

RISKS IN EU FUNDED PROCUREMENT

IDENTIFICATION AND PREVENTION

PUBLIC PROCUREMENT



AND EUROPEAN STRUCTURAL AND INVESTMENT FUNDS (ESIF)

- “Public procurement plays a key role in the implementation of ESIF investments and is an essential element of the Single Market, representing no less than 19 per cent of the EU's GDP.”

PROCUREMENT AND CORRUPTION



- RAND: corruption in public procurement costs EU around **€5.3 bn per year**
- OLAF: ESIF funds single largest area for their investigative work
- Need to ensure best practices are implemented – e.g. via ex-ante conditionality
- „Common provisions“ for structural and cohesion funds 2021-27

THE 5 PILLARS OF OPEN CONTRACTING



PILLAR 1

TRANSPARENT & OPEN PUBLIC PROCUREMENT PROCESSES

- Open data standards (Open Contracting Partnership) ensure accessibility
 - Allow CSOs, journalists to scrutinise budget allocations
 - Helps even the playing field, increases competition
- Enables online tools, e.g. Red Flags platform (TI Hungary et al)
- ESIF-regulation requires info in single website – incl. beneficiary data in machine-readable format
- EU-procurement directive obliges MS to transpose e-procurement provisions in 2018

RECOMMENDATIONS 1



TO BE IMPLEMENTED AS PART OF ESIF EX ANTE CONDITIONALITY

- Beyond beneficiary data, MS should make public contracting information available incl:
 - Full procurement process from planning to implementation
- COM should establish single, central, open data portal on EU funds beyond current DG REGIO
- MS should publish BO info from all bidding companies to identify conflicts of interest / collusion
- Establishment of open contract registers
- Technical Assistance from COM (e.g. SRSS, IPs)

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PILLAR 2

INDEPENDENT CIVIL SOCIETY MONITORING OF PUBLIC PROCUREMENT PROCESSES AND PROJECTS

- TI developed Integrity Pacts in 1990s
 - DG REGIO pilot: 17 projects in 11 MS
 - Binding contracting authority, bidder, and 3rd party monitor (11 TI-NCs, TI-S and TI-EU)
 - Monitoring throughout the cycle: before tendering, throughout project implementation
 - Combines prevention, detection, investigation, sanctioning
- COM should consider making Ips mandatory for especially plarge / sensitive projects

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PILLAR 3

PARTICIPATION BY AFFECTED COMMUNITIES, IN ALL PHASES OF THE PUBLIC PROCUREMENT PROCESS

- Social accountability: involve intended beneficiaries, employees of bidders, others potentially affected by corruption/collusion (e.g. competitors)
 - Via grievance / complaint mechanisms
 - Consultations ahead of tendering processes
 - Involving CSOs on design of projects
 - Clear whistle-blowing procedures & protections
- Broadening base of individuals scrutinising procurement processes
- Codified as „European Code of Conduct on partnership in the framework of the ESIF“

RECOMMENDATIONS



EUROPEAN CODE OF CONDUCT ON PARTNERSHIP IN THE FRAMEWORK OF THE ESIF

- Review implementation of CoC, e.g. in Hungary, where CSO participation is token, and proposals ignored
- Lessons learned should be implemented in common provisions for 2021-27 ESIF
- Member States should strengthen citizen and CSO participation, incl. pre-tendering
- Commission should encourage CSO 'shadow' progress reports as part of evaluation

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PILLAR 4

A STRONG, PROFESSIONAL AND ENGAGED CIVIL SOCIETY SECTOR

- Civil society needs adequate resources and expertise to advance public procurement
- Implementation of best practices in public procurement as a way to strengthen CSOs
- Commission should expand use of IPs, Structural Reform Support Service should cooperate with CSOs in delivery of technical assistance
- Commission should strengthen investigative journalism via long-term funding, building on 2017 pilot

THE 5 PILLARS OF OPEN CONTRACTING



PILLAR 5

A STRONG AND CREDIBLE SANCTIONS REGIME

- Monitoring and oversight → sanctions
 - IPs can simplify sanctions via IP-contract
 - Most effective: debarment system and a ‘zero tolerance’ environment, public debarment as powerful deterrent
 - New EDES-system – 0 publicly debarred
- Reform should include automatic public listing, and cross-debarment across EU & MS
- Key roles for OLAF and EPPO

CHALLENGE OF IMPLEMENTATION



THEORY VS PRACTICE

- Theory and best practices are well understood
 - BUT: procurement is implemented de-centrally at all levels of government!
 - Challenge to implement best practices across governments in all 28 Member States
 - Conflicting aims: Member States may prefer less strings attached to structural/cohesion funds
- **Commission compendiums on best practice examples etc.**

“PROFESSIONALISATION”
OF PUBLIC PROCUREMENT

„PROFESSIONALISATION“ IN PROCUREMENT



BEST PRACTICE COMPENDIUMS

- E.g. helpdesk-hotlines, hands-on trainings
- Support for managing authorities AND for economic operators / bidders
- „E-library of good practice in public procurement“
 - *including TI Integrity Pacts*
- **“Public Procurement - Guidance for practitioners**: on avoiding the most common errors in projects funded by the European Structural and Investment Funds”
 - *Most downloaded EU publication ever!*

THE PAYOFF IS HUGE



OPEN
CONTRACTING
&
CIVIL SOCIETY
MONITORING
CAN LEAD TO...

- Better public goods
- Increased competition due to trust in the tendering process
- Cost savings
- Improved public administration, better cooperation with civil society and citizens
- Increasing public trust

Thank you

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