CENTRAL EUROPEAN UNIVERSITY

The Invisible (Under)hand

Access to information and competitiveness in the Romanian public procurement sector

Andrei-Cosmin Macsut – 5th year PhD student
3-17-2021

Summary

Does access to information affect competitiveness and corruption in the procurement sector? Does improved public access to procurement information encourage more competitive public tenders? This analysis tests the relationship between access to information on procurement (the independent variable) and the level of competitiveness of the tender in Romania between 2007 and 2020 (the dependent variable). The expectation is that (H1) the more information institutions publish about tenders, the more competitive the bid and that (H2) the less corruption entrepreneurs perceive, the more likely they are to submit bids for public contracts. Using data from OpenTender.eu and over 1.1 million contracts published on the Romanian official public procurement portal, this study finds a significant link between percentage of single bidder contracts and the share of missing values published on the official public procurement portal, as well as the perception of corruption. Overall, data points to a gradual erosion of competition in public tenders, whose causes are not clearly known but which is at least partially the result of reduced access to tender information in the past few years. The government in power seems to have a particularly important role in how much information is published, as well as in what kind of information is not published. As such, we are witnessing not only fluctuations in how much corruption there seems to be in public procurement, but also changes to the type of corruption. Improvements to data availability and a reduction in single bidding have not increased the median number of tender bidders, although deterioration in these indicators does coincide with a reduction of the mean. The prevalence of red flags of corruption seems to depend on who is in power – a sign that institutional checks and balances to guarantee fairness in public procurement are still lacking. Institutions retain sufficient discretionary power or are sufficiently free from oversight to conceal crucial details regarding public tenders without fear of reprimand. Factors such as level of democracy do not appear to have an effect on corruption red flags. The final section of the work discusses possible explanations for the findings.

Keywords: Romania, procurement, transparency, corruption, competitiveness

Table of Contents

Introduction

Does access to information affect competitiveness and corruption in the procurement sector? Does improved public access to procurement information encourage more competitive public tenders?

The purpose of transparency norms is to enable non-political actors to monitor decisionmakers, hold them more accountable, and to reduce overall corruption and the negative effects that come with it. In public procurement, corruption is not only prevalent, but easier to identify due to the range of tools developed in recent years at European level.

Free markets deliver best value for money because there is free and fair competition between suppliers. Where public contracts are therefore not awarded in a competitive manner, there is reason to suspect that other (underhand) interests are at play. As such, the level of competitiveness in public tenders is a good proxy for the level of corruption in the respective sector. Increased competitiveness can, thus, indicate better control of corruption, whereas decreased competitiveness can point to the opposite.

This analysis tests the relationship between access to information on procurement (the independent variable) and the level of competitiveness of the tender in Romania between 2007 and 2020 (the dependent variable). Competitiveness of the tender is a broad term describing how open and honest the procurement process is likely to be. Ideally, the winners of a procurement contract would not be known ahead of the procurement process, and the contracting authority would not sway the result or alter the process in favor of any particular bidder. As such, factors that limit competition can be classified as 'red flags' and used as proxies for corruption in public procurement (Fazekas, Cingolani, and Toth 2016).

Competition in public procurement depends on a number of factors such as the state of the economy and to what sector the tender pertains, but it is also a reaction to how open and fair the procurement process is perceived to be. As such, the expectation (H1) is that t**he more information institutions publish about tenders, the more competitive the bid**. Also, (H2) **the less corruption entrepreneurs perceive, the more likely they are to submit bids for public contracts**. The null hypothesis in this case is that there is not relationship between how much information is published and how competitive public tenders are. Understanding the general context of procurement in Romania could help with concrete monitoring efforts, by highlighting not only visible red flags, but also invisible ones (i.e. red flags that occur because something, such as competition, is absent).

Transparency and corruption in procurement

There is a growing body of work on transparency and corruption, yet no consensus on the dynamic and interrelation between the two. Good government literature considers transparency an integral component (Johnston 2002), assuming that the more information about a given process is available to interested parties, the less likely it is that that process will be corrupt. This has, time and again, been shown to be inaccurate, as other factors such as how reactive society is to corruption play a major part in changing corrupt behaviors (Bauhr, Czibik, and Fazekas 2017; Thomson and Alt 2019). Broadly understood as **access to information that enables informed participation and assessment of decisionmakers** (Florini 2007), transparency needs to be not only relevant to stakeholders, but acted upon by them and broader society in order to reduce corruption (Fung 2013; Thomson and Alt 2019).

Corruption, understood as **the use of public power for private gain** (Kaufmann 1997; Rose-Ackerman 1978; Mungiu-Pippidi 2015b) is a broad and elusive concept. Recent work in the field has shifted away from corruption as a standalone phenomenon and taken a more holistic approach in which the existing

social system is compared to an ideal of good governance. Corruption is not something that emerges in an otherwise perfect system, but something that has always existed as part of the system and has grown and adapted with it (Mungiu-Pippidi 2015b). How to control corruption is still one of the great questions in political science, and what role transparency cam play in hat process is still up for debate.

In their colossal Indonesian experiment, Olken (2007) found that top-down auditing is effective in reducing corruption only when the threat of being caught carries a serious risk of sanctions. Ferraz and Finan (2008) found that public pressure needs to be maintained in order for corrupt acts to be sanctioned at the ballot. This requires information relevant for the general public to be broadcast and kept salient. Relly and Sabharwal (2009) discuss transparency as a tool for economic performance, questioning whether increased access to information helps businesses and offers a more predictable outlook of the market. There are many types of transparency, and some are better at preventing corruption than others.

In public procurement, information that is available to interested parties before the bid is more valuable for competition than information published afterward (Bauhr, Czibik, and Fazekas 2017). Assessing the integrity of procurement is a painstaking and subjective endeavor, however. Attempts to monitor procurement are still being piloted at European level (through mechanisms such as Integrity Pacts for example), yet even in ideal circumstances only large and complex tenders would be targeted. Recent work in the field of integrity in procurement has focused on assessing the degree of corruption at national level by using more 'objective' indicators of corruption (Mungiu-Pippidi 2015a), that can be precisely measured over time.

Case selection

Analyses of corruption usually focus on cross-country comparisons. While there are benefits to this approach, corruption is not a unitary phenomenon. When, where and how public power is exercised for private gain differs not only across borders, but also across time and context. In the study of corruption, Romania is often presented as an example of good practice, not only because of its spectacular prosecution efforts, but also because of efforts to provide more and more relevant information. On the OpenTender.eu platform, Romania has published roughly 12.7 million tender contracts, more than twice as many as any other country, and national sources have also been active in supplying information. As such, there is an abundance of relatively new and unexplored raw data pertaining to public procurement, which could offer insight regarding integrity in one of the EU member-states struggling most with corruption.

The data

Data for the analysis was drawn from the official government data hub (data.gov.ro). All available extracts of competitive procurements made through the official Romanian procurement portal (SEAP) were downloaded. Data was cleaned by removing 'junk' entries (entries where information was scattered across multiple wrong fields or values entered were nonsensical). These accounted for less than 1% of total entries. Data on direct procurement was not included, and neither were tenders that by law do not need publishing on SEAP (such as certain types of military spending). In total, 1.165.699 contracts were included in the analysis. The following indicators were subsequently drawn from the dataset, as shown in **Annex 1**:

- ***Number of contracts per year*** – This represents the total number of procurement contracts entered in the portal each year, excluding junk entries.

- ***Missing values*** – Each contract has 38 fields of required information. Empty fields, or fields marked with "-" or other symbols were coded as missing data and counted. In 2018, SEAP was updated to SICAP, dropping one indicator (the value of a contract expressed in EUR), and changing the variable names but otherwise the same data was collected. For the sake of consistency, the indicator was also removed from the datasets prior to 2018.
- ***Percentage of missing data*** – The number of empty fields was converted into a percentage of fields empty out of the total expected value (the number of contracts multiplied by 38 fields). This indicator serves as a proxy for transparency, as it measures availability of information.
- ***Average number of competitors per contract*** – This is calculated by dividing the total number of bidders in a year to the total number of awarded contracts.
- ***Median number of bidders –*** Because a small number of highly competitive contracts can offset the accuracy of findings, the median is a more appropriate tool for measuring competition on the procurement market.
- ***Number of contracts with a single bidder -*** Single-bidding is one of the indicators used to assess and identify potential cases of state-capture (Mungiu-Pippidi 2015a) as it points to political clients setting the procurement agenda for institutions, ensuring public money is directed toward pre-determined winners. While it is possible for a tender to have specific technical or financial requirements that only one company on the market can address, such situations should be rare in a healthy and competitive environment (an ANTICORRP analysis found that less than 5% of public contracts in Germany were awarded through a non-competitive procedure) (Mungiu-Pippidi 2015a, 13).
- ***Percentage of single bids –*** This is one of the clearest red-flags of corruption, as having a large share of public tenders where only one participant bids is a sign of a non-competitive procedure.
- ***Number of winners –*** This indicator counts how many companies manage to win at least one public tender per year. One characteristic of state capture is that public tenders go to a small number of companies with political connections.
- ***Share of contracts awarded to companies that have won at least one other tender*** - This indicator was obtained by subtracting the number of companies that won at least one contract from the total number of awarded contracts. The remainder was the number of contracts that went to companies that had already won a tender. This was then expressed as a percentage of the total number of awarded contracts. In a country report on Romania, Doroftei and Dimulescu (2015) find that in 44% of cases, the number of contracts awarded to a company can be explained by single bidding or political connection. Their analysis focused on large contracts (over 1 million euro) in the construction sector, yet the findings suggest that politically connected firms win more often, reducing the opportunities for honest competitors. A large share of contracts going to firms that have won public tenders before can therefore be indicative of non-competitive practices.
- ***Length Of Advertisement Time*** - the call for tenders needs to be made a reasonable amount of time ahead of the tender assessment phase. Too short raises suspicion that only some privileged or favored bidders had time to prepare and submit an offer, while too long implies the risk that organizers were waiting for a particular bidder, for example. This data is taken from OpenTender.eu.
- ***Length Of Decision Time*** - When all participants in procurement procedure act in good faith, tenders are assessed based on their financial and technical merits, so a decision regarding winners

should take a reasonable amount of time. Too short or too long can, again, raise suspicions that the results were pre-determined.

- ***Perception of Corruption*** – This indicator, taken from the World Government Institute (WGI), measures the degree to which people believe that public power is used for private gain. The addition of a perception-based indicator is relevant for assessing the attitude of entrepreneurs toward corruption, as a proxy for the likelihood that they would decide to enter public tenders. Higher values signify perception of less corruption.
- ***Democracy*** – Previous studies have shown that, while democratic regimes might be more transparent (Hollyer, Rosendorff, and Vreeland 2011), there is no evidence that transparency by itself improves the level of democracy in a country (Lord 2006). Rather, democracy is a necessary but insufficient condition for increased transparency. Transparency norms also require certain conditions to be adopted (Grigorescu 2003). The relationship between democracy and corruption is also peculiar. Sun and Johnston (2009) find that control of corruption in a democracy such as India is no better than that in China but might actually underperform, whereas Kolstad and Wiig (2011) argue that democracies are indeed better at controlling corruption than non-democracies, particularly in consolidated regimes. Regimes with flawed democracy can perform worse at controlling corruption than consolidated authoritarian regimes, so democratic consolidation is seen as a tool for anticorruption. This indicator is taken from the Varieties of Democracy dataset concerning electoral democracy, which is seen as the most basic component of other types of democracy. Data for this indicator was not available for 2020.

OpenTender data is only available starting 2009, so earlier years are excluded from the analysis. For all OpenTender variables, scores range from 0 to 100, with higher values representing better performance (i.e. the fewer 'red flags', the higher the integrity score).

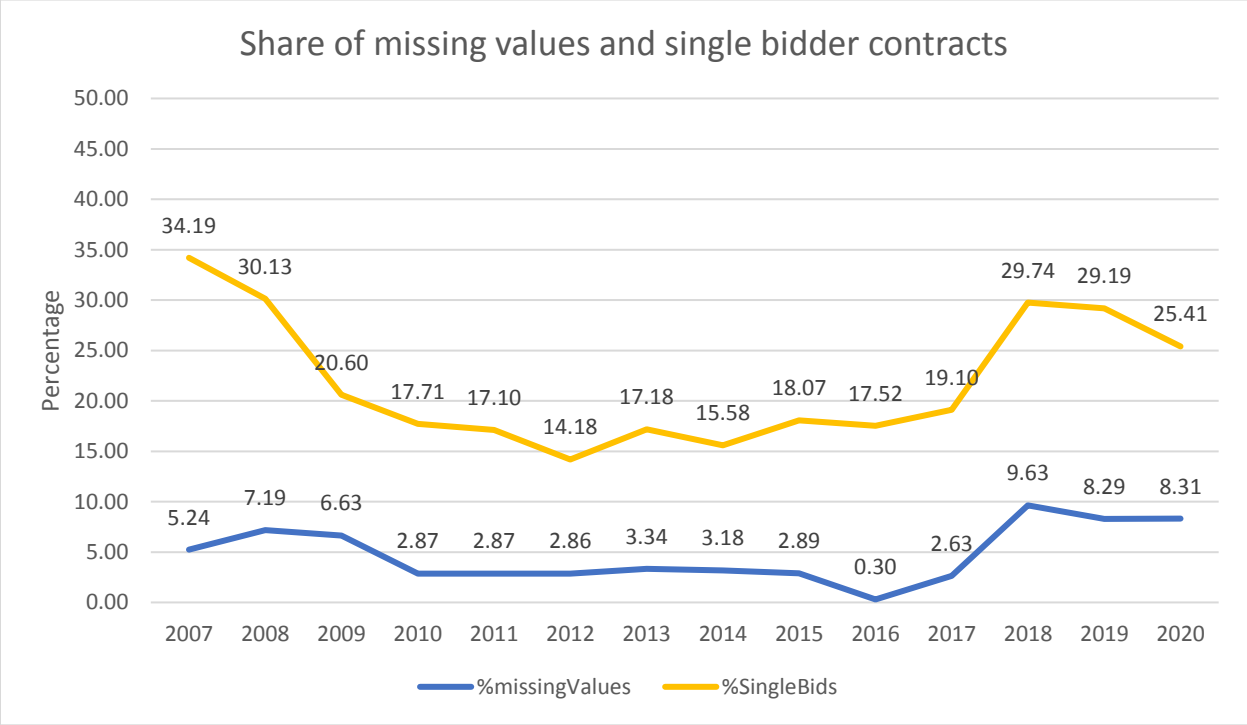
Note that these indicators do not capture all of the relevant factors that might influence the outcome of a procurement bid, yet they offer a somewhat objective measure of corruption risks in procurement, and of availability of information relevant to the process. The IP mechanism could integrate such concrete criteria as part of monitoring efforts, when analyzing not only legal and procedural compliance but also decisions of opportunity. Data is aggregated per year, so comparisons across sectors are not included in the analysis. Similarly, the value of contracts is not considered, for reasons presented in the Discussion section, so changes in red flags surrounding larger or smaller tenders are not captured in the analysis.

Findings

There is a strong positive correlation (0.88) between percentage of single bidder contracts and the share of missing values published on the official public procurement portal. This validates the claim that more information on contracts and tenders is beneficial to competition, as it allows companies to identify business opportunities easier, to prepare offers adequately addressing the contracting authority's needs, in addition to signaling fairness, which slowly builds trust in the institution. In the early years of the study, we see the share of missing data on SEAP rose, even as single bidding declined. This can be explained by confusion and lack of administrative capacity, as civil servants struggled to get familiar with the system and to internalize new norms following EU accession. By 2010, the share of missing values settled at around 3%, coinciding with a period of stability also in terms of percentage of single bidders. Worth noting is that some of the missing values were in the fields relating to number of bidders, but these were not

common enough to significantly change the figures presented here. The increase in share of single bidding coincides with an increase in the share of missing information on SEAP, which is consistent with H1.

Table 1 – Share of missing values in SEAP, and percentage of single bidder contracts per year



A correlation table for the variables included in the model is presented below. There is a moderate positive correlation between the dependent variable (share of missing values) and advertisement period, meaning that how long a call for tender lasts is tied to how much information is published on SEAP. Not surprisingly, the advertisement period also positively correlates to the share of single bidders. Care must be taken when interpreting this variable, as the scores for Advertisement Period reflect both long and short calls. The question to ask is whether calls for tender are deliberately kept short to ensure only the right bidder submits an offer or whether some other factors were at play (emergencies for instance, negligence, poor planning, etc.).

	% Single Bidders	*% Missing Values*	*Democracy*	*Advertisement Period*	*Decision Period*	*Perception of Corruption*
% Single Bidders	-	0.88	-0.25	0.56	0.12	0.14
% Missing Values	0.88	-	-0.50	0.33	0.18	-0.21
Democracy	-0.25	-0.50	-	0.32	-0.31	0.46
Advertisement Period	0.56	0.33	0.32	-	-0.66	0.07
Decision Period	0.12	0.18	-0.31	-0.66	-	0.19
Perception of Corruption	0.14	-0.21	0.46	0.07	0.19	-

The regression table for the model is shown below. The model covers a period of 10 years (2009 – 2019) for which data for all variables was available. We see that as the share of missing values increases by 1%, we can expect the share of single bidders to also increase by 1.08% (N = 14, $p < 0.001$). The model explains 95.49% of the variance observed in the dependent variable[1].

Coefficients:				
	Estimate	Std. Error	t value	Pr(>|t|)
(Intercept)	-2435.1228	624.5028	-3.899	0.0114 *
% Missing Values	1.0813	0.2403	4.500	0.0064 **
Decision Period	30.7904	12.7028	2.424	0.0598 .
Advertisement Period	24.7913	6.3387	3.911	0.0113 *
Democracy	-39.2841	26.0630	-1.507	0.1921
Perception of Corruption	13.4588	4.8066	2.800	0.0380 *

Significance codes: 0 '*' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1**				
Residual standard error: 1.09 on 5 degrees of freedom **Multiple R-squared: 0.9775, Adjusted R-squared: 0.9549** **F-statistic: 43.36 on 5 and 5 DF, p-value: 0.0004044**				

The relationship between single bidding and advertisement period is also significant, yet the substantive implications of statistical significance need further debate. Scores for the length of time a tender call was public have been consistently close to maximum for the period modelled, so assessing the real-world impact of more serious fluctuations requires a different kind of approach. A similar argument can be made for the decision period, where scores have been consistently close to the minimum of 0, meaning that in the vast majority of cases, decisions regarding winning bids are taken either very quickly, arguably without enough time to properly assess each tender, or very slowly.

Democracy does not seem to impact single bidding in any significant way. Respect for democratic institutions and the outcome of elections does not appear linked to competition on the procurement market. While factors that are be part of the functioning of democracy might play a role, it does not appear that electoral democracy itself affects the degree of competition for public tenders.

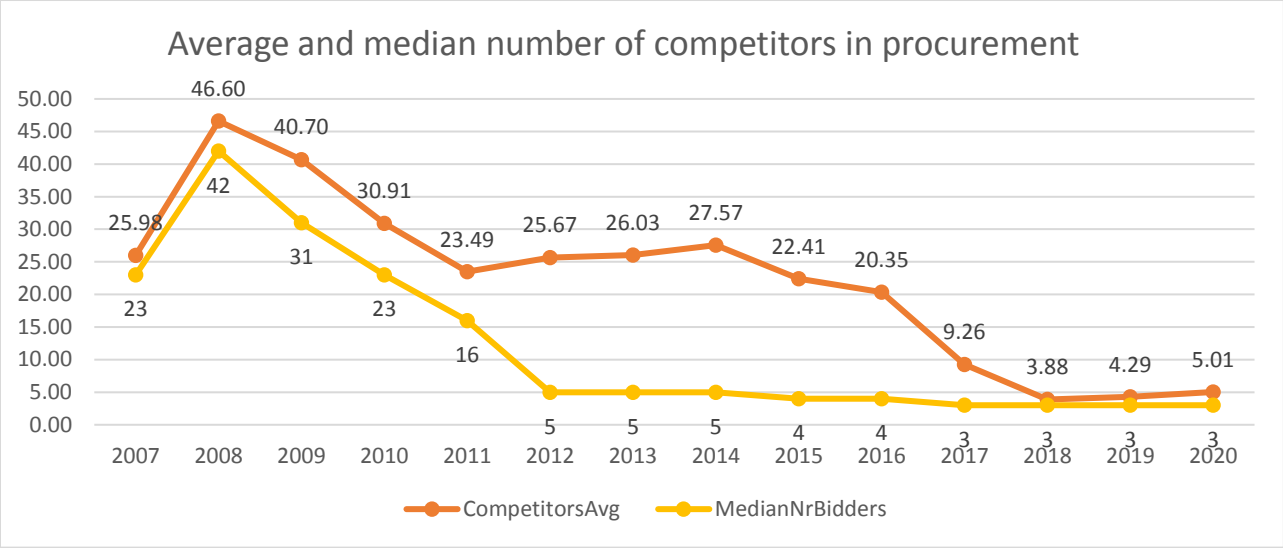
Perception of corruption however does appear to influence competition. This is a sign that entrepreneurs indeed factor the perceived fairness of procurement into their decision to submit public tender bids. As can be seen in the correlation table, there is a weak negative relationship between perception of corruption and share of missing values. This is consistent with the view that a number of factors shape entrepreneurs' perception of corruption, and availability of procurement data is among them. Improving this perception is thus a component of improving competition.

Overall, competition in public procurement seems to have declined over the previous years. The average number of competitors per contract peaked in 2008 before dipping. This is likely a result of the economic

[1] This value was much higher than my expectation. Suspecting self-correlation, I ran a different model, using a lagged variable for the percentage of single bids, and found no significant relation with any of the independent variables. There are likely other factors responsible but not yet considered.

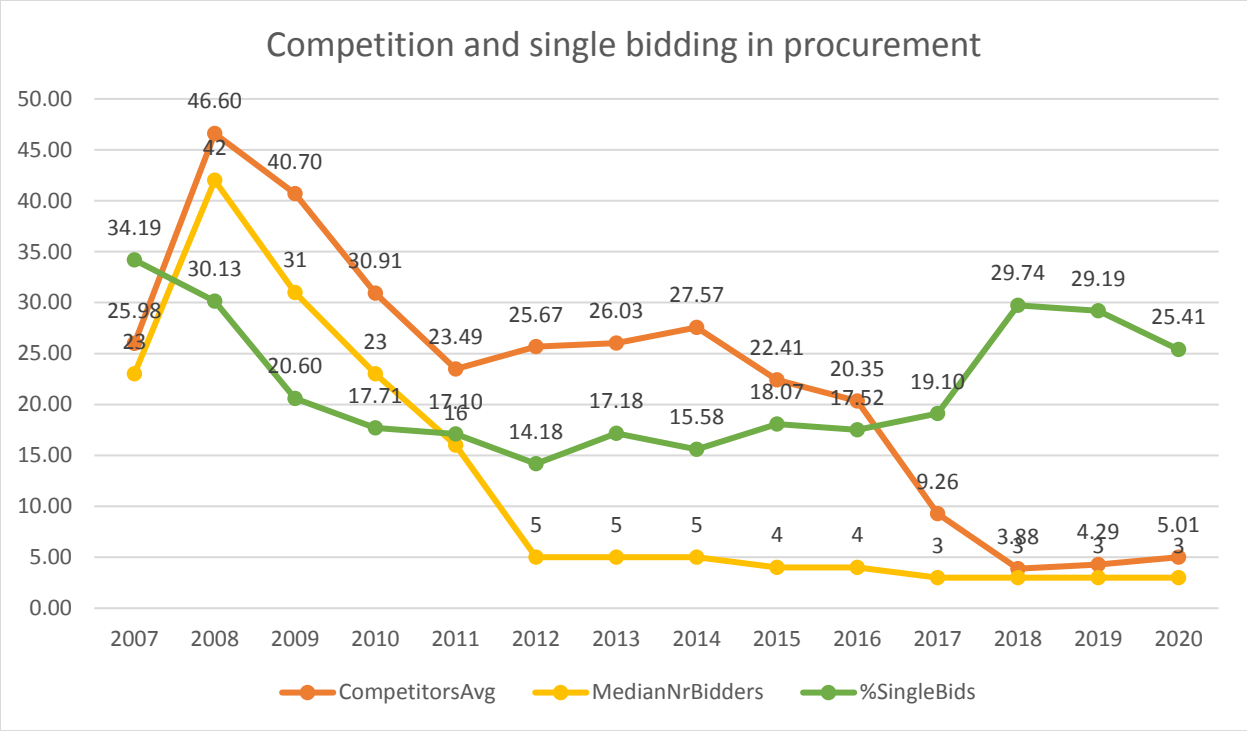
crisis that affected Romania starting with 2009. While the average numbers of competitors rebounded somewhat from the crisis after 2011, the median continued to decline, however. By 2012, half of public contracts were competed for by five or fewer companies, and by 2020 competition was between three or fewer companies for more than half of all public procurement contracts.

Table 2 – Mean and median number of competitors in public procurement bids per year



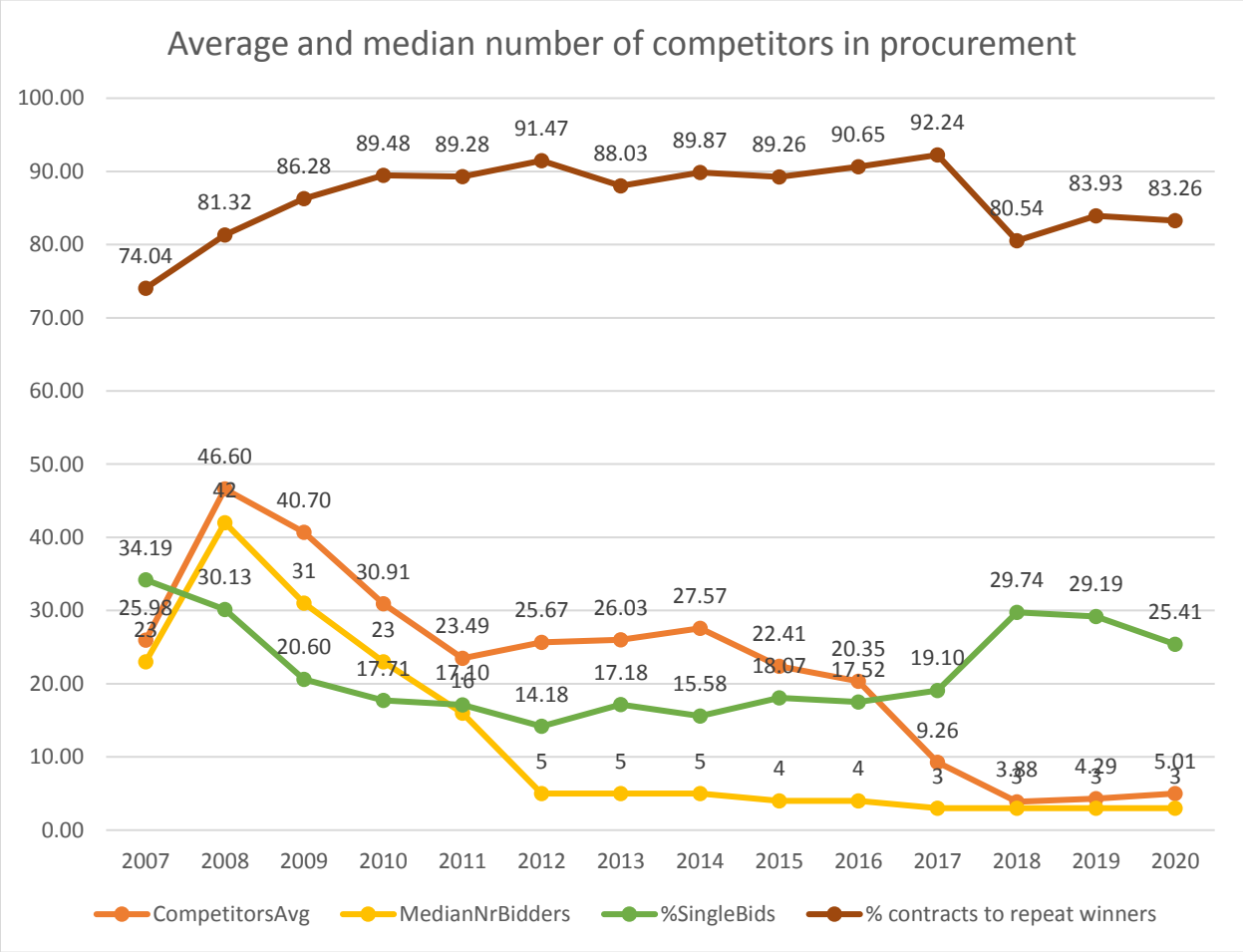
The reduction in competition for tenders over the previous years can also be seen in the dependent variables. In 2008, when both the average and the median number of competitors per contract was at its highest, nearly one third of all public contracts were awarded to single bidders. Both the peak and the reduction in single bidding over time can be explained by Romania's accession into the European union. Here there is a paradox, as one might expect that a reduction in the share of single bidder contracts would happen in a context of increasing competition. As such, as the number of competitors decreases, the percentage of single bids should increase.

Table 3 – Mean and median number of competitors in public procurement bids per year, and percentage of single bidding



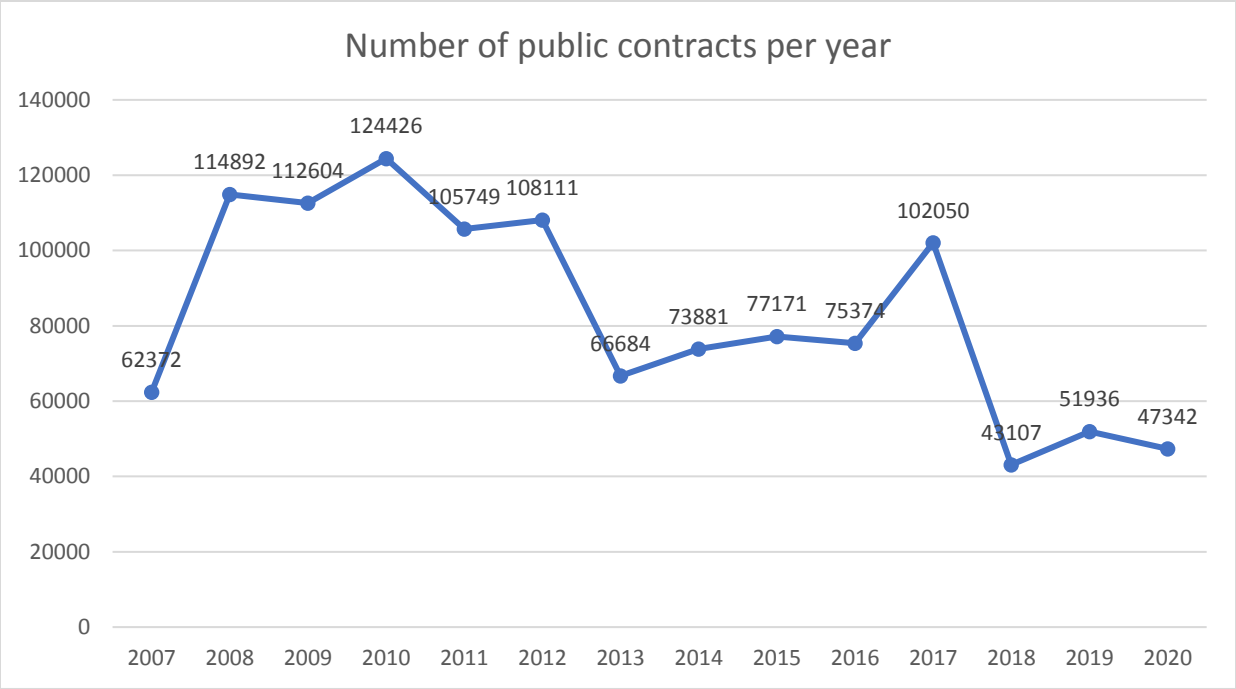
However, data from the crisis years shows that both single bidding and the median number of competitors declined until 2012. The number of bankruptcies and austerity measures did not seem to discourage bidders from submitting public tenders. On the contrary, financial problems seems to have driven surviving companies to submit more bids and be more competitive, even as the absolute number of companies declined. With fewer companies competing for contracts overall, the ratio of contracts going to repeated winners increased, from 74% in 2007 to nearly 91.5% in 2012. This scenario does not exclude the possibility that repeat winners managed to attract more contracts via political influence, especially in preparation for the 2012 elections.

Table 4 – Mean and median number of competitors in public procurement bids per year, percentage of single bidding, and percentage of contracts to repeat winners



The drop in number of competitors and the increase in repeat winners is more telling when the total number of public contracts per year is considered. The crisis years saw the most public tenders in the studied interval. The increase started in 2008, during a time of economic boom but peaked in 2010, the same year that austerity policies were enforced, reducing public sector wages by 25%, among other measures. The national policy was officially to cut back on public spending, which is reflected in the total value of procurement per year during the crisis being smaller than in subsequent years. Simply put, public authorities signed more contracts for less money, which could mean that companies were desperate for business and lowered prices significantly.

Table 5 – Number of public procurement contracts per year



The period after the crisis years is relatively stable on all measured indicators. There were no trends of improvement or worsening when it came to red flags or transparency in procurement. The status quo could be indicative either of equilibrium on the market, or of a political consensus regarding procurement. Stability in and of itself does not necessarily mean that all was well, and that there was no corruption in procurement. Rather, it indicates that the degree of corruption remained largely the same, or that changes in degree are not captured by the indicators presented here.

After 2016 we again see dramatic changes. The median number of competitors in public tenders decreased to three, and this was accompanied by a sharp decrease in the average number of bidders overall, the two values nearly converging in 2018. The share of repeat winners also declined, from 92.24% of contracts going to firms that had won another bid before that same year, down to around 83% in 2020. This indicates that a larger share of companies won only one public contract each year. Intuitively, this could mean that competition for contracts had increased, yet other indicators such as single bidding seem to suggest that other types of arrangements were at play. Worth mentioning is that the figures in 2020 do not seem to differ much from those of the previous few years, in spite of the Covid-19 pandemic, and in spite of a state of emergency spanning from March 16 to May 15, when special procurement norms were in place. These norms officially only targeted procurement aimed at combatting the spread of the virus yet reports emerged of widespread abuse wherein public authorities used the special norms to carry out other kinds of procurement. A study conducted by the Romanian Academic Society and the Government Transparency Institute as part of the Integrity Pacts initiative is set to compare procurement made during the state of emergency to that made prior and afterward, in order to reveal potentially new red flags of corruption and how widespread they are.

Single bidding had been one of the problems in the pre-crisis years yet declined and stabilized until 2017. The next section discusses the findings more in-depth, looking at their real-world implications, and

examines possible reasons for the sharp increase in the ratio of single bidder contracts, as well as the drop in data published on SEAP.

Discussion

While the economic crisis might explain the decline in both mean and median number of competitors for public tenders in the years just after 2009, it does not explain why the median value never recovered, nor the drop in recent years.

In 2016, a new law on public procurement came into effect, allowing contracts to be split into lots and relaxing some provisions of reporting in procurement procedures. These were in theory meant to aid small and medium enterprises (SMOs) by enabling them to more successfully compete in public tenders. In spite of this, the average number of competitors per contract dropped again starting with 2017, when the mean closely approached the median. This means that even contracts that had been attractive and awarded competitively in previous years were attracting fewer bidders.

One explanation for this phenomenon might be human error. Small towns, communes and some institutions often lack adequate expertise needed to properly fill in SEAP entries. Errors uncovered while cleaning the dataset include confusion regarding decimal symbols and value separators, missing values, including in the field for number of offers received, and bogus answers. However, it seems implausible that human error was widespread enough to alter the median number of reported bidders so much and so consistently.

A second explanation might be economic problems, much as those that affected competition in 2009-2011. However, GDP per capita increased in Romania from 9548 USD in 2016 to 12919 USD in 2019, and growth rates were consistently above 4% according to the World Bank, so the economic sector was expanding rather than contracting. Even if development did not affect all regions the same, given that regional disparities have increased over time ("Country Report Romania 2020" 2020), even slower-growing regions should still experience increased competition in procurement if access to tenders is open. Therefore, economic problems do not adequately explain why competition in public procurement has declined.

Another possible explanation might be electoral contests. Changes in procurement behavior might be explained by proximity to elections. There are four years in the studied interval when local and general elections took place (2008, 2012, 2016, and 2020). If elections influenced the mean and the median number of bidders in public procurement, it does not explain why the number of bidders does not return to values similar to pre-election levels. Changes noticed around elections seem to carry on for the entire term. This points to political and institutional explanations.

Changes noticed around electoral years persist until the ruling party or coalition is replaced. In the studied interval, such turnover occurred in 2008, 2012, late 2015, late 2016 and 2020. These intervals coincide with changes of patterns to procurement trends, implying that political factors such as the party in power, the leadership of the ruling party or coalition, as well as the political affiliation of mayors influences competitiveness of public tender.

The increase in average number of competitors per contract between 2011 and 2014 did not translate into a higher median value, meaning that some contracts were more competitive than others, and only

some saw increasing numbers of bidders. This might be a reflection of economic sectors rebounding at different rates and developing faster, yet even in this case one would expect to see some growth in the median. An alternative explanation is that some contracts or sectors of the economy are more vulnerable to state capture and corruption (Doroftei and Dimulescu 2015). Companies that participate in public bids and suspect underhanded arrangements might refrain from submitting bids in the future. Moreover, companies eventually learn which bids are more likely to be fair and which are best avoided, and this would explain the distribution of competitors. 'Fair' tenders attract more competitors, whereas tenders perceived as unfair see less participation. The fact that almost one third of procurement contracts since 2017 had exactly one bidder and at least half had three bidders or fewer points either to serious problems affecting the economic sector, to administrative obstacles barring access to public tenders or to political meddling and state capture.

In some areas, particularly communes and small towns, politically connected firms might be the only ones on the market, so the differences in competition might not necessarily be sectoral but geographic. A common practice in Romanian procurement is winning by rotation, wherein all of the tendering companies agree ahead of time how much each will bid to ensure that all of them offer above-market prices and that all of them take turns winning tenders. Therefore, even when more than one company takes part in the procurement process, it is still possible for there to be no genuine competition. This is especially possible when genuine competitors are barred from tendering, given that a genuine competitor would offer better prices than the rotation. In-depth analyses are required in order to uncover cases of rotation, as well as to identify the means by which genuine competitors were prevented from participating in tenders. For future monitoring efforts, the IP mechanism could consider asking why tenders with a small number of offers did not attract more bidders, as well as pay attention to potential cases winning by rotation.

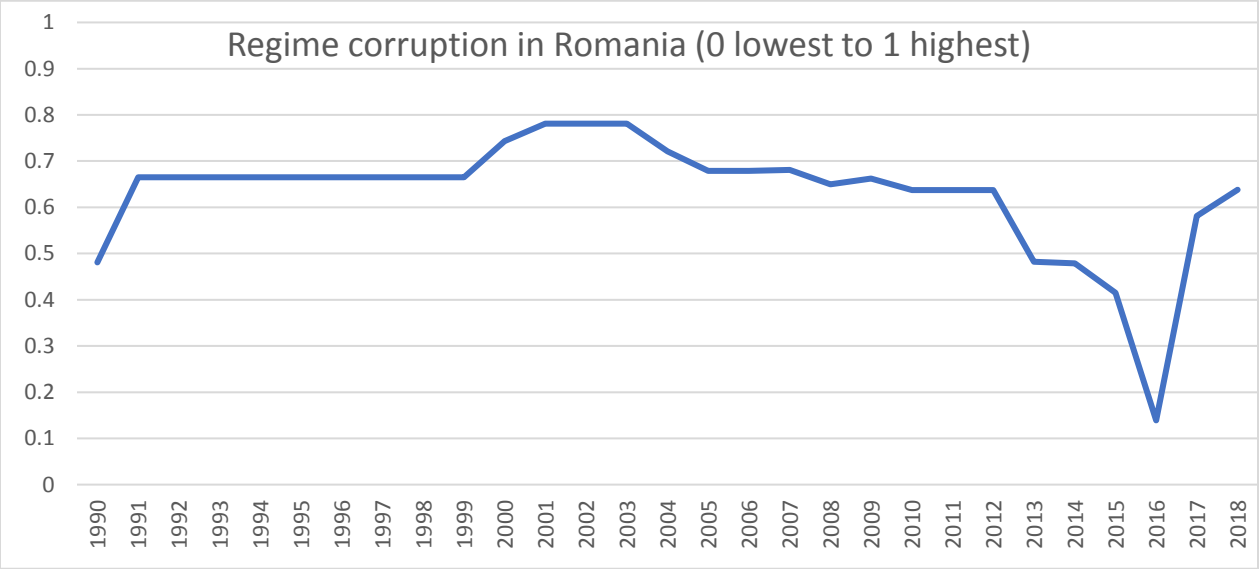
Administrative issues can also limit competition. Changes to documentation required or to procedures necessary to compete in public tenders might limit the capacity of private companies to submit valid bids. In this case, the number of recorded bids would be higher than the number of valid bids, since invalidation would occur after counting the received tender offers. One of the problems of public procurement in Romania has to do with how technical specifications are drafted. An issue that emerged while cleaning the dataset is that a large number of contracts include very diverse bundles of products or services, that few companies can provide. One concrete example refers to procurement of school lunches.

By law, primary schools and middle schools are required to provide students with daily lunches consisting of pastry, milk and apples. SEAP data shows that oftentimes all three products are bundled-up in the same call for tender. This makes it difficult for specialized producers, whose prices might be lowest, to compete. Identifying such cases is tedious, as the information provided in official sources does not always include a detailed description of the tender or CPV codes. As a result of bundling, few companies are able to submit tender offers, and the issue is particularly problematic in rural areas, where there is a lower density of firms. This creates opportunities for state capture, as decisionmakers and entrepreneurs can negotiate what the technical requirements of a procurement are going to be in order to ensure that the right offer wins. This is one of the ways in which the underhand of public procurement manages to remain hidden in spite of transparency measures meant to prevent it or bring it to the surface. Regulation does state what must be published on SEAP, but there is sufficient discretion allowed to enable contracting authorities to skip over relevant information or even to leave fields blank.

The year 2016 stands out as most transparent, with only 0.3% values missing from SEAP. This might be tied to new public procurement legislation that came into force, or to the technocratic government that held power for most of the year, as transparency was a key focal point of the cabinet. The government launched a platform for budget transparency while the newly established Ministry for Public Consultation and Civic Dialogue had a number of initiatives including application norms for the Freedom of Information Act (FOIA). This did not translate into a lower share of single bidder contracts that year, possibly because companies and entrepreneurs did not trust the government or did not believe that enacted changes would survive past the year that the technocrats were in power. Also, regional and local authorities were still largely controlled by the same political parties as before, so there was no reason to believe that local contracts would be any fairer.

The small percentage of missing values in SEAP in 2016 raises the question of why similar performances were not achieved in previous years. In other words, why did the share of missing values previously stabilize at around 3% rather than 0.3%? The technocratic government did not have the experience of political parties, nor the network of expertise available to them, so the low share of values missing might be coincidental. It is also possible that appointment of a cabinet with largely no political past, a pro-transparency agenda and no known networks of political clients to satisfy compelled institutions to reduce or suspend underhanded behavior. V-Dem data supports the idea that the government of 2016 was at least perceived to be the least corrupt in Romania's post-communist history, as the table below shows.

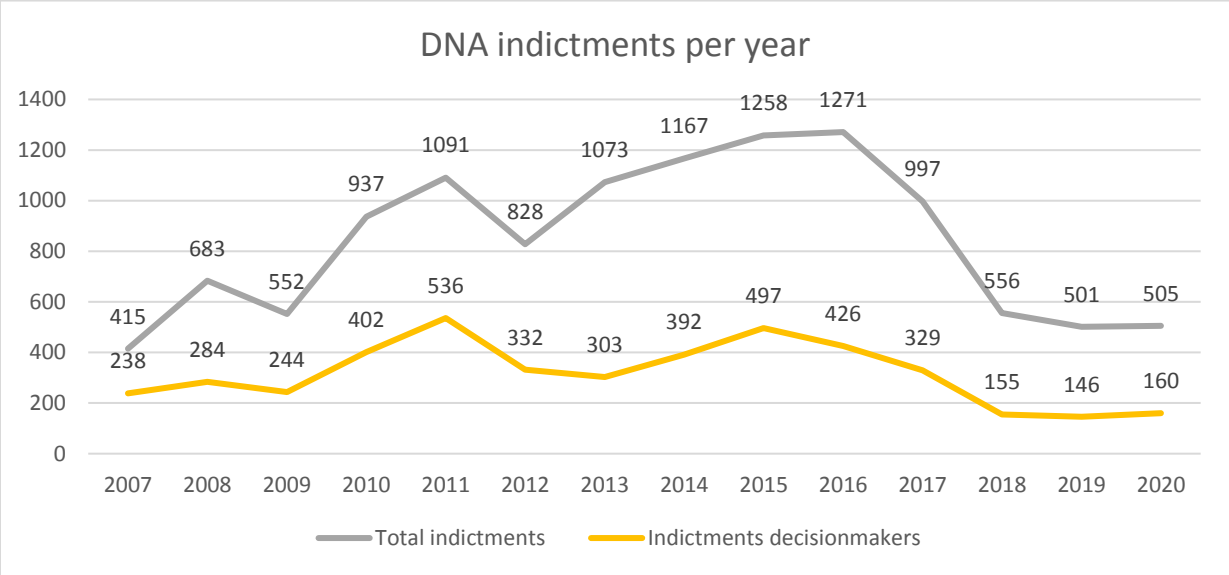
Table 6 – V-Dem score for regime corruption in Romania (1990-2018)



2016 was also the year when Romania's famed National Anticorruption Directorate (DNA) issued the most indictments for corruption, as seen in the table below. Yet, despite larger budgets in subsequent years and in spite of the increase in corruption red flags, these numbers also dropped. When fitted into the model, the number of indictments does not appear to have a significant relationship to the percentage of single bidders. Also, even in its most active years, DNA did not seem to manage to aid competition, given that the median number of competitors maintained a steady decline. Therefore, we cannot conclude that DNA's activity discouraged corruption red flags. Rather, the drop in number of indictments is either coincidental or the result of other factors that also caused the percentage of single bidder contracts to increase. However, while DNA's activity does not appear to have reduced occurrence of red flags, it is

possible that a noticeable drop in its activity following 2016 (in spite of higher budgets) contributed to heightened perception of corruption and mistrust of public authorities.

Table 7 – Number of DNA indictments for decisionmakers and total number per year



Changes after the power turnover that followed the 2016 elections raise the most concerning questions. As previously seen, the percentage of single bidder contracts sharply increased starting with 2017, as did the share of missing values. Such increases had not been seen before in the aftermath of elections. Moreover, the type of missing data also changed. One of the reasons the value of contracts was not included in the analysis is that starting with 2017, this data began missing from SEAP entries at an unprecedented rate. Until 2017, fewer than 35 contracts in total per year did not specify their currency value. This figure jumped to over 5.000 in 2017 (or 3.23% of contracts), over 27.000 in 2018 (16.66%) and over 25.000 (16.83%) in 2019. In other words, more and more SEAP entries do not reveal how much money contracting authorities paid for procurement. If legislative changes were responsible, the number would have started to increase in the latter half of 2016, considering that the new legislation on public procurement came into effect in May. However, all procurement contracts from 2016 mentioned the currency value.

Conclusions

Romania's efforts toward transparency and anticorruption since becoming an EU member-state have been remarkable yet the results from over a decade of struggle do not seem to point in the direction of systemic improvement. The prevalence of red flags of corruption seems to depend on who is in power – a sign that institutional checks and balances to guarantee fairness in public procurement are still lacking. Institutions retain sufficient discretionary power or are sufficiently free from oversight to conceal crucial details regarding public tenders without fear of reprimand.

Data drawn from official sources points to a gradual erosion of competition in public tenders, whose causes are not clearly known but which is at least partially the result of reduced access to tender information in the past few years. The government in power seems to have a particularly important role in how much information is published, as well as in what kind of information is not published. As such, we are witnessing not only fluctuations in how much corruption there seems to be in public procurement, but also changes to the type of corruption. While recent studies have focused on identifying and measuring less subjective indicators of corruption, much more research is needed to identify how the mechanisms and the locus of corruption or even the type of corruption changes and evolves over time and in reaction to external or internal factors (elections, anticorruption policies, network defectors, etc.).

References

Bauhr, Monika, Agnes Czibik, and Mihaly Fazekas. 2017. "Lights on the Shadows of Public Procurement," 40.

Doroftei, Mădălina, and Valentina Dimulescu. 2015. "Romanian Public Procurement in the Construction Sector. Corruption Risks and Particularistic Links." Country report. https://anticorrp.eu/wp-content/uploads/2015/06/D8.1.5-Romania.pdf.

Fazekas, Mihaly, Luciana Cingolani, and Bence Toth. 2016. "A Comprehensive Review of Objective Corruption Proxies in Public Procurement: Risky Actors, Transactions, and Vehicles of Rent Extraction." *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.2891017.

Florini, Ann. 2007. "Introduction:" In *The Right to Know*, 1–16. Transparency for an Open World. Columbia University Press. www.jstor.org/stable/10.7312/flor14158.4.

Fung, Archon. 2013. "Infotopia: Unleashing the Democratic Power of Transparency." *Politics & Society* 41 (2): 183–212. https://doi.org/10.1177/0032329213483107.

Grigorescu, Alexandru. 2003. "International Organizations and Government Transparency: Linking the International and Domestic Realms." *International Studies Quarterly* 47 (4): 643–67. https://doi.org/10.1046/j.0020-8833.2003.04704003.x.

Hollyer, James R., B. Peter Rosendorff, and James Raymond Vreeland. 2011. "Democracy and Transparency." *The Journal of Politics* 73 (4): 1191–1205. https://doi.org/10.1017/S0022381611000880.

Johnston, Michael. 2002. "Good Governance: Rule of Law, Transparency and Accountability," 34.

Kaufmann, Daniel. 1997. "Corruption: The Facts." *Foreign Policy*, no. 107: 114. https://doi.org/10.2307/1149337.

Kolstad, Ivar, and Arne Wiig. 2011. "Does Democracy Reduce Corruption?," 33.

Lord, Kristin. 2006. *The Perils and Promise of Global Transparency*. Vol. 22. New York: State University of New York Press. http://journals.sagepub.com/doi/10.1177/02673231070220020720.

Mungiu-Pippidi, Alina, ed. 2015a. *Government Favouritism in Europe*. 1. Aufl. The Anticorruption Report 3. Opladen: Budrich.

———. 2015b. *The Quest for Good Governance: How Societies Develop Control of Corruption*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316286937.

Rose-Ackerman, Susan. 1978. *Corruption: A Study in Political Economy*. Academic Press.

Sun, Yan, and Michael Johnston. 2009. "Does Democracy Check Corruption? Insights from China and India." *Comparative Politics* 42 (1): 1–19. https://doi.org/10.5129/001041509X12911362972719.

Thomson, Frank G., and James E. Alt. 2019. "Twenty Years of Transparency Research." *Public Sector Economics* 43 (1): 5–13. https://doi.org/10.3326/pse.43.1.2.

Annex – Table of variables and indicators used in the analysis

Year	*Number of contracts*	*Missing Values*	*% Missing Values*	*Average number of competitors*	*Median number of Bidders*	*Single bids*	*% single bids*	*Number of winners*	*% of winners*	*Democracy*	*Length of Advertisement Time*	*Length Of Decision Time*	*Perception of Corruption (WGI)*
2007	62372	124186	5,24	25,98	23	21327	34,19	16192	74,04	0,65	-	-	-0,18
2008	114892	313917	7,19	46,60	42	34622	30,13	21461	81,32	0,66	-	-	-0,14
2009	112604	283726	6,63	40,70	31	23200	20,60	15449	86,28	0,68	99,99	0	-0,26
2010	124426	135822	2,87	30,91	23	22042	17,71	13084	89,48	0,67	99,99	0,01	-0,23
2011	105749	115351	2,87	23,49	16	18080	17,10	11336	89,28	0,66	99,8	0,1	-0,21
2012	108111	117661	2,86	25,67	5	15330	14,18	9226	91,47	0,66	99,76	0,1	-0,26
2013	66684	84580	3,34	26,03	5	11455	17,18	7983	88,03	0,66	99,79	0,09	-0,19
2014	73881	89328	3,18	27,57	5	11514	15,58	7483	89,87	0,66	99,61	0,18	-0,11
2015	77171	84614	2,89	22,41	4	13946	18,07	8292	89,26	0,69	99,81	0,08	-0,02
2016	75374	8492	0,30	20,35	4	13204	17,52	7049	90,65	0,70	99,96	0,03	-0,02
2017	102050	102128	2,63	9,26	3	19490	19,10	7916	92,24	0,71	99,98	0,08	-0,03
2018	43107	157737	9,63	3,88	3	12818	29,74	8390	80,54	0,63	99,97	0,09	-0,12
2019	51936	163649	8,29	4,29	3	15158	29,19	8347	83,93	0,68	99,96	0,15	-0,13
2020	47342	149549	8,31	5,01	3	12029	25,41	7927	83,26	-	99,94	0,05	-