

# RISKS IN EU FUNDED PROCUREMENT

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## IDENTIFICATION AND PREVENTION

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# PUBLIC PROCUREMENT

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## 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

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# RECOMMENDATIONS 1

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## 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)

# THE 5 PILLARS OF OPEN CONTRACTING



## 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 large or risky projects

# THE PILOT



**4 YEARS**

DURATION OF THE PROJECT



**17**

INTEGRITY PACTS PILOTS

## INTEGRITY PACTS

CIVIL CONTROL MECHANISM

FOR SAFEGUARDING EU FUNDS



**OVER 920 MILLION**

TOTAL VALUE OF THE SELECTED PARTICIPATING EU CO-FUNDED PROJECTS



**OVER 7.2 MILLION**

COMMISSION BUDGET FOR THIS INITIATIVE



**11**

SECTORS COVERED BY SELECTED EU CO-FUNDED PROJECTS

**15**

CIVIL SOCIETY ORGANIZATIONS/  
MONITORS



**11**

EU MEMBER STATES PARTICIPATING



#IntegrityPact  
@EU\_Regional



<http://europa.eu/IQn67BM>

Regional and  
Urban Policy

The project is coordinated by  
**TRANSPARENCY INTERNATIONAL**  
the global coalition against corruption

# WHERE WE'RE WORKING





# THE 5 PILLARS OF OPEN CONTRACTING



## 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“

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# RECOMMENDATIONS

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## 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

# THE 5 PILLARS OF OPEN CONTRACTING



## 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



## EPPO

- Adoption: October 2017 under enhanced cooperation in 22 MS
- Seat: Luxembourg
- Start of operations: at the earliest end 2020
- OLAF-EPPO relationship – complementary?
- Should EPPO-membership become ex ante condition for structural & cohesion funds?

# 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

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# „PROFESSIONALISATION“ IN PROCUREMENT

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## 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!*

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# THE PAYOFF IS HUGE

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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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@TI\_EU



TRANSPARENCY  
INTERNATIONAL EU