

An overview of procurement integrity and introduction to opentender.eu

Session 1. Conceptual background

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Implemented by:



SELDI.net
Southeast European Leadership for
Development and Integrity



GTI

The R2G4P project, coordinated by the Center for the Study of Democracy, Bulgaria benefits from a € 1.5 million grant from Iceland, Liechtenstein and Norway through the EEA and Norway Grants Fund for Regional Cooperation. The aim of the project is to implement shared anti-corruption and good governance solutions in Southeast Europe through innovative practices and public-private partnerships.

Overview of the 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**

- ▶ Introduction to how to create and validate quantitative corruption risk indicators
- ▶ Overview corruption risk indicators in public procurement

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

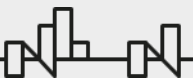
- ▶ Selected applications of quantitative corruption risk analysis in public procurement from around the globe



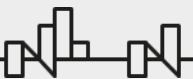
Agenda for Session 1

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. Q&A

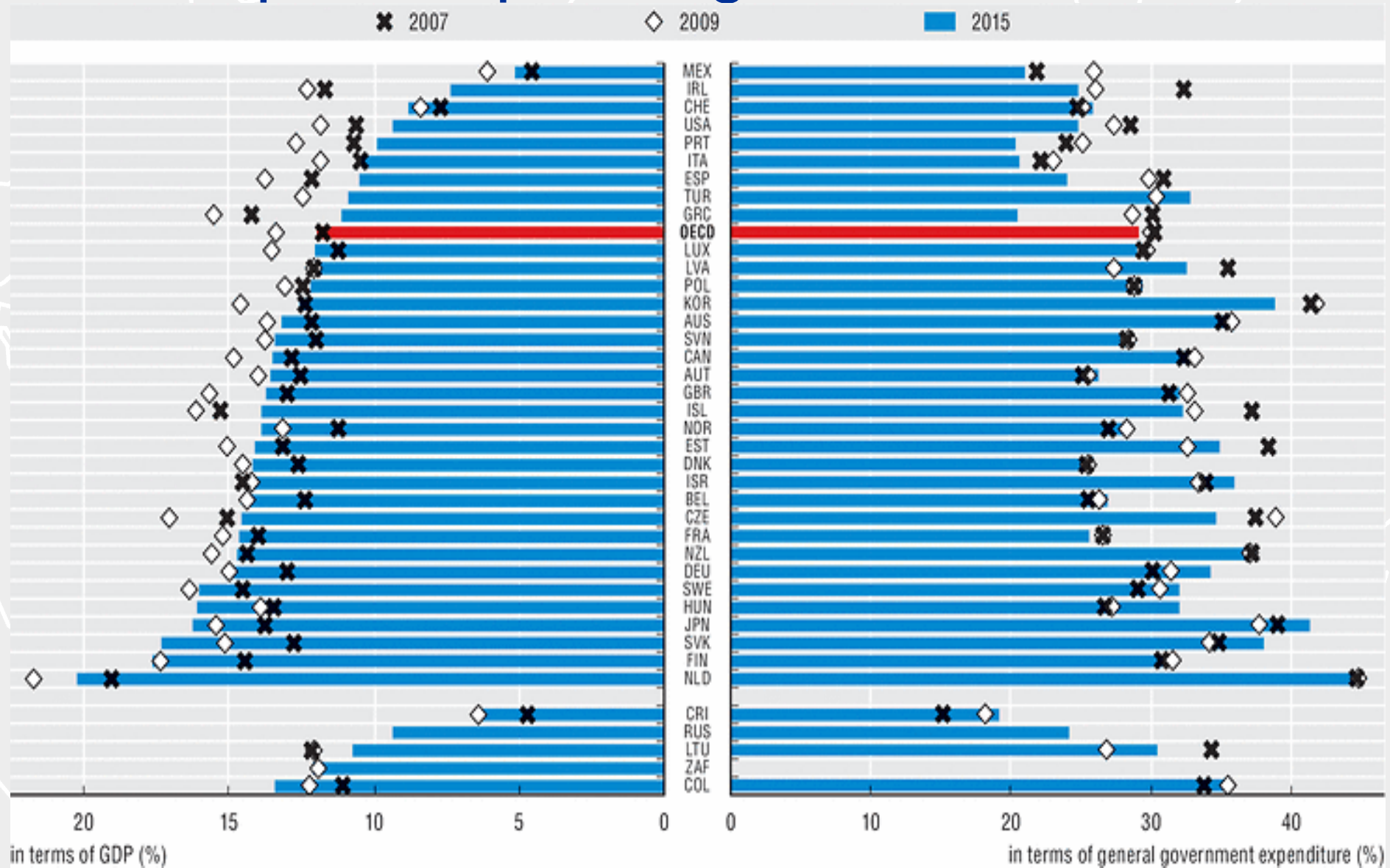
→ The style is interactive so please feel free to interject!



I. Why do data-driven risk assessment in public procurement?



Lots of public spending



Source: OECD: Government at a glance

Diverse uses of procurement data analytics

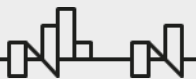
1. Supporting investigations on the contract/organisation/market levels:

- ▶ 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:

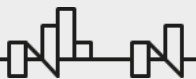
- ▶ Systemic (e.g. data system)
- ▶ Regulatory (e.g. procedural thresholds)
- ▶ Organisational (e.g. setting different accountability rules)

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

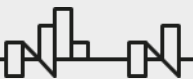


Specific corruption definition in public procurement

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:

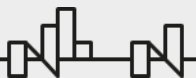
- ▶ ***Avoiding competition*** through, e.g., unjustified sole sourcing or direct contract awards.
- ▶ ***Favoring a certain bidder*** by tailoring specifications, sharing inside information, etc.

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



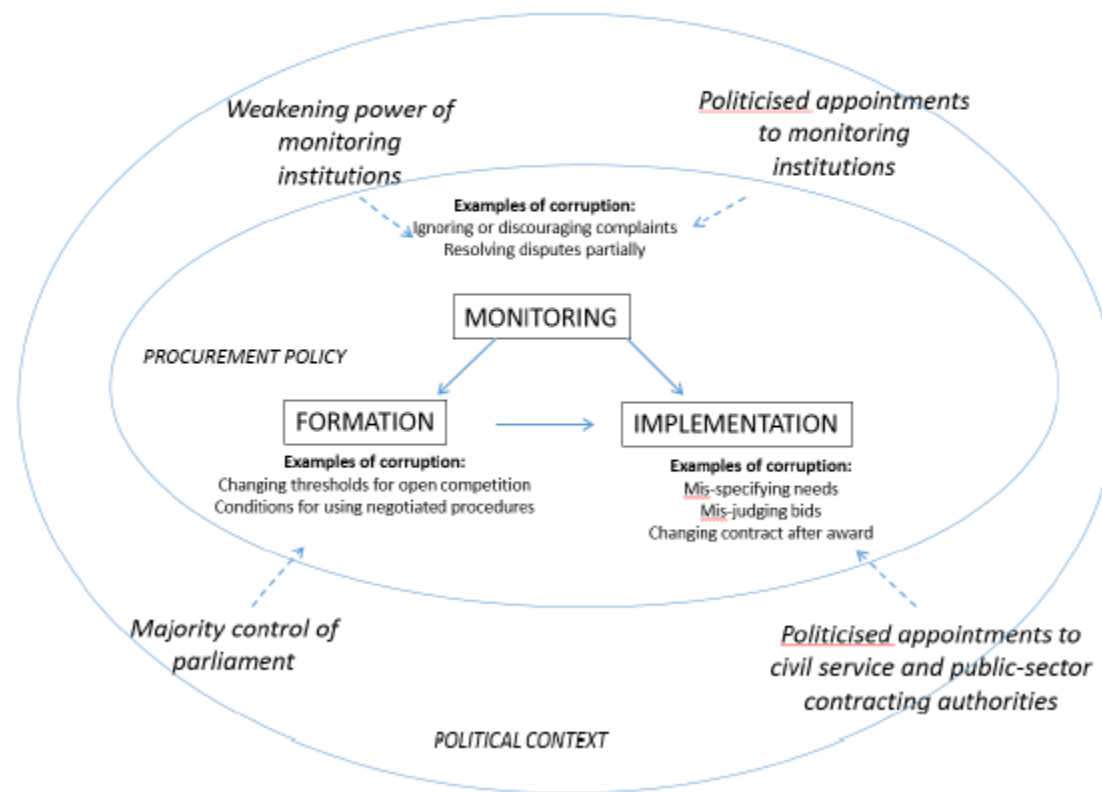
Definition in detail

- ▶ 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



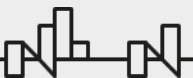
Source: Dávid-Barrett, Elizabeth & Fazekas, Mihály, (2016). Corrupt Contracting: Partisan Favouritism in Public Procurement. ERCAS Working Paper No. 49, Berlin: Hertie School of Governance.

The public procurement process: target population



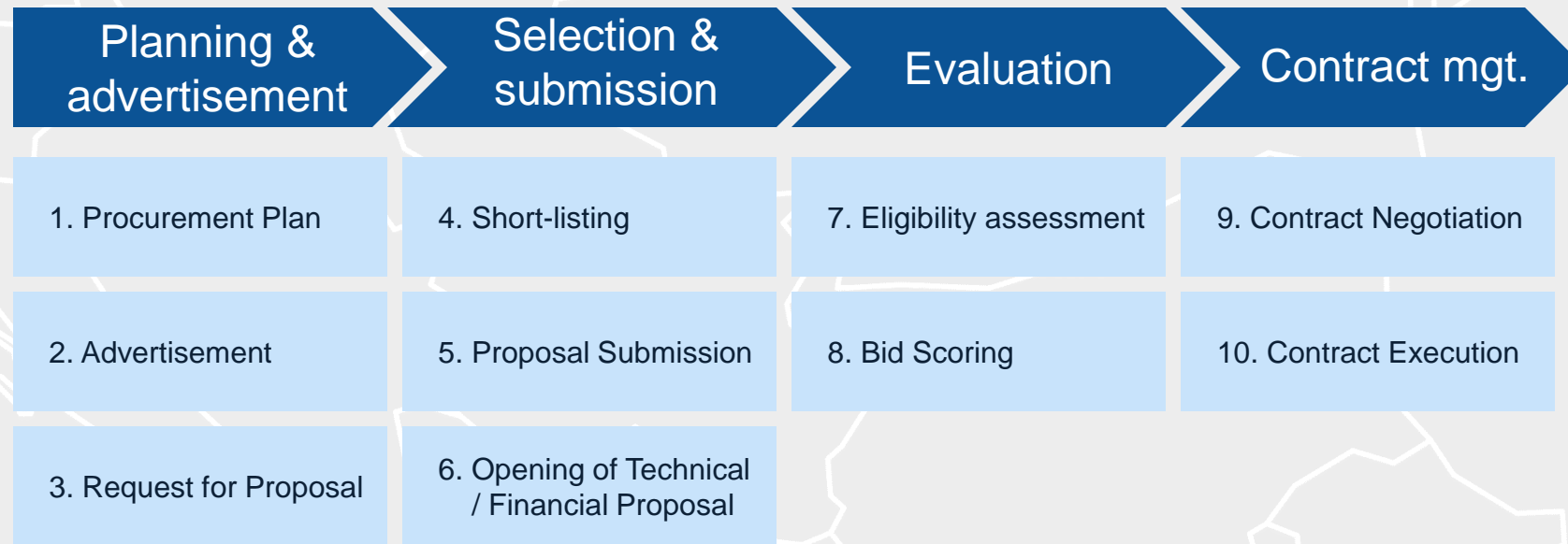
Let's gather together what happens at each of these stages!

→ Much more on data in a few minutes...

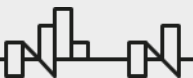


Introduction

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

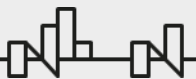


Adapted from IMPPM 2017-Uni Roma Tor Vergata. Integrity module (Agerskov, Fazekas, Piga)





III. Identifying corrupt schemes: selected examples



Advertisement: Your expert assessment

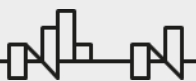
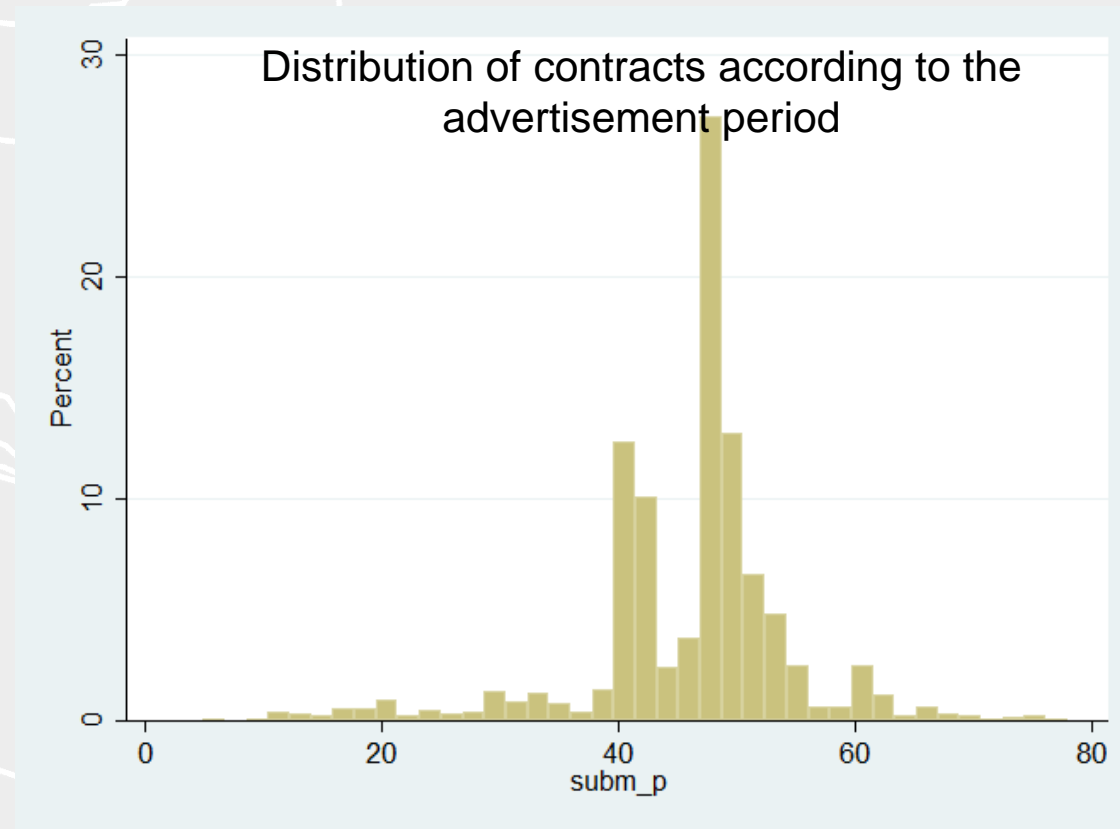
- Road reconstruction between two medium-sized cities,
- 25 km two-lane road,
- delivery in the summer

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	



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- ▶ What could be the red flag in this case?



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!)



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



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)



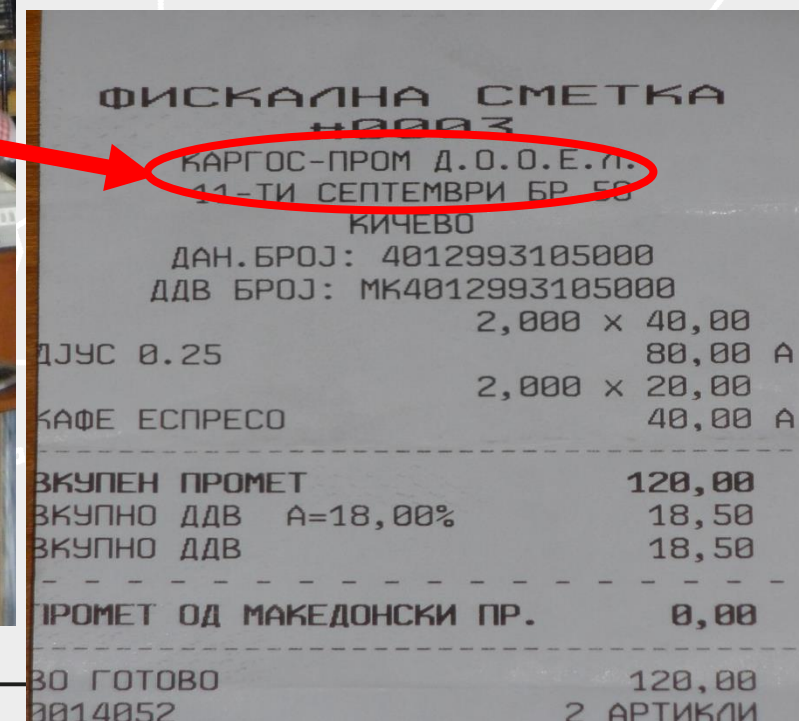
Threat Bogus subcontracting

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?

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).
- 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**.



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



Threat Substandard work

What is it?

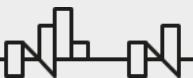
Goods, works, and services that do not comply with the specifications stipulated in the contract. This may be in agreement with corrupt officials or the result of a company taking advantage of poor contract management practices. Sometimes supervision consultants are bribed or coerced to sign-off on substandard 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.

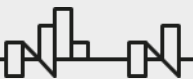


Adapted from IMPPM 2017-Uni Roma Tor Vergata. Integrity module (Agerskov, Fazekas, Piga)





Thank you! Any questions?

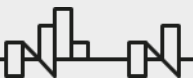


Further resources

<http://www.govtransparency.eu/>

<http://redflags.govtransparency.eu/>

https://www.researchgate.net/profile/Mihaly_Fazekas/research



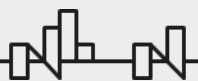
Selected further readings

- Fazekas, M., & Kocsis, G. (2020). [Uncovering High-Level Corruption: Cross-National Corruption Proxies Using Government Contracting Data](#). British Journal of Political Science.
- Bauhr, Monika ; Czibik, Ágnes ; Fine Licht, Jenny ; Fazekas, Mihály. (2019) "[Lights on the Shadows of Public Procurement: Transparency as an Antidote to Corruption](#)." *Governance (Oxford)* 33.3: 495-523.
- 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.
- Fazekas, Mihály, (2019) [Single bidding and non-competitive tendering procedures in EU Co-funded Projects](#). European Commission, Brussels.
- Fazekas, Mihály, Ugale, Gavin, and Zhao, Angelina, (2019) [Analytics for Integrity. Data-Driven Approaches for Enhancing Corruption and Fraud Risk Assessments](#). OECD, Paris.
- 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.

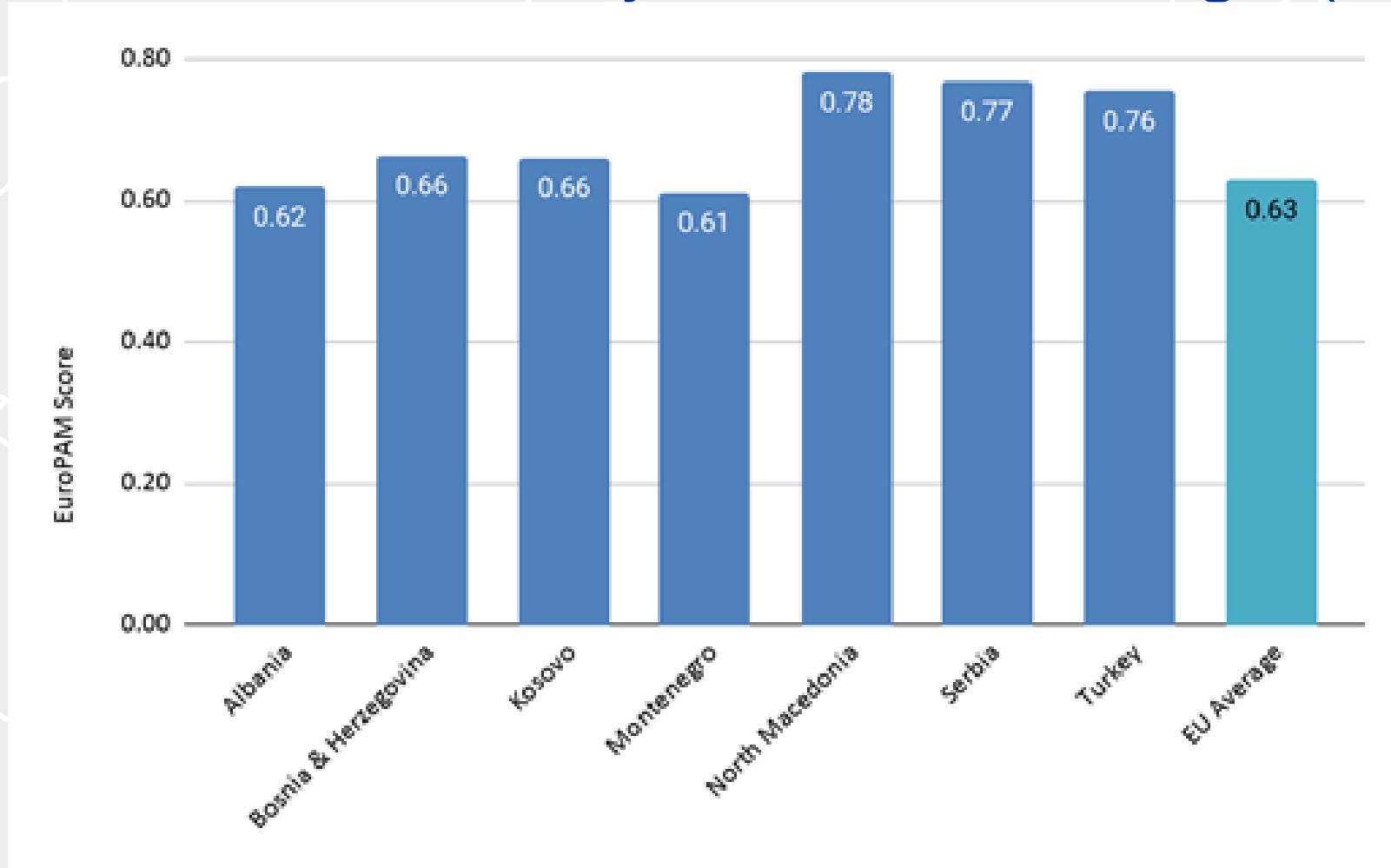




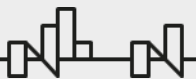
IV. Regional trends



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



Source: Fazekas et al (2021) Corruption Risks in Public Procurement in the Western Balkans and Turkey. Council of Europe. In press



EuroPAM scoring - details

► Bulgaria, 2015-2020

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The Bulgarian public procurement system is regulated by the Public Procurement Act of 2004, followed by further secondary legislation. The public procurement body is the Public Procurement Agency, located under the Ministry of Economy, Energy and Tourism.

The lowest minimum thresholds for conducting a public procurement tender are:

- BGN 30000 (ca. EUR 15000) for goods
- BGN 50000 (ca. EUR 25000) for works
- BGN 30000 (ca. EUR 15000) for services

The minimum number of bidders is 5 for restricted procedures and 3 for negotiated procedures. The minimum submission period is 35 days for open procedures, 30 days for restricted procedures and 30 for negotiated procedures from dispatch date. The final beneficial owners do not have to be disclosed when placing a bid.

There is no preferential treatment. However, SMEs were advantaged before 2009. Furthermore, there are several options for bid exclusion: abnormally low offer price, and also criminal conviction for economic/financial crimes, bankruptcy, conflict of interest etc.

In the bid evaluation phase, there are conflict of interest restrictions on the composition of the evaluation committee. There is also a requirement that some part of the evaluation committee be independent of the contracting authority.

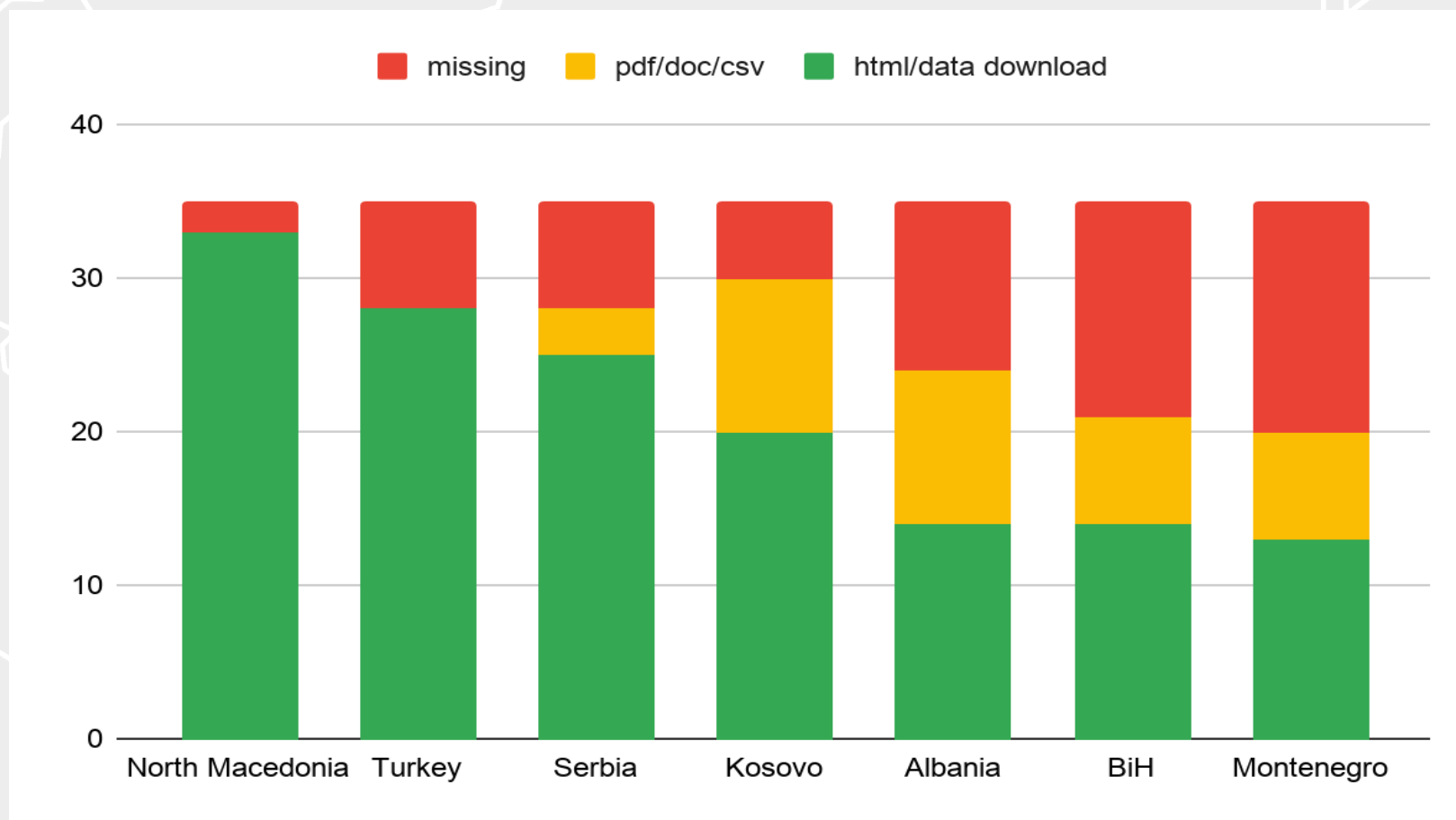
There is a payable fee in case of an arbitration procedure (the amounts are set out in the Rules and Statutes of the Arbitration Court of Bulgaria).

[Quantitative Data](#)[Qualitative Data](#)[Laws](#)

Primary Metric

	2015	2016	2017	2020
Scope	72	71		88
Information availability	85	85	97	97
Evaluation	100	94	94	88
Open competition	83	83	75	72
Institutional arrangements	29	29	29	36

Accessibility and usability of standard data fields



Source: Fazekas et al (2021) Corruption Risks in Public Procurement in the Western Balkans and Turkey. Council of Europe. In press



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

Source: Fazekas et al (2021) Corruption Risks in Public Procurement in the Western Balkans and Turkey. Council of Europe. In press



A potential scheme

Bribes tend to go up in the ministry, and can continue through contract implementation

