An overview of procurement integrity and introduction to opentender.eu

Session 1.Conceptual background

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First specialised regional training for R2G4P member, 7 July 2021

Implemented by:

Overview of the 4 sessions ahead

1. Conceptual background of procurement integrity

    ▶   Introduction to public procurement corruption schemes

    ▶   Conceptualising risks and definitions

2. Procurement data: sources, possible errors, and data availability:

    ▶   Introduction to public procurement data and data gaps in globally and in the Western Balkans

    ▶   Examples of datasets to use for analysis in the project

3. Introduction to procurement integrity indicators

    ▶   Overview of valid and reliable corruption risk indicators in public procurement

    ▶   Introduction to how to create and validate quantitative corruption risk indicators

4. Applications: Real life examples and introduction to opentender.eu

    ▶   Selected applications of quantitative corruption risk analysis in public procurement from around the globe

Agenda for Session 1

1. Why do risk assessment in public procurement?

2. Understanding the procurement process and its risks

3. Examples of risky situations and their impacts
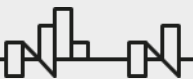
4. Regional trends

5. Q&A

→ The style is interactive so please feel free to interject!
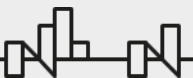
I. Why do risk assessment?

Diverse uses of procuremetn data analytics

1. **Supporting investigations on the contract/organisation/market levels:**
   ▶ Initiation (e.g. flagging new cases to investigate)
   ▶ Selection (e.g. ranking known cases)
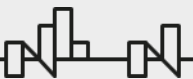   ▶ Conduct (e.g. exploring selected cases)
   → proxy & exact indicators alike

2. **Supporting policy reform and policy evaluation:**
   ▶ Systemic (e.g. data system)
   ▶ Regulatory (e.g. procedural thresholds)
   ▶ Organisational (e.g. setting different accountability rules)

II. The procurement process and its risks
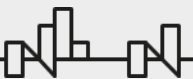
Corruption measurement steps

1. Specific definition of corruption

2. Identify target population and sample

3. Dictionary of corruption *technologies*

4. Tailoring and validation

Corruption definition

„public corruption is the abuse of entrusted public authority for undue private interest." (Nye 1967: 417).

▶ Universal interest is enshrined

▶ Deliberate deviation from norm is sanctioned

▶ There is social loss

Specific corruption definition

In public procurement, the aim of corruption is to steer the contract to the favored bidder without detection. This is done in a number of ways, including:

▶ ***Avoiding competition*** through, *e.g.*, unjustified sole sourcing or direct contract awards.

▶ ***Favoring a certain bidder*** by tailoring specifications, sharing inside information, *etc*.

See: World Bank Integrity Presidency (2009) Fraud and Corruption. Awareness Handbook, World Bank, Washington DC. pp. 7.
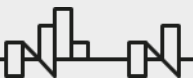
Definition in detail

- What it is NOT:
  - Not necessarily bribery
  - Not only „abuse of public office for private gain"
- What it IS:
  - Corruption=particularism and restricted access
  - Institutionalised=recurrent, stable, systemic
  - Grand=high-level politics and business
- Sources:
  - Mungiu-Pippidi, A. (2006). Corruption: Diagnosis and Treatment. *Journal of Democracy*, *17*(3), 86–99.
  - Rothstein, B., & Teorell, J. (2008). What Is Quality of Government? A Theory of Impartial Government Institutions. *Governance, 21*(2), 165–190.
  - North, D. C., Wallis, J. J., & Weingast, B. R. (2009). *Violence and Social Orders. A Conceptual Framework for Interpreting Recorded Human History*. Cambridge, UK: Cambridge University Press.
  - Kaufmann, D., & Vicente, P. C. (2005). *Legal Corruption*. World Bank
  - Lambsdorff, J. G. (2007). The Institutional Economics of Corruption and Reform. Theory, Evidence and Policy, Cambridge University Press, Cambridge

What can be corrupted in procurement?

Figure 1: Stages of the procurement process at which corruption can occur and modes of political influence over process
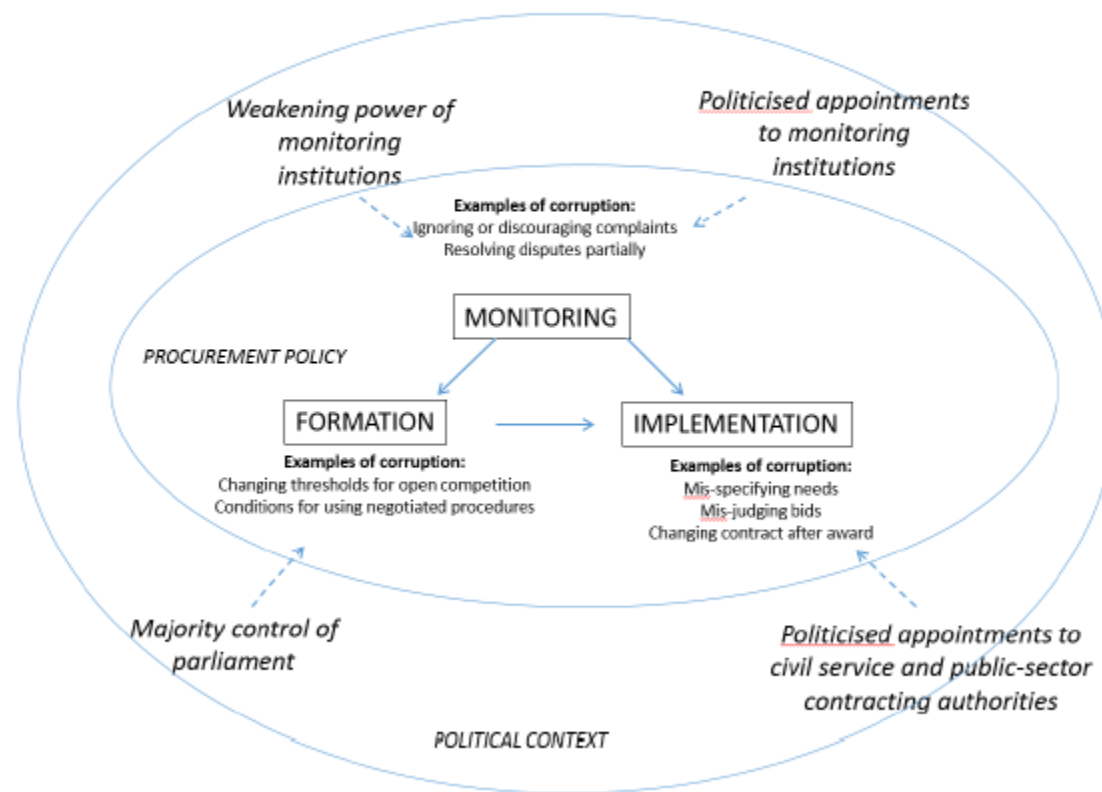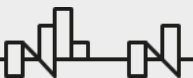
The public procurement process: target population

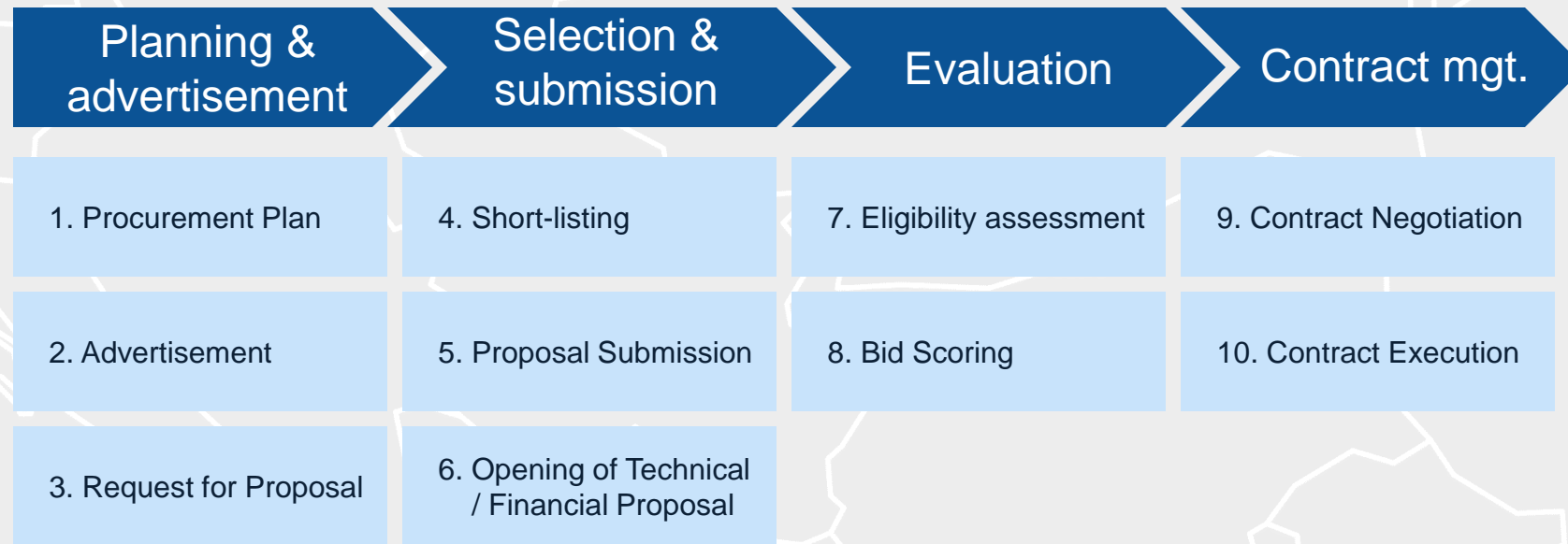| Planning & advertisement | Selection & submission | Evaluation | Contract mgt. |

Let's gather together what happens at each of these stages!

→ Much more on data in a few minutes…

Introduction Misconduct generally occurs at the critical decision points in the procurement process

Planning & advertisement	Selection & submission	Evaluation	Contract mgt.
1. Procurement Plan	4. Short-listing	7. Eligibility assessment	9. Contract Negotiation
2. Advertisement	5. Proposal Submission	8. Bid Scoring	10. Contract Execution
3. Request for Proposal	6. Opening of Technical / Financial Proposal		

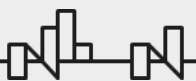Adapted from IMPPM 2017-Uni Roma Tor Vergata. Integrity module (Agerskov, Fazekas, Piga)

A typical scheme Bribes tend to go up in the ministry, and can continue through contract implementation
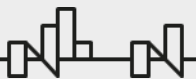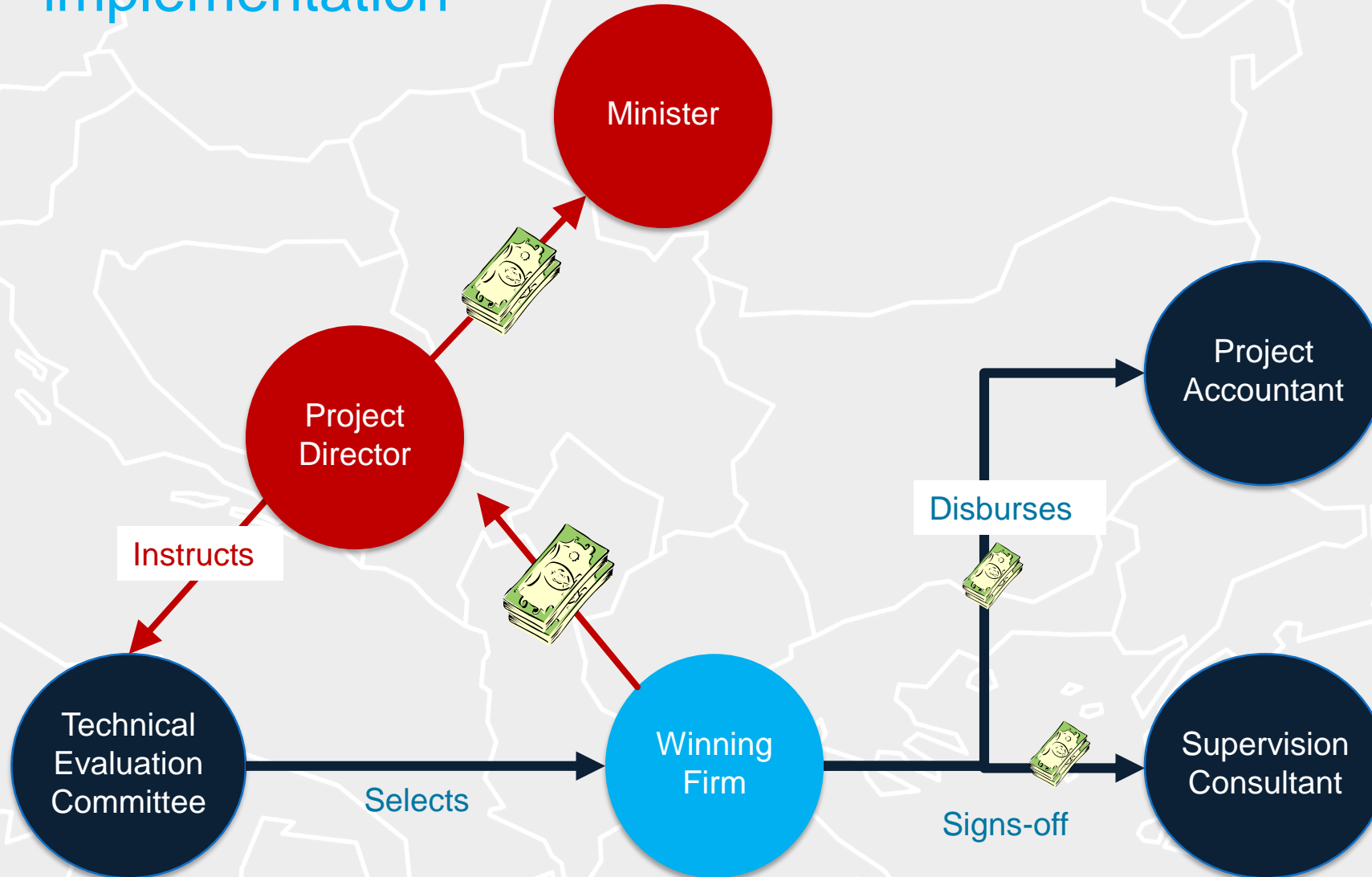
III. Identifying corrupt shcemes: selected examples

Advertisement: Your expert assessment

- Road reconstruction between two medium-sized cities,
- 25 km two-lane road,
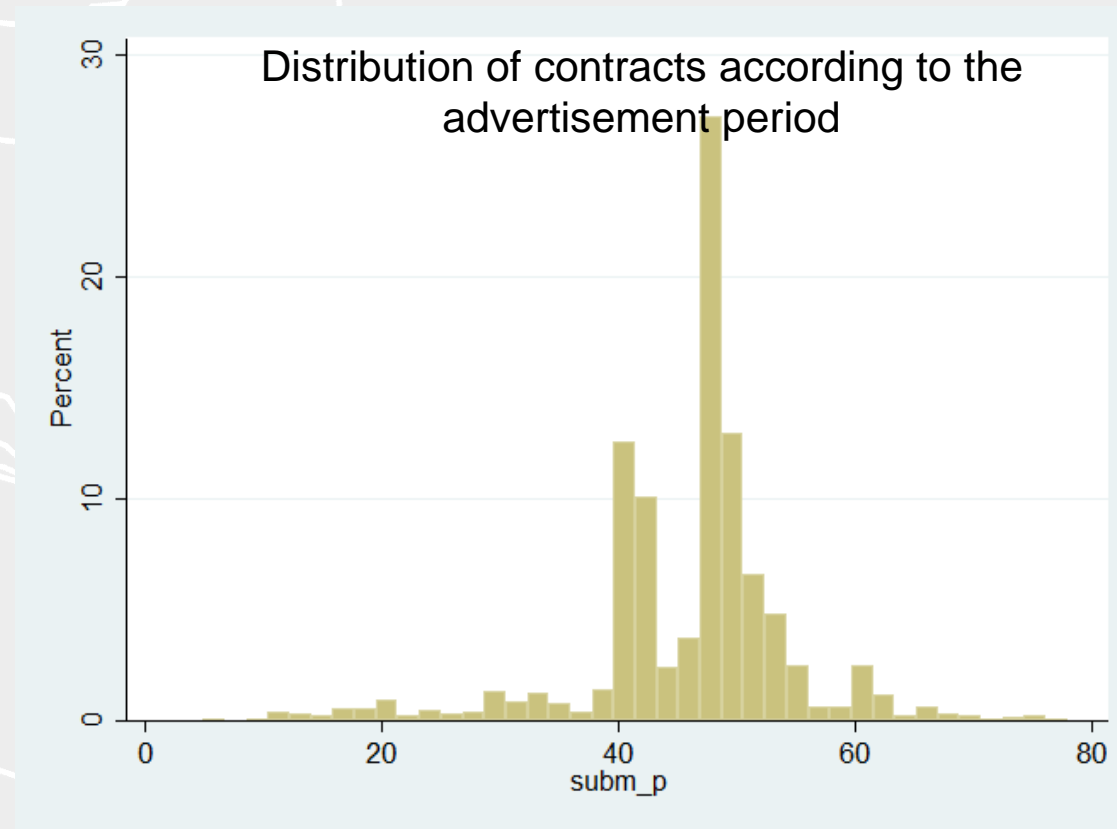- delivery in the summer

advertisement period	vote count
3 calendar days including weekend	
6 calendar days including Christmas holidays and weekend	
18 calendar days including 2 weekends	
40 calendar days	
60 calendar days	

Advertisement

▶ What could be the red flag in this case?

Distribution of contracts according to the advertisement period

Threat: Biased specifications

What is it?

Drafting a technical solution or detailed specifications that deliberately exclude other valid options.

What are some examples?

Any example will depend on the type of good, work or service being procured, e.g.:

- Pickup truck with 6-cyl and 3.2l engine.

- Blood gas analyzers with an OLED-screen for readouts.

- Cement highway (when an asphalt is more economical).

- Mosquito nets with no maximum gap size (only minimum!)

post-conflict institution building
BEATING CORRUPTION
10 - 13 december · 2006
center for stabilization and reconstruction studies
naval postgraduate school
monterey · california

# **Threat** Shell company

What is it?

A company that exists on paper only, i.e., it has no activities and staff except for a formal manager and owner. Related is fictitious companies that are not even formally registered. While shell companies are used in, e.g., corporate restructuring, they have no place in procurement.

What are some examples?

- Shell company owned by Finance Minister's son wins contracts, takes a cut, and subcontracts all work.

- The contractor is entirely fictitious – it cannot be found on any of the addresses listed.

Adapted from IMPPM 2017-Uni Roma Tor Vergata. Integrity module (Agerskov, Fazekas, Piga)
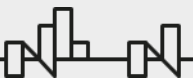
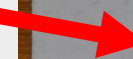# **Threat** Bogus subcontracting

What is it?

The work is subcontracted to a company which is not able to do the work, instead it is used to siphon off funds

What are some examples?

See on the right→

Office of a subcontractor

Threat Bid steering

What is it?

Manipulation of the procurement procedures to steer a contract to a favored company by excluding other qualified vendors.

What are some examples?

- The tender notice is unnecessarily **vague** so that bidders cannot determine their interest (and, hence, do not bid).

- A Request for Proposal is posted over a holiday period with an unreasonably short **deadline** (often shorter than required by the World Bank or national rules).

- Pages from a bid have been torn out or the entire bid left in the **safe**, resulting in the bid being declared unresponsive or not considered.

- **Price** of the lowest responsive bidder has been altered during or after bid opening.

- Bid Evaluation Committee members disqualify a bidder for minor deviations or give a biased **scoring.**

NOTICE

IF YOU FAIL TO BRIBE THE RIGHT PERSON, YOU WILL BE PROSECUTED IN A COURT OF LAW.

No one is above the law.*
*Unless otherwise specified.
Propaganda Times®

Threat Substandard work

What is it?

Goods, works, and services that do not comply with the specifications stipulated in the contract. This may be in agreement with corrupt officials or the result of a company taking advantage of poor contract management practices. Sometimes supervision consultants are bribed or coerced to sign-off on substandard work. Substandard work typically becomes fraudulent, when the contractor recklessly or knowingly claim to have performed the work required in order to obtain payment.

What are some examples?

- Instead of German equipment, the contractor supplier a Chinese brand – the government didn't know and didn't check.

- Contractor abandoned the construction site without finishing the work.

- Computers were supplied with less memory than required.

Adapted from IMPPM 2017-Uni Roma Tor Vergata. Integrity module (Agerskov, Fazekas, Piga)
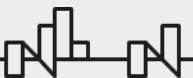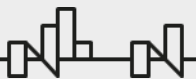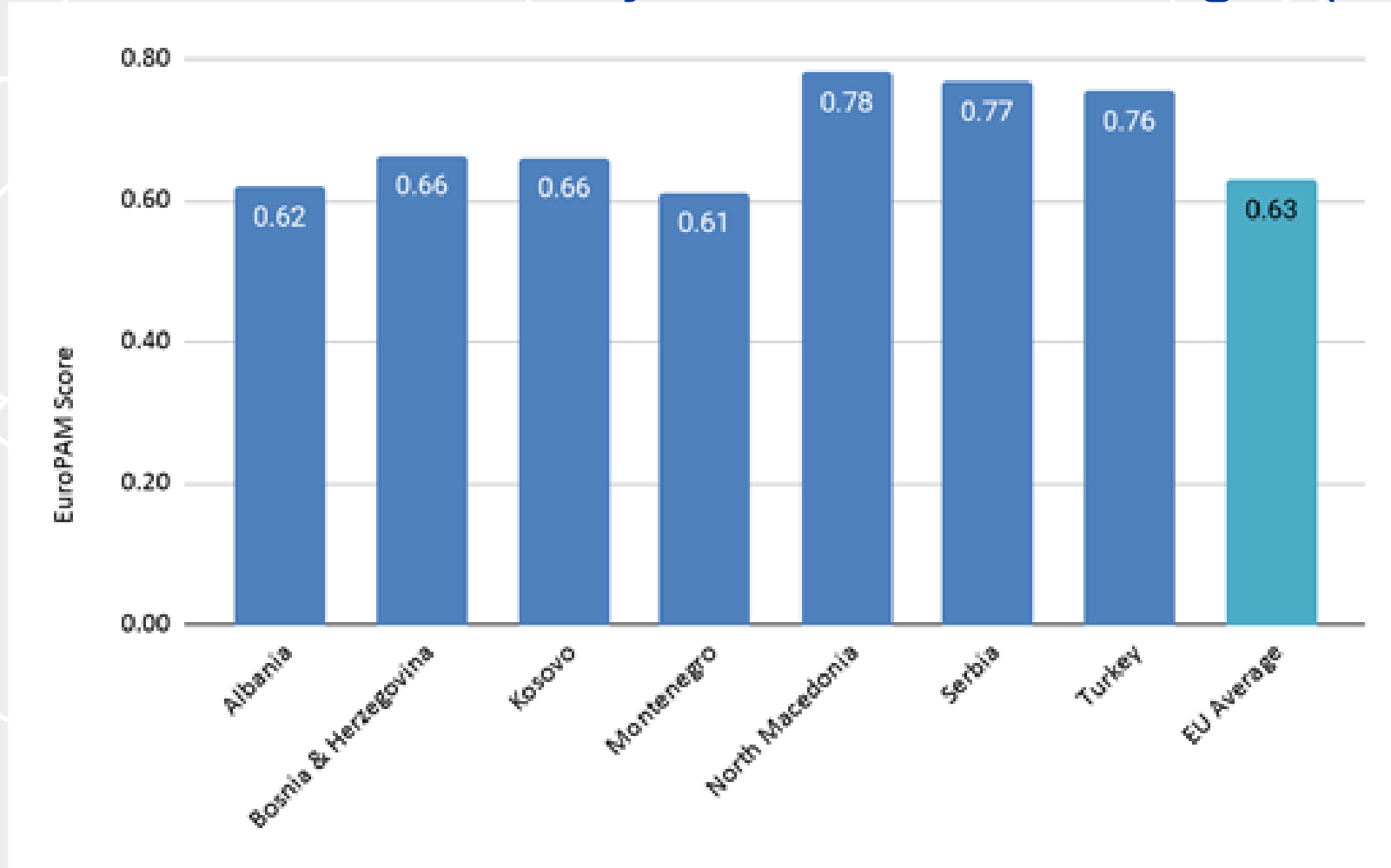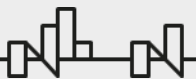
IV. Regional trends

EuroPAM public procurement legislative scores, Western Balkans, Turkey and EU average (2020)

Accessibility and usability of standard data fields
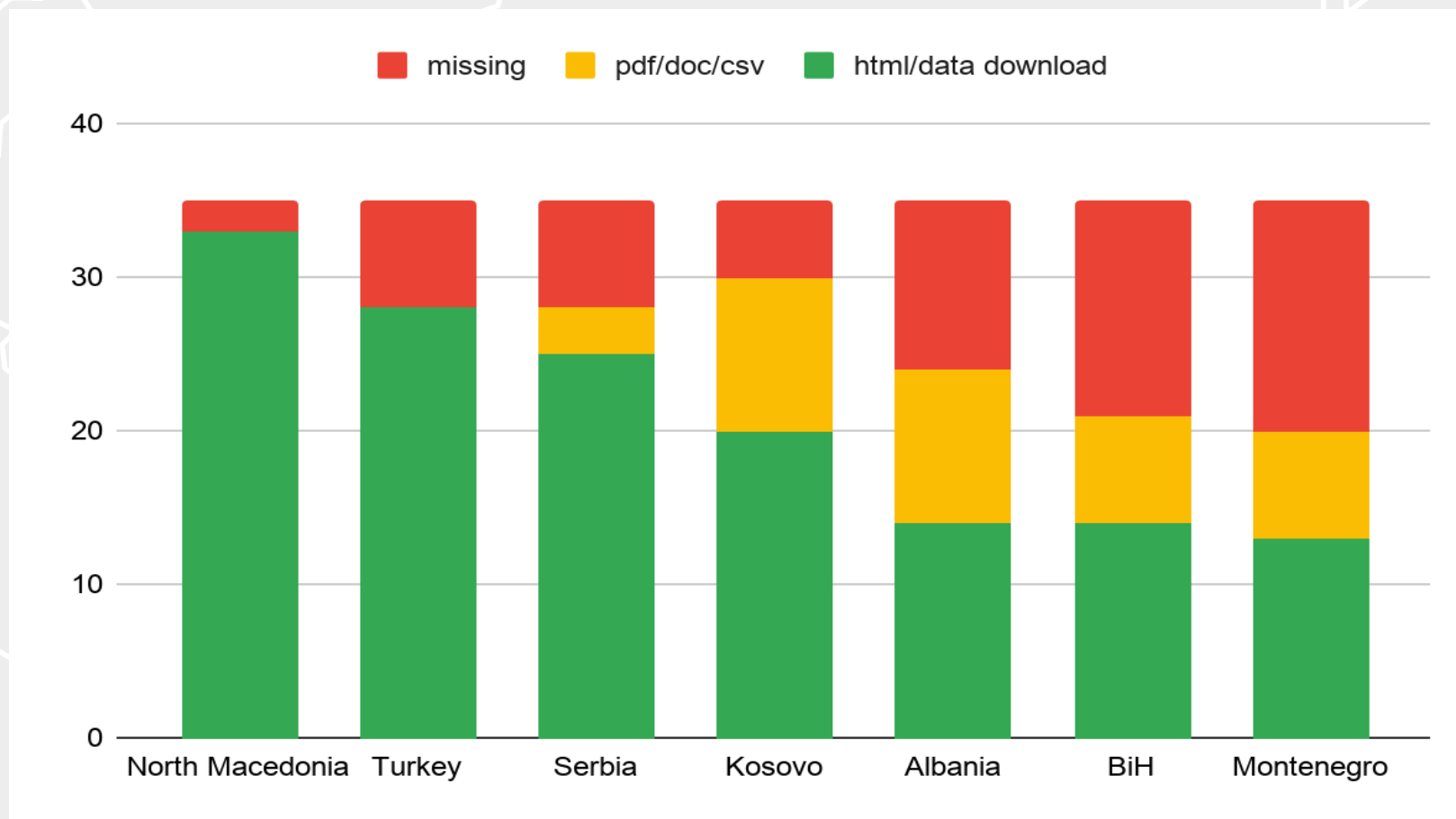
Public procurement performance indicators (2018) (OECD)

	AL	BiH	KV	NMK	SRB	Western Balkans	EU
Number of contracts awarded by competitive procedure (%)	84	97	92	98	91	94	74
Number of competitive procedures awarded by acquisition price only (%)	82	26	99	98	89	94	40
Average number of tender per competitive procedure	3	2.4	5	3	2.5	3	4.3

Looking forward to the discussion!

Further resources

http://www.govtransparency.eu/

http://redflags.govtransparency.eu/
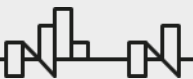
https://www.researchgate.net/profile/Mihaly_Fazekas/research

Selected further readings

Fazekas, M., & Kocsis, G. (2020). Uncovering High-Level Corruption: Cross-National Corruption Proxies Using Government Contracting Data. British Journal of Political Science.

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Dávid-Barrett, Elizabeth & Fazekas, Mihály (2019), Grand corruption and government change: an analysis of partisan favoritism in public procurement. European Journal of Criminal Policy and Research.

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Fazekas, Mihály ; King, Lawrence Peter. (2018) "Perils of Development Funding? The Tale of EU Funds and Grand Corruption in Central and Eastern Europe." Regulation & Governance 13.3: 405-30.

Fazekas, Mihály ; Tóth, Bence. (2018) "The Extent and Cost of Corruption in Transport Infrastructure. New Evidence from Europe." *Transportation Research. Part A, Policy and Practice* 113: 35-54.

Fazekas, M., Cingolani, L., & Tóth, B. (2016). A comprehensive review of objective corruption proxies in public procurement: risky actors, transactions, and vehicles of rent extraction: GTI-WP/2016:03. Government Transparency Institute. Budapest.