

FEAST IN TIMES OF PLAGUE

How the Bulgarian Food Safety Agency Gave Away Millions for Animal Carcass Disposal

The Anti-Corruption Fund (ACF) has filed a report to the Public Financial Inspection Agency regarding a procurement procedure for the disposal of animal carcasses, an activity which is directly linked to public health and has serious economic implications. Since March 2018, the Bulgarian Food Safety Agency (BFSA) has spent a record amount on this activity, awarding contracts worth nearly BGN 30 million (EUR 15 million). The funds were allocated to two private companies which used mobile incineration installations to process an unprecedentedly large number of carcasses despite the fact that such installations have much lower capacity – as much as seven times lower – compared to the capacity of regular incineration plants.

ACF's analysis shows that BFSA not only took controversial decisions with regards to the public procurement procedure, but also failed to perform proper control over the disposal processes and the reported quantities of carcasses and other animal waste.

Context

Pig farming is an important sector in the European Union (EU). Not only is pork the largest source of meat¹ in the EU, but it also represents a significant share of many member states' economies. In countries such as Bulgaria and Romania, a significant share of pigs are bred by small-scale farmers. For reference, around 35 % of all pigs in Bulgaria are bred in small farms of less than ten pigs².

The first case of African Swine Fever (ASF) in Eastern Europe was recorded in Georgia in 2007.³ The disease spread throughout the region with cases recorded in The Russian Federation, Ukraine, Belarus, and Poland. In 2018, Bulgaria witnessed an outbreak of ASF in pigs^{4,5} with over 75 cases registered.⁶ The current epizootic situation is still complicated. In the summer of 2019, seven industrial-scale pig breeding farms were affected by ASF (as of August 19, 2019⁷).

The disease is not deadly for humans but has high mortality rates in pigs. It is also highly contagious, transmitted through both direct and indirect contact, as well as through ingestion of contaminated feedstuffs.⁸ An outbreak of the infection will significantly harm pork production, affecting meat supply, farmers and meat producers and resulting in long-lasting negative economic impact. From this perspective, adequate measures to prevent the spread of the disease are of paramount priority.

1 Food and Agriculture Organizations of the United Nations, Sources of Meat: http://www.fao.org/ag/againfo/themes/en/meat/backgr_sources.html

2 Eurostat, Pig farming in the EU, a changing sector Marquer, Pol: <https://ec.europa.eu/eurostat/documents/3433488/5564612/KS-SF-10-008-EN.PDF/d7615da8-004d-4d44-b04b-6106bea1772e>

3 Viruses (2019), Issue 11, African Swine Fever Status in Europe: Cwynar, P.; Stojkov, J.; Wlzlak, K. African Swine Fever Status in Europe. *Viruses* 2019, 11, 310: <https://www.mdpi.com/1999-4915/11/4/310>

4 Ibid.

5 Data from World Organization for Animal Health: https://www.oie.int/wahis_2/public/wahid.php/Reviewreport/Review?page_refer=MapFullEventReport&reportid=31248

6 Report of the European Commission, *Summary of the Results of the Animal Disease Notification System*: https://ec.europa.eu/food/sites/food/files/animals/docs/ad_adns_outbreaks-per-disease.pdf

7 https://www.capital.bg/politika_i_ikonomika/bulgaria/2019/08/19/3952707_afrikanskata_chuma_po_prasetata_vleze_v_sedmi/

8 European Commission Health and Consumers Directorate-General, Guidelines on surveillance and control of African swine fever in feral pigs and preventive measures for pig holdings https://ec.europa.eu/food/sites/food/files/animals/docs/ad_control-measures_asf_wrk-doc-sanco-2013-7138.pdf p.2

The EU has recognized the scale of the threat and has issued multiple legal and technical regulations for animal waste disposal. Regulation 1069/2009 of the European Parliament and of the Council⁹ outlines incineration and co-incineration as appropriate disposal methods. Incineration is a process in which carcasses and other wastes are burned at very high temperature. The burial or burning of animal by-products on site are explicitly stated as “...justified (only) in specific situations, in particular in remote areas, or in disease control situations requiring the emergency disposal of the animals killed as a measure to control an outbreak of a serious transmissible disease...”¹⁰.

In Bulgaria, the institution responsible for the implementation of the relevant EU and national legislation is BFSA. In addition, the agency exercises control over the production, storage, distribution, transportation and trade of foods and by-products of animal source. In a number of publications, as well as in tender documentation, BFSA has acknowledged that burial of dead animals is an approach that creates significant pollution risks and does not contain the spread of infections. In this context, ACF’s investigation has revealed a number of violations in the public procurement procedures for animal waste disposal, conducted by BFSA. The implications are not only financial but also lead to significant environmental and public health risks.

The story line

In the end of 2017¹¹, BFSA initiated a public procurement procedure for the disposal of carcasses and animal waste for a period of three years, at an estimated cost of EUR 15 million. The funds were part of a EUR 45 million state aid package for the period 2015-2020¹². The tender procedure was suspended¹³ following a complaint from Bramas-96 AD, an incineration plant in the city of Shumen which was also a participant in the tender.

Three months after the suspension,¹⁴ BFSA proceeded to allocate disposal contracts through so-called ‘direct contracting’ – a simple procedure involving direct negotiations rather than a public tender. The explanation for this step was the need to ensure continuous provision of the service of animal waste disposal in accordance with the requirements of Regulation 1069/2009 EO. BFSA pointed out they had chosen to contract companies with mobile incineration installations because of their ability to react swiftly and on the spot. However, for reasons that remain unclear, BFSA invited only two¹⁵ of the firms owning such mobile incineration installations to sign contracts. The chosen firms were Sin Krast 2016 and Eko BG SJP.

Borislav Lazarov, owner of Sin Krast 2016 is notorious in Sofia because of his involvement in the waste management crisis in the city in 2009 when he was manager of the company Novera.

Sin Krast 2016 owns two mobile installations, one of which had been registered less than a month before the invitation for direct contracting was sent. At the time of signing the contract, the company had registered capital worth BGN 1,950 (EUR 1,000). The company’s owner, Borislav Lazarov, is notorious in Sofia because of his involvement in the waste management crisis in the city in 2009 when he was manager of Novera, one of several companies providing waste collection services¹⁶. According to media publications, Mr. Lazarov is closely linked to Rumen Gaytanski, a controversial figure and owner of several Sofia waste disposal firms: VOLF-96, DITZ, and Tchistota Sofia). Lazarov is former director of VOLF-96, and representative of DITZ and Tchistota Sofia.

At the time the contract was signed, Eko BG SJP had capital worth BGN 100 (EUR 50) and one installation, registered three months prior.

BFSA has declined to answer ACF’s questions about the reasons for choosing these particular firms. The agency has also refused to answer questions regarding the companies’ ability to fulfill their contractual obligations.

In March 2018, BFSA signed contracts worth 11.9 million BGN (EUR 6 million) with the two companies.

By mid-November 2018, the money was spent and the agency proceeded to sign annexes to the contracts, providing additional funds with the explanation that additional measures were need-

9 Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0001:0033:EN:PDF>

10 Ibid. § 50 of the Preamble

11 With Decision No. 6691 – Ю / 15.11.2017 BFSA has started public procurement procedure number № 02378-2017-0008 / 17.11.2017

12 Notification from the European commission from 16.08.2016 of state help N SA46251

13 With Announcement No. 7270-S of 11.12.2017

14 № 02378-2017-0008 / 17.11.2017

15 In Bulgaria there are 2 incineration plants and 4 companies owning mobile incineration installations

16 http://news.bnt.bg/bg/a/5670-upraviteljat_na_novera_na_razpit_v_dans_zaradi_krizata_s_bokluka

The firms must have incinerated 2,700 tons of animal waste over 34 days – a huge amount, considering that in the years prior the monthly average was only 500 tons.

ed to deal with outburst of plague in small ruminant animals, as well as outbreaks of ASF and bird flu¹⁷. The first annex was signed on 16 November 2018, distributing **more than BGN 3.7 million** to the two firms. The second annex (distributing another **BGN 1.7 million** on the same grounds) was signed on 21 December 2018. Given the total amount paid within this 34-day period, the firms must have incinerated 2,700 tons of animal waste. This is a huge amount considering that, in the years prior, the monthly average was only 700 tons. The figures are even more puzzling when comparing the combined capacity of the three mobile incinerators (24 tons per day) to the combined capacity of the two incineration plants which had been previously contracted to handle disposal (about 200 tons per day).

More annexes were signed at the beginning of 2019 and the two firms received an additional **BGN 12 million**. Thus, by the end of January 2019, the two firms received an **additional BGN 17.5 million** on top of the main contracts worth **BGN 12 million**. BFSA said it had signed the annexes because of the extraordinary and complicated epizootic situation in the country which, the agency argued, qualified as exceptional circumstances under the original contracts and the Public Procurement Act.

In addition, in mid-November 2018, Sin Krast 2016 was granted another contract under an open tender procedure. Thus, an **additional sum of over BGN 5.4 million** was paid to the company for services already covered by its existing contract.

In April 2019, BFSA signed new contracts with Sin Krast 2016 and Eko BG SJP, awarding them **BGN 24.5 million for the period until the end of 2020**.

The “red flags”

When reviewing the tender documents and other relevant documentation, ACF identified a number of violations of the Public Procurement Act. Also evident are indications of possible favorable treatment given to the two companies.

- **Violations of the Public Procurement act.** According to the clauses of the Public Procurement Act (Art. 116, para 1, item 1) referred to by BFSA as legal grounds for adding annexes to the contracts, public procurement contracts can be amended only when the possibility for changing their scope and nature, as well as the conditions under which they may be carried out have been clearly stipulated in the procurement documentation and in the contract itself. In addition, any amendments or subsequently added conditions must not lead to changes in the subject matter of the contract and must not involve additional deliverables. In this case, no such changes were envisaged in the procurement documents¹⁸.
- **Contract obligations abuse, approved by BFSA.** Although ASF and the plague in small ruminant animals were referred to as justifications for handing out additional funds to the two companies, BFSA has never relied on mobile incineration installations to contain the above-mentioned epidemics. In numerous public statements, BFSA’s director repeatedly stated that the installations owned by Eko BG SJP and Sin Krast 2016 were not being used to eradicate the carcasses of infected animals. BFSA confirmed this in a response to questions by ACF.¹⁹ The discrepancy between what BFSA pointed out in the annexes and its public statements raises serious questions which should be investigated thoroughly.
- **The companies received additional funds through overlapping of contracts.** For the period April-June 2019, Eko BG SJP had two contracts with an identical subject matter. With regards to Sin Krast 2016, the overlapping of contracts has been in effect since November 2018.
- **Unusually high amounts of disposed animal waste.** Based on the price per ton in the contracts and the total payments made, it can be estimated that the companies incinerated around 20,000

¹⁷ Annex No 1 of 16.11.2018, Annex No 2 of 21.12.2018 and Annex No 5 of 25.01.2019

¹⁸ Article 4 of the March 2018 contracts allows for the possibility of extension under the terms of Art. 116 of the Public Procurement Act (PPA) in case of an outbreak of a contagious animal disease, causing an increase in animal mortality and consequently – the full spending of the allocated budget. However, this could only happen provided the competent state authority allocates additional funds. The subject matter of the contract is “animal waste disposal services up to the maximum value, specified in the contract”. This means that any change, amendment, or extension of the contract involving additional sums to be paid above the maximum stipulated value, fall outside the legally permitted scope for amendment as they involve changing the subject matter of the contract. Thus, providing additional funds for additional services does not meet the legal requirements, referred to by BFSA (Art. 116 para 1, item 1 of PPA) and is therefore illegal. In addition, **any change in the maximum value under Article 6 of the contract, constitutes the awarding of new deliverables and, therefore, cannot be lawfully made under the PPA.**

¹⁹ In a letter dated 2 August 2019, BFSA said that “until now, the carcasses of animals killed because of African Swine Fever (ASF) are being buried and not sent to incineration or disposal establishments.” The same response was provided by Eko BG SJP.

tons worth of carcasses and other animal waste in one year. Such a quantity has never been incinerated in Bulgaria before and is three times larger than the joint quantity of animal waste handled by the incineration plants in Shumen and Varna in 2017. It is not possible for the mobile installations to have achieved such impressive results. The source of the animal waste is another issue of concern, as the mobile incinerators did not handle any waste caused by the epidemics.

- **The two stationary incineration plants, competitors of the mobile incinerators, were shut down for alleged minor violations of the law and could not participate in the tender.** Some of the measures have already been revoked in court, while for others litigation is still pending.
- **Lower capacity requirements were set in the tender.** The capacity requirements for eligible participants were lowered significantly (from 60 tons per day to eight tons), compared to those in previous years. Without this change, mobile incineration installations would not have been eligible to participate.
- **Simplified requirements for mobile incineration.** BFSA simplified the requirements for mobile installations in its operational procedure for control over animal waste disposal facilities. While incineration plants are required to measure and log the tonnage of all lorries entering and exiting their premises, such requirements have been lifted for mobile installations. Thus, it is unclear how BFSA exercised control over the mobile installations and how it verified reported quantities of waste handled.
- **Lack of transparency within BFSA.** The agency has repeatedly refused to answer ACF's questions regarding the payments made to Sin Krast 2016 and Eko BG SJP, the quantity of animal waste handled by the companies, and how this quantity was verified. BFSA's reluctance raises serious doubts regarding its willingness and/or ability to exercise control over the private companies. Such doubts are further strengthened by evidence, gathered by ACF, showing that the disposal methods of the companies do not meet basic hygienic requirements, as outlined in Regulation 1069/2009 of the EU and the Veterinary Act.

Follow up

ACF has submitted a report to the Public Financial Inspection Agency (PFIA), calling for a thorough investigation of the procurement procedure. So far ACF's activities have triggered investigations by both PFIA and the Public Prosecution²⁰. A video outlining the most important aspects of ACF's investigation (available on <https://acf.bg/en/voyna-za-trupove/>) has attracted considerable public and media interest. The video and the reports to public institutions were developed in collaboration with Genka Shekerova, a respected journalist.

The case is only one among many dubious BFSA actions. In August 2019, Georgi Mitev, director of the BFSA branch in the city of Burgas, was arrested on suspicions of racketeering. Mitev has been released on bail and was later elected chairperson of a political party, the Union of Democratic Forces, in Burgas.²¹ In general, there have been a series of scandals within the agriculture and forestry sector. In May 2019, Rumen Porozhanov, then Minister of Agriculture, Food and Forestry, resigned from the post, following an investigation into misuse of funds within State Fund Agriculture²².

The investigation into BFSA's animal waste tender demonstrates the importance of improving transparency within the agency, as well as other state institutions which select private companies to provide costly and important public services.

20 BTA, Prosecution to Probe Food Safety Agency amid ASF Outbreak: <http://www.bta.bg/en/c/DF/id/2057751>

21 <https://dariknews.bg/regioni/burgas/d-r-georgi-mitev-shte-vodi-listata-na-sds-v-burgas-2186395>

22 <https://btvnovinite.bg/bulgaria/rumen-porozhanov-podade-ostavka.html>