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THE ROLE AND INTEGRITY OF SUBJECTS IN THE PUBLIC PROCUREMENT SYSTEM IN THE PREVENTION OF CORRUPTION

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Abstract: *The field of public procurement is one of the most vulnerable to corruption, and ensuring the integrity of subjects involved in public procurement constitutes a current approach to corruption prevention and research. Strengthening the integrity of public procurement subjects is an essential measure to prevent corruption, because public procurement is one of the key areas in which the public sector and the private sector interact financially. However, this interaction is based on public money, which attracts the corrupt subjects to illegal activities, due to the position they hold, they take advantage of public funds in personal interest or of a group at the expense of the general interest. Specifically, this paper researches the general conceptions of public procurement and integrity, the national normative framework regarding integrity in public procurement, identifies and analyzes the categories of subjects, their role, the causes and consequences of non-compliance with integrity in the public procurement system. In conclusion, it is deduced that the lack of integrity of subjects in the public procurement system generates not only deficient policies, norms and procedures, but endangers public respect for the government, erodes the rule of law, distorts the economy of a country and seriously affects the fundamental rights of citizens.*

Key words: *public procurement, the integrity of the subjects, prevention of corruption, corruption risks.*

JEL CLASSIFICATION: D73

INTRODUCTION

The challenges addressed and the importance of the issue analyzed lies in the fact that public procurement is one of the means of evading public funds. Fraud is only done by unscrupulous and unprofessional actors. Although, public integrity, including in the public procurement system, must be a principle and an essential condition in order to ensure good governance, the non-compliance with this principle generates manifestations of corruption in the public procurement system. It is noted that the antonym of „integrity” is „corruption”, which is supported by corrupt subjects and tempted by various illegal schemes, flawed norms and manifestations of corruption to harm public funds for personal or group interest.

The purpose of the paper is to study the subjects of public procurement, as well as the consequences in case of failure to ensure integrity when performing their duties. To achieve this goal, the following tasks were established: 1) analyzing scientific opinions in the field of integrity in public procurement; 2) evaluation of the national regulatory framework regarding public procurement and integrity; 3) classification of subjects in the public procurement system through the lens of role and ensuring integrity.

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The paper refers to the need to ensure integrity in public procurement by all actors directly or indirectly involved in the public procurement process by evaluating the national regulatory framework and improving measures to prevent corruption in public procurement.

Research methodology. The study is based on a careful analysis by enumerating all the subjects that are part of the public procurement system, including the importance and role of each in the public procurement system in the context of the evolution of the scientific thought and practice of public procurement. The scientific literature expresses few opinions regarding integrity in public procurement, thus finding limited research in the field of professional or institutional integrity in public procurement. The identification of specialized literature was mostly carried out by exploring data sources and documents in the Google Scholar and Academia.edu search engine, using the keywords „integrity” and „public procurement” in the query. Also, the provisions of the Integrity Law, no. 82/2017 [14] and the Law on Public Procurement, no. 131/2015, were analyzed as part of the investigation. [12] The main research methods were: analysis, scientific knowledge, deduction, synthesis and generalization.

GENERAL CONCEPTS OF PUBLIC PROCUREMENT AND INTEGRITY

The public procurement system is an important instrument of the state. According to the authors Florescu D. and Coman L. „The public procurement system represents a part of the competitive commercial reality in Romanian society”. [7, page 11] In the opinion of other authors (Orlov M and Buşmachi E.), the public procurement system represents all the rules and actions related to spending public money in order to satisfy a public interest.” [17, page 16] In this context, we support the opinion of the authors, noting that this instrument aims at the legal, transparent, fair, non-discriminatory and efficient use of public money.

Referring initially to the notion of „public procurement”, several doctrinal opinions stand out. The notion rendered by Dumitru I., it is mentioned that „public procurement” signifies, in a broad sense, that regulated field of activity within which public authorities and organizations financed in whole or in part from the public budget have the opportunity to acquire goods, services, works or combinations thereof. [6, page 15]

According to the author Nica E. „the process of obtaining products, services or works by an entity, hereinafter referred to as the contracting authority, in accordance with the legislation in force is called public procurement”. The same author believes that „public procurement includes any activity that has a purpose and is meant to respond to a need, a requirement in the public sector and that involves spending public money from the state budget.” [16, page 61]

In the opinion of other authors (Florescu D. and Coman L.), „the field of activity of public procurement is the supply of goods, works and services by entities that offer sums of money from national, European or national and European public funds in return”. [7, page 11]

Therefore, the authors Alexe I. and Şandru D.-M., reveal that the field of public procurement is very important and allows both the transformation and development of society and its functioning mechanisms, as well as the efficient use of public funds, as well as transparency and maintenance markets open to free competition throughout the European Union. [1, page 9]

The OECD points out in the Principles for Integrity in Public Procurement that „poor governance in public procurement blocks competition in the market and increases the price paid by an administration for goods and services, which has a direct impact on public expenditure and

therefore on resources taxpayers. The financial interests involved and the close interaction between the public and private sectors make public procurement an area of major risk. [...]”. [18]

In our opinion, a generic definition of public procurement is the procurement from public money according to the rigors established by law, by a public person defined as a contracting authority, of some products, works or services, by awarding a public procurement contract.

It is concluded, the basic component in public procurement is public money, which determines that the entire public procurement system is vulnerable to corruption. Thus, taking into account that in the management of public money within a public authority, several subjects are involved, and in case of non-compliance with measures to ensure integrity, there is a high probability of the materialization of the risks of fraud and corruption.

In another vein, it is highlighted that in public procurement the term „corruption” is more often used than the term „integrity”, this also results from the multitude of researches in this field. The term „integrity” is used as an antonym for corruption. However, integrity does not only mean the absence of corruption, but implies the improvement of communication and transparency of the public decision-making process, in order not to create the suspicion that the private interest takes precedence over the public interest. [20, page 8]

In another order of ideas, public integrity presupposes the cumulative fulfillment of three conditions:

- the incorruptibility of the decision regardless of its beneficiary;
- compliance with the principles of transparency and competitiveness;
- good administration in the sense of economy, effectiveness and efficiency. [10, page 9]

For a clear understanding of the approaches related to both „fighting corruption” and „ensuring public integrity”, the following points are stated. By the phrase „the fight against corruption” is understood the punitive nature of sanctioning (contraventional or criminal) manifestations of corruption that were admitted in the past. But, „integrity assurance” implies the identification and analysis of corruption risks and the factors that generate them in order to improve the activity in the future within an institution or system. Thus, it is noted that these approaches have opposite connotations, one negative for actions consumed and the other positive for future actions, but they pursue the same ultimate goal of „fighting corruption”, because even if ensuring integrity is a means of preventing corruption, in the case of non-respect of integrity in the public procurement process, anti-corruption methods are applied.

In this research, a positive approach is chosen in order to strengthen the professional integrity of the subjects in the public procurement system, to identify and analyze the individual and institutional risk factors specific to the public procurement system in our country, offering recommendations to eradicate or reduce the risks of fraud and corruption.

NATIONAL LEGAL REGULATION REGARDING INTEGRITY AND PUBLIC PROCUREMENT

In the Republic of Moldova, the legal definition of the concept of „public procurement” has been evaluated during several stages, depending on the adoption of the primary framework in this field. Thus, from the chronological and evolutionary analysis of the legal definition of „public procurement”, 4 cycles of improvement of the public procurement system in the Republic of Moldova are determined.

I stage - (1997) the first regulation in the field of public procurement is established by the Law on the purchase of goods, works and services for the needs of the state, no. 1166/30.04.97, which states that: „public procurement represents the procurement of goods, works and services for the needs of the state with public money in any way not prohibited by law”;

II stage – (2007) the Law on public procurement, no. 96/13.04.2007, is adopted, which defines that „public procurement is procurement of goods, execution of works or provision of services for the needs of one or several contracting authorities”;

III stage - (2015) through the adoption of the Law on public procurement, no. 131/2015, the same wording is maintained, in general terms „public procurement - procurement of goods, execution of works or provision of services for the needs of one or more contracting authorities”;

IV stage - (2018) by the Law amending Law no. 131/2015 on public procurement, no. 169 of 26.07.2018, is defined in a new wording as „public procurement - the procurement, through a public procurement contract, of goods, works or services by one or more contracting authorities from the economic operators selected by them, regardless of whether the goods, works or services are intended for a public purpose or not”.

Thus, it is concluded that the public procurement system in Republic of Moldova is a system regulated by Law no. 131/2015 on public procurement, the primary legislative act that represents the transposition into national law of European Directives 2014/24/CE and 89/665/CCE. At the same time, we note that the primary national normative framework in is harmonized with the community acquis, in accordance with the commitments that the Republic of Moldova has and assumed towards the European Union with the ratification of the Association Agreement between Republic of Moldova, on the one hand, and European Union, and European Atomic Energy Community and their member states, on the other hand, by Law nr. 112 of July 2, 2014. According to art. 273, paragraph (1) of the mentioned Agreement, the Republic of Moldova committed to ensure that its current and future legislation in the field of public procurement will progressively become compatible with the acquis of the European Union in the field of public procurement.

In this sense, it is noted that, although the national legislation is harmonized with the best European practices, corruption in our country perpetuates, including in public procurement. According to the Corruption Perception Index made by Transparency International, for the year 2021, the Republic of Moldova registered a CPI score of 36 points, ranking 105 out of 180 countries (for comparison, in 2020, Moldova, with a score of 34 points, was ranked 115 out of 180 countries). Although the Republic of Moldova surpassed 10 countries in the ranking of the Corruption Perception Index during the past year, it continues to be in the list of countries with a high level of corruption.

Therefore, analyzing the primary normative framework in public procurement, rules are established to ensure the implementation of anti-corruption and integrity policies in the event of manifestations of corruption in public procurement, such as:

- exclusion by the contracting authority from the public procurement contract award procedure of any tenderer or candidate of whom it is aware that, in the last 5 years, it has been convicted, by the final decision of a court, for participating in the activities of an organization or criminal groups, for corruption, fraud and/or money laundering (art. 18);
- rejection by the contracting authority of the offer in case it finds that the economic operator who presented it proposes or consents to propose, directly or indirectly, any person with a position of responsibility or any employee of the contracting authority a favor in any form, a employment offer or any other service as a reward for certain actions, decisions or the

application of a public procurement procedure to his advantage. (4) Public procurement contracts obtained through corruption, confirmed by the final decision of the court, are null and void. (art. 40);

- non-acceptance of the offer by the contracting authority in the event that acts of corruption were found to have been committed (art. 65);
- the contracting authority will cancel the public procurement procedure if an act of corruption has been committed, confirmed by the final decision of the court (art. 67);
- rules for avoiding conflict of interests (art. 74). [12]

Analyzing the recorded norms, some deficiencies are deduced:

- the public entity responsible for detecting the act of corruption is uncertain, the contracting authority/procurement working group is not authorized to detect such crimes, only the court has this right;
- it is not clear when the corruption acts were detected, in the case of other procurement procedures or during the examination of the offers submitted to the ongoing procedure. In this last case, the time/period of the detection of the act of corruption in the course of a public procurement procedure is ambiguous, because the investigation and detection of acts of corruption can last for years, and the contracting authority cannot suspend the development of the procurement procedure public;
- the use of the phrase „acts of corruption” is incomplete, because the lack of integrity in the public and private sectors leads to the commission of illegalities not only of acts of corruption, but also of acts related to acts of corruption and corruptible acts. [21] Thus, it is established that the deficiencies of the normative framework can generate duties that admit derogations and abusive interpretations, which can admit risks of corruption, such as: influence peddling, abuse of office, embezzlement of funds, exceeding of duties, favoritism and conflict of interests.

SUBJECTS OF THE PUBLIC PROCUREMENT SYSTEM

Through the phrase „integrity in public procurement” means the integrity of the people and public authorities involved in public procurement, as well as the integrity of the public procurement process. It is mentioned that these three components are interdependent, and the subject – the natural/legal person is the key element in ensuring the integrity and efficiency of public procurement.

In the specialized literature, there are several classifications of the subjects of the public procurement system, such as: the authors Dumitru A.P. Florescu and Coman L., reveal that the components of the public procurement system are: 1) the regulatory authority; 2) contracting authorities; 3) economic operators; 4) system supervisors; 5) financial auditors of the system. [7, page 11]

The authors Orlov M. and Buşmachiu E. mention the components of the public procurement system, such as: 1) regulatory authority; 2) contracting authorities; 3) economic operators; 4) system supervisors. Furthermore, these authors classify and describe the duties and responsibilities of the institutions of the public procurement system, which include: 1) the Ministry of Finance through the Public Procurement Agency, and the Directorate of National Economy Finances, Capital Expenditures and Public Procurement; 2) Financial Control and Review Service; 3) Book of Accounts; 4) State Treasury.

Although the risks of corruption in public procurement can manifest themselves at different stages of public procurement, starting with the initiation of the procurement procedure and up to the

awarding of the public procurement contract, corruption risks can also be admitted at the establishment of the normative framework, as well as in the monitoring process and control of public procurement.

In this context, the author classified the subjects of the public procurement system through the lens of their roles, including through the lens of ensuring integrity in public procurement, presenting them schematically in *Table 1*.

Table.1 Subjects of the public procurement system in Republic of Moldova

Categories	Subjects
1. Regulatory authorities	<ul style="list-style-type: none"> - <i>Parliament</i> - <i>The Government</i> - <i>The Ministry of Finance</i>
2. Participants in the public procurement process	<p>Principals:</p> <ul style="list-style-type: none"> - <i>Contracting authorities (working group)</i> - <i>Economic operators</i> <p>Facultative:</p> <ul style="list-style-type: none"> - <i>Service providers;</i> - <i>Certified specialists in public procurement</i> - <i>Recruited specialists and experts</i>
3. Supervisors of the public procurement system	<ul style="list-style-type: none"> - <i>The Ministry of Finance</i> - <i>The Public Procurement Agency</i> - <i>The National Agency for the Resolution of Appeals</i>
4. Subjects of monitoring and control of public procurement and public integrity	<ul style="list-style-type: none"> - <i>Financial Inspection</i> - <i>State Treasury</i> - <i>Court of Auditors</i> - <i>National Integrity Authority</i> - <i>National Anticorruption Center</i> - <i>Ministry of Internal Affairs (Internal Protection Service)</i> - <i>Anticorruption Prosecutor's Office</i> - <i>Non-governmental organizations</i>

Source: Prepared by the author

The role of regulatory authorities – Parliament, the Government and the Ministry of Finance are public authorities that have the role of developing and adopting/approving the regulatory framework in the field of public procurement. We consider that the role of these authorities is a primary one, because they are the „architects” of the public procurement system in our country, and the applicability and consistency of the rules is the fundamental criterion in the efficient running of public procurement procedures. Through the elaboration and adoption of policies and normative acts in this field, it can be deduced about the quality, integrity and interest pursued by the politician who promotes reforms in this system.

Another aspect is highlighted in the case of the „inaction” of the regulatory authorities, i.e. the lack of exercise of the powers established by the normative acts. The lack of establishment of regulations by the subjects responsible for promoting and approving the rules that would eliminate legal impediments and loopholes in public procurement. For example: Lack of approval of the normative act on procurement service providers. In this sense, it is mentioned that according to Art.

II of Law nr.169/2018, the Government, within 6 months from the date of publication of this law (published in the Official Gazette of the Republic of Moldova on 24.08.2018), should ensure the development and the approval of the normative acts provided by this law. Thus, it is established that this normative act has not been approved until now, a fact that generates suspicions regarding the necessity, relevance and interest for this category of subjects attributed to the public procurement system in our country.

Therefore, it is determined that the insufficient, inconsistent, lacunae, ambiguous and/or discretionary regulations of the regulatory framework are the external risk factors that generate corruption risks in the public procurement system. We believe that external risk factors are some of the most essential factors that contribute to distorting the public procurement process. In order to reduce and eliminate the corruption risks generated by these factors, it is necessary to identify, describe and thoroughly analyze the regulatory framework in the field of public procurement and come up with timely regulations to make the national public procurement system more efficient. The author analyzed in more detail external risk factors and corruption risks in public procurement. [8] It is concluded that in order to have a harmonized regulatory framework, adjusted to the best practices, coherent, simple, transparent and opposable to all interested subjects, it is necessary for the regulations to be promoted and approved by honest and professional subjects, in which the public interest receives personal or group interests.

The role of the subjects of the public procurement process. Contracting authorities and economic operators are the main actors of the public procurement process.

Articles 13 and 14 of the Law on public procurement no. 131/2015 establish primary regulations regarding the role and activity of the contracting authority, including the working group for public procurement. At the same time, the existence of the secondary normative framework is highlighted, the Regulation on the activity of the working group in the field of public procurement, approved by Government Decision no. 10/20.01.2021. Thus, in general, the existence of the relevant regulatory framework for the creation of the working group in the field of public procurement, which initiates and carries out procedures for awarding the public procurement contract to satisfy the needs of the contracting authority, is attested.

Therefore, from the analysis of the duties established in the legislation, the important role in the public procurement process of the working group for public procurement is justified. At the same time, through the lens of the measures to ensure the integrity of the subjects involved in the working group, the following provisions regarding the integrity assurance are determined.

One of the measures to ensure integrity is the transparent and responsible management of public patrimony, repayable and non-repayable finances, stipulated in art. 22 of the Integrity Law no. 82/2017. In the content of this article, in paragraph (4), the provisions relating to the Working Group for public procurement are highlighted, which is obliged to ensure the efficiency of public procurement, objectivity and impartiality in public procurement procedures, publicity and transparency of public procurement procedures. Thus, these are generally mandatory norms, which can be found both in the principles governing relations regarding public procurement, and the entire regulatory framework regarding public procurement.

Another measure to ensure integrity, which deserves a more detailed analysis, is compliance with the legal regime of conflicts of interest, provided for in art. 14 of the Integrity Law, no. 82/2017. In this paper, the following research topic on conflicts of interest in public procurement is outlined. Thus, corroborating and evaluating the legislation in the field of integrity and public procurement

regarding conflicts of interest, an inconsistency is attested regarding the uniform application of the legislation regarding compliance with the legal regime of conflicts of interest.

Conflicts of interest reflect a situation in which public officials act or intend to act or give the impression that they act in personal interest. Therefore, the issue of conflicts of interest is part of the scope of anti-corruption instruments and review mechanisms, including those provided by the United Nations Convention against Corruption (UNCAC), GRECO and OECD.

Regarding the regulations of the Integrity Law, it is revealed that public agents, together with the head of the public entity and, as the case may be, with the National Integrity Authority, are obliged to identify and deal with conflicts of interest that arise in their professional activity within the terms and manner provided by Law no. 133/2016 regarding the declaration of wealth and personal interests. In the sense of this law, it is highlighted that when making public purchases from public funds, not all members of the working group are public agents and who are subjects in the sense of Law no. 133/2016. Thus, the existence of a category of subjects within the contracting authorities is certified, being the members of the working group for public procurement, but which do not meet the conditions of art.3 regarding the subjects of the declaration of wealth and personal interests. These legislative non-conformities distort the instrument of imposing compliance with the regime of conflicts of interest by all members of the working group for public procurement.

Also, regarding art. 79 of the Law on public procurement, no. 131/2015, it is revealed that its provisions state the rules for avoiding the conflict of interests during the application of the public procurement procedure. At the same time, mentioning the obligation of each member of the group of work to sign, on his own responsibility, a declaration of confidentiality and impartiality, by which he undertakes to unconditionally comply with the provisions in the field of public procurement. But, in this sense, it is concluded that the signing of the Declarations of confidentiality and impartiality is a declarative process, which does not produce any legal effect, because there is no instrument to verify the impartiality of the subjects involved in the public procurement process.

As a result, it is noted that failure to implement the measures leads to: compromising the climate of institutional integrity and integrity in public procurement; at the appearance of manifestations of corruption; affecting the public interest and triggers the initiation of integrity control measures in the public sector by the responsible anti-corruption authorities or other authorities with specific powers.

As far as the economic operator is concerned, it is understood any natural or legal person, any public entity or association of these persons and/or entities that supply goods, perform works and/or provide services on the market. According to art. 15 of the Law on public procurement, no. 131/2015 „Any economic operator, resident or non-resident, natural or legal person under public or private law or group of such persons, has the right to participate, under the conditions of this law , to the procedure for awarding the public procurement contract”. Analyzing the legislation in the field of public procurement, a series of conditions, requirements, qualifications imposed on economic operators in order to qualify in public procurement procedures is found. Corruption risks are manifested when economic operators cannot meet the imposed requirements and try to corrupt the members of the work group by various means. Corrupt actions can be admitted at all stages of the public procurement procedure. In this context, national legislation contains few regulations regarding the obligation to ensure integrity by the private sector. Concretely, art. 37 of the Integrity Law, no. 82/2017 establishes rules regarding measures to ensure integrity in the private sector in relations with the public sector. In the content of this article, measures specific to the private sector to ensure integrity are listed. At the

same time, it is indicated that the responsibility for cultivating the climate of integrity of the business environment rests with the administration of commercial organizations. If the measures provided for by law are not carried out, it may lead to the compromising of the climate of integrity in the private sector and, as the case may be, in the public sector, to the appearance of corruption and to the damage of the public interest. In this sense, it is deduced that the control of integrity by the competent bodies is carried out only on the public sector, and the lack of a control in the private sector by the competent bodies can compromise the effective implementation of the measures to ensure integrity.

Considering the particularities of the duties of each subject participating in public procurement and the risks of corruption that are generated, it is necessary to clearly establish the measures to prevent corruption. The delimitation is made between the measures intended for public authorities and the measures applicable to bidders. Thus, among the measures intended for public authorities, the following can be mentioned: the establishment of clear rules for the awarding procedures of public procurement contracts; unitary interpretations of legislation; the development of codes of conduct in the conduct of award procedures; improving the transparency of the process; clear separation of duties; the permanent carrying out of training activities for the personnel involved in the performance of the awarding procedure.

Regarding the preventive measures applicable to bidders, the following can be mentioned: the development of codes of conduct, the highlighting of criminal and contraventional sanctions; the operation of the mechanism of inclusion in the Prohibition List to exclude from award procedures for a period of 3 years; the operation of the penalty payment mechanism for repairing the damage caused to the contracting authority.

Regarding the optional subjects of the public procurement process: procurement service providers, certified persons, experts in public procurement, it is certified that this category of subjects is introduced by the latest amendments to the Public Procurement Law (Law no. 169/2018). As part of the promotion of this project, the National Anticorruption Center within the expertise of this project [21] signaled some normative deficiencies, identifying the risk factors and risks of corruption. We point out in the project the establishment of several subjects involved in the public procurement process without clearly establishing their status, limits of competence, responsibilities and liability (providers of procurement services, certified persons, experts in procurement, authorized persons). Examining the project, general provisions are found that are not clearly established and when evaluating it, it is difficult to determine in the legislation provisions regarding their responsibilities and liability, because the limits of competence in the public procurement activity are not clearly established.

In the clear absence of responsibilities, liability and sanctions for violating the provisions of the project by the legal entities responsible for organizing public procurement procedures, there is a risk that they will become aware of their impunity for the abuses committed in the process of applying the legislation in the field of public procurement, which will perpetuate the abuses in question.

Thus, the insufficient formulation, the lack of responsibilities and sanctions for the violation of the provisions of the project by public and private agents, may favor the encouragement or facilitation of acts of corruption, acts related to acts of corruption and corruptible acts, making it impossible to hold these persons accountable for overcoming service attributions/service abuses, because the wording of the rule allows interpretation discretions that go beyond the legal framework. [21] We still support these findings, they are relevant to date, because no rules have been established to bring clarity about the clear role of these optional subjects, participants in the public procurement process.

The role of public procurement system supervisors

The Ministry of Finance - is the central specialized body of the public administration that ensures the implementation of government policy in the field of public procurement. At the level of the Ministry of Finance, responsible for the development and promotion of the legislative and normative framework that regulates the field of public procurement is the Policy Service for the regulation of public procurement. *The Public Procurement Agency* - is an administrative authority subordinate to the Ministry of Finance, established for the purpose of strengthening the capacities of the contracting authorities and developing the skills of the business environment in the field of public procurement, in order to monitor the compliance of public procurement procedures, as well as to carry out the analysis of the public procurement system (art. 9 and 10 of Law no. 131/2015). *The National Agency for the Resolution of Appeals* - is an autonomous public authority and independent from other public authorities, from natural and legal persons, which examines the appeals made in public procurement procedures. At the same time, having the obligation to defend the rights and legitimate interests of all parties involved in the appeals sent for resolution without any privilege or discrimination (art. 80 of Law no. 131/2015)

Regarding compliance with the measures to ensure integrity, stipulated in art. 10-24 of the Integrity Law, it is mentioned that all public agents within these public authorities are obliged to comply with them.

We can mention that in our country, in recent years, the organization and operation of public entities intended to supervise and improve the public procurement system, has been subject to several reorganizations and changes in competence, which led to changes in the organization of the public procurement system in the Republic of Moldova. On the one hand, the stated purpose of these reorganizations was to strengthen the public procurement system, but in reality these subjects face several deficiencies, such as: insufficient development of the electronic public procurement system (non-application of all types of procedures) ; non-approval of normative acts that would lead to the resolution of normative gaps (Regulation on the certification of public procurement specialists); non-establishment of the mechanism for the application of sustainable procurement; insufficient number of staff specialized in public procurement; non-application of the certification instrument, etc.

The detailed analysis of ***the subjects responsible for the monitoring, supervision and control of public integrity and public procurement*** is to be studied and presented in another scientific event.

Taking into account that the field of public procurement is a complex one, qualified knowledge and a special training of the subjects involved in public procurement are necessary, because the lack of knowledge and professionalism in this field, also contributes to diminishing the integrity of the people involved, directly or indirectly , in this system.

According to art. 11 of the Integrity Law, no. 82/2017, it is established that within the public entity employment must be carried out according to transparent and objective selection criteria based on merit, professional qualification, capacity, competence and professional integrity, without admits the favoring of private interests. These requirements are included in the measure of ensuring integrity in the public system.

As a result of the evaluation of the public procurement system in Moldova, in 2021 by the World Bank [2], it is revealed that in the public sector in Moldova, the public procurement officer is not considered as a profession, is not defined and is not included in the nomenclature/ the official register of civil servant positions. In practice, this causes a low technical capacity of the contracting authorities, in which purchases are made by officials such as accountants, lawyers, etc. The high

number of civil servants without the necessary skills and knowledge is a major problem and leads to poor and ineffective procurement planning, low-quality technical specifications and tender documents and insufficient monitoring of the execution of public procurement contracts.

It is highlighted that in accordance with art. 10 letter e) of the Law on public procurement no. 131/2015, only the Public Procurement Agency has the authority to elaborate, develop and implement the certification mechanisms of persons from contracting authorities and suppliers of procurement services, responsible for organizing, conducting public procurement procedures and awarding public procurement contracts. However, until this moment, this mechanism has not been implemented, although a Regulation on certification in the field of public procurement was approved by the Public Procurement Agency (Order no. 46 of 312.12.2020), this act was withdrawn as a result of the Public Appeal regarding the condemnation by civil society representatives of the said Regulation, because it was approved without being subject to public consultations, while several deficiencies were also detected.

Thus, it is established that in the Republic of Moldova, there is no public entity that prepares and certifies specialists in public procurement, a fact that can generate a major risk factor in the development of public procurement and ensuring integrity in this field.

CONCLUSION

In conclusion, we can mention that the lack of integrity of the subjects, regardless of their role, endangers the efficiency, effectiveness and economy of public procurement. The existence of a deficient normative framework regarding the provision of integrity measures in public procurement and non-applicable instruments by subjects involved in public procurement, compromises the development of the procurement system. At the same time, it is deduced that regardless of the status of the subject involved in public procurement, the risks of fraud and corruption in the public procurement system can be admitted not only within the public procurement process, but manifestations of corruption can be admitted when establishing the normative framework, as well as in the monitoring and control process of public procurement.

Body of the conclusion In conclusion, we can mention that the lack of integrity of subjects, regardless of their role, endangers the efficiency, effectiveness and economy of public access. The existence of a deficient regulatory framework regarding the provision of integrity measures and non-applicable instruments by subjects involved in public ones can compromise the development of the operating system. At the same time, it is deduced that regardless of the status of the subject involved in public activities, the risks of fraud and corruption in the public service system can be admitted not only within each stage of the public service process, but manifestations of corruption can be admitted when establishing the normative framework, as well as in the monitoring and control process of public activities.

Thus, the lack of integrity of subjects in the public procurement system not only defrauds public funds, but diminishes public respect for the government, erodes the rule of law and distorts the economy of a country. However, the consequences of a public procurement of poor quality, expensive, not adapted to real needs, is borne by the citizens. The consequences are negative and diverse, which directly harm the fundamental rights of citizens, namely: the right to information (art. 34), the right to health protection (art. 36), the right to education (art. 35) and the right to a healthy environment (art. 37), rights enshrined in the Constitution of the Republic of Moldova.

In order to strengthen integrity in the national public procurement system, it is necessary to implement the most feasible and effective integrity assurance measures, thoroughly analyzing good

practices. In this context, Good practices regarding the public procurement process were mentioned in the first EU anti-corruption report issued in February 2014. The report notes that Germany has had positive results not only in prosecuting corruption cases, but also in taking preventive measures regarding public procurement at the level of cities and municipalities, especially in the field of construction, one of the most vulnerable to corruption. These measures include: awareness raising; establishment of codes of conduct; staff turnover; clear regulations on sponsorship and prohibition of accepting gifts, establishment of central authorities for bidding/awarding procedures; increased use of e-procurement, blacklisting/corruption registers and other similar measures. Italy has made progress in establishing public procurement and resource management platforms. Slovenia and Croatia have created electronic databases designed to eliminate corruption in public procurement contracts by tracking the money. [3]

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