the efficient use of state and municipal funds, minimizing the risk of the contracting authority, cannot be recognized as an exceptional circumstance, as such interest exists in every procurement and *is one of the objectives recognized by the Directive* and the Public Procurement Law, which are generally taken into account when developing specific norms (Supreme Court SKA-1/2016).

Accordingly, in Supreme Court’s opinion saving of public funds is the main aim of public procurement, even though, at least regarding regulation on EU level, such conclusion is questionable.

6. Possible explanations regarding different approaches

Such a mismatch, as it first appears, can be seen also from the EU perspective. As Mario E. Comba puts it, it remains, however, to explain the presence of so many references in official European documents to the connection between public procurement and value for money. A possible explanation of this potential contradiction is that value for money is a consequence of a public procurement, not an objective: “better value for money is certainly one of the benefits intended to follow from the internal market and, in particular, from the procurement directives (...) On the other hand, the EC procurement rules are not directed at achieving value for money per se” (Citation of Arrowsmith and Kunzlich). Mario E. Comba concludes that, in effect, what can be said is, elaborating from this position, that the Treaty only assumes the point of view of economic operators wanting to sell their products, services or works in other MS and therefore does not care about possible positive consequences of an increase in cross-border trade like the saving of public money. In other words, what happens in reality is the same thing, but it is seen as removing trade barriers and discrimination from the point of view of the Treaty – while it is seen as value for money from the point of view of the contracting authorities of the MS. In effect, the pursuit of efficiency in public spending is a competence of the MS, whose legislation, under different legal schemes and with different tools, regulates public procurement under that perspective (Comba 2014).

Also S. Arrowsmith points out that from the perspective of those who fund the procuring entity, control of expenditure is the primary concern. Once a decision to spend funds on a particular project or service is taken, the question arises of how to obtain value for money in providing the project or service. This refers, in particular, to ensuring that the goods, works and/or services are effective in meeting governmental objectives and that they are

acquired on the best terms available, taking into account the need to balance cost and other considerations, such as product or service quality (Arrowsmith 2014).

In line with the idea above is the practice of the Supreme Court, i.e., it has set that there are aspects of procurement process that it does not evaluate. The Supreme Court has pointed out that, despite the fact that one of the goals of public procurement is to ensure efficient use of state and municipal funds, it is not the task of the court to make sure that the particular procurement is economically beneficial or useful to the contracting authority. The purpose of ensuring the efficient use of state and municipal funds in the PPL is related to the norms that regulate the selection criteria of the tenderer, including the right to reject unreasonably cheap tenders. However, in case of violation of the Law on Prevention of Squandering of the Financial Resources and Property of a Public Person or other regulatory enactments, the court may adopt an adjacent decision in accordance with Article 288(1) of the Administrative Procedure Law, but for this reason the decision of the Procurement Commission cannot be declared unlawful (Supreme Court SKA-122/2015).

The court has admitted that, regarding on whether the requirements are efficient enough to achieve the aims, the court is limited in its assessment, and it depends from considerations of the contracting authority. From the view of the PPL it is only important whether the requirements are equal to all tenderers and are not discriminatory. The economic feasibility and adequacy of the requirements, insofar as it does not discriminate against the tenderer or distort competition, shall be assessed by the tenderer who chooses to participate in the procurement or not and at what price. (Supreme Court SKA-134/2013; SKA-410/2013) Determining the qualitative requirements of the subject of the procurement, in so far as it does not unduly restrict competition, is merely the discretion of the contracting authority. Neither the possible tenderer nor the court can intervene within the competence of the contracting authority to determine the requirements which the procurement object must meet (Supreme Court SKA-1315/2015).

Therefore, also the Supreme Court has divided the aspects of legality and economy of the procurement, leaving the latter to the competence of the contracting authority. Of course, when referring to the directive and formulating statements, this difference should be kept in mind because a direct reference that the efficiency of spending is one of the aims of the procurement directives still remains misleading.

7. Additional aspects regarding efficient use of funds

Previous conclusions of the court also point out two additional aspects of the regulation. First is the existence of a separate set of regulation on efficient spending of public funds. Article 1 of the Law on Prevention of Squandering of the Financial Resources and Property of a Public Person sets that the purpose of this law is to ensure that the financial resources and property of a public person is utilised lawfully and in conformity with the public interest, to prevent the squandering and ineffective utilisation of such financial resources and property, as well as to restrict the corruption of State officials. Article 3 of this law provides that a public person, as well as a capital company shall administer the financial resources and property rationally, that is (Publiskas personas finanšu līdzekļu un mantas izšķērdēšanas novēršanas likums 1995):

- 1) actions shall be such as to achieve the objective with the minimum utilisation of financial resources and property;
- 2) property shall be alienated and transferred to the ownership or use of another person at the highest price possible;
- 3) the ownership or use of property shall be acquired for the lowest price possible.

Hence, it could be suggested that the principle of effective use of funds in general is already an aim of a different law (of course, there could be some nuances regarding persons concerned by this law and PPL) and breaches of this law should be accordingly prevented. On national level also the Law On Budget and Financial Management

provides that heads of authorities financed from the budget, institutions non-financed from the budget and local governments, as well as of capital companies, in which a State or local government capital share has been invested, shall be responsible for the observance, implementation and control of the procedures and requirements laid down in this Law, as well as for the efficient and economic utilisation of budgetary funds in conformity with purposes intended (Likums par budžetu un finanšu vadību 1994). Application of these laws is outside the scope of this article.

Second aspect is the understanding of the meaning of the aim. Dekel has pointed out that, having established that the public tender mechanism is intended to achieve, *inter alia*, economic efficiency, it is worth recalling that such efficiency is a complex concept and that economically efficient contracting therefore may be defined in different ways (Dekel 2008). To understand what an efficient use of the contracting authorities' funds is, one should be able to understand the meaning of words "efficient use", since the term "contracting authority" is defined in the law and, although confusion may arise in some situations, ownership of funds is also mostly clear. As defined by Oxford dictionary, "efficient" is "(of a system or machine) achieving maximum productivity with minimum wasted effort or expense" (Oxford n.d.). Since the term "efficient use of funds" is used, it could be formulated as – achieving maximum value with minimum expense, or, in other words, obtaining best value for money. As provided above, according to the Supreme Court, in relation to public procurement this aim is related to the norms that regulate the selection criteria of the tenderer, including the right to reject unreasonably cheap tenders. Of course, the practical application of this aim will differ in each situation, but the authors agree that it manifests itself most obviously in case of contract award criteria. The relationship between different evaluation criteria is a separate topic, analysed in more detail in the doctoral thesis of U. Skraстіņa (Skraстіņa 2015).

Further, minimization of contracting authorities' risks is also a broad term that could include safe products, works or services (related to technical specification), reliable offer (e.g., tender security) and safe contract conditions (contract security etc.). As the Supreme Court has put it, the aim of public procurement procedure is, on the one hand, to protect tenderers' right to free competition and equal and fair treatment, on the other hand, the contracting authority's interest in obtaining the best value, including the cheapest offer, while ensuring the efficient use of funds. Effective use of state and municipal funds, minimizing the risk of the contracting authority, does not only include the formal choice of the cheapest offer, but also the choice of a safe and serious offer (Supreme Court SKA-24/2014). Regarding unreasonably cheap tenders the Supreme Court has explained that the procedure set in law is aimed at enabling the tenderer to justify the fact that his bid, although low in price, is serious and genuine, and for the procurement commission not to reject an objectively more advantageous offer. Also, taking into account requirements of the Law On Prevention of Squandering of the Financial Resources and Property of a Public Person an objectively unjustified rejection of an offer with a lower price is not permissible (Supreme Court SKA-182/2012).

It can be concluded that this aim has a complex nature and it can manifest itself in different situations during the procurement process, therefore creating necessity to apply it in relation to other principles.

Regarding the aim of efficient use of funds, one should also keep in mind that, even though the place of this aim in the hierarchy of the EU public procurement principles is questionable, when comparing the procurement systems, efficiency is one of the indicators that is evaluated. For example, in an assessment of the European Bank for Reconstruction and Development procurement system of Latvia scores high in uniformity and competition, but low in efficiency of the public contract (European Bank for Reconstruction and Development 2011). As U. Skraстіņa points out, legal regulation is closely linked to the economic efficiency of the procurement, and these two aspects are inseparable, but focusing only on the legal aspect alone can lead to a successful procurement, but low economic efficiency (Skraстіņa 2015). And public procurement is the field where both of these aspects are equally important to obtain goals set for the procurement process.

Conclusions

1. It can be concluded that the hypothesis that the aim of efficient use of public funds is directly inferable from the public procurement directives proved to be wrong – it is not explicitly defined as one of the principles of public procurement in Directive 2014/24/EU (for example, in Article 18).

2. According to some authors, it is even suggested that efficient use of funds “is not and cannot be an autonomous objective of EU Directives on public procurement” (Arrowsmith, Kunzlich, Comba), considering the EU competence.

3. The Public Procurement Law states efficient use of funds as one of the aims of the public procurement and neither the legislator, nor the Supreme Court of Latvia has paid specific attention to the fact that such an aim is not defined in the Directive 2014/24/EU.

4. Considering the differences between principles listed in the Directive 2014/24/EU and the aims of the Public Procurement Law, these principles could collide, and both the contracting authorities and other persons involved in procurement process should be aware of such a possibility and possible limitations of the use of principle of efficient spending, since it may have a practical implication on the decisions in procurement process.

5. The Supreme Court, however, has ruled that conflicts related to the efficiency of public spending should be resolved according to the Law on Prevention of Squandering of the Financial Resources and Property of a Public Person, providing a mechanism that *prima facie* does not contradict the principles of EU public procurement regulation.

6. The concept of efficient public spending is complex in its nature and it is important for contracting authorities and Member States to understand its place in the procurement system.

7. Further research is needed to conclude the specific relationships between other procurement principles both on EU and national level and develop guidelines for cases of conflicts.

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