

**33rd SESSION****Making public procurement transparent at local and regional levels**Resolution 421 (2017)<sup>1</sup>

1. In its many forms, corruption poses a major threat to governance and democracy in Europe and undermines the confidence of citizens in democratic institutions. Its prevalence affects citizens, governments and business alike, increasing unpredictability and impeding new investments. With this in mind, at its 31st session, the Congress of Local and Regional Authorities adopted a Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels. This Roadmap includes the preparation of thematic reports, including on transparency in public procurement.
2. As public procurement is an essential part of public service provision for local and regional authorities, efficient procurement is key to good governance. However, as procurement involves a large proportion of public expenditure and, to an increasing extent, the transfer of public resources to the private sector or non-profit organisations, it is particularly vulnerable to various types of corruption.
3. Corruption in the procurement process takes many forms, including the allocation of government contracts to friends or political cronies at the expense of a transparent and competitive process or the formation of cartels to manipulate the tendering process.
4. The increased use of outsourcing and public-private partnerships to deliver public services can create conflicts of interest in public procurements. Public officials or politicians might use their insider knowledge of procurement plans, or their influence over procurement decisions, to benefit friends, relatives or allies bidding for contracts. Another significant source of corruption is the revolving door phenomenon, which consists of movements of personnel from jobs in local government to jobs in the private sector, often to companies involved in local government procurement. Civil servants can take advantage from their insider information or shape policy contracts while they are in office in order to benefit from it later when they work for a private contractor, or create other opportunities for themselves or friends.
5. Various risks are involved all along the procurement process: from the needs assessment phase to the implementation phase. In the needs assessment phase, an individual might inflate the needs, hence impacting the whole competition process, or make excessive provision costs for errors. In the design phase the risks are related to the drafting of the requirements or the unclear selection details. In the award phase, the corrupted official could insist on weaknesses of a particular supplier and on the supposed advantages of the others. Finally, in the implementation phase, the risks concerning the monitoring of the contractor could lead to deficient quality or increasing costs, signifying a waste of public funding.
6. As procurement processes become increasingly complex, local authorities can also be at risk from a lack of adequate contracting expertise among their staff. This puts them at a disadvantage compared to companies, which often have more resources to spend on legal expertise. Local and regional

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<sup>1</sup> Debated and adopted by the Congress on 19 October 2017, 2nd sitting, (see Document [CG33\(2017\)13final](#), rapporteur: Amelie TARSchYs INGRe, Sweden (L, ILDG)).

government staff are often ill-prepared to carry out complex contracting procedures and to monitor their application.

7. There are a number of practical steps that local and regional authorities can take to reduce their exposure to such corruption, beginning with transparency. Transparency in all stages of the procurement process is essential to reduce corruption risks and to enhance public trust in local and regional administrations.

8. The move to e-procurement systems has been demonstrated to have had a significant effect on reducing corruption risks in this sphere.

9. The establishment of codes of conduct, such as a prohibition on accepting rewards, gifts and other benefits, connected with integrity training programmes for local and regional elected representatives and appointed officials has also been shown to be useful in avoiding the risks of conflicts of interest in public procurements.

10. Corruption in public procurement is often revealed by reporting by insiders. These whistleblowers can face reprisals and therefore need to be adequately protected.

11. In light of the above, the Congress invites local and regional authorities of the member States of the Council of Europe to:

*a.* assess the different corruption risks involved in procurement and set up internal controls and evaluation mechanisms;

*b.* enhance transparency by publishing data and procurement details at all stages of the process, in order to encourage public scrutiny and involve civil society;

*c.* ensure that transparency requirements apply also to private contractors which provide outsourced services;

*d.* simplify the procedures for public procurement in order to make them accessible and clear for all parties concerned;

*e.* introduce e-procurement systems for public procurement, whereby tender announcements and tender documents are published on a publicly accessible website and tenders are submitted through purpose-built IT systems;

*f.* promote integrity pacts between contracting authorities and bidders, where the two parties agree on refraining from corrupt practices and submit to monitoring by civil society;

*g.* encourage the training of local public officers to carry out complex contracting and perform audit functions;

*h.* promote the emergence of an anti-fraud culture through education on risks and identification and prevention of fraud;

*i.* define reporting procedures which ensure that reports are treated confidentially and that a person cannot be harmed for reporting suspicions of wrong-doing;

*j.* introduce safeguards to prevent conflicts of interest in the procurement process, such as codes of conduct for all those involved in the procurement process, to make clear the ethical standards expected of them. These would include, for example, a prohibition on accepting rewards, gifts and other benefits;

*k.* design training programmes for the implementation of these codes;

*l.* consider introducing and regularly evaluating existing enforcement mechanisms, such as disciplinary proceedings and sanctions to reinforce the application of these codes.

12. The Congress resolves to take the above considerations and recommendations into account in its revision of the European Code of Conduct for the political integrity of local and regional elected representatives.