

Legal Transition Programme  
Public Procurement  
Is fighting corruption fighting collusion?

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**European Bank**  
for Reconstruction and Development

## What is the EBRD?

- International financial institution owned by 65 countries, the European Union and the European Investment Bank
- Operating in more than 36 countries that stretch from Central Europe to Central Asia, the Western Balkans and the Southern and Eastern Mediterranean and more recently Cyprus and Greece

## Objectives

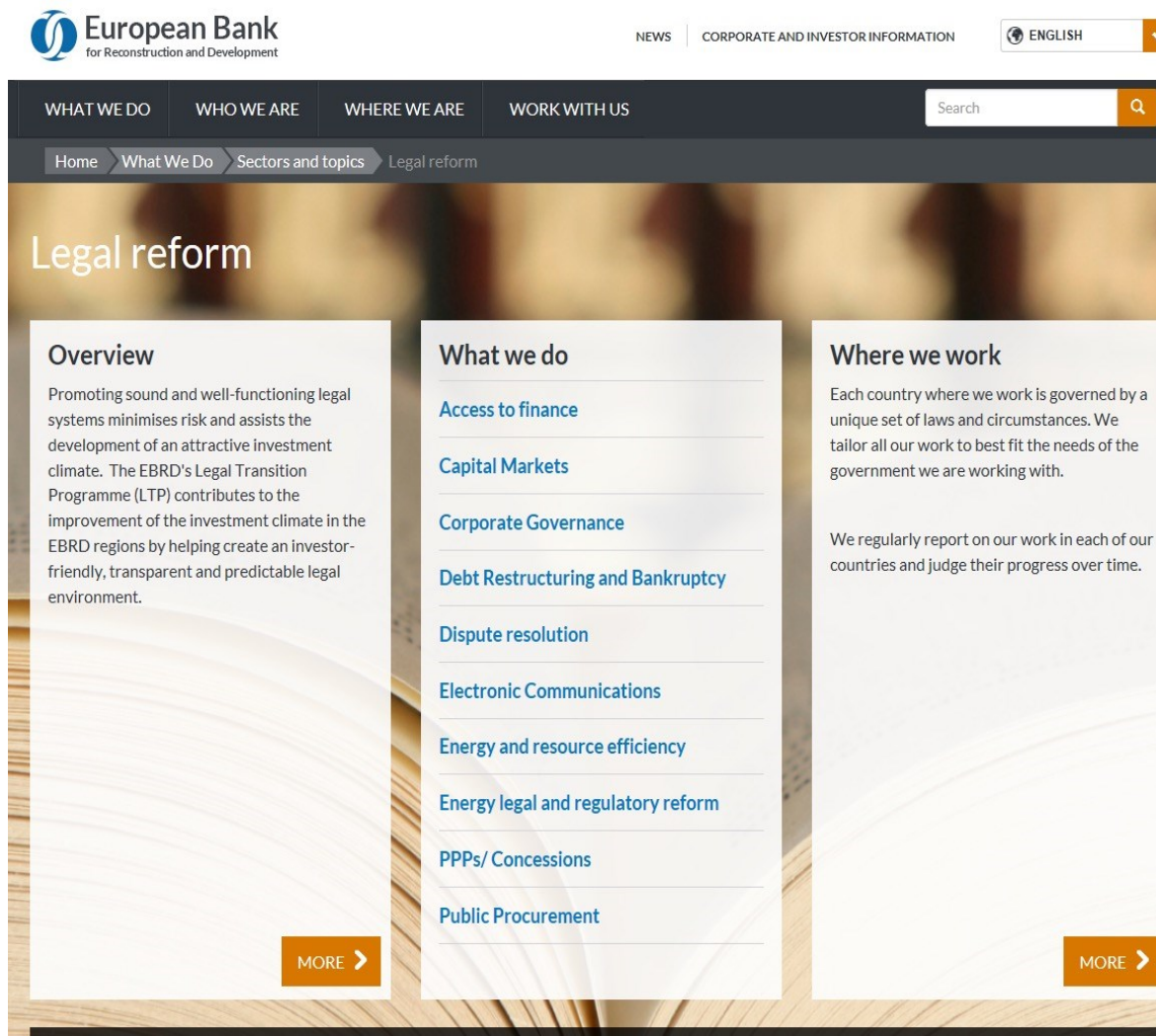
- Promote transition to market economies by investing mainly in the private sector
- Mobilise significant foreign direct investment
- Support privatisation, restructuring and better municipal services to improve people's lives
- Encourage environmentally sound and sustainable development

## Legal Transition Programme

- Aims to improve investment climate in the countries of operations by helping create an investor-friendly, transparent, and predictable legal environment

# EBRD Legal Transition Programme (LTP)

- First steps in 1991
- Legal Transition Programme established in 1995
- Funded by EBRD budget and donors
- Covers sectors crucial for market economy development
- From 2004 operates under 3-year Action Plans
- Public procurement was included in the LTP in 2009



The screenshot shows the EBRD website's 'Legal reform' page. At the top, the EBRD logo and name are visible, along with navigation links for 'NEWS', 'CORPORATE AND INVESTOR INFORMATION', and a language selector set to 'ENGLISH'. Below the header, a dark navigation bar contains 'WHAT WE DO', 'WHO WE ARE', 'WHERE WE ARE', and 'WORK WITH US', with a search bar on the right. A breadcrumb trail reads 'Home > What We Do > Sectors and topics > Legal reform'. The main content area is titled 'Legal reform' and is divided into three columns. The left column, 'Overview', describes the LTP's goal of promoting sound legal systems to improve investment climate. The middle column, 'What we do', lists various services: Access to finance, Capital Markets, Corporate Governance, Debt Restructuring and Bankruptcy, Dispute resolution, Electronic Communications, Energy and resource efficiency, Energy legal and regulatory reform, PPPs/ Concessions, and Public Procurement. The right column, 'Where we work', explains that the bank tailors its work to local laws and reports on its progress. Each column has a 'MORE >' button at the bottom.

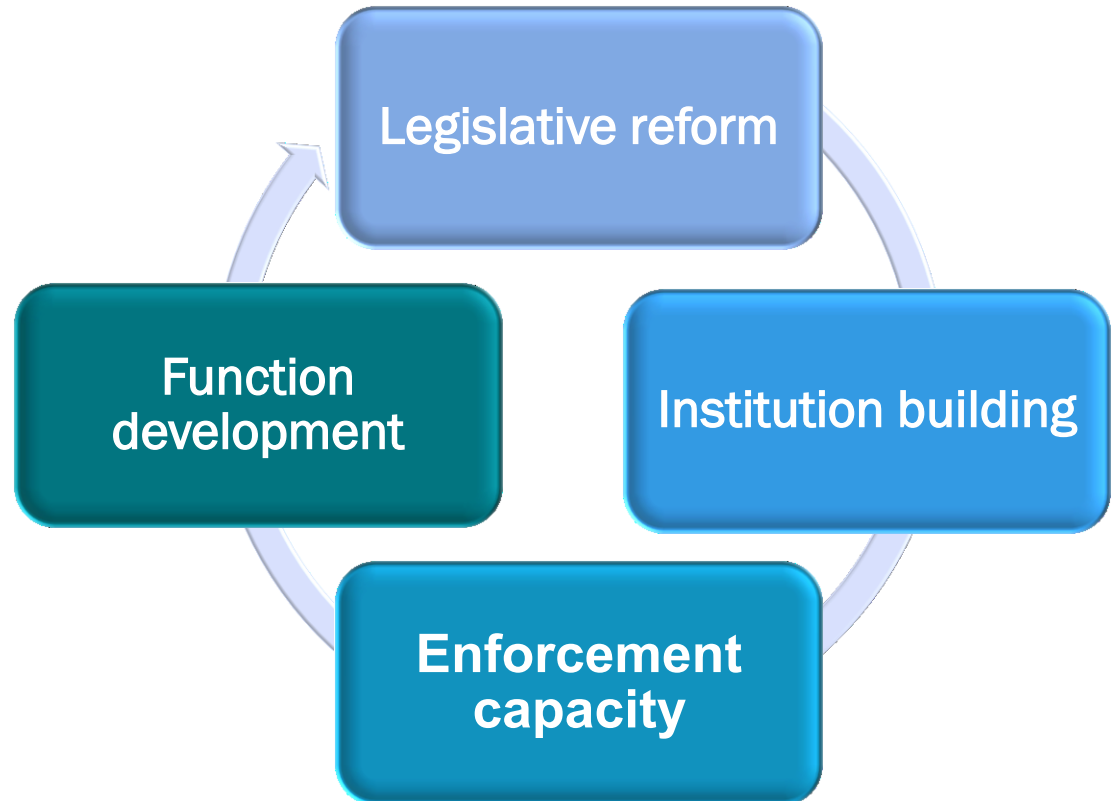


## We facilitate and support reforms

- Identify market best practice and provide inputs to global legal standard-setting
- Review and assess regulatory frameworks to identify reform needs
- Facilitate political discussion and adopting reform agenda
- Support reform design and implementation to create public procurement systems suitable for different types of public contracts: from micro to aggregated strategic procurement

# How we work

- focus on private sector development
- promoting global standards
- delivering country-tailored projects
- developing a complete technical cooperation package to assist with implementing reforms

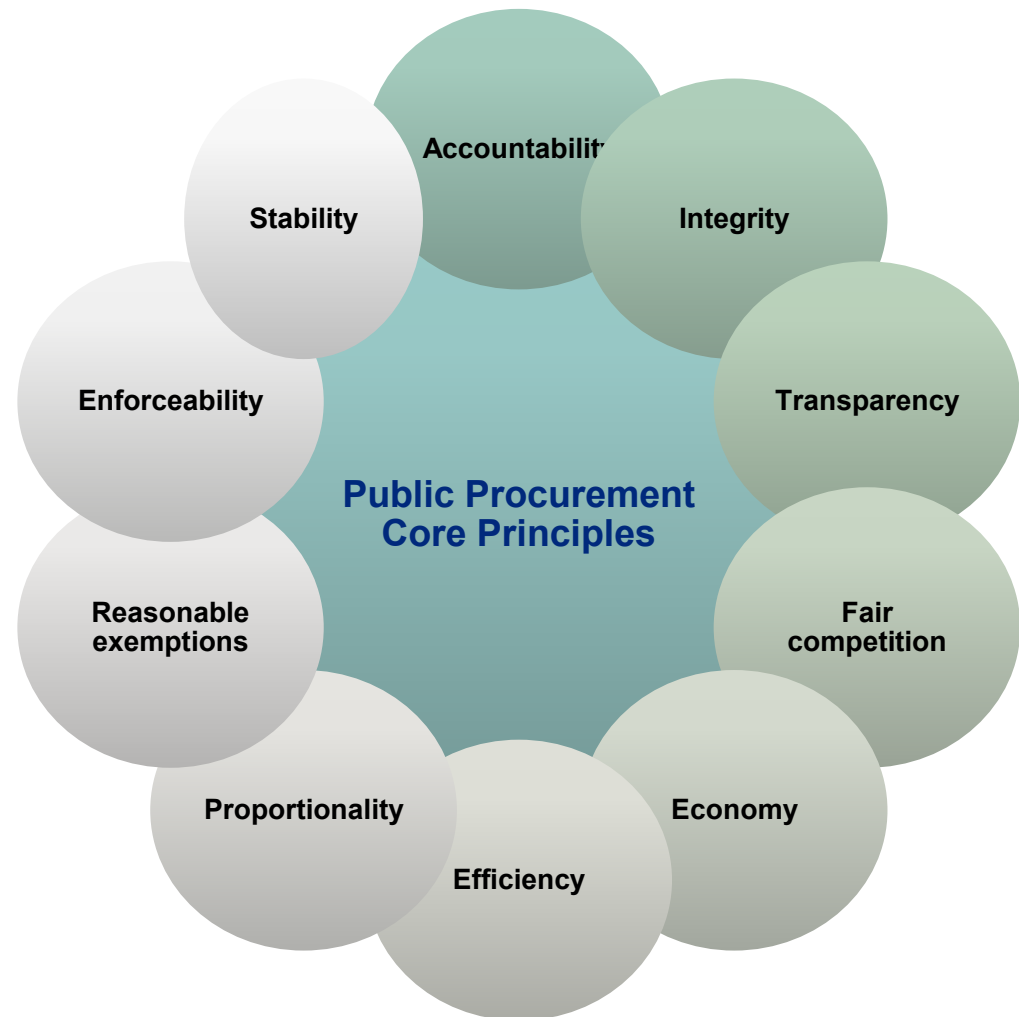


# Getting procurement policy right is complicated



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- The primary role of a public procurement law is to facilitate the business process of contracting in a public governance context
- Policy needs to address entire public procurement cycle
- Regulation needs to reflect conflicting interests: transparency safeguards, efficiency instruments and appropriate implementation and enforcement framework



- Readiness for modern public procurement systems
- Different levels of political engagement
- Different drivers for reforms - fiscal constraint, anti-corruption agenda, trade development
- Appetite for eProcurement solutions

# Is fighting corruption fighting collusion?



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- Do we have a ‘fighting corruption’ agenda?
- We work with transition economies to promote transparency and competition in public procurement policy
- We support Open Government but advocate policies balancing transparency and competition: 2011 UNCITRAL Model Law
- We do not believe more transparency causes less competition



# When fighting corruption is fighting collusion



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- Market allocation, identical pricing, cover bidding or boycotts to prompt direct awarding are features of any public procurement market, including transition economies
- Market practice: corruption risks are typically higher in transition economies because typically there is less freedom of enterprise
- World Bank Doing Business ranking frequently coincides with Transparency International corruption index
- Is full transparency pushed by anti-corruption agenda working against competition on the public procurement market?

# When preventing corruption is preventing collusion



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- Keeping procurement market competitive
- Advocating full transparency of procurement information
- Maintaining low barriers to entry, by promoting opening up markets to international trade and easy access to new entrants from local market, SMEs in particular
- Promoting digital public procurement cycle
- Working with civil society to monitor procurement outcomes, not procurement process

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