

# INTEGRITY PACTS IN COHESION POLICY 2021-2027

## SESSION 2 – INTEGRITY PACT PREPARATION

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## SESSION 2 OVERVIEW

- IP content, format, signatory parties
- Integrity Pacts and the law
- Good governance and integrity pledge
- Supplier transparency and integrity pledge
- Civil society monitoring agreement
- Dispute resolution, sanctions, incentives

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### IP CONTENT AND SIGNATORY PARTIES

- **Good governance & integrity pledge** – baseline commitments and additional provisions applying to **contracting authorities**. Signed as early as possible in the process.
- **Supplier transparency & integrity pledge** – baseline commitments and additional provisions applying to **bidders and contractors**. Signed (mandatorily or voluntarily) upon submitting EoI or bid proposal.
- **Civil society monitoring agreement** – Terms of engagement of the **civil society monitor**. Signed as early as possible in the process.
- **Dispute resolution, sanctions, incentives** – Solving of disputes related to procurement and/or IP itself, measures for non-compliance.

### IP DOCUMENTS OPTION 1

**Uni-lateral declarations or bi-lateral agreements**

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**Separate agreement w/ contracting authority**

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**Ad-hoc provisions embedded in documents**

### IP DOCUMENTS OPTION 2

**Tri-partite agreement (+ accession option for suppliers)**

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## INTEGRITY PACTS AND THE LAW

The content and wording of the IP must be **adapted to and complement** national and EU legislation and regulations. When possible, it should also reflect international agreements (e.g., UNCAC). In practice, these might affect the IP on the following four aspects:

- **IP commitments and activities** → legislation may foresee provisions to ensure transparency, accountability, integrity, and participation in procurement
- **Access to confidential information by monitoring CSO** → legislation might restrict access to information by the monitor, thus preventing real-time oversight
- **Mandatory or voluntary signature by suppliers** → legislation might not allow MAs and/or CAs to impose signature of IP
- **Reporting and addressing of irregularities** → legislation may foresee specific procedures for reporting irregularities and/or specific sanctions for corruption and fraud




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## GOOD GOVERNANCE AND PUBLIC INTEGRITY PLEDGE

### Baseline commitments

**Regulatory compliance** → abide by the laws and regulations, including anti-corruption

**Integrity measures** → payments to consultants, conflict of interest & financial disclosure, whistleblower protection

**Transparency and access to information** → publication of information and documents related to all stages of the project

### Additional commitments

**Adoption of open contracting data standards** → e.g., Open Contracting Data Standard (OCP), Infrastructure Data Standard (CoST)

**Engagement with private sector** → public-private dialogues, procurement market strategies, consultations

**Engagement with affected communities** → consultations, access to decision-making

**Adoption of standards / measures on public integrity** → e.g., codes of ethics, internal control mechanisms, risk management



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## SUPPLIER TRANSPARENCY AND INTEGRITY PLEDGE

### Baseline commitments

**Regulatory compliance** → abide by laws (including anti-corruption and anti-collusion), statement of no previous corruption

**Data disclosure** → payments to intermediaries, beneficial ownership, political engagement activities, compliance programmes

**Anti-corruption compliance measures / requirements** → e.g., codes of ethics, whistleblowing, internal controls, etc.

**Mandatory or voluntary signature**

### Additional commitments

**Corporate and ESG reporting** → publication of key corporate integrity data and ESG metrics in structured format

**Adoption of international standards on business integrity** → may include commitment to obtain third-party certification

**Sub-contractors and supply chains integrity** → integrity provisions for sub-contractors, risk assessment, trainings, awareness raising in supply chains

**Inclusive contract execution** → consultations, on-site meetings, etc.



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## PRIVATE SECTOR ENGAGEMENT IN IP PREPARATION

**Suppliers' inputs to the IP text** can be gathered in different ways, including:

- **Public-private fora & events** on EU funds and related procurement (e.g., industry days, presentation of procurement plans, etc.)
- **Engagement and structured dialogue with business associations** and/or private investors
- Existing **business-driven initiatives** on private sector transparency and integrity
- **Market consultation procedures** (as foreseen by national procurement law)

Regardless of the engagement process, it is important that this is done in **compliance with competition and/or commercial secrets laws**, avoiding disclosure of sensitive information, and ensuring equal treatment and non-discrimination.

In some cases, IP implementers may decide for the content to be **pre-determined and not subject to negotiations** with private actors.



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## CIVIL SOCIETY MONITORING AGREEMENT

### Review of procurement procedures

**Scope and coverage of the monitoring** → specific procedures and stages, recommendations

**Access to information** → communications and meetings, confidentiality provisions (e.g., NDA)

**Handling of corruption and irregularities** → procedures for corrective measures and alerting oversight authorities

**Monitoring reports** → Frequency and format

**Withdrawal** → conditions, escalation procedures

### IP commitments / technical assistance

**Procurement data analysis** → in-depth review of past and present procurements, identification of red flags, assurance

**Review of corporate data disclosures** → e.g., TRAC assessment and analysis, recommendations to close gaps

**Review of anti-corruption policies and compliance programmes** → benchmarking with international standards, recommendations

**Trainings** → collaboration with academia, think-tanks, policy experts




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Monitoring activities per procurement phase		Access to info	Irregularities	Withdrawal
<b>Planning</b>	<ul style="list-style-type: none"> <li>Review of background documentation on the project</li> <li>Identification of critical information gaps</li> <li>Review of justification for contracting strategy</li> </ul>	<ul style="list-style-type: none"> <li><b>Push system</b> – pre-agreed disclosures</li> <li><b>Pull system</b> – ad-hoc information requests</li> </ul>	<ul style="list-style-type: none"> <li>Establishment of direct channel for any party involved to report suspicions of irregularities to civil society monitor</li> </ul>	<p>Right of civil society monitor to withdraw from the process (and terminate IP) under following conditions:</p> <ul style="list-style-type: none"> <li>Obstruction of monitoring activities</li> <li>Unjustified denial of access to information</li> <li>Inactivity upon identified / proven irregularities</li> </ul>
<b>Pre-tendering</b>	<ul style="list-style-type: none"> <li>Review of coherence and consistency of tender document</li> <li>Review of compliance of methods used for drafting tender</li> <li>Review of absence of tailored specifications</li> </ul>			
<b>Tendering</b>	<ul style="list-style-type: none"> <li>Review of adequate tender advertisement</li> <li>Review of full accessibility to documents</li> <li>Review of equal treatment in tendering process</li> </ul>	<p style="text-align: center;">+</p> <p><b>Non-disclosure agreement</b> for confidential info</p>	<ul style="list-style-type: none"> <li>Clarification of report and request for rectification</li> </ul>	
<b>Awarding</b>	<ul style="list-style-type: none"> <li>Vetting of bid proposals</li> <li>Review of objectivity of contract award decision</li> <li>Review of fair treatment in handling complaints</li> <li>Review of admissibility of post-award contract modification</li> </ul>	<p><b>Public reporting</b></p> <ul style="list-style-type: none"> <li><b>Interim monitoring reports</b> – end of each phase</li> <li><b>Final monitoring report</b> – after conclusion of monitoring</li> </ul>		
<b>Implementation</b>	<ul style="list-style-type: none"> <li>Review of alignment of contract execution adequateness</li> <li>Review of payments and other financial flows</li> <li>Review of potential amendments to the contract</li> </ul>			




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## CIVIL SOCIETY MONITORING AGREEMENT

### Transparency and data disclosure



- In-depth **review of project data disclosure** by contracting authorities
- Facilitation of **adoption of open contracting data standards**
- Development of **digital tools or user-friendly platforms to monitor project implementation** in real times
- Development of **tools to review IP disclosures** (e.g., interest and asset disclosures, corporate integrity data, lobbying meetings, etc.)

### Social accountability / citizen engagement

**Basic** → monitoring reports, updates on project progress, reporting channels

**Intermediate** → public consultation processes, feedback channels, structured dialogue, on-site visits

**Advanced** → trainings, joint procurement monitoring, ex-post social audits

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## COMPOSITION OF MONITORING TEAM


- **CSO in-house staff**
- **Independent technical experts** (including private consultants)
- **Consortium of CSOs**

## CONFLICT OF INTEREST PROVISIONS

- **Declaration** from each of the members of the monitoring team that they have not worked for the contracting authority or potential bidders in a specific period before the IP
- **Interest and asset declaration** before and after monitoring + **ad-hoc reporting** of new conflicts of interest
- **Prohibition** for each member to work for the CA and any bidder, contractor, or sub-contractor for a period of time after the conclusion of the IP
- Experts from private consultancies must also provide information on codes of ethics and compliance programmes




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## DISPUTE RESOLUTION MECHANISMS

- **National / international arbitration** → rarely used, costly option
- **High-level dispute resolution committee** → makes sense for large-scale infrastructure projects



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## SANCTIONS

- **Fines, damage compensation**
- **Loss or denial of contract**
- **Exclusion from procurement process**
- **Debarment**

## INCENTIVES

- **Whitelists** → recording of IP signatures, tracking and evaluation of IP commitments
- **Awards** → certifications, public recognitions
- **Preferences in contract award** → e.g., additional points to bidders meeting IP requirements

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# Thank you

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