

INTEGRITY PACT

Civil Control Mechanisms for Safeguarding EU

2nd MONITORING REPORT



Integrity Pact

2nd Monitoring Report

Transparency International

Transparency International (TI) is a worldwide movement that envisages and aims at the enhancement of transparency and the curtail of instances of corruption, through the cooperation with the public and private sector and the active participation of citizens. It implements a wide range of activities, projects and tools for the enhancement of transparency and the fight against corruption.

It is consisted of more than 100 chapters in countries all over the world. Transparency International Secretariat (TI-S) is based in Berlin and Transparency International EU Liaison Office (TI-EU) is based in Brussels.

Transparency International-Greece

Transparency International-Greece (TI-GR) was established in 1996 in Athens as an accredited chapter of Transparency International. Through the promotion of legal and institutional reforms, and the design and application of best practices and tools, it raises awareness for the risks of corruption in Greece and it mobilizes public bodies and businesses to contribute to strengthening transparency.

TI-GR has implemented a great number of projects (ex. “Speak Up - Engaging Citizens in fighting corruption in Europe - the Transparency Now Service, “Engaging the EU Presidency in the fight against corruption - Evaluation of the Greek Presidency”, “Transparent local government” “Staying on Side,” etc.) and has conducted important researches (i.e. “National Research on petty corruption in Greece”) and studies (i.e. Assessment of the National Integrity System, Core principles for the protection of whistleblowers).



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Transparency International Greece
Athens, July 2020

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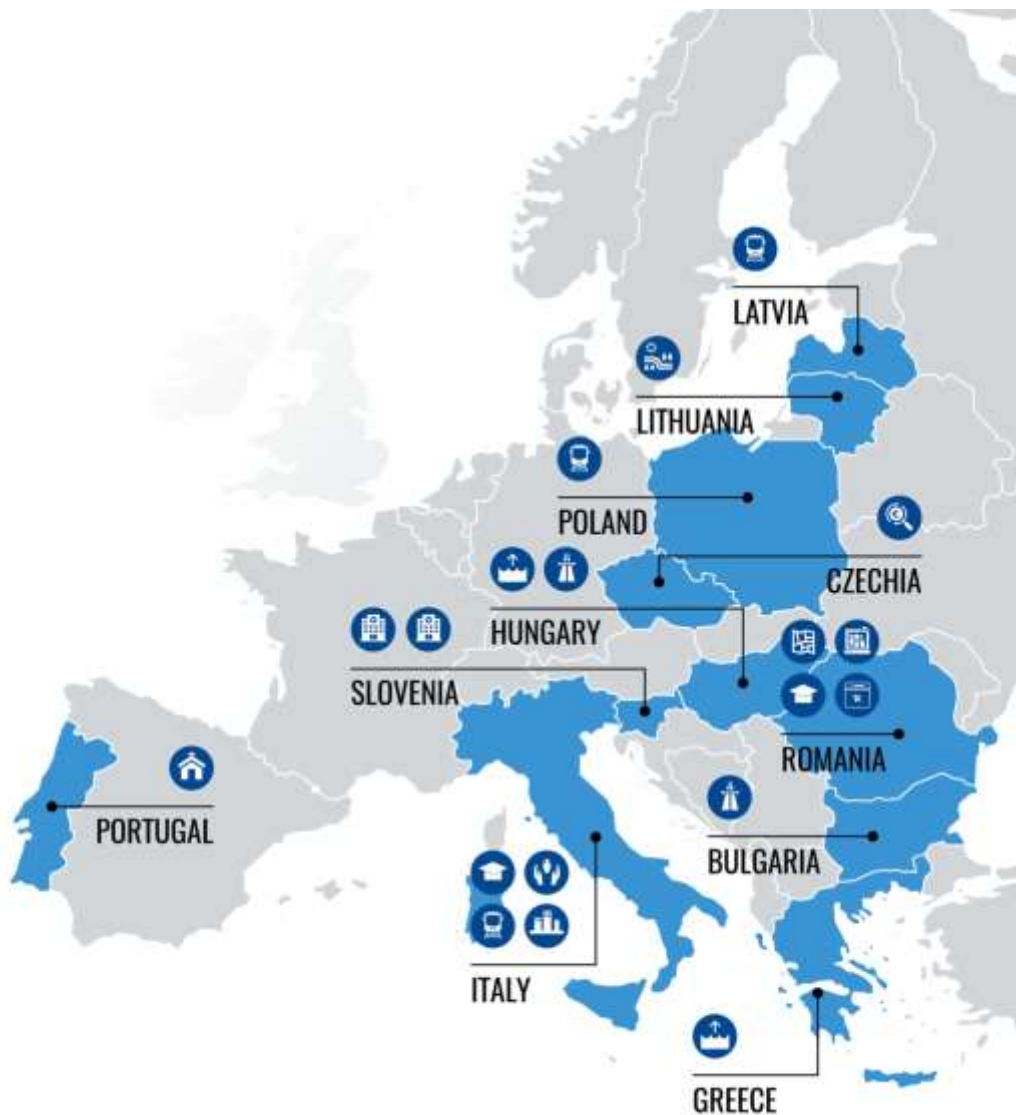
The Integrity Pact

The Integrity Pact (IP) is a tool developed by Transparency International in mid-1990s, which has been applied to more than 300 public procurement processes all over the world. It constitutes an agreement signed by actors participating in a public procurement process for a public work contract, a public supply contract or a public service contract (contracting authorities and bidders). This agreement binds the parties-who enter into the agreement voluntarily-to abstain from any direct or indirect act of bribery, “under the table” agreements and any other corrupt practices during the bidding process and the execution of the contract. It also encourages them to contribute to a more transparent bidding process, by allowing its monitoring from the civil society. For this reason, it provides for the participation of a third party, mainly a civil society organization that operates as an Independent Monitor, observing the participating parties’ compliance to the commitments provided for by the IP.

The Integrity Pact in Greece

In Greece, the Integrity Pact is implemented for the first time as a pilot project through the “INTEGRITY PACTS-Civil Control Mechanisms for Safeguarding EU funds, Phase 2” project, which is funded by the Directorate General for Regional and Urban Policy of the European Commission.

Transparency International-Greece monitors the tendering process and the execution of the contract for the public work “Construction of a flood protection pipeline network in areas within the Municipalities of Nikaia-Aghios Ioannis Rentis and Moschato-Tavros”, with Attica Region as the Contracting Authority.



The program sets forth the application of 18 Integrity Pacts in 11 member states of the EU.

OBJECTIVES

- ➔ Ensure the best and most responsible management of EU funds available for public contracts
- ➔ Integrate the Integrity Pact, after evaluating its efficiency, in the legislative framework of EU countries, rendering its application obligatory (as in case of Italy).
- ➔ Encourage raising awareness, interest and engagement of citizens in the awarding and execution of public contracts, which concern works, supplies and services impacting their everyday lives and their life quality.

ANTI-FLOOD PIPELINE



RELEVANCE

SECTOR
FLOOD PREVENTION

PROCUREMENT
Construction of a flood protection pipeline network in areas of the municipalities of Nikia-Agios Ioannis Rentis and Moschato-Tavros

EXPECTED # OF BENEFICIARIES
30,000

KEY STATS

5 OUT OF 54 major flooding incidents in the Attica Region in the last 100 years have occurred in the Municipality of Moschato-Tavros

2 OUT OF 54 major flooding incidents in the Attica Region in the last 100 years have occurred in the Municipality of Nikia-Agios Ioannis Rentis

The flood protection project monitored is included among **PRIORITY A** projects to be funded by the 2014-2020 Regional Operational Program of Attica

MAIN RECOMMENDATIONS

- The Contracting Authority (CA) should descriptively specify the qualitative selection criteria it chooses to set (economic and financial standing and / or technical and professional capacity), thereby making the essential information clear and readily available for all possible bidders — both domestic and foreign. The recommendation could contribute to increased competition (potential wider participation of bidders). Taken on board.
- The CA should include a detailed description of the publicity activities to promote the flood protection work. This is essential to evaluate and justify the costs incurred. Not taken on board.

IRREGULARITIES

- During the drafting of tender documents by the CA, eligibility for participation in the contract award procedure was foreseen only for companies registered in specific classes of the Register of Contractors' Enterprises and not for all enterprises operating in the specific category under which the project falls (ex. Hydraulics projects). This limitation could lead to restriction of competition, by excluding bidders who would otherwise be suitable. In the final version of the call, the CA omitted the precondition, as recommended.
- The Funding Decision included a special term regarding the completed expropriation of private properties before the signature of the contract. The term was not fulfilled as foreseen and is still pending, thus creating delays in the execution of works.

PROJECT

LOCATION
GREECE
Municipalities of Nikia-Agios Ioannis Rentis and Moschato-Tavros, Attica Region

TIMELINE

- 01/01/2016: Start of IP project
- 20/04/2018: Signature of IP by CA
- 05/09/2018: Tender closure
- 28/03/2019: Contract signature and accession of contractor to the IP
- 31/12/2018: Original end of project
- 17/03/2020: Start of works
- 09/2019: First monitoring report publication
- 2022 (2nd SEMESTER): New end of project

COSTS

TENDER BUDGET: €12.2 MILLION
CONTRACT VALUE: €5.3 MILLION

European Regional Development Fund: 80%
Public Investments Program (national resources): 20%

MONITORING REPORTS

DOWNLOAD the periodic monitoring reports at: <http://Integritypact.gr/en/ekdoseis/>

WHAT'S NEXT?

- Publication of second monitoring report
- Publication of second newsletter
- Presentations to affected communities/municipalities
- Meetings with students

Independent Monitor: observations & comments

The 2nd Monitoring Report on the public contract for the “Construction of a flood protection pipeline network in areas within the Municipalities of Nikaia-Aghios Ioannis Rentis and Moschato-Tavros” is drafted by the Independent Monitor (Transparency International-Greece) in the framework of a pilot Integrity Pact signed on April 20, 2018 between Transparency International-Greece (Independent Monitor-IM) and Attica Region (Contracting Authority-CA). It includes observations and comments that result from the review of documents offered by Attica Region (Contracting Authority), as foreseen in the Integrity Pact.

The 1st monitoring report was published in October 2019 covering the period from the signature of the Integrity Pact (04/2018) until the signature of the project contract (03/2019).

The present report covers a period of 1 year, from the signing of the public contract (28 March 2018) between the CA and the Contractor (ILION ELLKAT) until the commencement of actual works.

Based on a commonly agreed framework of cooperation among involved parties, Monitoring Reports are publicized on the dedicated website of the project (<http://integritypact.gr/ekdoseis/>) as well as on the websites of the Contracting Authority (www.patt.gov.gr) and the Managing Authority.

Main findings from this monitoring period fall under two (2) thematic areas:

- i) Timetable for project implementation
- ii) Payments to the contractor



Timetable for project implementation

→ Application of the approved road plan on specific roads at the Municipality of Nikaia - Agios Ioannis Rentis in order to expropriate private properties is still pending. This delay seriously endangers compliance with the contractual deadline for the completion of the project, as well as the very implementation of a large part of the contract.

Collector S1 is designed to collect and convey approximately 50% of the total stormwater volume, in the whole project area.

→ It took 10 months from the submission of the traffic regulations study for one subnet of the project (Collector S2) by the Contractor to the Contracting Authority until a final decision was signed for their

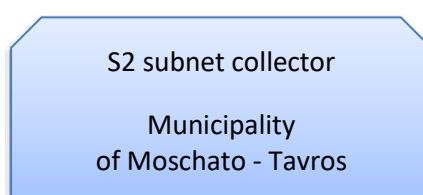
implementation; such a delay had a significant impact on the project schedule, as traffic regulations are a prerequisite for the start of works.

€ Payments to the contractor

- i) The contractor submitted a request for an advance payment equal to 5% of the total amount of the contract, which was rejected by the CA on the basis that an advance payment to the Contractor was not foreseen in the contract.
 - ii) Two months later, the Contractor submitted a 1st payment request for construction materials stored in warehouses before the start of the project works.
-

Timetable for the project implementation

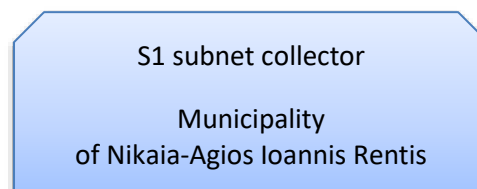
Following the signing of the contract between the CA and the Contractor the provided by law traffic arrangements process was initiated. However, the process for their approval and implementation by the competent bodies - which is a prerequisite for the start of the works - lasted almost 10 months, according to the official documents provided by the CA. More specifically, while traffic arrangements were initially expected to be completed by 17/5/2019 (based on the originally approved time table), then (after its modification) until 11/9/2019, they were postponed (based on of the last approved timetable) until 30/10/2019, and was finally completed on 14/3/2020- with the issuance of the relevant decision from the Attica Traffic Police. In particular:



When construction works take place on public roads, as in this case on Piraeus Street and Thessaloniki Street, a precondition for their commencement is the approval and implementation of a study for temporary traffic regulations. This is a study, which after taking into account the traffic load on the roads in question, will allow for it to be stopped at specific points (at those required each time for the execution of the work) and diverted to adjacent roads, through which vehicles will temporarily pass, until the works are completed in those sections that have been blocked and until they are reopened to traffic.

Therefore, in order to start the works for the construction of the collector S2, which required the adjustment of traffic in sections of Piraeus, Thessaloniki and adjacent streets in Moschato, the Contractor had to submit to the Attica Region the required study for the temporary traffic arrangements. This study was then forwarded to the competent bodies and authorities for obtaining the required individual approvals and their opinions (Directorate of Metropolitan Infrastructure Management of Attica Region, Municipality of Moschato-Tavros, Municipality of Nikaia-Ag. Ioannis Rentis, O.A.S.A., Directorate of Road Infrastructure of the Ministry of Infrastructure and Transport, etc.) and was finally approved by the Decentralized Administration of Attica, in order to be implemented, according to the relevant decision issued by the Traffic Directorate of Attica.

From the documents submitted to the Independent Monitor it emerged that the process of approval and implementation of the aforementioned traffic arrangements began on 20/5/2019, when the Contractor submitted to the CA (Attica Region) the relevant traffic study and was completed on 14/3/2020 with the issuance of the relevant decision from the Attica Traffic Police, after the approval of the traffic study by the Decentralized Administration of Attica. The decision provides for their implementation of the described traffic arrangements on the road sections mentioned there exclusively in the area of Moschato-Tavros, during the period from 16/3/2020 to 28/9/2021 and throughout the 24-hour period, for the execution of the works.





As highlighted by the Independent Monitor (p.10) in the 1st Monitoring Report, in areas of the Municipality of Nikaia - Ag. Ioannis Renti, where the works for the construction of the S1 Collector sub-network are to be carried out, it is required to implement the approved road plan on specific streets of the Municipality (Themidos, Averof and Bizaniou); this is in order to expropriate properties and demolish constructions and buildings that prevent the start of the aforementioned works. It is also noteworthy that despite the repeated requests addressed from Attica Region to the Municipality for the settlement of the issue and the acceleration of procedures under its jurisdiction, the matter has not been resolved yet. To be more precise, since October 2019, when the issue was originally highlighted in the 1st Monitoring Report, the Contracting Authority has submitted several written requests regarding the issue since non-expropriation prevents the construction of the entire network of the sub Collector S1 as these roads are very close to the outlet location of

the S1 sub-network¹ while also puts at stake both the contractual deadline for the completion of the project, and the very implementation of a large part of the physical object of the contract (Collector S1 is designed to collect and convey approximately 50% of the total stormwater volume, in the whole project area). It should be noted that the process of expropriation should have been completed before the signing of the contract, according to an explicit provision in the funding decision.

The issue was viewed as one of crucial importance by the IM that will follow-up and record back on this in the next report.

Payments to the contractor

 From the review of the documents, it also emerged that on 05/04/2019 the Contractor submitted a request to the Contracting Authority (Attica Region) for an advance payment equal to 5% of the contract price, ie the amount of € 212,527.36 (plus VAT). The request (advance payment) was not approved (24/04/2019) by the Directorate of Flood Protection Projects (DEAP) of Attica Region and was returned to the Contractor as the contract documents do not provide for an advance payment for the contractor.

 In July 2019, before the start of the works and at the request of the Contractor (2/7/2019), the Directorate of Flood Protection Projects (DEAP) of the Attica Region: a) set unit prices for compensation of materials stored in approved warehouses of suppliers (8/7/2020), b) received materials stored in warehouses {i. rainwater drainage pipes from cement series 150 and nominal diameter D800, D1000, D1200, D1800 and ii) iron reinforcement of concrete plumbing (12/7/2019), iii) approved the 1st Detailed Materials Measurement (18/7/2019) and iiiii) issued the 1st Payment order to the Contractor (30/7/2019), which concerned to the above materials, amounting to 307.300,00 euros plus the corresponding VAT (73,752.00), i.e. a total amount of 381,052.00 euros.

¹ it is noted that the rainwater networks start to be being built constructed from the downstream-outflow.

On this payment, the Independent Monitor, taking into account:

** the provisions of paragraph 5 of article 152 of Law 4412/2016, according to which "The account may include, also, materials delivered with the approval of the service at construction sites or in warehouses declared and approved. The quantities of such materials may not exceed those required for the performance of forthcoming works according to the approved timetable, unless otherwise specified in the contract "*

**at that time (July 2019) works had not yet begun*

on April 29, 2020, requested clarifications from Attica Region regarding the forthcoming works to which materials paid prior to the start of actual works correspond.



The CA responded to the IM's relevant request for clarification (25/5/2020), stating that *a)* the materials included in the 1st payment request relate to the construction of pipelines which are part of the Collector S2 in Moschato, *b)* their quantities do not exceed those required for the construction of the Collector S2 and are part of the total quantities of the Project, *c)* in view of the-at that time-submitted traffic study, expected to be approved, it was clear that the works of the project were planned to start with the construction of the Collector S2 and that *d)* at the time of approval of the 1st account, the schedule being in force, provided that these works (construction of pipelines and rectangular pipelines) would begin on 12/9/2019 and 17/9/2019, respectively, shortly after the implementation of the initial traffic regulations was completed (scheduled to take place by 11/9/2019).

Regarding the above and based on the review of the documents, the Independent Monitor maintains that:

**The application of the initial traffic regulations started only on 16/3/2020 after the issuance of the aforementioned Attica Traffic Decision*

**The materials falling under the 1st payment cover almost the entire amount of iron reinforcement required for the S2 subnet {i.e. about 88%}.*

It should also be noted that the works started on 17/3/2020 with the relocation of existing utility networks. As a general rule, relocation of such networks (whose exact location is determined during the exploratory excavations) precedes the work of the rainwater networks whether they are already clearly mapped or not. This happens in order to ensure the existence of the required free space for its construction according to the Contracting Authority. Until the date of publication of this report the relocation of utility networks is still in-process.

Response to IM's requests

The publication of the 2nd Monitoring Report is based on the review of official documents submitted by the CA, during IM's on-site visits to the CA offices and through online communication (e-mails).

Even during the coronavirus epidemic and despite the special conditions therefore created, the communication between the two parties (IM & CA) continued unhindered.

The Independent Monitor followed-up on the progress of the implementation of the works during a meeting at the premises of the Directorate of Flood Protection Projects on 14/2/2020, where the Project file is kept and from periodic updates by the Attica Region (communication on 3/7/2019, 26/11/2019, 23/12/2019, 18/3/2020, 2/4/2020, 3/4/2020) and by the Contractor (3/4/2020 informative note).

In addition, after reviewing the documents submitted, the Independent Monitor requested additional information, documents and data on the above issues for further clarification:

- a) To the CA: the IM addressed his requests in written on 29/4 and 9/6 to get a reply on 25/5 and 26/6 respectively. The CA provided all the

required clarifications by rendering an account of the events through relevant documents and data.

- b) To the Contractor: the IP sent a letter to the Contractor on 29/4/2020 that was not replied until the date of the 2nd MR. Any additional information or clarifications provided by the Contractor at a later time will be included in the next Monitoring Report.

The Experts

Transparency International-Greece, as a civil society organization, was assigned the role of “Independent Monitor” by the European Commission. Its mandate is the application of the Integrity Pact in a 1st priority anti-flood work, in which Attica Region acts as the Contracting Authority.

The project team is supported by Independent Experts:

Engineering Consultant

Stefania-Tereza Giannaki is a civil engineer, holding a Bachelor degree from the National Technical University of Athens with a specialization in hydraulic engineering and a Master’s degree from ALBA in business management (MBA). She has over 10 year- experience as an engineering consultant in hydraulic works studies. Her area of expertise lies in the design and conduct of studies in water supply, irrigation and drainage of rainwater and wastewater. She has also participated as a representative of Greece’s Technical Chamber in public procurement committees for the conclusion of public contracts, works and studies. She speaks Greek, English and German.

Legal Consultant

Emmanouela Papadochatzakis is a lawyer, member of the Athens Bar Association, (entitled to plead before the Supreme Court), while she also holds an LLM from Katholieke Universiteit Leuven in Energy and Environment Law and is a member of the Union of Greek Public Law Lawyers. She is specialized in the field of public contracts, providing legal services as a consultant as well as before courts, both in the pre-contractual and the execution stage of public contracts. She has important court and advisory experience in administrative, civil and commercial law. She speaks Greek, English, German and Spanish.

Learning and Innovation Coordinator

Ioannis Souflis is a Dr. Civil Engineer, business management advisor. He has participated in over 100 works in Greece and abroad in his capacity as a consultant and a project manager. He has experience in the sectors of public administration, public works and electronic governance. He has participated in important EU works and has worked as an expert with the UNEP (1990-1993). He has served as a member of the International Board of Directors of the Network for Environmental Technology Transfer (EU, 1990-1992), while he has cooperated with the Greek consultants’ company INFOGROUP SA (consultant, 1986-1993), KPMG Consultants SA (consultant, deputy director, director 1997-2007) and OmniLink SA (Director 2007-2010). Since 2010, he has been working as an independent Consultant.

Publicity



Presentation of the IP in **Thessaloniki**, November 2019

European Week of Regions and Cities, Brussels, October 2019



High Level conference "**Engaging Citizens for Good Governance in Cohesion Policy**" Brussels, February 2020

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