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MONITORING MOLDOVA'S PUBLIC PROCUREMENT

Newsletter no. 4 (February 2022)

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EDITORIAL

INTEGRITY PACTS ENHANCE TRANSPARENCY, PARTICIPATION, AND ACCOUNTABILITY



Wayne WITTIG,
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Integrity Pacts are essentially contracts establishing the rights and obligations of all the parties to a public contracting process. It can be used in a wide variety of situations. They can be used for construction contracts, supply contracts, state asset privatization programs, engineering, architectural or other consultants' contracts, state permits, licenses, or concessions, or for government-regulated services.

Integrity Pacts ensure transparency in all stages of the procurement process, from needs assessment to contract management and payment. They can enhance participation, competition, and accountability, ultimately contributing to greater trust.



THE PUBLIC PROCUREMENT SYSTEM EVALUATION REPORT ACCORDING TO WORLD BANK'S MAPS METHODOLOGY WAS PUBLICLY PRESENTED

» [The Report on the Evaluation of the Procurement System of the Republic of Moldova, based on the MAPS methodology of the World Bank, was presented publicly on January 20, 2022. The evaluation exercise was conducted by the World Bank in collaboration with authorities in the procurement field, including the Ministry of Finance, and the Public Procurement Agency.](#)

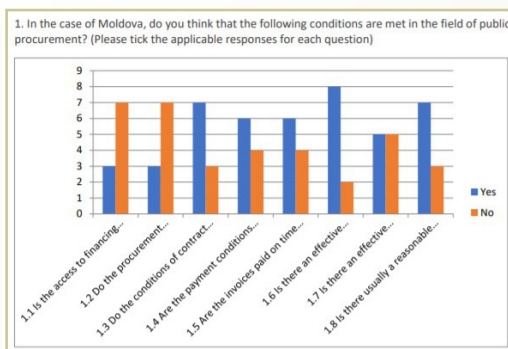
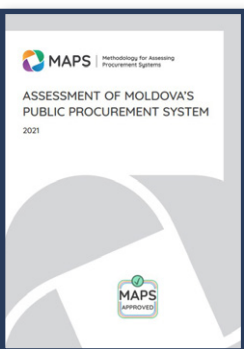
procurement specialization and lack of certification programs; data on inaccurate, incomplete, and scattered purchases in various sources and formats; many bodies with monitoring and control responsibilities which have either unclear or overlapping responsibilities; external audit focusing on compliance and very little on procurement performance; and unclear and ineffective anti-fraud and anti-corruption measures.

During the event, the Public Procurement Agency also presented measures to be taken as a result of the findings and recommendations of the report: development of the primary and regulatory framework; elaboration on plans to develop the procurement system from 2023-2026; harmonization of budgetary regulations with those on procurement to allow the implementation of multi-year projects; creation of a central purchasing authority for central public authorities; reducing the number of contracting authorities, both by organizing centralized procurement and also as a result of local public administration reform; implementation of the certification program and the obligation of the authorities to have a certified specialist in the working group; and the development of an electronic procurement system in accordance with the law on public procurement, with the Open Contracting Data Standard (OCDS) and the development of a data analysis tool (BI module).

The evaluation was de facto completed by mid-2020 and reflects situational changes which have since taken place. In the meantime, there have been positive developments, aimed especially at developing and updating the legal and regulatory framework.

The full report (available in English only) can be viewed and downloaded here: [Assessment of Moldova's Public Procurement System 2021](#).

Source: <https://www.mapsinitiative.org>



The report launch event presented the main findings and recommendations related to each of the four pillars provided by the methodology, namely:

- 1 Legal, normative, and policy framework
- 2 Institutional framework and management capacity
- 3 Procurement operations and market practices
- 4 Accountability, integrity, and transparency

Among the main findings of the evaluation is the out-of-date state of the regulatory framework; technical deficiencies of the electronic procurement system; standard, rigid documentation that does not focus on obtaining value for money; the annual budget cycle that limits the efficient implementation of multi-year projects; inefficient activity of working groups; unrecognized public

IDIS "VIITORUL" ANNOUNCES AVAILABILITY OF GRANTS FOR CIVIL SOCIETY IN THE FIELD OF PUBLIC PROCUREMENT MONITORING

» Under the project "Increasing Integrity in Public Procurement" the Institute for Development and Social Initiatives (IDIS) "Viitorul" in partnership with the Partnership for Transparency Fund (PTF) is launching a competition for grant funding to monitor public procurement. The goal of the project is to support public procurement reforms in Moldova, which will increase the transparency and fairness of public procurement by empowering citizens to hold relevant institutions accountable. This can be achieved by training civil society organizations (CSOs) and investigative journalist organizations to be watchdogs in monitoring public procurement, and by supporting their work for a period of time with grant funding.

Grants (between US \$ 5,000 and US \$ 25,000) will be awarded to Moldovan civil society organizations and investigative journalist organizations based on a competitive selection process to support them in responsible and effective monitoring of public procurement.

Civil society organizations and investigative journalist organizations interested in conducting procurement monitoring can apply for a grant by submitting a proposal for monitoring.

OBJECTIVES OF THE GRANT PROGRAM

- Monitoring procurement at the national, local, or municipal level by CSOs and investigative journalists utilizing a variety of tools.
- Strengthening the capacity of Moldovan Civil Society (CSO) organizations and investigative journalist organizations to effectively and responsibly monitor pro-

urement by notifying relevant authorities about identified risks and irregularities, and seeking resolution of such issues.

- Facilitating access to open data on public procurement by developing various tools, including digital ones.
- Improving legislation, regulations, policies and procedures by making recommendations to contracting and regulatory authorities, based on findings from the public procurement monitoring process.

? WHO CAN APPLY?

Public associations (civil society organizations and investigative journalist organizations) registered in the Republic of Moldova (from all localities and regions of the country).

ELIGIBILITY CRITERIA

Public associations may apply individually or partnerships may be established among several non-governmental organizations.



✔ WHAT SHOULD THE PROJECT PROPOSAL INCLUDE?

The objective of the project proposal will be to focus on monitoring of public procurement, and it should specify the monitoring actions to be undertaken. Monitoring of ongoing procurement procedures is mandatory.

IMPORTANT: Completed procurement procedures cannot be included in the project as an objective of monitoring.

✘ INELIGIBLE ACTIVITIES

The following (or similar) activities are ineligible:

- activities seeking either exclusively or specifically, individual sponsorships for participation in workshops, seminars, conferences, congresses;
- activities specifically seeking individual scholarships for studies or training courses;
- activities involving the elaboration of theses (Bachelor's, Master's or PhD);
- activities aimed at financing a single conference. Conferences can only be funded if they are part of a series of activities to be implemented during a given monitoring project and would have to be pre-approved by IDIS and PTF;
- monitoring projects seeking economic profit or non-profit projects that serve the interests of very limited target groups;
- activities that support political parties.
- policy and legal analysis not related to a specific procurement monitoring proposal.

🕒 VALUE AND DURATION OF PROJECTS

The total amount available for grants is US \$ 200,000. Civil society associations registered in the Republic of Moldova can apply for and apply for grants of at least US \$ 5,000 and up to US \$ 25,000. The implementation period of the project must not exceed 12 months.

Project proposals will be evaluated by the Evaluation Committee on the basis of an evaluation grid. After evaluation of all proposals, grants will be awarded within the available budget.

The evaluation schedule of the project proposals and all the conditions of application can be found in the [Funding Guide](#).

📁 APPLICATION PROCEDURE

The application file must include the following documents:

- Copy of the organization's registration certificate.
- [Application form](#). The form can be completed in Romanian or in English. Only applications that comply with this form template will be accepted.
- Profile of the organization (description of the organization), including its experience with monitoring of public procurement.
- CVs of the implementation team and experts.
- Project budget.
- In case of a partnership among organizations, the partnership agreement signed by all parties must be attached.

Only fully-completed applications will be processed and accepted in the grant competition.

🕒 DEADLINE

The deadline for submitting the file is **March 17, 2022, at 23.00**, indicating "Application for grants for monitoring public procurement". The file will be sent to mihai.turcanu@viitorul.org and ungureanu.carolina@gmail.com.

The list of beneficiary organizations will be published on the IDIS "Viitorul" website www.viitorul.org in mid-April 2022.

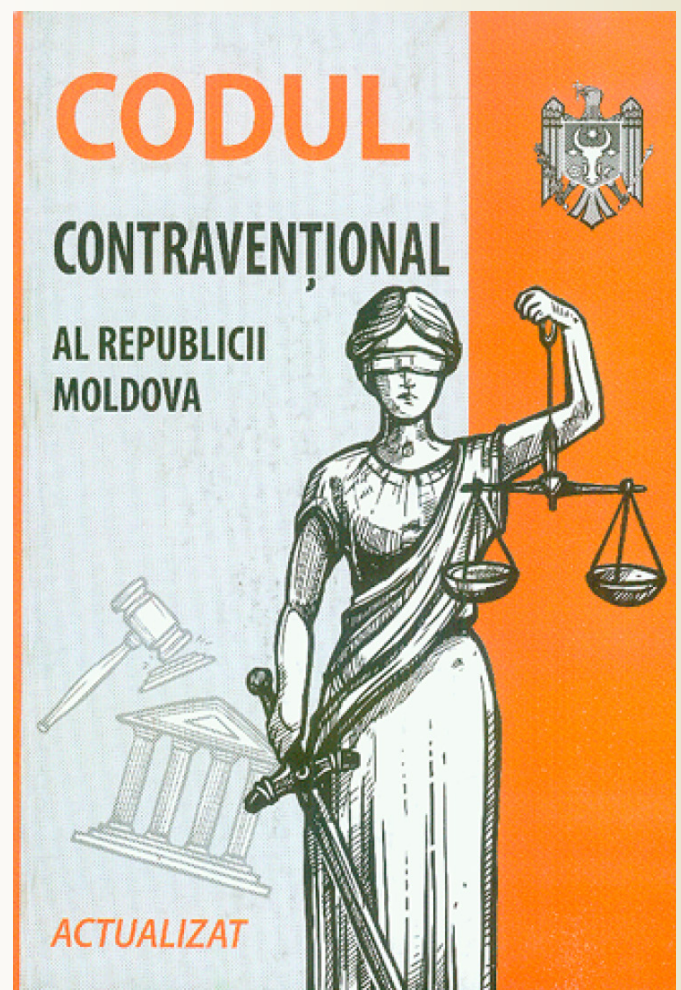
Questions for clarification can be addressed to the email address mihai.turcanu@viitorul.org until March 10, 2022. For interested organizations, IDIS "Viitorul" will organize two information sessions on the application procedure on March 2 and 4, at 10.00 (For registration, go to [this link](#).) The answers to all the questions asked will be published on March 11, 2022 on www.viitorul.org.

VIOLATIONS IN THE PROCUREMENT PROCESS ARE SANCTIONED, BUT NOT ADJUSTED TO CURRENT LEGISLATION

» IDIS "Viitorul" and other civil society organizations (CSOs) that monitor public procurement have been sounding the alarm since 2018 about a legislative shortcoming that does not allow the application of sanctions provided in the Contravention Code for breaching procurement rules. This shortcoming undermines the legality and efficiency of the use of public money, and leads to a lack of accountability on the part of public authorities. At the same time, the absence of mechanisms for monitoring and enforcing sanctions for infringements is a risk factor that may encourage fraud and corruption. This is also demonstrated by the results of the procurement monitoring by the Public Procurement Agency that showcase the irresponsibility of the public authorities who do not address the identified violations. According to the data of the [Public Procurement Agency for the first semester of 2021](#), only in the case of 60 percent of the monitored procurement procedures did the contracting authorities fully remedy the admitted violations.

Recently, [at the end of 2021, a draft law on amending the Contravention Code of the Republic of Moldova no. 218/2008 was registered in the Parliament of the Republic of Moldova \(art. 402\)](#). IDIS "Viitorul" found this legislative shortcoming in several analyses and reports, including in the ["The sectoral plan of anti-corruption actions in the field of public procurement for the years 2018-2020" monitoring report](#).

Article IX point 17 of Law no. 295 of 21.12.2017 for the amendment and completion of some legislative acts has modified the art. 402 of the Contravention Code, by which the administrative authorities within the Republic of Moldova's Ministry of Finance tasked with financial inspection have been deprived of the attribute of official examiners according to art. 3271 of the Contravention Code which details consequences for "violation of the rules for initiating and conducting public procurement procedures." Yet this was done without delegating to any other public authority the function to discover and sanction the violations outlined in art. 3271 of the Contravention Code.



There is currently no institution authorized to find violations of the rules for initiating and conducting public procurement procedures, although de jure there is an article in the Contravention Code which provides for the application of sanctions for violating the rules for initiating and conducting public procurement procedures. All infringements in the conduct of public procurement procedures remain unpunished due to this legislative gap.



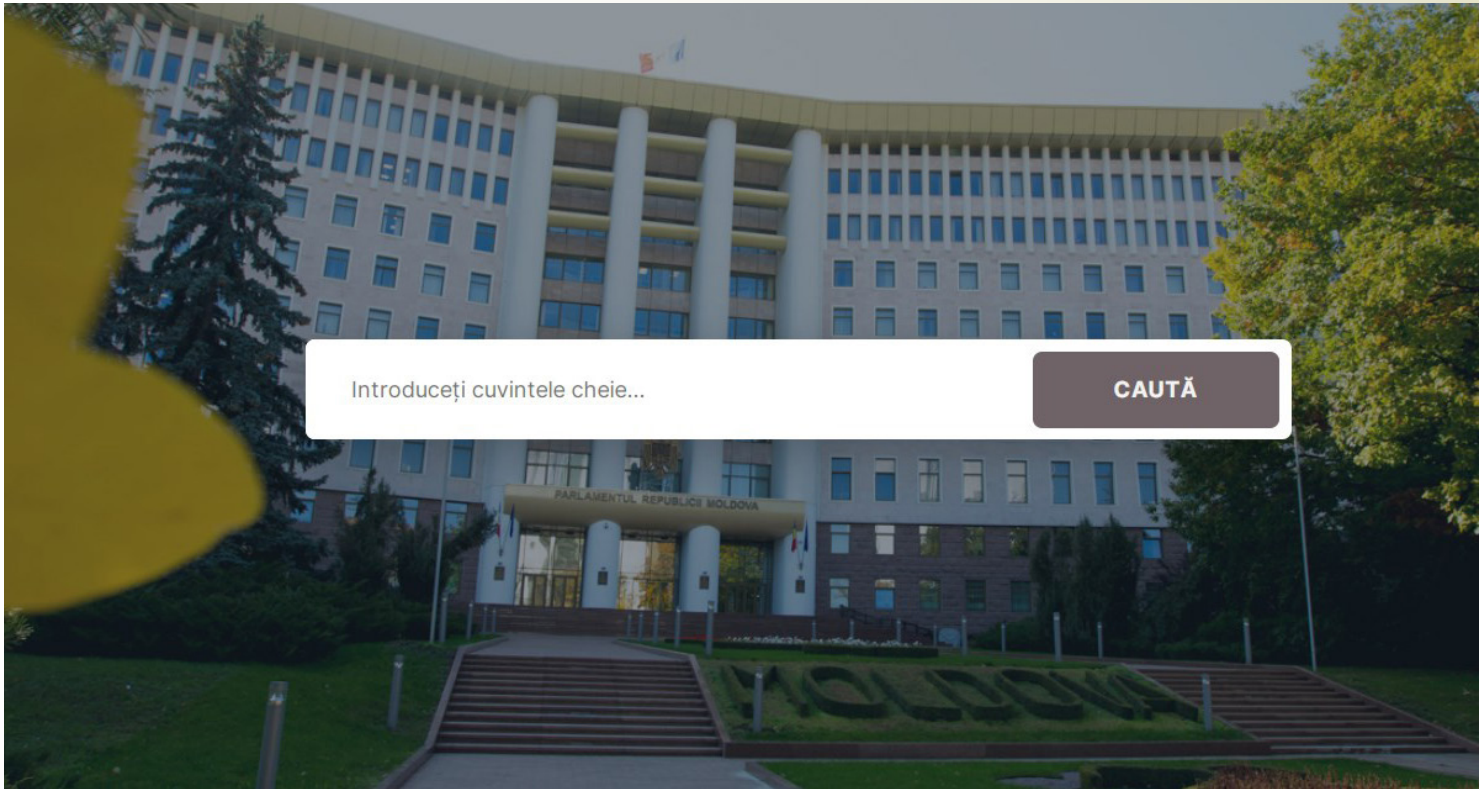
- **UNTIL THIS LEGAL PROVISION ENTERED into force in 2018, 89 reports were drawn up for this violation. After this legal provision entered into force in 2019, eight reports were drawn up. In 2020 no reports were drawn up, and in 2021, only two reports were drawn up.**
- **Thus, during the years 2019-2021, only ten violations of the rules for initiating and conducting public procurement procedures were identified.**
- These ten infringements were flagged in a non-legal manner since the public authorities which drew up the reports did not have the legal right to do so without receiving the status of official examiners for this category of infringement.

The present bill proposes to remove this legislative gap and adjust the legal regulatory framework, allowing the monitoring and sanctioning of violations of the rules of initiation and conduct of public procurement procedures by administrative authorities under the jurisdiction of the Ministry of Finance.

Although this legislative initiative is appropriate, there are shortcomings and risks associated with the project. Thus, the draft law does not imply the modification or updating of the sanctions provided in art. 3271 to ensure they correspond to the legal framework in force. In the current conditions, it will not be possible to apply some of them, and on the other hand, it will not be possible to detect and sanction other violations of the current provisions of the legislation. An eloquent example of a sanction that can no longer be applied is *"the inclusion of false data in the reports and official explanations of complaints filed with the Public Procurement Agency,"* since the legislation has been amended and the National Agency for Complaint Settlement (NACS) is the institution responsible for settling appeals. At the same time, the minutes prepared for opening and evaluating the bids, and for the non-preparation of which sanctions are provided, are no longer relevant. Additionally, no sanctions are provided for other violations of the legislative provisions in force, such as the cancellation of the procurement procedure in the absence of legal basis, non-compliance with NACS decisions, etc.

With regard to the risks involved in this draft legislation, the designation of the Public Procurement Agency as an official examiner is not sufficiently substantiated in the current setting. Moreover, it remains unclear the mechanism by which these violations will be detected and sanctioned, resulting in increased risk of abuse.

*Author: Diana Enachi,
Project coordinator, IDIS "Viitorul"*



THE PUBLIC PROCUREMENT INFORMATION PORTAL OF THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA WAS LAUNCHED - [ACHIZITII.PARLAMENT.MD](https://achizitii.parlament.md)

» The Secretariat of the Parliament of the Republic of Moldova launched the public procurement information portal – achizitii.parlament.md.

The portal provides access to data on the procurement of goods, services, and works (by redirecting the users to the platforms of the electronic procurement system), on annual public procurement plans, and [on reports on monitoring and execution of contracts of the institution](#). It should be noted that both the current and historical information on procurements conducted from 2016-2021 is accessible. However, neither the source of funding nor the value of the resources allocated and spent for the development of this portal has been made public. Data on the procurement of such services are not present in either the Parliament's Procurement Plan for 2021

or in the report on the execution of procurement contracts for the first half of 2021.

In the context of the new regulations in the field of public procurement, all notices for participation in public procurement procedures, including the awarding documentation, are placed in the Automated Information System "State Register of Public Procurement" (SIA RSAP "MTender"). "Transparency is a fundamental principle in the activity of a public authority. Citizens need to know how and what is public money used for," said Tamara Gheorghîța, the Secretary-General of the Parliament.

At the moment, the database of the platform achizitii.parlament.md includes systematized information dating back to 2016.

Source: www.parlament.md



GOVERNMENT PRIORITIES IN THE FIELD OF PUBLIC PROCUREMENT IN 2022

» The Government of the Republic of Moldova approved by Decree no. 235 [the Government Action Plan for 2021-2022](#), on October 13, 2021. The Action Plan puts special emphasis on justice reform and the fight against corruption, which is an essential condition for the development of a democratic society. The actions of the plan focus primarily on establishing the principles of good governance and transparency.

In terms of sectoral policies, public procurement is included in the "Public Finance" component. The key objective of this section is the efficient, prudent, transparent, and sound management of public finances; ensuring budgetary and fiscal stability; allocating public financial resources in close connection with policy priorities; and access to external assistance to achieve sustainable development goals. The priority aims for public procurement in 2022 is **to improve the public procurement system by implementing electronic procurement and by enhancing the professional capacities of contracting authorities**. The results will include the establishment of a fully developed electronic public procurement system and certification system.



IN 2022, the following actions will be monitored:

- 1 **ELABORATION AND IMPLEMENTATION** of the certification mechanism for specialists in the field of public procurement, in order to train, evaluate, and qualify at least 100 specialists.

- 2 Elaboration and approval of the National Program for the development of the public procurement system.
- 3 The integral development of the MTender Electronic Public Procurement System.
- 4 Development of the normative framework in the field of public procurement in order to ensure the implementation of Law no. 131/2015 on public procurement and of Law no. 74/2020 on procurement in the energy, water, transport, and postal services sectors in accordance with the commitments assumed by the Republic of Moldova under the Moldova-EU Association Agreement and the World Trade Organization Agreement on Government Procurement (GPA).

Planned actions are needed to streamline the public procurement system.

However, other priorities and actions are needed to help address the current problems related to the inefficient monitoring and control mechanism, the inefficient work of the working groups within the contracting authorities, the lack of a permanent inter-institutional communication mechanism, and non-transparent procurements of low value, among others.

Ideally, the National Plan for the development of the procurement system that is to be approved in 2022, will stipulate concrete actions to be taken in order to solve these problems that generate high risks of fraud and corruption.

Author: *Diana Enachi*,
Project coordinator at IDIS "Viitorul"



HOW THE SALARY OF CONSTRUCTION WORKERS IS CALCULATED WITHIN THE PROCEDURES FOR PUBLIC PROCUREMENT OF WORKS

» The average salary for construction workers has been increased. Starting on January 5, 2022, the average salary for construction employees was raised to 14.359 lei, 3.402 lei more than in 2021. The minimum wage was set at 5.000 lei, regardless of the employer or membership in a union, raised from a previous rate of 3.815 lei.

On November 24, 2021, the Amendment of the Code of Practice in Constructions "Construction Economics. Instructions for determining the estimate expenses for construction salaries," was

published. The document is supplemented by an informative annex on how to calculate the average hourly wage of construction workers to determine the estimated value of the contracting authority's calculation and the contractual prices of construction objectives through the public procurement procedure. This annex sets out the calculation of the average hourly wage of construction workers for the purchase of design and construction works of any category, their related installations, as well as intervention works throughout time at existing constructions (modernizations, restorations, modifications, transformations, consolidations, extensions, and major repairs) for the needs of one or more contracting authorities, regardless of the source financing the investment.

Thus, when preparing the project documentation and estimate for tenders, it is recommended that, at the order of the investor (beneficiary), the salary expenses in the investor's estimates be based on the minimum guaranteed amount of salary in the real sector as established by the government.

visions of the instruction for determining the estimate expenses for the construction salary, but not lower than the average salary, fixed and published quarterly by the National Bureau of Statistics.

*Author: Vadim Țurcan,
 Public procurement expert*

Salary calculation according to [Government Decree no. 922 of 22.12.2020](#) (minimum guaranteed amount)

Tariff coefficients	Categories	Tariff salaries, lei/hour	Tariff salaries, lei/month
1,00	1	22,58	3 815,50
1,26	2	28,45	4 807,53
1,59	3	35,90	6 066,65
1,81	4	40,86	6 906,06
2,07	5	46,73	7 898,09
2,36	6	53,28	9 004,58
2,69	7	60,73	10263,70
	Average (3+4+5):3	41,17	6 956,93
Average hourly wage with K = 1,575		64,84	10957,96

Therefore, according to Government Decree no. 922 of 22.12.2020, the average hourly wage of the construction workers per branch (for category 3-5) is 41.17 lei/hour [(35.90 + 40.86 + 46.73): 3]. However, taking into account the increases, supplements, additions, incentive payments, and allowances to the tariff salary (57.5 percent, or the coefficient 1.575), the average hourly wage of the construction workers per branch is 64.84 lei per hour (41.17x1.575).

According to the data of the National Bureau of Statistics, [in the second quarter of 2021, the average gross monthly earnings in the construction sector amounted to 7.880 lei](#), resulting in an average hourly wage of 46.63 lei per hour.

When preparing bids for public procurement of works financed from the state budget or establishing the average salary of workers, bidders will take into account bonuses, supplements, additions, incentive payments, and allowances, and whether they are stipulated in the individual employment contract or in the collective labor agreement. This must be considered in compliance with the methodology of elaboration of the estimate documentation, according to the requirements of the Practical Code in Constructions and the pro-



INTEGRITY PACTS: JUST THE FACTS

» The diversity of contracting projects means that a single solution rarely exists for preventing and correcting mismanagement, fraud, and corruption risks. However, strategies based on openness, citizen engagement, and external monitoring can reduce the likelihood of corruption and fraud in public contracting. This can then improve contracting outcomes and, ultimately, public trust. Thus, Integrity Pacts ensure transparency in all stages of the procurement process, from needs assessment to contract management and payment. They can enhance participation, competition, and accountability, ultimately contributing to greater trust.

INTEGRITY PACTS ARE APPLIED TO PROCUREMENT PROJECTS IN MORE THAN 32 COUNTRIES WORLDWIDE

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 already concerned about how to avoid corruption and ensure value for money and high-quality products in their public procurement processes. An Integrity Pact was offered as a possible solution.

According to the Basil Institute on Governance, Integrity Pacts have been applied in [at least 32 countries to hundreds of procurement projects](#), in a range of sectors including infrastructure, transport, health, and defense. In India, Mexico, and Pakistan, [an Integrity Pact is a legal requirement for procurement above a certain value](#).



For instance, Romania's National Anti-Corruption Strategy 2016–2020 includes the goal of increasing transparency and reducing the risk of corruption in public procurement. To this end, the [government of Romania pledged to pilot Integrity Pacts to oversee public procurement](#) within contracting authorities.

In 2015, the European Commission launched the pilot project "Integrity Pacts - Civil Control Mechanism for Safeguarding EU Funds," covering 17 European Union (EU)-funded projects in 11 member states. The aim of the pilot project was to evaluate the effectiveness of Integrity Pacts in achieving their intended objectives of safeguarding procurement projects from corruption, fraud, and other irregularities, as well as to draw out best practices for future implementation. In the same context, a [review published in 2018 by the Transparency International Secretariat](#) in Berlin referred specifically to the value of implementing Integrity Pacts early in the pre-tendering phase. Also, the G20 forum recommended the use of Integrity Pacts in their 2019 [Compendium of Good Practices for Promoting Integrity and Transparency in Infrastructure Development](#).

AN INTEGRITY PACT DOES NOT REPLACE THE LAW OF A COUNTRY, RATHER IT WORKS WITHIN THE LAW.

Integrity Pacts are essentially contracts establishing the rights and obligations of all the parties to a public contracting process. The Integrity Pact does not replace the law of a country, rather it works within the law. An Integrity Pact is signed for a particular project between the procuring entity undertaking the project, the monitor, and the bidders. The major elements of it are:

- A COMMITMENT 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 to obtain or retain the contract.
- A COMMITMENT by each bidder to disclose all payments made in connection with the contract in question.
- THE EXPLICIT ACCEPTANCE by each bidder that 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 commitments.
- A MECHANISM for dispute resolution.
- THE IDENTIFICATION of an independent external expert monitor.

Through a public agreement, the parties involved commit to refrain from any corrupt behavior and to enhance transparency and accountability throughout the process. An independent mechanism led by civil society to monitor compliance is therefore embedded in the agreement.

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 up their respective roles. Sub-contractors of the winning bidder should also become part of the Integrity Pact.

In addition to the Integrity Pact, the procuring entity concludes a contract with a monitor. The contract stipulates that the monitor will be: totally independent of the procuring entity, and not bound by their directives; given access to all bidding and contract-related meetings/documents for screening; supervising the whole bidding/contractor selection process and contract implementation and immediately reporting 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 looks for constructive remedies. The monitor also prepares regular reports on the transparency and fairness of the process. These are made publicly available.

The major costs associated with Integrity Pacts include monitoring and oversight by civil society organizations (CSOs) and technical experts. This

cost is often covered by a donor or government budget, and it depends on the length and complexity of the monitored project. The EU experience has been that the cost ranged from 4 percent to 7 percent of the project total.

INTEGRITY PACTS ENHANCE TRANSPARENCY, PARTICIPATION, AND ACCOUNTABILITY, CONTRIBUTING TO GREATER TRUST.

Integrity Pacts can be used in a wide variety of situations. They can be used for construction contracts, supply contracts, state asset privatization programs, 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), and other services delivery contracts.

THE EU EXPERIENCE SHOWS that Integrity Pacts can provide additional protection or value if a contracting project has one or more of the following features:

- **HIGH PUBLIC INTEREST:** Contracting projects related to the provision of services often generates interest and motivates engagement from direct interaction with the public. In such cases, Integrity Pacts can enhance transparency, participation, and accountability, ultimately contributing to greater trust.
- **COMPLEXITY:** Projects with complex designs or in highly technical markets often require intricate bidding rules and procedures. These may increase the risk of unfairness and reduced competition through restrictive criteria, bid-rigging, bribery, and other forms of corruption.
- **NICHE, UNFAMILIAR, OR DYSFUNCTIONAL MARKETS:** Projects in specialized markets or those with limited competition or troubling behavior from companies are red flags. Integrity Pacts are suitable where there is unfamiliarity with a new market.



- **INDICATIONS OF CORRUPTION:** Precedents for, attempts at, or suspicion of corrupt behavior surrounding a public authority (such as bribery, conflict of interests, or undue influence) should be assessed.
- **LARGE SUMS INVOLVED:** In general, investments with higher costs are more likely to be targeted by corrupt actors. The possibility of misappropriating a large amount of funds increases the chances of bribery and cartel behavior, among others.

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

An Integrity Pact increases 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 do not need to compete with corrupt bidders.

The Integrity Pact reduces 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, fewer court proceedings that result in fewer delays and fewer unsubstantiated change orders of the contract that result in increasing the total contracting sum.

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 react to requests. By being transparent about all proceedings, they build up trust in the procuring entity and in the procurement process itself.

An Integrity Pact can share oversight burden. Being aware of the complex nature of the procurement process, procuring entities are convinced that a third party, that is expert and independent, would allow them to share the burden of overseeing the whole process.

An Integrity Pact challenges routines. Monitors can help to modernize an institution. Their questions can break the well-worn information cycle within the procuring entity and lead to changes that improve procurement quality. This has a decisive impact on the suitability, quality, and cost of public goods, works, and services.

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The project "[Increasing the integrity in public procurement](#)", is implemented by Institute for Development and Social Initiatives (IDIS) "Viitorul", in partnership with Partnership for Transparency Fund (PTF). It aims to support procurement reforms in Moldova that will increase transparency and fairness of public procurement through empowering citizens to hold relevant institutions accountable. This will be accomplished through training civil society organizations to serve as watchdogs by monitoring public procurements.



* **MR. WAYNE WITTIG** is a career procurement official and former Senior Advisor on Public Sector Procurement within the UN system. He assisted client countries in the reform of their legal and organizational infrastructure for public procurement; implemented projects working with Ministries of Finance to control loss of funds as well as a series of public procurement training courses for a professional procurement workforce using simulation and interactive methods for skill building. He retired from the US Office of Management and Budget after a 30 year career in public procurement in positions ranging from contract specialist to a Deputy Associate Administrator at the Office of Federal Procurement Policy.

** The **PARTNERSHIP FOR TRANSPARENCY FUND** (PTF) is a nonprofit organization that sets out to advance innovative citizen-led approaches to improve governance, increase transparency, promote the rule of law, and reduce corruption in developing and emerging countries. PTF garners the collective strengths of over 100 international development experts across the world to provide technical assistance, networking services, capacity building, analytical know-how, and strategic funding to local civil societies, empowering them to hold their leaders to account in an effective and sustainable way.

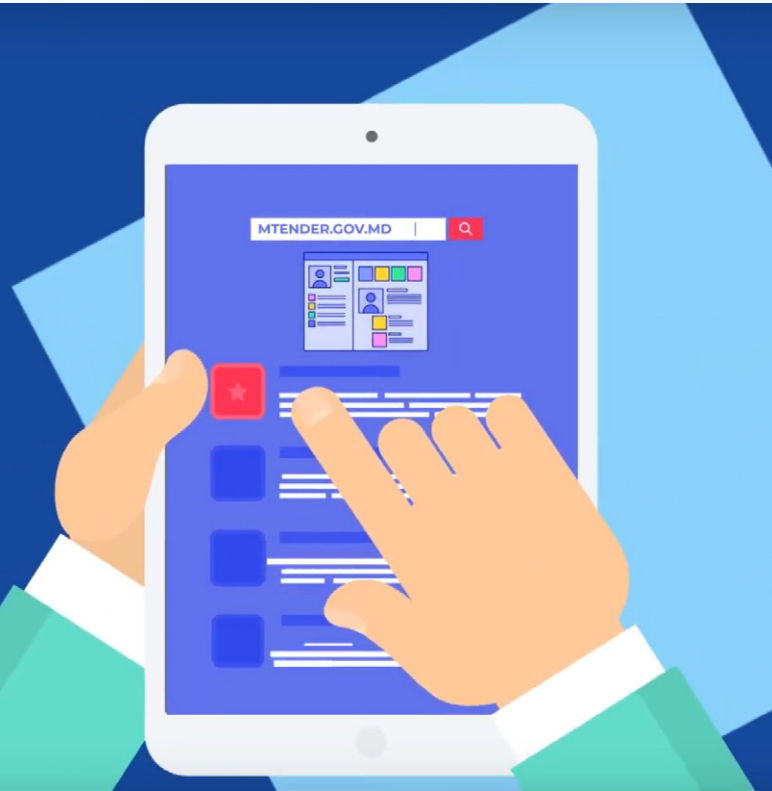


ELECTRONIC PROCUREMENT: NEWS AND THE FUTURE OF THE MTENDER ELECTRONIC SYSTEM

» [The Ministry of Finance launched, in February 2022, the governmental public procurement platform - \[www.mtender.md\]\(http://www.mtender.md\)](#). The platform was created within the authorized information system "State Register of Public Procurement" MTender and allows users to conduct public procurement procedures according to the legal framework. The government platform was developed by the Center for Information Technology in Finance (CTIF) at the request of the Ministry of Finance, from budgetary resources. This is the first government platform, the current MTender electronic system being a cross-platform one. The Ministry informs that the www.mtender.md platform includes new functionalities such as the awarding of procurement contracts through the restricted tender procedure, as well as through the specific instrument of the framework agreement, provided in art. 46 of Law no. 131/2015 on public procurement.

Earlier, on December 20, 2021, the representatives of the Ministry of Finance, in a joint meeting, informed the representatives of civil society (IDIS, AGER, Positive Initiative) about the decision to develop a new electronic public procurement system, stating that its implementation will be

less expensive. and faster than completing the development process and maintaining the current MTender system. This is in the context in which, during 2021, [the Ministry of Finance invested considerable financial resources for the development of the current MTender procure-](#)



[ment system through CTIF](#). Therefore, the rationale for allocating financial resources for the development of a new platform in the context of the decision to replace the current electronic procurement system with a new system is unclear.

Subsequently, on January 5, 2022, the civil society requested from the Ministry of Finance, through a [request for access to information](#), the results of the analysis referred to in the meeting of December 20, 2021. Although [the Ministry responded to the request](#), it did not provide answers. all questions asked and access to the requested information. Respectively, the Ministry did not present a comparative analysis of functionalities and costs to show that the development of a new system would have more advantages and would be more financially efficient.

However, the Ministry responded positively to the request to include two representatives of civil society in the Working Group for the implementation of the new e-procurement system (created by MoF Order no. 8 of 20.01.2022). According to the information available on the Platform for the Management of External Assistance, the new

Although the system has a number of technical shortcomings and contradictions with the legal provisions in force, it is not possible to carry out full procurement transparency procedures, the current electronic system has greatly contributed to the transparency of public procurement.

electronic system (mono-platform type) is to be developed within the [project of the European Union Delegation "Technical Assistance for the development of the electronic procurement system in the Republic of Moldova"](#) by the „European Dynamics” SA.

An important aspect in the development of the electronic procurement system is to ensure transparency and access to information at all stages of the procurement process. The current MTender system was launched in 2017 - as a pilot project for low value purchases and became mandatory by law for high value purchases in October 2018, and is still under development. Although the system has a number of technical shortcomings and contradictions with the legal provisions in force, it is not possible to carry out full procurement transparency procedures (as it lacks the functionality for contracting), the current electronic system has greatly contributed to the transparency of public procurement. gave civil society the opportunity to monitor the efficiency of public spending.

Therefore, the representatives of the civil society plead for transparency and the efficient use of public resources, being fully involved in the activity of the working group and informing the public about the working process and the decisions taken.

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RED FLAGS

IN THE PUBLIC PROCUREMENT OF THE TRANSPORT DEPARTMENT

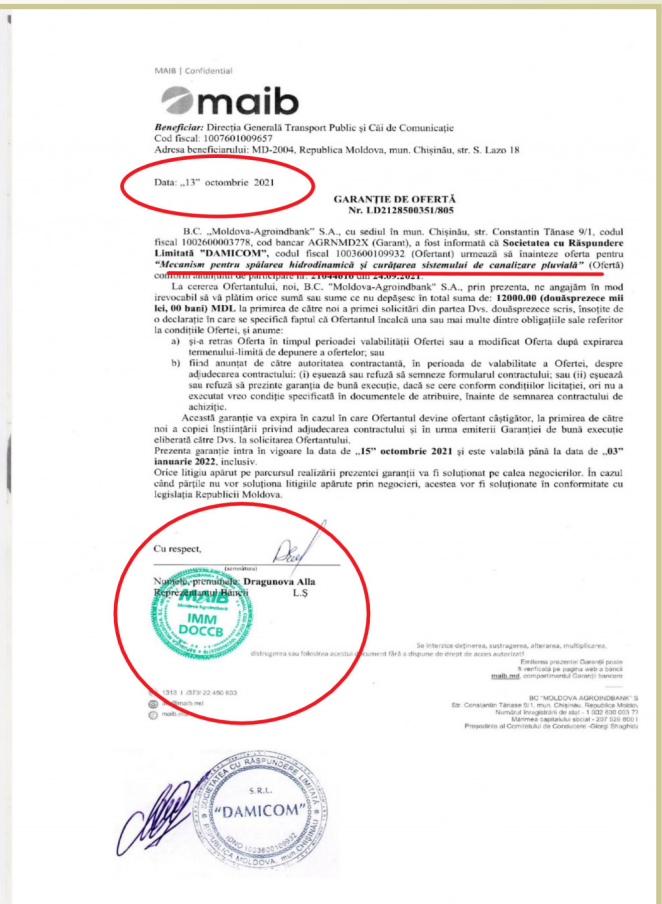
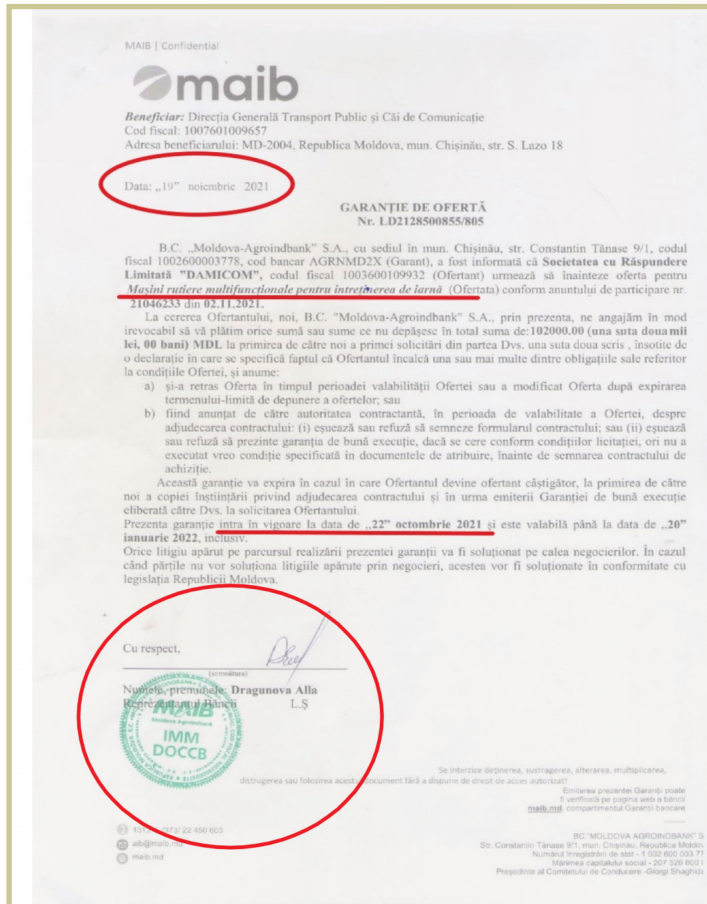
» The lack of diligence of the contracting authorities in the process of conducting public procurement, starting with the planning stage, costs the public budget a great deal due to high levels of waste. When the lack of diligence is combined with favoring an economic operator that admits dishonest practices, the risk of wasting public money for goods, services, and works that do not meet the needs of citizens or the rigors that justified their purchase, increases exponentially. Such is the case with the procurements of the General Directorate of Public Transport and Communications of Chisinau, which could not ensure the cleaning of snowy roads on December 27 and 28, 2021, although tens of millions of lei were allocated for this purpose.

On December 9, 2021, the economic operator "Damicom" LLC was included in the prohibition list of the Public Procurement Agency at the request of the Association for Efficient and Responsible Governance (AGER). It was included on the ban list due to the presentation of false documents in several public procurement procedures carried out by the General Directorate for Housing and Landscaping of Chisinau.



The request for "Damicom" SRL's inclusion on the ban list was sent on August 27, 2021, and the decision to include it on the list was issued more than three months later. In the period between the submission of the application and the issuance of the decision, "Damicom" LLC managed to obtain an impressive number of public procurement contracts. Most of the contracts, eight in number, were awarded to the company by the General Directorate of Public Transport and Communications of Chisinau.

The representatives of "Damicom" LLC seem to have continued the dishonest practices in the public procurement procedures, even while the Public Procurement Agency had already submitted a request for examination of this economic operator. **Thus, in six of the eight procurement procedures won, there are reasonable suspicions that falsified letters of guarantee were submitted.**



The first detail that caught IDIS's attention in this regard was the letter of bank guarantee presented in [the public tender procedure for the purchase of multifunctional road vehicles for winter maintenance: ocds-b3wdp1-MD-1635847028680](#). Although the date of issue of the letter of guarantee is November 19, 2021, the letter states that its period of validity starts from October 22, 2021, almost a month earlier.

This discrepancy could have been due to an error, and IDIS checked the validity of the letter of bank guarantee on the website of the issuer <https://www.a.maib.md/ro/garantii-bancare-utile>. When entering the letter of guarantee number and the amount of the guarantee, a guarantee could not be identified based on the entered data.

Finally, the letter of guarantee of November 19, 2021 is similar to the letter of guarantee of October 13, 2021, presented [in the tender procedure](#)

[for the purchase of the mechanism for hydrodynamic washing and cleaning of the sewer system: ocds-b3wdp1-MD-1632488164241](#). The location of the stamp and the signature of the issuer's representative are absolutely identical in both letters. The other changes are very difficult to notice with the naked eye, however, the space between "." and the amount of the purchase differs. Upon verification on the issuer's page, the letter of guarantee of October 13, 2021, was deemed authentic.

Read the full article here: [Red flags in public procurement of the Transport Department](#)

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