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Competition and Corruption in Public Procurement – Note by Spain

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1. Introduction¹

1. Corruption and collusion in public procurement cause severe harm to society. They lead to higher prices and lower-quality goods, services, and works, deteriorating public finances and undermining value for money and the broader objectives of public procurement. Citizens—particularly those in vulnerable positions—are deprived of quality public services. Beyond these economic impacts, corruption and collusion generate wide-ranging social harm, ultimately eroding trust in government, democratic institutions, and competitive markets.

2. Governments and societies have made significant efforts to combat corruption, fraud, and other irregular practices, including collusion and competition-related offences. Despite these efforts, such practices remain persistent and difficult to eradicate, where Spain is no exception.

3. Evidence confirms that public **procurement remains a high-risk area for corruption**. A 25% of companies in the EU (40% in Spain) report that corruption has prevented them from winning a public tender in the past three years². Corruption is the leading cause of complaints in public procurement (24.7% of cases), with service contracts being the most frequently reported (48.4%)³.

4. A general **decline in competition levels** in EU public procurement markets has been recently highlighted, increasing the risk of collusion⁴. A similar trend is observed in Spain, with indicators as the average number of bidders deteriorating (which fell from 4.09 in 2019 to 2.9 bidders in 2024) or remaining at very high levels as the percentage of procedures with a single bidder (44% in 2023)⁵.

5. This contribution shows how corruption and collusion in public procurement are distinct but often **interrelated risks that require an integrated response** combining criminal enforcement, competition law and procurement rules. Using the Spanish framework and the Firefighting Services Cartel as an illustration, it highlights the importance of coherent enforcement, active cooperation among authorities and strong preventive tools. The contribution argues for a three-pronged approach linking prevention, effective enforcement and institutional capacity-building.

¹ This contribution has been prepared by the staff of the CNMC and shall not be regarded as the official position of the CNMC unless it refers to CNMC approved documents

² [Flash Eurobarometer 557 Businesses' attitudes towards corruption in the EU and in selected enlargement countries](#) (January- February 2025).

³ Independent Office for the Regulation and Supervision of Public Procurement in Spain - OIRESCON- (2025). [Annual Report on Public Procurement Supervision](#). Module IV. Prevention and combatting corruption in public procurement

⁴ This is reflected in the increase in single-bid procedures, low SME participation, greater reliance on non-competitive procedures and limited cross-border awards. [European Court of Auditors \(2023\) Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021. Special report 28/2023. Luxembourg: European Court of Auditors](#)

⁵ OIRESCON (2025)

2. Corruption and Collusion in Public Procurement

2.1. Concepts

6. **Corruption** refers to the improper use of public authority, position or discretion—by action or omission—for private gain or undue advantage, resulting in biased decisions and distorted contracting outcomes. It encompasses practices such as bribery, the exchange of benefits to circumvent rules, and preferential treatment based on personal, political or economic ties. It may involve a demand side, where public officials solicit or accept improper benefits (passive bribery) and a supply side, where firms offer inducements to influence procurement outcomes (active bribery).

7. **Collusion in public procurement, commonly referred to as bid rigging**, occurs when tenderers illegally agree to secure the award of a contract to a predetermined winner while creating the impression of a genuinely competitive procedure. Common collusive techniques include bid suppression, cover or complementary bidding, bid rotation, market or customer allocation, and anti-competitive joint bidding or subcontracting.

8. Corruption and collusion in public procurement are distinct forms of misconduct. **Corruption involves vertical conduct**, based on the abuse of public authority by public officials in exchange for private gain, while **collusion involves horizontal conduct**, consisting of coordination among competing bidders to manipulate tender results. The two may occur independently and therefore require differentiated policy and enforcement responses.

9. In practice, however, corruption and collusion may **emerge simultaneously and reinforce each other**, further undermining the integrity of public procurement systems.

- Corruption typically entails a reduction in competition. However, a reduction in competitive intensity does not necessarily imply a higher risk of corruption. The typical objective of corruption is to secure the award of a contract to a preferred supplier, excluding viable competitors or weakening oversight. Corruption practices can in fact affect all stages of the procurement lifecycle, from planning and tender design to contract award and execution.
- Collusion does not necessarily involve corruption but may stabilise corrupt schemes by lowering detection and complaint risks. When combined with corruption, collusion becomes more difficult to detect and sanction, as it may be facilitated or concealed through the undue influence of public officials involved in the procedure.

10. Whether acting separately or together, corruption and collusion undermine competition, integrity and value for money in public procurement, with broader negative effects on public trust and democratic governance. Public procurement markets are particularly exposed to these risks.

2.2. Conditions promoting corruption and collusion: striking a balance in transparency

11. Public procurement is widely regarded as a high-risk area for **corruption** due to the relative ease with which misconduct can be concealed, the large financial flows involved, principal-agent asymmetries (the incentives of procurers and public officials may

be misaligned with public procurement objectives), its procedural complexity, and the high degree of discretion exercised, particularly in emergency or crisis situations⁶.

12. Public procurement markets are, by their very nature, also particularly prone to **collusion**. The multiplicity and heterogeneity of contracting authorities, stable purchasing patterns in the public sector, the high degree of transparency in procedures and structural characteristics that are common in many public procurement markets (for instance, highly standardised goods or services and a high level of concentration among a few operators/bidders) significantly increase the feasibility of collusion among bidders.

13. In practice, there are many **irregularities that may facilitate corruption and collusion** in public procurement, such as: tailor-made specifications for particular companies; amendments to contract terms after contract award; conflicts of interest in the evaluation of bids; the involvement of bidders in the design of specifications; the abuse of negotiated procedures; and the misuse of emergency grounds to justify non-competitive or fast-track procedures.

14. **Transparency** is a cornerstone of public procurement, as it fosters trust, accountability, and market-participation and acts as a deterrent to corruption.

15. However, experience shows that transparency is not neutral in its effects on competition. In markets that are structurally prone to coordination, as noted above, excessive or poorly calibrated transparency may inadvertently facilitate collusive behaviour.

16. In this context, the Spanish National Commission on Markets and Competition (CNMC) has noted the **disclosure of confidential or sensitive information** that does not enhance openness or competition, **may increase market predictability and enable bidders to coordinate** their conduct more easily. It has therefore emphasised the need to carefully balance transparency requirements and to limit the disclosure of certain sensitive information by contracting authorities, both during the procurement procedure and vis-à-vis the public⁷.

17. Particularly, the CNMC has highlighted that systematic disclosure of detailed and disaggregated information may allow firms to monitor competitors' behaviour, detect deviations from collusive arrangements and enforce mutual understanding among cartel members. This risk is especially acute where information disclosure includes the identity of all participating bidders, granular data on individual offers or forward-looking information through procurement planning that generates excessive predictability. While such information does not necessarily enhance competitive pressure, it may significantly lower the operational costs of collusion. In this sense, effective competition policy in public procurement does not call for less transparency, but for smarter transparency—one that supports competition rather than undermining it⁸.

⁶ Anderson, Robert D, Alison Jones, and William E Kovacic, *Combating Corruption and Collusion in Public Procurement: A Challenge for Governments Worldwide* (2024; online edn, Oxford Law Pro), <https://doi.org/10.1093/law-ocl/9780192855893.001.0001>, accessed 23 Apr. 2026.

⁷ [CNMC's Contribution to the Review Process of the European Public Procurement Directives](#) (January 2026).

⁸ [CNMC's report on the draft Organic Law on Public Integrity](#) (24 March 2026) also points to the risks of excessive transparency, especially concerning bidders' identities and their offers, and calls for avoiding disclosures that could facilitate collusion or expose sensitive information.

18. Alongside this, the CNMC has repeatedly stressed the need to expressly provide, in law, for an obligation on States to **grant national competition authorities direct, effective, and timely access to existing national public procurement databases**⁹. Such access is essential to enable the detection, investigation, and sanctioning of anticompetitive practices, in particular bid rigging, and to ensure the proper functioning, transparency, and integrity of public procurement systems.

3. CNMC Actions & Recommendations on Preventing Collusion in Public Procurement

19. The CNMC is entrusted with ensuring, preserving, and promoting the proper functioning, transparency, and effective competition across all markets and productive sectors for the benefit of consumers and users. Enhancing competition in public procurement, both in its advocacy and enforcement perspective, is one of the strategic priorities of the CNMC.

20. The CNMC has highlighted that **strengthening effective competition in markets is a key instrument for preventing and fighting corruption**. In public procurement, it has emphasised that competition policy actions not only enhance economic efficiency but also act as a structural safeguard against corruption by reducing the risk of collusion, increasing transparency, and reinforcing market integrity¹⁰.

21. In this regard, given that fraud and collusion might arise when competitive pressure weakens, the CNMC emphasises that ensuring effective competition and maximising participation at all stages helps reduce opportunities for bidder coordination and strengthens efficiency, integrity, and alignment with the public interest.

22. Accordingly, the CNMC has issued **recommendations on specific preventive measures** to address these risks throughout the public procurement cycle, from planning and market analysis to tender design, information management, and contract execution. Advocacy initiatives range from [guidelines on competition and public procurement](#)—on planning, the use of in-house procurement, and the design and preparation of tenders—to [reports on tender specifications drafts](#) to support contracting authorities in maximising participation and preventing the risk of collusion. For instance, the CNMC has issued specific recommendations on lot design and on transparency and integrity requirements in preliminary market consultations.

23. The competition advocacy reports on tender specification drafts, sometimes include analytical input from the Detection Unit (UD), within the Cartels and Leniency Subdirectorates (SCC) in the Competition Directorate (DC). In such cases, the Detection Unit provides market analysis based on comparable procurement procedures, supporting part of the Competition Advocacy Department's assessment.

24. This cooperation aims to supply contracting authorities with relevant market information and to support informed decision making in tender design, particularly for

⁹ [CNMC's Contribution to the Review Process of the European Public Procurement Directives](#) (January 2026).

¹⁰ [CNMC's report on the draft Organic Law on Public Integrity](#). This proposal introduces amendments to the Spanish Public Sector Contracts Law aimed at strengthening the fight against corruption and the prevention of conflicts of interest, through enhanced transparency, control mechanisms and integrity-related obligations in public procurement procedures. The CNMC has positively assessed those measures, and it has also called for the inclusion of bid-rigging risks in these preventive measures.

centralised contracts and framework agreements, through indicators on market structure and competition, complemented where possible by time series and comparative analysis¹¹. Overall, this experience illustrates the value of early, evidence-based cooperation as a preventive tool, both internally—between advocacy and enforcement functions within the CNMC—and externally—with contracting bodies.

25. Alongside these preventive measures, the CNMC’s 2021–2026 Strategic Plan identifies the **detection of anticompetitive practices in public procurement as a key enforcement priority**. This form of anticompetitive conduct is especially significant in the current post-pandemic context, characterised by the large-scale allocation of EU funds.

26. Between 2010 and 2025, a total of 35 **cases related to bid rigging** practices were decided by administrative resolution, ten of which were resolved during the period 2021–2025. Since 2021, the authority has imposed aggregate fines of more than EUR 414 million regarding bid rigging across sectors such as civil works, railway safety, food supply and travel services. In 2025 alone, inspections were carried out at a total of ten companies in connection with suspected anticompetitive conduct in public tenders. In the same year, the CNMC examined 19 cases prompted by notifications from contracting authorities reporting potential indications of collusion; however, this does not imply that all such cases ultimately lead to formal sanctioning proceedings.

27. Another illustration of this strategic focus on combating collusion are the CNMC’s **training activities**¹². In the area of public procurement and competition, a total of 23 training sessions and workshops were delivered in 2025 to 1,500 attendees. As part of these activities, personnel responsible for the design and management of public procurement procedures are provided with guidance on the main indicators of bid-rigging conduct, how to prevent and detect such practices in their tenders, and how to report them to the competition authority. The training also addresses how to distinguish bid-rigging cases from situations that may instead constitute corruption and should therefore be reported to the Public Prosecutor’s Office.

4. The Spanish System for Combatting Corruption and Collusion in Public Procurement

4.1. Overview

28. Fraud and irregularities in public procurement in Spain are addressed by several areas of legislation, including criminal law, public procurement rules, broader administrative law frameworks, and competition law and policy. A significant share of this legal framework stems directly or indirectly from European Union law, notably through public procurement directives, whistleblower protection rules, and the regulatory architecture linked to EU funding instruments, including Next Generation EU.

29. A **dual legal and institutional framework generally applies**, reflecting the distinct nature of each form of misconduct and the different enforcement objectives involved.

¹¹ For example, the Detection Unit contributed analytical input to three advisory reports related to three separate centralised procurement procedures carried out by the Spanish Army, with an aggregate estimated value exceeding EUR 700 million ([INF/CNMC/484/23](#) Army Uniforms Supply, [INF/CNMC/457/23](#) Catering services and [INF/CNMC/456/23](#) Works).

¹² Further information is available on CNMC’s website: <https://www.cnmc.es/impulsamos-la-competencia/contratacion-publica/programa-de-capitacion-de-empleados-publicos>

- **Corruption-related conduct** affecting public procurement is primarily addressed under criminal law, notably through the [Spanish Criminal Code](#), which covers offences such as bribery, influence trafficking, malfeasance, embezzlement and related crimes committed by public officials and private actors. The competent enforcing institutions are the Public Prosecution Service and the criminal courts acting within the criminal jurisdiction.
- By contrast, **collusion in public procurement**, including bid rigging, is mainly treated as an administrative infringement under competition law, notably pursuant to the [Spanish Competition Act](#). Such infringements are enforced by competition authorities through administrative proceedings, with sanctions primarily directed at undertakings, including fines and, where applicable, ancillary consequences such as debarment from public contracting.

30. However, the legal and institutional framework is far from being straightforward. Corruption related conduct is addressed by diverse administrative laws and regulations. Public procurement law has a **bridging role** between the frameworks: it enshrines the principle of free competition and establishes mechanisms for contracting authorities to report suspected collusive practices to competition authorities (Articles 132 and 150, [Law 9/2017 on Public Sector Procurement](#)), while also imposing preventive measures to address fraud and conflicts of interest (Article 64).

31. A wide range of **institutions** in the administrative sphere are involved in enforcing and addressing corruption, fraud and other irregularities in public procurement:

- Internal control and audit bodies within the executive, responsible for ex-ante and ex-post control of public spending.
- Specialised public integrity and anti-corruption bodies, including authorities for transparency, conflict-of-interest prevention and whistleblower protection.
- External accountability institutions, notably the Supreme Audit Institution (the Court of Auditors) and prosecution authorities.
- Independent regulatory oversight bodies in public procurement, notably Independent Office for the Regulation and Supervision of Public Procurement (**OIRESCON**) and the Spanish National Commission on Markets and Competition (**CNMC**). Both institutions play complementary roles, combining system-wide supervision focused on integrity and transparency (OIRESCON) with competition-based prevention and enforcement against collusion (CNMC).

4.2. The interplay between Spanish criminal law and administrative law in collusion

32. Notwithstanding the dual enforcement regime described above, the **Criminal Code also residually sanctions certain competition and market-related infringements**, punishable by custodial sentences and other criminal sanctions, which may overlap with conduct falling under Competition Law (Act 15/2007), particularly art. 1.

33. In particular, the offences of i) *price manipulation in public tenders and auctions* (Article 262 of the Criminal Code); ii) market manipulation through the withdrawal of essential goods with the aim of distorting prices or causing serious harm (Article 281); and iii) broader forms of price manipulation involving coercion, deception or misleading information (Article 284).

34. The **primacy of criminal proceedings** constitutes the main coordination mechanism between Spanish competition authorities and the criminal jurisdiction¹³. Under it, and to avoid breaches of *ne bis in idem*, administrative enforcement must be suspended where the same facts may constitute a criminal offence. The principle is expressly reflected in Article 46 of the Competition Law.

35. In practice, only *the offence of price manipulation in public tenders and auctions* (Article 262 of the Criminal Code) is likely to be applicable and enforced¹⁴. This article criminalises certain conducts in connection with public tenders, such as collusion to distort award prices, deterrence of bidders, fraudulent withdrawal after award and manipulation of auctions.

36. An **exemption from criminal liability** for cooperating offenders expressly aligned with the competition law leniency programme was later introduced at the end of 2022¹⁵. Full immunity is conditional upon active and effective cooperation with judicial authorities, the Public Prosecutor and competition authorities, and aims to ensure that criminal enforcement does not undermine incentives to self-report cartels.

37. Criminal enforcement of cartels remained virtually non-existent until last year, when the so-called Firefighting Services Cartel was decided by the Spanish National High Court (Audiencia Nacional, Criminal Division) in February 2025.

5. The Interplay in Practice: Lessons from the Firefighting Cartel

38. The Firefighting Services Cartel is, to the knowledge of this competition authority, the only case in which a cartel typically pursued by competition authorities was sanctioned through criminal proceedings, briefly summarised below¹⁶.

Box 1. The firefighting services cartel

Subject. Bid rigging and corruption in public procurement of aerial firefighting services, mainly involving fixed wing aircraft used for wildfire extinction, awarded by the Spanish central government and several autonomous communities.

Object. Public tenders for the provision of aerial firefighting services, including aircraft availability, operation and related support services, awarded by public administrations through open and negotiated procedures.

¹³ In Spain, competition law is enforced within a decentralised system comprising a national authority (the CNMC) and several regional competition authorities with jurisdiction at the autonomous community level.

¹⁴ As it specifically addresses public tenders and remains, to date and to the knowledge of this Commission, the only criminal offence enforced in this field.

¹⁵ Article 262.3 (added paragraph) of the Spanish Criminal Code introduced by the [Organic Law 14/2022 of 22 December transposing European directives and other provisions for the adaptation of criminal legislation to European Union law, and reforming offences against moral integrity, public order and the smuggling of dual-use weapons](#).

¹⁶ Judgment No. 4/2025, of 5 February 2025. See press release and access to the ruling in the following [link](#).

Duration. The conduct was found to have taken place continuously between 1999 and 2018 and was legally characterised as a continuous criminal offence.

Conduct. The Spanish National Court (Audiencia Nacional) found that a group of undertakings and their senior managers systematically distorted competition in public tenders by coordinating their behaviour in advance, thereby eliminating genuine competition and inflating public procurement costs. The conduct was not sporadic but stable, organised and persistent over nearly two decades, resulting in repeated awards to pre-selected firms.

Collusion techniques. The judgment identifies a classic bid rigging scheme based on multiple and mutually reinforcing techniques, including: a) Market and tender allocation, grounded in geographic areas, contracting authorities and pre-determined rotation systems; b) Bid rotation, whereby only the designated company submitted a genuine offer, while others refrained or submitted cover bids; c) Bidding at the reserve price or with negligible rebates, signalling the absence of competitive pressure; d) Strategic tender boycotts, leaving procedures deserted in order to force re tendering under more favourable conditions (higher prices or negotiated procedures); e) Internal compensation mechanisms among cartel members linked to aircraft deployment; f) Use of joint ventures (UTEs) and other formal structures to disguise coordination; g) Maintenance of written cartel records, including meeting minutes and settlement documents.

Corruption involved. Unlike purely administrative cartel cases, the conduct was aggravated by active corruption of public officials. The Court established that certain public authorities and senior civil servants provided privileged information, administrative facilitation or favourable treatment in procurement procedures in exchange for benefits. This resulted in convictions not only for bid rigging, but also for bribery, malfeasance, embezzlement, falsification of public documents and misuse of privileged information.¹⁷

How it was uncovered. The case originated from inside disclosure by a cartel participant, who subsequently provided extensive documentary evidence to judicial authorities. The criminal investigation consolidated documentary evidence, witness testimony and procurement data across multiple contracting authorities.

Penalties. The Court imposed three main types of sanctions and remedies, addressing both individual and corporate responsibility for the infringement.

- a) *Criminal penalties* (natural persons /individuals – “empresarios”). Twelve natural persons, all senior managers or owners of the companies involved, were convicted. Prison sentences ranged from six months to two years and three months, depending on individual responsibility and additional corruption offences. One participant benefited from a criminal exemption due to cooperation with authorities, under Article 262(3) of the Criminal Code.
- b) *Civil liability* (individuals and legal entities). The undertakings involved were declared civilly liable (subsidiarily) together with the convicted individuals and ordered to compensate the public administration for the damage identified in

¹⁷ Spanish Criminal Code, article 262 (bid rigging in public tenders), in particular Article 262(3) (criminal exemption for cooperating offenders). Also, articles 419–427 (bribery), 404 (malfeasance), 432 (embezzlement), 390 (falsification of public documents), 442 (misuse of privileged information).

the proceedings. The judgment explicitly notes that the proven economic harm represents only a fraction of the overall damage caused.

- c) *Debarment*. The convicted undertakings were sanctioned with a nine month prohibition on contracting with the public sector. The Court limited the duration of the debarment taking into account mitigating circumstances, including procedural delays and the structural dependence of public authorities on a limited number of providers.

Interaction with competition enforcement. The judgment notes that competition authorities were aware of the conduct as early as 2016, were suspended pending the outcome of the criminal proceedings.

39. The criminal judgment has not prevented the CNMC from carrying out [dawn raids](#) at some of these companies, between 27 and 30 January 2026. However, those inspections have been strictly limited to conduct subsequent to that examined in the criminal proceedings and therefore not covered by the *non bis in idem* prohibition.

40. The criminal case raises important questions about the coordination between criminal enforcement and competition law, and the potential impact on administrative leniency programmes:

5.1. Criminal liability for cartels: feasible but structurally limited

41. The case confirms that **criminal liability for bid rigging is legally possible** under Spanish law, notably through Article 262 of the Criminal Code. However, it also illustrates two **structural constraints** that significantly limit its effectiveness as a primary enforcement tool:

- First, according to the ruling, criminal liability requires **proof** of intentional conduct attributable to specific individuals under strict criminal standards. Translating complex, long-lasting cartel arrangements into individual criminal intent is evidentially demanding and procedurally burdensome.
- Second, criminal sanctions are essentially confined to natural persons. While undertakings may face civil liability and ancillary consequences, criminal law does not directly address the **corporate dimension** that lies at the core of cartel behaviour and market harm. This weakens both deterrence and the corrective impact on market structures.

42. These features confirm that broader comparative insight: criminal enforcement can play an important role in addressing corruption and individual wrongdoing, but it is ill-suited to replace administrative competition enforcement as the backbone of cartel control.

5.2. Parallel enforcement: necessary, but only if effectively coordinated

43. Where bid rigging and corruption intersect, parallel criminal and administrative enforcement is both legitimate and necessary. Criminal law is indispensable to prosecute corruption, malfeasance and related offences by public officials, while competition law remains the most effective instrument to sanction collusion by undertakings and restore competitive conditions.

44. However, the case highlights two critical risks. First, the automatic primacy of criminal proceedings led to the suspension of administrative enforcement for several years, generating significant delays. Such delays undermine deterrence, weaken corrective effects and leave distorted markets unaddressed for prolonged periods. Second, while the criminal exemption under Article 262(3) is formally aligned with the competition leniency programme, uncertainty surrounding criminal exposure, timing and outcomes may still deter self-reporting. Leniency mechanisms depend on clarity, predictability and swift benefits, which can be compromised in poorly coordinated parallel proceedings.

5.3. Limits of criminal enforcement revealed by the case

45. The criminal proceedings exposed several systemic shortcomings:

- **Excessive duration:** timelines inherent to criminal litigation are largely incompatible with the economic logic of cartel enforcement.
- **Limited deterrence:** custodial sentences were short and largely symbolic in practice; civil liability and debarment were modest relative to the harm caused.
- **Normative and interpretative constraints:** Article 262 was not originally crafted as a comprehensive cartel offence, leading to interpretative challenges when applied to sophisticated collusive schemes.

46. Overall, the criminal outcome, while symbolically significant, did not deliver a level of punishment or deterrence commensurate with the scale and persistence of the infringement.

5.4. Coordination failures beyond criminal–administrative dualism

47. A key lesson from the case is that the problem does not lie solely in the coexistence of criminal and administrative enforcement, but in the lack of effective coordination mechanisms governing their interaction. The mechanical application of criminal primacy, combined with insufficient procedural coordination, resulted in fragmentation rather than synergy. There was no clear framework for sequencing proceedings, sharing evidence in a timely manner or coordinating remedies in line with overarching policy objectives.

48. This highlights the **need for coherence** not only between criminal and competition enforcement, but also with the public procurement legal framework, including remedies such as exclusion, debarment and self-cleaning measures. Without consistent interpretation and application across these regimes, enforcement outcomes risk being partial and ineffective.

5.5. The added value of competition authorities' expertise

49. The case also reveals important positive elements. In particular, the involvement of competition authority officials as independent experts in criminal proceedings significantly enhanced judicial understanding of bid-rigging mechanisms.

50. More broadly, competition authorities possess accumulated and highly specialised know-how that is critical for effective enforcement in public procurement markets. This includes experience in cartel detection, economic analysis, evidence assessment and remedial design.

51. In the Spanish context, this expertise is institutionally embedded through:

- a specialised unit dedicated to detecting bid rigging in public procurement (the Detection Unit, within the Cartels and Leniency Subdirectorate), and
- the support of the Economic Intelligence Unit, which provides advanced data analysis, screening tools and intelligence capabilities.

52. Another example of the contribution that competition authorities can provide through their specialised expertise is the **analysis of public procurement procedures at the request of law enforcement authorities** in the context of criminal investigations. In this respect, the SCC's Detection Unit cooperates on an ad hoc basis with the Police Department (Guardia Civil) in such cases, identifying indicia of collusion in criminal investigations related to public procurement.

53. These assets should be regarded as system-wide public goods and more systematically integrated into broader anti-corruption and criminal enforcement strategies.

6. Critical Assessment of the System and the Way Forward

6.1. The anti-fraud and anti-corruption legal and institutional framework is fragmented and ineffective

54. Despite substantial reforms introduced in recent years to strengthen integrity and enhance the prevention of corruption and fraud, the **legal framework** remains relatively fragmented and continues to present significant gaps, (e.g. whistleblower protection, while formally strengthened, could remain insufficiently effective in practice). Overall coherence across the framework remains limited.

55. This situation is compounded by the **organisational architecture**, which consists of a complex cluster of bodies and institutions operating with fragmented and overlapping mandates. To date, a single national anti-corruption strategy capable of providing coherence and strategic direction to the system is still pending.

56. **Implementation gaps** are also substantial. More than half of the reported complaints remained under processing at year-end (51.60%), enforcement bodies typically operate with insufficient resources and capacities—particularly in terms of funding and staffing—and effective coordination among institutions is often lacking¹⁸. In addition, corruption-risk management tools and analytical screening mechanisms, such as those used by competition authorities, are applied unevenly and to a limited extent.

57. The recently announced **State Anti-Corruption Plan** and the **proposal for an Organic Law on Public Integrity** reflects this diagnosis and represents an important step towards a more coherent, system-wide integrity framework, centred on the creation of a new Independent Public Integrity Agency¹⁹. This Agency would centralise anti-corruption activities, integrating several of the authorities that currently carry out this work in a fragmented manner. However, most of the proposed measures—including the establishment of the agency and the effective allocation of resources and operational capacities—remain pending. As a result, implementation risks continue to be significant.

¹⁸ As recognized by the OIRESCON in its [2025 Annual Report on Public Procurement Supervision. Module IV. Prevention and combatting procurement in public procurement](#). (page 35).

¹⁹ [Plan Estatal de lucha contra la corrupción \(2025\)](#) and [the proposal for an Organic Law on Public Integrity](#) (2026).

6.2. The way forward: an integrated three-pronged approach

58. Experience in Spain and internationally shows that effectively addressing corruption and collusion in public procurement requires **integrated strategies**, rather than isolated legal or institutional responses. Leading institutions and academic research consistently point to the value of such integrated approach, operating across complementary policy dimensions²⁰. An integrated three-pronged approach across multiple dimensions appears particularly suitable.

59. First, **anti-corruption law, competition law and public procurement law should be considered jointly**. While their objectives and enforcement tools differ, corruption and collusion frequently interact within the same procurement processes. Fragmented approaches risk creating enforcement gaps and weakening deterrence. A shared understanding of risks, priorities and enforcement objectives across these frameworks is therefore essential.

60. Second, effective action requires a balanced **combination of prevention, enforcement and knowledge-sharing**. Preventive measures—such as sound planning, competitive tender design, training, risk-based transparency and integrity safeguards—help reduce opportunities for misconduct. At the same time, detection and enforcement mechanisms must be timely, credible and effective to restore competition and deter future infringements. The systematic exchange of experience, tools and best practices further strengthens institutional learning and performance.

61. Third, **enforcement must be effective and coherent**, particularly where **criminal and administrative responsibilities intersect**. Enforcement frameworks should not rely solely on passive coordination mechanisms—such as the primacy of criminal proceedings—but should be complemented by active cooperation, allowing authorities to exploit synergies while respecting their respective mandates²¹.

62. In this regard, **close cooperation** among enforcers across the three domains is critical. Joint training, exchanges of expertise, shared risk indicators and coordinated analysis can significantly enhance detection and enforcement capabilities. Given the secretive nature of corruption and collusion schemes, effective **incentives and protections for reporting**—notably for whistleblowers and public procurers—are also indispensable.

63. Finally, adequate **resources and capabilities** are a necessary precondition for success. Enforcement and oversight bodies require sufficient funding, specialised expertise and analytical tools, including access to data and screening mechanisms. In this context, the CNMC can contribute valuable expertise, drawing on its experience in competition-based prevention and enforcement, specialised bid-rigging detection and training activities, as part of a broader integrity strategy in public procurement.

²⁰ [OECD \(2010\), “Collusion and Corruption in Public Procurement : Key findings, summary and notes”, OECD Roundtables on Competition Policy Papers, No. 108, OECD Publishing, Paris; Anderson, Robert D, Alison Jones, and William E Kovacic, *Combating Corruption and Collusion in Public Procurement: A Challenge for Governments Worldwide* \(2024; online edn, Oxford Law Pro\).](#)

²¹ In its report on the draft Organic Law on Public Integrity (24 March 2026), CNMC positively assesses the provisions on cooperation between CNMC and the future Public Integrity Authority, particularly those enabling the latter to notify CNMC of indications of anti-competitive practices. However, these measures are still pending approval.

7. Conclusions

64. **Public procurement remains particularly exposed to the combined risks of corruption and collusion**, which undermine competition, value for money and trust in public institutions. Spain's framework reflects a functional differentiation between criminal enforcement of corruption and administrative enforcement of collusion, but also presents fragmentation, coordination challenges and implementation gaps.

65. An integrated **three-pronged approach, linking prevention, enforcement and cooperation across anti-corruption, competition and procurement frameworks**, is essential to address these risks effectively. Strengthening enforcement coherence, improving incentives for reporting and investing in institutional capacity are key to ensuring credible deterrence and effective market outcomes.

66. Within this system, **competition authorities**—and notably the CNMC—**can play a central role** by contributing specialised expertise, analytical tools and experience in prevention and enforcement to strengthen integrity and competition in public procurement.