

**CSD CONFERENCE ON EU'S FINANCIAL INTERESTS UNDER THREAT: NEW APPROACHES IN ASSESSING THE RISKS FROM PUBLIC PROCUREMENT AND EU FUNDS FRAUD**

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# **Countering public procurement fraud: European perspectives and challenges**

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## Reverting the cycle: reducing the complexity

The present direction for combatting corruption and other related crimes tends towards increasing the levels of control, making the regulation more complex, reducing the flexibility of efficient decisions and increasing the costs of reaction. The decision making powers of Public Administrations are slowed down or paralyzed by the risk of crime

**How to increase the allocative efficiency while reducing the amount of corruption and other related crimes?**



# This presentation aims at

- Explaining why we need to go beyond the control of corruption in the area of procurement and fraud moving to the reduction of opportunities approach.
- Advocating risk assessment models that could draw data on vulnerabilities and related opportunities from past, present and possible future studies on corruption
- Outlining the essential elements of such a model combining information coming from the recent PwC study and other TRANSCRIME studies



## Reducing opportunities for corruption and fraud, why?

- Increasing complexity of corruption and fraud scams
- Increasing direct costs
- Increasing indirect costs
- Reducing detecting capabilities
- Reducing deterring capabilities



# Procurement Risk Assessment model

## A) Risk factors related to activities of procurement

1. **The territorial context** (macro at country level and micro at city level) that defines the perimeter of the authority providing the bid
2. The **propensity of contractors** to engage in corrupt practices. It depends on:
  - a) the sector (macro areas: health, construction, services, etc.; micro areas: hospitals, concrete, etc.)
  - b) the bidding system (price vs quality)
  - c) the company itself (companies linked to PEPs or organised crime or with high liquidity are more likely to pay bribes)
3. The **propensity of decision makers** to receive corrupt practices. It depends on the typologies of practices, such as those outlined in the PwC study



# Each of the following practices contains elements for evaluating the risk:

- *Bid rigging*: the contract is 'promised' to one contractor, with or without the consent of the public official issuing the tender.
- *Kickbacks*: the public official demands, or is open to, a bribe which will be accounted for in the tendering process, including administrative processes.
- *Conflict of interest*: the public official has personal interests in the winning company.
- *Deliberate mismanagement/ignorance*: the public official has not properly carried out checks or followed procedures where this is required and/or tolerates/ ignores overt deliberate mismanagement by a contractor.



## B) Risk Factors related to Regulation: What is Crime proofing?

The crime proofing of legislation is a scientific approach developed by Transcrime in 2006 (Savona 2006a; Savona 2006b; Savona, Calderoni et al. 2006; Savona, Maggioni, et al. 2006; Morgan and Clarke 2006; Albrecht and Kilchling 2002). **The core idea is that legislation may produce unintended opportunities for crime, thereby having potential criminogenic effects. When these opportunities, and where they may occur, are known, the legislation may be “proofed” against crime.**



## B) Risk Factors related to Regulation

1. Quantity of norms regulating a given sector
2. Internal Organization (opacity and inconsistency of regulation, such as unclear partitions)
3. Existing conflicts and contradictions inside the same legal framework
4. Clarity of objectives
5. Risk of wrong and conflicting interpretations
6. Ambiguity of Definitions
7. Level of control mechanisms





## Summarizing

**The costs of corruption are increasing and so is its complexity, which makes detecting the phenomenon more difficult.**

**Estimates and methodologies for identifying vulnerabilities and related opportunities are at their infancy level and should be improved.**

**Traditional remedies (such as CJ) against corruption don't work. They have a reduced deterrent effect and an increasing LEA/Justice cost.**

**A reduction of opportunities approach could work properly identifying where, how and why opportunities for corruption grow.**

**The main instrument of this approach is to identify the risk factors connected to a given sector, activity, area.**



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