

INTEGRITY PACT BEST PRACTICES – Italy

17.02.2014



TRANSPARENCY INTERNATIONAL ITALIA
ASSOCIAZIONE CONTRO LA CORRUZIONE

From Milan to the Anti-Corruption Law

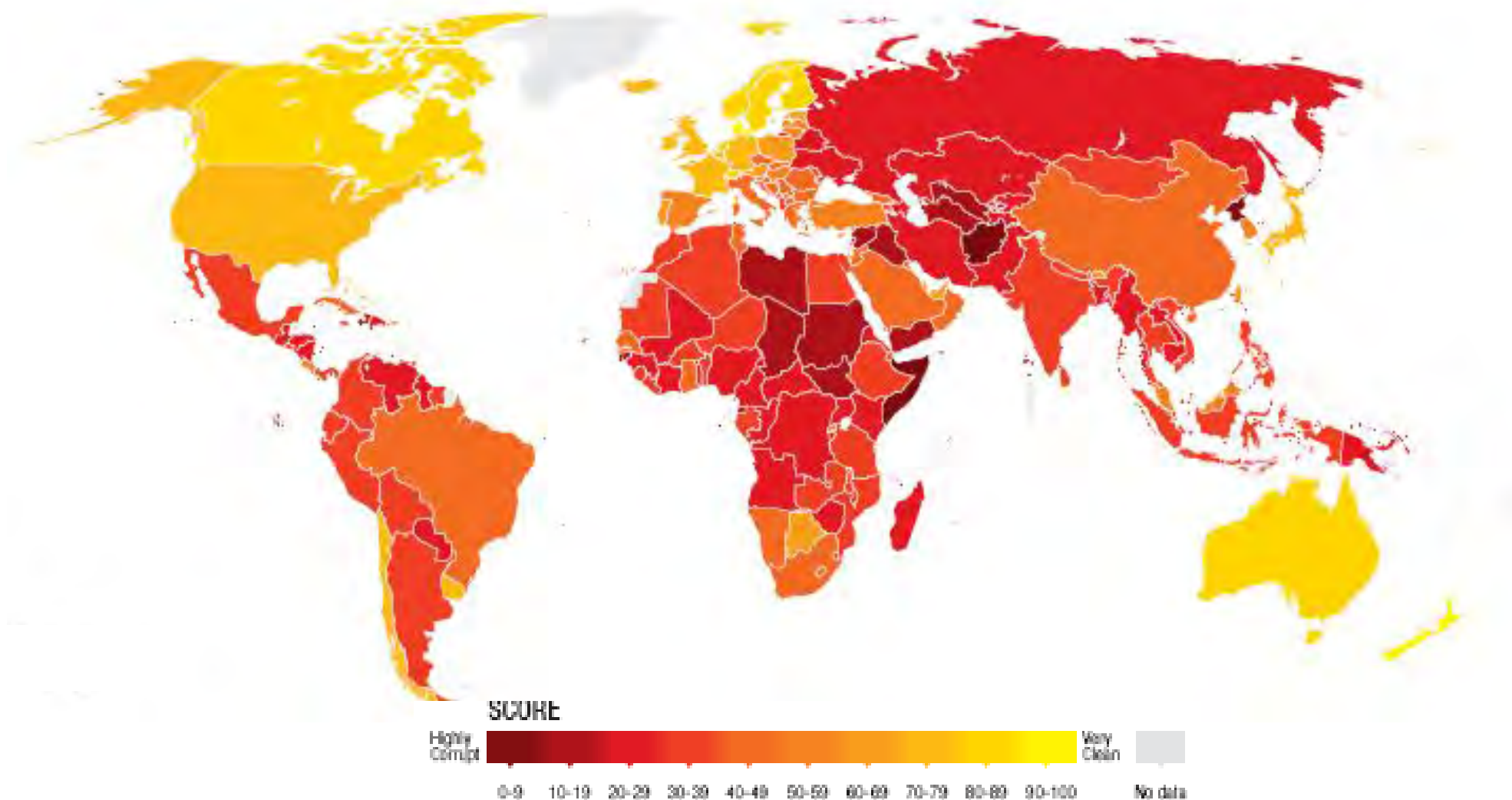
Chiara Putaturo

Project Officer Transparency International Italia



CORRUPTION PERCEPTION INDEX 2013

Transparency International



Transparency International Italia

Chiara Putaturo

Project Officer

CORRUPTION PERCEPTION INDEX 2013

Transparency International

RANK	COUNTRY/TERRITORY	SCORE
1	Denmark	91
3	Finland	89
3	Sweden	89
5	Norway	86
7	Switzerland	85
8	Netherlands	83
11	Luxembourg	80
12	Germany	78
12	Iceland	78

14	United Kingdom	76
15	Belgium	75
21	Ireland	72
22	France	71
26	Austria	69
28	Estonia	68
31	Cyprus	63
33	Portugal	62
38	Poland	60
40	Spain	59

RANK	COUNTRY/TERRITORY	SCORE
43	Lithuania	57
43	Slovenia	57
45	Malta	56
47	Hungary	54
49	Latvia	53
57	Croatia	48
57	Czech Republic	48
61	Slovakia	47
69	Italy	43

69	Romania	43
77	Bulgaria	41
80	Greece	40

The 2013 Corruption Perceptions Index measures the perceived levels of public sector corruption in 177 countries/territories around the world. To see the full results go to:

www.transparency.org/cpi

#stopthecorrupt

EUROBAROMETER ON CORRUPTION 2013

European Commission

Where are bribery and abuse of power for personal gain widespread?

QB7 In (OUR COUNTRY), do you think that the giving and taking of bribes and the abuse of power for personal gain are widespread among any of the following?

		Political parties	Politicians at national, regional or local level	Officials awarding public tenders	Officials issuing building permits	Private companies	Police, customs	Banks and financial institutions	Inspectors (health and safety, construction, labour, food quality, sanitary control and licensing)	None (SPONTANEOUS)	Don't know
	EU27	59%	56%	45%	43%	38%	36%	36%	35%	5%	7%
	IT	68%	63%	55%	54%	31%	33%	40%	44%	1%	5%
	HU	51%	49%	43%	39%	32%	38%	23%	28%	3%	7%

Transparency International Italia

Chiara Putaturo

Project Officer

ONLY 3% OF ITALIANS TRUST GOVERNMENT A GREAT DEAL

ITALY TRUST IN THE FOUR INSTITUTIONS: GOVERNMENT, BUSINESS, MEDIA AND NGOS, 2013 VS. 2014

TOTAL TRUST



TRUST A GREAT DEAL



NGOS



BUSINESS



MEDIA



GOVERNMENT

Direct costs of corruption in public procurement

Sector	Direct costs of corruption (in million €)	% of the overall procurement value in the sector in the 8 Member States
Road & rail	488 - 755	1.9% to 2.9%
Water & waste	27 - 38	1.8% to 2.5%
Urban/utility construction	830 - 1 141	4.8% to 6.6%
Training	26 - 86	4.7% to 15.9%
Research & Development	99 - 228	1.7% to 3.9%

Direct costs of corruption in public procurement for selected sectors in the Member States studied (2010), in million Euros and in percentages of the overall procurement value.

- Countries: France, Hungary, Italy, Lithuania, the Netherlands, Poland, Romania and Spain
- Cost : **EURO 1,4 – 2, 2 BILLION**
- Direct public loss: **18% of project budget, 13% due to corruption**
- **Bid rigging** is the most common type of corruption in Europe and in Italy

INTEGRITY PACTS IN MILAN

2000 - TI-Italy proposes IPs to Milan Municipality

2001 - Milan adopts Integrity Pacts

Why Milan?

90s: *manipulite* and *tangentopoli*.

Starting point: **Milan**, 17 February **1992**



	<i>Nella città corrotta</i>	<i>Dopo la lotta alla corruzione</i>
	Indice di costo	
opere pubbliche	100	60-80
opere di manutenzione	100	60-80
	Costo opera (Lit.)	
passante ferroviario	1994 mld	1452 mld
metropolitana (al Km)	300-350 mld/km	150-250 mld/Km
aeroporto Malpensa 2000	4220 mld	1990 mld

Source: Milan Municipality, Accounts Department, Data 1994-1995

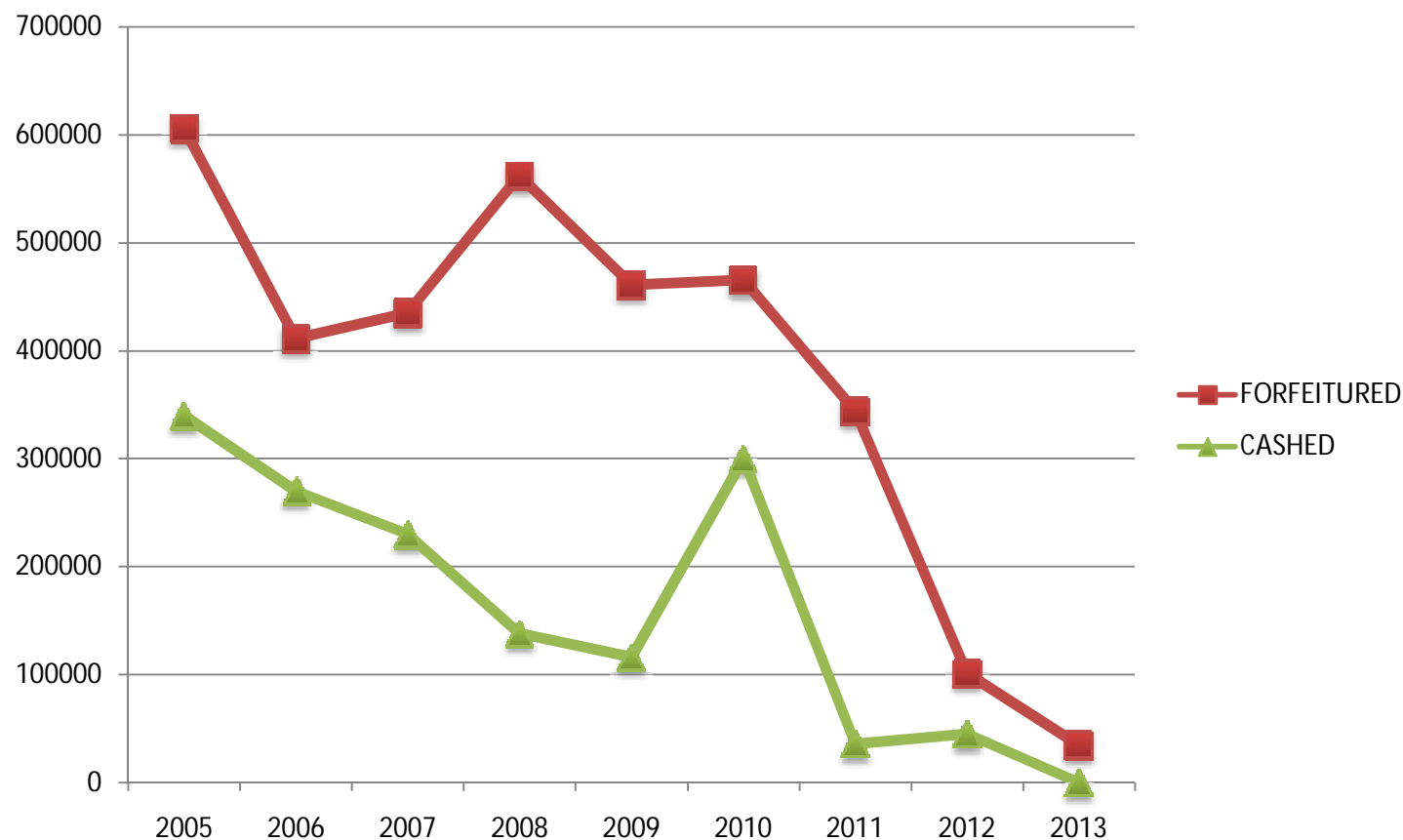
CHARACTERISTICS

MUNICIPALITY	BIDDERS
Clause within the tender document	
Mutual loyalty, transparency and honesty	
Refusal of bribes or favours	
Transparent contracting process information	Disclosure of payments
	Mandatory reporting of irregularities
	Refusal of collusive agreements ("substantial links")
	Cap on payment to agents
	Sanctions: denial of contract, forfeiture of bud security and performance bond, compensation of damage to Municipality (8%) and other competitors (1%), 5 year exclusion from Municipality bids

From 2002 to 2013:

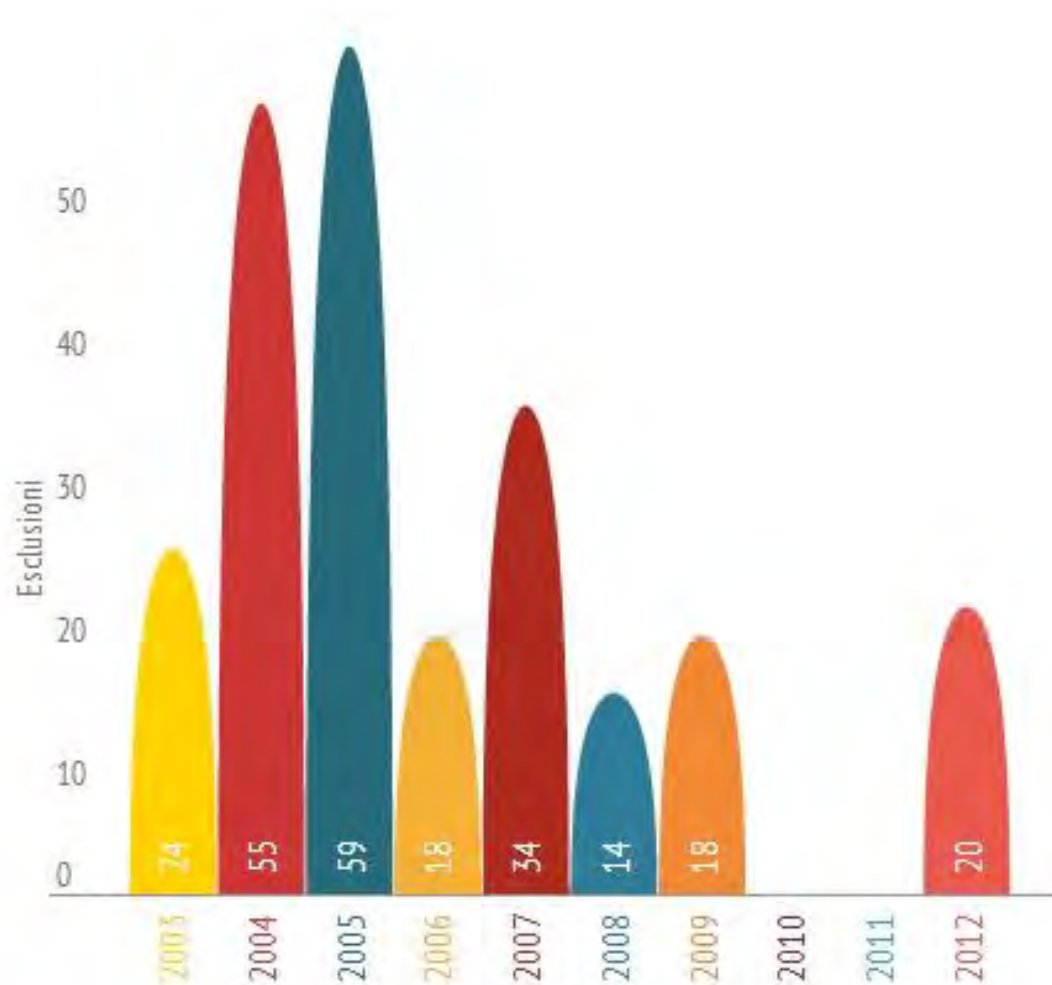
- **453 EXCLUSIONS**
- **164 COMPANIES EXCLUDED**
- **EURO 2,6 BILLION COLLECTED**

How much Milan forfeitured and cashed from excluding companies?



In 2012 forfeiture of bud security amounted to euro 2,975 million and Milan collected euro 1,200 million.

EXCLUSIONS FROM BIDS

Create infographics info.gr.am

In 2012 exclusions were 211

Main sectors of companies excluded: roads and buildings

SOME EXAMPLES:

- 22 companies out of 40 were based in the same Province in Sicily (Southern Italy)
- 7 companies had the same address in Caltanissetta (Sicily)

Public Prosecutor's Office investigated excluded companies and proceeded against some of them

LEGAL DISPUTES

Complainants for exclusion and compensation:

2004 - Administrative Court of Lombardia (TAR) rules against the bid bond forfeiture for substantial links

2005 – Italian Council of State overturns TAR's decision and restores the exclusion clause and the bid bond forfeiture

2010 - Administrative Court of Lombardia (TAR) rules against the exclusion clause because it does not affect the competition

2011- Italian Council of State restores the exclusion clause

REWARDS

- ✓ 2008 – Milan Municipality wins a reward for transparency in public procurement from the Ministry of Public Administration
- ✓ 2013 – Mariangela Zaccaria wins the “Giorgio Ambrosoli” special mention for her activity for IPs implementation in Milan



Where do we stand now?

IP implementation in Milan weakened in last years because of changes in legislation and economic and political conditions.

LEGAL REFORMS IN PUBLIC TENDERS

2009 – “Substantial links” are included in the Code of Public Tenders as a reason for exclusion

2012 – Reform of the Code of Public Tenders: causes of exclusion are peremptory

INSTITUTIONAL RECOGNITION

2009 – **Memorandum of Understanding** among TI-Italy, ANCI (National Association of Italian Municipalities), and the Ministry of Public Administration, for the promotion of Integrity Pacts

2010- 2011 - **Memorandum of Understanding** between Ministry of Public Administration and some Regions for the “Implementation of an Innovation Programme for Administration Activities”. Integrity Pacts are included.

2012 – Public Works Authority recognizes rejection of Integrity Pacts as a cause of exclusion

2012 - **Anti-Corruption Law** (190/2012): “Contracting authorities may provide in the notices or letters of invitation, that non-compliance of the provisions contained in the protocols of legality or in integrity pacts is a cause for exclusion from the bid.”

ADDITIONAL EXPERIENCES OF IPs

2002 - Cooperation with **Genoa Municipality** but opposition by General Secretary

2003 – **Turin** and **Bergamo** signed a Memorandum of Understanding with Public Works Authority in cooperation with Ministry of Home Affairs and National Anti-mafia Authority for monitoring public tenders and denouncing irregularities. TI-Italy was consulted. In Bergamo clause of “substantial links” were introduced.

2004 – **Health Administration** of the town of **Monza** adopted IP for all tenders and procurements

2004 – **Ministry of Foreign Affairs** adopted IP in bilateral cooperation

2008 – The town of **Monza** adopted IP.

TI-Italy cooperated with the Public Works Authority, the Ministry of Infrastructure, the ALER (Lombardia Utility for Residential Construction) and further 15 local authorities. Other municipalities, local districts and regions autonomously adopted IPs.

EXPERIENCES OTHER THAN IPs

- Legality Protocols: e.g. EXPO 2015 and Prefecture
- Codes of Conduct for bidders



TRANSPARENCY INTERNATIONAL ITALIA (TI-IT)
ASSOCIAZIONE CONTRO LA CORRUZIONE



I PATTI DI INTEGRITA'
EFFICIENZA E TRASPARENZA NEGLI APPROVVIGIONAMENTI
E NELLE GARE D'APPALTO



Transparency International Italia (TI-IT)
Via Sarmagnola, 19 - 20146 Milano
Tel. +39 02 40090550 / Fax +39 02 4066229
info@transparency.it - www.transparency.it

www.transparency.it



Transparency
International Italia



Transparency_it