

Meeting of the Congress Governance Committee – 4 May 2017 – Eupen (Belgium)

Item 5. Making public procurement transparent

Presentation by the rapporteur Amelie TARSCHYS (Sweden, ILDG)

Dear colleagues,

I am happy to present you the final version of the report on public procurement we discussed last time. As promised, here is the final outline along with the draft resolution and the draft recommendation. I hope to have a fruitful discussion with you after this.

Corruption can be defined as the abuse of entrusted power and occurs when a public office holder breaks the rules associated with his job in a way that benefits a company or crony.

Corruption in public procurement is one of the most difficult issues that local authorities have to face. By its very nature, procurement involves the transfer of public funds to private companies and sometimes NGOs. Unfortunately corruption in public procurement is also perceived to be widespread and puts in danger the health of our democracy.

At local and regional level, it can involve the allocation of government contracts to relatives, friends and cronies, at the expense of an open and competitive process. Corruption in public procurement can also be linked to clientelism or kinship and take the form of bribery. As local and regional authorities are at the frontline of the delivery of public services to citizens, a relationship of trust between local authorities and citizens is vital for our local democracy.

The main difficulty in combatting corruption lies in the fact that it is difficult to measure and to find evidence. Those who engage in corrupt activities have the interest in covering them up and are all too often able to conceal their actions and make them less transparent.

At all stages of the procurement cycle –needs assessment, tender design, award and post-award – the process is vulnerable to manipulation for corrupt ends.

This phenomenon has many negative consequences, impeding some companies from competing, potentially driving them out of business. It also undermines trust in government and distorts the market economy, leading to increased prices and poorer value for money.

Our report highlights various forms of risk of corruption in the procurement process, from nepotism to private-to-private links, where bidders from a cartel collude to manipulate the outcome of the process.

We highlight three risks of corruption in particular:

- The weak contracting expertise of the staff, which makes the assessment of public procurement difficult.
- The increased outsourcing of public services at the local level, which has a negative impact on accountability.
- Finally, the “revolving door” or, in other words, the movement of personnel from jobs in local government to jobs with private companies that bid for government contracts, raising the risk of conflicts of interest.

To reduce their vulnerability to corruption risk, the report suggests the following measures to local and regional authorities:

- Firstly, from the institutional point of view, an independent public procurement body could be set up and external audit functions should be reinforced.
- Secondly, there is a need for increased transparency over public procurement. With new technology, it is possible to open up and publish contract data to great detail. This not only allows greater scrutiny, but it also has a preventive effect. The introduction of an e-procurement system should also be considered, to reduce the amount of human discretion in the process and standardize the procurement procedure.
- Thirdly, professional capacity should be reinforced, focusing on training and empowering of the staff.
- Finally, an anonymous whistleblower hotline should be set up. Most corruption is revealed by whistleblowers, since it is insiders who have access to the relevant information and can tell when something is being covered up. But whistleblowers tend to suffer negative consequences when they reveal what they know. Their right to speak needs to be protected.

In the light of this, I propose a resolution in which we encourage local authorities of our member states to assess the different corruption risks involved in procurement and set up internal controls and evaluation mechanisms.

As we are raising important issues with regard to the transparency of the public procurement process, we encourage local authorities to enhance transparency by publishing data and procurement details at all stages of the process, to encourage public scrutiny and involve civil society. Transparency requirements should also apply to private contractors providing outsourced services.

Other measures we propose are to simplify the procedures for public procurement in order to make them accessible and clear, to introduce e-procurement systems for public procurement, promote integrity pacts and encourage training of local public officers to carry out complex contracting, or promote the emergence of an anti-fraud culture.

Dear colleagues,

Another essential part of the measures we ask for is the definition of procedures to ensure reports by whistle-blowers are treated confidentially and that a person cannot be harmed for reporting wrong-doing.

We recommend the setting up of an anonymous whistle-blower hotline, to facilitate the reporting of malpractice and protect those who report such information.

We also ask for the introduction of safeguards to prevent conflicts of interest in the procurement process and for the designing of training programmes for the implementation of these codes, as well as considering introducing enforcement mechanisms.

In the recommendation, we ask the Committee of Ministers to call upon member states to focus on establishing national standards regarding public procurement, in order to make it more transparent and easier to understand. We also recommend the establishment of e-procurement systems and to ensure the maximum transparency at all stages of the procurement cycle as well as a common level of training and common qualification for staff responsible of the procurement process.

To facilitate the analysis of the risk of favouritism in procurement processes, a set of national indicators could be set up, as well as an independent body to investigate complaints

Another crucial point of our recommendations is the need to regulate and track employment movements from public to private sectors to lower the risk of favouritism in public procurements, mainly through the revolving door process.

These are the main points of the resolution and the recommendation. I invite you to support them.

Thank you.