

Working Note 2/2024

Reform of the Contracts Code and redefinition of the NRRP: impact on public procurement and the timing for completing the works

Summary

Among the main critical factors in the awarding and execution of public works are regulatory discontinuity and unstable funding sources, which interfere with the planning capacity of administrations and affect the work of contracting authorities and the participation of companies in the procurement market.

This work, resulting from collaboration between PBO and IRPET, **evaluates the effects on public procurement and the timelines for completing the works of two events that occurred in the second half of 2023: the introduction of the new Contracts Code (CC) and the revision of the National Recovery and Resilience Plan (NRRP)**. Therefore, neither the recent further amendments to the CC nor the two revisions of the NRRP approved during 2024 are taken into account.

The focus is on public works commissioned by Municipalities for amounts of EUR 40.000 or more initiated between 2022 and 2024. Analyses are based on a dataset obtained by combining OpenData on procurement procedures from ANAC and information from the ItaliaDomani portal on NRRP/CNP projects financed with *Next Generation EU* and national resources.

In the first part of the Note, the impact of the CC reform on the most relevant aspects of procurement is assessed: the use of open procedures, the use of centralised procurement solutions, the average discount compared to the auction base, the number of bidding companies and the duration of the award phase. Specifically, an equation for the duration of contracts is estimated which has, among its explanatory variables, the start date of the contract before or after the effective date of the new Code. The analysis considers also the contracts covered by the NRRP/CNP for two reasons. First, although most of the innovations of the new CC had already been introduced for these, it is interesting to see whether or not the existing pre/post regulatory differences between procurements included and not included in the NRRP/CNP have been reduced since the second half of 2023. Second, as it was not immediately clear whether projects related to the NRRP/CNP continued to follow the special rules or were brought under the new rules, it cannot be excluded that the introduction of the new CC may also have influenced the procurement choices of the NRRP/CNP.

The analysis returns the following main results.

First, the launch of the new Code is associated with a reduction in the use of open procedures and an increase, albeit not particularly significant, in the use of inter-municipal purchasing centres (Centrali di committenza intercomunali, CUC).

- **The probability of using open procedures is reduced on average by 5.4 per cent. The effect is more pronounced for NRRP/CNP contracts (7.3 per cent, against 4.1 per cent for the others),** probably due to the need to carry out the awarding procedures quickly, as allowed by direct awarding, and to the high complexity of these contracts which therefore benefit, more than the others, from a greater interlocution between contracting authority and market operators that can be achieved through negotiation. **The decrease in the use of open procedures can be observed in Southern regions for all types of procurement contracts, while in Central and Northern regions the decrease only concerns contracts falling under the NRRP/CNP.** The broadening of the possibility of resorting to direct awarding and negotiated procedures would seem to have affected to a greater extent the administrations of Southern regions, on average less inclined to use the open procedure.
- **The likelihood of using CUCs increased by 2.3 per cent, due to increases of 3.2 per cent in procurement related to NRRP/CNP and 2 per cent for the others.** This result was unexpected after the new Code's raising of the contract value threshold requiring the use of qualified contracting authorities (from EUR 150.000 to EUR 500.000). The perceived cogency of the qualification system, which was largely inapplicable until 2019 and became operational with the NRRP/CNP and the new Code, and the learning effect associated with the increased activity of the CUCs for NRRP/CNP contracts in the years immediately preceding the reform may have prevailed.

Second, the regulatory change seems to have caused no appreciable changes in competitive tension and supply strategies so far. The price-reducing effect is modest, and can be placed and explained within the scenario of the generalised cuts in contract prices that has been going on for more than a decade. The number of participants in tenders has increased, but in limited numbers and to such an extent that no permanent effects on the competitive characteristics of awarding procedures can be assumed. The increase is appreciable for projects in Northern regions only, especially those in the NRRP/CNP and those also not in the NRRP/CNP with a value below EUR 1 million.

Third, the introduction of the new Contracts Code is associated with a reduction in the duration of the awarding phase for both NRRP/CNP projects and others. On average, the reduction is just under 9 days (13.5 days for NRRP/CNP projects and 6.1 for the others). **Procedures initiated in Southern regions, that historically suffer from the greatest and more difficult to resolve delays, show greater reductions in awarding times than those in other macro-areas:** around 20 days for negotiated procedures, and between 20 and 30 days for open procedures. **In Southern Italy, where on new Code's effective date the timeframes were in line with those of the Central regions for procedures with negotiation and longer for open procedures, the reduction reaches 38 per cent for the former and 35 per cent for the latter.** This indicates the start of a trend of reabsorption of the territorial gaps in the duration of open procedures and, at the same time, of a

strong acceleration of negotiated procedures in this macro-area. The consistency and continuity of this trend must be verified in the coming months.

The analysis in the second part of the Note focuses on the impact of NRRP/CNP redefinition. It reports the results of a causal inference exercise comparing, as of 31 December 2023, the progress of works commissioned by Municipalities relating, on the one hand, to projects that faced the risk of being remodelled between July and December 2023, and on the other hand to those that were not exposed to this risk (because they were outside the NRRP or belonged to Measures/Components that were never involved). The progressing status of the individual project is calculated as the ratio of the value of the tendering procedures initiated to the total funding allocated to the same project. By applying the *propensity score matching* technique to just under 14.000 projects of new works (not already existing), **it is estimated a slowing-down effect on works execution of 14.2 per cent on average, with peaks in Northern and Southern regions. It is primarily smaller Municipalities, those less equipped in terms of resources and human capital, that are negatively affected by uncertainty regarding planning and available resources.** This is probably the most important evidence for the policy, considering that small Administrations account for about 90 per cent of the implementing parties of the NRRP and are responsible for about 60 per cent of the projects.

The results of the two analyses should prompt reflection on the appropriateness of frequent and not very organic interventions on a body of legislation designed to regulate the functioning of a complex and strategic market such as that of procurements. Yet, during 2024 more amendments to the NRRP/CNP have been proposed and approved, and at the date of writing the process may not yet be completed. Moreover, just as this Note is being finalised, a corrective decree of the CC is under parliamentary approval just one year after its launch.