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Good afternoon everyone.

I am Igor Stojanovic, and I am here to present the analysis of the resilience of the Public Procurement Agency of Bosnia and Herzegovina to potential external pressure on its activities.

Governments and state-owned enterprises purchase a wide variety of goods, services, and public works from the private sector. Because public procurement accounts for the vast majority of state budgets, it carries an inherent risk of exploitation of public money. Of all government activities, public procurement is one of the most vulnerable to corruption. It can be misused both by public officials and businesses not only for illegitimate enrichment but also for the preservation of political and economic power. Weak governance in public procurement hinders market competition and raises the price paid by the administration for goods and services, impacting public expenditures and, therefore, taxpayers' resources. An effective procurement system, therefore, plays a strategic role in governments for avoiding mismanagement, waste, and abuse of public funds.

Public procurement is a key economic activity of governments that represents a significant percentage of the gross domestic product (GDP) generating significant financial flows, estimated at 1,24 billion USD or 7 percent of GDP of Bosnia and Herzegovina in 2017. According to Transparency International, estimated corruption in the public procurement of Bosnia and Herzegovina is, however, at 20 to 25 percent of costs its taxpayers approximately 300 million USD annually. This then typically passes on at the household level and translates into a higher cost of doing business and consumer costs of goods and services. Preventing corruption in procurement and its corrosive effects on the governance of Bosnia and Herzegovina is, therefore, necessary to ensure the level playing field and the overall quality of people's lives.

Gaining a better understanding of associated risks can help address the existing governance gaps. Therefore, the Centers for Civic Initiatives partnered with the Public Procurement Agency to

identify ways to carry out its activities effectively and free from external influence. The Agency is not responsible for acquisitions, which lie with the decentralized network of contracting public authorities. It is, however, one of the key of the public procurement institutions of Bosnia and Herzegovina, although some of its responsibilities are with the procurement stages, which typically do not attract much attention. Among these are activities to improve the legal framework of public procurement of Bosnia and Herzegovina and counseling of various stakeholders on public bidding.

Following the analysis of impressive 38 internal regulatory acts of the Agency and the results of more than 200 interviews with its employees and clients (businesses), our conclusions highlight the need to adopt additional measures to prevent corruption incentivized by corrosive capital particularly in these two stages of procurement precisely because that is where the most significant vulnerabilities of the Agency to corrosive capital breed.

Despite many regulatory acts in place, the Agency's actions may give rise to errors or corruption because of the lack of awareness on the part of the people involved – Agency staff and clients. This can be put right through training as far as the staff is concerned. However, corruption is more difficult to correct because it results from a deliberate desire to circumvent the rules for illegitimate gain. Ensuring that Agency officials are selected from those who meet high professional standards of knowledge, skills, and integrity is an important first step toward addressing potential external influence. While the Agency's internal acts are largely aligned with the national laws on civil service, they do not seem to be ahead of the actual needs, which are greater. Therefore, both require further regulation. For example, the hiring requirements are basic, and the vetting process for the Agency staff is entirely lacking. What is more, corruption prevention is neglected in the design and implementation of the Agency's activities to build capacities of its staff and, subsequently, also in the planning and management of its operations, which is important for its accountability. It is, therefore, not surprising that our analysis showed low awareness of potential corruption pressure among the Agency employees.

Training can also play a key role as far as the counseling on public bidding is concerned. There is, however, a need to put mechanisms that would foster a culture of integrity in the Agency in

place. This can be done by introducing efficient financial disclosure and conflict of interest policies along with corresponding sanction mechanisms, which can be extended to cover also staff post-service period. This is especially important given the fact that the Agency does not systematically collect information on advice provided by its employees verbally. Such policies can help ensure impartiality in the Agency's interactions with its clients, manage conflict of interest, and prevent situations that lead to bias and corruption.

Because corruption thrives in secrecy, connected to the issue of conflict of interest is also the question of keeping procurement transparent. Therefore, an adequate degree of transparency is in order also when it comes to the Agency's engagement with bidders. Several things can be done to ensure this, starting with publicizing the contacts made by bidders and information provided to them by the Agency staff. To encourage close co-operation between the Agency and the private sector to maintain high standards of integrity, it may be also worth exploring the possibility of setting integrity standards for the private sector and ensure they are followed.

These steps would allow for public scrutiny of their actions by civil society organizations, the business community, media, and the wider public. The concept of good governance includes mechanisms to enable effective citizen (taxpayer) engagement and enhance state accountability through transparency. Procurement with no public scrutiny can have a detrimental impact on the ability of countries to provide public services, foster competitiveness, and improve people's lives. Moreover, stealing public assets is typically not an isolated act but can facilitate corrosive capital that negatively impacts societies on a larger scale. In this regard, I would also like to suggest returning to the practice of drawing the Agency's annual report also from the procurement-related information by civil society and media, which was abandoned following the adoption of 2016 amendments to the Rulebook for Monitoring Public Procurement Processes by the Bosnia and Herzegovina Council of Ministers.

To conclude on a positive note, I would like to say a few words about the role of the Agency in the legislative process. As far as the law-making is concerned, the Agency does not have a right of legislative initiative. Though it regularly makes proposals to the Council of Ministers, it does not have any formal role in the parliamentary scrutiny and approval of the law. Because of its

mandate to improve the legal framework of public procurement of Bosnia and Herzegovina and other activities are carried out, it would only make sense if it could play a more significant role in this regard. By providing input into the work of the parliament, it could contribute to the legitimacy and success of the rules adopted. So far, the legislative processes in the area of procurement have typically boiled down to political agreements among the parties, where quality proposals for improvement of the procurement in Bosnia and Herzegovina rarely got the necessary support^[2]. Considering the possibility of engaging the Agency more actively could, therefore, lead to an improved regulation free from political bias.

Finally, let me recognize the Agency for its willingness to collaborate in this effort, especially given the rejection of such an offer from four other BiH institutions. While we are still defining the steps for moving forward, the provision of technical assistance to address the gaps I discussed earlier can be one of them. The potential success of the Agency in closing the diagnosed governance gaps can inspire other public institutions to follow its path, which, in turn, will lead to the improved rule of law, an essential aspect of attracting investment.

Thank you for your attention.

^[1] Transparency International, Bosnia and Herzegovina, Conflict of Interest and Corruption in public procurements https://ti-bih.org/wp-content/uploads/2019/07/Policy-2_Sukob-interesa-i-korupcija-u-javnim-nabavkama.pdf

^[2] More info at <https://ti-bih.org/wp-content/uploads/2016/10/Analiza-novog-Zakona-o-javnim-nabavkama-BiH-i-prate%C4%87ih-podzakonskih-akata-maj-2015.pdf>