

THE CASE FOR INTEGRITY PACTS

**ENGAGING CIVIL SOCIETY FOR BETTER
PUBLIC PROCUREMENT OUTCOMES**

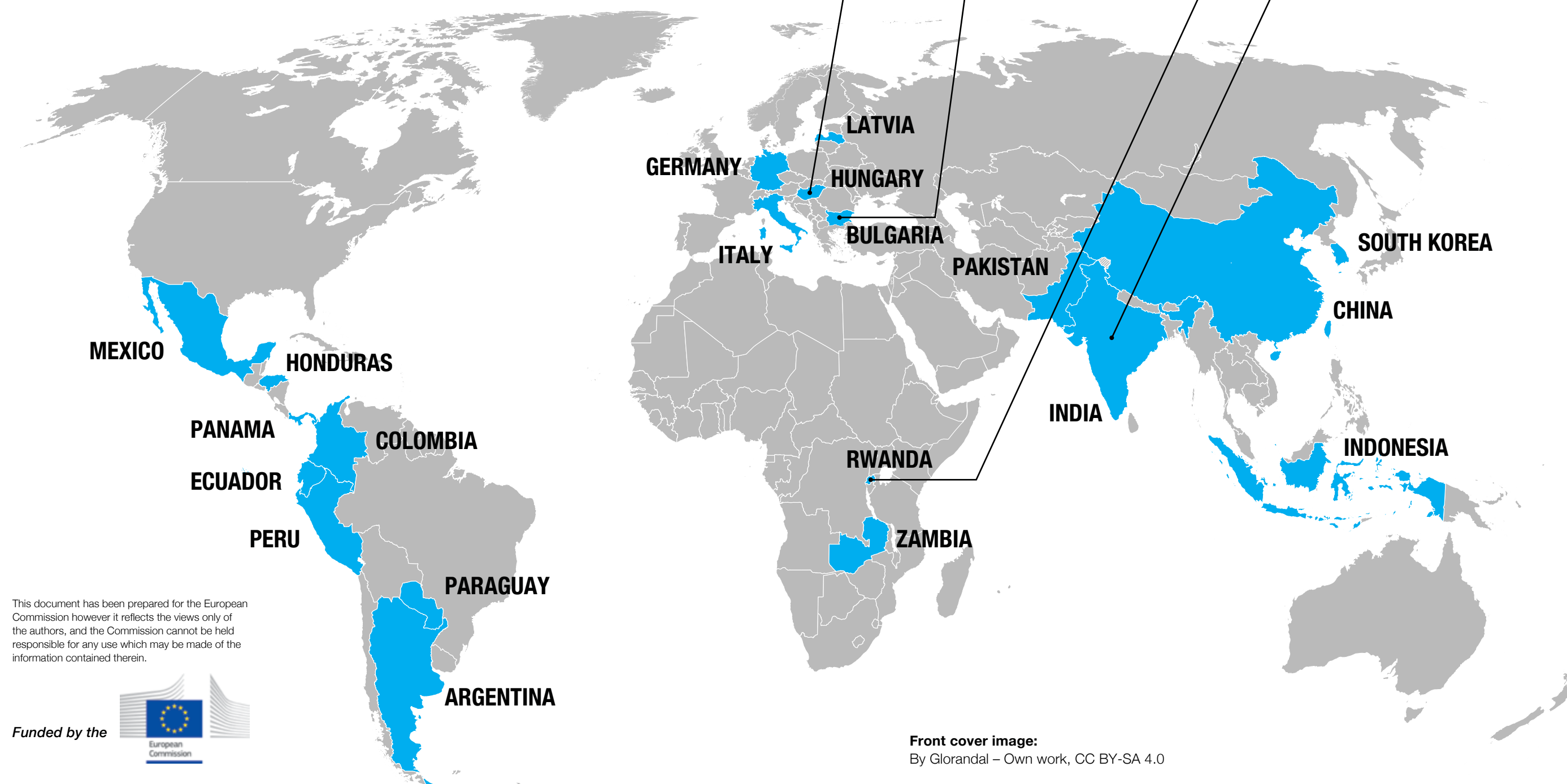
UNDERSTANDING INTEGRITY PACTS

WHY DID TRANSPARENCY INTERNATIONAL LAUNCH INTEGRITY PACTS?

In the early 1990s Transparency International understood that public authorities were looking for ways to address the issue of corruption in public procurement. Some public authorities were concerned about how to avoid corruption and ensure value for money and high quality products in their public procurement processes. The Integrity Pact was offered as a possible solution.






WHERE AND IN WHAT SECTORS HAVE INTEGRITY PACTS BEEN IMPLEMENTED?

Integrity Pacts have been used in more than 18 countries worldwide, among others in Argentina, Bulgaria, China, Colombia, Ecuador, Germany, Hungary, India, Indonesia, Italy, Latvia, Mexico, Pakistan, Panama, Paraguay, Peru, Rwanda, South Korea and Zambia. They have been implemented at various levels and across numerous sectors.



WHAT TYPE OF CONTRACT CAN INTEGRITY PACTS BE APPLIED TO?

Integrity Pacts can be used in a wide variety of situations. They can be used for

-  construction contracts
-  supply contracts
-  state asset privatisation programmes
-  engineering, architectural or other consultants contracts
-  state permits, licenses or concessions, or for government-regulated services (such as telecommunications, water supply or rubbish collection services)
-  other services delivery contracts

WHEN SHOULD THE INTEGRITY PACT START?

Whenever possible, the Integrity Pact should cover all the activities related to the contract from the identification of a need for procurement, the designing of the tender, the pre-selection of bidders, the bidding and contracting proper, through the implementation, to its completion and operation.



WHO ARE THE PARTIES TO AN INTEGRITY PACT?

In the preparatory phase of the procedure the procuring entity and the monitor constitute the parties of the Integrity Pact. In the bidding phase, the Integrity Pact is joined by the bidders, the persons making an offer for carrying out the task that the procurement is aimed at. During execution, the successful bidder, the procuring entity and the monitor take part. Sub-contractors of the winning bidder should also become part of the Integrity Pact.

WHAT FORM DOES AN INTEGRITY PACT TAKE?

Integrity Pacts are essentially contracts establishing the rights and obligations of all the parties to a public contracting process. Designing this document is a key step of the process which takes place at the outset between the contracting authority and the monitor to ensure the Integrity Pact is tailored to suit the needs of the country and process that it relates to.

The Integrity Pact does not replace the law of a country; rather it works within the law.

WHAT ARE THE MAIN ELEMENTS OF AN INTEGRITY PACT?

An Integrity Pact is signed for a **particular project** between the procuring entity undertaking the project, the monitor and the bidders. The major elements are:

- An undertaking by the procuring entity that its officials **will not demand or accept any bribes**, gifts or payments of any kind and maintain appropriate disciplinary, civil or criminal sanctions in case of violation.
- A statement by each bidder that it has **not paid, and will not pay, any bribes** in order to obtain or retain the contract.
- An undertaking by each bidder to **disclose all payments** made in connection with the contract in question.
- The explicit acceptance by each bidder that the commitments and obligations remain in force for the winning bidder **until the contract has been fully executed**.
- A **set of sanctions** for any violation by a bidder of its statements or undertakings.
- A mechanism for **dispute resolution**.
- The identification of an **independent external expert monitor**.

Role of the monitor

In addition to the Integrity Pact, the procuring entity concludes a contract with a monitor. The contract stipulates for the monitor.

- to be totally independent of the procuring entity, and not bound by their directives,
- to be given access to all bidding- and contract-related meetings/documents for screening;
- to supervise the whole bidding/contractor selection process and contract implementation;
- to report immediately any indications of wrongdoing to allow the other party to fix the situation.

The monitor's main task is the detection and follow-up of 'red flags'. Rather than taking a punitive approach to irregularities detected, the monitor first constructively looks for means for remedy. The monitor also prepares regular reports on the transparency and fairness of the process. These are made publicly available.

THE BENEFITS OF INTEGRITY PACTS

Procuring entities who have already implemented Integrity Pacts have given the following reasons to explain their support for the approach.

AN INTEGRITY PACT CAN HELP TO SHARE THE OVERSIGHT BURDEN

Many procuring entities have turned to Transparency International with a request to conclude an Integrity Pact. In these cases, being aware of the complex nature of the procurement process, they are convinced that a third party, that is expert and independent, would allow them to share the burden of overseeing the whole process.

“ We wanted to reform the contracting process within the Ministry of Public Works. There, corruption had become part of the culture. That’s why we decided to hire an external monitor. I called Transparency International in Berlin and told them: ‘Look, we have a moral emergency here. This is a moral SOS’. Transparency International found the right monitor.”

Gerson Martínez
Minister of Public Works since 2009
El Salvador

AN INTEGRITY PACT CAN HELP TO CHALLENGE ROUTINES

Depending on the context, monitors can help to modernise an institution. Their questions can break the well-worn information cycle within the procuring entity and can lead to changes that improve procurement quality.

This has a decisive impact on the suitability, quality and cost of final public goods, works and services.

“We had always relied on the uncontested expertise of our senior engineers when taking decisions. Not until the Social Witness (i.e. the monitor) asked the senior engineers to justify their choice did we realise that perhaps they had more options. Apparently our engineers had taken a decision based on outdated technical knowledge.”

Mexican Public Procurement Official

AN INTEGRITY PACT CAN BUILD TRUST FROM BIDDING COMPANIES

Integrity Pacts require the procuring entity to pro-actively engage with the bidding companies; they have to regularly provide information about the procurement proceedings and to react to requests. By being transparent about all proceedings, they build up trust in the procuring entity and in the procurement process itself.



“After the introduction of Integrity Pacts, 91.4% of private sector respondents indicated positive change in public sector officials’ attitudes towards corruption, and conversely, 72.2% of public sector officials saw a positive attitude change in those of their private sector counterparts.”

Transparency International Korea
2004 survey

AN INTEGRITY PACT CAN HELP TO INCREASE COMPETITION

The experience of procuring entities has shown that even the announcement of an Integrity Pact deters corrupt bidders with overpriced offers and low-quality services/products. At the same time, it encourages bidders with strict integrity standards, competitive offers and high-quality services/products to come forward with an offer. They now have more confidence to take part in the bidding, knowing that they no longer have to compete with corrupt bidders.

“We had a 50% increase in the number of economic operators submitting a bid, after a monitor was included. These offers were better: better services, better prices, better implementation plan.”

Procurement Official
Mexican state-owned company
Comisión Federal de Electricidad

THE INTEGRITY PACT CAN HELP TO ENSURE THE BEST BIDDER IS SELECTED

Monitors ask questions – and this way they help procuring entities to select the best bidder. Monitors may encourage bidders to justify their bids. Procuring entities compare these justifications and take a more informed decision on the contract award. At the same time, procuring entities are encouraged to carefully weigh their decisions and assess whether the selected bid truly complies with all the requirements and specifications.

“The monitor paid off. Officials realised that they were subjected to public scrutiny when these documents are screened by the monitor, and consequently made public. The monitor helped deter corrupt behaviour and allowed to make a better decision.”

Ministry Official
El Salvador

“With a monitor you have less unsuccessful bidders contesting procuring entities decisions. We all know: court proceedings take time; it could take months until a decision has been taken. During that time, the procurement contract cannot be implemented. You lose not only time, but also money; and your reputation is at stake. So a monitor pays off!”

Michael Wiehen
Transparency International Senior Adviser

THE INTEGRITY PACT CAN HELP TO REDUCE COSTS

Integrity Pacts – and consequently the monitors – often contribute significantly to the reduction of costs, through:

- more bidders participating in the tender with better quality and more competitive offers;
- fewer delays due to unsuccessful bidders contesting the procuring entity’s decision; and this results in fewer court proceedings and consequently fewer delays
- fewer unsubstantiated change orders of the contract that result in increasing the total contracting sum.



“The social witnesses (i.e. monitors) paid off. Their recommendations led to financial savings, in one instance up to USD 26 million.”

Procurement Official
Mexican state-owned company
Comisión Federal de Electricidad

THE INTEGRITY PACT CAN HELP TO IMPROVE QUALITY AND DESIGN THROUGH REAL-TIME CONTROL

Monitors are an early warning system for procuring entities. During contract implementation, they conduct on-site inspections; they visit projects to verify progress reports, look for delays or flaws in the construction; they question procuring entities and the contracting party about issues that arise during the implementation. They may also speak with members of communities near the project to learn about their views on the project and any negative impact that might be avoidable. This way they help procuring entities to have real-time control rather than reactive control allowing them to improve design and quality during the project implementation.

“Monitors detected delays in construction and problems with the project quality and design. They identified the cracks in the road surfaces, simply by visiting the site. And they saw the huge gap between the bridge and the sidewalk! What a risk for public safety!”

*Monitor
El Salvador*



INTEGRITY PACTS HELP TO OVERCOME OBSTACLES RELATED TO MANAGEMENT OF RELATIONSHIPS

Procuring entities often face obstacles in the contract implementation. Emerging problems may require design changes. Monitors can help to overcome obstacles; their intelligent intervention may avoid or minimise delays and cost increases.

“We had a public works project that had huge delays and cost overruns; then we re-started the project, hired a monitor and found new companies that signed the Integrity Pact; and now it’s finished because everyone agreed to do things the right way.”

*Public Official
El Salvador*

INTEGRITY PACTS HELP TO EXERCISE AN EFFECTIVE CONTROL OVER THE WHOLE PROCUREMENT PROCESS AND EVERYONE INVOLVED IN IT

Integrity pacts enable contracting authorities exercising of a more effective control over their own employees and the bidding/contracted companies in all phases of the procurement process. The presence of a monitor, especially in the phase of execution of the contract, is an effective tool for control. The early detection of problems allows for action to be taken quickly and timely fixes are less expensive and prevent delays in project implementation.

“The Integrity Pact has a strong disciplinary effect on the actions of everyone involved in this process – both on the management and on the employees of the procuring entity as well as on the winning bidder.”

Transparency International Bulgaria

INTEGRITY PACTS CAN HELP TO IMPROVE YOUR INSTITUTION’S REPUTATION

Even a long-standing reputation of a procuring entity for non-transparent and corrupt procurement can be successfully changed by introducing Integrity Pacts; and by applying its principles rigorously. Communicating this policy not only to the entity’s own employees and the bidding companies, but also to the broader public, decisively contributes to a better reputation.

“The defence ministry in India had been applying Integrity Pacts since 2006; and as a result procurement became the ‘lowest risk’ area within the Indian defence sector.”

TI-UK 2015 Government Defence Anti-Corruption Index



INTEGRITY PACTS CAN DEMONSTRATE YOUR LEADERSHIP AND VISION

In some countries, the successful implementation of an Integrity Pact has led to changes in procurement legislation: after experience with Integrity Pacts and the benefits the monitor brought, Colombia introduced a monitor in the 2002 Procurement Law. Procuring entities can show they are innovative and lead by example by adopting an Integrity Pact and demonstrating its success.



INTEGRITY PACTS CAN HELP YOU TO MEET EXPECTATIONS

National anti-corruption preventive actions are expected by citizens and the European Union. New EU Cohesion Policy regulations have established regulatory responsibilities for national authorities managing EU funds, which require that they put in place proportionate fraud prevention measures identifying and tackling potential risk areas. Anti-corruption measures of EU Member States are assessed by the European Commission in its anti-corruption report. Adopting an Integrity Pact can demonstrate your commitment.

“Our funds are an important source of public investment for many of the EU Member States. Countries should use the investments well so that citizens reap the benefits of these programmes and projects...The Integrity Pacts, one among many new initiatives we are currently offering, will promote a greater openness and responsibility in the management of the funds. It will also reduce costs by increasing the efficiency of public administrations.”

*Corina Crețu
Commissioner for Regional Policy*

With Integrity Pacts you can ensure greater efficiency in public spending, improve the quality and value-for-money of public investments, contribute to a better business environment, build up public confidence in public administration, enhance reputation, reduce risks to public safety (resulting from poor building practices) and increase prospects for investment in your sector.

INTEGRITY PACTS HELP TO ENSURE
CONTINUED PUBLIC SUPPORT FOR
BIG PROJECTS

Public opinion has an important role and impact on large procurement and construction projects, especially when they are run by procuring entities. In most democratic countries today the public has become aware of its interests and possibilities to impact such projects. If the project is regarded as corrupt, the public may organise protest actions to stop it or, at least, attempt to hold the responsible decision makers accountable.

Integrity Pacts enable governments to gather and mobilise public support for their programmes and to avoid the high cost in loss of reputation attached to occurrences of corruption in highly sensitive projects. They improve credibility and legitimacy of a procuring entity: whoever is ready to expose its public procurement procedure to the scrutiny of an independent monitor, and through them to the public, has nothing to hide. Integrity Pacts create confidence and trust in public decision-making, beyond the individual impact on the contracting process in question, and foster a more hospitable investment climate.

“In Latvia, the new national library building was constructed – despite economic down-turn. Our organisation was monitoring the construction process. We greatly benefited from the public and media interest in the project in at least two ways. During key moments in the project public institutions treated our demands for transparency and good governance much more seriously. And, when we had critical or positive remarks about the project, we had a big audience.”

Kristaps Petermanis
Monitor
Latvia

Get in touch with Transparency International and be the first one to introduce Integrity Pacts in your country!

For further information and to discuss your options please reach out to us at: integritypacts@transparency.org.



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