

PREVENTING STATE CAPTURE

AN OVERVIEW OF POLICY APPROACHES

OVERVIEW

- **State capture: defining criteria**
 - Capture as business influence
 - Capture as power preservation
- **A holistic policy framework**
 - Policy issues in capture as influence
 - Policy issues in capture as power preservation
- **Monitoring approaches: the case for “data with purpose”**

CRITERIA

Exclusionary interest

(actor from private or political sphere)

Business

Military, Party

Deviant relationship

(illegal or abusive)

Corruption

Abuse

Skewed-away public good

(whole of society effect)

Law

Public spending

THE CAPTOR WITHIN, THE CAPTOR WITHOUT

- Capture as business influence
- Capture as power preservation

THE CAPTOR WITHOUT: BUSINESS INFLUENCE

- “Monopoly pressures” by private actors
- “Deviant” public-private relationship through corrupt means: from bribery to unduly use of influence, such as campaign donations, lobbying, kin
- Captured function *de facto* privatises outcomes, i.e. tax exemption laws in UK, Brazil and Madagascar

THE CAPTOR WITHIN: POWER PRESERVATION

- Power holders acting in their self-interest, political and financial (e.g. business role of state/military/party in transition contexts)
- Deviant by abuse: accumulation of power unchecked by executive, legislative and judiciary; society
- Outcomes sustain elites' power (e.g. hybrid regimes, state resources in campaigns, patronage) **and** enable private gains (e.g. cronyism)
- Self-preservation, both a means and an end

A HOLISTIC POLICY FRAMEWORK

- **Inclusive power.** Level field for political contestation. Key issues:
 - Political financing
 - Election abuse (state neutrality, clientelism)
 - Political recruitment (patronage, appointments)
- **Equal influence.** All concerned can influence laws and investments. Key issues:
 - Conflict of interests
 - Consultation
- **Power held accountable.** Elites face actual consequences (domestic and international). Key issues:
 - Political contestability (e.g. parliamentary oversight)
 - Privileges and immunities
 - International cooperation for enhanced accountability

POLICY ISSUES - CAPTURE AS BUSINESS

INFLUENCE (I)

1 | POLITICAL FINANCE

1.1 Large donations from corporate and individual donors give private interests an undue advantage to influence public decisions

1.2 Self-funded candidates circumvent caps, tilt playing field, pave the way for state capture.

1.3 Financing from third-party organisations conceal illegal contributions.

1.4 Opaque financing of digital political advertising serves as vehicle for illegal contributions and third-party involvement.

1.5 Lack of transparency of political finance information and weak disclosure systems prevent effective oversight and enforcement.

1.6 Weak oversight systems hamper enforcement of campaign finance regulations

POLICY ISSUES - CAPTURE AS BUSINESS

INFLUENCE (II)

2| CONFLICT OF INTERESTS IN DECISION MAKING

- 2.1 Undisclosed or non-existent asset and interest declarations hide conflicts of interests and illicit enrichment.
- 2.2 Unchecked conflicts of interest by high-level political power holders negatively affect public decision-making.
- 2.3 'Revolving doors' or lack of post-term employment restrictions lead to increased conflicts of interest.

3| POLICY CONSULTATION

- 3.1 Absence of consultation precludes public participation in decision-making.
- 3.2 Ineffective public consultation over major policy decisions, lack of transparency of the legislative footprint, innovation in consultation
- 3.3 Opaque and unaccountable lobbying unduly influences public decision-making.

POLICY ISSUES -CAPTURE AS POWER

PRESERVATION (I)

1| ELECTION ABUSE

- 1.1 Vote buying, and negative inducements affect election results.
- 1.2 The state apparatus is used for partisan ends.
- 1.3 State co-option of media for electoral purposes

2 | ALLOCATION OF STATE JOBS AND RESOURCES

- 2.1 Widespread allocation of public goods along particularistic lines sustains elite status and their kin.
- 2.2 Patronage is an abuse of public resources increasing the risks of corruption and state capture.

3 | POLITICAL CONTESTABILITY: ACCOUNTABILITY AND OVERSIGHT

- 3.1 Oversight agencies lack independence and adequate mandates.
- 3.2 Parliaments do not enforce professional ethical standards.
- 3.3 Parliamentary oversight of the executive is ineffective or non-existent.

POLICY ISSUES-CAPTURE AS POWER PRESERVATION

(II)

4 | PRIVILEGES AND IMMUNITIES

4.1 Impunity is widespread because of jurisdictional immunities, privileges and statutes of limitations.

4.2 Pardons and clemency decisions secure impunity for people who violated political integrity standards and norms.

5 | INTERNATIONAL COOPERATION FOR ENHANCED ACCOUNTABILITY

5.1 Lack of international cooperation and coordination to impose sanctions

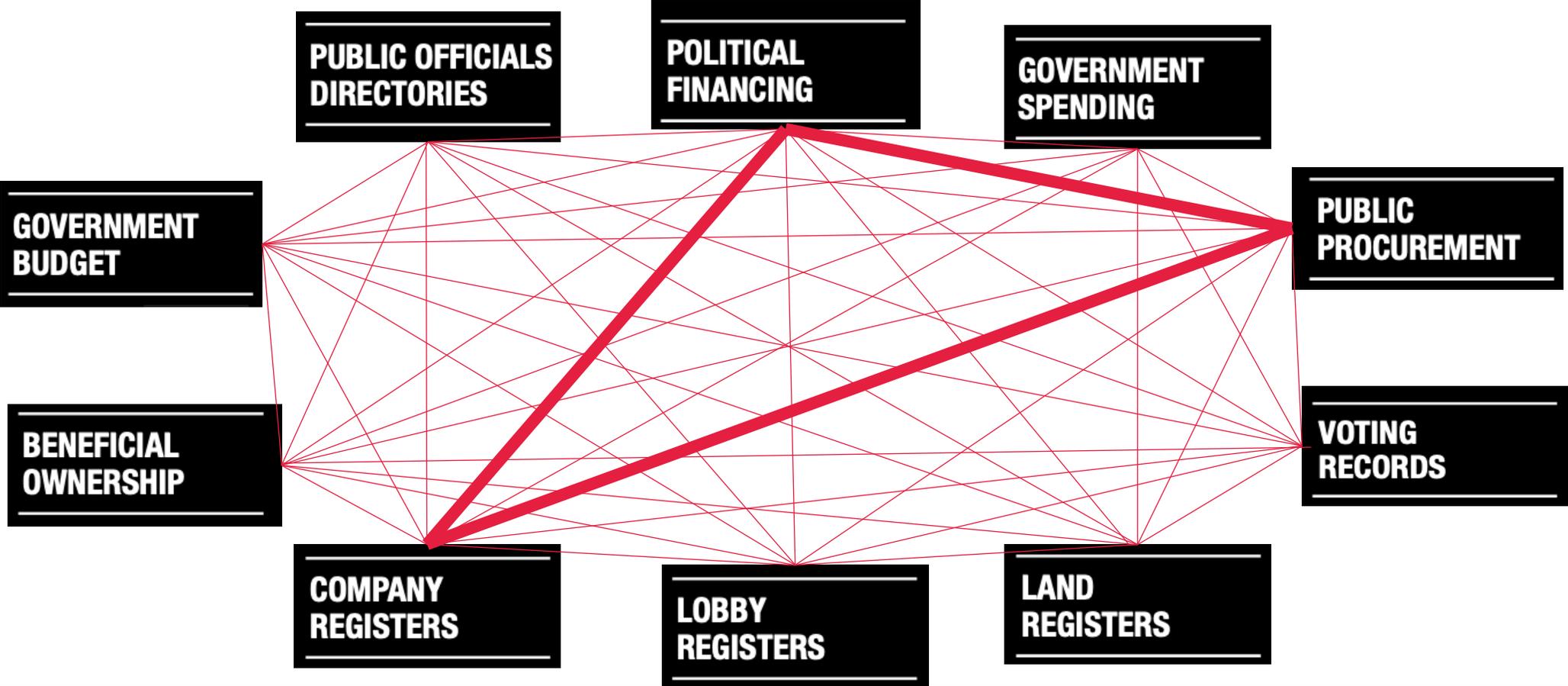
5.2 Lack of international cooperation and coordination to process extraditions

5.3 Aid conditionality is not tied to anticorruption reforms

MONITORING APPROACHES

- EXAMPLE: Use of "open data with purpose" against state capture

CONNECTING THE DOTS



USE CASE

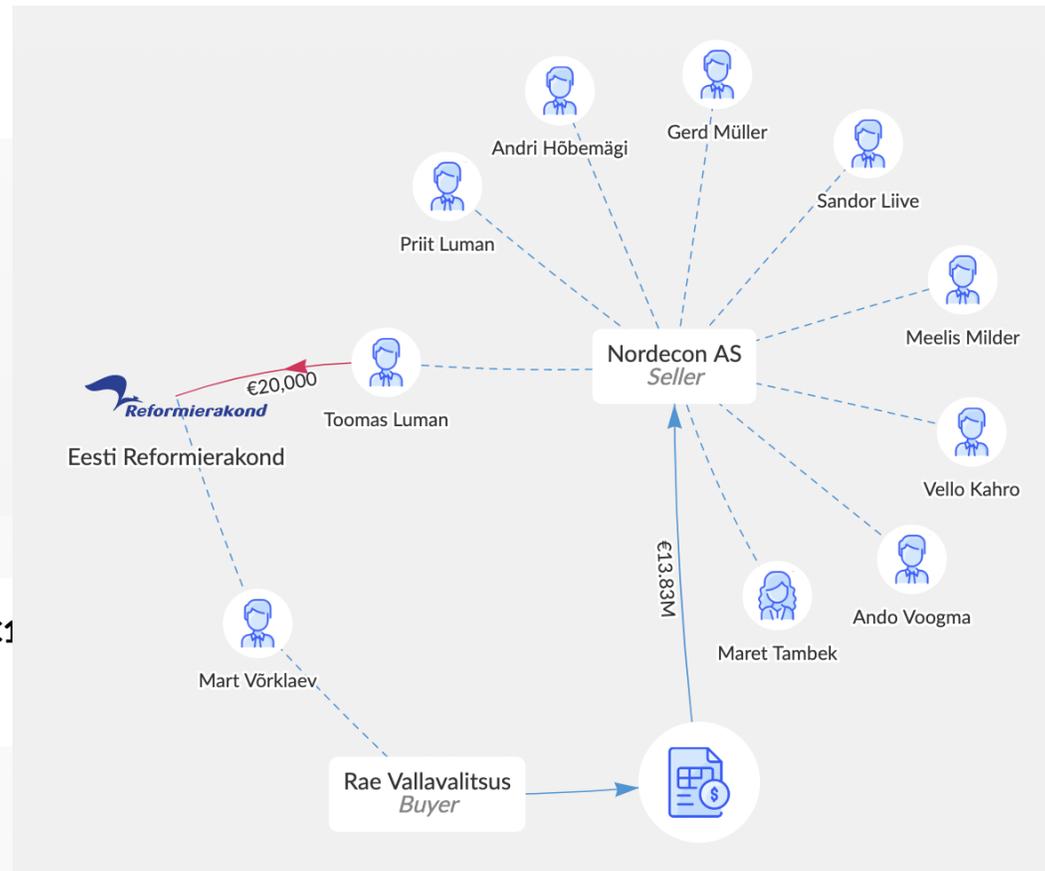
Procurements

Here you can review and filter public procurements from Estonia and Latvia. Try filtering for [Single bidder procurements with brief bidding periods](#) or [Contracts won after political donations](#), or create your own below.

Found 106 procurements

Procurements with **political party donations** at most **12 months before** sorted by **cost**. [Show filters](#)

Title	Buyer	Publishing Date	Bidding	Bidders	Cost
Kindluse Kooli ehitustööde peatöövõtt	Rae Vallavalitsus	Published Aug 16, 2019 and bidding deadline Sep 30, 2019.	45 days	8 bidders 7 bids	€1,000,000
Nordecon AS Kindluse Kooli projekteerimis- ja ehitustööde töövõtuleping 26127					
Political donations by board-members prior to contract totalling €20,000.					
Jan 18, 2019	Toomas Luman	Chairman of the supervisory board	Eesti Reformierakond		€10,000
Apr 28, 2019	Toomas Luman	Chairman of the supervisory board	Eesti Reformierakond		€10,000



OPEN DATA PRINCIPLES

Open by Default



Timely and Comprehensive



Accessible and Usable



Comparable and Interoperable



Data for Improved Governance and Citizen Engagement



Data for Inclusive Development and Innovation



CASE STUDY: OPEN DATA IN GERMANY

INDICATOR	Dataset Online	Timeliness	Granularity	Formats	Openness	Accessibility	Open Standards	Metadata	Documentation	TOTAL DATASET SCORE
Lobbying registers ^{II}	X	X	X	X	X	X	X	X	X	0
Company registers ^{III}	✓	✓	✓	X	X	X	X	X	X	3
Beneficial ownership ^{IV}	X	X	X	X	X	X	X	X	X	0
Public officials ^V	✓	✓	X	X	X	✓	X	X	X	3
Government budget ^{VI}	✓	✓	✓	✓	✓	✓	✓	✓	X	8
Government spending ^{VII}	X	X	X	X	X	X	X	X	X	0
Public procurement ^{VIII}	✓	✓	✓	X	X	✓	X	X	X	4
Political financing ^{IX}	✓	✓	✓	X	X	✓	X	X	X	4
Voting records ^X	✓	✓	✓	X	X	✓	X	X	✓	5
Land registers ^{XI}	✓	X	X	X	X	X	X	X	X	1

TOWARDS INTERNATIONAL OPEN DATA STANDARDS

What are Data Standards

Specifications that make it easier for people and organisations to [publish](#), [access](#), [share](#) and [use](#) better quality data.

Why do we need them?

- Better integration of datasets;
- Easier oversight and control;
- More powerful analytics;
- Tool for accountability

How do we get to them?

Co-design with producers and users in mind.

