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**The Bulgarian Ministry of Defense
Procurement System in Theory and Practice
– A Ministry of Defense Perspective**

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June 2003**

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**THE BULGARIAN MINISTRY OF DEFENSE PROCUREMENT
SYSTEM IN THEORY AND PRACTICE
– A MINISTRY OF DEFENSE PERSPECTIVE**

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I. INTRODUCTION

A. BACKGROUND

The Ministry of Defense of the Republic of Bulgaria is a complex organization that ensures the political command and civilian control over the Armed Forces of the state. It translates the policy of the Government from the National Assembly through the Council of Ministers towards the military structures responsible for the national security of Bulgaria.

The Minister of Defense is directly responsible for conducting the government policy in the Armed Forces. Under his control are defense planning, personnel and social policy, training, health and planning activities, state-owned military property maintenance and management, and budget allocation for the Ministry of Defense (MoD). The Minister of Defense is the only legitimate representative of the Ministry in dealing with third parties as the Government, officials, political, non-political or trade organizations and institutions, and contracting procedures. He controls directly the officers' staff policy in the Armed Forces.¹

The General Staff is the main body that provides the strategic management of the Bulgarian Armed Forces in peacetime and wartime and the implementation of the tasks laid down in all national security and defense documents. It works under the command and direct control of the Minister of Defense.

All the civilian, trade and contracting legislations of the state are fully applicable in the structures of the Armed Forces. Their implementation is supported with detailed explanatory instructions, regulatory acts, or other documents in the form of orders of the Ministry of Defense.

In such an environment the system for procurement of armament, ammunitions, specialized military equipment, support materiel, spare parts and other supplies, could not be localized in a particular structure. As far as the requests for acquisition or the input

¹ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

information is provided by the planning organizations of all the different armed forces, (based on the approved annual plans for training, exercising, deployment and other activities), the system should deal directly with military formations and units from all the levels of the military organization. In addition, the input information should be verified with the existing standards and with the applied measures for military security, which are activities delegated to different agencies under military control.

On the other side the process of marketing, negotiating and contracting widely involves interactions with organizations outside the Ministry of Defense. The Minister of Defense, as the only legitimate representative authorized to sign all the contracts in the name of the Ministry, is widely involved in the procurement system too.

In this situation proper understanding of the processes, the internal and external connections, and the legislative base for organizing the managing of the procurement system is highly advisable.

In addition, the analysis for possible improvements of the system is highly recommended in order to increase the efficiency of the implied practices.

B. PURPOSE OF THE PROJECT

This project analyses the theoretical and legislative base for establishing and functioning of procurement system in the Ministry of Defense of the Republic of Bulgaria. It will analyze the present practices and their congruence with the theoretical base and the national security interests from the MoD perspective. In addition, the project will analyze some key areas for possible improvements of the system in order to obtain its higher efficiency.

C. RESEARCH QUESTIONS

1. PRIMARY RESEARCH QUESTION

- What is the congruence between the theoretical and the legislative bases for

developing the procurement system of the Ministry of Defense and the present practices applied with its functioning?

2. SECONDARY RESEARCH QUESTIONS

- Where is the position of the procurement system in the structures of the Ministry of Defense and the other military organizations?
- Which are the theoretical and the legislative bases for the procurement system functioning?
- What is the structure of the planning process in connection with the procurement system?
- Which are the strengths and the weaknesses of the system?
- Which are the key areas for improvements?
- Which are the additional questions that should be analyzed further?

D. SCOPE OF THE PROJECT

This project is focused on the procurement system theory and practices from the Ministry of Defense perspective. It does not intend to discuss the problems from the request-makers and from the consumers' points of view. In addition, the analysis in the project is limited to the implementation of the procurement system in regards of the Air Force only. The processes in connection with the other types of armed forces have no significant differences. In addition, the procured equipment for the Air Force is costly and has high variety of foreign manufacturers, nomenclatures, standards, security and safety requirements, and warranty procedures.

The project is not focused on the applied command and control practices in the Ministry of Defense and the existing procurement system, or their efficiency and congruence, as well as on problems connected with equipment and communication problems.

E. ORGANIZATION OF THE PROJECT

This project is divided into four subsequent chapters.

Chapter II – The Procurement System in Theory provides a review on the MoD structure and the procurement system allocation, and discusses the legislative base and the applied objectives and principles. It also provides analysis of the process of procurement planning and some objective constraints in the system.

Chapter III – The Procurement System in Practice discusses the process of acquisition, the scope of responsibilities, the congruence with the applied theory, and the effectiveness of the system.

Chapter IV – Key Areas for Possible Improvements presents analysis of some possible improvements, together with the existing constraints against improvements and ways for motivation towards changes.

Chapter V – Conclusions provides assessment of the efficiency of the system, some recommendations and possible areas for further researches

II. THE PROCUREMENT SYSTEM IN THEORY

A. MINISTRY OF DEFENSE ORGANIZATIONAL STRUCTURE

1. AUTHORITIES

The Constitution of the Republic of Bulgaria and the acting laws stipulate the powers of the National Assembly, the President of the Republic, the Council of Ministers, the Minister of Defense, and the Chief of the General Staff in managing defense. Common knowledge of the division of authorities is proper for better understanding of the bureaucratic nature of the organizational structure of the Ministry of Defense. All the activities, authorities, administrative relations, and processes are strictly defined with the acting laws, implemented rules, and internally issued instructions, orders, and Codes, empowered by the Minister of Defense.

In Article 34 the Defense Act states that the Minister of Defense manages, coordinates, controls and is responsible for the implementation of the government policy into the Ministry of Defense and into the Armed Forces.² The same article establishes that the Minister of Defense, his deputies, and the other members of the Political Cabinet are civilians. All the authorities of the Minister of Defense are contained in Articles 35, 36, and 37 of the Defense Act.³ In such a way the Defense Act ensures the total civilian control over all the activities into the Ministry of Defense and the Armed Forces.

The organizational structure of the Ministry of Defense is based on The Structural Code.⁴ It is a compilation of the acting legislative papers that address all the main activities in the Ministry of Defense as a public, political, and military organization. The Structural Code reflects the necessity for fulfillment of the main short-term and mid-term goals of the Government policy for becoming a NATO member and the Armed Force's modernization plans. It consists of all the rules for managing and administrating the organizational elements.

² Defense Act, published in State Paper # 112 / December 27, 1995.

³ Defense Act, published in State Paper # 112 / December 27, 1995.

⁴ Structural Code, published in State Paper # 72 / August 13, 1999.

The administrative reform has placed strict requirements to the structure of the administration that led to a significant downsizing of the MoD personnel. As a result by January 1, 2002 the organizational structures, the administrative units, and the secondary budget holders amount less than 7400 people and this figure will be reduced further.⁵

There are many stakeholders interested in the Ministry of Defense and the Armed Forces management, due to the large potential of power focused in the military organization and its great importance for the national security of the state. All the political players and organizations in the state are highly interested to obtain strong influence into the military structures. In order to prevent the misuse of the military power the Constitution of the state delegates authorities to manage the military organizations only to the Government institutions with the highest rank as the National Assembly, the President, and the Council of Ministers. In addition, the decision for the use of force is not in the prerogatives of the military commanders. The strong civilian control has to prevent additionally internal or external preparations or direct misuse of force. In this case the bureaucratic character of the organization with strictly defined rules, roles, and responsibilities is highly recommended and designed purposefully. The clear hierarchy of authority in the highly centralized structure of the Ministry of Defense and the Armed Forces is to prevent any higher level of uncertainty due to an unstable environment or unacceptable activities of the stakeholders.

2. ORGANIZATIONAL STRUCTURE

The Ministry of Defense of the Republic of Bulgaria accommodates different directorates, agencies, services and other elements in connection with:

- Political command and control;
- Military command and control;
- Financial resources command and control;
- Legal activities;

⁵ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

- Civilian control;
- Security and Military Intelligence;
- Military education.

In accordance with their purpose, the administrative units of the Ministry of Defense are integrated into general or specialized administration. Figure 1 presents the diagram of the organizational structure of the Ministry of Defense of the Republic of Bulgaria.

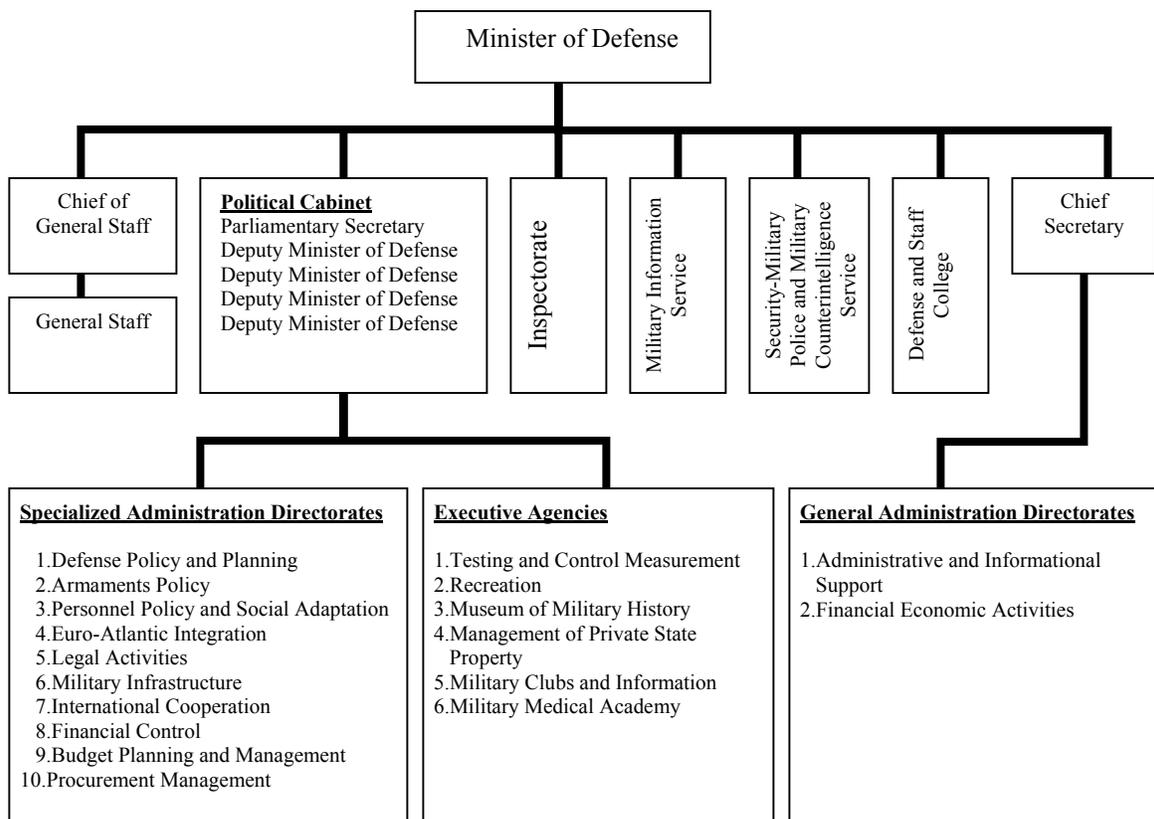


Figure 1: Organizational structure of the Bulgarian Ministry of Defense.

Accompanying activities, including services to civilians, are concentrated in executive agencies that report directly to the Minister of Defense. A Chief Secretary carries out the administrative management at the MoD providing the Ministry's

administrative functioning and the organizational link between the Political Cabinet and the administrative units.

The General Staff is the main body that provides the strategic management of the Bulgarian Armed Forces in peace and wartime and the implementation of the tasks laid down in all national security and defense documents. The Chief of General Staff manages it and reports directly to the Minister of Defense. The General Staff is separated structurally from the Ministry of Defense in order to achieve relative independence in its functioning under the civilian control of the Ministry of Defense. The structure of the General Staff ensures the military command and control of the Armed Forces in support of the Chief of General Staff functions.

The structure of the General Staff and other headquarters in the Bulgarian Armed Forces is in line with the unified staff structure adopted by NATO member states.⁶

3. ORGANIZATIONAL ANALYSIS

The Administration Act⁷, the Structural Code, and the acting instructions define all the tasks and interactions throughout the Ministry of Defense as an organization. Any interdependence and common activities among different parts of the organizations are solved throughout the centralized channels of authority. And still the routine technology of the decision taking process, the paper preparation, orders issuance and their endorsement involves the participation of most of the main elements of the Ministry of Defense.

In addition, the flow of information uses only vertical channels. No official information passes among the elements of the organization without endorsement of a common level of command.

⁶ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

⁷ Administration Act, published in State paper # 130 / October 05, 1998.

According to the definition of James Thompson, quoted by Richard Daft,⁸ there is a high level of pooled interdependence in the MoD organization where work does not flow horizontally among different parts of the system.

Burns and Stalker, quoted by Richard Daft, characterize such an organization as highly mechanistic.⁹ Some of the problems in such a design are low speed of informational flow, difficult interactions, and blurred responsibilities in interdependence. But adopting such a structure is another way to decrease the existing organizational uncertainty, which is one of the main goals of bureaucratic organizations as the Ministry of Defense.

In addition, such a structure is intentionally designed in order to ensure the possibility for overall control on the activities and visibility of the processes on account of the specific importance of the taken decisions for the national security of the state.

B. ORGANIZATION OF THE PROCUREMENT SYSTEM

1. STAGES OF THE ACQUISITION PROCESS

The process of acquisition could be divided into three main stages in accordance with the involved procedures and responsibilities (see Figure 2).

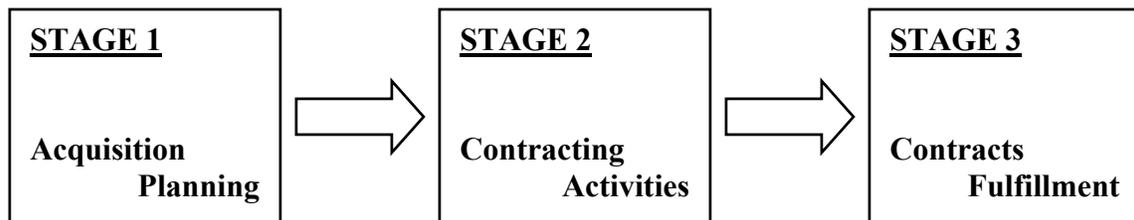


Figure 2: Three main stages in acquisition process.

⁸ Richard Daft, “Organization – Theory and Design”, Cincinnati, Ohio: South Western College, Publishing, 1998, 6th edition, p. 88.

⁹ Richard Daft, “Organization – Theory and Design”, Cincinnati, Ohio: South Western College, Publishing, 1998, 6th edition, p. 88.

The first stage – Acquisition planning, involves different logistics planning units throughout the Armed Forces’ structures and the General Staff. All of them are under General Staff command and are not assigned as detached parts of the procurement system.

The planning process is a core function of the logistics planning units under the control of directly involved command. There are no officially assigned responsibilities to those units in connection with the procurement system, only with the planning procedure.

The second stage – Contracting activities, includes specific procedures assigned to the procurement system. It consists of standards verification, security measures and procedure confirmation, marketing, competition assignment, negotiating, and contracting.

Those procedures are based on the Public Procurement Act¹⁰ that is interpreted additionally in Instruction of the Minister of Defense.¹¹

The Procurement Management Directorate is part of the Ministry of Defense organizational structure (see Figure 1) and brings the responsibilities for the overall management of those procedures, working with different organizations and institutions in and outside the Ministry of Defense.

As far as the Minister of Defense is the only legal and officially authorized representative of the Ministry of Defense¹², at this stage the Procurement Management Directorate works for him to prepare the contracts and to organize their signing.

The third stage – Contracts fulfillment, includes procedures for contracts fulfillment control, products deliveries control, warranty procedures fulfillment, replacements, and claims. The responsibilities for those activities are not assigned specifically to any part of the procurement system with particular order, paper, or act. As part in the contracts the Minister of Defense should be responsible for their fulfillment but he has no capabilities to manage such responsibilities. As organizational element that prepares the contracts the Procurement Management Directorate brings the

¹⁰ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

¹¹ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Ministry of Defense, issued on October 10, 2001.

¹² Defense Act, published in State Paper # 112 / December 27, 1995.

responsibilities for those procedures and works with different agencies assigned to the Ministry of Defense and authorized to work with the Customs, as trade organizations, or with delivery companies.

2. ORGANIZATIONAL STRUCTURE

Figure 3 presents all the elements from the Ministry of Defense and the General Staff that are involved into the procurement system during different stages.

The Armed Forces are main customers for the procurement system. They report to the Headquarters corresponding to their service. In so far as the Headquarters are responsible for the consolidated requests for acquisitions, they could be viewed as the first level of the procurement system. The connected activities for the consolidated requests' preparation are similar for all the Armed Forces' Headquarters.

The Command for Material and Technical Support (and Medical Services) is the next level of the procurement system. It is included into J4 - Operations Division of the General Staff structure and is responsible for the common acquisition planning process.

Both levels include military formations under the General Staff overall command. They are not assigned parts of the procurement system but still they provide the resource information for the system and take part during the first stage of the acquisition process.

The Procurement Management Directorate is the main body of the procurement system that works with different military structures, structural parts of the Ministry of Defense and the General Staff, civilian organizations, agencies, and institutions, in the name of the Ministry of Defense. In this case the positioning of the Procurement Management Directorate into the Ministry of Defense organizational structure is appropriate.

A civilian Director heads the Directorate and reports to the assigned Deputy Ministers. The Director is responsible for the administrative management of his Directorate and of the procurement system. To influence other agents into the Ministry of Defense or the General Staff he could use only the formal vertical channels of authorities.

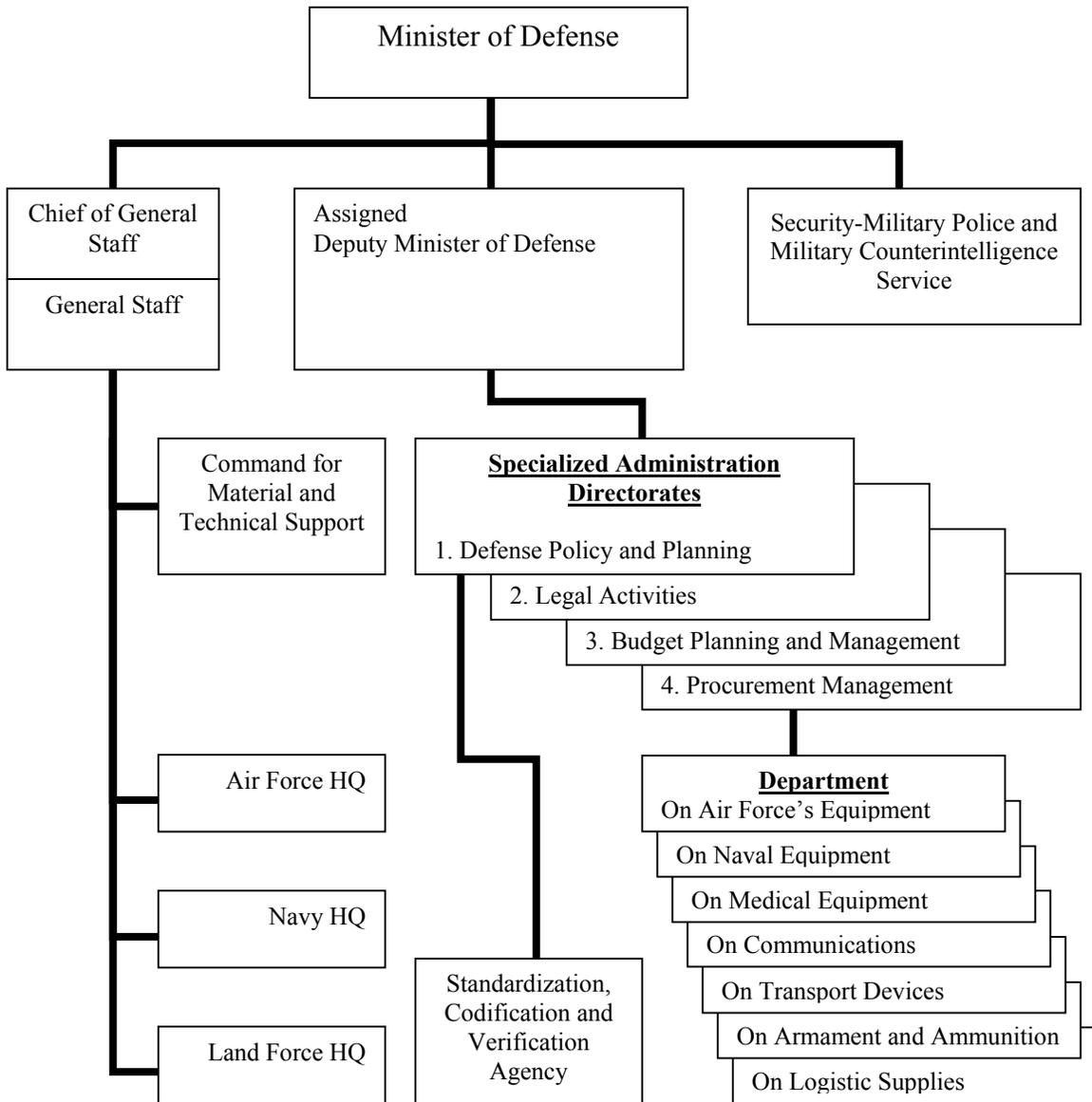


Figure 3: Organizational structure of the procurement system.

The Procurement Management Directorate is divided structurally on departments in accordance with the assigned products for acquisition. It is to support the established contacts and practices with the potential manufacturers, companies, or intermediary deliverers, but there is no common database for products' availability and channels for their acquisition. Every different department works separately and uses its own points of

contacts. The information is not organized in common database that could be used throughout the Directorate.

The Procurement Management Directorate is responsible for management of the procurement system during the second and the third stage of the acquisition process.

The procedures included into the second stage – contracting activities (see Figure 2) involve different structural parts of the Ministry of Defense that are structurally independent from each other.

The Standardization, Codification and Verification Agency that is assigned to the Defense Policy and Planning Directorate of the Ministry of Defense (see Figure 3) should confirm the correspondence with standards for the requested products before the beginning of marketing procedures. The Director of the Procurement Management Directorate requests such verification through formal channels of authorities for all the products planned for acquisition. Furthermore the agency is responsible for products' codification and quality control of the acquired products in accordance with the "Regulations for providing and managing the quality"¹³.

The Security-Military Police and Military Counterintelligence Service is an independent part of the Ministry of Defense and reports directly to the Minister of Defense (see Figures 1 and 3). The Procurement Management Directorate should obtain confirmation for the significance of every acquired product for the national security of the state in connection with assigning of different type of contracting procedure for acquisition (in accordance with the implementation of Public Procurement Act¹⁴ and Instruction of the Minister of Defense¹⁵). The director of the directorate requests such a confirmation with formal letter to the Chief of the Service for every product or group of products included in a separate marketing procedure. Both the request and the confirmation use the vertical channel of communication and usually could be done for no less than five to ten days.

¹³ Regulation for providing and managing the quality of military and special products in the Ministry of Defense and the Bulgarian Army, issued in 2001.

¹⁴ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

¹⁵ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Ministry of Defense, issued on October 10, 2001.

The Legal Activities Directorate takes part in the procurement system throughout competition assignment and contracting procedures. The assigned representative of the directorate is responsible for justification of the candidate contractors and the prepared contract. The assignment is based on particular order of the Minister of Defense for every single procedure for contracting. There are no particular representatives assigned permanently to work with the Procurement Management Directorate. Furthermore the Legal Activities Directorate deals with all the in-court solutions of any contracts' fulfillment problems.

Budget Planning and Management Directorate of the Ministry of Defense (see Figures 1 and 3) is responsible for all payments on the contracts. A representative of the directorate takes part in the assigned board for assessment of the candidates for contracting during the competition assignment procedure. The Procurement Management Directorate supports limited budget for communicational and office expenditures only.

Every year the Minister of Defense assigns fields of responsibilities to his four Deputy Ministers with a special order. Those responsibilities include administering of different parts of the Ministry of Defense, particular processes, or essential activities. The assigned Deputy Minister could supervise important procedures for acquisition or costly contracts processing but usually he has no specific responsibilities in connection with the procurement system.

3. ORGANIZATIONAL ANALYSIS

The only continuous part of the procurement system is the Procurement Management Directorate. All the other elements are involved in different procedures in connection with the process of acquisition. Nonetheless, the influence of the other system participants could be vital for management of the system.

As part of the Ministry of Defense, the procurement system has the same stakeholders as the military organization itself. The government establishes particular policy that the Minister of Defense implements throughout its structure and the Armed Forces. As far as the logistics supplies and support are vital for all the Armed Forces, the

proper management of the procurement system is essential for the national security of the state. Furthermore the biggest part of the military budget is spent for support of the troops. Therefore an efficient procurement system could result in significant savings.

Changes after the collapse of the USSR led to sharp shrinkage of the military market. In addition, a lot of new players are trying to find their place in the market. The old channels for military supplies do not work anymore. All of this shapes the immense interest towards the market of military productions. The higher level of market uncertainty forces the manufacturers and suppliers to adopt aggressive tactics for market penetration.¹⁶

In addition, the aging armament, combat systems and fleet of the Bulgarian Armed Forces bring closer and closer the time for total replacement and rearmament with newer weapons.

The prospective of NATO membership additionally forces the Ministry of Defense to look for opportunities to acquire new weapons and armament compatible with the NATO standards.

All of this results in enormous pressure from the existing suppliers of military equipment against the Ministry of Defense that has reflected in the elements of the procurement system. The environment in which the system works is highly unstable with high levels of uncertainty. In order to reduce the uncertainty, the adopted policy forces strict control over every single step of the acquisition processes, total compliance with existing acts, papers, and rules, and hard practices for assessment of every potential contractor.

In addition, as part of the Ministry of Defense, the Procurement Management Directorate adopts the highly centralized command, clear hierarchy of authority and strict adherence of all the existing rules, acts, instructions and other papers. The only applied channels of communications are vertical.

Due to the wide differentiation and specialization of military equipment, the departments of the Procurement Management Directorate and the other procurement

¹⁶ Markusen and Costigan editors, "Arming the Future", Council of Foreign Relations Press, New York, 1999.

system elements are highly independent and separated from each other. All the main tasks and procedures are clearly defined in advance.

In accordance with Burns and Stalker, quoted by Richard Daft, the procurement system could be classified as a highly mechanistic organizational structure.¹⁷ The Procurement Management Directorate shares the same characteristic. The strengths of such organizations are the strict compliance with all relevant rules, highly developed specialization, and low risks in decision taking processes. But in such an organization there are no conditions for teamwork, innovations, horizontal interconnections, internal links and interdependence, or interchangeability. The only possible way of processing is through the vertical channels of authority. In addition, the responsibilities are not clearly defined throughout the system that could lead to significant time delays and passiveness of the involved personnel.

The existing differentiation of departments and variety of products reduce the possibility for creation and support of common database of acting manufacturers, suppliers, and channels for deliveries.

The informal communications with other players in the system are unacceptable, are not tolerated, and not implied. The formal, vertical channels of information flow increase significantly the time for processing information and lead to delays.

Dealing with numerous outside organizations, agents, and other players brings a lot of uncertainty in the Procurement Management Directorate management and actions. All the contracting procedures differ from each other, which brings a high level of variety into the working processes for all the departments of the Directorate. The development of universally designed contract applicable to all the procedures is impossible. That brings a lot of risk during the contracts' preparation and their fulfillment. But still there are a lot of recommendations that could be applied to the process of contracting, based on existing better practices, or relevant legislation.

¹⁷ Richard Daft, "Organization – Theory and Design", Cincinnati, Ohio: South Western College, Publishing, 1998, 6th edition, p. 58.

The existing differences among the contract procedures mean little ability to analyze the processes.¹⁸ This, along with the high variety of processes defines the technology of the procurement system as engineering one. Such a technology needs high levels of creativity, openness of the system, teamwork, and adaptable organization, which is impossible in bureaucratic, highly mechanistic organization. This is a serious disconnect between the designed organization and the applied technology. But the high level of uncertainty and immense cost of risk acceptance impose such a structure.

In order to cope with the variety of the system, the personnel in the Procurement Management Directorate should have significant experience, economic background or proper education. In addition, the high level of pressure and risk makes the work in such conditions unattractive. There are no additional incentives to compensate for the unattractiveness of the system.

Every single part of the procurement system could influence significantly the effectiveness of the system. The channels of information flow are vertical and there are no horizontal connections or work flow. In accordance with James Thompson, quoted by Richard Daft, there is a strongly pooled interdependence in the procurement system.¹⁹ This could lead to significant delays of the information flow and therefore to increase a risk of procedures failure.

According to Nadler and Tushman we have equifinality if “different system configurations can lead to the same end or to the same type of input-output conversion.”²⁰

It is obvious that higher levels of equifinality are preferable for any bureaucratic organization. The lack of a common database leads to very low level of equifinality in the procurement system. As far as the contracting procedures are similar in every different department of the Procurement Management Directorate, the only differences come from the established professional contacts and the nature of the product. The nature of the

¹⁸ Richard Daft, “Organization – Theory and Design”, Cincinnati, Ohio: South Western College, Publishing, 1998, 6th edition, p. 85.

¹⁹ Richard Daft, “Organization – Theory and Design”, Cincinnati, Ohio: South Western College, Publishing, 1998, 6th edition, p. 88.

²⁰ David A. Nadler and Michael Tushman, “Organization, Congruence, and Effectiveness: A Model for Diagnosing Organizational Behavior: Applying a Congruent Perspective”, New York, Harper and Row, Publishers, 1989.

product is easy to verify, so the main problem is the established contact. In this case a common database could increase significantly the effectiveness of the system.

In conclusion, the bureaucratic and highly mechanistic organization of the procurement system is significantly incongruent with the necessary engineering technology of the process. The system could be organized in a different way if the risk and the uncertainty of the environment were not so high. Therefore the organization itself will likely oppose any significant changes of the system. But even within the present conditions some changes could be applied to the system that would lead to increased efficiency.

C. LEGISLATIVE BASE

The Ministry of Defense is not an independent institution but a structural part of the state under total civilian control. The Constitution of the state delegates the decision for the most specific function of the Armed Forces – the use of force, to the National Assembly of the Republic. The President and the Council of Ministers are the next government levels that are authorized by the Constitution to control the militaries. The Minister of Defense is responsible for implementation of the government policy into the Ministry of Defense and the General Staff. In such a way the acting legislation of Bulgaria is fully applicable for the military organization. In addition the policy of the acting government is mandatory for the Armed Forces.

Consequently the legislation of the state is the highest level of acting rules, laws, and constraints for all the activities into the Ministry of Defense and the military organizations. The most important laws in force for the Ministry of Defense are The Defense Act²¹ and The Administration Act²². They lay out the military organizations and their respective roles. In addition they define the command authorities plus the responsibilities and the rights of all the agents connected with the national defense.

²¹ Defense Act, published in State Paper # 112 / December 27, 1995.

²² Administration Act, published in State paper # 130 / October 05, 1998.

Also, the government issues policy documents that could be viewed as the political level of the acting legislation for the Ministry of Defense. The National Security Concept²³ defines the policy of the Armed Forces, while The Military Doctrine²⁴ establishes the model for the use of power.

The White Paper on Defense²⁵ has no legislative power. Adopted with a decision of the Council of Ministers, it is an official guide for the Ministry of Defense and the Armed Forces' structures, missions, goals, and organization. It is more focused on future perspectives regarding development of the Armed Forces, based on the government policy, without having the mandatory character of the acting legislation.

The next level of documents in force is the prerogative of the Minister of Defense. It includes different instructions, statements, statutes, manuals, and orders that are issued to administer the activities and to delegate particular responsibilities throughout the Ministry of Defense and the military organizations.

1. PUBLIC PROCUREMENT ACT

Depending on their functional activities different structural elements of the Ministry of Defense and the General Staff should organize their work in accordance with other corresponding laws.

This project is focused on the procurement system of the Bulgarian Ministry of Defense in which the Procurement Management Directorate is the most important structural part. All the procedures during the second stage of the acquisition process (see Figure 2) are based on the Public Procurement Act²⁶.

This act regulates the public procurement rules and procedures²⁷. As far as this is legislation of the state it regulates procurement for all the budgetary organizations and institutions, health insurance and pension funds, and non-profit legal entities. It concerns

²³ National Security Concept, published in State Paper # 46 / April 22, 1998.

²⁴ Military Doctrine, adopted with decision of the National Assembly on 04.08.1999, changed on February 22, 2002.

²⁵ White Paper on Defense, adopted with decision of The Council of Ministers on April 04, 2002.

²⁶ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

²⁷ Public Procurement Act, Article 1, published in State Paper # 56 / June 22, 1999.

all procurement procedures for contracts over specific limits, established with Article 7 of the Act.

According to Article 2 of the Act²⁸, its goal is to enhance the efficiency of spending the state budget and public resources through transparency, efficient control, competitive bidding, and stimulation of economic development.

One of the most important articles for the Ministry of Defense is Article 6. It states that the Public Procurement Act is not applicable if the procurement procedure is connected with defense and security of the state, with national secrets, or if the contracts are connected with special security measures in accordance with the legislation of the state²⁹.

If the national and military secrets are well defined, it is difficult to distinguish the procurement procedures for the Ministry of Defense as important or not important for the defense and security of the state, except in the cases of procurement of food, primary services, raw materials, and some other products.

The Public Procurement Act is not applicable if the procurement is in accordance with international agreements, that contain specific procedures, or if the assignment is connected with special procedure of a particular international organization³⁰.

Article 13 of the Act³¹ specifies three types of procedures: open procedure, limited procedure, and procedure of negotiating. The first type of procedure needs all the interested tenders to be informed properly with information published in the State paper and a central daily newspaper.

With the second type of procedure the assignor decides which particular tenders to invite formally. The third procedure consists of direct negotiation with one or more specifically chosen tenders.

The decision of what type of procedure to be assigned is based on the assessment of the “Security – Military Police and Military Counterintelligence” service for every

²⁸ Public Procurement Act, Article 2, published in State Paper # 56 / June 22, 1999.

²⁹ Public Procurement Act, Article 6, published in State Paper # 56 / June 22, 1999.

³⁰ Public Procurement Act, Article 6, published in State Paper # 56 / June 22, 1999.

³¹ Public Procurement Act, Article 13, published in State Paper # 56 / June 22, 1999.

particular case after formal request by the Procurement Management Directorate director.

In fact the manufacturers and deliverers of spare parts and other specialized military equipment are limited in number. In this case the Act gives a possibility to the assignor to adopt limited procedure for procurement.³² In addition, as for procurement procedures for the Air Force, all the products are directly connected with combat possibilities of specialized military equipment like aircraft or helicopters.

In most of the cases the answer which type of procedure should be adopted is obvious in advance and such a confirmation is ineffective and time consuming only. But in accordance with Instruction of the Minister of Defense³³, those products still need confirmation for their importance for the defense and security of the state by the “Security – Military Police and Military Counterintelligence” service.

Article 24 of the Act³⁴ regulates which candidates cannot take part as tenders in public procurement procedures. The intention of this article is to defend the assignor from losses. But it still creates significant problems when dealing with foreign tenders that result from the differences in the legislations among the states. For example, according to the Act persons that have been sentenced for bankruptcy are not allowed to take part in the contest.³⁵ But different laws deal in different ways with the finished sentences. Paragraph 2 of the same article defines that this requirement shall refer to the executive managers and the managing bodies of the tenders that should be evidenced by a document issued by the respective competent authority³⁶.

This requirement is valid for every single procurement procedure. In some states there is no procedure for issuing such a document. In fact most of the potential contractors are based outside Bulgaria but in this case most of them prefer not to take part in the contest procedures. This results in sharp shrinkage of the available contractors.

³² Public Procurement Act, Article 15, published in State Paper # 56 / June 22, 1999.

³³ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Ministry of Defense, issued on October 10, 2001.

³⁴ Public Procurement Act, Article 15, published in State Paper # 56 / June 22, 1999.

³⁵ Public Procurement Act, Article 15, paragraph 1, point 2, published in State Paper # 56 / June 22, 1999.

³⁶ Public Procurement Act, Article 24, paragraph 2 and 3, published in State Paper # 56 / June 22, 1999.

The Legal Activities Directorate interpretation of this part of the Act is that such a requirement is mandatory for the main representative of the tender only. But in this case the Article loses its power because in any case there will be at least one representative that fulfills the requirements and that could mean nothing for the financial possibilities of the tender. Acceptable resolution of such a problem could be a proper interpretation of the article concerning the existing states' legislations in every different case.

Other problems arise with the implementation of Article 27 of the Act³⁷, which regulates the type of documents that each proposal for contracting should contain. Again problems arise from differences in national laws. Sometimes it is difficult to explain the content and the meaning of some of the required documents to foreign tenders. In addition, Public Procurement Act does not differ the US state government's authority from the federal one and does not consider the existing differences in the official documents' certification.

Paragraph 2 of Article 27 requires that "in cases when the candidate in a procedure is an association, and it is not a juridical person, the documents under paragraph 1 (for participating in contest procedure) shall be presented by each physical or juridical person member of the association."³⁸ In most of the cases such a requirement cannot be met in the given 30-day period for contest's application preparation.

Another problem arises when well-known persons that manage worldwide companies should guarantee their innocence or non-conviction for every particular procedure in which their company is a potential contractor.

Again the problems could be decided with a proper interpretation of the article concerning the existing states' legislations and the particularities of every different case.

The Public Procurement Act is not intended for application in the Ministry of Defense only. In order to cover the particular conditions in its implementation in the military organization, the Minister of Defense issued an instruction that is a compilation of all the existing legislation, rules, statements and their interpretation.

³⁷ Public Procurement Act, Article 27, published in State Paper # 56 / June 22, 1999.

³⁸ Public Procurement Act, Article 27, paragraph 2, published in State Paper # 56 / June 22, 1999.

2. INSTRUCTION OF THE MINISTER OF DEFENSE

The Instruction is issued to regulate the planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense and all the secondary budget managers assigned to the Minister of Defense. Article 2 of the Instruction defines all the subjects of procurement and that the Instruction is based on the Public Procurement Act and on the Regulation for assignment of public procurement procedures for contracts under particular limits of price³⁹, arranged by the Public Procurement Act⁴⁰.

Article 3 defines the bodies (agencies) on planning, expert assessment, assignment and control in connection with the Instruction⁴¹.

The Minister of Defense is the main assignor of public procurement procedures in the Ministry of Defense. In accordance with the meaning of Article 3 of Instruction of the Minister of Defense⁴², assignor is a person that is authorized to initiate public procurement procedure.

His Deputy on material and technical support and property management could assign public procurement procedures under the defined price limits. As technical executor of the procedures the Procurement Management Directorate is an assignor too, but without the rights to sign any contract.

Military units' commanders could purchase materials, products, and services under \$ 5,000 after requests to the upper command, but in the limits of their assigned budget.

This possibility could be useful with some of the western spare parts providers

³⁹ Regulation for assignment of public procurement procedures for contracts under particular limits of price, adopted with Decree # 56 of the Council of Ministers, dated April 24, 2000.

⁴⁰ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 1, Ministry of Defense, issued on October 10, 2001.

⁴¹ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 1, Ministry of Defense, issued on October 10, 2001.

⁴² Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 3, Ministry of Defense, issued on October 10, 2001.

that propose 48 hours policy for delivery of requested spare parts which is the case with Bell Helicopters Supply Center in Amsterdam. But this practice is not used for purchase of spare parts, because of the limited budgets assigned. Even with supported credit line for the Bulgarian Bell helicopters into the Supply Center the Procurement Management Directorate manages to request a spare part in one to three weeks, which is the time needed to receive the primary request from the air base to the Ministry of Defense with all the approvals needed.

Financial control Directorate and the Inspectorate of the Ministry of Defense (see Figure 1) produce the overall control of the procurement system.⁴³

Standardization, Codification and Verification Agency (see Figure 3) is responsible for the expert assessment of contracts with defined characteristics or ordered procedure.⁴⁴

The Instruction arranges all the procurement procedures applicable in the procurement system with defining responsibilities of the actors and time constraints for fulfillment, and concerning the type of procedure assigned. It is a good opportunity for interpretation of the disputable articles of the Public Procurement Act, which is not used properly.

Planning procedure arrangement is part of the Instruction, which is explained later in this chapter.

3. OTHER DOCUMENTS

All the players into the procurement system have their own instructions and statutes that are issued to administer the adopted practices. Some of them influence the processes of acquisition indirectly. For example, the “Regulations for providing and

⁴³ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 3, paragraph 5, Ministry of Defense, issued on October 10, 2001.

⁴⁴ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 3, paragraph 3, Ministry of Defense, issued on October 10, 2001.

managing the quality”⁴⁵ assign some responsibilities to the Procurement Management Directorate for quality of the acquired products and their standards verification.

The Informational Strategy Concept of the Ministry of Defense⁴⁶ defines the plans for future computerizing of the Ministry of Defense and establishment of a common internal communicational net. The Procurement Management Directorate is included in the plans for computerizing during particular time in the future, thus the communications will be improved significantly. At the same time that means time constraint for such an improvement too.

Other documents mentioned above influence different procurement procedures at different stages. Some of them are included in the Instruction of the Minister of Defense and others are connected with the agents in the procurement system. This project is not focused on all the existing documents and their implementation.

D. OBJECTIVES AND PRINCIPLES OF THE PROCUREMENT SYSTEM

There is no common practice for different organizational parts of the Ministry of Defense to issue officially their visions, goals, or missions. The White Paper on Defense⁴⁷ tries to present some ideas for the future of the organization and its parts, but it cannot be viewed as adopted policies or ways for development. The common understanding is that the accepted policies are embodied and enforced with the documents that arrange the organizational and procedural matters throughout the organization. On the other hand the bureaucratic character of the organization does not tolerate independent development or policy establishment. In such a situation the only acceptable policy is total compliance with the acting documents, acts, orders, and rules. Any new ideas should come with changes of the acting documents. This is not a creative environment but fits the bureaucratic character of the organization.

⁴⁵ Regulation for providing and managing the quality of military and special products in the Ministry of Defense and the Bulgarian Army, issued 2001.

⁴⁶ Informational Strategy Concept of the Ministry of Defense, adopted by the Defense Council on 04.20.1999.

⁴⁷ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

According to the White Paper on Defense “the Procurement system is in a process of optimization with a view to guarantee quality and timely delivery of ordered items by improving the regulatory framework and establishing bodies of forwarding and control on quality of deliveries.”⁴⁸

In other words the process of optimization is viewed as strengthening of the bureaucratic character of the organization, which is not a creative approach towards changes. This defines the enormous opposition to any new ideas.

“The defense procurement aims at providing the necessary material resources for maintaining and developing defense capability adequate to the security environment. The leading procurement principle is the “package capability”, i.e. comprehensive and complete equipping of the operational defense structures with optimized combat and support components.”⁴⁹

The biggest and unavoidable problem for the procurement system is the budget constraint. In a situation where the requested necessities for acquisition are three to ten times higher than the available budget⁵⁰, the only decision is to cover limited requests or emergent needs.

“The system of maintaining the storage stock is set up in order to meet the needs of the Armed Forces in terms of the time necessary for the production capacities to make and deliver the military and non-military articles needed in times of crises.”⁵¹

Most of the manufacturers and deliverers of spare parts and other products for the Air Force are outside Bulgaria. As far as most of the equipment originates from Russia, with the collapse of the USSR all the channels for delivery are disrupted, changed, or propose the same products at much higher prices.⁵² In such conditions the support of needed stock in storage is questionable.

In conclusion the procurement system works with strict adherence of the existing regulatory documents with limited margins for creativity. There is strong opposition

⁴⁸ White Paper on Defense, Chapter 4, part 4.10, The Ministry of Defense of the Republic of Bulgaria, 2001

⁴⁹ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

⁵⁰ Information on budget insufficiency is not available officially.

⁵¹ White Paper on Defense, Chapter 4, part 4.10, The Ministry of Defense of the Republic of Bulgaria, 2001

⁵² Information on price changes is not available officially.

against any changes that results from the bureaucratic character of the organization. Limited budget, disruptions in the previously established products' delivery channels, and decreased number of available contractors defines strong inefficiency of the procurement system.

E. THE PROCESS OF PLANNING

The Instruction of the Minister of Defense⁵³ arranges the process of planning the items for material and technical support of the armed forces. It regulates the time, the assigned activities and responsibilities throughout the process.

There are three levels of planning. The third level includes the planning bodies of all the military formations and their corresponding Headquarters. The project is focused on the Air Force as an example for the planning process. This level produces planning for the different units and consolidated plans for the corresponding type of Armed Force.

The Command for Material and Technical support (see Figure 3) from the General Staff structure presents the second level of planning. It is responsible for consolidated planning of all the Armed Forces.

Budget Planning and Management Directorate from the Ministry of Defense structure (see Figure 1 and 3) is the first level of planning. It manages and controls the planning processes and establishes the link between the military formations and the Government through the Minister of Defense and the Council of Ministers.

1. ANNUAL PLANNING

Annual planning is the main form of planning process. Planning is the first stage of the acquisition process (see Figure 2). Usually it starts in April for the next year. In this case Year 1 is the year when the planning process for Year 2 starts.

⁵³ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 1, Ministry of Defense, issued on October 10, 2001.

Figure 4 presents the procurement planning process for Year 2. Arrows with numbers present different steps of the process that connect the agents involved in the process. The positions of the arrows are in accordance with the time for fulfillment of the particular step of the process.

Steps 1 and 2: Budget Planning and Management Directorate (BPMD) determines the budget limits for the next year in accordance with the planned activities and programs for development and sends it to the planning bodies from the third and second level not later than April 10.

Step 3: The Air Force Headquarters (AFHQ) gathers the requests for acquisition from its subordinated units and assigned troops and sends the consolidated request to the Command for Material and Technical Support (CMTS) not later than June 05.

Step 4: CMTS gathers the requests from the Armed Forces Headquarters, prepares consolidated draft-plans for material and technical support, and sends it to the BPMD not later than June 30.

Steps 5 and 6: BPMD presents the consolidated draft-plan to the Minister of Defense for endorsement and then to the Council of Ministers for approval.

Steps 7 and 8: After approval the Council of Ministers returns the draft to the Ministry of Defense and sends a copy to the National Assembly for proceeding.

Steps 9 and 10: BPMD presents to the planning bodies from the second and third level the newly established budget frames.

Steps 11 and 12: AFHQ and BPMD revive their plans in accordance with the changes, provide 10% of the nomenclatures as reserve, and return them to the higher level of planning not later than 30 days after the approval of the Council of Ministers.

Steps 13 and 14: BPMD sends to the Standardization, Codification, and Verification Agency the Common plan for Material and Technical Support for verification of the nomenclatures with standard database. After the verification the plan is returned to BPMD. Till October 01 the planning bodies from the third and second level prepare Priority plans for nomenclatures that should be acquired first.

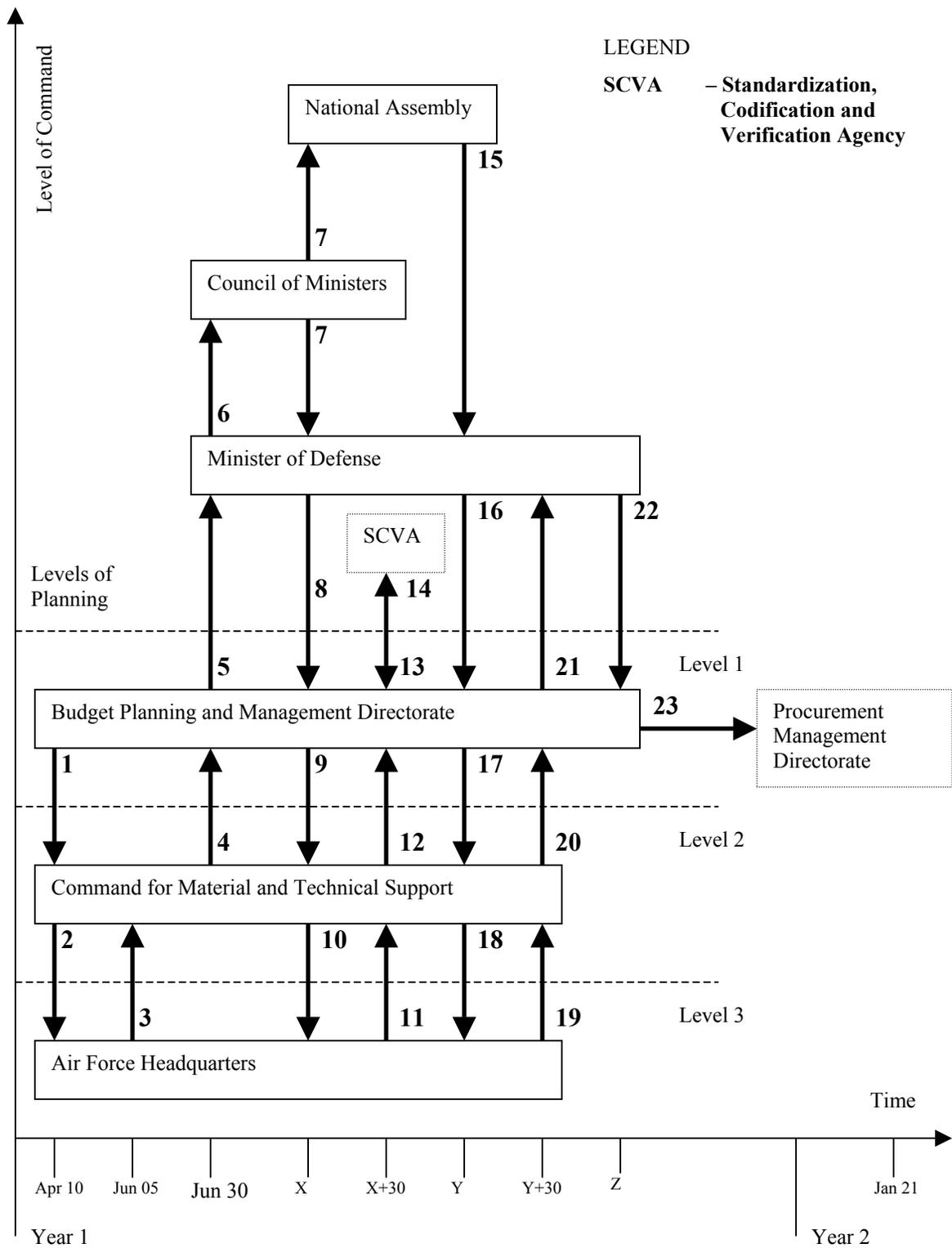


Figure 4: Procurement Planning Process for Year 2.

Steps 15, 16, 17, and 18: After accepting the annual budget for the Ministry of Defense with State's Budget Act⁵⁴ BPMD makes final adjustments of the budgets and announces the results to the planning bodies from the third and second level.

Steps 19 and 20: Planning bodies from the third and second level prepare their final plans for material and technical support and present them to the upper level not later than 30 days after receiving the information for their budgets.

Steps 21, 22, and 23: BPMD prepares Common Plan for Material and Technical Support, presents it to the Minister of Defense for endorsement and then sends it to the Procurement Management Directorate for fulfillment.

2. PLANNING FOR ADDITIONAL ACQUISITIONS

The Instruction of the Minister of Defense⁵⁵ specifies procedures for acquisition of additional materials and services. The planning bodies from the third and second levels send requests for such acquisitions to the BPMD. BPMD, together with Defense Policy and Planning Directorate, analyze the possibilities for additional acquisitions and availability of financial resources, and make appropriate changes into the Common Plan for Material and Technical Support.

F. DATA AVAILABILITY

The Ministry of Defense does not issue information regarding results in the procurement system. Prices and clauses of contracts are trade secrets in accordance with the Trade Act⁵⁶ and cannot be announced in public.

⁵⁴ Issued every year.

⁵⁵ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 25, Ministry of Defense, issued on October 10, 2001.

⁵⁶ Trade Act, last changed and published on October 13, 2000.

G. CONSTRAINTS

There are different constraints that affect the procurement system of the Ministry of Defense. Some of them cannot be waived, because of their origins, but others are under control of the Minister of Defense or lower command levels. The second type of constraints is more important to focus on, because they could influence the efficiency of the system in a short-term period.

1. FINANCIAL CONSTRAINTS

Financial constraints originate from the States Budget Act, issued every year by the National Assembly. Additional budget constraints result from different programs that the Ministry of Defense should fulfill during the year in accordance with the plans for joining NATO, joint exercises, and other activities in connection with International and other treaties, partnership, or other obligations. Those constraints cannot be changed because the Ministry of Defense cannot influence significantly in the short-term the Government decisions and policies.

2. LEGISLATION CONSTRAINTS

Other constraints that cannot be influenced by the Ministry of Defense in the short-term originate from the legislation of the state. For example, only the National Assembly could change some clauses in the Public Procurement Act⁵⁷. But still a proper interpretation of the acting legislation, based on a legal advisors' opinion, could be applied to some critical points that affect the procurement system. Those interpretations should be empowered with the existing instructions, statutes, or regulations.

⁵⁷ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

3. TIME CONSTRAINTS

All the periods for planning and acquisition procedures are defined into the acting instructions, statutes, or regulations. Their assignment reflects the system capabilities and usually is well weighted. They are all under control of the Ministry of Defense and could be changed properly if necessary. The most important time constraints come from the government level of command (see Figure 4, steps 7 and 15). The time for approval of the Draft-Plan for Material and Technical Support by the Council of Ministers could affect the work of the system significantly but still not critically due to the existing reserves of time for proceeding. But the time for the State's Budget Act issuance is critical for all the procedures in the procurement system. The Ministry of Defense cannot affect both time constraints but still could reduce their influence on the system with proper internal measures.

From 1990 till 1998 in several consecutive years the state's budget was voted during the first six months of the budgetary year. That resulted in total disturbance of the acquisition process.

Such problems are possible in the future too. In this case, the procurement system could start part of the most important procedures in advance and to finalize them after the budget approval. Anyway, some proper forecast of the available budget is not difficult to obtain. In addition the fiscal year cannot be prolonged but still part of the unrealized budget could be transferred intentionally to the next fiscal year for started already procedures.

4. PROCESS CONSTRAINTS

The process's design applies some constraints due to the time needed to fulfill different technical procedures. In this case some improvements to and optimizations of the processes could be done. For example, the requests for verification of the significance of the products acquired for the national security and defense could be sent to the Security-Military Police and Military Counterintelligence Service (see Figure 4, step 24

and 25) in advance and a common request for the whole Draft-Plan for Material and Technical Support Acquisition. Creation of common database of the importance of different nomenclatures is applicable too. It will result in a direct assignment of types of procedures for different set of products (see part C – Legislative Base, point 1 – Public Procurement Act).

Other processes could be accomplished in parallel to each other. The question for optimization of the workflow could be a matter of further research.

5. ORGANIZATIONAL CONSTRAINTS

The bureaucratic character of the Ministry of Defense structure fits with the goals of the organization. That means that any changes of the structure towards creativity or wider independence will meet serious resistance. The most important constraint in the bureaucratic organizations is connected with the lack of horizontal communication and strictly vertical flow of information. Proper discussion of the importance of horizontal communication versus the need of centralization could lead to significant improvements of the information flow and time reduction for some of the procedures. Electronic exchange of information is applicable too and could be seen in most of the NATO members' military structures.

Some organizational constraints originate from the assignment of responsibilities throughout the procurement system. That leads to time delays of procedures' fulfillment, communicational difficulties connected with vertical flows of information, and decreased responsiveness of different agents of the system. This could be overcome with proper reassignment of additional personal or common functional responsibilities throughout the system.

Strong organizational constraints originate from the Legal Activities Directorate participation in the procurement system.

The first one is connected with tenders' assessment and classification during the assigned jury. The hardest problem is congruence among the legislations of different states. As far as the contracting procedures are held in Bulgaria, the potential foreign

contractors and participants in the contest for a procedure should recognize the Bulgarian legislation. In support of their preparation for the contest, they could be presented with proper templates of the required papers with relative explanations and guides. As far as the legislation does not change very often and does not differ significantly for different types of procedures, the templates could be easily created and supported.

The second constraint originates from the contracts' content. Usually different representatives of the Legal Activities Directorate participate in different stages of the contracting process. This results in different opinions on the contracts' consistence. There is no universal contract applicable to any particular case, but still there are some significant points mandatory for every contract. Those points could be included in a contract template with proper common interpretation acceptable for all the legal advisors assigned to a procedure. Some proper explanations and variants could ensure the differentiation of the contracts in accordance with the existing specific conditions. But still the Legal Activities Directorate could propose common design of the contracts, acceptable for all the participants. Otherwise the procedure for adjusting the contracts in accordance with the opinion of every legal advisor becomes time-consuming and nearly impossible to accomplish. In fact, the Legal Activities Directorate has no delegated responsibilities for composing the contracts for acquisition but just to control the process. Changes in the assigned responsibilities will not increase the workload significantly but will optimize the process of contracting.

In conclusion, some of the existing constraints for the procurement system are coming from upper levels of command and cannot be controlled efficiently in a short-term period. But still their influence on the system could be changed with some proper measures applied.

There are numerous of other constraints that originate from inside the system. They could be changed with proper activities or optimization of the processes in a short-term period that would lead to increased efficiency of the system. The question for optimization of the processes could be addressed by further research.

H. CONCLUSION

The Ministry of Defense organizational structure is purposefully designed as highly mechanistic and bureaucratic organization, with strong centralization of authorities, in order to sustain the existing uncertainty.

The procurement system shares the same type of organization. There is a serious disconnect between the designed organization and the applied technology. But the high level of uncertainty and immense cost of risk acceptance impose such a structure.

The designed organizational structure fits the policy of the government implemented in the Ministry of Defense under the control of the Minister of Defense.

The Procurement Management Directorate is the main body of the in the procurement system, but it has no power to control the rest of the players in the system. It plays the main role during the second and the third stage of the acquisition process.

There are several different laws that affect the procurement system in different stages of its work. The most important document is the Public Procurement Act. As far as this act is not written specifically for implementation in the military organization, there are several additional internal for the Ministry of Defense documents that give an interpretation of the concerned legislation, regulate the processes, and provide authorities, responsibilities, and processes' design.

The process of planning is well organized with enough time reserves in order to meet some time delays with external nature.

There are several types of constraints that limit the effectiveness of the procurement system. As far as they cannot be eliminated totally, the system should find ways to decrease their effects on the system.

With the new realms of international market relations, the legislation base cannot meet all the particularities of the existing foreign legislations. The adopted interpretation of the laws does not support fully the effectiveness of the system.

There are no common practices different structural elements of the Ministry of Defense to announce officially their objectives, missions, goals, and principles.

The theory for organizing the structures and the processes in the procurement system does not fit totally the working process and the adopted practices. The theory alone presents some constraints on the system. But such a theory totally fits the military organization, the existing uncertainty of the environment, and the unacceptability of any risk that could influence negatively the national security and the defense capabilities of the Armed Forces.

III. THE PROCUREMENT SYSTEM IN PRACTICE

The bureaucratic character of the military organization and the existing system of multileveled control ensures compliance with all the relevant legislation and internal documents. There is consequently no possibility for wide creativity; that would fully meet the intent of the system at the present. No significant differences should be expected between the theoretical design of the system and its practical application. Still, the nature of some of the processes during the second and the third stages of the acquisition process (see Figure 2) and the external character of some of the system's agents could influence the overall process. The most worrisome factor for the system is time delay.

A. THE PROCESS OF ACQUISITION

The process of acquisition does not consist of the contract signing and its fulfillment only. It is a complex set of consecutive procedures that lead to acquisition of the requested product. All of those procedures have different levels of influence on the whole process. A well-designed, efficient system should address those influences to reduce their severity.

1. STAGE ONE ACTIVITIES

a. PLANNING ACTIVITIES

Acquisition planning activities are core functions of planning bodies in three levels throughout the military organization (see Figure 4). The time frames for the planning procedures are well defined and the system has sufficient reserves of times for their fulfillment. The procedures are routine and fulfilled every year with minor changes.

The most problematic external factors are the approval of the Draft-Plan for Material and Technical Support by the Council of Ministers and the State's Budget Act issuance (see Figure 4). The Ministry of Defense cannot affect either of them. Both of them could delay the process of planning but only the State's Budget Act issuance could

be critical for the procurement system, since the budget is the basic factor for final adjustment and endorsement of Common Plan for Material and Technical Support. The acquisition process that follows is based on that plan.

b. RESPONSIBILITIES

The responsibilities at this stage are delegated by the relevant documents for the planning bodies in all the three levels. There are no particular responsibilities connected directly to the acquisition process. The Procurement Management Directorate has no control over the different players and over the process of planning itself. The flow of information is vertical only.

c. CONGRUENCE

There is a strong congruence between the theoretical design of the planning process and its practical implementation. Limited time delays are not critical for the whole system.

d. STRENGTHS AND WEAKNESSES

The strengths of the acquisition planning process are as follows:

- Routine operation with little changes. This makes good use of existing experience.
- Wide time frames for the designed processes. This ensures time reserves for fulfillment of the processes.
- Visibility, equifinality, and clarity of the processes. This ensures the control over the process.
- Three significant adjustments of the plans for individual acquisition projects. The plans could be adjusted properly.

- Strong congruence between theory and practice. The applied procedures fit the relevant acts and documents.

The weaknesses of the acquisition planning process are as follows:

- No particular responsibilities in connection with the acquisition process. This could lead to irrelevance in the final stages of the process.
- External influence on the system. This could be critical for system's efficiency.
- No control over the external influence. The system cannot control the influence, but only react to the consequences.
- The acquisition planning process is not optimized. Such optimization could be a matter of further research.
- No horizontal communication, which would help the system to reduce the critical external influence.
- The Procurement Management Directorate has no control and information for the acquisition planning process. Preliminary information could help the system to prevent critical external influences and to avoid significant time delays.
- The Common Plan for Material and Technical Support has no final date frames for acquisition of the products. Most of the products are necessary to be acquired in different periods of the fiscal year.

2. STAGE TWO ACTIVITIES

The second stage of the acquisition process – contracting activities (see Figure 2), consists of marketing, competition assignment, and contracting processes. An Instruction of the Minister of Defense regulates the activities during the second stage⁵⁸ based on the

⁵⁸ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Ministry of Defense, issued on October 10, 2001.

Public Procurement Act⁵⁹. There are six different procedures that should be completed for every assigned acquisition process at this stage. Figure 5 presents a cycle of the three processes with their corresponding procedures included into the Contracting activities. Arrows with numbers present the consecutive steps in the procedures, starting with step 23 from Figure 4.

a. MARKETING

Step 23: BPMD sends to the Procurement Management Directorate the endorsed Common Plan for Material and Technical Support for fulfillment.

Steps 24 and 25: Procurement Management Directorate coordinates with the Security-Military Police and Military Counterintelligence Service (see Figure 1) all the nomenclatures planned for open procedures.⁶⁰

If the proposed specifications are not planned for open procedures, the Procurement Management Directorate Director sends requests to SMPCS for confirmation of the type of acquisition procedure that should be assigned. This is the first separate procedure during the contract activities – type of procedure confirmation. The Procurement Management Directorate cannot control the procedure and there is no time assigned for its fulfillment.

Steps 26, 27 and 28: The relevant Department of the Procurement Management Directorate (see Figure 3) contacts statistic agencies and fulfills market research for establishing the existing prices for the product(s)⁶¹. This is the second separate procedure during the contracting activities – Price marketing. There is no term assigned for its fulfillment.

⁵⁹ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

⁶⁰ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 23, paragraph 2, Ministry of Defense, issued on October 10, 2001.

⁶¹ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 32, Ministry of Defense, issued on October 10, 2001.

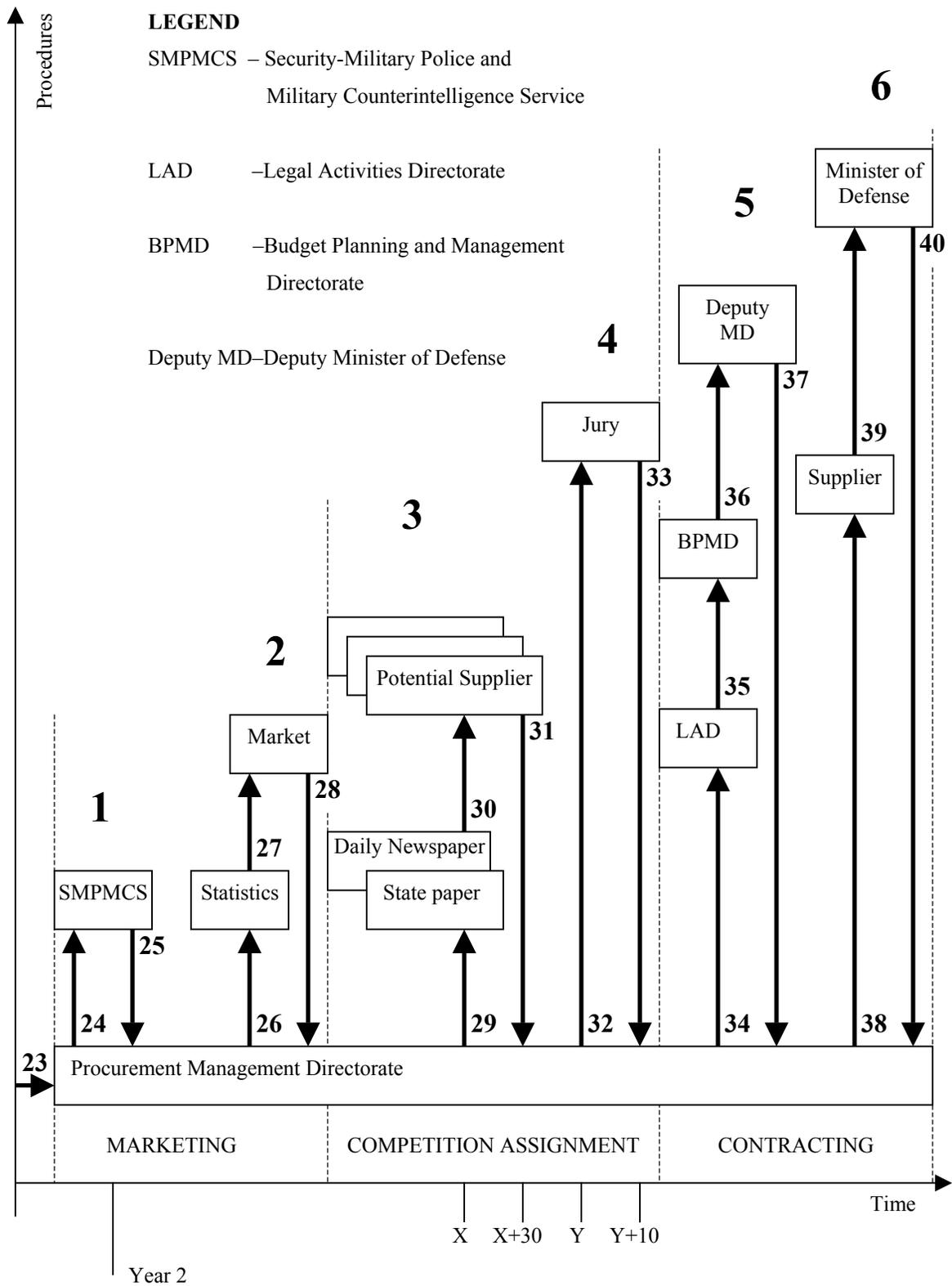


Figure 5: Procedures during the Contracting Activities – Year 2.

b. COMPETITION ASSIGNMENT

Step 29: If an open type is assigned for a procedure, the Procurement Management Directorate should send the information to the State paper and at least to one Daily Newspaper in order to inform all the interested suppliers not later than January 21, Year 2⁶². For non-planned procedures additional publications are acceptable.

Step 30: After the market research for price establishment, the Procurement Management Directorate prepares draft of decision for assignment and presents it to the assignor (the Minister of Defense) for endorsement. The decision should include the requirements to the suppliers, the assessment criteria and their weight, model for assessment, required documents and certificates, and quality requirements. The Procurement Management Directorate sends invitations to potential suppliers or informs them through a publication in the State's paper and one daily newspaper. The invitation includes term for receiving a proposal from the candidates, which is usually 45 days from the date of publication or sending the invitation. This term could be prolonged no more than 30 days if less than three proposals are received during the term, or could be decreased to 30 days if information for the procedure has been published in advance.⁶³

Step 31: The candidate prepares and sends a proposal that includes all the necessary documents and information. The representatives of the Procurement Management Directorate consult the candidates on the procedure and the assigned requirements in accordance with the Trade Act⁶⁴. Steps 29, 30, and 31 present the third separate procedure during the contracting activities – Proposals submission.

Step 32 and 33: The Minister of Defense assigns jury for proposals' assessment in accordance with his Instruction⁶⁵. Some additional experts could be included in the jury if the participants need particular knowledge. The assigned jury assesses the

⁶² Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 23, paragraph 2, Ministry of Defense, issued on October 10, 2001.

⁶³ Public Procurement Act, Article 34, published in State Paper # 56 / June 22, 1999

⁶⁴ Trade Act, last changed and published on October 13, 2000.

⁶⁵ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 39, Ministry of Defense, issued on October 10, 2001.

candidates and presents detailed minutes on its work and decision not later than seven days after their meeting. The representatives of the Procurement Management Directorate that prepare the particular procedure assist the jury with necessary information but do not take part in the assessment. Steps 32 and 33 present the fourth separate procedure during the contracting activities – Proposals assessment.

c. CONTRACTING

Steps 34, 35, 36, and 37: The representatives of the Procurement Management Directorate prepare draft contract and present it to the Legal Activities Directorate, to Budget Planning and Management Directorate, and to the assigned Deputy Minister of Defense for approval. The draft contract is based on the candidate proposal that wins the competition. There are no additional negotiations on the proposed items, only on the meaning of the contract's clauses.

In case of specific importance or too costly contracts the Minister of Defense could assign a special commission for negotiating and contracting procedures. In this case representatives of the Procurement Management Directorate take part in the procedures and prepare the contracts under the Legal Activities Directorate supervision; but higher levels of hierarchy conduct the negotiations. This does not contradict the procedure because the Minister of Defense is still the only official assignor of the procurement procedure in accordance with Article 3, paragraph 4, point 1 of the Instruction⁶⁶.

There is no particular representative of the Legal Activities Directorate assigned to a particular acquisition process, except for very important contracts. Otherwise contracting is not core function for the Legal Activities Directorate. The process could be time consuming if several different legal advisors have different opinions on the contract content. This is the fifth procedure during the contracting activities – Contract preparation.

⁶⁶ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Ministry of Defense, issued on October 10, 2001.

Step 38, 39, and 40: The Procurement Management Directorate representative prepares the contract for signing after the approvals from the previous procedure. This is the sixth procedure in the contracting activities – contract signing.

d. RESPONSIBILITIES

During the second stage of the acquisition process - Contracting activities (see Figure 2), the representatives of the Procurement Management Directorate are responsible for the specifics of the process, and for observation of all the acting legislation and internal documents. Figure 5 presents a cycle of six procedures that should be fulfilled for every single acquisition procedure. There are no terms assigned for beginning and end of most of the procedures except for the Proposals submission (see steps 29, 30, and 31 on Figure 5) and for the Proposal assessment. In all the cases the Procurement Management Directorate has little control over the processes after their initiation.

The Procurement Management Directorate representatives are responsible for fulfillment of all the intended acquisitions in the Common Plan for Material and Technical Support. They start the procedures with receiving the endorsed plan (see step 23 on Figure 4 and 5) and preparing the contracts for signing before the end of October. All the payments on the contracts should be done not later than the end of November when the fiscal year closes. Contract payment is not the responsibility of the Procurement Management Directorate. The Budget Planning and Management Directorate perform this function.

e. CONGRUENCE

The design of the procedures during the Contracting Activities is in congruence with the bureaucratic character of the Ministry of Defense organization.

However the responsibilities of the players in the procurement system are not in congruence with the assigned procedures. Proper delegation of personal responsibilities and terms for fulfillment of some of the processes could accelerate the process.

In addition, improvement of the processes is possible. For example, the type of procedure confirmation (steps 24 and 25 on Figure 5) could be done together for all the products planned for acquisition. Proper database for nomenclatures' importance, approved in advance will shorten the procedure. Such a confirmation of all the nomenclatures could be done even before the Common Plan endorsement.

Price marketing (steps 26, 27, and 28 on Figure 3) includes contacts with statistic agencies and market research of available for the moment prices of the product(s)⁶⁷. In addition, with the fluctuations of the market, such an inquiry cannot guarantee the real price of the product(s), that the vendor will include in its proposal. This procedure aims to show the vendors with the most proper trade practices. Therefore such marketing could be done in advance too. This will shorten the cycle on Figure 5 significantly.

Proper database of available suppliers and their fields of activities could shorten the process for contacting with potential suppliers during the Proposals submission process (step 30 on Figure 5).

f. STRENGTHS AND WEAKNESSES

The strengths of the stage two – Contracting activities (see Figure 2), are as follows:

- Strong congruence of the processes with the bureaucratic character of the Ministry of Defense organization. This congruence fits the organization.
- The design of the processes ensures the observance of the acting legislation and internal documents.
- Ease of overall control on the procurement activities.

⁶⁷ Instruction on planning, organization of assignment and control of the material and technical support, construction, and construction services into the Ministry of Defense, Article 32, Ministry of Defense, issued on October 10, 2001.

The weaknesses of the Contracting activities are as follows:

- After initiating the procedures, the Procurement Management Directorate representatives cannot control the procedures.
- Lack of horizontal communication.
- The procedures are not fully optimized.
- The congruence with the present organizational character will lead to strong resistance to any changes.
- Most of the contracts are signed during the third quarter of the year due to the technical time needed for fulfillment of the procedures. Thus, most of the products will be delivered at the end of the year. Supplies in the beginning of the year are possible with emergency requests only.
- Long-term contracting is not a common practice.

3. STAGE THREE ACTIVITIES

Stage three activities – contracts fulfillment (see Figure 2), are connected with the products' delivery, contracts' supervising, and warranty procedures. All those activities come as additional responsibilities for the Procurement Management Directorate without having financial responsibilities on the contracts' payments. The Minister of Defense, as a side in the contracts, authorizes the Procurement Management Directorate to control their fulfillment. The final users report all the problems on the contracts throughout the vertical channels of communication to the Procurement Management Directorate, which forwards them in accordance with the available decisions.

This project is not focused on the Contract fulfillment activities. Problems in connection with those activities could be a matter of further research.

B. EFFECTIVENESS OF THE SYSTEM

There are different criteria to assess the effectiveness of a system. The most critical factors for the Ministry of Defense procurement system are congruence with the acting legislation and internal documents, time for fulfillment of the acquisition procedures, and budget savings.

1. CONGRUENCE WITH ACTING LEGISLATION

As it was underlined several times there is a strong congruence between the design of the procurement system and the military organization. This congruence supports strict obligation of the acting legislation and all the internal documents, rules, and regulations. The strong centralization of the organization supports strict control over the processes, in order to prevent the risk of failures that could affect significantly the national security and defense capabilities of the Armed Forces. Therefore the procurement system is effective in the application of the acting legislation and internal documents that fits the existing bureaucratic military organization.

On the other hand, the Ministry of Defense should prepare the military organization for NATO membership in a period of two to three years. But with such a strict bureaucratic organization any changes will be difficult. In addition the procurement system should adopt some new practices applied in leading NATO countries. Such practices and changes will meet strong resistance and could be applied with total changes of the existing documents. Therefore the procurement system is not effective for any changes and innovations.

2. TIME EFFECTIVENESS

In order to reach higher congruence with the acting legislation, the procurement system adopts a structure that has low time effectiveness. There is no possibility for regular supplies throughout the year, and most of the contracts for acquisition are for a

period less than a year. That means contracts with similar contents need to be developed during the next year.

In order to reach total obligation of the existing legislature, some of the procedures are strictly regulated as time for fulfillment, content, and channels of communication. Such an arrangement in most of the cases is time consuming.

In fact, congruence with the existing legislation is much more important for the Ministry of Defense than the timeliness of the acquisition processes. At the present this could fit the military organization because of decreased volumes of acquisitions. But the procurement system should definitely improve its time effectiveness in order to meet the NATO standards.

3. BUDGET EFFECTIVENESS

This project is not focused on the possibilities for budget savings with changing the existing practices. There is no research in the Ministry of Defense of Bulgaria on this topic, and there is no available information on the matter. Still, the low effectiveness of some of the existing practices is obvious. For example, the lack of negotiations with the potential suppliers on the contracts' clauses after the assessment empowers the "status quo" of the assessed proposal, which is the best one among the proposals, but not necessarily the best available in the market. Sometimes the same vendor or company takes part in the competition assignment with two or three different and independent representatives. In such a way the vendor could dictate the prices and the results of the procedure.

At the present moment the budget of the Ministry of Defense of Bulgaria is not so big and the real effect of the savings from any improvements are not so tangible. Yet the procurement system could be improved to enhance its budgetary effectiveness. Such an optimization could be a matter for further research.

4. THE EFFECT ON THE NATIONAL SECURITY

At the present moment, when the Armed Forces of Bulgaria are in a process of transition and total reorganization, the most important factor is the stability of the organization. In this case the congruence of the procurement system with the existing legislation is essential.

On the other hand, optimization of the acquisition processes could increase significantly both the timeliness and the budgetary effectiveness of the procurement system. That would positively influence the national security and defense capabilities of the Bulgarian Armed Forces. In addition, adopting the best practices of the leading NATO members in the acquisition processes would support faster integration of Bulgaria into the Atlantic organization. In other words, the effectiveness of the Ministry of Defense procurement system influences directly the national security and the defense capabilities of the Armed Forces of Bulgaria.

C. CONCLUSION

In conclusion, the highly bureaucratic character of the existing Ministry of Defense organization does not leave wide scope for creativity in its procurement system, but the practices applied in the acquisition processes are very close to the theory. Some external factors could influence significantly the effectiveness of the system. And, there are some possibilities for real improvements. The Minister of Defense has the power to enforce some changes with proper interpretation of the acting legislation in the internal documents that regulate the processes. Some flexibility of the processes will increase the time effectiveness of the system too. In such a way, the negative external influences could be reduced properly.

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IV. KEY AREAS FOR POSSIBLE IMPROVEMENTS

In every organization a set of different factors could influence the applicability of any improvement. To understand those factors means to be prepared to meet and to manage the resistance against changes.

It is not enough to find a way for improvement. Much more difficult is to make people accept the innovation. Especially in a case when the designed working technology and its implementation fully fits the present organizational requirements (as in the case of the Ministry of Defense procurement system).

In addition, if the risk of failure directly influences the national security and the defense capabilities of the state, forcing any change is nearly impossible, or should be done by highly motivated and empowered people that can control the organization from its top management position or from outside⁶⁸.

A. BARRIERS TO IMPROVEMENTS

There are three important types of constraints against improvements in the procurement system of the Bulgarian Ministry of Defense – legislative, organizational and personal. Other factors could influence any improvements significantly too, but not critically. For example, budget limitations could be vital for other organizations but the procurement system needs little money in support of its activities.

1. LEGISLATIVE CONSTRAINTS

The performance of the procurement system is based on strict observance of the enacted legislation. Even internal Ministry of Defense documents are based on that legislation. This fact reflects the public character of the military organization and the strict civilian control over use of the available resources for the national security and defense capabilities of the state.

⁶⁸ Peter M. Sange, “ The Fifth Discipline: The Art and Practice of the Learning Organization” Currency Doubleday, New York, 1994.

In this case acting legislation is the only available frame of reference for the procurement system. That constrains the system from any unlawful changes. Radical changes should be supported by proper legislative changes. In such a way, radical changes for the procurement system could be initiated only by a decision of the state's government.

2. ORGANIZATIONAL CONSTRAINTS

As part of the Ministry of Defense organization, the procurement system shares its characteristics. Highly mechanistic and bureaucratic, with strong centralization of command (see Chapter II) the procurement system cannot change itself alone in the presence of risk of costly failure. Some improvements of existing method is possible, but not a radical change of the system from inside.

Such a character is not developed without reason. This structure ensures the total civilian control over the Armed Forces. As a public budgetary organization with great significance, the military organization has no right to make independent decisions for changes, even to avoid critical national security failures.

In addition, the organization alone will tend to stay in its last stable position. This does not equate to effectiveness but to controllability of the processes. Thus, any changes, that mean unbalancing of the system will lead to strong organizational resistance. Any change must be imposed by powers stronger than the organizational one to resist.

3. PERSONNEL CONSTRAINTS

Permanent reductions of personnel in the Bulgarian Armed Forces after 1990 increase the personal uncertainty significantly. Fear of losing one's job paralyzes creativity and generates strong personal resistance against any improvement. Higher effectiveness of the system could mean decreased needs for staff. In such conditions, the beliefs are that only the person that totally fits the system could sustain his position. If

nothing else, to fit the system means to accept the present conditions of the organization. Such beliefs increase the strength of organizational resistance.

The existing uncertainty for the future of the staff additionally decreases the motivation for changes throughout the organization. Nobody is willing to take the risk of changes if he is not sure if he will have the same position tomorrow or in a month.

In conclusion, the staff and the organization of the procurement system are not willing to change. There is a strong personal and organizational resistance against any change.

In order to initiate a radical change the government should effect some changes in the acting legislative base. But there should be a strong motivation in order to do so. Otherwise any changes of previously accepted legislation mean ineffectiveness of the government that is unacceptable image for the politicians.

B. MOTIVATION

There are several possible sources of motivation for changes not only in the procurement system, but also in the whole military organization.

1. COMPLIANCE WITH NATO STANDARDS

In November 2002 Bulgaria was invited formally to start procedures for NATO membership. Along other tasks and programs for fulfillment, this means full compatibility of the military equipment and of the adopted procedures and technologies of administration. The membership could be used as a basic reason for changes of the legislation by the state's government. This will force changes in the military structures too.

As a matter of fact, the organization of some of the main military structures was already transformed in accordance with the corresponding NATO structures and symbols.

But some of them still use the old administrative models due to the unchanged legislative base.

As far as the government structures that should initiate and proceed any changes of the legislation are not informed what to change, proper proposal from the Minister of Defense should be issued. They should include analysis of existing NATO practices, best practices of acquisition in NATO members, future trends and what should be changed in the legislation in order to effect the innovations. Any existing structural analyses, models, and additional explanations on the topic could be useful. The development of such a proposal could be addressed in future research.

2. RESOURCE UTILIZATION

Resource utilization could become a source of motivation for changes with delegation of personal responsibilities in such a direction. This approach could be very difficult for implementation due to the lack of proper base for comparison or lack of proper system for measurement of the utilization. Additional incentives could be applied to involve different players in the process of changes.

In a moment of limited budget availability, the question for proper resource utilization is important. There are two levels of analysis that could be distinguished: internal analysis or how to reach better utilization of the budget available with the existing legislation base, and external analysis or what should be changed in the acting legislation to enforce positive changes of the acquisition practices. Both analyses should be focused on the efficiency of the procurement system, the best practices available, and their applicability in NATO structures. Those analyses could be addressed in future research.

3. STATED OBJECTIVES, MISSIONS, AND GOALS

The White Paper on Defense⁶⁹ is an official guide throughout the Ministry of Defense (see Chapter II). It is adopted by decision of the Council of Ministers, but it has an explanatory character, not a legislative one. This paper is a good place for providing vision, objectives, and missions of the main elements of the Ministry of Defense. Such statements are not a common practice in the Bulgarian Ministry of Defense, but are widely adopted by the structural elements of NATO Command and military organizations of NATO members.

In so far as the Council of Ministers is a government organization, it could issue proposals to the National Assembly to empower the White Paper on Defense as part of the acting legislation, after proper changes and statement of goals and missions for the key parts of the military organization.

Legislative provision of additional responsibilities to key command structures and representatives, in connection with the missions' support, goals' achievement, and objectives' realization will motivate the system towards efficient changes.

This issue needs additional research and analysis.

4. INCENTIVES FOR IMPROVEMENTS

The Ministry of Defense, as a public budgetary organization, does not automatically provide incentives for improvements. There is no additional system of incentives for improvements. With the existing aversion to risk, no one within the system is willing to initiate any changes.

Development and implementation of a system that provides incentives for innovations and tolerates the changes will motivate the involved personnel to take part in the process of change. This could also be a matter of further research.

⁶⁹ White Paper on Defense, adopted with decision of the Council of Ministers on April 04, 2002.

The implementation of such a system should be specifically addressed in the legislation base too.

C. AREAS FOR IMPROVEMENTS

There are different key areas for improvement of the Bulgarian Ministry of Defense procurement system. They could be grouped in three main groups – legislative, structural, and procedural.

1. LEGISLATIVE

The Public Procurement Act⁷⁰ is the most important legislation for the procurement system. All the rules and methods applicable to the system are based on this act. The Act itself is developed in accordance with existing acts in most of the developed states. It is based on the same public and economic intentions (see Chapter II). But, some parts of the act could still be interpreted in different ways. This results in some diversity in its implementation. The situation is avoidable with proper research on the implementation of similar acts in other states that could result in recommendations to the government for changes in the Act.

In addition, comparison of the implementation of acts, similar to the Public Procurement Act, could be spread in a level of structures equal to the Ministry of Defense. In this case, the subject of comparison would be the interpretation of the act in its direct implementation. Such a research could result in recommendations for proper reflection of the act in order to avoid differences with foreign legislations. Those recommendations could be embodied in papers and internal documents that regulate the act's direct implementation.

⁷⁰ Public Procurement Act, published in State Paper # 56 / June 22, 1999.

2. STRUCTURAL

The organizational structure of the procurement system reflects the Administration Act⁷¹, the policy, and the organizational structure of the Ministry of Defense. In this case, little could be done for changes of the procurement system structural design.

Much more important is the possibility for delegating additional responsibilities throughout the system, communication improvements, and optimizing the horizontal interconnections.

Delegating additional responsibilities could affect the personal interest of involved players from different than the Procurement Management Directorate structures. For example, personal assignment of representatives from the Legal Activities Directorate (see Figures 4 and 5) to particular contracts and their responsibility for the contracts' fulfillment will increase their motivation in the contracting process participation.

Communication improvements will increase the speed of flow of information that will significantly shorten delays. With previously available information, preparation for most of the procedures could be done in advance.

Horizontal interconnections do not necessarily mean changes in existing authority. Such interconnections could be useful for proper coordination of the processes and much more efficient participation of the different players.

Assignment of missions, goals, and vision could be used in support of policy towards changes. Such formal adoption of directions for development with proper delegation of responsibilities could improve the conditions for changes.

3. PROCEDURAL

The procedures assigned to the acquisition process are far from optimum.

⁷¹ Administration Act, published in State paper # 130 / October 05, 1998.

The influence of some time constraints could be avoided with advanced preparation and fulfillment of parts of the procedures in parallel with other procedures, wherever it is acceptable within the acting legislation base. For example, the type of procedure confirmation (steps 24 and 25 on Figure 5) could be done before the endorsement of the Common Plan for Material and Technical Support. The confirmation issued for particular procedure does not mean that the procedure needs to be fulfilled later on.

Furthermore, the procedure for price marketing does not impose any further obligations for contracting. In this case this procedure could be done for the nomenclatures included in the consolidated draft plan for material and technical support (steps 4, 5, and 6 on Figure 4).

In addition, personal responsibilities in connection with assigned terms for some of the procedures that involve players from other military structures (see Figure 5) will shorten the time for their fulfillment.

There are different theories for optimization of organizations and procedures. They could be implied additionally for further optimization of the procurement system without changing its legislation base.

For example, the theory of supply chain effectiveness is well developed and available. But still its implementation depends on the readiness of the system to adopt such practices. Key elements in its implementation are knowledge and motivation for improvements. As far as the knowledge is accessible, again the motivation throughout the system is critical.

Further comparison of foreign experience or adopted best practices could lighten different ways for improvements. The applicability of those practices could be addressed in future researches.

D. CONCLUSION

There are three main areas for further improvements of the procurement system.

Improvements of the applicable legislation are difficult to obtain, but not impossible. The most important factor here is the involvement of the government as the only legitimate institution to change the legislation.

Some structural areas for improvement are available as well. They do not need changes in the legislation base and could be applied easily with changes of internal Ministry of Defense documents.

The processes adopted in the procurement system are not fully optimized. New theories could be applied for improving the system efficiency. They could involve changes in the legislative base or in internal Ministry of Defense documents only.

There is no body of research available on the improvement of the Bulgarian Ministry of Defense procurement system.

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V. CONCLUSIONS

A. SUMMARY OF FINDINGS

The Ministry of Defense organizational structure is deliberately designed to be highly mechanistic and bureaucratic, with strong centralization of authority, in order to sustain the existing level of uncertainty.

The procurement system shares the same type of organization. There is a serious disconnect between the designed organization and the applied technology. But the high level of uncertainty and immense cost of risk taking impose such a structure.

The designed organizational structure fits the policy of the government implemented in the Ministry of Defense under the control of the Minister of Defense.

The Procurement Management Directorate is the main body of the procurement system, but it has no power to control the rest of the players in the system. It plays the main role during the second (Contracting activities) and the third (Contracts fulfillment) stages of the acquisition process.

There are several laws that affect the procurement system in different stages of its work. The most important document is the Public Procurement Act. Since this act is not written specifically for implementation in the military organization, there are additional internal Ministry of Defense documents that interpret the relevant legislation, regulate the processes, and provide authorities, responsibilities, and processes' design.

The process of planning is well organized with enough time reserves to cope with time delays due to external influences.

There are several types of constraints that limit the effectiveness of the procurement system. As far as they cannot be eliminated totally, the system should find ways to decrease their effects on the system.

With the new realms of international market relations, the legislative base cannot meet all the particularities of the existing foreign legislation. The existing interpretation of the laws does not support fully the effectiveness of the system.

There are no common practices for the different structural elements of the Ministry of Defense to announce officially their objectives, missions, goals, and principles.

The theory for organizing structures and processes in the procurement system does not completely fit the working process and the existing practices. That theory imposes some constraints on the system, but totally fits the military organization, the existing uncertainty of the environment, and the unacceptability of risk to national security.

The highly bureaucratic character of the Ministry of Defense organization does not leave room for creativity in its procurement system; but the practices applied in the acquisition processes are very close to the theory. Some external factors could influence significantly the effectiveness of the system. There are some possibilities for improvements. The Minister of Defense has the power to effect some changes with proper interpretation of the acting legislation in the Ministry of Defense documents that regulate the processes. Some flexibility of the processes would increase the timeliness of the system too. In such a way, the negative external influences could be reduced properly.

Stage one activities are connected with the process of planning. The Procurement Management Directorate has no control over the processes. Some of the external factors could affect the system seriously that could result in time delays. Stage two activities are responsibility of the Procurement Management Directorate. The Directorate has no power over the players, but is responsible for proper preparation and fulfillment of the procedures.

During the third stage (Contracting fulfillment) the Procurement Management Directorate is responsible for contracts' fulfillment, warranty procedures, and replacement of nomenclatures. This stage is not in the scope of the present project.

The system imposes severe constraints against any changes. Some of those constraints are embodied in the legislation base and cannot be changed by the Procurement Management Directorate. The organization itself and the employees in the system create other constraints that are severe but not unavoidable.

The Ministry of Defense and the procurement system as part of it, need different ways to motivate changes. The strongest motivation for a bureaucratic system, such as the Procurement Management Directorate, could come with legislative changes. This is time consuming and does not depend on the Ministry of Defense. Some other activities, such as adopting incentives for improvements, could stimulate personnel to face changes.

There are three main areas for further improvements of the procurement system: legislative, structural, and procedural.

There is no body of research available on the improvement of the Bulgarian Ministry of Defense procurement system.

B. CONCLUSIONS

This project intended to answer the following research questions:

1. PRIMARY RESEARCH QUESTION:

What is the congruence between the theoretical and the legislative bases for developing the procurement system of the Ministry of Defense and the present practices applied with its functioning?

There are very little and insignificant deviations between the theoretical and the legislative bases for developing the procurement system of the Ministry of Defense and the present practices applied with its functioning. This results from the purposefully designed structure of the system in support of the civilian control over the military organization. This congruence fits the present conditions in the military organization, but impedes the system's ability to make changes and innovate.

2. SECONDARY RESEARCH QUESTIONS:

Where is the position of the procurement system in the structures of the Ministry of Defense and the other military organizations?

The procurement system is a part of the Ministry of Defense structure, sharing the same characteristics of highly mechanistic and bureaucratic organization with all the applicable limitations of such characteristics.

Which are the theoretical and the legislative bases for the procurement system functioning?

The working procedures in the procurement system are based on a strict compliance of all the acting legislation relevant to the processes of acquisition of materials and services. All the other additional internal documents that affect the procurement system are based on the legislation too. Such compliance with the acting legislation is the most important principle of the procurement system.

What is the structure of the planning process in connection with the procurement system?

Planning process is assigned to different planning bodies in three levels of planning. The first level includes the Armed Forces and their assigned Headquarters. The second level includes the Command for Material and Technical Support. Both levels are under the General Staff command. The third level includes the Budget Planning and Management Directorate from the Ministry of Defense organizational structure. The Procurement Management Directorate as the main player in the procurement system has no control over the planning procedures that consist of the first stage's procedures of the acquisition process.

Which are the strengths and the weaknesses of the system?

The congruence between theory and practice is the main strength of the system at the present moment. It fits totally the existing organizational characteristics and the adopted practices in the Ministry of Defense. For future development of the procurement system this congruence could become a significant obstacle against any changes and improvements. NATO membership will bring necessities for changes in the military organization, therefore in the procurement system too, in order to reach full compatibility of structures and practices among the allies. Such necessities for changes could become primary motivation factor for improvements and replacement of the existing practices.

The main weakness of the system results from the highly mechanistic and bureaucratic character of the organizational structure. This character defines strong

organizational and personal resistance against any changes or improvements and opposes any creativity.

In addition, the Ministry of Defense has no influence on the legislation issuance, which is prerogative of the government. In such a way only the government has the power to enforce any changes in the military system with proper changes of the relevant legislation. This is a difficult and time-consuming process.

Which are the key areas for improvements?

There are several different areas for improvements that could be grouped in legislative, structural, and procedural ones. Any legislative and some of the structural improvements should be enforced by the government with adoption of proper changes in the acting legislation. Other structural and most of the procedural improvements could be initiated with internal changes for the Ministry of Defense document that are prerogative of the Minister of Defense. There are no any particular researches for possible improvements and optimizations of the procurement system till now.

Which are the additional questions that should be analyzed further?

This question is answered later on in this chapter.

3. ADDITIONAL CONCLUSIONS

The effectiveness of the procurement system is limited by set of constraints. The existing financial and legislation constraints cannot be overcome at the level of the Ministry of Defense. Still the procurement processes have some reserves and means to deal with such constraints and to reduce their influence. Some time, process, and organizational constraints could be reduced or fully eliminated by changes in internal for the Ministry of Defense documents.

Some of the procedures could be optimized additionally.

C. SUMMARY OF RECOMMENDATIONS

1. SHORT TERM RECOMMENDATIONS

- Optimization of the system with a new model of horizontal communications;
- Assignment of additional responsibilities in connection with the procurement system;
- Routine meetings of the system's players to prepare proposals for proper interpretation of the relevant legislation;
- Contract templates with common recommendations for clauses;
- Reconsidering and adjusting the papers needed for participation in competition;
- Web-based site for the procurement system with all the necessary explanations of procedures, documents required, and proper templates;
- Optimization of the planning process based on best practices for the supply chain management;
- Optimization of the time-flow diagram of the procedures adopted in the procurement system;
- Additional optimization of some of the procedures – unified procedures, parallel activities, preliminary preparations and fulfillment of some of the practices;
- Development of common database for potential vendors, prices, quality, and assortment;
- Development of larger horizontal interconnections with overall control vs. formal vertical channels of authority;
- Adoption of new more effective contracting practices;
- Long-term contracting;
- Research and implementation of selected best practices of other trade organizations or acquisition units;
- Adoption of E-business practices;

- Improved internal communicational net;
- Adoption of new forms of competition practices as open bidding, discount policy assessment, etc.;
- Transferring some contracting procedures for emergency supplies to the units' commanders with proper budgetary freedom and overall control;

2. LONG TERM RECOMMENDATIONS

- Research on best foreign practices;
- Research on foreign legislation for paper issuance compatibility;
- Proposals for changing of the relevant legislation in support of the new visions, ideas and improvements;
- Formal issuance of vision, missions, and goals, their proper empowerment as acting law and assignment of relevant responsibilities for management and control;
- Research on NATO practices and their appliance in the Ministry of Defense;
- Development and implementation of system of incentives towards innovations;
- Specialized education of the key representatives of the procurement system, overall personnel policy, and additional incentives;

D. FURTHER RESEARCH TO BE DONE

- This project is intended to be prolonged and developed additionally by other Bulgarian students from the perspective of their respective organizations and experience.
- Best practices of acquisition in other military structures and successful business organizations;

- Investigate the feasibility of using “process innovation” and “business process re-engineering” methodologies to optimize the Bulgarian Ministry of Defense procurement system;
- Optimization of workflow in the Ministry of Defense procurement system;
- Optimization of processes in the Ministry of Defense procurement system;
- Optimization of the acquisition planning process with best practices for requisition and supply chain management;
- Improving contracting practices;
- Existing constraints and their influence on the procurement system effectiveness;
- Contract fulfillment activities in the Ministry of Defense procurement system;
- NATO practices for acquisition;
- Ways for better budget utilization with the existing legislation base;
- Development of vision, missions, and goals for the procurement system;
- Development of system of incentives towards innovations and changes in the Ministry of Defense procurement system;
- Identify a suitable “change model” to facilitate process innovation and cultural change within the Bulgarian Ministry of Defense procurement system;
- Identify specific laws, regulations, and statutes that impede the exercise of procurement business judgment within the procurement system.

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