

# **Conflict of Interest as a Risk Fraud**

## ***The Hungarian Case***

29 March 2017 - Prague, Czech Republic

# Conflict of Interest in Public Procurements *Legislation*

Before 1 November 2015: general clause for contracting entities

„A person or organisation who is not able to perform its functions in a partial and objective manner for any reason, in particular due to economic interests or any other joint interest with an economic actor participating in the public procurement procedure *may not participate* in the preparation and the conduct of the procedure in the name of the contracting entity.”

# Conflict of Interest in Public Procurements *Legislation*

Before 1 November 2015: general clause for bidders

„A person or organisation involved by the contracting entity in an activity related to the public procurement procedure or its preparation *may not participate* in the procedure as bidder, subcontractor [etc.], if its involvement in the procedure would result in the harm of fair competition.”

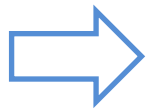
# Conflict of Interest in Public Procurements *Legislation*

After 1 November 2015: general clauses remain, but new provisions for bidders

- a detailed list of public functions who – organisations owned by these – may not participate as bidders:
  - president
  - prime minister,
  - ministers,
  - chairman and vice-chairman of National Assembly,
  - president of the Supreme Court, and the Constitutional Court,
  - Prosecutor General
  - heads of Government Agencies
- + organisations owned by their relatives – in a broad sense as set out in the Civil Code.

# Conflict of Interest in Public Procurements *Legislation*

After 12 December 2015: legislators realised that the circle of persons close to them and excluded from public procurements were too wide



amendment of the Act on Public Procurement after 1 month:

Only the organisations owned by relatives living in a joint household are excluded from public procurement procedures as bidders.

# Conflict of Interest in Public Procurements

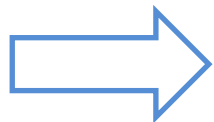
## *Case Study*



# Conflict of Interest in Public Procurements

## *Case Study*

- company owned by the son-in-law of the Prime Minister wins public contracts (19) in several Hungarian towns for the modernisation of public lighting funded by EU;
- already a year before the tender, negotiations with the company, with explicit reference to the son-in-law (audio record, in one case);
- in certain cases the organisation drafting the tender documents is owned by a business partner of the son-in-law => tailor-made public procurement procedures;
- in most cases no competition;
- Overpriced, bad quality;



POLICE INVESTIGATION



Thank you for your attention

Gabriella Nagy  
head of public funds programs  
Transparency International Hungary  
gabriella.nagy@transparency.hu  
<http://transparency.hu/>