

INTEGRITY PACTS

CIVIL CONTROL
MECHANISMS FOR

3rd Monitoring Report: Greece



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, November 2020

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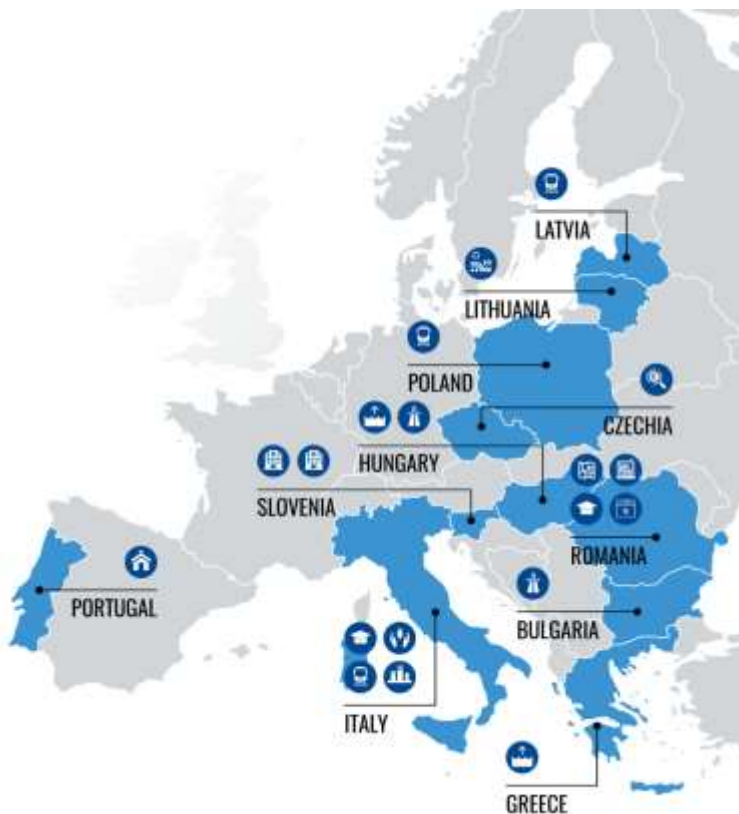
The Integrity Pact

The Integrity Pact (IP) is a tool developed by Transparency International in mid-1990s and 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.



1. Application of Integrity Pacts in 11 EU member states.

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 quality of life.

ANTI-FLOOD PIPELINE



RELEVANCE

SECTOR
FLOOD PREVENTION

PROCUREMENT
Construction of a flood protection pipeline network in areas of the municipalities of Nikala-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 Nikala-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. Hydraulic 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 Nikala-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
- 09/2019: First monitoring report publication
- 17/03/2020: Start of works
- 07/2020: 2nd monitoring report
- 08/2020: Cessation of works
- 11/2020: 3rd monitoring report
- 2022 (2nd SEMESTER): New end of project

COSTS

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

European Regional Development Fund: 30%
Public Investments Program (national resources): 20%

MONITORING REPORTS

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

Independent Monitor: observations & comments

The **3rd Monitoring Report** drafted by the Independent Monitor (Transparency International Greece) includes findings, observations and recommendations that result from the review of documents offered by Attica Region (Contracting Authority-CA) through systematic email correspondence, as foreseen in the Integrity Pact.

The 3rd Monitoring Report covers a time period of five and a half months (5,5), from the date of the reported commencement of works for the project “*Construction of a flood protection pipeline network in areas within the Municipalities of Nikaia-Aghios Ioannis Rentis and Moschato-Tavros*” on March 17, 2020 up to August 31st, 2020.

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

- a. **Progress of works** and its effect on the timetable for project **implementation**.
- b. **Pre-approvals** and **payments** to the Contractor

1 Timetable for the project implementation

Progress, obstacles and delays

There has been no progress on the implementation of the main work of the contract, concerning the construction of two rain water collectors (S1 and S2) and their respective subnetworks within areas in the Municipalities of Nikaia-Aghios Ioannis Rentis and Moschato-Tavros respectively, aiming to provide antiflood protection.

More precisely, through the aforementioned Collectors, the total volume of rainwater flowing in the project areas (total drainage area ~ 1,800 acres) can be safely channeled to the final recipient river Kifisos, thus protecting the specific areas from dangerous floods.

The implementation of the road plan in areas within the Municipality of Nikaia - Ag. Ioannis Rentis, is still pending.

This delay **puts at serious risk** both the compliance with the **contractual deadline** for the completion of the project as well as **the implementation of the project itself**, as mentioned in a previous report by the Independent Monitor (March 2020). This is a very serious issue, as in case the necessary procedures for the expropriation of properties are not previously completed the construction works cannot start in specific areas. The site of the above roads is very crucial for the implementation of the project, as it is located very close to the proposed outlet location of Collector S1 to the recipient – which is where antiflood projects start from. Therefore, the construction of Collector S1 cannot begin unless the issue is resolved immediately.

The Municipality of Nikaia-Aghios Ioannis Rentis, who is responsible for the implementation of the road plan, in April 2020 and under pressure from the Contracting Authority (Attica

Region), submitted an estimated time frame of 10-12 months, for the completion of the relevant procedures; implying as a result another significant project delay. In addition, the Municipality set as a prerequisite that the procedures to be fully financed by the Operational Program "Attiki 2014-2020", ie by European resources, by being included as sub-projects to the main project. Following this, in May 2020 communications commenced between the Municipality of Nikaia - Aghios Ioannis Rentis and the Contracting and the Managing Authority respectively - focused on the submission of the required documentation for the funding request to move forward- and spread for a number of months.

Consequently, it remains unknown:

A) Whether the expropriation procedures foreseen to be executed by the Municipality (and which should have been completed before the signing of the Contract) will be financed according to the above request; and in case of rejection of the funding request what will happen with the particular procedures and what impact such a decision would have on the implementation of the entire Project as such.

B) Even in the positive case, that the funding request is approved, how long it will actually take the Municipality to complete the expropriations and the works which are necessary in order to "free" the specific areas (eg demolition of buildings) so that the construction works of the Project can be carried out there.

However, it should be pointed out that even if the expropriation activities are funded by the NSRF 2014-2020, a long, multi-level process should be followed; this process includes the preparation of a relevant technical study by the Municipality of Nikaia - Aghios Ioannis - Rentis, the drafting of the tender documents, the final process for the accession to the NSRF, the conduction of the public contest, the handling of potential objections, and finally the execution and completion of this sub-project. Evidently, the required time for the completion of all the above actions, will far exceed the current contractual deadline set for 28/9/2021.

Therefore, it becomes clear that there are **serious delays and risks for the full completion** of a **significant part** of the project. At the same time, this issue highlights the importance and undeniable need for **putting in place effective coordinating and monitoring mechanisms** that concern other –than the already involved actors; and that is because even if they are not directly engaged, as parties of a public contract, they interfere in the procedure since their actions stand often as a precondition for the execution of the contract and thus **may impede, jeopardize or cancel** - even partially - its implementation. This prevents essentially the delivery of an integrated project or the provision of goods and services that would meet a significant need or improve the quality of life for the citizens.

In the Municipality of Moschato-Tavros, the relocation of utilities networks (preparatory works) that impede the routing of the S2 Collector subnetwork (water pipelines, fiber optic networks, etc.) have started.

By the end of August 2020, the Contractor carried out exploratory excavations, and proceeded to relocate 450 m. of existing drainage pipes, out of the total of 1,480 m., that is expected to be relocated in Thessalonikis Street (which corresponds to about 30% of the execution of the specific task). In the rest of the sub-network of Collector S2, additional utilities networks (gas pipelines, etc.) have been identified as obstructing the route of the antiflood pipelines but their relocation must be done in coordination with the respective actors

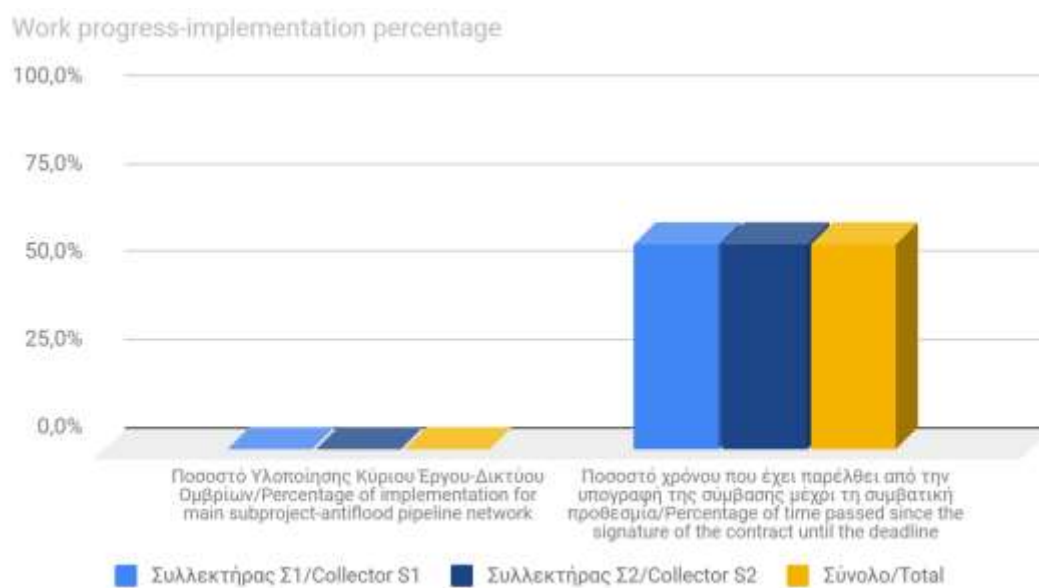
In the Independent Monitor’s (IM) view, **the complete settlement of the pending relocation of all utilities networks is crucial** for the smooth progress of the project. There is a **high possibility for delays** in construction works, as the relocations may require additional actions (i.e. need for complementary studies, approval of additional finance, etc.), which could lead to the suspension of works for an unknown period of time. The IM’s findings, regarding the progress of the relocation of other utilities networks will be included in its next report.

On August 12, 2020, the Contractor submitted a special declaration for the cessation of all the works of the project to Attica Region (Contracting Authority), under the justification that a number of problems had been identified as regards to: a. utilities networks and inability of communication with the responsible services for their transfer, b. archaeological works that slowed down the progress of the project and c. non- completion of the expropriation activities of areas in the Municipality of Nikaia -Aghios Ioannis Rentis.

*The special declaration was **not accepted** by Attica Region.*

Since then the works of the project remain halted.

Although by August 31st, 17.5 out of the 30 months foreseen in the contract for the full implementation of the Project have passed, no antiflood pipelines have been constructed or placed for any of the Collectors S1 and S2 in both Municipalities.



Graph 1. Percentage of implementation of main project until 31/08/2020

It should be noted that each one of the S1 and S2 subnetworks stands for about 50% of the contractual object of the Project; it, therefore, becomes obvious that both subnetworks must be constructed in order to drain the total runoff of the basin as foreseen by the technical studies. Although these two networks are independent from each other and drain rainwater from different areas, the construction of solely one of the two, would not provide flood protection to the whole area.

2 Pre-approvals and payments

During the reporting period (March-August 2020), the Contractor submitted to the Contracting Authority:

1. **Request for approval of additional non-contractual works** - not provided for by the initial contract - with a total cost of € 10,187.31, which is covered by the amount set for unforeseen works. These works concerned the soil improvement of the trench bottom due to a high aquifer, and although approved by the Contracting Authority, have not been completed yet.



Soil improvement works

2. **1st and 2nd quantity surveying of works** (25/6/2020 and 20/7/2020 respectively) concerning the relocation of a section of approximately 450m of drainage networks with their respective wells and related earthworks on Thessaloniki Street. They were both approved by the Contracting Authority on 5/8/2020.

3. **2nd Payment Order** on 5/8/2020 for the amount of € 89,928.37 regarding the above 1st and 2nd **quantity surveying**, which was approved by the Contracting Authority (Attica Region) on 6/8/2020.



Graph 2. Payments until 31/08/2020 (information regarding the 1st payment is detailed in the [2nd Report of the IM](#), p. 5)

RESPONSE TO THE INDEPENDENT MONITOR'S REQUESTS

The communication between the Independent Monitor (IM) and the Contracting Authority (Attica Region) for the needs of drafting the 3rd Monitoring Report (MR), continued smoothly despite the special conditions created by the COVID-19 pandemic.

It should be noted that the Contractor did not respond to information requests addressed by the IM, either for the previous (2nd) or the current Report (3rd). Any additional information or clarifications submitted by the Contractor at a later stage, will be included in the next MR.

The Experts

Transparency International-Greece was assigned the role of “Independent Monitor”. 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.

Engineering Consultant

Stylios Economidis is a civil engineer, with extensive experience in public works and public procurement since 2000 when he completed his studies at the Polytechnic School of the Aristotle University of Thessaloniki. He has experience in the coordination and administration of construction sites as well as in the bureaucratic support of large hydraulic works and other infrastructure projects. He has collaborated with the technical services and the water supply and sewerage services of large municipalities, for the modification and correction of technical studies and during the construction of infrastructure projects, as well as in the elaboration of studies and tendering of new projects.

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.

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