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Competition and Corruption in Public Procurement – Note by Italy

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Ori SCHWARTZ
Email : Ori.Schwartz@oecd.org

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Italy

1. Introduction

1. Corruption and collusion have become increasingly intertwined in enforcement practice, and the events of the past five years, pandemic-era emergency procurement and the implementation of large-scale recovery plans, have called for a renewed debate. Moreover, the updated OECD Guidelines for Fighting Bid Rigging in Public Procurement (2025) explicitly acknowledge the need for coordinated governance, integrity and competition tools.

2. This contribution builds on a series of prior Italian contributions submitted to the OECD Competition Committee. In its 2023 contribution on alternatives to leniency programmes[1], Italy illustrated how the AGCM has developed a comprehensive set of reactive and proactive detection tools, including a whistleblowing platform, screening techniques, and structured cooperation with public prosecutors, the Financial Police, and procurement agencies, that complement its leniency programme. The 2022 contribution on director disqualification and bidder exclusion[2] further documented the Italian framework governing bidder debarment for competition infringements and the innovative *Legality Rating System* administered by the AGCM, which employs a reward-based mechanism to incentivise compliance with antitrust, anti-bribery, and data protection standards in the procurement context. Italy's 2023 contribution on the future of effective leniency programmes[3] addressed a critical challenge at the intersection of competition enforcement and criminal law, namely the deterrent effect on leniency applications posed by the criminal liability for bid rigging. It also described the subsequent legislative reform, enacted through the transposition of the ECN+ Directive, granting immunity from criminal prosecution to directors and staff of undertakings that apply for leniency.

3. The Italian experience is relevant to this roundtable discussion for several reasons. First, public procurement is a major component of national expenditure and investment: in 2025, contracts valued at or above €40,000 came to roughly €309.7 billion, of which around €20.8 billion were financed through the National Recovery and Resilience Plan (PNRR). Second, Italy operates in parallel a dedicated national anti-corruption authority (ANAC) and a competition authority (AGCM), each with complementary powers covering the same procurement market from different angles. Third, Italian law criminalises bid rigging under Articles 353 and 353-bis of the Criminal Code, which creates a structural interface between administrative antitrust enforcement and criminal prosecution. Fourth, the AGCM has compiled, over more than three decades, a rich case history that provides an unusually deep empirical base for examining the corruption–collusion interface. Of 52 bid-rigging cases concluded by the AGCM between 1990 (its inception year) and 2025, approximately 21% display a documented criminal or anti-corruption nexus.

4. The contribution is organised as follows. Section 2 sets out the Italian legal framing of corruption in public procurement. Section 3 describes the institutional architecture for cooperation between competition and anti-corruption rules. Section 4 presents AGCM tools to tackle the collusion and its enforcement experience at the intersection with corruption.

[1] Alternatives to Leniency Programmes – Contribution from Italy, December 2023.

[2] Director Disqualification and Bidder Exclusion – Note by Italy, 4 November 2022.

[3] The Future of Effective Leniency Programmes – Note by Italy, June 2023.

Section 5 turns to the empirical evidence on the interaction between competition and corruption, with a focus on the COVID-19 and PNRR events. Section 6 compares corruption and collusion red flags. Section 7 draws conclusions.

2. Corruption in Public Procurement: The Italian Legal Framework

5. The nexus between anti-competitive conduct and corruption is expressly acknowledged within the Italian legal and institutional framework, which is characterised by a multifaceted architecture that spans several branches of law: corruption in public procurement is addressed primarily through criminal law and through an administrative-law conception.

2.1. The Criminal Legal Framework

6. The legislator has developed a layered catalogue of offences that together cover the full spectrum from favouritism and conflicts of interest to active and passive bribery and trading in influence[4].

7. Within that catalogue, Articles 353 and 353-bis of the Criminal Code are the provisions that most directly overlap with the subject matter of AGCM enforcement under Article 101 of the Treaty on the Functioning of the European Union (TFEU) and Article 2 of Law 287/1990. Article 353 punishes whoever, through violence, threats, gifts, promises, collusion or other fraudulent means, disturbs the proper course of a public tender. Article 353-bis extends protection to the preparatory stage, punishing the disturbance of the procedure by which a contracting authority chooses its contractor. Both offences may be committed by private bidders acting alone, by public officials, or by a combination of the two. They therefore capture conduct that the AGCM would typically analyse as collusive agreements under Article 101 TFEU and, where corrupt officials are involved, as corruption-facilitated bid rigging.

2.2. Administrative and corporate-liability frameworks

8. In parallel with the criminal-law provisions, Italian law has developed an administrative and corporate-liability architecture specifically targeted at procurement integrity. Law 190/2012 (the so-called "Severino Law") is the foundational anti-corruption statute: it established the National Anti-Corruption Authority (ANAC), imposed anti-corruption planning duties on all public administrations, and introduced transparency obligations that were subsequently codified in Legislative Decree 33/2013. Legislative Decree 231/2001 provides for the administrative liability of legal persons for a catalogue of offences committed in their interest or for their benefit, including corruption offences and bid rigging under the Criminal Code. Compliance programmes adopted under Legislative Decree 231/2001 are a key mitigating factor in administrative sanctioning, and increasingly relevant in the exclusion assessments performed by contracting authorities.

[4] The principal criminal-law provisions are the following: active bribery of a public official (Article 321 Criminal Code, in combination with Articles 318 and 319); passive bribery (Articles 318 and 319); abuse of office by a public official (Article 323); trading in influence (Article 346-bis); turbativa d'asta, i.e. disturbance of the proper conduct of a public tender (Article 353); and *turbativa del procedimento di scelta del contraente*, i.e. disturbance of the procedure for the selection of a contractor before the tender is launched (Article 353-bis).

9. The Public Contracts Code, most recently reformed by Legislative Decree 36/2023, is the main operational framework for procurement integrity. Article 95(5)(e) of the new Code provides for the discretionary, non-mandatory exclusion of an economic operator that has committed grave professional misconduct capable of compromising its integrity or reliability; Article 98 sets out, in a peremptory manner, the elements from which such misconduct can be inferred, expressly including, at paragraph 6, executive sanctioning decisions issued by the AGCM or by other sectoral authorities, and the adequate means of proof required to demonstrate it; Article 96 sets the exclusion period at three years from the AGCM's sanctioning decision. Binding implementing guidelines have been issued by ANAC and confirm that the misconduct must occur in the same market as the tender procedure in question[5].

10. The legislative choice of a discretionary regime, rather than an automatic one, contributes to preserving the effectiveness of other competition enforcement mechanisms administered by the Authority, in particular the leniency programme. An automatic exclusion would undermine leniency by discouraging undertakings from self-reporting, since a leniency application could trigger mandatory debarment.

11. Self-cleaning measures, such as management changes, compliance-programme reinforcement, voluntary restitution, may be submitted by the undertaking to the contracting authority in the course of the exclusion assessment and may lead to non-exclusion. Moreover, the Italian legal framework does not provide for director disqualification as a direct sanction for competition infringements; director disqualification can only arise indirectly, where undertakings include it as part of their compliance programmes or self-cleaning measures.

2.3. Key actors

12. The Italian framework identifies several categories of actors whose conduct may give rise to corruption-adjacent risks in procurement. The official in charge of a given procurement procedure bears personal responsibility for integrity and documentation. Politically exposed persons and political office-holders may exert pressure on procurement teams; this pressure is addressed both through the anti-corruption planning obligations of Law 190/2012 and through the transparency obligations applicable to elected and appointed officials.

13. A review of Italy's Supreme Court judgments concerning corruption in public procurement provides two findings that are particularly relevant[6]. First, the cast of public actors implicated in corrupt procurement schemes extends well beyond rank-and-file procurement officials: it includes officials, senior administrative officials and political office-holders such as mayors, deputy mayors, assessors, municipal councillors and, in

[5] See ANAC, *Linee Guida n. 6 on the identification of operators in serious professional misconduct*. Exclusion is discretionary, not automatic: the mere existence of an AGCM sanctioning decision is not, in itself, sufficient to trigger debarment. Pursuant to Article 98, the contracting authority must produce adequate means of proof and conduct a case-by-case assessment that considers, inter alia, the temporal remoteness of the infringement, the existence of pending judicial review of the AGCM's decision, any self-cleaning measures adopted by the undertaking and the potential anticompetitive effects of the exclusion itself. Article 96 sets the period of exclusion at three years from the adoption of the AGCM's sanctioning decision.

[6] See Iossa, E., Raganelli, B. and Marconi, M. (2022), "Appalti e turbative: corruzione, cartelli e criminalità. Nella lente della Corte di Cassazione", *Mercato Concorrenza Regole*, No. 1/2022, pp. 12 et seq.

some instances, senators. Second, cases involving a single corrupt public official acting alone are rare; the typical pattern is the simultaneous involvement of multiple public actors holding different institutional roles.

14. On the private side, the corrupt exchange typically involves the bidding undertaking, although a significant role is played by intermediaries (consultants, agents, professionals) who may disguise corrupt payments through fictitious invoices for advisory services or other sham transactions: this is the "facilitator" pattern that recurs in AGCM bid-rigging cases such as I723 and I816 (see Box 2 in Section 4.5).

3. Competition and corruption in the Italian institutional framework

3.1. Cooperation with institutional actors

15. The Italian framework envisages a three-layer cooperation model in which the AGCM operates alongside, and in coordination with, three categories of external actors: the Guardia di Finanza (GdF) as an operational police force with specific tax and financial investigation powers; the Public Prosecutors as the criminal-law enforcers; and the National Anti-Corruption Authority as the dedicated administrative regulator of procurement and integrity. Each layer rests on a specific legal basis and a specific operational protocol. Together, they compensate for the relatively limited direct reach of the AGCM into criminal matters.

16. Cooperation between the Authority and the Guardia di Finanza is framed by the renewed AGCM–GdF Memorandum of Understanding (MoU) of 5 April 2024[7]. The GdF brings two distinctive contributions to AGCM enforcement. First, in inspections, GdF officers may mobilise the investigative powers granted for value-added-tax and income-tax assessments, which are more intrusive than those available to the AGCM under Law 287/1990 alone, and which can be used to overcome resistance from inspected undertakings[8]. Second, the GdF's tax-police activities may yield evidence of collusive conduct that is transmitted to the AGCM under Article 5(1)(e) of the 2024 MoU; the dedicated specialised unit, which was established within GdF as *Nucleo Speciale Antitrust*, acts as the institutional gateway for this two-way flow. In concrete terms, this means that cases originating in criminal or tax investigations can migrate into the administrative antitrust domain, bringing with them documentary evidence, witness statements and, where lawfully admissible, transcripts of intercepted communications.

17. The second layer addresses the direct interface with criminal enforcement through **cooperation with public prosecutors**. The AGCM signed Memoranda of Understanding

[7] Article 1 of the MoU states that the GdF cooperates with the AGCM in detecting violations of Union and national competition law, as a rule on the AGCM's request and following AGCM instructions, but also through autonomous reporting of relevant information. Article 5 identifies five operational areas: (a) pre-investigation inquiries to assess whether the conditions for opening formal proceedings are met; (b) investigation activities during formal proceedings; (c) compliance monitoring of AGCM decisions and related sanctioning proceedings; (d) sectoral inquiries under Article 12(2) of Law 287/1990; and (e) autonomous reporting by the GdF specialised unit to the AGCM on presumed violations within the AGCM's mandate identified through its own initiative or by other GdF units. Article 10 provides for systematic two-way exchange of data, including the reciprocal communication of decisions and information useful for coordination.

[8] So far, these GdF powers have not been used during AGCM inspections.

with the Public Prosecutor of Rome and Milan in 2018[9]. According to the MoUs, with reference to AGCM proceedings, the Prosecutor may transmit to the Authority (on the AGCM's request or spontaneously) copies of requests for precautionary measures or indictments, together with the related judicial orders and investigative documents, where the offences are of particular relevance to the proper functioning of the market or significantly affect consumer economic interests. This provision is the formal basis for the transmission of criminal-file material to the AGCM, subject in any case to the Prosecutor's clearance (*nulla osta*). Conversely, the AGCM transmits to the Prosecutor, without delay and except in cases involving anonymous complaints, any information relating to conduct with criminal relevance emerging from its investigations, including information on the state of the procedure and subsequently the results of its inquiries[10].

18. The third layer, the **cooperation with the anti-corruption authority**, is the most recent. On 31 July 2024, the AGCM and ANAC signed a new Memorandum of Understanding that renews, integrates and replaces the earlier agreement of 11 December 2014 (see Box 1 below). The Preamble acknowledges the complementary and convergent functions of the two authorities in the field of public contracts, the prevention and repression of corruption, the promotion of legality and ethical business conduct, and the oversight of local public services. The MoU institutionalises seven distinct cooperation channels, binds the two authorities to reciprocal information flows, and extends the scope of cooperation into the digital infrastructure of Italian procurement and into the new architecture of whistle-blower protection introduced by Legislative Decree 24/2023 in implementation of Directive (EU) 2019/1937.

Box 1. Memorandum of Understanding between the AGCM and the Anti-Corruption Authority (ANAC)

Article 2 of the 2024 MoU identifies seven substantive cooperation areas that together cover the corruption–collusion interface with unusual completeness:

- Reciprocal referrals of suspected collusion. The AGCM will refer to ANAC any suspected violations of tender rules and procedures involving collusion between undertakings that emerge from the AGCM's institutional activity; ANAC will refer to the AGCM, in a manner compatible with any ongoing judicial investigation, any suspected collusive phenomena that emerge from its own activity or from signals received from undertakings or contracting authorities.
- Information exchange on public contracts and local public services. Both authorities commit to exchange information relevant to the exercise of their respective powers.

[9] The two MoUs are substantively identical. The Milan MoU was renewed on 30 January 2025. Article 2 of the two MoUs defines three areas of cooperation: (i) AGCM proceedings under Articles 14 and 21-bis of Law 287/1990 and Articles 27 and 66 of the Consumer Code; (ii) Prosecutor requests for AGCM documentation and information; and (iii) AGCM transmission to the Prosecutor of investigation results that disclose conduct with criminal relevance.

[10] One feature of the two MoUs is the coordination clause on leniency applications. Where the AGCM receives a leniency application that discloses offences against the public administration, the Authority promptly informs the Prosecutor to allow the AGCM and the Prosecutor to coordinate their action so as to safeguard both the effectiveness of the leniency programme and the speed of the criminal investigation.

- Joint promotion activities with contracting authorities. ANAC undertakes to carry out, also jointly with the AGCM, activities with contracting authorities to promote the detection of competition concerns in the procurement sector, drawing on the AGCM Vademecum adopted on 18 September 2013.
- Data exchange through the National Digital Data Platform (PDND). The two authorities commit to define modalities and content of structured data exchange through the PDND.
- Experimentation with diagnostic tests for suspected collusion. The authorities may jointly experiment with diagnostic models to identify suspected cases of collusion – an important opening for data-driven screening of the BDNCP.
- Joint administration of the Legality Rating. Under the AGCM Regulation of 14 November 2012 (as most recently amended on 28 July 2020), ANAC and AGCM cooperate in the rating procedure to identify and evaluate business conduct deserving of the legality recognition; the 2024 MoU commits both authorities to promote wider uptake of the rating and to simplify the cooperation modalities.
- Coordination on whistleblowing under Legislative Decree 24/2023. The MoU establishes a specific mechanism for the exchange of whistleblowing reports received through the AGCM platform or through other equivalent channels, subject to the rules on identity disclosure. Each authority will inform the other of the outcome of its assessment of transmitted reports, using the ANAC platform where relevant.

19. Alongside the three principal cooperation layers described above, the Italian integrity ecosystem includes further actors[11]. In particular, Consip, the Italian central purchasing body, is both a major contracting authority and an active collaborator with the AGCM on screening, investigation and advocacy, as illustrated by cases I785, I796 and I808 discussed in Section 4.5.

3.2. Cooperation and evidence sharing and sanction coordination

20. Although the AGCM does not prosecute corruption offences, it disposes of a range of legal instruments and institutional mechanisms through which corruption-adjacent conduct is effectively factored into competition enforcement. First, Article 101 TFEU and Article 2 of Law 287/1990 apply to anti-competitive agreements between undertakings irrespective of whether corruption is also present; evidence of corruption can be used to characterise the nature, scope and duration of the underlying agreement.

21. Second, Italian administrative-law jurisprudence allows the AGCM to use evidence obtained from criminal investigations where such evidence has been lawfully transferred following formal clearance (*nulla osta*) by the competent Prosecutor[12]. The two MoUs with

[11] The Court of Auditors exercises both *ex-ante* and *ex-post* control over public expenditure, including major procurement decisions, and its findings may trigger referrals to the AGCM or to prosecutors. The Transport and Infrastructure Ministry operates the qualification system for contracting authorities under Articles 62–63 of Legislative Decree 36/2023. Prefectures exercise anti-mafia controls and issue decisions that can lead to exclusion from public contracts.

[12] The scope for transferring evidence from criminal to administrative antitrust proceedings has been extensively clarified by Italian case law. The key point is that Article 270 of the Code of Criminal Procedure, which restricts the use of intercepted communications to criminal proceedings in which the interception was authorised, does not extend to administrative proceedings. Intercepted communications lawfully authorised by the competent judge (GIP) and transferred to the AGCM under a formal authorisation of the Public Prosecutor may therefore be used as elements contributing to the overall evidentiary picture, under the principle of free appraisal of evidence, provided they concur with other indicia and are assessed critically. This position has been confirmed by the Council

the Public Prosecutors in Rome and Milan operationalise this framework and have further facilitated cross-agency evidence transfer. In the reverse direction – from administrative to criminal proceedings – Article 331 of the Code of Criminal Procedure imposes on public officials a general duty to report criminal offences of which they become aware; the MoUs structure the fulfilment of this duty by the AGCM and add a coordination mechanism for cases that involve leniency applications disclosing offences against the public administration.

22. Therefore, Italian practice operates on a mixed model of joint and sequential approaches. Administrative antitrust proceedings and criminal proceedings are legally independent and run in parallel, each under its own rules and timelines. In practice, however, the two tracks frequently converge. The most common pattern is sequential on the evidentiary side: a criminal investigation is opened first (often by the GdF or the Prosecutor acting on information unrelated to the AGCM), evidence is acquired in the criminal file, and the AGCM subsequently obtains access to the relevant material via the Prosecutor's authorisation. A second pattern is genuinely parallel: the AGCM and the Prosecutor open separate proceedings concerning the same underlying conduct at roughly the same time, exchange information through the Rome and Milan MoUs, and reach separate decisions through separate procedures[13].

23. Each pattern has its advantages. The sequential pattern maximises the use of investigative tools (wiretaps, searches with coercive powers) that are available in criminal proceedings but not in administrative proceedings. The parallel pattern maximises speed, since the AGCM is not obliged to wait for the conclusion of the criminal investigation. A disadvantage of both patterns is the risk of divergent outcomes: administrative and criminal proceedings may reach different conclusions on the same underlying facts, either because the evidentiary bases differ or because the standards of proof diverge. Italian case law has accepted this risk as inherent in the constitutional separation of administrative and criminal enforcement.

4. AGCM tools for fighting collusion in public procurement

4.1. Detection: Leniency Programmes

24. The AGCM's leniency programme, established under Articles 15-bis to 15-septies of Law 287/1990 (the Italian Competition Act) and adopted in its current operational form in 2007 with subsequent amendments, provides for full immunity or reduced fines for undertakings that self-report cartel conduct. Its scope is limited to administrative antitrust

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of State (judgment No. 4211/2018), a landmark ruling in Italian law that confirmed the AGCM's decision in Case I759 (see Box 2 in Section 4.5), which involved a bid-rigging cartel in the railway sector. Moreover, this is consistent with the approach of the European courts in Dalmine judgments (Case T-50/00 and Court of Justice Case C-407/04 P): they establish that there is no general rule under EU law preventing competition authorities from using information transmitted by national authorities other than competition authorities, even if that information was originally obtained for other purposes. According to these judgments, the only limit for the acquisition of such documents in antitrust proceedings is that the procedure for their transmission and use must comply with the national legal system.

[13] Cases I723, I759, I846 and I847 (see Box 2 in Section 4.5) illustrate the first pattern, while Case I808 illustrates the second.

infringements under Article 101 TFEU and Article 2 of Law 287/1990. It does not extend to criminal liability for bid rigging, nor to corruption offences under the Criminal Code.

25. The structural incentive problem created by this scope limitation is borne out by the data. Of the 52 bid-rigging cases concluded by the AGCM between 1990 (its inception year) and 2025, none was opened on the basis of a leniency application. Leniency applications were received in two cases after the opening of the investigation, but they played a confirmatory or evidence-reinforcing role rather than a detection role. Case I808 (Consip FM4), discussed in Section 4.5, is the principal example: the leniency application was triggered by a self-cleaning procedure following the opening of proceedings, and it contributed to the evidentiary base rather than to the initial opening of the case.

26. A firm involved in a bid-rigging cartel must weigh the potential benefits of self-reporting to the AGCM (i.e., immunity from the administrative fine) against the costs of exposing its directors and employees to criminal liability for bid-rigging. Absent a fully coordinated leniency–criminal framework, the costs typically outweigh the benefits, and self-reporting is unlikely to occur. A similar logic applies to former employees or other individuals with insider information: the EU Whistleblower Directive and its Italian transposition protect employees from retaliation within the employment relationship, but they do not confer criminal immunity where the whistleblowers are themselves implicated in the underlying conduct.

27. The transposition of the ECN+ Directive into Italian law by Legislative Decree 185/2021 has partially addressed this last concern by extending the effects of an immunity application to directors, former directors and other personnel of the applicant firm, who become non-punishable under criminal law for the competition infringement, provided they actively cooperate with both the AGCM and the public prosecutor. This was a significant step toward aligning self-reporting incentives with the realities of dual administrative and criminal liability, and some positive signals were perceived following its entry into force; the AGCM has, however, so far always acted outside the scope of leniency in bid-rigging matters.

28. Finally, another structural feature of bid-rigging leniency deserves particular attention: leniency applications are disproportionately submitted by large enterprises with established competition compliance functions, while the SMEs that make up the bulk of bid-rigging cartelists in local and regional procurement markets are systematically underrepresented among applicants. In Italy, the recent revision of the leniency programme (clarifying the evidentiary requirements for Type 1A and Type 1B immunity and introducing a clear ranking system for subsequent applicants) represents a step toward making leniency more accessible and predictable. This is a precondition for broadening the applicant base beyond large firms[14].

4.2. Alternatives to Leniency Programmes

29. In the absence of a functioning leniency channel for bid rigging, Italian practice has built up a set of **compensatory detection tools**. The most important is the opening of *ex-officio* investigations, drawing on several channels: referrals from contracting authorities (approximately 42% of concluded cases), referrals from competitors (19%), referrals from the Guardia di Finanza (8%), referrals from Public Prosecutors (direct or indirect, often through press reports) and anonymous or whistleblower reports. Over the last ten years,

[14] See Iossa, E., Calini, C., Catenazzo, A., "Multiple tools to enhance competition in public procurement", *European Competition Journal*, 05 Aug 2025, DOI: 10.1080/17441056.2025.2511424

more than 90% of AGCM cartel cases across all sectors have been opened *ex officio* rather than on leniency.

30. The 2023 launch of a dedicated AGCM whistleblowing platform, building on the protections introduced by Legislative Decree 24/2023, is expected to strengthen this channel further: four cartel investigations have been opened on the basis of whistleblower reports received through the platform in its first two years of operation, though none in the bid-rigging sector so far.

31. Screening is the second compensatory tool. The AGCM has used both *ex-ante* screening (to identify suspicious bidding patterns before opening a case) and *ex-post* screening (to delineate the scope of an ongoing investigation or reinforce its evidentiary base). *Ex-ante* screening is not yet conducted systematically, mainly because of the difficulty of building a sufficiently rich dataset of public bids. However, the 2024 launch of the digitalised tender database and the 2024 AGCM–ANAC MoU (which commits the two authorities to experiment with diagnostic models for the identification of suspected collusion) are expected to change this picture.

32. The third compensatory tool is structural cooperation with criminal and anti-corruption enforcement, as described in Section 3.1. Finally, another tool is the reward mechanism called *Legality Rating*, as described below.

4.3. Sanction coordination

33. Coordinating sanctions across the three tracks, namely administrative antitrust fines, criminal penalties, and procurement exclusion, remains an area of ongoing attention.

34. The *ne bis in idem* principle, as developed by the Italian Constitutional Court and the European Court of Human Rights, does not preclude the parallel imposition of administrative and criminal sanctions for the same conduct, provided that the two sanctions are proportionate and that there is a sufficient material and temporal link between them. The Italian framework is consistent with this standard: antitrust administrative fines imposed by the AGCM, criminal fines and imprisonment imposed by the criminal courts, and administrative exclusion from public tenders imposed by contracting authorities under Article 95 of Legislative Decree 36/2023 may all apply to the same underlying conduct. However, their aggregate proportionality must be assessed at each stage and may lead to reductions.

4.4. Compliance

35. The *Legality Rating* is a reward-based compliance tool with direct relevance to the corruption–collusion interface[15]. Firms with a minimum turnover of €2 million, entered into the Italian business register for at least two years and with operational headquarters in Italy, may apply for a rating on a scale of one to three stars. Rating is conditional on compliance with a range of substantive requirements covering anti-bribery, antitrust, data protection, fiscal regularity and related areas; companies whose executives have been convicted of corruption, fraud or bankruptcy offences within the preceding five years are ineligible. The rating is valid for three years and may be renewed. An additional score is granted to companies applying for renewal that have already held the rating continuously

[15] It was introduced in 2012 by Article 5-ter of Decree-Law 1/2012 and operationalised by the AGCM Regulation of 14 November 2012 and most recently amended on 27 January 2026. For more information about the new regulation, see the AGCM press release of 16 March 2026: AGCM - Italian Competition Authority: new Legality Rating Regulation enters into force today.

over at least three rating periods. Benefits include reputational value, facilitated access to public and bank financing, and recognition in public procurement procedures under Article 109 of Legislative Decree 36/2023 as a factor relevant to the undertaking's reputation.

36. The 2024 AGCM–ANAC MoU formalises the cooperation between the two authorities in the rating procedure (see BOX 1 above). Under Article 5 of the Regulation, for each application ANAC transmits to the AGCM the elements and information necessary for the Authority's assessment. This includes verification of the absence of ANAC sanctions in the area of corruption prevention, transparency and public contracts, as well as any disqualifying entries in the database maintained by ANAC. The 2024 MoU commits both authorities to promoting wider uptake of the rating and to simplify the procedures for cooperation.

37. Three design features are worth flagging. First, unlike debarment rules, the *Legality Rating* does not reduce the pool of potential bidders: it works by certifying compliance, not by excluding non-compliers. Second, it is designed so as not to discourage leniency applications: firms that have applied for leniency are not penalised under the scheme. The rating thus offers an intermediate solution between full participation and outright exclusion, and is, in the Italian experience, a successful example of a positive, incentive-based instrument that complements the punitive tools available to both authorities.

38. A third design feature is its empirically documented link to procurement efficiency. Combining the Italian Legality Rating dataset with a comprehensive dataset of public works contracts, one study finds that the efficiency and legality standards of firms are inherently interlinked: each additional point in the legality score is associated with a statistically significant reduction in average delays and extra costs in public contract execution[16]. The policy implication is significant: to the extent that higher-rated firms are also more efficient contractors, the *Legality Rating* operates simultaneously as a compliance-incentive tool and as a selection device that can improve the quality-adjusted value-for-money outcomes of procurement procedures.

4.5. AGCM cases with a corruption nexus

39. Of the 52 bid-rigging cases concluded by the AGCM between 1990 and 2025, approximately 21%, one in five, display a documented criminal or anti-corruption nexus. A complementary picture emerges from the Italian Supreme Court case law: independent research[17] on a more recent and narrower window (2016–2020) finds an even higher rate (corruption present in roughly 56% of cartel cases).

40. The cases presented below (Box 2) illustrate the diversity of detection channels and of evidentiary configurations observed in Italian practice. In the 21% of AGCM bid-rigging cases with a corruption–collusion nexus, that nexus may take several forms: the case may have been opened following a referral from the Guardia di Finanza or the Public Prosecutor; the evidence base may include material transferred from a parallel criminal investigation;

[16] Iossa, E., Latour, C. "Firms' legality and efficiency: evidence from public procurement", *Eur J Law Econ* 59, 439–455 (2025). https://doi.org/10.1007/s10657-025-09848-w. Their finding is consistent with a wider body of evidence showing positive correlations between firm-level legality standards and financial outcomes, including lower tax avoidance, better financial performance and greater capital expenditure.

[17] See Iossa, E., Raganelli, B. and Marconi, M. (2022), "Appalti e turbative: corruzione, cartelli e criminalità. Nella lente della Corte di Cassazione", *Mercato Concorrenza Regole*, No. 1/2022, pp. 12 et seq. The authors carried out a structured review of Italy's Supreme Court's judgments concerning corruption in public procurement.

the case may have been opened on the basis of a whistleblower report concerning suspected collusion potentially linked to public-side misconduct; or a formal referral may have been received from ANAC.

41. One significant feature of these cases is the role of facilitators as the structural locus where corruption and collusion intersect. Consortia (case I723), external consultants (I816) and central purchasing bodies (I808) all hold positions that give them structural knowledge of both the buying and selling sides of a market. From these positions, they can coordinate bidders with relatively little additional effort, and the same intermediaries may also facilitate corruption.

42. The remaining features of the cases can be summarised compactly. Detection channels are diverse (GdF referrals, Public Prosecutor referrals, ANAC input, screening, *ex-officio* investigations on press reports), and leniency does not appear as an initial detection channel in any of them. Evidentiary cooperation with criminal enforcement is a recurring feature: in cases I723 and I759 it was decisive; in case I808 it ran in parallel; in cases I846 and I847, it involved the use of material from parallel criminal proceedings.

43. Case I847 is an example of the "administrative synergy" with ANAC. The AGCM utilised, *inter alia*, ANAC's earlier findings of irregularities in the same tender to support its conclusion that the fragmented structure of the tenders was a mere consequence of the parties' concerted decision to leave the original large tender deserted.

44. Enforcement outcomes have been mixed: AGCM decisions have been broadly confirmed on their merits, but a non-negligible proportion of fines have been re-determined or annulled by the administrative courts. Criminal proceedings have followed their own trajectories.

Box 2. AGCM competition cases at the intersection with corruption

I723 – Road-safety barriers (2012)

Case I723 (AGCM decision No. 23931 of 28 September 2012) concerned a market-allocation and price-coordination agreement among the principal operators in the production and commercialisation of road safety barriers. It was opened on a referral from the Guardia di Finanza, acting on an investigative report prepared by the Nucleo di Polizia Tributaria di Trento. The GdF referral included extracts of witness statements given by representatives of the firms under investigation, minutes of approximately one hundred meetings of the Comast consortium used as a coordination vehicle, and a substantial body of documentary evidence comprising handwritten notes, typewritten memoranda and internal Excel spreadsheets reconstructing market-sharing patterns. The evidentiary significance of the case lies in the fact that the GdF-generated evidentiary base was directly usable in the subsequent administrative proceedings, consolidating a pattern of cross-agency evidence transfer that has since become routine. The AGCM's infringement decision was confirmed by the administrative courts, although fines were subsequently re-determined; the underlying agreement extended beyond public tenders, illustrating the analytical point that bid rigging in public procurement is often embedded in broader anti-competitive conduct.

I759 – Forniture Trenitalia (2015)

Case I759 (AGCM decision No. 25488 of 27 May 2015) concerned bid rigging among the principal suppliers of electromechanical goods and services for rail traction, in relation to twenty-four public procurement procedures launched by Trenitalia S.p.A. The case was opened ex officio on press reports of a possible cartel that had emerged in the course of a criminal investigation. With the authorisation of the competent Substitute Prosecutor (nulla osta), the

AGCM acquired documentary material from the criminal file, including transcripts of intercepted telephone communications. I759 is the landmark precedent in Italian law on the admissibility, in administrative antitrust proceedings, of evidence obtained through criminal investigations. The administrative courts, confirming the AGCM's decision, held that Article 270 of the Code of Criminal Procedure — which prohibits the use of intercepted communications in criminal proceedings other than those in which the interception was authorised — is confined to the criminal domain and does not extend to administrative proceedings governed by different evidentiary rules. Intercepted communications lawfully acquired with the Prosecutor's clearance are therefore admissible as elements contributing to the overall evidentiary picture, to be evaluated under the principle of free appraisal of evidence. The Council of State confirmed this approach in its judgment No. 4211/2018. The case is also notable for the practical coordination between the AGCM and the Prosecutor on the admissibility and transfer of criminal-file materials.

I785 – Consip cleaning services for schools (2015)

Case I785 (AGCM decision No. 25802 of 22 December 2015) concerned bid rigging among the principal providers of cleaning services, in relation to a tender launched by Consip — the Italian central purchasing body — for cleaning services in public schools. The tender was structured in thirteen lots and had a total value of €1.6 billion. The case was opened ex officio on the basis of screening, making it one of the earliest Italian examples of screening-driven enforcement. The investigation established bid manipulation through subcontracting arrangements that allowed nominally competing firms to share the execution of the contract.

I796 – Advisory services to the public administration (2017)

Cases I796 (AGCM decision No. 26815 of 18 October 2017) concerned the award of advisory services to the Italian public administration in the context of EU-co-financed programmes, structured in nine lots for a total value of approximately €66.5 million. The tender was launched by Consip; the Authority's investigation established that the four leading advisory firms (Deloitte, EY, KPMG and PwC) had coordinated their participation across the lots through a sophisticated mechanism of lot allocation and cover bidding, whereby each network submitted genuinely competitive discounts only on pre-assigned lots while filing artificially low bids on the remaining lots to depress the average and shield the designated winner from outside competition. A particularly noteworthy feature of the I796 investigation, highlighted by Albano and Santocchia (2021)[*], is the convergence between endogenous and exogenous evidence: the internal logic of the cartel's bidding behaviour across lots — reconstructed by the AGCM through statistical analysis of bid patterns — precisely matched the documentary evidence of the coordination mechanism seized during dawn raids conducted by police forces in parallel criminal proceedings. This convergence of independently derived evidence illustrates how administrative screening and criminal investigation can operate as mutually reinforcing evidentiary channels.

I816 - Healthcare waste disposal services (2019)

Case I816 (AGCM decision No. 27546 of 25 September 2019) concerned the award of healthcare waste disposal services in the Campania Region by the regional central purchasing body SO.RE.SA., structured in six lots with a total value of approximately €38 million. The investigation identified a "checkerboard" pattern of participation across the lots and documented the role of a consultant acting as a facilitator of the collusive scheme. Both cases bring out the risk posed by intermediaries who acquire, through repeated advisory engagements, a structural knowledge of both the buying side and the selling side of a market — a position from which they can coordinate bidders with relatively little additional effort, and through which corruption and collusion may intersect.

I808 – Consip Facility Management 4 (2019)

Case I808 (AGCM decision No. 27646 of 17 April 2019) concerned bid rigging among the principal operators in the facility management sector, in relation to the Consip FM4 framework

agreement, structured in eighteen lots for a total value of €2.7 billion. It is the largest procurement cartel ever sanctioned by the AGCM, with total fines of approximately €234 million. The case was opened ex officio and ran in parallel with criminal proceedings. It is noteworthy for the Authority's interaction with the leniency mechanism: although the case was not opened on a leniency application, one of the undertakings submitted a leniency application after the opening of proceedings, following a self-cleaning procedure that included a change of management. I808 is therefore the principal Italian example of leniency operating not as a detection tool (a function it has not performed in Italian bid-rigging practice) but as a post-opening cooperation mechanism that reinforces the evidentiary base. The case also illustrates the limits of administrative enforcement: while the AGCM decision was confirmed on its merits, fines were partially reduced on appeal, and parallel criminal proceedings followed their independent course.

I846 - Workwear and professional uniforms (2022)

Case I846 (AGCM decision No. 30053 of 1 March 2022) originated from a report by the GdF regarding criminal proceedings initiated by the Public Prosecutor's Office of Florence, and concerned several low-value public procurement procedures launched in 2018 by local authorities in Tuscany for the supply of uniforms and technical clothing for public employees and municipal police personnel. The Authority found that the companies had coordinated their participation strategies through bid-rigging practices, including abstaining from participating in certain tenders, submitting "cover bids," and arranging compensatory transactions among the parties in order to allocate contracts and secure awards with minimal discounts while also circumventing the rotation principle.

I847 - Naval maintenance and related services (2023)

Case I847 (AGCM decision No. 30740 of 18 July 2023) was launched following a report by the Italian Navy and further developed by the Italian Financial Police in connection with criminal proceedings brought by the Public Prosecutor's Office of Taranto. It concerned several procurement procedures launched in 2018 for naval maintenance and related services at the Taranto Naval Arsenal. The AGCM found that the companies had entered into a market-sharing arrangement by coordinating their bidding strategies through cross-bidding schemes, cover bids, non-aggression arrangements, and the instrumental use of temporary joint ventures, thereby creating the appearance of genuine competition while manipulating the outcomes of the tenders. The conduct was qualified as a single, continuous and secret cartel aimed at eliminating competitive risk among the participants and allocating public contracts among them. While the AGCM focused on the cartel, ANAC had already issued a formal pronouncement in 2021 regarding the irregularities of the same tenders, specifically condemning the "artificial fragmentation" of a large tender into smaller economy-based procedures. The AGCM utilised ANAC's findings as well as criminal evidence from the contracting agency to support its conclusion that the fragmented structure of the tenders was a mere consequence of the parties' concerted decision to leave the original large tender deserted.

I883 - Building materials (2026 – on going)

Case I883, formally opened in April 2026 (AGCM decision No. 31925 of 15 April 2026), concerns an alleged price-fixing cartel among Italy's leading producers of building materials. The allegation is that top executives from these companies secretly met in 2021 to coordinate commercial policies, specifically price list increases, discount levels, and payment terms, directed at large national wholesale groups. This suspected coordination occurred during the post-pandemic recovery, a period characterised by a surge in demand for construction materials driven by the "Superbonus 110%" tax incentive. The investigation was triggered by a complaint from a competitor, which provided the AGCM with documentation acquired from criminal proceedings managed by the Public Prosecutor of Turin. The investigation is on-going.

Note: Albano, Gian Luigi & Santocchia, Maria. (2021). A Case Study on Bid Rigging in Centralized Procurement of Audit Consulting Services in Italy. SSRN Electronic Journal. 10.2139/ssrn.3905749.

5. Interaction competition-corruption in public procurement

5.1. Empirical evidence

45. Theoretical models suggest that the relationship between competition and corruption is bidirectional: while more competition can sometimes reduce opportunities for favouritism or bribery, it can also increase incentives for collusion or raise bribe demands when institutional controls are weak[18]. This is consistent with empirical evidence from Italy, which shows that increased competition does not always mitigate corruption and may, under certain conditions, exacerbate inefficiencies or even foster new forms of corrupt behaviour.

46. Several studies using Italian data find that higher number of bidders may reinforce the negative effects of environmental corruption on the execution of public road contracts, in terms of delays and cost overruns[19]; in the construction sector, corrupt suppliers may exploit competitive markets to secure selection, thus showing that corruption can adapt rather than disappear as competition increases[20].

47. Discretionary procedures, where procurement officials have more leeway, are associated with higher risks of both inefficiency and corruption when not properly monitored[21]; with adequate bidder numbers and controls, discretion can improve efficiency with only modest added corruption risk. By contrast, discretionary power without adequate oversight may enable both favouritism toward politically-connected firms and the misallocation of resources[22].

48. Project complexity also plays a role: in Italy, more complex projects are often procured through negotiated (less competitive) procedures by municipalities, especially in low-corruption areas. However, the effect of complexity seems to be weaker when the level of corruption is relatively high[23].

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[18] Celentani, M., & Ganuza, J. (2001). Corruption and Competition in Procurement. IO: Theory. https://doi.org/10.2139/ssrn.230544.

[19] See: Castro, M.F., Guccio, C., Pignataro, G. and Rizzo, I. (2015), "Is Competition Able to Mitigate the Waste Effects of Corruption? Empirical Findings on Italian Public Work Contracts", SSRN 2708790, https://doi.org/10.2139/ssrn.2708790 and, Castro, M.F., Guccio, C., Pignataro, G. and Rizzo, I. (2018), "Is competition able to counteract the inefficiency of corruption? The case of Italian public works", *Economia e Politica Industriale*, 45, pp. 55–84, https://doi.org/10.1007/s40812-017-0086-5.

[20] Di Giorno, S., Dileo, I., & Busato, F. (2024). "Shades of grand corruption among allocative efficiency and institutional settings. The case of Italy". *Socio-Economic Planning Sciences*. https://doi.org/10.1016/j.seps.2024.101911.

[21] See: Decarolis, F., Fisman, R., Pinotti, P., & Vannutelli, S. (2020), "Rules, Discretion, and Corruption in Procurement: Evidence from Italian Government Contracting" *Political Economy - Development: Public Service Delivery eJournal*, https://doi.org/10.2139/ssrn.3744100; and, Castro, M., Guccio, C., & Romeo, D. (2022), "If You Give Bureaucrats an Inch, Will They Take a Yard? Lessons from Threshold Regulatory Reform in Italy", *Public Finance Review*, 52, 727 - 764. https://doi.org/10.1177/10911421221138438.

[22] See Decarolis et al., 2020, in the above footnote No. 21.

[23] Baldi, S., Bottasso, A., Conti, M., & Piccardo, C. (2016), "To bid or not to bid: That is the question: Public procurement, project complexity and corruption", *European Journal of Political Economy*, 43, 89-106. https://doi.org/10.1016/j.ejpoleco.2016.04.002. Their results show that more complex projects are in general associated to a larger probability of being awarded to firms located

49. Finally, the presence of organised crime distorts competition by facilitating collusion and manipulating bidding processes; mafia infiltration has been shown to increase the number of bids but also to lead to collusive schemes among firms within criminal networks, with cost overruns and distorted market outcomes[24].

50. Overall, the empirical literature suggests that, while competition is often promoted as an antidote to corruption, its effectiveness depends heavily on several factors including bureaucratic discretion, project complexity, institutional quality, regulatory design, local governance contexts and the presence of organised crime. At the same time, rigid anti-corruption measures may stifle efficiency if they excessively constrain administrative flexibility.

51. Policy interventions must therefore strike a balance: promoting *ex-ante* transparency, strengthening monitoring institutions, and tailoring reforms to local governance capacities are crucial for effective anti-corruption strategies[25]. In other words, in the Italian procurement market, competition policy and anti-corruption policy operate as complements rather than substitutes, and a purely pro-competition reform agenda, applied without parallel integrity tools, cannot be expected to reduce corruption risk on its own.

5.2. Joint-risk conditions: where corruption and collusion overlap

52. Some procurement environments raise collusion and corruption risks simultaneously. A market with few bidders and stable, repeated demand is the textbook combination. Collusion is easier to sustain in such markets because of the implicit possibility of rewarding and punishing behaviour across multiple rounds. Corruption is also easier to maintain because the same officials interact with the same bidders repeatedly. Concentrated markets amplify both effects, since a limited number of firms face lower coordination costs among themselves and a smaller selection problem for a corrupt official seeking a reliable counterpart. Complex or opaque technical specifications favour both phenomena: they allow corrupt officials to tailor specifications to favoured bidders and they enable colluding bidders to conceal coordination in the technical merits of bids. Extensive subcontracting chains create channels for side payments, both between firms (collusion) and between firms and officials (corruption).

53. Italian procurement is characterised by an unusually high proportion of discretionary procedures by number of contracts. The ANAC 2025 market data confirm the practical weight of discretion in the current market when looking at the number of tender procedures; however, in value terms the picture is reversed (see Table 1): direct awards accounts for only 5.1% in value terms, reflecting the rule that they are confined to sub-threshold contracts.

in the same province of the contracting authority and that higher complexity is correlated with higher rebates and longer delays in the execution of the work.

[24] See: Ravenda, D., Giuranno, M., Valencia-Silva, M., Argilés-Bosch, J., & García-Blandón, J. (2020), “The effects of mafia infiltration on public procurement performance”, *European Journal of Political Economy*: https://doi.org/10.1016/j.ejpoleco.2020.101923; and, Fazekas, M., Sberna, S., & Vannucci, A. (2021), “The extra-legal governance of corruption: Tracing the organization of corruption in public procurement”, *Governance*, https://doi.org/10.1111/gove.12648.

[25] See Decarolis et al., 2020, in the above footnote No. 21; and, Loxbo, K., & Pircher, B. (2024), “Complexity meets flexibility: unintended differentiation in EU public procurement”, *Journal of European Public Policy*, 32, 2714 – 2740: https://doi.org/10.1080/13501763.2024.2427196.

Table 1.

Procedures above €40,000 concluded in 2025 Types of procedure*	Number of procedures (287,421)	Value of procedures (309.7 EUR billion)
direct awards	55.3%	5.1%
negotiated procedures without prior publication	20.9%	14.2%
negotiated procedures with prior publication	2%	4.4%
open procedures	15.8%	54.3%
restricted procedures	6%	2.1%

Note: The open procedure is the primary method for awarding public contracts under the Procurement Code (under Legislative Decree No. 36/2023), open to all economic operators, whereby any operator meeting the required qualifications may submit a tender in response to a contract notice. The restricted procedure is a two-stage procurement procedure: in the first stage, any economic operator may apply to participate, while in the second stage only the selected operators invited by the contracting authority may submit a tender. Negotiated procedures with prior publication are more flexible than open procedures allowing the possibility for contracting authorities to negotiate. Negotiated procedures without prior publication constitute a derogation from the principles of the Code and may be used only in strictly limited cases, as expressly provided for by the Code.
Source: *ANAC 2026 Annual Report (table 7.14)*

5.3. Organised crime infiltration as a structural amplifier

54. A further aspect of the corruption–collusion interface concerns the role of organised crime. The empirical literature on Italian procurement identifies two distinct mechanisms through which criminal organisations interact with the combined risk of collusion and corruption. First, organised crime infiltration of bidding firms is associated with detectable distortions in tender outcomes: one study finds that infiltrated firms display systematic anomalies in bidding behaviour and contract performance, including higher cost overruns and lower execution quality[26].

55. Second, organised crime groups can be viewed as “extra-legal governance organisations” that lower the transaction costs of corrupt and collusive exchanges by enforcing informal agreements, regulating entry into local procurement markets and selectively excluding non-favoured firms[27]. Another study confirms that, when discretionary procedures are applied, firms infiltrated by criminal organisations are more likely to win than other bidders, and that this likelihood increases following natural disasters such as earthquakes[28].

5.4. COVID-19 emergency procurement: a first stress test

56. The COVID-19 pandemic constituted the first major natural experiment in derogatory procurement in contemporary Italian practice. The legislative response included extensive use of extraordinary commissioners, simplification of direct-award thresholds,

[26] See Ravenda et al. (2020), cited in footnote No. 24.

[27] See Fazekas, Sberna and Vannucci (2021) cited in footnote No. 24.

[28] See Gara, M., Iezzi, S. and Siino, M, “Detecting corruption risk in public procurement using red-flag indicators”, *Bank of Italy Quaderni dell’antiriciclaggio* (2024), Quaderno 23, https://uif.bancaditalia.it/pubblicazioni/quaderni/2024/quaderno-23-2024/quaderno-23-2024.pdf?language_id=1.

and derogations from ordinary procedural requirements under Decree-Law 18/2020 and subsequent measures[29].

57. The competition-policy lessons of the pandemic phase can be summarised in two points. Emergency regimes combining wide discretion with weak documentation requirements raise corruption risk disproportionately, with knock-on effects on subsequent contract execution (delays, price adjustments, quality issues). They also concentrate market power in a small number of suppliers capable of delivering at scale and at short notice, thereby increasing collusion risk on post-emergency repeat procurement.

58. One study comparing Italian and German pandemic procurement reaches a convergent conclusion[30]: relaxed procurement rules under emergency conditions were associated with measurable increases in objective corruption risk indicators, attributable in significant part to reduced competitiveness and to the ambiguity of the derogatory rules themselves.

5.5. PNRR: the second natural experiment

59. The National Recovery and Resilience Plan constitutes the second and larger-scale stress test. The Plan channels approximately €194.4 billion of EU-backed funding into investment and reform programmes to be completed by 2026, with public procurement as the principal delivery instrument. The legislative framework (Decree-Law 77/2021 and subsequent amendments) introduced derogations from the ordinary Code for PNRR-financed procurement, including a simplified direct-award regime below certain thresholds and a generalised use of the integrated tender, which combines design and execution in a single award.

60. According to ANAC 2025 data[31], PNRR-financed procurement accounted for approximately €20.8 billion of the €309.7 billion public procurement market in 2025. ANAC analysis of tender data shows that the share of integrated contracts in total procurement rose sharply at the end of 2022 and that this increase was driven almost entirely by PNRR-financed procedures. In 2023, those procedures displayed an integrated-contract share of approximately 14%, compared with 2–3% for non-PNRR procedures. This shift is directly attributable to the derogatory regime of Decree-Law 77/2021. Integrated contracts combine design and construction risks in a single bidder and historically raise both corruption risk (through design-specification capture) and collusion risk (through the reduced number of firms capable of bidding for combined mandates).

61. For the AGCM, the PNRR natural experiment has prompted three operational responses: a reinforcement of advocacy interventions under Article 21-bis of Law 287/1990 specifically targeted at restrictive PNRR tender designs; the launch of the 2024 MoU with ANAC (see Box 1 in Section 3.1), which creates structured channels for reciprocal referrals

[29] ANAC responded with a Presidential Communication of 1 April 2020 offering enhanced collaborative supervision to contracting authorities operating under emergency rules, covering both COVID-specific procurement and procurement conducted under partial or total derogation from the Public Contracts Code.

[30] See Thomann, E., Marconi, F., & Zhelyazkova, A. (2023), "Did pandemic responses trigger corruption in public procurement? Comparing Italy and Germany", *Journal of European Public Policy*, 31, 2907 – 2936: https://doi.org/10.1080/13501763.2023.2241879.

[31] See ANAC, Annual Report 2026, available here: https://www.anticorruzione.it/-/cs.21.04.2026.relazione.anac

on PNRR procurement; and the deployment of the AGCM Data Science Unit to support screening of BDNCP data for the specific patterns observed in PNRR-financed procedures.

62. In April 2026, the AGCM opened an investigation into a suspected price-fixing cartel among major producers of chemical materials for construction (Case I883, see Section 4.5), where the PNRR and similar expansive public policies played a central role in creating the economic conditions that favoured the alleged collusion[32]. According to the AGCM, these public incentive mechanisms fundamentally altered the behaviour of end consumers: because the state provided nearly full coverage for expenses (through tax deductions or direct funding), final beneficiaries became significantly less sensitive to price increases. Hence, the Authority suspects that the cartel members took advantage of this inelastic demand to coordinate price list increases, knowing that wholesalers would transfer the higher costs to consumers, who in turn would pass them on to the Italian State.

6. Red flags: convergence and divergence

63. The Italian evidence base on red flags is unusually rich, combining administrative case data compiled by the AGCM, the BDNCP dataset managed by ANAC and two substantial empirical studies by the Bank of Italy[33].

64. The AGCM's classification of bid-rigging red flags is based on the Authority's own Vademecum on the identification of competition concerns in procurement[34]. An analysis of the 52 infringement decisions concluded between 1990 and 2025 shows the following frequency distribution of observed red flags (see Table 2 below). Multiple red flags are frequently observed within the same case. Bid rotation and market allocation are typically identified through analysis of multiple tenders over time, while cover bidding, tender boycott and document similarities are visible within a single tender.

Table 2. Analysis of AGCM bid-rigging cases (1990-2025) by type of conduct

Conduct category	No. of cases	% (Tot= 52)
Joint bids via temporary associations or co-insurance	17	33%
Bid suppression / withdrawal	19	37%
Market or lot allocation	14	27%
Bid rotation	10	19%
Price-fixing / coordination of economic bids	9	17%
Subcontracting as cartel tool	6	12%
Cover bidding	5	10%

Source: AGCM data

[32] The building materials sector experienced an exceptional shock immediately following the COVID-19 pandemic. While the spring of 2020 saw a sharp contraction, it was followed by a rapid surge in demand for raw materials and semi-finished products. This dynamic was heavily driven by expansionary public policies, most notably the tax incentive scheme (Superbonus 110%) and investment projects under the PNRR, which channelled considerable funding into the construction sector to meet PNRR milestones.

[33] See Decarolis, F., & Giorgiantonio, C. (2020), "Corruption red flags in public procurement: new evidence from Italian calls for tenders", Bank of Italy Questioni di Economia e Finanza No. 544 (also published in *EPJ Data Science* 11:16, 2022): https://doi.org/10.1140/epjds/s13688-022-00325-x.

[34] See AGCM - VADEMECUM PER LE STAZIONI APPALTANTI, adopted by AGCM decision of 18 September 2013.

65. The Bank of Italy's 2020 study[35] on corruption red flags in Italian calls for tenders identifies discretionary selection mechanisms as the single most effective procedural indicator of corruption risk. The study finds that the most effective red flags are, in order of importance: the use of discretionary selection mechanisms (most-economically-advantageous-tender criterion, negotiated procedures); non-compliance with the statutory minimum time period for the submission of tenders; and the use of extensive subcontracting. Procedures based on the most-economically-advantageous-tender criterion and negotiated procedures display a statistically significant correlation with police investigations for corruption-related crimes, while procedures based strictly on lowest price display a weaker correlation. The study also finds that greater standardisation in the call-for-tender documents contributes to reducing corruption risks.

66. The 2024 Bank of Italy follow-up study[36] extends the analysis to include the discretionary features of tenders, the completeness of information submitted by participating firms, the degree of competitiveness, and selected characteristics of winning firms. The study confirms that the combination of discretionary procedures with other procedural features, notably compressed submission deadlines and extensive subcontracting, produces the strongest composite corruption signal. It also finds that discretionary procedures are strongly correlated with other potential corruption indicators, in particular inefficiency (delays in project completion, cost overruns) and the share of contracts awarded to politically-connected firms. Finally, the study documents that, when discretionary procedures are applied, firms infiltrated by criminal organisations are more likely to win than other bidders, and that this likelihood increases following natural disasters such as earthquakes.

67. Two further strands of the Italian empirical literature complement this evidence base. One study[37], using Italian micro-data on contracts above and below regulatory thresholds, links broader administrative discretion to a higher share of awards going to politically-connected firms and to lower productivity outcomes, confirming that discretion is the operational locus where corruption risk most often materialises. Other scholars[38], in a systematic study of Italian government contracting, document that public officials with prior corruption-related involvement use discretion in observably different ways from their non-implicated peers: a result that strengthens the case for using behavioural patterns of contracting authorities (and not only of bidders) as a screening dimension.

68. Taken together, these studies suggest that the next generation of Italian red-flag indicators should systematically combine bidder-side signals (familiar to AGCM enforcement practice) with buyer-side signals on the use of discretion at the level of the individual contracting authority.

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[35] See Decarolis, F., & Giorgiantonio, C. (2020), "Corruption red flags in public procurement: new evidence from Italian calls for tenders", Bank of Italy Questioni di Economia e Finanza No. 544 (also published in *EPJ Data Science* 11:16, 2022): https://doi.org/10.1140/epjds/s13688-022-00325-x.

[36] See Gara, M., Iezzi, S. and Siino, M, "Detecting corruption risk in public procurement using red-flag indicators", Bank of Italy Quaderni dell'antiriciclaggio (2024), Quaderno 23, https://uif.bancaditalia.it/pubblicazioni/quaderni/2024/quaderno-23-2024/quaderno-23-2024.pdf?language_id=1.

[37] See Baltrunaite, A., Giorgiantonio, C., Mocetti, S., & Orlando, T. (2018), "Discretion and Supplier Selection in Public Procurement", *Public Choice: Analysis of Collective Decision-Making eJournal*: https://doi.org/10.2139/ssrn.3210748.

[38] Decarolis et al., 2020, in the above footnote No. 21.

69. A complementary strand of the Italian literature focuses on sector-specific risk profiles. A study of Italian healthcare contracting authorities reveals the complexity of corruption risks in healthcare procurement and provides insights into distinct risk profiles among Italian contracting authorities[39]. Indeed, its findings demonstrate significant geographic variations across Italian regions and underscore the importance of customised anti-corruption strategies to address region-specific challenges and risk factors effectively. This is particularly relevant since several AGCM bid-rigging cases (I792 on oxygen therapy and ventilotherapy; I819 on blood-derived drugs) involved procurement by regional health authorities. In these markets, the combination of high technical complexity, a small number of specialised suppliers, and discretionary award criteria create a fertile environment for both collusion and corruption. The Italian evidence thus supports the recommendation, implicit in the 2025 OECD Guidelines, that red-flag screening tools should be calibrated to the specific market and institutional context rather than applied as universal checklists.

70. Finally, the type of transparency matters. One study[40] shows that *ex-ante* transparency, that is, making tender design, technical specifications and the identity of evaluating officials available to insiders and stakeholders before the procedure begins, is empirically the most effective transparency dimension for reducing corruption risk, because it enables horizontal monitoring by potential bidders, civil-society actors and oversight bodies. *Ex-post* transparency, while important for accountability, comes too late to deter capture and may, on the bidder side, even facilitate coordination by making outcomes more predictable. The Italian framework already operates a substantial *ex-ante* transparency regime through Legislative Decree 33/2013, the tender dataset publication obligations and the qualification system for contracting authorities.

7. Concluding remarks

71. The experience of the AGCM at the intersection of competition and corruption shows the power of inter-institutional cooperation. The multi-layer model established with the Financial Police, Public Prosecutors, Contracting Authorities and the Anti-corruption Authority ANAC has made it possible to maintain an active bid-rigging enforcement programme: approximately 21% of those cases display a documented criminal or anti-corruption nexus that is directly attributable to this cooperation architecture.

72. The renewed AGCM–ANAC MoU of 31 July 2024 marks a further step in this direction. Its seven areas of cooperation together constitute a comprehensive framework for managing the corruption–collusion interface at institutional level. The MoU is framework-level and open to additional implementing acts, leaving room for progressive development of operational detail. This channel builds on the AGCM Vademecum of 2013 and provides an institutional vehicle for the dissemination of best practices, training of procurement officials, and joint guidance. In the medium term, this joint advocacy channel is expected to play a significant role in mainstreaming the OECD 2025 Guidelines into Italian procurement practice.

[39] Del Sarto, S., Gnaldi, M., & Salvini, N. (2024), "Sustainability and high-level corruption in healthcare procurement: Profiles of Italian contracting authorities", *Socio-Economic Planning Sciences*. https://doi.org/10.1016/j.seps.2024.101988.

[40] See Bauhr, M., Czibik, Á., De Fine Licht, J., & Fazekas, M. (2020), "Lights on the shadows of public procurement: Transparency as an antidote to corruption", *Governance*, https://doi.org/10.1111/gove.12432.

73. The introduction of immunity from criminal liability for directors applying for leniency, together with recent enhancements to the AGCM's leniency programme, constitutes an important step towards reinforcing the incentives to cooperate with the authorities, including in criminal investigations concerning bid-rigging offences. At the same time, evidence transfer between administrative and criminal proceedings is operationally well-established. This framework provides legal certainty for cross-agency cooperation.

74. Finally, the AGCM's experience with the *Legality Rating* shows that a complementary, reward-based tool that incentivises compliance with antitrust, anti-bribery and data-protection rules can also provide a competitive advantage in the tenders. Evidence suggests that this tool operates simultaneously as a compliance-incentive tool as well as a selection device for contracting authorities that can improve the quality-adjusted value-for-money outcomes of procurement procedures and reduce corruption risks.

75. The value of the multi-tool, multi-authority approach that the AGCM has progressively developed with ANAC and the other relevant actors is confirmed by the empirical evidence showing that competition is not a self-sufficient anti-corruption tool. The Italian academic literature converges on a context-dependent picture in which the integrity gains from increased competition materialise reliably only when matched by strong institutions, *ex-ante* transparency, and credible monitoring of buyer-side discretion.