

## EVENT REPORT

# INTEGRITY PACT STAKEHOLDER EVENT

### TOGETHER TOWARDS CLEAN CONTRACTING: NEW DEVELOPMENTS AND THE ROAD AHEAD

28 November 2018, 9:00 am - 5:00 pm  
BIP Brussels - House of the Capital Region, 2-4 Rue Royale, 1000 Brussels



## SUMMARY

The Integrity Pact stakeholder event – *Together towards Clean Contracting: New developments and the road ahead* organised on 28 November 2018 in Brussels is part of the Integrity Pacts (IP) project, a joint initiative of Transparency international (TI) and DG REGIO. It brought together stakeholders from all 17 Integrity Pacts: civil society partners, contracting authorities, managing authorities, contractors, as well as other important interested parties (anti-corruption authorities, public procurement offices), representatives of the European Commission (in particular DG REGIO), TI EU Liaison Office and TI Secretariat. Overall, approximately 120 participants attended the event.

The objective of the event was to showcase best practice and promote ambition in the existing Integrity Pacts. Three years into the project, we shared lessons learned, achievements and remaining challenges emerging from this collaboration. Furthermore, we took a look at the future and expanded the focus to look at Integrity Pacts within the broader clean contracting picture. We considered how different initiatives can build on and complement each other to strive for more efficient, effective and corruption free public procurement. The day consisted of both plenary and group sessions that covered different topics: lessons and impressions from stakeholders, results of a mid-term learning review recently conducted in the framework of the project, DG Regio's perspective on the IP in the context of the latest trends in the area of public procurement, the issue of low competition and single-bidding in public procurement, ongoing efforts to break down barriers between different stakeholders involved in public procurement and how to foster greater transparency and openness and build coalition for action with better open data.

The agenda, overview of sessions and speakers, list of participants, all power point presentations as well as photographs taken at the event were shared with all participants here: <https://bit.ly/2Uq2PvE>

## OPENING REMARKS

- Facilitator: Mr Carl Dolan, Director, Transparency International EU Liaison Office
- Ms Patricia Moreira, Managing Director, Transparency International Secretariat
- Mr Marc Lemaître, Director-General, Directorate-General for Regional and Urban Policy, European Commission

### **Opening remarks by Patricia Moreira, Managing Director, Transparency International Secretariat**

- Corruption puts democracy at risk by undermining citizens' trust in government.
- Integrity Pacts are important to build trust amongst different stakeholders (civil society, national authorities, private sector, citizens).
- The IP project has helped develop a stronger appreciation of the role that IPs and engagement of civil society can play in building cleaner contracting, next to other work such as open data initiatives.
- The IP stakeholder event is an opportunity to listen and learn from those participating in IPs, and to design the way forward together, including on how to address collective challenges and better align IP work with other initiatives.
- In the Mid-Term Learning Review that was recently conducted, it is clear that the project has suffered from delays across the board and that this is having impact in terms of how much we have so far been able to demonstrate. But some key factors are emerging, with participants noting the value they get from the IP, particularly around supporting their prevention activities. Thank you to all IP stakeholders for their contribution the learning review.
- Congratulation to DG Regio and all participants for their vision and leadership, and commitment to the IP pilot initiative.

### **Opening remarks by Marc Lemaître, Director-General, Directorate-General for Regional and Urban Policy, European Commission**

- The European Commission wants to ensure that Member States make the best possible use of Cohesion policy funds and achieve the greatest possible impact on citizens' lives.
- Public procurement matters – around 19% of the EU GDP and around 48% of the European Structural and Investment Funds are spent through public procurement.
- But public procurement process can be a challenge to national authorities.
- As the 7<sup>th</sup> Cohesion Report shows: there are too many tenders across the EU with only one single bidder. It raises the question of whether the citizens are getting good value for money in these tenders.
- Civil society has an important role to play as a partner to public authorities.
- From the Commission side, we recognise that delays with the implementation of the EU co-funded projects have affected the progress with Integrity Pact monitoring.
- Nevertheless, the monitoring of public procurement processes across the IP projects has already produced results. Integrity Pact monitors (Civil Society Organisations) have already reported detection and resolution of irregularities.



- The Integrity Pacts pilot project shows how public institutions can benefit from the cooperation with civil society in order to be more transparent, efficient and result oriented, while better protecting the EU financial interests.
- This is also a clear message for the future. Efficiency, transparency and performance will remain key elements of the next generation of EU programmes and funds and, particularly so, of Cohesion Policy.

## SESSION 1: WHERE HAVE WE COME FROM AND WHERE ARE WE GOING? INTEGRITY PACT STAKEHOLDERS SHARE EXPERIENCE TO DATE

**Session description:** Almost three years into the project, how far have we come? What is working and what is not going so well? Where do we need to focus our efforts for the year ahead? How do we build stronger relationships and strive for deeper outcomes? This session was designed in order to share in more detail the largely positive aspects of experience from Integrity Pact stakeholders (managing authority, contracting authority, successful bidders, affected community). It was aimed at getting others in the room to hear from their peers about how the experience can be of benefit to them.

**Structure:** Presentations by different stakeholders followed by questions from the audience.

- Facilitator: Mr Sergejus Muravjovas, Executive Director, Transparency International Lithuania
- Ms Evelina Pia Fortunato, Technical Assistance for Ministry of Cultural Heritage and Activities, Invitalia - National Agency for Inward Investment and Economic Development, Italy
- Ms Blanka Fischerová, Head of Department, Ministry of Regional Development, Czech Republic
- Mr Miloslav Rut, Partner, BDO IT A.S., Czech Republic
- Ms Joanna Nowak, Attorney, ZUE S.A., Poland
- Ms Caterina de Nardi, Civic Monitor, Sybaris Integrity Pact, Italy
- Ms Claire Martin, Project Leader, Transparency International Secretariat

**Managing Authority - Evelina Pia Fortunato** (presentation [here](#)):

- Evelina Pia Fortunato was speaking as a representative of the Managing Authority for the public works in the archaeological park of Sybaris. Works in Sybaris are currently scheduled to conclude by the end of 2019. All economic operators have signed the Integrity Pact.
- She highlighted the importance of actions to increase transparency and accountability as well as of tools to promote transparency in public procurement as an essential aspect of the EU funds management.
- The Integrity Pact guarantees control and monitoring in all aspects of the public procurement process. It is a useful tool to recognize critical issues in administrative and technical aspects, to improve and speed up public procedures, and to reduce the communication gap between citizens and government institutions.
- In order to improve the Integrity Pact, citizens and the independent monitor should be engaged at an earlier stage, in particular in the preliminary phase of a project. The independent monitor would act as an observer in the preliminary phase of project selection. Information and instances from the affected territory should also be received and taken into account during the project planning phase. In this context, national regulations encourage the public debate.
- The MA has been collaborating with the Contracting Authority (Museum and Archaeological National Park of Sybaris) for a long time, meeting around feedback and concrete results. They can confirm that the CA are just as optimistic as they are.

**Contracting / Managing Authority - Blanka Fischerová** (presentation [here](#)):

- Blanka Fischerová is Head of Department at the Ministry of Regional Development in Czech Republic, which is both the Contracting and the Managing Authority of the project monitored by TI Czech Republic, the update of MS2014+, an online, unified monitoring system.
- The Integrity Pact helps improve transparency, efficiency and cost-savings: increased transparency of the procurement process, the detection of shortcomings, including the prevention of incomplete or incorrect public procurement documents, and lower risks in the misuse of public finance. The Integrity Pact adds a new point of view, new experiences and new methods to the procurement process. It also promoted more open and transparent cooperation between different parties and stakeholders.
- Getting better knowledge is a core objective. Training and education of employees are important in preventing corruption. The Ministry intends to use what they have learned in their future initiatives.
- During project implementation the Ministry has so far recognized the need for technical supervision of such a complex project, i.e. the update of a complex IT system. Based on their experience so far, the Ministry would continue to use such external supervision (monitoring through civil society) in the future.
- A broader range of IP projects within a member state would allow a better comparison of the impact of an Integrity Pact in different areas.

**Contractor - Miloslav Rut:**

- Miloslav Rut is Partner of the company BDO IT A.S., the contractor in the update of MS2014+. They only learned about the IP when they signed the contract, but everything has been very smooth in the process so far and they continue learning from the experience.
- There are pros and cons to the process. One con would be the additional administrative work.
- Nevertheless, they would be open to participating in an IP again, in particular if such an initiative was to be included in 'big deals', i.e. big IT projects or infrastructure deals. In his opinion, this would ensure that everyone has the same chances of participation and of being awarded the contract based on a level playing field. In such a context, BDO IT A.S. believe that they would have a better chance to win that project than in the past. At the same time, it would also decrease the likelihood that a project will be cancelled before its end and the associated additional costs that brings to those that have put time and energy into developing and submitting bids.

**Contractor - Joanna Nowak:**

- Joanna Nowak represents ZUE S.A., a Polish company providing services in the areas of train and railway infrastructure. ZUE S.A. is the contractor engaged in the Integrity Pact project in Poland, the modernisation of a railway connecting Zawiercie to Częstochowa.
- ZUE S.A. value their cooperation with the Stefan Batory Foundation (SBF), the independent monitor, and other institutions, such as the Contracting Authority and the Public Procurement Office. For example, all stakeholders worked together to discuss recent developments in the Polish railway market, including an increase in prices, and to find the best possible solutions from the perspective of public interest. SBF bring with them expertise and show commitment to finding common solutions.

- By participating in the Integrity Pact, ZUE S.A. gained experience in how to implement whistleblowing procedures. The same applies to the subcontractors carrying out work on the project. Implementing whistleblowing procedures is one of their contractual obligations.
- ZUE S.A. have been involved in informational and educational activities and workshops within the context of the Integrity Pact project. They have also been involved in a meeting with residents of the region, answering questions on the construction works.

**Civic monitor / representative of affected community - Caterina de Nardi:**

- Caterina de Nardi is one of the citizens living in Calabria, one of the regions in Italy with the most criminal activities. It is also where ActionAid Italia, within the context of an Integrity Pact, monitor the public works at the archaeological site of Sybaris, an important driving force of local economic growth. ActionAid Italia invited representatives of the affected community to take part in the monitoring of the project.
- Participating in the Integrity Pact project is both a privilege and a challenge. It is not easy to answer questions of how to win trust, encourage citizens and improve the effectiveness and transparency of public administrations. Civic monitoring labs were established to tackle these questions.
- The group of citizens that Caterina represents would like see more promotion of tools such as the Integrity Pact in order to improve the transparency of public procurement processes. Monitoring of these processes by civil society should become more common practice. Public authorities should establish protocols and clear rules to encourage this.
- Networking should be facilitated so as to allow volunteers to become 'points of reference' for future work like this, to spread and exchange information and to disseminate good practice. The citizens cooperating with ActionAid Italia would like to build alliances and relationship with other groups of citizens, e.g. the 'Friends of the Museum of Sybaris', and with other private and public bodies interested in this cultural asset.

**Transparency International Secretariat - Claire Martin:**

- Learning is extremely important in this project. In this session, different stakeholders have asked themselves difficult questions: What is working? What is not? What challenges are arising that we need to be actively addressing? What needs to change and what do we need to do to improve? Everyone in the room should be asking themselves these questions.
- It is important that we all own this process.
- Everyone needs to ask themselves how they can engage to make sure lessons are captured.
- There is no one story of the way forward. We all have to find our way, learn from what others are doing and put this into action.
- Encourage others in the audience to put themselves forward to share their impressions at next year's event. We would welcome them to reach out.

## SESSION 2: PROGRESS TO DATE AND LESSONS LEARNED – THE RESULTS OF THE MID-TERM LEARNING REVIEW OF THE SAFEGUARDING EU FUNDS PROJECT

**Session description:** The Safeguarding EU Funds project has passed its mid-point. As such, we have invested in a learning review of the process so far: to understand not just what we are achieving but to better understand how Integrity Pacts work in the EU context, what can they and what can they not deliver, and what adjustments we may need to make for the remainder of the project to ensure maximum chances of success. This session aimed to present the results of this learning review and elicit initial impressions from IP participants as to what the review might mean for the project.

**Structure:** Presentation by Claire Martin followed by key notes from Irina Lonean and Michaela Rajkova. Second part of the session was for questions from the audience.

- Facilitator: Mr József Péter Martin, Executive Director, Transparency International Hungary
- Ms Claire Martin, Project Leader, Transparency International Secretariat
- Ms Irina Lonean, Project Coordinator, Transparency International Romania
- Ms Michaela Rajkova, Project / Financial Manager, Transparency International Bulgaria

### Transparency International – Claire Martin:

Please see the slides of the presentation ‘Where are we now: Learning from our Integrity Pacts experience so far’, including detailed presentation notes, [here](#).

### Key notes from Irina Lonean and Michaela Rajkova:

- Learning from Integrity Pacts is hard to monetise, in terms of expressing impact in numerical value. However, many small points are adding up together and improving the bigger procurement picture.
- We do not have control of all factors affecting projects and tenders, for example competition, time, etc. The main challenge we are facing in the project is time. We all started eager to begin the process of monitoring and implementing the project but the actual start was much slower than we expected.
- This affects our learning possibilities. We will not be able to finish the learning process unless we go through the whole process – signature of the IP, tender phase, implementation phase, etc.
- Nevertheless, we are moving ahead, slower than we would like to, but still moving and still learning!
- This project is a great learning experience as even with the same EC funding mechanism we have different local laws and legislative contexts. Therefore, we can compare the processes and learn from each other.
- As we started the project together across 11 countries, each partner and stakeholder have a higher motivation to do things better, to show progress and we check ourselves among other partners. This is one important advantage of running many IPs across the EU simultaneously. The same impact would be absent if the IPs were running in isolation.



## Questions and Answers:

### **Q: Why are there not many requests to bidders?**

A: One reason is that we do not have many bidders to whom to raise questions – due to the delayed processes there are therefore much more recommendations targeted at CAs. This should change as projects advance. However, we also have additional challenges reaching bidders. When we try to engage bidders, it is hard to pitch the Integrity Pact as they might not actually take part in the actual implementation of the project. When the IP is obligatory, the bidder is engaged as it has to be. When the IP is voluntary, it is harder to engage bidders in the process. For these reasons, one needs to wait to find out who the bidders are and one has only short time to engage them between this time and the time the contract is awarded.

### **Q: What has been the biggest achievement and biggest mistake?**

A: A: Our biggest achievement has been that we now have evidence that we can build in to improve what we are doing as well as for the work of future participants. A mistake is the different speeds and different level of commitment within different teams on learning and showing evidence. We need to think more about what we want to achieve and make sure that we are putting the effort into assessing whether we are or not.

### **Q: What is the reason behind the varying implementation of recommendations? Is it because it is not mandatory from the IP, or maybe it is the quality of the recommendations?**

A: There are a number of factors at play here. One thing is the question of timing. A recommendation may be raised but cannot be addressed immediately. In many cases conversations and interactions around the recommendations are ongoing. We will continue to track these recommendations but do not expect them to be resolved so quickly. If the CA or contractors consider recommendations to be somewhat conflicting with or replicating their efforts, this is also captured in the figures. Namely, following interactions, this also leads to agreements on what aspect of the recommendation can be followed or not and this would be considered effectively resolved.

## SESSION 3: INTEGRITY PACTS IN THE CONTEXT OF THE LATEST TRENDS IN THE AREAS OF PUBLIC PROCUREMENT AND ANTI-CORRUPTION

**Structure:** Presentation by Ms Inguna Kramiņa, Policy Officer, Directorate-General for Regional and Urban Policy, European Commission, followed by questions to Inguna Kramiņa and Astrid Solhaug, Policy Officer, Directorate-General for Regional and Urban Policy, European Commission.

Detailed slides from the PPT presentation are available [here](#).

### **Anti-fraud and anti-corruption measures - assistance and tools available:**

- Poor governance slows down Cohesion Policy implementation, reduces its impact and hinders economic growth and entrepreneurship.
- Article 125(4) c) of Regulation 1303/2013: “As regards the financial management and control of the operational programme, the managing authority shall put in place effective and proportionate anti-fraud measures taking into account the risks identified”.
- Integrity Pacts are piloted, among other initiatives and tools, as a tool to foster good governance and prevent fraud and corruption. See slide 6 for more information on other initiatives, including trainings on anti-fraud for Member States coming up in 2019.
- Results of the 7<sup>th</sup> Cohesion Report show that limited competition and single bidding are major problems in the area of public procurement. Some suggested solutions are more e-procurement, better information and more offers from outside the country. There are also several new actions by DG REGIO to support administrative capacity-building.

### **The Commission’s proposal for Cohesion Policy Post-2020:**

- The European Commission aims to strengthen transparency and confidence in procurement systems. According to the Commission’s proposal for Cohesion Policy post-2020, the area of public procurement is one of the four horizontal enabling conditions applicable to all specific objectives and the criteria necessary for the assessment of their fulfilment, cf. Annex III of CPR.
- When preparing a programme, the Member State shall assess whether the respective enabling conditions are fulfilled. In case of non-fulfilment, no obligatory action plan has to be submitted, but Member States cannot submit payment applications related to unfulfilled preconditions.
- Objectives: verifying and reinforcing the effectiveness of the procurement system, improving the quality and intensity of competition, more transparency and availability of information on public procurement processes, participation of SMEs as direct bidders, improving the effectiveness of the remedy system, recourse to exclusion from procurement rules.

### **Digital transformation in public procurement:**

- Many new developments and digital transformation in the area of public procurement. Increasing digitisation will lead to higher data availability, increased interoperability and more knowledge and automation. Possibility to apply new emerging technologies.
- The Once-Only Principle: public institutions should avoid to ask companies or citizens for documents or information that is already stored and treated by another public institution.

**Other important developments and policy initiatives relevant for the EU budget spending (including, EU funded projects):**

- The objective of the “PIF Directive” (Directive (EU) 2017/1371, 5 July 2017) is to deter fraudsters, improve the prosecution and sanctioning of crimes against the EU budget, and facilitate the recovery of misused EU funds, thereby increasing the protection of EU taxpayers’ money. These common rules will help to ensure a level playing field and improved investigation and prosecution across the EU.
- The directive will be a major part of the law to be applied by the European Public Prosecutor’s Office (EPPO). 22 Member States have been confirmed in the enhanced cooperation on the establishment of the EPPO. The EPPO is envisaged to take up its functions by the end of 2020.

## WORKSHOP 1: FOSTERING GREATER COMPETITION AND TACKLING BARRIERS TO COMPETITION IN PUBLIC PROCUREMENT

**Workshop description:** Low competition across public procurement processes in the EU continues to be a major challenge with the proportion of single-bidder contracts continuing to rise in many countries. A public procurement process that ends up receiving just a single bid can be a symptom of corruption related activities before the bid. However, this is not always the case. There are often many other factors at play. Nevertheless, reduced competition has negative impacts on achieving value for money and as such is not in the public interest. The pilot project ‘Safeguarding EU Funds through Integrity Pacts’ enables in-depth engagement on 17 projects right from the pre-tender phase. The Integrity Pact approach allows for intensive interaction and allows frank and constructive conversations to give unique insight into bottlenecks, challenges and realities. This workshop sought to give space for all stakeholders to have this conversation and, in particular, to better understand how in the remainder of the project, efforts to increase competition can be supported and lessons learned are fed back into the system.

**Workshop structure:** The session was divided in two parts, first a context-setting presentation then followed by facilitated reactions from other speakers. The second part aimed to open up the conversation to a broader ‘fish bowl’.

- Facilitator: Mr Vassilios Kanaras, Legal Officer, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, European Commission
- Mr Mihály Fazekas, Assistant Professor, Central European University/ Director, Government Transparency Institute
- Ms Gabriella Nagy, Head of Public Funds Programs, Transparency International Hungary
- Ms Anna Upena, Deputy Chief Executive, Partnership of Latvian Construction Entrepreneurs
- Ms Roxana Proca, Reporting Responsible / Specialist in Progress Planning – PMU, Ministry of Culture and National Identity, Romania
- Ms Ileana Spiroiu, Deputy General Director, National Agency for Cadastre and Land Registration, Romania

### First part - Main points of discussion:

**Vassilios Kanaras** introduced the session by giving a background on the main challenges to competition in the European Union today.

- He noted that there is a very comprehensive and elaborate legal framework in place. However, despite this fact, when we review the results of policies, a number of gaps remain.
- We still struggle to open markets, increase competition, give opportunities to SMEs to participate and do business with the public sector and increase choice for the public buyers. One of the challenges seen is low number of bids – often no bids or just one. He noted that there can be several reasons for single bids – some good and some bad.
- Justifiable reasons such as the nature of the sector: E.g., only one company with capacity in the sector or a dynamic sector with many competitors but they are so busy they cannot make offers. From pre-market stage, sometimes CA does not have resources to do a proper market analysis, which leads to them requesting something from the market the market just cannot provide.
- There are also the less justifiable reasons. Sometimes the procedure chosen may not be the appropriate one. E.g. restricted tenders. Procedures may have short deadlines despite rules

of directives so potential bidders do not have time to prepare their bids. Sometimes slow process means that the CA does not take a short time to make a decision and business do not wait around for answers and drop out of the process. Businesses know which CAs have good or bad reputations and in such cases, there may be less interest of bidder to participate. Finally, there is potential for manipulation between contractors where they get together and agree who will win or carve up the market in advance.

- Vassilios then introduced the session – what can this workshop contribute to the debate around policy responses. Clarify what the problem is – what reasons lead to this problem and how this problem can be tackled at national and EU level. What are we learning from the Integrity Pact process and how might it help going forward.

**Mihaly Fazekas** presented the preliminary results of his study entitled “Single bidding and non-competitive tendering procedures in EU co-funded projects. Scope and explanations”. The study is still being finalised but will be available shortly. The presentation is available [here](#).

- Mihaly presented his study, which aimed to map the scope of single bidding and non-competitive procedures and to build policy-relevant explanatory models of single bidding in selected countries.
- The study focused on the 10 EU Member States with the worst performance in terms of tenders receiving single bids. He based his study on an analysis of big data gathered under the DIGIWHIST initiative. This includes tenders above the EU threshold drawn from the TED database but also data from tenders below the threshold when available in sufficient quality from Member States. Data quality is a crucial issue. To complete the study, they had to exclude significant amounts of data due to missing / incomplete data. This shows how critical it is to get the basics of open data right.
- Based on learnings, Mihaly confirmed that it is not the legislative framework that needs more adjustment.
- Mihaly concluded that the issue is not an issue across whole countries but rather one of some sectors and regions. Within countries, the data often shows considerable variations in performance. This can be as high as a difference of 40% between best performing and worst performing regions as in Poland where the western part of Poland performs particularly badly.
- In the end, Poland, Hungary, Latvia and Czech Republic were chosen for an in-depth study because they had the best data available.
- The study looked in more detail at three potential explanatory factors across all 4 countries: Economic fundamentals (size of market, number of bidders on market, etc.). These are factors that are subject to change based on policy intervention but this change can take significant amounts of time), administrative capacity (number of public procurement advisors, their skills etc.). These are factors that can change over time based on policy intervention), and integrity risks (unjustified sole-sourcing, short time advertisements). These are factors that are relatively easy to change in the short term).
- Overall the models were found to be of good quality. In terms of policy lessons tentatively emerging, Mihaly noted that the economic fundamentals factors are very powerful factors in terms of predicting single bidding but difficult to change in the short term. It might therefore be easier to intervene on the administrative capacity and integrity risks factors.
- On administrative capacity, the study found that the longer the decision-making time, the greater the percentage of single bids – this was particularly visible in the Czech Republic data. It might therefore be advisable for CA to work on faster decision-making processes.

- On Integrity, the study shows that the longer the advertisement period, the lower the percentage of single bids – this was prominent in the data from Latvia. One can conclude therefore that it is in the best interests of CAs to advertise for longer even if it is in line with the law to advertise for shorter periods!

## **Second part of workshop – reactions from other speakers**

### **Gabriella Nagy:**

- Gabriella is fan of big data but, on the basis of her close interaction with public procurement processes over 10 years including currently under the Integrity Pact initiative, she is more and more doubtful that data reflects the reality. There can be 3-4 bids submitted but they might not be real bids, they might be fake and the data will not be able to show that.
- Contracting Authorities and contractors know how data works and are using it to devise new routes around scrutiny. In this way they are avoiding the known red flags and are in a position to claim that the situation is improving. The reality is that competition remains low once the fake bids are taken out of the picture. F. She therefore urges caution to rely too heavily on data alone but to look more deeply behind the data.

### **Anna Upena:**

- In Latvia, construction is one of the largest sectors, experiencing a rapid growth and receiving a lot of EU funding but at the same time there is a well-developed shadow economy in the Latvian construction sector that hinders efforts made to improve competition.
- Companies have started to take steps to work on measures to reduce the size of the shadow economy and have concluded a memorandum with the government as it is in the best interests of both parties to reduce the shadow economy. So far, the 11 priority actions of the memorandum has helped reduce the size of the shadow economy by 5%.
- Fostering competition and fighting against shadow economies is a priority. She agrees with the previous speaker that the results of the study presented by Mihaly will need to be carefully analysed in each context before devising and putting in place appropriate actions.

### **Roxanna Proca:**

- Roxana has been only 6 weeks into her new role and the IP project gives her a lot of hope. The Ministry of Culture and National Identity are pleased to have Transparency International with them in their effort to improve public procurement practices. Of course, recommendations made by the monitor are not legally binding but they are working on day to day basis with TI Romania. One of the main areas of their interaction is on the interpretation of relevant legal provisions and their application in the context of the project subject to the Integrity Pact. It is useful to engage with TI Romania on this and to hear their observations as there can be multiple interpretations of the same law although it is written in one language.

### **Ileana Spiroiu:**

- In Romania, the National Agency for Cadastre and Land Registration is responsible to ensure 660 areas in 194 communes are registered by 2023. This is the project that is subject to an Integrity Pact. They are having very significant problems in fostering competition in this process. Although they launched procurement procedures in a number of lots, they received bids only for 12 lots out of 36 lots. Despite best efforts to ensure competition, they are

operating in such specific circumstances that the issue goes beyond single bidding to a situation where there is no bidding at all. They therefore have had to go back to the drawing board and are considering launching a tender for each of the lots separately. She confirms that competition is a very real issue which has many challenges and welcomes the scrutiny and support the Integrity Pact brings to raising the issues.

### Summary of the discussion:

**(1) Data such as that used in the study is important to have in sufficient quality.** It will be important to look into ways to incentivise CAs to provide the data that is needed for the type of analysis. There should be a menu of meaningful criteria that could be used by the CA for other similar projects. CAs should be encouraged to invest in looking at this data to improve their performance and reduce single bidding in their next procurements. They can also receive assistance from the EC for this.

**(2) Care needs to be exercised in interpreting such studies and data.** This kind of studies often show a better picture of what is happening in the country than it is in reality. More bidders does not always mean that competition is higher. Efforts should be made to consider fake bidding. Mihaly was asked to what extent he had controlled the data by comparing with other data such as data on new companies or companies usually showing up in similar tenders. In addition, we should not just look at bidders and main contractors but also at providers/sub-contractors during the execution phase. They are not asked for any declaration of conflict of interests but are sometimes the ones that are actually making the most money out of the contract.

**(3) It was noted that contracting authorities are often not the ones in the driving seat and as such cannot address these challenges themselves.** Sometimes CA's have the knowledge about the risks leading to single contracting but often there is not the political will to address them. For example, -In Hungary the feeling is CAs are trying to do their best but corruption is centralised. There is no higher political will to fight it. CAs are not the beneficiaries of corruption.

**(4) There is sometimes a conflict between different levels in addressing such problems with national efforts conflicting with EU efforts.** For example, in Hungary, the government at one stage prohibited offshore companies participating in public procurement procedures but the EU initiated an infringement procedure, as being an offshore company was not an exclusion ground. In the end, the new regulation was dropped. Such anomalies need to be identified and raised in debate.

**(5) Participants discussed how the Integrity Pact process can contribute to addressing some of the issues.** On a specific case basis, the IP allows civil society to have a closer look at the bidders and identify suspicious bids. Going beyond this however, the IP process helps understand the realities as they are and identify problems that need to be addressed more broadly. We need to look at this in a more holistic manner in order to be able to treat this problem. It is a question of political engagement and will, and strong leadership. Strong cooperation between government and industry is needed to set comprehensive actions and implement.

## WORKSHOP 2: FOSTERING STAKEHOLDER PARTICIPATION AND ENGAGEMENT THROUGHOUT PUBLIC PROCUREMENT PROCESSES

**Workshop description:** All public procurement processes have a wide range of stakeholders that have an interest in or interact with the process throughout (managing authorities, contracting authorities, private sector contractors and suppliers, civil society, affected communities, media, oversight entities). Each one has a fundamental contribution to make. The Integrity Pact process reflects this and throughout there are ongoing efforts to break down barriers and improve interaction between stakeholders with the ultimate goal of ensuring transparent and accountable public procurement. This workshop aimed to hear from different stakeholders about their experience to date, the challenges they still face and their hopes for the future, including how the Integrity Pact may be able to help.

**Workshop structure:** The session was divided into two conversations with key stakeholders involved in Integrity Pacts or procurement in Lithuania and Italy. The facilitator interviewed the panellists about the roles they see themselves and others playing in working to increase transparency and accountability in public procurement as well as whether and how the Integrity Pact has been helpful in this regard, while opening the conversation to a broader ‘fish bowl’ allowing for an exchange of questions and comments between the audience and the panellists and the panellists themselves

- Facilitator: Ms Mirna Adjami, Project Manager, Anti-Corruption Collective Action, International Centre for Collective Action, Basel Institute on Governance
- Ms Ingrida Kalinauskienė, Project Leader, Transparency International Lithuania
- Mr Mark Siavris, Senior Specialist, Public Procurement Office, Lithuania
- Ms Adele Bonofiglio, Director, Museum and Archaeological National Park of Sybaris, Italy
- Ms Cinzia Roma, Community Manager, Gruppo Abele Onlus / ActionAid Italy
- Ms Chiara Putaturo, Project Manager, Transparency International Italy

### Main points of discussion:

#### Results of a survey of bidders conducted by TI Lithuania and their engagement with the municipality (Ingrida Kalinauskienė):

- In 2018, TI Lithuania conducted a survey of almost 200 business representatives who took part in public procurements organised by Vilnius and Kaunas City Municipalities in 2015-2016. This was meant to be a baseline to understand the status quo and will be repeated at the end of the project. The survey results showed that one out of three businesspeople in Vilnius (31%) and one out of five in Kaunas (19%) had encountered a situation where they had chosen not to participate in public procurement because, according to them, the process was designed for one particular company to win. They also recognised that most suppliers would use personal connections to win public contracts. More information about the survey is available [here](#).
- The findings received much media attention and strengthened TI Lithuania’s advocacy efforts. The results were ‘nothing new’ per se, but this was the first cross-sectoral survey of procurement in specific municipalities. As a result, TI Lithuania has been able to use the results of the survey to make specific recommendations to the local authorities to advocate for a better management of corruption risks in public procurement.



- Follow-up actions by the municipalities remain to be seen. They indicated that they are interested in adapting an anti-corruption programme and are in contact with TI Lithuania with regards to this.
- Public consultations: For big projects, such as infrastructure projects, Contracting Authorities in Lithuania are expected to have public consultations. This opportunity is not used as well as it could be. If we want to build trust and interest, we have to pay more attention to talk to the people and involve them. It is also important to give feedback to citizens.
- Public procurement sounds difficult and complex, so you have to simplify it. TI Lithuania produced infographics and a [one-page summary](#) of their survey results.

### **The work of the Lithuanian Public Procurement Office and their engagement with TI Lithuania and the Integrity Pact (Mark Siavris)**

- The Lithuanian Public Procurement Office does not work like an audit institution in the sense that it does not screen all tenders on the market. It controls and evaluates only about 3 percent of all tenders based on carefully chosen criteria. Within the small amount of tenders evaluated, the Procurement Office identifies quite a high number of risks. This may be a sign that the system by which the evaluated tenders are chosen works quite well.
- The Public Procurement Office collaborates with TI Lithuania, but did not need to engage to exercise oversight on the project with an Integrity Pact in place regarding the reconstruction of the Vilnius riverside. Three contracts were signed already. There were 10 bidders and no complaints directed at the Procurement Office. The Public Procurement Office evaluates this to indicate a positive impact of the Integrity Pact, especially considering that this is a high-risk sector. Usually there are 5-7 key players. It is hard to prove a causality of why there was a higher number of bidders, but the unique presence of an Integrity Pact in this tender might have played a role. TI Lithuania provided recommendations to the tender documents. 1/3 of their key recommendations were taken into account by the Contracting Authority. It is hard to say whether these recommendations had any direct effect in this regard.
- The Public Procurement Office currently has three reporting channels. They work, but due to a lack of human resources, there are sometimes delays when it comes to responses. Integrity Pacts are complementary to existing channels and the involvement of civil society helps to prevent any bad surprises.
- TI Lithuania are thinking about setting up a reporting channel specifically for the project of the Vilnius riverside. This would help citizens to have a clearer contact point for reporting and at the same time would help reach the citizens that are directly affected.
- Role of civic engagement: Citizens are the final beneficiaries of this process. They need to be involved in this process, also as a source of information that the purchasing body would not usually receive.

### **The engagement of CSOs and citizens in the monitoring of public procurement processes in Italy (Adele Bonofiglio, Cinzia Roma and Chiara Putaturo)**

- ActionAid Italia are monitoring the public works in the archaeological park and museum of Sybaris. When the cooperation with ActionAid Italia started, there was some hesitation on the side of the public administrations as to whether this would create additional work. So far the experience has been valuable and monitoring activities have contributed to creating trust, including trust to the affected community by increasing citizens' awareness of developments.

- Stakeholder participation has helped to increase the knowledge of all parties involved. This in turn had led to changes in attitudes. There is a need to find a common language between different parties to solve misunderstandings and tensions. In the case of the Sybaris project, the relationship between citizens and the public administration has been strengthened. At the same time, technical experts play an important role as well. A broad and diverse group of stakeholders helps build trust.
- One participant noted that in addition to ‘clean contracting’ an important secondary effect of the IP experience seems to have been ‘open government’.
- Promoting transparency of the public procurement process was the first aim of this initiative and citizen engagement takes it a step further. Transparency is not enough if there is no demand. The capacity of citizens to access information is also important.
- For TI Italy, the idea of civic monitoring schools started from the need for sustainability, a need to empower local citizens for when the civil society organisations are not anymore directly present, so that citizens can continue some part of their activities.
- In addition to encouraging civic monitoring, TI Italy is directly engaged as a monitor of two Integrity Pacts in Italy. In the IP overseeing the construction of a tram in Cagliari, Sardinia, TI also observed an unusually high participation of bidders in the tender, like in Lithuania. Again, while direct causality is difficult to prove, this might be in an indication of the positive impact that IPs can have in indicating a greater commitment to transparency and fairness in a tender process to bidders.

#### Main takeaways from the session:

- (1) It is important to underscore the different roles of **civic monitoring versus civil society monitoring** - both citizens and NGOs can play a broad range of monitoring roles and both can be effective; the advantage of civic monitoring is that it is a means of opening dialogue between government contracting authorities directly with citizens and in the case of the National Park in Sybaris, Italy, civic monitors described very movingly how their engagement has given them pride and a sense of identity and empowerment vis-a-vis their government authorities.
- (2) **IPs can be seen as a tool for open government** - one participant observed how impressive it was to hear how the contracting authorities in the tenders discussed on the panel shared information regarding their budgeting, procurement, and tender implementation processes above and beyond typical levels of information sharing. Further exploration of the role of IPs as a tool for empowering open government and civil society engagement with governments should be explored.
- (3) **IPs are achieving results and impact** - in this panel, representatives of a government oversight agency (Lithuania), citizens’ movements (Italy), and civil society organisations (TI - Lithuania and Italy) all described their perceptions in very concrete terms of how an IP in a specific tender process has had an impact or results (no complaints in the tender process, higher number of bidders, greater sense of empowerment and engagement of civic monitors). Even though the causal link in the improvements vis-a-vis the private sector are not yet clear, the IP experiences discussed still revealed important results and improvements.

## WORKSHOP 3: MOVING TO GREATER TRANSPARENCY AND OPENNESS IN PUBLIC PROCUREMENT

**Workshop description:** Traditionally, the Integrity Pact sought to increase transparency in the particular public procurement process, which is subject to the monitoring. However, there has been much progress over the years towards greater openness and in particular towards better open data which is unlocking new opportunities for scrutiny and feedback and new opportunities to fix problems amongst other benefits. In some cases, the Integrity Pact pilots are seeking to support this shift and in others, Integrity Pacts are inspiring and being inspired by initiatives designed to ensure publication and use of data across the entire public procurement process. This workshop aimed to allow sharing of the different initiatives underway and a discussion of how the pilot project can add value to these efforts.

**Workshop structure:** After an introduction by the facilitator, several speakers presented their work. Each presentation was followed by an open discussion moderated by the facilitator.

- Facilitator: Mr Karolis Granickas, Senior Program Manager, Open Contracting Partnership
- Mr Francesco Saija, Co-founder, Parliament Watch Italia
- Mr Søren Kirk Jensen, Senior Policy and Research Adviser, Infrastructure Transparency Initiative (CoST)
- Ms Valeria Ferraris, Project Manager, Amapola Italy / Research Fellow, University of Turin, and Ms Daniela Fiandaca, Deputy Mayor / Lawyer, Comune di Castellana Sicula Sicily

**Main questions asked:** How can IPs contribute to systemic change and foster greater openness in the countries they are implemented in? How can IPs work together with other partners/initiatives (such as OCP, CoST)? And how to scale up the work?

**Presentation by Mr Francesco Saija,** Co-founder, Parliament Watch Italia. The presentation is available [here](#).

- Parliament Watch Italia's approach has been to see the IP as a mean to foster the transition to open government at local level.
- Local CSO monitors can act as multipliers to spread the methodology to various other CSO stakeholders: schools, university, local press, etc., so as to create a community of practice.
- In its IP, Parliament Watch Italia has promoted the adoption of an e-procurement system that speaks the language of the Open Contracting Data Standards.
- The 1% (of the contract value) that is spent on an IP can make a big difference at the end of the procurement process when savings have been created thanks to the monitoring. It is a good investment that will be repaid by the savings made but not only: It will also play a role in fostering an improved local public procurement culture/structure, in raising citizens' and stakeholders' awareness that they can co-design the use of EU funds, and in restoring trust between citizens and governments.

### Summary of the Q&A and discussion

- If the implementation of several Integrity Pacts can provide the evidence that Integrity Pacts can help save money and contribute to social capital activation in the areas where they have been applied, then Integrity Pacts will be able to contribute to systemic change.

- For this to happen, Integrity Pacts need to be sufficiently funded and gathering of solid enough data enabled. Open data will be key here.
- It is unlikely that open data (made available through Arachne and e-procurement) will make Integrity Pacts redundant – human monitoring and analysis will always be necessary. Machines can only read data so, if something cannot be captured by data, electronic monitoring tools will miss it.
- Integrity Pacts are also about social accountability and citizen engagement. This is something that red flags tools, etc. cannot do.

**Presentation by Mr Søren Kirk Jensen**, Senior Policy and Research Adviser, Infrastructure Transparency Initiative (CoST). The presentation is available [here](#).

- Transparency and openness in infrastructure planning and delivery is vital but we need to go further – we need a paradigm shift.
- This shift in how we do infrastructure planning and delivery is needed in all types of countries, from low to high income.
- In order to achieve this, collaboration will be key.
- The core features of the CoST approach (disclosure, multi-stakeholder work, and assurance, mirroring key global governance themes: transparency, participation, and accountability) need to all be pushed simultaneously so that a paradigm shift can be achieved in infrastructure governance.
- CSOs play a major role in moving the good governance agenda but there is also an increasing number of governance-oriented multi-stakeholder initiatives playing an important role: EITI, CoST, OCP, GIFT, OGP. There are a lot of overlaps and potential synergies between all these actors, including TI with its work on IPs and Clean Contracting.
- For CoST, it has been very encouraging to follow the developments of the new model IP for infrastructure, which builds on these synergies and the open contracting data standards. Another area of collaboration was the publication last year of the Clean Contracting Manifesto for more campaign-oriented purposes.

### **Summary of the Q&A and discussion**

- CoSt has so-called ‘champions of integrity’ in the countries they work in. It is one way to get buy-in from governments. CoSt also works on improving capacity of local civil society to understand and monitor procurement.
- IPs focus on one project, CoST tends to focus on a portfolio of projects and try to make disclosure systemic rather than focused on one single project. This is one of the main differences between the IP and CoST approaches and something that IPs could learn from CoST’s approach.

Presentation by **Ms Valeria Ferraris**, Project Manager, Amapola Italy / Research Fellow, University of Turin, and **Ms Daniela Fiandaca**, Deputy Mayor / Lawyer, Comune di Castellana Sicula Sicily

**Valeria Ferraris** (the presentation is available [here](#))

- The IP run by Amapola in Sicily includes an obligation for the contractors to provide all invoices from their subcontractors in an anonymous way.
- A data visualisation tool developed by all three Italian partners in the IP project (in cooperation with the Fiscal Agency) will show the information collected so that subcontracting relationships and supply chains become more visible and can be monitored, with the objective to make public procurement even more transparent.
- This will also help protect subcontractors from abusive practices by the main contractor (in particular when the contractor exerts pressure on the subcontractors by delaying payments). If there is a system showing the date of the invoice and date of payment, this can be monitored.

**Daniela Fiandaca**

- In the IP in the Madonie Area, the CA has decided to extend open data requirements beyond the winning bidder to the supplier companies and in general to all the subcontractors in order to gather data on the entire procurement cycle.
- The reason for this is that the tendering phase is particularly at risk because of the connections between different economic operators, and limiting the monitoring to the relationship between the Contracting Authority and the winning bidder/contractor is not enough. The IP in Sicily therefore goes beyond the law and asks for more data.
- Importance consequence, on an ethical level: By extending the monitoring to the subcontractors, we also extend the responsibility for ensuring good public procurement practices to the subcontractors.
- On a juridical and economic level, looking into relationships between companies, looking at schemes between them can also shed light on relationships between companies and help better understand them, including suspicious behaviours.
- Data collection should however not put an excessive burden on the bidders, which would create a risk of legal action by bidders/subcontractors.

**Summary of the Q&A and discussion**

- The open data visualisation tool presented above is a pilot tool that will need to be tested before it can be replicated and/or scaled up.
- In order to contribute to more systemic change, beneficial ownership data should also be collected. An additional step would be to think about company register disclosure so that relationship between individuals, and not only between companies, could be monitored.

**Main takeaways from the session**

- (1) Care needs to be exercised with new efforts through IPs as they are in testing phase.** As much data as possible should be collected in order to form an evidence base to understand how these new IP can potentially contribute to systemic change.

- (2) Integrity Pacts can be used as an incubator to introduce more systemic reforms** when they make a sustainable, verifiable impact beyond the individual public procurement processes they have been applied to, e.g. activation of local social capital and new, sustainable citizen interest in public procurement, or better understanding of new ways and schemes used by national authorities and/or companies to manipulate public procurement processes.
- (3) Integrity Pacts add to rather than can be replaced by open data tools and initiatives.** When looking at very complex (e.g. infrastructure) projects or sophisticated corruption schemes, open data tools cannot fully comprehend the processes that are at play. Human reasoning is needed to understand the reality behind the data. Integrity Pacts allow this by involving civil society and experts in the monitoring. In addition, through their citizen engagement aspect, Integrity Pacts provide a welcome opportunity to extend the responsibility for fostering and demanding better public procurement practices to a broader group of people.
- (4) Collaboration between different approaches and initiatives is key** to scale up the contribution that Integrity Pacts can make to systemic change, e.g. with the [new model IP for infrastructure](#) or the [Clean Contracting manifesto](#).