


INNOVATIVE INTEGRITY PACTS IN SPAIN: ENHANCING PUBLIC SECTOR ANTI-CORRUPTION LAWS AND PRACTICES

Esteban Arribas Reyes 

University of Alcalá 

Dora Cristina Ribeiro Cabete 

Universidade Nova de Lisboa 

José Noronha Rodrigues 

Universidade Nova de Lisboa 

Contextualization: The detriments stemming from improper practices in public procurement, encompassing illicit acts such as bribery, illegal commissions, collusion, fraud, facilitation of payments, or manipulation of bidding processes, represent a complex challenge that necessitates a collaborative response from multiple stakeholders. Integrity Pacts emerge as an innovative solution with substantial potential in this context, posing both a challenge and a complement to law and public policy formulation and implementation.

Objectives: The objective of this research is to present the knowledge gained from the experience of four pilot integrity pacts implemented in Spain between April 2017 and January 2019.

Method: The structure of this text follows the following scheme: first, a literature review on the extent and advantages of Integrity Pacts (IPs) as a collective action tool against corruption in public procurement is conducted. Subsequently, the relationship between corruption and public procurement in the context of Spain is analyzed. Next, a detailed comparison of the implementation process of the four IPs in Spain is carried out. Finally, the conclusions offer key ideas and practical advice on the path to sustainable change beyond the impacts.

Results: This paper presents the results of Spain's four Integrity Pacts, highlighting the collaboration between civil society, government, and businesses to enhance decision-making processes. In its conclusions, this paper presents key ideas and practical tips for assessing and improving the impact of Integrity Pacts, particularly with a view to achieving lasting change.

Keywords: Corruption; Integrity pacts; Public procurement; Spain; Transparency.

PACTOS DE INTEGRIDADE INOVADORES EM ESPANHA: REFORÇAR AS LEIS E PRÁTICAS ANTICORRUPÇÃO DO SETOR PÚBLICO

Contextualização: Os prejuízos resultantes de práticas impróprias nos contratos públicos, que englobam actos ilícitos como suborno, comissões ilegais, conluio, fraude, facilitação de pagamentos ou manipulação de processos de concurso, representam um desafio complexo que exige uma resposta colaborativa de várias partes interessadas. Os Pactos de Integridade surgem como uma solução inovadora com um potencial substancial neste contexto, constituindo simultaneamente um desafio e um complemento à formulação e aplicação da legislação e das políticas públicas.

Objetivos: O objetivo desta investigação é apresentar os conhecimentos adquiridos com a experiência de quatro pactos de integridade piloto implementados em Espanha entre abril de 2017 e janeiro de 2019.

Método: A estrutura deste texto segue o seguinte esquema: em primeiro lugar, é feita uma revisão da literatura sobre a extensão e as vantagens dos Pactos de Integridade (PI) como instrumento de ação colectiva contra a corrupção nos contratos públicos. Posteriormente, é analisada a relação entre a corrupção e os contratos públicos no contexto de Espanha. Em seguida, é feita uma comparação pormenorizada do processo de implementação dos quatro PI em Espanha. Por último, as conclusões oferecem ideias-chave e conselhos práticos sobre o caminho para uma mudança sustentável para além dos impactos.

Resultados: Este documento apresenta os resultados dos quatro Pactos de Integridade de Espanha, destacando a colaboração entre a sociedade civil, o governo e as empresas para melhorar os processos de tomada de decisão. Nas suas conclusões, este documento apresenta ideias-chave e sugestões práticas para avaliar e melhorar o impacto dos Pactos de Integridade, especialmente com vista a alcançar uma mudança duradoura.

Palavras-chave: Corrupção; Pactos de integridade; Contratos públicos; Transparência; Espanha.

PACTOS DE INTEGRIDAD INNOVADORES EN ESPAÑA: MEJORA DE LAS LEYES Y PRÁCTICAS ANTICORRUPCIÓN DEL SECTOR PÚBLICO

Contextualización: Los perjuicios derivados de las prácticas indebidas en la contratación pública, que abarcan actos ilícitos como el soborno, las comisiones ilegales, la colusión, el fraude, la facilitación de pagos o la manipulación de los procesos de licitación, representan un reto complejo que requiere una respuesta colaborativa de múltiples partes interesadas, incluidos los gobiernos, las empresas y la sociedad civil. Los Pactos de Integridad surgen como una solución innovadora con un potencial sustancial en este contexto, planteando tanto un reto como un complemento a la formulación y aplicación de leyes y políticas públicas.

Objetivos: El objetivo de esta investigación es presentar los conocimientos adquiridos a partir de la experiencia de cuatro pactos de integridad piloto implementados en España entre abril de 2017 y enero de 2019.

Método: La estructura de este texto sigue el siguiente esquema: en primer lugar, se realiza una revisión bibliográfica sobre el alcance y las ventajas de los Pactos de Integridad (PI) como herramienta de acción colectiva contra la corrupción en la contratación pública. Posteriormente, se analiza la relación entre corrupción y contratación pública en el contexto de España. A continuación, se realiza una comparación detallada del proceso de implementación de los cuatro PI en España. Por último, las conclusiones ofrecen ideas clave y consejos prácticos sobre el camino hacia un cambio sostenible más allá de los impactos.

Resultados: Este documento presenta los resultados de los cuatro Pactos de Integridad de España, destacando la colaboración entre la sociedad civil, el gobierno y las empresas para mejorar los procesos de toma de decisiones. En sus conclusiones, este documento presenta ideas clave y consejos prácticos para evaluar y mejorar el impacto de los Pactos de Integridad, especialmente con vistas a lograr un cambio duradero.

Palabras clave: Corrupción; Pactos de integridad; Contratación pública; Transparencia; España.

INTRODUCTION

As Miranzo Díaz¹ noted:

The eradication of corruption in public activities within the European Union (EU) has been a priority of community public policy for several years, as indicated in the Horizon 2020 strategy. However, it remains a malady that hampers the functioning of public institutions and the economic system of countries.

The European challenges in combating corruption increasingly demand collective action between the State and civil society. The formulation and implementation of public policies are no longer the exclusive prerogative of public administration. Instead, civil society could play a significant role in public policies, including procurement practices. Although there are examples of civil society participation in some public procurement frameworks, its potential remains underexplored or even neglected concerning specific phases or objectives of public procurement. While specific provisions have been enacted to ensure effective participation in public procurement to enhance transparency, civil society's involvement in procurement processes could help foster sustainability. This paper shows how and when (i.e., at what phase of public procurement) civil society participation is/ can be provided and for what purpose(s), with a particular focus on the experience of integrity pacts in Spain. The integration of novel anti-corruption tools into the legal framework from a multidisciplinary perspective is of particular interest.

The works of Olson² and Ostrom³, which lay the conceptual and theoretical foundations of collective action, have significantly influenced the impetus for new approaches aimed at preventing corruption and promoting values such as integrity, transparency, accountability, efficiency, and competitiveness in public procurement procedures by supranational organizations like the European Union, international bodies like the United Nations and the Organization for Economic Cooperation and Development (OECD), and non-governmental organizations like Transparency International and the Basel Institute on Governance.

In this context, it is worth highlighting the suggestions presented in the United Nations Global Compact report titled “Uniting Against Corruption: A Playbook on Anti-

¹ MIRANZO DÍAZ, Javier. The Necessary Paradigm Shift in Approaching Corruption in European Public Procurement: Proposals for Systematization. **Revista General de Derecho Administrativo**, Madrid/Spain, v. 51. p. 01-44, May. 2019. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3556964. Access: 01 jun. 2024.

² OLSON, Mancur. **The Logic of Collective Action: Public Goods and the Theory of Groups**. Harvard: Harvard University Press, 1965. Retrieved from: http://commres.net/wiki/_media/olson.pdf. Access: 01 jun. 2024.

³ OSTROM, Elinor. **Governing the Commons: The Evolution of Institutions for Collective Action**. New York: Cambridge University Press, 1990. DOI: <https://doi.org/10.1017/CBO9780511807763>.

Corruption Collective Action,” published in 2021⁴. This report emphasizes the importance of all involved parties working together to effectively address corruption, promote business integrity, and contribute to establishing a global economy characterized by transparency. So, as mentioned H.E. Volkan Bozkir, President of the 75th Session of the UN General Assembly “[corruption] is a global issue that cannot be tackled by one country or one actor alone. It requires a multilateral response that takes the form of a whole-of-society approach. All stakeholders must act collectively to tackle corruption effectively⁵.

Crimes such as bribery, corruption, complicity, fraud, facilitation of payments, or manipulation of bidding processes constitute a global challenge that exceeds the capacity of a single country or entity to address it. A collaborative response at the multilateral level involving the entire society, which provides information for the improvement of law and decision-making processes, is necessary. In this framework, integrity pacts represent an innovative solution in the fight against corruption in public procurement.

An integrity pact is configured as a collective action agreement facilitated and supervised by civil society. This agreement is established between a government entity responsible for public procurement and the companies participating in tenders. Its purpose is to commit both parties to follow a procurement process characterized by transparency and to avoid any practice that could be considered corrupt. These agreements create an environment conducive to the efficient use of public resources and promote competition by improving equal access to the public procurement market.

Transparency International conceived integrity pacts in the 1990s and has since led various initiatives to disseminate and implement them. This tool has been applied in multiple nations with varied results, from pioneering experiments in countries like Ecuador or Colombia in the 1990s to more recent pilot programs of integrity pacts in the European Union during the period from 2016 to 2021.

The purpose of this research is to present the knowledge gained from the experience of four pilot integrity pacts implemented in Spain between April 2017 and January 2019. These pacts were signed by various entities, including the Madrid City Council (AYTO MAD), the Valencian Generalitat (GVA), and the Junta of Communities of Castilla-La Mancha (JCCLM), with the latter being the protagonist of two Integrity Pacts. These initiatives were promoted by the organization Transparency International - Spain (TI-Spain). The fundamental question this article seeks to address is how we can evaluate the effectiveness of integrity pacts as an approach to combating corruption that can overcome key challenges in its

⁴ UNITED NATIONS GLOBAL COMPACT. **Uniting Against Corruption:** A playbook on anti-corruption collective action. Nova York: United Nations, 2021. Retrieved from: <https://encurtador.com.br/ZL13D>. Access: 01 jun. 2024.

⁵ Volkan Bozkir in UNITED NATIONS GLOBAL COMPACT. **Uniting Against Corruption...** p. 3.

implementation and lead to sustainable change.

The reflection guiding the evaluation of the impact and utility of the Integrity Pacts in these four experiences focuses on analyzing the results achieved. It aims to determine whether the implementation of these pacts in Spain contributed to improving specific corruption situations. What was their real contribution? Did the changes generated as a result of applying this instrument endure over time, or were they situational and temporary? Additionally, the question arises of whether a different implementation approach could offer new useful elements in this direction.

As will be understood throughout the text, the effectiveness of an Integrity Pact should not be evaluated solely based on the successful execution of a particular project. Rather, it should be considered in terms of whether administrators effectively implemented a more transparent form of decision-making. However, it is important to highlight that, in most cases, this impact tends to be temporary and does not lead to sustainable long-term change.

Collective impact initiatives that encompass a wide range of activities, strategies, and actors collaborating in diverse and complementary ways have the potential to generate structural changes in highly complex systems. For this reason, it is essential to carry out a deeper analysis to assess the effectiveness of this tool in terms of the sustainable changes it has achieved or could achieve.

This work provides key insights and practical advice for conducting a thorough analysis and measuring the capacity of these initiatives to drive sustainable changes.

To evaluate the effectiveness of this tool, it is essential that impact analyses of collective actions adopt a holistic perspective and seek sustainable changes. An effective analysis of these collective actions requires that, instead of attempting to isolate the effects and results of a single intervention, the progress and impact of the entire change-generation process be examined. This evaluation process should encompass various aspects, such as the context in which the initiative is carried out, the quality and effectiveness of its structure and operations, how it affects the systems influencing the addressed problem, and the degree of progress towards achieving the initiative's final objective.

The structure of this text follows the following scheme: first, a literature review on the extent and advantages of Integrity Pacts (IPs) as a collective action tool against corruption in public procurement is conducted. Then, the methodology employed in the analysis is presented. Subsequently, the relationship between corruption and public procurement in the context of Spain is analyzed. Next, a detailed comparison of the implementation process of the four IPs in Spain is carried out, focusing on the most significant moments in the decision-making processes of the various involved actors, from the debate on the legal 'fit' of the tool to the political opportunity and decision-making processes. Finally, the conclusions offer key

ideas and practical advice on the path to sustainable change beyond the impacts.

1. INTEGRITY PACTS AS A COLLECTIVE ACTION TOOL IN THE FIGHT AGAINST CORRUPTION IN PUBLIC PROCUREMENT

This work starts from the premise that, as Hugh Heclo warned: "When institutions fail, it is real human beings who fail, not mental abstractions"⁶.

In relation to corruption and its solutions, it is interesting to highlight, as Marquette and Peiffer⁷ remind us, that various authors like Persson, Rothstein, and Teorell⁸, Mungiu-Pippidi,⁹ Bauhr and Nazirite's,¹⁰ and Rothstein¹¹ have argued that in certain contexts, it is appropriate to consider corruption as a collective action problem. Especially in situations of systemic corruption, viewing corruption as an agent-principal problem does not fully encompass the nature of the problem. A classic collective action problem, as described by Mancur Olson¹² in 1965, manifests when, despite it being beneficial for all individuals in a group or across multiple groups to act collectively towards a common goal, group members do not do so. Instead, they choose not to contribute at all or limit their contributions, ensuring that the collective benefit is not fully achieved.

In this work, we analyze solutions to corruption problems that could occur in the field of public procurement. According to Richard P. Nielsen,

⁶ HECLO, Hugh. **Thinking Institutionally**. Ed. Estado y Sociedad. Madrid: Paidós, 2010. p. 78.

⁷ MARQUETTE, Heather; PEIFFER, Caryn. **Corruption and Collective Action**. Research Paper 32. Birmingham: The Developmental Leadership Program (DLP), International Development Department, School of Government and Society, College of Social Sciences, University of Birmingham, 2015. Retrieved from: <https://www.u4.no/publications/corruption-and-collective-action.pdf>. Access: 01 jun. 2024. p. 2.

⁸ PERSON, Anna; ROTHSTEIN, Bo; TEORELL, Jan. Why Anticorruption Reforms Fail - Systemic Corruption as a Collective Action Problem. **Governance: An International Journal of Policy, Administration, and Institutions**, v. 26, n. 3, p. 449-471, Jul. 2013 Retrieved from: https://exed.annenberg.usc.edu/sites/default/files/Persson_et_al-2013-Governance.pdf. Access: 01 jun. 2024.

⁹ MINGIU-PIPPIDI, Alina. Contextual Choices in Fighting Corruption: Lessons Learned **Norwegian Agency for Development Cooperation**, Noruega, p. 01-157, Jul. 2011. Retrieved from: <https://ssrn.com/abstract=2042021>. Access: 01 jun. 2024.

¹⁰ BAUHR, Monika; NASIRITOUSI, Naghmeh. Why pay bribes? Collective action and anticorruption efforts. **QoG Working Paper Series**, University of Gothenburg, v. 18, p. 02-23, Dec.2011. Retrieved from: <https://x.gd/0mM5m>. Access: 01 jun. 2024; BAUHR, Monika; NASIRITOUSI, Naghmeh. Does corruption cause aid fatigue? **QoG Working Paper Series**, University of Gothenburg, v. 17, p. 02-20, Dec. 2011. Retrieved from: <https://x.gd/WGcb7>. Access: 01 jun. 2024.

¹¹ ROTHSTEIN, Bo. Anti-Corruption: The Indirect "Big Bang" Approach. **Review of International Political Economy**, London, v. 18, p. 228-250, Jun. 2011. Retrieved from: <https://doi.org/10.1080/09692291003607834>. Access: 01 jun. 2024.

¹² OLSON, Mancur. **The Logic of Collective Action**.

Corruption in institutional settings and complex decision-making processes like public procurement brings together a series of heterogeneous actors who need to interrelate through deferred reciprocity, indirect mutuality, and the concealment of payments. Olsonian collective action problems not only affect anti-corruption mobilization but also their opposite: corrupt exchanges.¹³

It could well apply to corrupt behaviors in the public procurement of democratic societies what Villoria Mendieta and Jiménez-Sánchez¹⁴ recalled:

It is what Elinor Ostrom calls a 'second-order collective action dilemma' (1998). According to this theory, rational actors are highly dependent on shared expectations about how others will act. Therefore, if there is a belief that most other social actors will cheat or play dirty, we all have incentives to act corruptly or improperly, as acting honestly will lead to unnecessary losses and the reinforcement of those who take advantage of the good faith of some for their immoral benefit.

When the concept of collective action is put into practice, it is polymorphic. It can be used as a tool to achieve objectives in contexts that may vary depending on the identified needs or the circumstances faced by the interested parties with the desire to act collectively.

Regarding corruption and integrity management¹⁵ from a collective action approach, we are also interested in highlighting the reflections of Professor Jiménez Asensio who warns us that "...corruption is not only combated with repressive measures but through preventive measures¹⁶". Integrity Pacts serve as an integrity management tool "...more a path

¹³ NIELSEN, Richard P. Corruption Networks and Implications for Ethical Corruption Reform. **Journal of Business Ethics**, vol. 42, n. 2 p.125-149, Jan. 2003. Retrieved from: <https://link.springer.com/content/pdf/10.1023/A:1021969204875.pdf>. Access: 01 jun. 2024. See also: LAMBSDORFF, Johann Graf. Making Corrupt Deals: Contracting in the Shadow of the Law. **Journal of Economic Behavior & Organization**, vol. 48, n. 3, p. 221-241, Jul. 2002. Retrieved from: [https://doi.org/10.1016/S0167-2681\(01\)00217-7](https://doi.org/10.1016/S0167-2681(01)00217-7). Access: 01 jun. 2024. OLSON, Mancur. **The Logic of Collective Action...**; FAZEKAS, Mihály; TOTH, István Janos; KING, Lawrence Peter. An Objective Corruption Risk Index Using Public Procurement Data. **European Journal on Criminal Policy and Research**, vol. 22, n. 3, p.369-397, Apr. 2016. Retrieved from: <https://doi.org/10.1007/s10610-016-9308-z>. Access: 01 jun. 2024; FAZEKAS, Mihály; CINGOLANI, Luciana; TÓTH, Bence. Innovations in Objectively Measuring Corruption in Public Procurement. In: A. Helmut, M. Haber; M.A. Kayser (Eds.). **Governance Indicators: Approaches, Progress, Promise**. Inglaterra: Oxford University Press, 2018, p. 154-185. Retrieved from: <https://doi.org/10.1093/oso/9780198817062.003.0007>. Access: 01 jun. 2024; FAZEKAS, Mihály; KOCSIS, Gabor. Uncovering High-Level Corruption: Cross-National Objective Corruption Risk Indicators Using Public Procurement Data. **British Journal of Political Science**, Cambridge University Press, vol. 50, n. 1, p. 155-164, Jan. 2020. Retrieved from: <https://doi.org/10.1017/S0007123417000461>. Access: 01 jun. 2024.

¹⁴ VILLORIA MENDIETA, Manuel; JIMÉNEZ-SÁNCHEZ, Fernando. La corrupción en España (2004-2010): datos, percepción y efectos. **Revista Española De Investigaciones Sociológicas**, n. 138, p. 109-134, Feb. 2024. Retrieved from: <https://doi.org/10.5477/cis/reis.138.109>. Access: 01 jun. 2024.

¹⁵ ARRIBAS REYES, Esteban. Pactos de integridad. **EUNOMÍA - Revista en Cultura de la Legalidad**, Universidad Carlos III de Madrid, n. 17, p. 328-348, Sep. 2019. Retrieved from: <https://doi.org/10.20318/eunomia.2019.5037>. Access: 01 jun. 2024.

¹⁶ JIMÉNEZ ASENSIO, Rafael. **Cómo prevenir la Corrupción: Integridad y Transparencia**. Madrid: Los Libros de la Catarata, 2017. p. 13.

than a goal¹⁷". Integrity Pacts are a clear example of preventive collective action.

Additionally, it is interesting to reflect on the professors Gimeno Feliú, Moreno Molina *et al.*,¹⁸ regarding transparency as one of the elements of integrity, which is the essential object of this analysis:

Transparency in public procurement is a primary objective in the reform of public contract legislation. Without transparency, there is no real competition, and the execution of works, the acquisition of goods, or the provision of services becomes more costly for the public treasury and exposes a significant deviation of public resources. In times of crisis, these effects are much more visible, causing evident citizen disaffection.

Finally, many early studies (e.g., Schatz¹⁹) show that traditional accountability mechanisms do not work as intended, resulting in ineffective control of corruption. For these reasons, the demand for the adoption of social accountability, a concept advocating for citizens' engagement (largely through civil society movements) in the fight against corruption to demand accountability, has increased.

Integrity Pacts can be a holistic solution, as when used effectively, they facilitate the collection of information and data in a complementary manner, allowing issues to be addressed preventively and in real time. Ultimately, they constitute an important learning tool to prevent and improve future public procurement processes in societies seeking a quality democracy based on empirical evidence.

2. METHODOLOGY

To analyze the experiences related to Integrity Pacts in Spain, a comparative strategy combined with qualitative analysis techniques has been chosen. This will allow conclusions to be drawn based on empirical data, as proposed by Todd Landsman in his 2017 work.

This comparative analysis focuses on the search for consistency between the objectives set by the TI-Spain Integrity Project and the results achieved at two levels of

¹⁷ JIMÉNEZ ASENSIO, Rafael. **Cómo prevenir la Corrupción**: Integridad y Transparencia... p. 15.

¹⁸ OBSERVATORIO DE CONTRATACIÓN PÚBLICA. **Propuesta de modificaciones y mejora al Proyecto de Ley de Contratos del Sector Público**, por el que se transponen al ordenamiento jurídico español las Directivas del Parlamento Europeo y del Consejo, 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014 (Publicado en el Boletín Oficial de las Cortes Generales, Congreso de los Diputados 2 de diciembre de 2016). España, 2017. Retrieved from: <https://x.gd/q2Hfw>. Access: 01 jun. 2024.

¹⁹ SCHATZ, Florian. Fighting Corruption with Social Accountability: A Comparative Analysis of Social Accountability Mechanisms' Potential to Reduce Corruption in Public Administration. **Public Administration and Development**, vol. 33, n.3, p. 161–174, Aug. 2013. Retrieved from: <https://doi.org/10.1002/pad.1648>. Access: 01 jun. 2024.

decentralized government, namely the local and regional levels, where the Integrity Pacts were implemented.

The fundamental question this article seeks to address is how we can evaluate the effectiveness of Integrity Pacts as an approach to combating corruption that has the capacity to overcome key challenges in its implementation and lead to sustainable change.

The approach guiding the consideration of the impact and effectiveness of Integrity Pacts in these four experiences focuses on analyzing the results achieved. It seeks to determine whether the implementation of the Integrity Pacts in Spain contributed to improving specific corruption situations. It examines what contributions were made, whether the changes generated as a result of applying this instrument endured over time, or whether they were temporary and situational impacts. Additionally, it questions whether a different implementation approach could provide new elements for advancing in this direction.

To gain a more comprehensive understanding of the decision-making processes that occurred throughout the chronology of the Integrity Pacts, it is essential to follow the applied public policy analysis approach. This will allow a detailed examination of how decisions were made at each stage of the process and a better understanding of their evolution over time: Problem and agenda formation; Adoption of solutions and courses of action; Budget and resources; Implementation of the monitoring process.

The results of this study are based on an exhaustive analysis of various resources, including reports from the monitors and the TI-Spain Integrity Project. Additionally, they are complemented by more than 20 semi-structured quality interviews conducted a year after the project's completion. These interviews were conducted with public administration officials involved in its management at different hierarchical levels, with the monitors who supervised the process, as well as with external experts who provided advice during the process.

The Integrity Pacts were implemented in various procurement sectors, encompassing both services and construction. They were also carried out at different levels of government, including the regional and local levels:

Madrid City Council (1 Integrity Pact): Support for the management of Telephone and In-Person Attention through the Citizen Attention Channels of Línea Madrid.

Castilla-La Mancha (2 Integrity Pacts): Construction of a gymnasium at the rural center "Miguel Delibes" in Mariana (Cuenca). Contracting of technical assistance for the replacement of the Special Education Center "Cruz de Mayo" in Hellín (Albacete).

Valencian Generalitat (1 Integrity Pact): Construction of the Infant and Primary Education Center (CEIP) in El Rajolar de Aldaia (Valencia).

3. CONTEXT: PUBLIC PROCUREMENT AND CORRUPTION IN SPAIN

In 1978, Spain became a liberal democracy and joined the European Union in 1986. Regarding the issue of corruption in Spain, particularly in public procurement, it is important to note that in 2015, before the implementation of the Integrity Pacts, the National Commission for Markets and Competition (CNMC), the market regulator in Spain, published a report revealing an annual loss of 48 billion euros, equivalent to 4.5% of the country's Gross Domestic Product (GDP), due to corruption and inefficiencies in public procurement processes²⁰.

The challenges began with a lack of transparency in the selection procedures, the presence of collusive practices or agreements between companies, and continued with the lack of transparency and control, often resulting in deadline extensions or contract modifications without adequate justification. Even the European Commission urged the Spanish Government to improve transparency in public procurement systems, considering that control mechanisms both before and after the bidding were “insufficient”²¹.

At the time the Integrity Pacts were designed and implemented in Spain, it is important to note that the Public Sector Contracts Law 9/2017²² had not yet been approved. This law incorporated into the Spanish legal system the Directives of the European Parliament and the Council 2014/23/EU and 2014/24/EU issued on February 26, 2014,²³ related to public procurement.

It is relevant to note that neither the previous regulation nor the new one explicitly mentions or prohibits this type of monitoring and control tools, such as Integrity Pacts. This suggests that, at least from a legal perspective, there were no formal obstacles to their implementation in that context.

In the context of the Spanish experience, the analysis of the most significant corruption scandals reveals the close connection between fraud in public procurement and the irregular financing of political parties. This irregular financing is carried out through commissions that contractors later transfer to the public treasury through inflated prices and

²⁰ CNMC - Comisión Nacional de los Mercados y la Competencia. **Memoria 2015**. Espanha: CNMC, 2016. Retrieved from: <https://www.cnmc.es/file/172251/download>. Access: 01 jun. 2024.

²¹ CORRETTA TORRENS, Mercè. The most significant changes to Public Procurement for Spain's Local Councils. **Revista Catalana de dret públic**, vol. 57, p.17-31, Dec. 2018. Retrieved from: <https://doi.org/10.2436/rcdp.i57.2018.3163>. Access: 01 jun. 2024.

²² ESPANHA. Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público, por la que se transponen al ordenamiento Jurídico español las Directivas del Parlamento Europeo y del Consejo 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014. **Boletín Oficial del Estado**: n. 272, Espanha, 09 nov. 2017. Retrieved from: <https://www.boe.es/eli/es/l/2017/11/08/9/con>. Access: 01 jun. 2024.

²³ EUROPEAN UNION. Directives 2014/23/EU of the European Parliament and of the Council of 26 February 2014, on the award of concession contract (Text with EEA relevance). **Official Journal of the European Union**, European Union, L 94, 28 mar. 2014. Retrieved from: <https://x.gd/yVJUZ>. Access: 01 jun. 2024.

lower quality in services or goods purchased. In the case of private management of public services, this practice translates into higher fees for users or additional costs for taxpayers.

Additionally, it is crucial to highlight that this problem is exacerbated by the recruitment of high-ranking officials or senior officials by public sector contractors. This phenomenon highlights the existence of influence-peddling that also impacts how contracts and contractual practices are carried out in public administrations.

The latest demographic data from the March 2023 barometer conducted by the Center for Sociological Research (CIS) indicates that corruption ranks alongside the economic and employment situation as one of the main concerns of citizens²⁴. In 2022, according to the analysis conducted by Transparency International, the Corruption Perceptions Index in Spain reached a value of 60/100, representing a decrease of one point compared to 2021²⁵. This score placed Spain in the 35th position in the ranking, sharing this position with Botswana, Cape Verde, and Saint Vincent and the Grenadines.

The First Report of the Observatory of the Sustainable Development Goals (SDGs) in the Public Sector, specifically focused on SDG 16,²⁶ which refers to transparency as a means to combat corruption in public procurement, was published in 2023²⁷. In this report, experts highlight the need to take measures to:

1. Expedite the instruction and prosecution of macro-processes for corruption in public procurement.
2. Improve communication and coordination mechanisms between the judicial system and public administration to facilitate the prohibition of contracting in cases of final convictions for certain crimes.
3. Implement measures to protect whistleblowers in relation to criminal proceedings, promoting the reporting of corrupt activities and ensuring their safety.

These recommendations aim to strengthen transparency and integrity in public procurement processes and to prevent and combat corruption in this crucial area for public

²⁴ CIS – Centro de Investigaciones Sociológicas. **Delivery of 3398 Barometer for March 2023**. Madrid: CIS, Mar. 2023. Retrieved from: <https://www.cis.es/en/-/entrega-del-3398-barometro-de-marzo-2023>. Access: 01 jun. 2024.

²⁵ TRANSPARENCY INTERNATIONAL. **Corruption Perceptions INDEX 2022**. Berlin: Transparency International, 2023. Retrieved from: <https://x.gd/MJGyS>. Access: 01 jun. 2024.

²⁶ JANDL, Michael. Towards the monitoring of Goal 16 of the United Nations' Sustainable Development Goals (SDGs). A study of the selection, rationale and validity of indicators with suggestions for further improvements. **Kriminologisches Repository**, Helsinki, n. 86, p. 01-130, 2017. Helsinki, 2017. Retrieved from: <https://publikationen.uni-tuebingen.de/xmlui/handle/10900/82975>. Access: 01 jun. 2024.

²⁷ UNITED NATIONS. **Global Sustainable Development Report 2023**. Nova York: United Nations, 2023. Retrieved from: <https://x.gd/K617pl>. Access: 01 jun. 2024.

administration and society in general.

Additional recommendations include the need to incorporate elements of corruption prevention in public procurement into the compliance programs of contractors and bidders. It also calls for measures to improve the efficiency of the instruction and prosecution of corruption cases and to ensure the swift and complete execution of sentences issued by the Court of Auditors.

The Organization for Economic Cooperation and Development (OECD) in 2017 emphasized the importance of establishing an integrated, coherent, and comprehensive integrity system that encompasses the entire public administration and is applied transversally.²⁸ This comprehensive approach is essential to effectively prevent and combat corruption.

However, it is acknowledged that much remains to be done to achieve a true cultural transformation where ethics and integrity in the public sector cease to be mere messages and become a reality ingrained in practice and organizational culture.

It is relevant to highlight that in the context of Spain, the analysis and discussion on integrity and public procurement have often focused predominantly on public administration without applying the same level of scrutiny to private entities obtaining contracts funded with public money. This disparity in media attention raises the need for greater equity and transparency in evaluating the integrity of all actors involved in public procurement, both public and private, to ensure a more ethical and efficient procurement system as a whole.

4. COMPARATIVE ANALYSIS OF INTEGRITY PACTS IN SPAIN

The implementation of Integrity Pacts can be planned and established from the very beginning of the decision-making process in public administration. This means it can be applied throughout the entire public procurement cycle, from the moment the entity identifies a problem and recognizes a need for procurement to the preliminary market consultation phase, the drafting of specifications, the award and signing of the contract, its execution, and finally its liquidation.

This comprehensive approach ensures that the principles of integrity and transparency are considered at each stage of the procurement process, contributing to preventing corruption and promoting ethical practices in public administration and among

²⁸ OECD - Organisation for Economic Co-operation and Development. **Recommendation of the Council on Public Integrity**. OECD, 2017. Retrieved from: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0435>. Access: 01 jun. 2024.

private contractors working with public funds.

It is true that in many cases, the implementation of Integrity Pacts has not been carried out from the early stages of the decision-making process and has been established once the terms of reference have already been drafted. This can leave a critical stage unsupervised where multiple corruption risks, such as those related to contract design or problem definition, effectively arise.

To address these risks more effectively and promote greater integrity in public procurement, it is essential to consider the implementation of Integrity Pacts from the initial stages of the decision-making process, allowing ethical and integrity issues to be identified and mitigated from the outset. This not only reduces the risk of corruption but also fosters a culture of transparency and ethics in public administration and among contractors.

It is encouraging to note that despite some challenges in implementing Integrity Pacts, successful results have been achieved in terms of awareness and communication with society. The public administration has demonstrated a commitment to transparency and has used innovative tools to achieve this. Additionally, the participation of external agents, such as monitors, in public procurement processes has been facilitated, allowing them to make suggestions throughout the project.

Despite these achievements, it is important to recognize that there are still opportunities for improvement. The impacts could have been greater, and the sustainability of the changes has not always been guaranteed. This indicates that there is room to continue strengthening integrity practices in public procurement and improving the fight against corruption in this area.

The following section describes the process of conception, design, and implementation of the four selected Integrity Pacts, grouping the analysis according to the decision-making process followed by a public administration: problem and agenda formation; adoption of solutions and courses of action; budget and resources; and implementation of the transparent monitoring process.

5. PROBLEM AND AGENDA FORMATION

In the Spanish case, Integrity Pacts (IPs) were not implemented from the policy definition stage but rather began a consideration process in this initial phase. This involved an assessment of their convenience and opportunity, including an analysis of the legal context and the evaluation of the existing political will for their implementation.

In the case of Valencia (GVA), a widespread corruption problem in public

procurement was identified. The new government at that time considered transparency as an effective way to address this problem and ensure integrity in public procurement processes.

The decision to use transparency as an approach to improve integrity in public procurement is consistent with recommended practices in the fight against corruption. Transparency can help prevent and detect corrupt practices by exposing processes to public scrutiny and allowing greater oversight by civil society and control bodies. This measure can significantly contribute to promoting a more ethical and responsible public administration in the procurement of services and works.

The adoption of the Integrity Pact was considered part of a comprehensive set of transparency and integrity policies in Valencia (GVA).²⁹ These policies encompassed various areas and actions, including:

- **Strengthening the General Inspection of Services:** Enhancing the capacity for internal oversight and control to identify and prevent corrupt practices within public administration.
- **Transparency Policy in the Public Management of the Generalitat:** Promoting a culture of transparency in public management, which implies greater openness and access to information for citizens.
- **New Incompatibility Regime for Senior Officials:** Establishing a stricter regulatory framework to ensure that senior officials do not incur conflicts of interest or practices incompatible with public integrity.
- **Alert System as a Mechanism to Prevent Malpractice:** Implementing an alert system that allowed internal and external actors to report potential irregularities or improper practices in public administration.
- **Creation of the Anti-Fraud Agency:** Establishing a specialized agency for the prevention and fight against fraud and corruption in the scope of the Generalitat.

These combined actions reflect a comprehensive and multifaceted approach to promoting integrity and transparency in public management, which can significantly contribute to preventing and combating corruption in the public sector.

The incorporation of the Integrity Pact as part of the political agreement known as the "Pacto del Botánico" in 2015 is a significant step in strengthening integrity and transparency in the public administration of Valencia (GVA). This pact not only promoted transparency and

²⁹ EUROPEAN COMMISSION. **Integrity Pacts - in the context of the latest trends in área of PP and anti-corruption**. Valencia: European Commission, 2018. Retrieved from: <https://x.gd/aiVxT>. Access: 01 jun. 2024.

ethics in government management but also established a framework for controlling the measures adopted³⁰.

In particular, Integrity Pacts were used as a tool for:

- **Control of Measures Adopted:** The pacts served as a mechanism to oversee and control the measures and policies implemented within the framework of the Pacto del Botánico, ensuring their effectiveness and coherence with the objectives of integrity and transparency.
- **Prevention of Malpractice:** The pacts were used as a means to prevent and address malpractice that might exist in public administration, helping to eliminate entrenched corrupt practices.
- **Awareness and Culture of Transparency:** The pacts played an important role in promoting a new culture of transparency in administration, which implied a change in the mindset and practices of officials and government actors towards greater openness and accountability.

Overall, this comprehensive strategy contributed to strengthening integrity in the public administration of Valencia (GVA) and promoting a more ethical and transparent government management, laying solid foundations for the legitimacy of its institutions, which is essential for the maintenance of democracy, the fundamental reason for a rule of law.

The lack of transparency in public contracts, especially in the preparation and execution phases of contracts, was a significant problem in the Madrid City Council. This deficiency motivated the search for transparency-based solutions as part of an effort to address this issue. The citizens' perception of municipal transparency was also worryingly low, as reflected in the Quality of Life and Satisfaction with Public Services Survey of the City of Madrid³¹:

- In 2014, 68.3% of respondents considered the City Council to be little or not at all transparent.
- In 2016, although this figure had decreased to 47.2%, it was still considerably higher than those who believed the City Council was quite or very transparent, representing 38.3%.
- Additionally, in 2014, corruption had become one of the top 10 problems in the

³⁰ ARRIBAS REYES, Esteban. Acción Colectiva, corrupción e integridad en la contratación pública: la experiencia española de implementación de los pactos de integridad como complemento al derecho y las políticas públicas anticorrupción. *Revista General de Derecho Administrativo*, n. 65, p. ene. 2024.

³¹ MADRID. **Survey of Quality of Life 2017**. Madrid: SAMUR Protección Civil, 2017. Retrieved from: <https://x.gd/jpxTb>. Access: 01 jun. 2024.

city of Madrid for the first time since the survey began in 2006, with 5.7% of respondents citing corruption as one of the three main problems of the city.

These data illustrate the urgent need to address the lack of transparency and the perception of corruption in the Madrid City Council, leading to the search for solutions such as Integrity Pacts to promote more ethical and transparent practices in public procurement.

The lack of transparency in public procurement was a problem identified and addressed both by the Transparency, Access to Public Information, and Good Governance Act 19/2013 of December 9 and the Public Sector Contracts Act 9/2017 of November 8 in Spain³².

The Transparency, Access to Public Information, and Good Governance Act of 2013 established a legal framework to promote transparency in public administration and ensure citizens' access to information. This law aimed to increase openness and information disclosure, including aspects related to public procurement.

On the other hand, the Public Sector Contracts Act of 2017 introduced significant reforms in the regulation of public contracts in Spain³³. This law aimed to improve efficiency and transparency in public procurement by establishing clearer and more robust rules for procurement processes and promoting competition and integrity in these processes.

Both laws, by addressing the lack of transparency in public procurement, contributed to laying the foundations for more ethical and responsible management of public resources and the prevention of corrupt practices in this area.

The government team of the Madrid City Council (AYTO MAD) that assumed office in June 2015 established as one of the main priorities of its political agenda the improvement of transparency in municipal management³⁴. This priority became even more relevant in specific contracts, such as the Citizen Attention Service of the Madrid City Council (010), where the Integrity Pact was subsequently implemented.

The identification of the need to improve transparency in municipal management, especially in contracts for essential public services such as Citizen Attention, reflects the new government team's commitment to openness and ethics in public administration. The Integrity Pact became a key tool to address these concerns and promote integrity in public

³² ESPANHA. Act 19/2013, of 9 December, on Transparency, Access to Public Information, and Good Governance. **Portal de la Transparencia**: Espanha, 08 nov. 2013. Retrieved from: https://www.hacienda.gob.es/Documentacion/Publico/AdministracionElectronica/Act-19-2013_on_transparency_access_to_public_information_and_good_governance.pdf. Access: 01 jun. 2024.

³³ ESPANHA. Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público, por la que se transponen al ordenamiento Jurídico español las Directivas del Parlamento Europeo y del Consejo 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014...

³⁴ MADRID. **City of Madrid OGP Action Plan 2017**. Madrid: Portal de Transparencia, 2017. Retrieved from: <https://x.gd/Q9AA3>. Access: 01 jun. 2024.

procurement, which can positively impact citizens' perception and the quality of public services provided.

The creation of a Government Area for Citizen Participation, Transparency, and Open Government in the Madrid City Council, along with the formation of a governing body with specific competencies in these areas, marked an important milestone in strengthening transparency and open government in municipal administration.

This decision was complemented by a new policy on transparency and open government, establishing a solid framework to promote openness, citizen participation, and accountability in municipal management.

In this context, the tool of Integrity Pacts was presented to the Madrid City Council by Transparency International Spain. A year later, this tool was implemented. This process demonstrates how proactive government policies and structures can facilitate the adoption of specific measures such as Integrity Pacts to improve integrity and transparency in public procurement and administration in general.

In the case of the Junta of Communities of Castilla-La Mancha, TI-Spain contacted the General Secretariat of the Ministry of Education to develop the Integrity Pacts.³⁵ The leadership of this General Secretariat, driven by its commitment and political will, triggered a dynamization process in all areas related to transparency within the regional government.

In this phase, the members of the Integrity Project responsible for implementing the tool provided detailed explanations about it, and the Junta of Communities of Castilla-La Mancha analyzed it from a legal perspective to ensure its viability and adequacy to the local context.

This process highlights the importance of leadership and political commitment in promoting integrity and transparency in public administration. It also demonstrates how collaboration between civil society organizations and the government can lead to the successful implementation of tools such as Integrity Pacts to improve public management and prevent corruption.

6. ADOPTION OF SOLUTIONS AND COURSES OF ACTION

This phase of the viability of Integrity Pacts (IPs) within the political, legal, and administrative culture of the administrations that implemented them is essential to ensure their success and sustainability. This process involves adapting the tool to existing regulations

³⁵ VILLORIA, Manuel (org.). **National Integrity System Assessment Spain**. Espanha: Transparency International, 2011. DOI:10.13140/2.1.3146.8807.

and procedures and promoting an organizational culture that fosters integrity and transparency. Below are some key aspects of this process:

- Legal and Normative Analysis
- Political Commitment
- Cultural Change
- Alignment with Objectives
- Training and Education

The introduction of Integrity Pacts in the Valencian Generalitat (GVA) posed significant challenges related to their fit within the Spanish legal framework and their integration as a monitoring and control mechanism by third parties. Some of the legal and juridical issues raised included:

- **Legal Instrument:** The question arose as to what legal instrument would allow the implementation of this type of monitoring and control mechanism by a third party. Since the Public Sector Contracts Act at that time did not specifically mention these instruments, careful consideration was required on how to fit them within the existing legal framework.
- **Contractual Obligation:** The possibility of incorporating Integrity Pacts as an obligation within the contract itself was explored. This would imply that the contracting parties, including the company, would agree to follow this mechanism as part of the contract terms.
- **Bilateral Agreement with the Monitor:** The possibility of establishing a bilateral agreement with a monitor who would carry out the monitoring but would not obligate third parties, such as the contracting company, was also discussed. This approach could have advantages in terms of flexibility and voluntary cooperation.
- **Modification of the Contracts or Subsidies Act:** It was mentioned that a more solid solution could be the modification of the Public Sector Contracts Act or subsidy regulations to explicitly incorporate this type of monitoring and control mechanisms.

It is important to note that these legal challenges are common when introducing new integrity tools in the governmental sphere. Resolving these challenges may require a legislative process and close cooperation among stakeholders, including legislators, government agencies, and civil society organizations. Additionally, adapting existing legislation may be necessary to allow for the effective implementation of these monitoring

and control mechanisms in the future.

It is interesting to observe that the implementation of Integrity Pacts has involved various modalities and approaches in different contexts. In this specific case, where the contracting company accepted third-party monitoring, a public tender process was used to select the monitor who would carry out the Integrity Pact monitoring. From this new contract with the monitor, the obligations and responsibilities between the monitor and the administration were established.

In this context, the Valencian Generalitat (GVA) decided to implement an Integrity Pact in the contract for the construction of the Infant and Primary Education Center (CEIP) in El Rajolar de Aldaia, Valencia.³⁶ This project involved the construction of an educational center with a capacity of 450 school places and a cost of 18 million euros. In a competitive public tender process, Transparency International Spain (TI-ES) presented itself and obtained the contract to carry out this project.

In the cases of the Junta of Communities of Castilla-La Mancha (JCCLM) and the Madrid City Council, a similar formula was adopted for the implementation of Integrity Pacts. However, in these cases, the agreement with Transparency International Spain (TI-ES), the organization that led the implementation process, was not carried out through a public tender process but through the signing of an agreement.

In the three cases of implementing Integrity Pacts, a consistent approach was adopted by incorporating an integrity clause into the terms of reference of the selected contracts. This clause aimed to establish the integrity and transparency obligations that the contracting companies had to fulfill while informing them about the monitoring process. This measure was implemented to address legal and procedural issues related to the legal binding of companies in participating and complying with the Integrity Pact.

The inclusion of an integrity clause in the terms of reference is an effective strategy to ensure that companies participating in public procurement understand and accept the ethical and transparency obligations they must fulfill. It also provides a solid legal framework for the monitoring and enforcement of the Integrity Pact, strengthening integrity in the procurement process and contributing to preventing corruption.

In the case of the Madrid City Council, the first agreement in Spain for the design and implementation of a pilot Integrity Pact was signed after a year and a half of negotiations. This pilot project was driven by the Department of Citizen Participation, Transparency, and Open Government in collaboration with the General Directorate of Transparency.

³⁶ VALENCIA. **Aldaia School Construction Integrity Pact**. Spain: Transparency International Spain, 2005. Retrieved from: <https://collective-action.com/explore/initiatives/1695/>. Access: 01 jun. 2024.

The Integrity Pact was implemented in the context of a contract related to the "Support for the management of Telephone and In-Person Attention through the Citizen Attention Channels of Línea Madrid," valued at approximately 70 million euros over four years. It is important to note that the monitoring of this Pact was initially established for one year.

The Junta of Communities of Castilla-La Mancha (JCCLM) opted to sign specific agreements for the implementation of Integrity Pacts in two public procurement procedures. These agreements involved the Ministry of Education, Culture, and Sports and the Transparency International Spain Association.

The two procedures in which Integrity Pacts were applied were:

1. The tender and award of the construction contract for a gymnasium at the rural center "Miguel Delibes" in Mariana, Cuenca.
2. The process of contracting technical assistance for the replacement of the Special Education Center "Cruz de Mayo" in Hellín, Albacete.

7. BUDGET AND RESOURCES

In this section, the handling of budgetary aspects in the signing of agreements and the service contract between TI-ES and public administrations for the implementation of Integrity Pacts (IPs) is detailed. Each administration approached funding with TI-ES in a different manner, considering their financial and budgetary conditions, as well as the legal model applied (agreement or service tender).

The debate surrounding Integrity Pacts does not only concern who finances them but also addresses their cost. Regarding funding, it is recommended that the investment come from entities external to the administration awarding the contract. This could include state control agencies, anti-corruption agencies, non-governmental organizations, and international cooperation bodies. This measure aims to strengthen the legitimacy of the process by ensuring its financial independence.

However, it is not always feasible to have external funding sources, and in such cases, public funds are used, as occurred in the Spanish experience. In this context, additional measures must be taken to ensure the autonomy and independence not only of the organization leading the process but also of the monitors hired for monitoring. This is essential to maintain the credibility of the process.

The cost of an Integrity Pact should be considered an investment aimed at improving transparency in contracts. However, in the contracts analyzed, no corruption

problems were recorded during project execution. Therefore, it was not possible to accurately calculate the cost-benefit of the tool, unlike in the case of the M6 Motorway in Hungary, where its effectiveness could be evaluated. In any case, it is argued that the costs associated with the tool's implementation are justifiable, as they contribute to creating and ensuring an environment conducive to accountability and citizen control.

The Valencian Generalitat (GVA) awarded, through a competitive public tender process, a contract valued at €16,456, including the implementation of the tool and the monitoring process related to the construction of the Infant and Primary Education Center (CEIP) in El Rajolar de Aldaia, Valencia, VAT included.

The contract included several obligations such as drafting an integrity clause incorporated into the construction contract's terms of reference, defining the specific project (including aspects such as the internal operating rules of the commission, the selection of the school to audit, and the time planning), implementing a training plan for public employees, managing the evaluators or monitors (including their selection, ensuring independence, and compensation), communicating to the public the evaluations made, verifying the commitment and conduct integrity of the parties involved, and formulating proposals to improve management effectiveness or address potential irregularities in prevention, detection, and solution.

The case of the Valencian Generalitat (GVA) was the most detailed, as it was carried out through a service contract that required the inclusion of all obligations of both parties. In contrast, the agreements signed with the Madrid City Council and the Junta of Communities of Castilla-La Mancha (JCCLM) are general frameworks of action that provide a broader framework for the implementation of Integrity Pacts without specifying all details in the contract.

The cost for Madrid reached €50,104.50, including taxes. In the first phase, which involved the supervision and monitoring of the preliminary market consultation and had a budget of €2,964.50, it was fully funded by TI-Spain. In the second phase, which covered the supervision and monitoring of the contract in its various stages and had a budget of €47,140, the Madrid City Council contributed €29,090 as a co-payment for the expert monitor in public procurement, labor law, and human resources, technical expert in communication systems and telecommunications, as well as an expert in communication and transparency, in addition to other management expenses. Transparency International Spain covered the remaining costs through co-payments related to human resources and logistical expenses.

The cost breakdown for the Junta of Communities of Castilla-La Mancha (JCCLM) in each of the Integrity Pacts was as follows: Total expenses of €14,060 were estimated, of which the Ministry of Education contributed €10,560 (75.11%) for the payment of monitors.

On the other hand, Transparency International Spain (Integrity Project) funded €3,500 (24.89%) for activities related to communication, selection, and coordination of the two monitor groups, as well as for TI personnel and JCCLM personnel training.

8. IMPLEMENTATION OF THE TRANSPARENT MONITORING PROCESS

In this section, the implementation of the participation of monitors at the agreed moments and duration, either through agreements or service contracts, is examined. As mentioned earlier, this aspect represents possibly the most significant contribution of Integrity Pacts in terms of transparency and accountability in contract management, as it allowed civil society, through the monitors, to have access to all contract documentation and exercise real-time citizen control.

The design of this monitoring implementation phase involved both administrations and TI-ES responding to a series of key questions:

- Who should be responsible for selecting the monitors?
- What should be the ideal characteristics or profiles of the monitors?
- What competencies should they have, and what would be their limitations and sanctioning capacity?
- When does the monitoring process begin?
- How long should the monitoring process last?
- What value does the monitor figure add to the mandatory oversight and supervision tasks by law?

In the analyzed experiences, agile collaboration from the administrations is highlighted, aiming to learn from this new form of participation. However, an important improvement opportunity is identified. Although the integrity clause was included in the selected contracts, it was not possible to establish direct interaction between monitors and companies. The interaction was limited to communications between companies and the administration, and between the latter and the monitors. Moreover, the monitor figure did not participate in the discussion process of the criteria for selecting bidders, which would have contributed to fostering competition and fairness in public procurement processes.

The profile and selection of monitors were designed by TI-Spain through public and competitive calls. The requirements for being a monitor were defined by a selection committee composed of the director of the TI Integrity Project, a member of the TI Governance Council, and an external member of recognized prestige. The participation of the

responsible for implementing the Integrity Pacts in TI-Spain in this process was avoided to prevent potential conflicts of interest with the daily management of monitors.

It is essential to highlight that within the framework of independence and autonomy of the monitors, constant communication was maintained between them and TI-Spain. This communication allowed TI-Spain to complement the monitors' training and knowledge with specific information about the integrity and transparency needs that had to be implemented and supervised. As a result of this collaboration, monitors were entrusted with designing integrity indicators in their respective areas of expertise, such as labor, administrative, architectural, and engineering fields, among others.

In the case of the Valencian Generalitat (GVA), monitoring work began after the agreement was signed. The importance of having two independent expert evaluators was recognized: one specialized in public works and the other in legal, administrative, and procurement areas. These evaluators were responsible for analyzing documentation, requesting additional documents, developing indicators reflecting the aspects to be measured, and assessing their compliance.

At the same time, a monitoring commission was established, composed of two representatives from the Ministry of Transparency, Social Responsibility, Participation, and Cooperation, two from the Ministry of Education, Research, Culture, and Sports, and two from TI-Spain. This commission held periodic meetings attended by the monitors as well. During these meetings, the operating rules of the commission were defined, and the decision to audit the "El Rajolar" school in Aldaia was made. However, the commission did not participate in conversations with companies or the Aldaia City Council, which would have been fundamental for fostering dialogue among the different involved actors, including civil society, companies, and the administration.

In the case of the Junta of Communities of Castilla-La Mancha (JCCLM), two monitors were also incorporated: one with technical expertise and the other with legal knowledge. These monitors held periodic meetings with the administration, where they evaluated the available information, offered recommendations, and presented follow-up reports.

In the Madrid City Council, the monitoring process extended over time since a Preliminary Market Consultation was conducted before signing the contract that included the Integrity Pact. This consultation sought to gather companies' opinions on the best technical and technological solutions available for the 010 service. From that moment, the Integrity Pact promoted citizen participation processes.

During this process in the Madrid City Council, a general consultation with citizens was conducted through the Decide Madrid portal. In this consultation, citizens were asked

about the essential aspects that should be present in the information and attention provided by the City Council. In this context, TI-Spain proposed the participation of an expert in the field to prepare a “Monitoring Integrity Report of the Madrid City Council's Preliminary Market Consultation.” This report explained what Integrity Pacts consist of, their function, the purpose of monitoring, and the methodology used. During the contractual phase, monitors specialized in public procurement and transparency carried out monitoring, analysis, and provided recommendations regarding the tendering, awarding of the contract, and the first year of its execution.

It is relevant to highlight that in all cases, TI-Spain ensured the selection of highly competent technicians in the subject matter of the contract, guaranteeing their independence. The reports prepared by the monitors are available on the public administrations' websites, along with the evaluated indicators. Below are some reflections from the monitors on the implementation of Integrity Pacts:

- Integrity Pacts are useful tools that require constant observation work to identify areas for improvement in contractual processes. The importance of a real commitment from administrations and other parties involved in the contract is emphasized.
- The effectiveness of the Pact is related to citizen participation through independent external third parties. Although there is no direct sanction mechanism for non-compliance, promoting social sanction processes is considered crucial. The publication of reports on administrations' websites is an important step in this direction.
- It is suggested that other tools, such as the creation of citizen contractual monitoring commissions, can complement the Pacts to raise awareness, improve transparency, and promote social control of public investment.
- Administrations value the collaboration of professionals such as monitors and their profiles positively. The rigor in monitoring work can incentivize the implementation of more refined public management systems and have external audits providing an impartial opinion for scrutiny.
- The importance of possible regulation for Integrity Pacts is highlighted, establishing minimum requirements and an applicable methodology. This would allow greater clarity and understanding of the public procurement process in Spain.
- Regarding the contribution of monitoring to the oversight tasks of administration control bodies, it is noted that the Pacts and monitors' activities

develop preventively and in real-time, unlike the administrative functions of oversight and intervention bodies, which are post-controls. This allows for early identification of corruption risks and provides technical support in accountability processes.

FINAL CONSIDERATIONS

The analysis of the Spanish experience reveals several general key insights to consider:

1. Need for a Multilateral Response: The negative effects of poor public procurement, such as corruption-related crimes and fraud, require a response involving the government, companies, and civil society. Integrity Pacts represent an innovative solution with substantial potential to address these issues.

2. Focus on Sustainable Changes: Instead of focusing solely on immediate results, it is essential to evaluate the long-term impact of initiatives like Integrity Pacts. Demonstrating that an initiative has led to sustainable changes can be more convincing to engage governments, companies, and civil society.

3. Implementation from Civil Society: The Spanish case highlights how Integrity Pacts were driven by organized civil society, posing a challenge in a political and administrative environment with rigid and bureaucratic structures.

On the other hand, in the case of the Spanish experience, among the positive results of the implementation of the Integrity Pacts, the following stand out:

- Enhanced communication and collaboration among administrations that applied the tool, accelerating technical implementation.
- Strengthening democratic legitimacy and the culture of integrity through accountability spaces in projects.
- More comprehensive and detailed monitoring reports compared to existing regulations, contributing to the follow-up and evaluation of public policies.
- Incorporation of integrity clauses in the terms of reference of selected contracts, promoting transparency and integrity.
- High technical and analytical capacity of monitors, complementing the knowledge of administrations and companies.
- Civil society participation through monitors in real-time access to contract information.

- Dynamization of participation beyond organized civil society, as demonstrated by Madrid through citizen consultations.
- Use of the monitoring process in the preliminary market consultation before drafting terms of reference, expanding citizen monitoring opportunities in early stages of procurement processes.
- Introduction of an innovation in Spain with the potential to produce significant changes, even though immediate results may not have generated sustainable changes in all cases.

These findings highlight the potential of Integrity Pacts as an effective tool to address corruption and improve transparency in public procurement, as well as the importance of evaluating their long-term impact.

Finally, we believe it is necessary to offer some practical advice aimed at expanding the usefulness of Integrity Pacts as an anti-corruption approach to overcome fundamental application challenges and lead to lasting change in public administration:

1. **Prevention and Awareness Tool:** Integrity Pacts should be considered as a preventive tool that aims to alert officials and citizens to malpractice. They are instruments of cultural change and awareness towards transparency and integrity.

2. **Measure Sustainable Changes:** Instead of measuring only the immediate impact of an intervention, progress towards sustainable changes in public administration should be evaluated as part of a comprehensive anti-corruption approach.

3. **Adaptation and Acceptance:** To implement Integrity Pacts effectively, it is crucial to adapt the approach and ensure that the parties involved are committed to transparency, generating trust in the tool.

4. **Relevant Political Context:** Understanding the political context surrounding the contracting entity is essential to influence sustainable changes in integrity, especially in processes where new tools are introduced.

5. **Focus on Prevention:** Monitoring should begin in the early stages, such as problem definition and technical specifications, to avoid corruption risks. Prevention is the most effective strategy, and transparency is a powerful tool.

6. **Legal Incorporation:** The inclusion of Integrity Pacts in public procurement legislation and related regulations should be discussed. The creation of independent anti-corruption agencies can promote this inclusion.

7. **Frequent and Collaborative Tools:** Integrity Pacts yield better results when available and used regularly. Collaboration between public entities and control bodies is

necessary to promote and accept their implementation.

8. Non-Universal Obligation: Integrity Pacts do not need to be mandatory in all contracts. They can be valuable in strategic areas and high-investment volumes.

9. Evaluation Instrument: Integrity Pacts can contribute to the evaluation of programs and public policies, helping ensure their effectiveness.

10. Funding Sources: Ideally, funding for Integrity Pacts should come from independent or cooperative sources to ensure the tool's independence. However, if it is necessary to fund them with administration resources, rigorous transparency measures and independence of monitors must be ensured.

11. Investment in Transparency: Integrity Pacts should be understood as an investment to improve transparency in public contracts. Benefits include greater accountability, legitimacy of the democratic system, and awareness in integrity and transparency.

12. Selection of Prestigious Monitors: Monitors should be professionals with a solid reputation in independence and knowledge in public procurement, avoiding potential conflicts of interest.

Finally, we recommend for corruption studies the need to pay attention to new approaches and instruments that help us understand the causal processes of corruption. As Dunlop and Radaelli (2019: 109-110) suggest, "To continue advancing, public administration should pay more attention to public policy instruments that discipline rule-making. This requires innovation in conceptualizing these instruments or normative procedures. We have argued for considering the combination or constellation of policies as the unit of analysis to explore causal effects on corruption outcomes. This also requires a critical reconsideration of how we model causality and the mechanisms through which we theorize an effect on corruption." Integrity Pacts have great potential as a test bed for data collection to improve anti-corruption laws and public policy designs.

REFERENCES OF THE CITED SOURCES

ARRIBAS REYES, Esteban. Acción Colectiva, corrupción e integridad en la contratación pública: la experiencia española de implementación de los pactos de integridad como complemento al derecho y las políticas públicas anticorrupción. **Revista General de Derecho Administrativo**, n. 65, p. ene. 2024.

ARRIBAS REYES, Esteban. Pactos de integridad. **EUNOMÍA - Revista en Cultura de la Legalidad**, Universidad Carlos III de Madrid, n. 17, p. 328-348, Sep. 2019. Retrieved from: <https://doi.org/10.20318/eunomia.2019.5037>. Access: 01 jun. 2024.

BAUHR, Monika; NASIRITOUSI, Naghmeh. Does corruption cause aid fatigue? **QoG Working Paper Series**, University of Gothenburg, v. 17, p. 02-20, Dec. 2011. Retrieved from: <https://x.gd/WGcb7>. Access: 01 jun. 2024.

BAUHR, Monika; NASIRITOUSI, Naghmeh. Why pay bribes? Collective action and anticorruption efforts. **QoG Working Paper Series**, University of Gothenburg, v. 18, p. 02-23, Dec. 2011. Retrieved from: <https://x.gd/0mM5m>. Access: 01 jun. 2024.

CIS – Centro de Investigaciones Sociológicas. **Delivery of 3398 Barometer for March 2023**. Madrid: CIS, Mar. 2023. Retrieved from: <https://www.cis.es/en/-/entrega-del-3398-barometro-de-marzo-2023>. Access: 01 jun. 2024.

CNMC - Comisión Nacional de los Mercados y la Competencia. **Memoria 2015**. España: CNMC, 2016. Retrieved from: <https://www.cnmc.es/file/172251/download>. Access: 01 jun. 2024.

CORRETJA TORRENS, Mercè. The most significant changes to Public Procurement for Spain's Local Councils. **Revista Catalana de dret public**, vol. 57, p.17-31, Dec. 2018. Retrieved from: <https://doi.org/10.2436/rcdp.i57.2018.3163>. Access: 01 jun. 2024.

ESPAÑA. Act 19/2013, of 9 December, on Transparency, Access to Public Information, and Good Governance. **Portal de la Transparencia**: España, 08 nov. 2013. Retrieved from: https://www.hacienda.gob.es/Documentacion/Publico/AdministracionElectronica/Act-19-2013_on_transparency_access_to_public_information_and_good_governance.pdf. Access: 01 jun. 2024.

ESPAÑA. Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público, por la que se transponen al ordenamiento Jurídico español las Directivas del Parlamento Europeo y del Consejo 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014. **Boletín Oficial del Estado**: n. 272, España, 09 nov. 2017. Retrieved from: <https://www.boe.es/eli/es/l/2017/11/08/9/con>. Access: 01 jun. 2024.

EUROPEAN COMMISSION. **Integrity Pacts - in the context of the latest trends in area of PP and anti-corruption**. Valencia: European Commission, 2018. Retrieved from: <https://x.gd/aivxT>. Access: 01 jun. 2024.

EUROPEAN UNION. Directives 2014/23/EU of the European Parliament and of the Council of 26 February 2014, on the award of concession contract (Text with EEA relevance). **Official Journal of the European Union**, European Union, L 94, 28 mar. 2014. Retrieved from: <https://x.gd/yVJUJ>. Access: 01 jun. 2024.

FAZEKAS, Mihály; CINGOLANI, Luciana; TÓTH, Bence. Innovations in Objectively Measuring Corruption in Public Procurement. In: A. Helmut, M. Haber; M.A. Kayser (Eds.). **Governance Indicators: Approaches, Progress, Promise**. Inglaterra: Oxford University Press, 2018, p. 154–185. Retrieved from: <https://doi.org/10.1093/oso/9780198817062.003.0007>. Access: 01 jun. 2024.

FAZEKAS, Mihály; KOCSIS, Gabor. Uncovering High-Level Corruption: Cross-National Objective Corruption Risk Indicators Using Public Procurement Data. **British Journal of Political Science**, Cambridge University Press, vol. 50, n. 1, p. 155–164, Jan. 2020. Retrieved from: <https://doi.org/10.1017/S0007123417000461>. Access: 01 jun. 2024.

FAZEKAS, Mihály; TOTH, István Janos; KING, Lawrence Peter. An Objective Corruption Risk Index Using Public Procurement Data. **European Journal on Criminal Policy and Research**, vol. 22, n. 3, p.369–397, Apr. 2016. Retrieved from: <https://doi.org/10.1007/s10610-016-9308-z>. Access: 01 jun. 2024.

OBSERVATORIO DE CONTRATACIÓN PÚBLICA. **Propuesta de modificaciones y mejora al Proyecto de Ley de Contratos del Sector Público**, por el que se transponen al ordenamiento jurídico español las Directivas del Parlamento Europeo y del Consejo, 2014/23/UE y 2014/24/UE, de 26 de febrero de 2014 (Publicado en el Boletín Oficial de las Cortes Generales, Congreso de los Diputados 2 de diciembre de 2016). Espanha, 2017. Retrieved from: <https://x.gd/q2Hfw>. Access: 01 jun. 2024.

UNITED NATIONS. **Global Sustainable Development Report 2023**. Nova York: United Nations, 2023. Retrieved from: <https://x.gd/K617pl>. Access: 01 jun. 2024.

HECLO, Hugh. **Thinking Institutionally**. Ed. Estado y Sociedad. Madrid: Paidós, 2010.

JANDL, Michael. Towards the monitoring of Goal 16 of the United Nations' Sustainable Development Goals (SDGs). A study of the selection, rationale and validity of indicators with suggestions for further improvements. **Kriminologisches Repository**, Helsinki, n. 86, p. 01-130, 2017. Helsinki, 2017. Retrieved from: <https://publikationen.uni-tuebingen.de/xmlui/handle/10900/82975>. Access: 01 jun. 2024.

JIMÉNEZ ASENSIO, Rafael. **Cómo prevenir la Corrupción**: Integridad y Transparencia. Madrid: Los Libros de la Catarata, 2017.

LAMBSDORFF, Johann Graf. Making Corrupt Deals: Contracting in the Shadow of the Law. **Journal of Economic Behavior & Organization**, vol. 48, n. 3, p. 221–241, Jul. 2002. Retrieved from: [https://doi.org/10.1016/S0167-2681\(01\)00217-7](https://doi.org/10.1016/S0167-2681(01)00217-7). Access: 01 jun. 2024.

MADRID. **Survey of Quality of Life 2017**. Madrid: SAMUR Protección Civil, 2017. Retrieved from: <https://x.gd/jpxTb>. Access: 01 jun. 2024.

MADRID. **City of Madrid OGP Action Plan 2017**. Madrid: Portal de Transparencia, 2017. Retrieved from: <https://x.gd/Q9AA3>. Access: 01 jun. 2024.

MARQUETTE, Heather; PEIFFER, Caryn. **Corruption and Collective Action**. Research Paper 32. Birmingham: The Developmental Leadership Program (DLP), International Development Department, School of Government and Society, College of Social Sciences, University of Birmingham, 2015. Retrieved from: <https://www.u4.no/publications/corruption-and-collective-action.pdf>. Access: 01 jun. 2024.

MINGIU-PIPPIDI, Alina. Contextual Choices in Fighting Corruption: Lessons Learned **Norwegian Agency for Development Cooperation**, Noruega, p. 01-157, Jul. 2011. Retrieved from: <https://ssrn.com/abstract=2042021>. Access: 01 jun. 2024.

MIRANZO DÍAZ, Javier. The Necessary Paradigm Shift in Approaching Corruption in European Public Procurement: Proposals for Systematization. **Revista General de Derecho Administrativo**, Madrid/Spain, v. 51. p. 01-44, May. 2019. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3556964. Access: 01 jun. 2024.

NIELSEN, Richard P. Corruption Networks and Implications for Ethical Corruption Reform. **Journal of Business Ethics**, vol. 42, n. 2 p.125-149, Jan. 2003. Retrieved from: <https://link.springer.com/content/pdf/10.1023/A:1021969204875.pdf>. Access: 01 jun. 2024.

OECD - Organisation for Economic Co-operation and Development. **Recommendation of the Council on Public Integrity**. OECD, 2017. Retrieved from: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0435>. Access: 01 jun. 2024.

OLSON, Mancur. **The Logic of Collective Action: Public Goods and the Theory of Groups**. Harvard: Harvard University Press, 1965. Retrieved from: http://commres.net/wiki/_media/olson.pdf. Access: 01 jun. 2024.

OSTROM, Elinor. **Governing the Commons: The Evolution of Institutions for Collective Action**. New York: Cambridge University Press, 1990. DOI: <https://doi.org/10.1017/CBO9780511807763>.

PERSON, Anna; ROTHSTEIN, Bo; TEORELL, Jan. Why Anticorruption Reforms Fail - Systemic Corruption as a Collective Action Problem. **Governance: An International Journal of Policy, Administration, and Institutions**, v. 26, n. 3, p. 449-471, Jul. 2013 Retrieved from: https://exed.annenberg.usc.edu/sites/default/files/Persson_et_al-2013-Governance.pdf. Access: 01 jun. 2024.

ROTHSTEIN, Bo. Anti-Corruption: The Indirect “Big Bang” Approach. **Review of International Political Economy**, London, v. 18, p. 228-250, Jun. 2011. Retrieved from: <https://doi.org/10.1080/09692291003607834>. Access: 01 jun. 2024.

SCHATZ, Florian. Fighting Corruption with Social Accountability: A Comparative Analysis of Social Accountability Mechanisms’ Potential to Reduce Corruption in Public Administration. **Public Administration and Development**, vol. 33, n.3, p. 161–174, Aug. 2013. Retrieved from: <https://doi.org/10.1002/pad.1648>. Access: 01 jun. 2024.

TRANSPARENCY INTERNATIONAL. **Corruption Perceptions INDEX 2022**. Berlin: Transparency International, 2023. Retrieved from: <https://x.gd/MJGyS>. Access: 01 jun. 2024.

UNITED NATIONS GLOBAL COMPACT. **Uniting Against Corruption: A playbook on anti-corruption collective action**. Nova York: United Nations, 2021. Retrieved from: <https://encurtador.com.br/ZLt3D>. Access: 01 jun. 2024.

VALENCIA. **Aldaia School Construction Integrity Pact**. Spain: Transparency International Spain, 2005. Retrieved from: <https://collective-action.com/explore/initiatives/1695/>. Access: 01 jun. 2024.

VILLORIA MENDIETA, Manuel; JIMÉNEZ-SÁNCHEZ, Fernando. La corrupción en España (2004-2010): datos, percepción y efectos. **Revista Española De Investigaciones Sociológicas**, n. 138, p. 109–134, Feb. 2024. Retrieved from: <https://doi.org/10.5477/cis/reis.138.109>. Access: 01 jun. 2024.

VILLORIA, Manuel (org.). **National Integrity System Assessment Spain**. Espanha: Transparency International, 2011. DOI:10.13140/2.1.3146.8807.

INFORMAÇÕES DOS AUTORES

Esteban Arribas Reyes

Doctor in Political Science (mention "Doctor Europaeus"), MA in European Integration Studies and BA in Political Science and Administration. Professor of Political Science and European Public Policy at the University of Alcalá. Professor in the expert programme in Artificial Intelligence and Social Sciences at the Complutense University of Madrid. ORCID: 0000-0002-6809-0570. Endereço eletrônico: esteban.arribas@uah.es.

Dora Cristina Ribeiro Cabete

Researcher at CEDIS, Nova School of Law, Universidade Nova de Lisboa - School of Law (Portugal). Doctor (PhD) in Business Economic Sciences at the School of Business and Economics of the University of the Azores. PhD candidate in Law at the Universidade Nova de Lisboa. Master's and postgraduate degree in Social Sciences at the University of the Azores. Visiting assistant professor at the University of the Azores, a guest lecturer at the University of Santiago - Cape Verde. ORCID: 0000-0002-0117-8818. Endereço eletrônico: dora.cr.rodrigues@uac.pt.

José Noronha Rodrigues

Researcher at CEDIS, Nova School of Law, Universidade Nova de Lisboa - School of Law (Portugal). Vice-President of the School of Business and Economics of the University of Azores. Scientific Coordinator of the Master's Degree in Company and Employment Law, as well as of the Degree in Law at the University of Santiago - Cape Verde. Visiting Professor in the Master's Degree in Civil Law and in the Master's Degree in Tax Law at the Catholic University of Mozambique. Doctor in Law (PhD) "CUM LAUDE", by the University of Santiago de Compostela, Spain. ORCID: 0000-0002-7729-4954. Endereço eletrônico: jose.n.rodrigues@uac.pt.

COMO CITAR

ARRIBAS REYES, Esteban; CABETE, Dora Cristina Ribeiro; NORONHA RODRIGUES, José. Innovative integrity pacts in Spain: enhancing public sector anti-corruption laws and practices. **Novos Estudos Jurídicos**, Itajaí (SC), v. 30, n. 3, p. 285-315, 2025. DOI: 10.14210/nej.v30n3.p285-315.

Recebido em: 17 de jun. de 2024.

Aprovado em: 27 de ago. de 2025.