

Buy Smart+

Country Experiences: Germany

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Procurement legislation



Procurement law in Germany is segmented into two parts:

- There is a system of judicial remedies applicable for public contracts of and above the thresholds.
- For all other public contracts there is a far weaker system of protection of the bidders, restricted to claims of compensation of damages if a legal provision wasn't met in the procedure and – if regarded – the public contract would have been awarded to the claimant.

1. The German Law Against Restraints on Competition (GWB)

- The §§ 97 to 129b GWB contain the system of judicial remedies as designated by the directive of legal means for procurement procedures (most recently amended by the directive 2007/66/EC). It is applicable only if EU-thresholds are met.

2. The Procurement Regulation (Vergabeverordnung, VgV)

- The Procurement Regulation reproduces the EU-thresholds and energy efficiency measures. It is applicable only if EU-thresholds are met.

3. “Sektorenverordnung”

- For procurement procedures of entities operating in the water and energy services sectors, the regulation on sectors (“Sektorenverordnung”) is applicable.

4. VOL/A, VOB/A and VOF

- Procuremental subjects of the 2004/18/EC are implemented by the VOL/A (for public supply and services), the VOB/A (for public works contracts) and the VOF (for self-employed services/works).
- These provisions define the procedure in detail, deadlines and various other aspects of the process of awarding a contract.
- VOL/A and the VOB/A are segmented into two parts each: Rules applicable for the procedure below the threshold sums (1st Chapter of VOL/A and VOB/A) and rules applicable for sums meeting or exceeding the threshold sums (for VOL/A: 2nd Chapter, for VOB/A: 1st and 2nd Chapter accumulatively).

Political initiatives / other projects



- Purchasing policies on energy efficiency for federal bodies(2008)
- Alliance for sustainable procurement (2009)
- Competence Center for sustainable procurement (2012)
- Information website from environmental protection agency
- Purchasing policies on state and municipal level



KOMPETENZSTELLE
für nachhaltige Beschaffung

Procurement practice



- **Public tendering** (known across Europe as the ‘open procedure’) – an unlimited pool of companies can be invited to tender for contracts
- **Restricted tendering** (known across Europe as the ‘restricted procedure’) – the pool of companies invited to tender is determined through candidate pre-selection (there are two exemptions in the case of national calls for tender)
- **Private tender** (known across Europe as the ‘negotiated procedure’) – private tenders are the only procedure permitting negotiations with companies
- **Competitive dialogue** (invitation to participate, and subsequent negotiations with selected companies on every contract detail)

Procurement practice



- Public Procurement has a value of about € 250 - 360 Mrd. = 12 - 17 % GDP (UBA 2010)
- Under Germany's federal structure, public procurement is decentralised, i.e. organised by the Federal Government, the federal states (Länder) and local authorities.

Procurement practice



Number of contracting authorities and entities

| | | | | | |
|-------------------|---|--------------|------------|--------------|---------------------------|
| AT | BE | BG | CY | CZ | DE |
| 5 000 | Around 5 000 | 3 409 | Around 700 | 1 989 | Between 15 000 and 20 000 |
| DK | EE | ES | FI | FR | HU |
| 350 | 1 153 | 8 339 | 540 | 132 652 | 9 856 |
| IE | IT | LT | LV | MT | PL |
| 807 ²⁵ | Comprehensive information not available | 5 615 | 2 287 | 152 | 13 765 |
| PT | RO | SE | SK | UK | |
| 2 800 | 12 272 | Around 4 000 | 2 287 | Around 5 000 | |

Source: European Commission

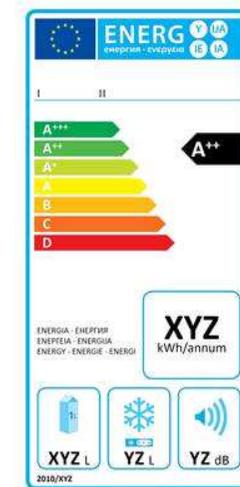
Important labels



The Blue Angel is the first and oldest environment-related label for products and services in the world.

It was created in 1978.

Today, about 11,700 products and services in circa 125 product categories carry the Blue Angel eco-label.



Buy Smart+ experiences



- WP2 Helpdesks
- WP3 Knowledge Transfer
- WP4 Training
 - Consultations: 31
 - Trainings: 14 with 242 participants (average 17), 5 more are planned
 - Good Practice: 0
 - Networking
- WP5 Pilot Projects
- WP7 Dissemination
 - Presentations: 12
 - Newsletter: 2
 - Media coverings: 46
 - Press releases / articles: 3

Lessons learnt



- The barrier for pilot projects seems to be quite large
- Interest is still rising
- Private procurers are less interested – for them the supply chain is becoming more important
- For procurers it is difficult to judge which environmental criteria are important, if there are enough offers and how it will affect the price

Contact



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