Policy Brief:

Recommendations for Combatting Corruption and Fraud in Public Procurement

FALCON – GA101121281

1. Who is this for?

This brief seeks to inform EU policymakers and officials involved in preparing legislation and policy initiatives to detect, prevent and combat corruption in public procurement.

2. Context

FALCON (Fight Against Large-scale Corruption and Organised Crime Networks) is a three-year Horizon Europe research project in anti-corruption. FALCON develops new data-driven indicators and AI-based tools to strengthen the global fight against corruption by following an evidence-based interdisciplinary approach. This policy brief summarises the main results of the analysis of corruption and fraud in public procurement under the FALCON Project.

Public procurement refers to the government's acquisition of necessary goods, services and works to ensure its operational efficiency and enhance the well-being of the public. It is one of the government's activities most prone to corruption, mainly due to the high volume of money involved, the complexity of the process, the interaction between public officials and private actors, discretionary decision making, and the multitude of stakeholders involved. Corruption in public procurement can take various forms, with potential risks of corruption taking place across different stages of the

Executive Summary

▸ While legislative frameworks governing public procurement measures are quite robust, the limited scope of their applicability restricts efforts in preventing corruption.

▸ Recommendations to effectively combat corruption and fraud in public procurement focus on increasing the scope of applicability of public contracts, integrating artificial intelligence solutions to e-procurement, stronger provisions to limit the use of direct awards and increasing accountability mechanisms to reduce corruption risks

procurement lifecycle. Corrupt practices in procurement can lead to inflated prices, low quality infrastracture, delays in the delivery of work, suboptimal allocation of resources, as well as other inefficiencies.

While the existing legislative frameworks (EU Directives 23/2014, 24/2014 and 25/2014) governing public procurement are comprehensive, the limited scope of their applicability restricts efforts in preventing corruption and creates a situation where national rules and procedures remain unharmonised and unstandardised. This inconsistency and the absence of harmonisation can lead to gaps and inconsistencies in approaches to enforcement, which provide opportunities for corruption to foster and grow.

3. Policy Recommendations

3.1. Strengthening Oversight of Sub-Threshold Public Procurement

Currently, EU Directives focused on public procurement only apply to contracts worth more than a certain threshold, meaning all contracts lower than these thresholds are not covered. While public procurement contracts awarded by authorities account for a significant portion of government spending, many of these contracts fall below the threshold set out in the EU Directives. As a result, the vast majority of public procurement procedures are not governed by the procedural requirements outlined in EU Directives. Instead of lowering the thresholds, which would significantly increase administrative costs for contracting authorities and risk overwhelming publication systems such as TED, member states should focus on stronger and more consistent enforcement of EU Directives on above-threshold contracts. This would help reduce the variation in corruption risks across countries by ensuring harmonised rules are applied more effectively. Alongside this, targeted oversight of below-threshold tenders is essential. Risk-based monitoring tools (such as the FALCON CIPs) combined with OSINT and company data can help identify problematic cases. This approach would not only reduce the risk of corruption in smaller tenders but also help prevent the artificial splitting of larger contracts to avoid EU scrutiny.

3.2. Stronger push for E-procurement measures

Section 2 of Directive 2014/24/EU is dedicated to publication and transparency, including the electronic availability of procurement documents starting from the date of publication, as regulated by the Article 53. Along with enhancing transparency and improving efficacy, electronic procurement (e-procurement) measures make it easier for stakeholders to access and engage with procurement documents. Currently, the lack of interoperability with current dataset repositories, such as, public procurement data generated at the tendering phase and company datasets hampers analysis due to an absence of standardised identifiers. EU MS should introduce mandates which ensure public procurement data is collected in a standardised and digital format to allow comparability and analysis, while also providing training and guidance for officials and businesses to adapt to new systems. This coupled with the mandatory logging of additional data pertaining to contract implementation, such as,

payment amounts, delays, and cost breakdowns would allow for robust auditing procedures to occur more frequently and at greater efficiency.

3.3. Integrating AI and machine learning tools to E-procurement procedures and methodologies

Adopting artificial intelligence and machine learning tools in e-procurement procedures can help to increase the efficiency, transparency and effectiveness of controls. Specifically, they can better assess the risks of corruption and illicit mechanisms by automating the analysis of large volumes of data and information available to the various authorities and public bodies. The integration of AI can be useful for early detection of potential corruption or fraud and risk assessment. The development of these AI systems must be aligned with the EU AI Act and other relevant ethical AI standards.

FALCON is developing a robust data-driven platform for risk assessment and investigation prioritisation to support law enforcement agencies and anti-corruption bodies in the real-time or near-real-time detection of patterns and analysis that may signal potential corruption from vast datasets. The tool has been developed for advanced risk assessment of corruption and is designed to address the four key use cases in FALCON. It features over 36 advanced indicators across the four domains, providing robust analytical capabilities.

3.4. Stronger provisions to limit the use of direct awards

A direct award refers to the process where a public contract is granted to a supplier without a requirement to run a competitive procurement procedure. Although, Directive 2014/24/EU limits the use of direct awards, the European Court of Auditors reported that over 15% of all contracts were awarded through this procedure in 2021 (European Court of Auditors, 2023). To put this into perspective, the European Court of Auditors considers above 10% of direct awards a red flag. In countries such as Cyprus, Romania and Luxembourg, this number increased significantly between 2011 and 2021 (European Court of Auditors, 2023). As such, EU MS should be encouraged to introduce provisions to limit the use of direct awards to emergency situations or security-sensitive contracts as well as increase controls before and after the provision of direct awards. In cases where a direct award is provided to a supplier, strict documentation and rigorous oversight mechanisms should be in place.

3.5. Increase accountability mechanisms to reduce corruption risks

It is crucial to institutionalise the use of indicators when monitoring corruption risks by building the data infrastructure and organisational capacity to investigate potential cases of corruption based on administrative big data. EU MS should implement mechanisms and invest in research on how to build effective corruption risk indicators and red flag systems to detect potential cases of fraud and corruption in public procurement. In addition, it is recommended to identify best practices to strengthen risk detection frameworks for law enforcement. The analysis in FALCON shows that company financial data, company registry information and company governance structures can act as potential risk indicators.

4. Policy Implications

The implementation of these recommendations can help policymakers and LEAs respond more adeptly and efficiently to the harms of corruption in public procurement by introducing consistent rules, procedures and monitoring mechanisms during the procurement lifecycle. This standardisation will reduce discretionary decision-making and increase transparency, both of which are critical for detecting and combatting corruption in public procurement. A harmonised framework will also allow for cross-institutional collaboration and the detection of corruption patterns to be identified more efficiently between different bodies and departments.

5. References

[1] European Court of Auditors., "Special report 28/2023: Public procurement in the EU." European Court of Auditors. 2023. Special report 28/2023: Public procurement in the EU | European Court of Auditors

[2] European Court of Auditors., "Public procurement in the EU Less competition for contracts awarded for works, goods and services in the 10 years up to 2021" European Court of Audits. 2023. https://www.eca.europa.eu/ECAPublications/SR-2023-28/SR-2023-28_EN.pdf

6. Further Reading

FALCON., D2.5 Anti-corruption legislative measures and international policy landscape. FALCON_D2.5_Anti-corruption-legislative-measures-and-international-policy-landscape_Summary.pdf, 2024.

FALCON., D2.3 Comprehensive report on the cost of corruption in the EU. FALCON_D2.3_Comprehensive-report-on-the-cost-of-corruption-in-the-EU_public.pdf, 2024.

Glossary

AI	Artificial Intelligence
E-procurement	Electronic procurement
EU MS	EU Member States
LEA	Law Enforcement Agency

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Project Details

FALCON (Fight Against Large-scale Corruption and Organised Crime Networks) is a three-year Horizon Europe research project in the field of anti-corruption. It addresses the significant challenges of the global fight against corruption by developing new, data-driven indicators and tools following an evidence-based, multi-actor and interdisciplinary approach.

FALCON comprises 25 partners from 15 countries.

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