

## EUROPEAN PROCUREMENT LAW

**Series Editors:** Roberto Caranta, *Turin University, Italy* and Steen Treumer, *Faculty of Law, University of Copenhagen, Denmark*

Public procurement is a highly significant and growing area of legal practice. Each book in this series addresses one of the most pressing topics in EU public procurement law and practice, taking a comparative approach and combining cross-cutting thematic chapters with detailed country information. This is both valuable and necessary in understanding how public procurement law is developed and applied – or misapplied – in the EU and in its Member States. In so doing, the series hopes to inspire new approaches and offer guidance in applying the principles and basic (though at times very detailed) rules. The clear descriptions of the practices, regulations, case law and interpretations of public procurement law throughout the EU will assist practitioners both in better understanding the rules as applied in their own jurisdiction and in developing best practices. The books are written by academics and experts from a broad range of Member States who have worked closely together since 2010 in a cross-border research group specialized in public procurement law.

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Centralising Public Procurement  
The Approach of EU Member States  
*Edited by Carina Risvig Hamer and Mario Comba*

# Centralising Public Procurement

The Approach of EU Member States

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## 15. Central purchasing bodies in Italy: reluctance and challenges

Gabriella M. Racca

### 1 INTRODUCTION

As the 2014 Procurement Directive recalls, a trend is emerging in the EU as well as in Italy towards cooperation in public procurement and aggregation of public demand.<sup>1</sup>

Joint procurement, if correctly addressed, makes it possible to obtain economies of scale, lower prices and better quality while reducing transaction costs and improving the professionalism of procurement officials.<sup>2</sup> Professionally “adequate” organisations, capable of pursuing the public interests with efficiency and integrity, are required by art. 118(1) of the Italian Constitution.<sup>3</sup> Conversely, a lack of professionalism and skills causes waste, inefficien-

cies and risks in terms of integrity and inefficiency in public procurement activities.<sup>4</sup>

Only efficient organisational models and qualified structures can pursue adequate market analyses and develop strategies for better procurement coordination in specific sectors. Hence the need for increased professionalisation and qualification of public demand, which imply significant organisational changes and the overcoming of the traditional model whereby each public entity awards all its own procurements.

Economic factors (e.g., the impact of the economic crisis) strongly favoured procurement aggregation because of its related savings, although in Italy it resulted in a set of contradictory regulatory frameworks unable to effectively reorganise public procurement demand. Joint procurement is considered risky due to excessive concentration of purchasing power and to the limits to participation of SMEs.<sup>5</sup> The political environment, especially at the local level, is often against aggregation, and very recently a turn back from aggregation has been approved.<sup>6</sup> Public officials, on the contrary, often understand both their lack of skills and the advantages of aggregation in avoiding the risks and costs of individual awarding procedures.

### 2 STRUCTURE AND USE OF CPBS AND OTHER FORMS OF JOINT PROCUREMENT

#### Structure of CPBs

In Italy, the public procurement system includes 36,000 contracting entities, 32 qualified CPBs (*Soggetti aggregatori*), some at national level and others at regional level, approximately two for each of the 20 Italian regions, and up to 600 minor aggregations at local level.<sup>7</sup>

At the national level, the most relevant CPB is Consip S.p.A., set up in 1997, which provides national agreements (*Convenzioni*), originally within the IT

<sup>1</sup> G. M. Racca and C. R. Yukins (eds), *Joint Public Procurement and Innovation: Lessons Across Borders*, in *Droit Administratif / Administrative Law Collection* (Directed by J. B. Auby), Bruxelles, Bruylant, 2019, available at <https://publicprocurementinternational.com/joint-public-procurement-lessons-across-borders/>, accessed 17 March 2021. The relevance of joint procurement was already pointed out in 2010 in G. M. Racca, “Aggregats models of public procurements and secondary considerations”, in R. Caranta and M. Trybus (eds), *The Law of Green and Social Procurement in Europe*, Djof Publishing, Copenhagen, 2010, pp. 165–178.

<sup>2</sup> European Commission, *Making Public Procurement work in and for Europe*, COM(2017) 572 final, October 2017 and *Europe 2020 A strategy for smart, sustainable and inclusive growth*, COM(2010) 2020 final, March 2010.

<sup>3</sup> G. M. Racca and S. Ponzio, “La scelta del contraente come funzione pubblica: i modelli organizzativi per l’aggregazione dei contratti pubblici”, in *Diritto Amministrativo*, XXVII, 1, 2019, p. 36; R. Cavallo Perin and G. M. Racca, “Administrative cooperation in the public contracts and service sectors for the progress of European integration”, in F. Merloni and A. Pioggia (eds), *European Democratic Institutions and Administrations*, Giappichelli Editore, Turin, 2018, p. 266.

<sup>4</sup> G. M. Racca and C. Yukins (eds), *Integrity and Efficiency in Sustainable Public Contracts*, Bruylant, Brussels, 2014.

<sup>5</sup> M. Immordino and A. Zito, “Aggregazione e centralizzazione della domanda pubblica di beni: stato dell’arte e proposte di migliorie al Sistema vigente”, *Nuove autonomie*, XXVII, 2, 2018, p. 371.

<sup>6</sup> Art. 1(1) of Law of 14 June 2019, no. 55 suspended the requirement for municipalities to purchase in an aggregats way which was previously in force under art. 37, para. 4 of the Italian Public Contract Code (“IPCC”). Recently, art. 8(7)(a) of Law of 11 September 2020, no. 120, extended the suspension until 31 December 2021.

<sup>7</sup> European Commission, *ProcurCompEU. Study on Professionalisation of Public Procurement in the EU and Selected Third Countries*, Publications Office of the European Union, Luxembourg, 2020, p. 91.

sector, and then extended to other sectors and new contractual models, partly mandatory for a number of public administration bodies.<sup>8</sup>

More recently, at the regional level, similar aggregation mechanisms have been introduced in order to control spending in strategic sectors, given the mandatory joint procurement provision. The regions intend, with their CPBs, to select suppliers, since most Italian expenditure takes place at sub-national level.<sup>9</sup>

With the 2014 “Spending Review” provisions, a National List of “qualified” CPBs (*Soggetti aggregatori*) – including the Minister of Infrastructure and Transport, Consip S.p.A., Invitalia (i.e. the National Investment and Entrepreneurship Development Agency) and regional CPBs – was provided by the Italian National Anti-Corruption Authority (A.N.A.C.), with the possibility of also including other CPBs that fulfil requirements of quality, efficiency, professionalism and territorial stability.<sup>10</sup> For the time being, this list is made up of 32 “qualified” CPBs.<sup>11</sup>

A list of product categories and relevant thresholds above which public authorities are bound to resort to Consip or another “qualified” CPB was approved in 2018.<sup>12</sup> The public expenditure through Consip instruments reaches approximately €15 million per year.<sup>13</sup> In three years (2017–2019) the amount purchased increased by 82% compared to the previous three years, with savings of around €3 billion. In the same period, the amount of purchases through the qualified CPBs (*Soggetti aggregatori*) was about €20 billion per

<sup>8</sup> Consip S.p.A. has been introduced by the Decree of the Ministry of Treasury of 22 December 1997 and started to provide “Convenzioni” in 1999 (Law of 23 December 1999, no. 488). The list of the available *Convenzioni* (January 2021) can be found at Consip, “Mappe Offering Versione Light” (21 January 2021) [www.consip.it/sites/consip.it/files/Mappe%20Offering%20Versione%20Light%20per%20portale%2021\\_1\\_2021.pptx](http://www.consip.it/sites/consip.it/files/Mappe%20Offering%20Versione%20Light%20per%20portale%2021_1_2021.pptx), accessed 17 March 2021. Framework Agreements – the newer contracts used by Consip – are provided by art. 54 of the IPCC. Recently, the use of framework agreements for public administration has been made mandatory by art. 1, para. 583 of Law Decree of 27 December 2019, no. 160 (the 2020 “Finance Law”).

<sup>9</sup> European Commission, *ProcurCompEU. Study on professionalisation of public procurement in the EU and selected third countries*, supra note 7, p. 91.

<sup>10</sup> Law Decree no. 66 of 2014.

<sup>11</sup> See Italian Anti-Corruption Authority, Decision of 4 September 2019, no. 781.

<sup>12</sup> Decrees of the Ministry of Economy of 24 December 2015 and of 11 July 2018.

<sup>13</sup> Consip, “Bilancio 2019”, [www.consip.it/sites/consip.it/files/CONSP\\_Bilancio2019\\_WEB\\_0.pdf](http://www.consip.it/sites/consip.it/files/CONSP_Bilancio2019_WEB_0.pdf), accessed 17 March 2021.

year.<sup>14</sup> In 2020, the impact of the health emergency on regional purchasing will presumably determine a further increase.<sup>15</sup>

Other subregional entities, such as the *Stazione Unica Appaltante – SUA*, were originally introduced in 2010, based on the ad hoc set of laws on organised crime, to meet integrity requirements in this sector, which is notoriously vulnerable to corruption.<sup>16</sup> Other minor CPBs, such as the *Centrale Unica di Committenza – CUC* among municipalities, were provided to impose mandatory joint procurement to overcome the lack of capacity inside the smaller municipalities and to optimise public expenditure.<sup>17</sup> Nonetheless, the outcome of these regulations was just to provide a summary of different award procedures, without being able to counteract the lack of effective aggregation of public demand or improve the skills of the procurement officers.<sup>18</sup>

Such provision led to the creation of around 800 small CPBs, 459 unions of municipalities, 94 mountain communities and another 50 CPBs at sub-national level.<sup>19</sup> Nonetheless an efficient and qualified model for joint procurement at local level has yet to be found and such a regulatory gap is driving business to seek alternative market solutions, which are not always clearly regulated.<sup>20</sup>

<sup>14</sup> Consip, “Consip: principali risultati del triennio 2017–19” (April 2020), [www.consip.it/sites/consip.it/files/Triennale\\_v1\\_update\\_sito.pdf](http://www.consip.it/sites/consip.it/files/Triennale_v1_update_sito.pdf), accessed 17 March 2021.

<sup>15</sup> Other e-procurement platforms on the model of the above-mentioned digital tools have been introduced by private entities that are not qualified as CPBs and might only provide ancillary services, with a growing number of procedures awarded and increasing litigation related to *Asmel s.c.a.r.l.*: ASMECOMM, MEPAL and SDAPAL. See, most recently: T.A.R. Salerno, decision of 2 January 2021, no. 1. See: G. M. Racca, “La Corte di Giustizia e le scelte nazionali per una efficiente e trasparente aggregazione dei contratti pubblici: una sfida per l’evoluzione digitale della “funzione appalti” nazionale, regionale e locale”, *Riv. It. Dir. Pub. Com.*, 2, 2021, pp. 185-215.

<sup>16</sup> Art. 13 of Law of 13 August 2010, no. 136. See also the Decree of the President of the Council of Ministers of 30 June 2011.

<sup>17</sup> Art. 37, para. 4(b) of the IPCC.

<sup>18</sup> According to an analysis by the University of Rome Tor Vergata and the Promo P.A. Foundation, in 2018, 863 contracting authorities were reported active in Italy (19% of which are single municipalities), plus 459 unions of municipalities, 94 *Comunità Montane*, 51 *Stazioni Uniche Appaltanti*, and nine metropolitan cities qualified as *Soggetti aggregatori* by A.N.A.C.

<sup>19</sup> Accademia per l’Autonomia, “La riorganizzazione degli acquisti pubblici a livello locale per il contenimento della spesa pubblica e l’efficienza degli appalti: quale modello organizzativo?”, Rome, 22 January 2018.

<sup>20</sup> See the case law brought by the A.N.A.C. before the courts against tender procedures carried out by a private entity (*Asmel s.c.a.r.l.*). The courts have repeatedly stated that *Asmel* cannot act as a qualified CPB as it is not a body entitled to carry out public tender procedures (see recently, T.A.R. Salerno, no. 1/2021). See: G. M. Racca, “La Corte di Giustizia e le scelte nazionali per una efficiente e trasparente aggregazione dei

## Users of CPBs

Originally, recourse to the national CPB (Consip S.p.A.) was mandatory for national and sub-national authorities but the number of available *Convenzioni* was scarce.<sup>21</sup> This was followed, as just recalled, by the creation of different CPBs in each region (e.g., Intercent-ER for Emilia Romagna Region, Soresa S.p.A. for Campania Region, SCR for Piemonte Region), without any commitment for some years by contracting authorities to use their contracts, but later providing a list of goods and services that the contracting authorities are obliged to buy through them.<sup>22</sup>

Currently, under the national provisions, contracting authorities may choose to independently manage the procurement of goods and services below €40,000 and public works below €150,000. For purchases above those values, contracting authorities must turn to centralised purchasing schemes offered by CPBs.<sup>23</sup> The 2020 Finance Law aimed at the inclusion of a greater number of public administration entities by introducing a provision whereby purchases must be made using Consip's agreements.<sup>24</sup> For purchases below the European threshold, contracting authorities must turn to the e-marketplace "MePA".<sup>25</sup>

## Financing of CPBs

In Italy, CPBs are normally public agencies and/or in-house companies owned totally by public authorities, or bodies governed by public law.<sup>26</sup> The possible private legal standing of CPBs may affect the selection of procurers that will

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contratti pubblici: una sfida per l'evoluzione digitale della "funzione appalti" nazionale, regionale e locale", *supra* note 15, pp. 185-215.

<sup>21</sup> Under art. 1, para. 449, of Law 296/2006 all the health-care authorities must purchase by means of special agreements stipulated by the regional CPBs or through framework agreements stipulated by Consip S.p.A, if regional agreements are not available. See: G. M. Racca, "Collaborative procurement and contract performance in the Italian healthcare sector: illustration of a common problem in European procurement", *Public Procurement Law Review*, 3, 2010, pp. 119-133, recalling that the Italian provision of mandatory joint procurement was ineffective as Consip had very few agreements in place at the time.

<sup>22</sup> Italian Anti-Corruption Authority, Decision of 4 September 2019, no. 781.

<sup>23</sup> Art. 37ff. of Title II, Part II of the IPCC.

<sup>24</sup> Art. 1, para. 583 of Law Decree of 27 December 2019, n. 160 (the 2020 "Finance Law").

<sup>25</sup> Art. 1, para. 130, Law of 30 December 2018, no. 145.

<sup>26</sup> Art. 3, point (i) in conjunction with point (a) of the IPCC.

not acquire the full status of public officials and the related duties of "discipline and honour", as provided by art. 54 of the Italian Constitution.<sup>27</sup>

Italian CPBs are funded through the State budget or by percentages calculated on the contractual instruments provided and utilised by public administrations, or by fees charged for the performance of their services. The latter method was used for a while in some regions. For example, SCR, the CPB of the Piedmont Region, used to charge a transaction fee to any successful tenderers.<sup>28</sup> At present, neither the Italian Anti-Corruption Authority nor the courts allow such a mechanism for remuneration.<sup>29</sup>

The provision of service fees for contributions that cover the management costs of a CPB should be distinguished from other charges for ancillary purchasing activities. The introduction of a percentage amount (*transaction fees*) charged to the successful tenderers might divert from the goal of reducing costs and increasing efficiency, which is the ultimate reason for aggregation.<sup>30</sup> The eventual choice of a private provider of ancillary purchasing activities might be made through a specific award procedure.

## Cross-Border Procurement Experience with CPBs

The Directive envisages forms of joint cross-border cooperation through the establishment of joint entities (European Groupings of Territorial Cooperation or EGTCs), operating under European or national laws. Joint procurement strategies may be implemented, relying on joint award procedures or centralised activities offered by a central purchasing body from a different Member State.<sup>31</sup>

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<sup>27</sup> R. Cavallo Perin, "L'etica pubblica come contenuto di un diritto degli amministratori alla correttezza dei funzionari", in F. Merloni and R. Cavallo Perin (eds), *Al servizio della nazione. Etica e statuto dei funzionari Pubblici*, Franco Angeli Edizioni, Milan, 2009, pp. 147-161; R. Cavallo Perin, "Codice di comportamento e sistema disciplinare", in A. Corpaci, R. Del Punta and M. P. Monaco (eds), *La riforma del lavoro pubblico. Riflessioni a due anni dalla legge Madia*, Franco Angeli Edizioni, Milan, 2018, pp. 143-153.

<sup>28</sup> Law of 6 August 2007, no. 19 of the Piedmont Region, art. 4, para. II-bis and Decision of the Regional Council of Piedmont of 20 January 2014, no. 7-7024 with regard to SCR.

<sup>29</sup> Italian Anti-Corruption Authority, decision of 25 February 2015, no. 3; Decision of 8 March 2017, no. 247. See also: T.A.R. Salerno, decision of 2 January 2021, no. 1.

<sup>30</sup> Italian State Council, decisions of 3 November 2020, no. 6787 and of 12 November 2020, no. 6975. See: G.M. Racca and S. Ponzio, "La scelta del contraente come funzione pubblica: i modelli organizzativi per l'aggregazione dei contratti pubblici", *supra* note 3, p. 53.

<sup>31</sup> Art. 39(1) and (4), Directive 2014/24/EU. On this topic: G. M. Racca, "Joint procurement challenges in the future implementation of the new Directives", in F.

Surprisingly enough, national provisions allow for the use of centralised purchasing activities from other Member States, but limited to the wholesalers and not intermediary providers.<sup>32</sup> The reason for such a restrictive Italian implementation of the Directive is not clear (maybe it was related to the fear of creating a wide opening to other States' efficient procurement tools) and hopefully it will be overcome in the near future. Nevertheless, such restrictive implementation does not prevent agreements for joint cross-border cooperation. It just limits the options available when buying under framework agreements jointly awarded with other Member States. Consequently, a reciprocal basis principle could limit cross-border cooperation opportunities.

As is well known, the Directive prevents a distorted use of cooperation and "the application of mandatory public law provisions", provided that the "mandatory public law provisions" are "in conformity with Union law to which they are subject in their Member State".<sup>33</sup> The first part of the provision seems to warn against the intentional distorted use of the national rules that implement the Directive in the different Member States. The cooperation agreements might establish sets of rules applicable in each country on mandatory exclusion grounds, thus enhancing harmonisation and requiring stricter qualifications. Choosing the provisions of one Member State does not prevent the addition of further provisions (in view of the cooperation) governing selection and award, according to the legal system in which the contract will be executed (e.g. the anti-mafia certificate which is required only under Italian law). The rationale of the aforesaid European provision is to avoid an intentional misuse of cooperation to allow the participation of suppliers that otherwise could not participate according to the national provisions. Should all this ever be proved, it might be a case of intentionally avoiding mandatory public law provisions.<sup>34</sup> The joint procurement cooperation strategies might define templates that include clauses

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Lichère, R. Caranta and S. Treumer (eds), *Modernising Public Procurement: The New Directive*, Djøf Publishing, Copenhagen, 2014, pp. 225–254.

<sup>32</sup> Art. 37, para. 13 in connection with art. 43 of the IPCC. See: G. M. Racca, "La contrattazione pubblica come strumento di politica industriale", in C. Marzuoli and S. Torricelli (eds), *La dimensione sociale della contrattazione pubblica. Dalle esternalizzazioni alla contrattazione socialmente sostenibile*, Editrice Scientifica, Naples, 2017, pp. 171ff.

<sup>33</sup> A. Sanchez-Graells, "Is joint cross-border public procurement legally feasible or simply commercially tolerated? A critical Assessment of the BBG-SKI JCBPP Feasibility Study", *European Procurement & Public Private Partnership Law Review*, 12, 2, 2017, pp. 97–111.

<sup>34</sup> R. Cavallo Perin and G. M. Racca, "European joint cross-border procurement and innovation", in G. M. Racca and C. R. Yukins (eds), *Joint Public Procurement and Innovation: Lessons Across Borders*, *supra* note 1, pp. 93–131.

compliant with different national provisions and provide transparency in terms of the traceability of the effectiveness of public spending for EU citizens.

One of the first Italian joint cross-border procurements occurred in respect of the Healthy Ageing – Public Procurement of Innovation Project (HAPPI Project).<sup>35</sup> Even before the implementation of the Directives, in the HAPPI project, a highly innovative cross-border public procurement scheme was enforced and managed based on a consortium agreement among European partners, such as the Italian health-care CPBs (including SCR Piemonte for Italy and Resah for France), procurement experts, and academic institutions (including the University of Turin) with the objective of awarding EU joint procurement of innovative solutions for active and healthy ageing persons. After a market analysis and a legal study of several national and European models of aggregation, and before the implementation of the Directive, the award procedure was launched.<sup>36</sup> The cooperation has been set forth in an agreement establishing European cooperation among the central purchasing bodies that are partners to the project.<sup>37</sup> According to French law, the *Groupement de commandes* legal model was applied.<sup>38</sup> By this agreement, the French CPB was entrusted under French law, in the name and on behalf of the other CPBs, to carry out the selection procedure (as an intermediary) for the award of a closed framework agreement, with several lots (without a commitment to buy), and with one economic operator, in compliance with both the European Union and French national law. A considerable effort for the harmonisation of the tender documents, requirements and award procedures of the different partners' legal systems was made in order to overcome all legal barriers. A joint jury was provided, which prepared a proposal for the awarding committee. Following the above-mentioned experience, the European Health

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<sup>35</sup> See the detailed information at: Master di II livello in Strategie per l'efficienza, l'integrità e l'innovazione nei contratti pubblici "Progetto Europeo 'Healthy Ageing in Public Procurement of Innovation' – HAPPI", [www.masterseic.it/happi/](http://www.masterseic.it/happi/), accessed 17 March 2021; European Innovation Partnership, "5. HAPPI Project: Joint Transnational EU Tenders" (European Commission), [https://ec.europa.eu/eip/ageing/public-procurement-platform/aha-innovative-solutions/5-happi-project-joint-transnational-eu-tenders\\_en](https://ec.europa.eu/eip/ageing/public-procurement-platform/aha-innovative-solutions/5-happi-project-joint-transnational-eu-tenders_en), accessed 17 March 2021.

<sup>36</sup> EU Commission, "Support of the internal market policy for growth: Feasibility study concerning the actual implementation of a joint cross-border procurement procedure by public buyers from different Member States", report by BBG and SKI, Brussels, March 2017. See also S. Ponzio, "Joint procurement and innovation in the new EU Directive and in some EU-funded projects", *Ius Publicum Network Review*, 2, 2014, p. 1.

<sup>37</sup> R. Cavallo Perin and G. M. Racca, "Administrative cooperation in the public contracts and service sectors for the progress of European integration", *supra* note 3, p. 266.

<sup>38</sup> Art. 8 of the French Code des marchés publics.



Public Procurement Alliance (EHPPA) was created as an alliance of non-profit central purchasing organisations, with the purpose to pool expertise, leverage performance and provide its members with a strategic position in the European health procurement market.<sup>39</sup>

### 3 PROCUREMENT TECHNIQUES

#### Types of Techniques and Agreements Used by CPBs

Consp, the national CPB, initially awarded *Convenzioni* only for pre-defined goods and services (similar to closed framework agreements with one economic operator). At the time of writing, Consp uses a wide range of framework agreements differing in the number of awardees (i.e., open, closed, single or multi-supplier framework agreements), in the subject matter and in the degree of completeness of the contractual conditions (closed or open).<sup>40</sup>

Consp also uses the additional innovative model of framework agreement (the so-called “mixed” or “hybrid” model). Such a model, whenever clearly described in the tender documents, allows agencies to buy directly through the framework agreement (as in a “closed” model) or to reopen the competition among the economic operators included in the ranking, under previously specified conditions. In the multiple awardees framework agreements, the choice between the winners ranked for a single lot can be made on the basis of quotas, rotation criteria or through an algorithm able to direct towards the best suppliers for each beneficiary.

In order to enter into contracts under a framework agreement, the potential beneficiaries do not have to be direct signatories to the relevant framework

<sup>39</sup> See for European Health Public Procurement Alliance, “What is EHPPA”, [www.Ehppa.com](http://www.Ehppa.com), accessed 17 March 2021; Master di II livello in Strategie per l’efficienza, l’integrità e l’innovazione nei contratti pubblici “Progetto Europeo ‘Healthy Ageing in Public Procurement of Innovation’ – HAPPI”, [www.masterseic.it/happi](http://www.masterseic.it/happi), accessed 17 March 2021.

<sup>40</sup> G. M. Racca and G. L. Albano, “Collaborative public procurement and supply chain: the European Union experience” in C. Harland, G. Nassimbeni and E. Schneller (eds), *The SAGE Handbook of Strategic Supply Management*, SAGE Publishing, London, 2013. See: G. L. Albano and C. Nicholas, *The Law and Economics of Framework Agreements*, Cambridge University Press, Cambridge, 2016. See Italian State Council, decision of 6 March 2018, no. 1455, concerning the supply of medical equipment, challenged due to the longer duration of the contract than that of the framework agreement. The Court admitted this difference since the framework agreement, considered by the jurisprudence to be a “normative contract”, and the subsequent contracts suit different purposes, which result in their different durations.

agreement.<sup>41</sup> CPBs must take into account the recent CJEU decision, *Autorità*. The CJEU stated that the tender documents should clearly specify which contracting authorities might potentially benefit under the framework agreement (although this was not binding) and the potential maximum amount of purchases to be covered by the subsequent contracts.<sup>42</sup>

#### Electronic Procurement and DPSs

As recently highlighted by the A.N.A.C., the recovery strategy after the pandemic and economic crisis should facilitate the digitalisation of the public procurement cycle, from the definition of needs to the end of the execution.<sup>43</sup> Overall digitalisation implies the aggregation of public demand and the setting of CPBs that can manage the whole process and guarantee efficiency and integrity through the use of electronic platforms with sufficient flexibility, reduced bureaucracy, and accessibility, especially for SMEs.<sup>44</sup>

Through the e-marketplace “MePA”, contracting authorities can directly purchase through the e-catalogue ([www.acquistinretepa.it](http://www.acquistinretepa.it)) for contracts below the European thresholds, accepting prices and technical specifications (e.g. delivery conditions and other contractual clauses). Occasionally, an informal request may be made among the suppliers registered in the system (RDO, *Richiesta di Offerte*). The advantages of MePA include greater involvement of SMEs: in 2020 more than 90% of almost €5 billion-worth of such contracts were awarded to micro-enterprises and SMEs. In general, recourse to the e-market MePA has grown by 23% from 2018 to 2019, reaching approximately €4 million in 2020.<sup>45</sup> Some critical issues are still related to the digital divide and reluctance to invest in e-commerce services on the supply side.<sup>46</sup>

<sup>41</sup> According to the Italian State Council, decision of 4 February 2016, no. 445, related to the supply of medical equipment. Some local health authorities decided to join a framework agreement already awarded by the regional central purchasing body. The court stated that the possible extension to other contracting authorities does not infringe the principle of fair competition.

<sup>42</sup> ECJ, 19 December 2018, Case C-216/17, *Autorità Garante della Concorrenza e del Mercato, Coopservice Soc coop arl v Azienda Socio-Sanitaria Territoriale della Valcamonica – Sebino (ASST)*.

<sup>43</sup> Hearing of the President of the A.N.A.C. at the Italian Parliament on the Italian Recovery Plan, 2 February 2021.

<sup>44</sup> Art. 8(5) of Law of 11 September 2020, no. 120 (which converted the Law Decree no. 76/2020 and amended art. 38 of the IPCC) has included the use of electronic platforms as one of the criteria for the qualification of the CPBs.

<sup>45</sup> Consp, “Bilancio 2019” [www.consp.it/sites/consp.it/files/CONSIP\\_Bilancio2019\\_WEB\\_0.pdf](http://www.consp.it/sites/consp.it/files/CONSIP_Bilancio2019_WEB_0.pdf), accessed 17 March 2021.

<sup>46</sup> Significant results in the first decade of activity were: €84 million of transacted volume; over 332,000 offered goods; 28,173 transactions, meaning contracts processed

An evolution towards an Amazon-like model is foreseen, including a more integrated logistics system.<sup>47</sup>

The Sistema dinamico d'acquisto della Pubblica Amministrazione (SdaPA), managed by Consip, allows all public administration entities to negotiate, through a completely electronic process, tenders above the EU thresholds, by inviting selected economic operators to enter the system at any time. Public expenditure through SdaPA reached approximately €4 million in 2019, with a growth of 18% over the previous year.<sup>48</sup> The SdaPA provides 21 major product categories, six of which are dedicated to the health sector. A specific tender for pharmaceuticals has been active since 2012 and has allowed public administration entities to negotiate 173 tenders for the purchasing of 6,360 pharmaceuticals, with a value around €10.3 billion, over the years.<sup>49</sup> The 2020 Finance Law allowed the award of framework agreements through the DPS, including, for the first time, the purchase of biological drugs (which are required to be purchased through framework agreements under the 2017 Stability Law).<sup>50</sup> Moreover, the 2020 Finance Law also provided for the use of the DPS for the award of service concessions.<sup>51</sup>

For below-threshold contracts, in addition to Consip's MePA (e-market for public administrations) some regions and their "qualified" CPBs have developed similar instruments (e.g. "MERER" for the Emilia Romagna

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through the system; 2,750 active Ordering Points, meaning public buyers that have used the tool; 1,156 enterprises registered with the MEPA; 1,809 catalogues published; 90% of registered suppliers are small or medium-sized enterprises. See "Electronic Marketplace for Italian Public Sector" (27 February 2008), <https://joinup.ec.europa.eu/collection/eprocurement/document/electronic-markeplace-italian-public-sector>, accessed 17 March 2021.

<sup>47</sup> G. M. Racca, "La digitalizzazione necessaria dei contratti pubblici: per un'Amazon pubblica", *D.P.C.E. online*, 45, 4, 2020, pp. 4669–4706; G. M. Racca, The role of IT solutions in the award and execution of public procurement below threshold and list B services: overcoming e-barriers, in D. Dragos and R. Caranta (eds), *Outside the EU Procurement Directives – Inside the Treaty?*, Djøf Publishing, Copenhagen, 2012, pp. 373–395.

<sup>48</sup> Consip, "Bilancio 2019", [www.consip.it/sites/consip.it/files/CONSIG\\_Bilancio2019\\_WEB\\_0.pdf](http://www.consip.it/sites/consip.it/files/CONSIG_Bilancio2019_WEB_0.pdf), accessed 17 March 2021.

<sup>49</sup> In the first half of 2019, the value of purchases through SdaPA was €1.9 billion, with an increase of 30% compared to the same period in 2018. See Consip, "Sistema dinamico d'acquisto della PA (Sdapa): nel I semestre 2019 il valore degli acquisti sfiora i 2 miliardi di euro", [www.consip.it/media/news-e-comunicati/sistema-dinamico-d-acquisto-della-pa-sdapa-nel-i-semestre-2019-il-valore-degli-acquisti-sfiora-i-2-miliardi-di-euro](http://www.consip.it/media/news-e-comunicati/sistema-dinamico-d-acquisto-della-pa-sdapa-nel-i-semestre-2019-il-valore-degli-acquisti-sfiora-i-2-miliardi-di-euro), accessed 17 March 2021.

<sup>50</sup> Before the Law 27 December 2019, no. 160, para. 586, biological drugs could not be purchased by framework agreement, as provided by Law of 11 December 2016, no. 232, art. 1, para. 407.

<sup>51</sup> Law 27 December 2019, no. 160, para. 587.

Region, "ME-VA" for the Valle d'Aosta Region, "Sardegna CAT" for the Sardegna Region, and "ME-PAT" and "MEPAB" for the Trento and Bolzano Provinces).<sup>52</sup>

## 4 COMPETITION AND SME ASPECTS

### Efficiency and Policy Issues

As stated earlier, the procurement function in Italy is still highly fragmented (with around 36,000 registered contracting entities). The value of joint procurement might increase significantly if the above-mentioned 32 "qualified CPBs" were to cooperate in a special board (*Tavolo Tecnico dei soggetti aggregatori*) and avoid duplications of framework agreements on the same subject matter and specialise in order to cover more procurement sectors more efficiently. Unfortunately, even in times of crisis there is more competition than cooperation among public buyers, in the absence of clear political commitment.

The process each year of mapping maladministration and corruption risks and managing them by the *Piani di prevenzione della corruzione* (anti-corruption plans) has an important role in supporting integrity and efficiency.<sup>53</sup> Data analysis of the National Database of Public Contracts (BDNCP) managed by A.N.A.C. and traceability of financial flows allow the monitoring of the entire public procurement cycle, permitting the defining of red flags and indicators of maladministration.<sup>54</sup>

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<sup>52</sup> Mercato Elettronico Regione Emilia-Romagna: <https://intercenter.regione.emilia-romagna.it/agenzia/cosa-facciamo/centrale-di-committenza/servizi-e-strumenti-di-e-procurement/mercato-elettronico-di-intercent-cr/mercato-elettronico>, accessed 17 March 2021; Mercato elettronico della provincia autonoma di Trento: [www.mercurio.provincia.tn.it](http://www.mercurio.provincia.tn.it), accessed 17 March 2021; Mercato elettronico della provincia autonoma di Bolzano: [www.ausschreibungen-suedtirol.it/marketplace](http://www.ausschreibungen-suedtirol.it/marketplace), accessed 17 March 2021; Mercato Elettronico della Valle d'Aosta: <https://cuc.invallee.it/home/Funzioni/centralizzazione-degli-acquisti/cuc-gestione-mevea>, accessed 17 March 2021; SARDEGNACAT Mercato Elettronico: [www.sardegnaautonomie.it/content/sardegncat-mercato-elettronico](http://www.sardegnaautonomie.it/content/sardegncat-mercato-elettronico), accessed 17 March 2021.

<sup>53</sup> Art. 1, para. 7 of Law no. 190/2012, as amended by the Legislative Decree of 23 June 2016, no. 97.

<sup>54</sup> Database accessible at <https://dati.anticorruzione.it/#/home>. On 18 October 2018 the BDNCP won the first prize in the Better Governance through Procurement Digitalisation competition, in the National Contract Register category. See: European Commission, "European Commission award for better governance through procurement digitalisation" (4 June 2018), <https://ec.europa.eu/growth/content/european-commission-award-better-governance-through-procurement-digitalisation>, accessed 17 March 2021. On innovation see: I. Locatelli, "Process innovation under the new

### Role of CPBs for the Public Sector and Private Users

According to Italian legislation, only contracting authorities can have recourse to CPBs. The notion of contracting authorities refers to national public administration, local public authorities, other non-economic public authorities, bodies governed by public law, associations, unions, and consortia of public entities. Private entities might use qualitative and quantitative data and benchmarking from CPBs, but this option seems hardly feasible due to the different market prices of goods and services in the public and private markets.

### Concerns Relating to Competition Law and Participation of SMEs

To the extent of favouring access by micro-, small- and medium-sized enterprises, the Italian CPBs are providing platforms for below-threshold contracts. For other procurements, CPBs are required to split contracts into functional lots to encourage SMEs' participation while avoiding the artful aggregation of contracts.<sup>35</sup> The preliminary phase of the award procedure is essential for a balanced design of the procurement strategy. This technique may be used as anti-collusive strategy for avoiding illegal business practices, such as the creation of cartels and splitting of markets into pre-assigned single lots.

The Italian Antitrust Authority has fined some major accountancy and consultancy firms for illegal business practices, such as the creation of cartels and splitting of markets into pre-assigned single lots, in a procurement procedure carried out by Consip CPB for IT and audit services nationwide.<sup>36</sup>

As stated earlier, in Italy in 2019, national CPB framework agreements permitted the award of over €3 billion to SMEs. Moreover, almost €5 billion-worth of small contracts were awarded to micro-enterprises and SMEs in 2019 through MePA. Thus, despite possible concerns, the data confirm that aggregation, correctly addressed, can favour SMEs' participation in and awarding of a considerable number of contracts.

public procurement Directives", in G. M. Racca and C. R. Yukins (eds), *Joint Public Procurement and Innovation: Lessons Across Borders*, *supra* note 1, pp. 31–63.

<sup>35</sup> Art. 51 of the IPCC. See also G. M. Racca, "Collaborative procurement and contract performance in the Italian health-care sector: illustration of a common problem in European procurement", *Public Procurement Law Review*, 3, 2010, pp. 119–133.

<sup>36</sup> Italian Antitrust Authority, Decision of 18 October 2017, no. 1796 as confirmed by T.A.R. Lazio, decisions nos. 10996, 10997, 10999, 11000, 11002, 11003 and 11004 of 2018, confirming the collusion among the concerned economic operators.

## 5 LIABILITY BETWEEN CPBS AND THEIR USERS

### Issues on Contract Management

According to a recent case, bidders have the right to fairness and competition in the execution phase too.<sup>57</sup> They are entitled to provide evidence regarding infractions during the selection process and could also be active in monitoring compliance during the execution phase. The unsuccessful tenderers may demonstrate whether the execution of the contract differs substantially from the conditions set forth in the award. After the award, litigation may occur, and the awardee of a national framework agreement might sue the regional CPBs that may award the same type of contract just with the aim of delaying the contract. The submission of opportunistic claims is still widespread in Italy and should be strongly opposed.

### Rules Relating to Enforcement and Remedies

Data show that the tender procedures for high value contracts published by regional and National CPBs are frequently subject to claims, due to their high value.<sup>58</sup> In 2017, there were 108 appeals against tender procedures announced by Consip involving amounts greater than €1 million, while in 2018 there were 105.<sup>59</sup> The overall success rate for Consip in these proceedings is 78% (more than three in every four appeals were resolved with a positive outcome for Consip). The recourse to the State Attorney for Consip's legal representation

<sup>57</sup> Italian State Council, Decision of 2 April 2020, no. 10. On the same topic see: G. M. Racca, R. Cavallo Perin and G. L. Albano, "Competition in the execution phase of public procurement", *Public Contract Law Journal*, 41, 1, 2011, pp. 89–108; G. M. Racca and R. Cavallo Perin, "Material amendments of public contracts during their terms: from violations of competitions to symptoms of corruption", in *European Procurement & Public Private Partnership Law Review*, 4, 2013, pp. 279–293.

<sup>58</sup> G. M. Racca, "Derogations from standstill period, ineffectiveness and remedies in the new tendering procedures: efficiency gains vs. risks of increasing litigation", in S. Treumer and F. Lichère (eds), *Enforcement of the EU Public Procurement Rules*, Djøf Publishing, Copenhagen, 2011, pp. 95–102.

<sup>59</sup> Italian State Council, "Analisi di impatto del contenzioso amministrativo in materia di appalti – biennio 2017/2018", [www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/Attivita/Pubblicazioni/RapportiStudi/CdS.Appalti.analisi.impatto.contenzioso.amministrativo.2017.2018.pdf](http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/Attivita/Pubblicazioni/RapportiStudi/CdS.Appalti.analisi.impatto.contenzioso.amministrativo.2017.2018.pdf), accessed 17 March 2021.

that is provided by the 2018 Finance Law has significantly reduced the excessive litigation.<sup>60</sup>

In order to promote the aggregation process, rules laying down the invalidity of contracts awarded by contracting authorities independently (without recourse to CPBs) have been introduced. In this case, contracting authorities' public officials may be held liable and ordered to refund any losses.<sup>61</sup> Moreover, the Italian Anti-Corruption Authority in such cases does not issue the ID code for the traceability of the award procedure (*CIG*), thus blocking the procedure.<sup>62</sup> An exception to this rule emerged in case law whenever the resulting contractual terms were less favourable than those contained in the individual award.<sup>63</sup>

The fight between the incumbent suppliers and the choice of using a framework agreement of a CPB led to the previously mentioned EU case law that provoked a CJEU decision which clarified that, when a framework agreement is to be awarded, the tender documents should clearly specify which contracting authorities may benefit from the agreement and the maximum amount of purchases to be covered by the subsequent contracts.<sup>64</sup> The Italian national anti-corruption authority can also submit claims in respect of serious infringements, and the first one was related to a private entity that acted illegitimately as a CPB for a number of municipalities. The case was also submitted to the CJEU, which held that EU law does not preclude that, under Italian law, small local authorities may have recourse to central purchasing bodies in order to purchase works, goods and services, as long as they use organisational models that are exclusively public.<sup>65</sup>

<sup>60</sup> Art. 1, para. 771, Law of 30 December 2018, no. 145. See: Consip, "Bilancio 2019", [www.consip.it/sites/consip.it/files/CONSIP\\_Bilancio2019\\_WEB\\_0.pdf](http://www.consip.it/sites/consip.it/files/CONSIP_Bilancio2019_WEB_0.pdf), accessed 17 March 2021.

<sup>61</sup> Art. 1, Law Decree of 6 July 2012, no. 95.

<sup>62</sup> Decree of the Prime Minister of the Council of 11 July 2018.

<sup>63</sup> Italian State Council, decision of 28 March 2018, no. 1937.

<sup>64</sup> ECJ, 19 December 2018, Case C-216/17, *Autorità Garante della Concorrenza e del Mercato, Coopservice Soc coop arl v Azienda Socio-Sanitaria Territoriale della Valcamonica – Sebino (ASST)*.

<sup>65</sup> ECJ, Judgment of the Court, Second chamber, of 4 June 2020, *Asmel società consortile a.r.l. v A.N.A.C. - Autorità Nazionale Anticorruzione*, Case C-3/19. See: G. M. Racca, "La Corte di Giustizia e le scelte nazionali per una efficiente e trasparente aggregazione dei contratti pubblici: una sfida per l'evoluzione digitale della "funzione appalti" nazionale, regionale e locale", *supra* note 15, pp. 185-215.

## 6 COVID-19 AND JOINT PROCUREMENT

### Impact on Joint Procurement of the COVID-19 Emergency

Due to the COVID-19 crisis, the government temporarily withheld the previous requirement for municipalities to have recourse to joint procurement.<sup>66</sup> Therefore, the goal of saving through aggregation has been further delayed, while the risks and costs of duplicating the same award procedures within the same territory and for the same items are likely to arise again.

As shown by the Italian Anti-Corruption Authority, the COVID-19 emergency deeply affected public procurement in Italy.<sup>67</sup> The amount related to the health emergency stands at around €3 billion, 95% of which refers to supplies of personal protective equipment (PPE). The pandemic has shown the need for joint procurement and a more coordinated approach to regional, national and European cooperation on emergency health care and purchasing in order to avoid internal competition between contracting authorities and consequent speculation.<sup>68</sup>

### Balance of Competence among Central and Local CPBs in the COVID-19 Emergency

In Italy, cooperation among public authorities has been extremely difficult as health care is regionally based and organised. The value of purchasing resulting from the aggregation of demand at national and regional level in the emergency period (March–April 2020) has been €2 billion, equal to 34.5% of the total expenditure relating to the emergency (€5.8 billion), of which €1 billion (€1,045,112,381) relates only to Consip S.p.A. The regions have made extensive use of the "qualified CPBs" (*Soggetti aggregatori*) especially in Tuscany, where 93.7% of the overall expenditure incurred for the emergency has been made through centralised procedures; in Lombardy, it is 80.9%

<sup>66</sup> Art. 3(7)(a) of Law of 11 September 2020, no. 120 (which converted the Law Decree no. 76/2020), suspended the requirement for municipalities to purchase in an aggregate way – provided by art. 37, para. 4 of the IPCC – until 31 December 2021.

<sup>67</sup> Italian Anti-Corruption Authority, *Annual Report of 2020*, available at [www.anticorruzione.it/portal/public/classic/Comunicazione/News/\\_news?id=0eb62cfb0a7780422adf484faa600fe9](http://www.anticorruzione.it/portal/public/classic/Comunicazione/News/_news?id=0eb62cfb0a7780422adf484faa600fe9).

<sup>68</sup> L. Folliot Lalliot and C. R. Yukins, "COVID-19: Lessons learned in public procurement. Time for a new normal?", in *Concurrences*, 3, 2020, pp. 46–58.

of total regional expenditure; followed by Liguria on 76.8%, Campania on 74.6%, Piedmont on 74.1% and Veneto on 67.3%.<sup>69</sup>

Moreover, during the emergency phase, the extraordinary need for PPE led the Italian Civil Protection Department to appoint a Commissioner and a Special Unit to carry out emergency procurement procedures.<sup>70</sup> After a first phase, the Civil Department started buying PPE and medical devices with direct and fast award procedures and organised the national production of such devices. Recently, the purchase of flu vaccines as a strategy to avoid the seasonal influenza stress on the health system was not coordinated at national level, with many regional procurements awarded and leading to wide and irresponsible differences in timing and prices, and to difficulties in meeting the public demand, as a dramatic consequence of public buyers' miscoordination in emergency procurement. The same lack of coordination among regional CPBs occurred for the purchase of fridges for vaccine storage.

### Joint Procurement Entities Responding to the COVID-19 Emergency

The EU, along with the Member States including Italy, has taken actions through the Joint Procurement Agreement (JPA) initiatives.<sup>71</sup> The Italian Commissioner provided the supplies of PPE and school furniture (desks and

<sup>69</sup> A.N.A.C., "Fact-finding survey on public purchases during the COVID-19 emergency period" ("Indagine conoscitiva sugli affidamenti in regime emergenziale di forniture e servizi sanitari connessi al trattamento ed al contenimento dell'epidemia da COVID 19 – Report di seconda fase"), August 2020, available at [www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Pubblicazioni/RapportiStudi/ContrattiPubblici/IndagineCovid19 fase2.13.08.20 .pdf](http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Pubblicazioni/RapportiStudi/ContrattiPubblici/IndagineCovid19 fase2.13.08.20 .pdf), accessed 17 March 2021.

<sup>70</sup> See G. L. Albano, "Homo homini lupus: on the consequences of buyers' miscoordination in emergency procurement for the COVID-19 crisis in Italy", *Public Procurement Law Review*, 4, 2020, pp. 213–219.

<sup>71</sup> The Agreement is based on the Commission Delegated Regulation (EU) No. 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (now Regulation (EU, Euratom) 2018/1046). The JPA is an agreement between the Commission and the participating Member States which implements a provision of a legislative act, namely, Art. 5 of Decision 1082/2013/EU. The JPA was signed by Italy on 16 October 2014. R. Cavallo Perin and G. M. Racca, "European joint cross-border procurement and innovation", in G. M. Racca and C. R. Yukins (eds), *Joint Public Procurement and Innovation: Lessons Across Borders*, supra note 1, p. 116. T. Kotsonis, "EU procurement legislation in the time of COVID-19: fit for purpose?", *Public Procurement Law Review*, 4, 2020, pp. 199–212; G. Sdanganelli, "Il modello europeo degli acquisti congiunti nella gestione degli eventi rischiosi per la salute pubblica", *D.P.C.E. online*, 2, 2020, pp. 2323–2346.

chairs) necessary to ensure social distancing.<sup>72</sup> Also, due to a lack of coordination in Italy, the regions continue to play a significant role in the emergency phase in the awarding of emergency procurement contracts.

### Procedures Applied by CPBs in Italy during the Emergency

The COVID-19 emergency led to the admission of direct awards until 31 December 2021.<sup>73</sup> The majority of public contracts over €40,000 have been awarded through procedures with no publication of the tender (77%) or through direct assignment (20%), mainly by CPBs or central bodies (around 57%).<sup>74</sup>

Due to unacceptable differences in prices for the same medical goods (e.g. surgical masks), a price cap was fixed for the purchase of such items. The Commissioner for the COVID-19 emergency adopted a series of measures aimed at converting Italian firms located within Italian territory to produce masks, as well as supporting national hospitals and the health-care system. Based on the European COVID-19 vaccine strategy, and following the conclusion of advance purchase agreements (APAs) with vaccine manufacturing companies and subsequent marketing authorisation, as of January 2021 more than 1 million vaccine doses had been delivered in Italy.<sup>75</sup> An efficient and

<sup>72</sup> Art. 122 of Law Decree of 17 March 2020, no. 18, converted into Law no. 27/2020. See the call notice for an extremely urgent simplified open procedure for the purchase and distribution of 3,000,000 individual school desks and innovative seats and 700,000 traditional chairs, published on 20 July 2020 by the Italian Ministry of Education and the Presidency of the Council of Ministers – Special Commissioner for the crisis.

<sup>73</sup> In accordance with Law Decree of 17 March 2020, no. 18, converted into Law no. 27/2020.

<sup>74</sup> Italian Anti-Corruption Authority, Annual Report of 2020.

<sup>75</sup> The "European Vaccine Strategy" was launched by the EU Commission on 17 June 2020. See: European Commission, "Proposal for a Regulation of the European Parliament and of the Council on Serious Cross-Border Threats to Health and Repealing Decision No. 1082/2013/EU" (11 November 2020), [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1103](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1103), accessed 17 March 2021. On 2 December 2020, the Italian Minister of Health presented to the Italian Parliament the guidelines for Italy's Strategic Plan for anti-SARS-CoV-2/COVID-19 vaccination, drafted by the Ministry of Health, the Extraordinary Commissioner for the COVID-19 Emergency, the Higher Institute of Health, the Italian National Agency for Regional Health-Care Services (AGENAS) and the Italian Medicines Agency (Aifa). The Italian Vaccines Plan is centred around eight axes: the first axis is related to the centralisation of and free access to the vaccine; the second concerns doses and administration of vaccines; the third one relates to the timing of authorisation of vaccines; the fourth axis identifies the categories to be vaccinated as a matter of priority, i.e. health and social/medical workers; the fifth axis is related to procurement, storage, and transport, which will be the respon-

coordinated strategy to pursue the necessary sourcing for emergencies is not yet in place, but awareness of the necessity for such a change is increasing and hopefully such a strategy will be adopted by the new government.

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sibility of the Extraordinary Commissioner; the sixth axis concerns the governance of the vaccination plan, ensured through coordination between the Ministry of Health, the Extraordinary Commissioner, the regions and autonomous provinces; the seventh axis concerns the monitoring of the vaccination campaign; the eighth axis relates to drug surveillance and immunological surveillance, to ensure the highest level of safety throughout the vaccination campaign. Nonetheless, the regions have continued to seek to buy the necessary vaccines autonomously.