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**Parallel Session: “Law and policies for  
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**“Law and policies for socially  
responsible public procurement - The  
Greek context”**

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# Outline of the paper



- National legal provisions regarding basic mechanisms for Socially Responsible Public Procurement (SRPP) in Greece
- Implementation status regarding basic mechanisms for SRPP in Greece
- Policy orientations regarding basic mechanisms for SRPP in Greece (National PP Strategy 2021 - 2025)

# The Greek Public Procurement Law



**Law No 4412/2016 “Public Contracts for Works, Goods and Services (transposing EU Directives 2014/24/EU and 2014/25/EU)” (OJ 147/8.8.2016)**



One single legal act regulating:

- ❑ all types of public contracts regardless subject matter (works / goods /services) or value (both above and below the EU Directives’ thresholds)
- ❑ for all types of awarding authorities (state and local government)

# Basic SRPP mechanisms in L. 4412/2016



- ❑ **Reserved contracts fostering social and professional integration of disabled or disadvantaged persons** (art. 20 of L. 4412/2016 transposing art. 20 of Directive 2014/24/EU)
- ❑ **Reserved contracts for the procurement of social and other special services** (art. 110 of L. 4412/2016 transposing art. 77 of Directive 2014/24/EU)
- ❑ **Use of a social aspect as criterion for awarding a contract** (art. 86 par. 2 - 3 of L. 4412/2016 transposing art. 67 of Directive 2014/24/EU)
- ❑ **Use of a social consideration as a condition for performance of a contract** (art. 130 par. 2 - 4 of L. 4412/2016 transposing art. 70 of Directive 2014/24/EU)

# Reserved Contracts fostering social and professional integration (art. 20 of L. 4412/2016)

Contracting authorities may (but are not obliged) to reserve the right to participate in public procurement procedures for:

- ❑ **Sheltered Productive Workshops of Law No 2646/1998 on the National Social Care System** (specialized productive units offering sheltered employment to people who cannot work in the regular labour market due to severe disability)
- ❑ **Limited Liability Social Cooperatives known as “KOISPE” of Law No 2716/1999 on the Mental Health Reform** (social economy actors which are both mental health units and productive units employing people with psycho-social problems)
- ❑ **Integration Social Cooperative Enterprises known as “KOINSEP Entaxis” of Law No 4019/2011 on Social Economy** (social economy actors with at least 40% of their staff belonging to “vulnerable” groups, meaning people who face integration difficulties due to disability, health problems or a criminal offence record) – **Attention: The Public Procurement Legislation (L. 4412/2016) refers to the old Law of Social Economy (L. No 4019/2011), which has been replaced by the new Law on Social and Solidarity Economy (L. No 4430/2016). The lack of update in the PP legislation causes implementation difficulties because there are significant changes regarding the legal form of KOINSEP Entaxis.**
- ❑ Any other economic operator with at least 30% of its staff being disabled or disadvantaged workers (the PP legislation does not clarify the notion “disadvantaged workers”)

# Reserved Contracts for Social and other special Services (art. 110 of L. 4412/2016)



When awarding contracts for certain services (**social, health and cultural services** referred in the Annex of the law), contracting authorities may (but are not obliged) to reserve the right to participate in public procurement procedures for **Social Cooperative Enterprises** (registered with the public Social Entrepreneurship Registry) which:

- (a) have a **statutory purpose** of fostering social and professional integration of disabled or disadvantaged people
- (b) provide **employment** to disabled or disadvantaged people (at least 30% of their total staff)
- (c) fulfill the following conditions:
  - ❑ their **objective** is the pursuit of a public mission relevant to the services to be contracted –their **profits** are reinvested with a view to achieving its objective
  - ❑ their **management or ownership structures** are based on employee ownership or participatory principles, or require the active participation of employees, users or stakeholders
  - ❑ **within the past three years, they have not been awarded a contract** for the services concerned by the contracting authority concerned under the same procedure

**Attention:** The requirement of an objective regarding the pursuit of a public mission related to the special (social etc.) services is what the EU Directive provides. The requirement of a statutory purpose regarding socio-economic integration of disabled and disadvantaged people has been added by the Greek legislator and causes serious implementation problems (in Greece, Social Cooperative Enterprises can only be registered either as integration cooperatives OR as common and social benefit cooperatives – NOT BOTH)

# Social aspects as awarding criteria (art. 86 par. 2 - 3 of L. 4412/2016)



- ❑ Contracting authorities base the award of public contracts on the **most economically advantageous tender (MEAT)**
- ❑ The MEAT may include the **best price-quality ratio (BPQR)**, which is assessed on the basis of criteria, including, among others, **social aspects linked to the subject-matter of the public contract in question.**
- ❑ The social aspects are mainly specified as follows:
  - i) **employment of vulnerable workers** for a time period of at least twelve (12) months before the participation of the economic operator to the procurement procedure - **Attention: this provision is contradictory since it is doubtful that the aspect qualifies as a “criterion linked to the subject matter of the contract”**
  - ii) **facilitation of social and/or work integration of vulnerable persons**
  - iii) **combatting discriminations**
  - iv) **promotion of gender equality**

# Social considerations as conditions for contract performance (art. 130 par. 2 - 3 of L. 4412/2016)



- ❑ Contracting authorities may impose **special conditions relating to the performance of the contract** and including, among others, **social considerations linked to the subject-matter of the public contract in question** indicated in the call for competition or in the contract documents.
  
- ❑ The social considerations are mainly specified as follows:
  - i) **employment of vulnerable workers**
  - ii) **facilitation of social and/or work integration of vulnerable persons**
  - iii) **combatting discriminations**
  - iv) **promotion of gender equality**

*Attention – The law provides that implementation details are to be specified through a common ministerial decision, which has not been issued yet.*



# Implementation status of SRPP mechanisms in Greece (1)



The only SRPP mechanism which has been **implemented** in Greece with **several good practice cases** corresponds to the **reserved contracts fostering social and professional integration of disabled or disadvantaged persons** (art. 20 of L. 4412/2016).

This can be attributed mainly to:

- ❑ A “pro reserved contracts policy”, which was initiated by the Ministry of Health and several awarding authorities in the late 1990s as a result of the mental health reform for the work integration of people with psycho - social problems and is still active
- ❑ A dedicated and experienced community of Work Integration Social Cooperatives for people with psycho-social problems (KOISPEs)

# Implementation status of SRPP mechanisms in Greece (2)



- ❑ Reserved contracts for special services: no actual implementation yet
- ❑ Use of social clauses as award criteria or conditions for performance: no actual implementation yet

## **REASONS:**

- **Policy inadequacies** (lack of a comprehensive long term SRPP strategy)
- **Institutional inadequacies** (contradictory provisions in PP legislation and lack of coordination with the Social Economy legislation, pending regulatory framework etc.)
- **Administrative inadequacies** (lack of awareness among contracting authorities, lack of technical assistance and guidance for implementation)

# National PP Strategy & Action Plan 2021 – 2025

(1)



**Institutional framework:** art. 139 par. 78 of Law No 4782/2021 (the state revises the national PP strategy every 5 years)

**Elaboration: January 2021** by the Hellenic Single Public Procurement Authority (HSPPA)

**Adoption: May 2021** by the Ministers of Finance – Development & Investment – Health – Justice – Infrastructure and Transport – State (Common Ministerial Decision No 58305/25.5.2021)

# National PP Strategy & Action Plan 2021 – 2025

(2)

The current national PP Strategy and Action Plan includes, among others, a series of actions pertaining to the promotion of SRPP under the title “**Actions for the enhancement of Social Economy**” :

- ❑ Drafting a regulatory framework focusing on reserved contracts for work integration social enterprises
- ❑ Elaborating a comprehensive action plan for the integration of SRPP policies
- ❑ Setting up a support mechanism for social cooperatives interested in bidding for public contracts
- ❑ Drafting a SRPP Guide
- ❑ Organize events for raising awareness regarding SRPP among awarding authorities and social economy actors

**ATTENTION:** the same actions were provided under the previous National PP Strategy 2016 – 2020 but were not implemented

# References



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**THANK YOU FOR YOUR  
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