

Executive Master
in EU Studies

***The Recovery and Resilience
Facility in Spain –
Misuse of Next Generation EU
funding***

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Abstract

The Recovery and Resilience Facility (RRF), funded in the Next Generation EU framework, is the instrument of economic intervention developed by the EU to counteract the economic impact of the COVID-19 pandemic. This research focuses on a preliminary impact the RRF has had in Spain, the second greatest receiver of Next Generation EU funding, and assesses the possible cases of misuse that have occurred during the first half of the implementation. To so it analyses the Corruption Risk Index of over 24.000 public procurement entries financed under the Spanish Recovery, Transformation and Resilience Plan (PRTR); as well as the current available data of the execution and the flaws detected in the deployment of the plan. Future research should continue to monitor the execution of the RRF in Spain to evaluate with more certainty the cases of misuse and the effectiveness of controls aimed to counter it.

1. Introduction

Some months after the start of the global pandemic of COVID-19 of 2020, the EU leaders agreed on a historic issuance of common EU debt to create a new fund that was supposed to prevent an eventual economic fallout following the health crisis. Next Generation EU fund was endowed with €750 billion¹ and was to be channelled through the Recovery and Resilience Facility (RRF). This new financing system had the goal of allocating money among member states taking into account the level of severity in which the COVID-19 crises had hit their economies, and it was to be distributed more or less equally between grants and loans. Therefore, it was thought as an instrument of European solidarity.

The RRF's approval was subjected to the agreement of the *frugal four*, Austria, Denmark, the Netherlands and Sweden, which was one of the reasons the structure of the RRF is based on a high level of conditionality of the disbursement of grants (Bekker, 2021:180) i.e. the allocation of funding would depend on the completion of established targets and goals said by a Council Implementing Decision (CID)². One of the conditions for the RRF to be dealt was that every country had to present their own National Recovery and Resilience Plan (NRRP) which was to be discussed and adapted according to negotiations with the Commission before being accepted. The NRRP had to be aligned with EU policy and

¹ In 2018 value.

² In the case for Spain, the Council adopted the decision for the approval of the assessment of the recovery and resilience plan for Spain on 12 February 2021.

political objectives, and ensure the allocation was contributing at least 37% of the funds to the green transition and 20% to the digital transition. Moreover, all investments derived from the Next Generation EU were to be completed before 31 August 2026. In the case of Spain, the government met more than 85 times with the Commission in preparation for the acceptance of its NRRP after summer 2020 and until its approval in July 2021: the Plan de Recuperación, Transformación y Resiliencia (PRTR) —in Spanish for Recovery, Transformation and Resilience Plan— was officially presented in Spain by Pedro Sanchez in October 2021.

A side from the obligation to develop the NRRP in order to plan ahead the investments that had to be prioritised, the EU also required a robust mechanism of control over the distribution of funding. The EU settled to use the European Semester³ as a way of controlling the execution of the funding grants, including the level of completion of the goals and targets agreed on, the allocation of funding and the compliance with the principles of the EU. Internally the management system in each country has been through the Ministry of Finances and in some cases in shared responsibility with other central coordination bodies, which is the case of Spain. Specifically, Spain set out a new governance structure to monitor the fulfilment of milestones, indicators and timetables, called CoFFEE, as it was envisaged in the regulation passed in 21st September 2021⁴.

The PRTR is the Spanish strategy in execution to canalise the EU Next Generation funding through reforms and investments. The 348-paged main document establishes its functioning, which is structured in base of four axes: ecologic transition; digital transformation; territorial and social cohesion; and gender equality. All of the transversal axes are desegregated into “lever policies”, with a total of 10. Each of the lever policies is developed with a series of components, which are the basis of understanding the lines of investment that the Plan follows. Every component of the 31 that the PRTR defines includes reforms and investments. The reforms are to be carried by the administration in aims to meet the development the country needs to become more resilient in front of future crises. On the other hand, investments are the different lines that are mainly channelled through grants either of direct allocation or via competitive grants. Moreover, the PRTR includes 12 «strategic projects for

³ The EU’s process to monitor its economic policy, see: https://commission.europa.eu/business-economy-euro/economic-and-fiscal-policy-coordination/european-semester_en

⁴ See: [Orden HFP/1030/2021, de 21 de diciembre](#)

the recuperation and economic transformation» —PERTE in Spanish—, that are designed to act as a revitalising engine to the Spanish economy.

By the end of December 2023, the PRTR has already had three European disbursements totalling €37.000 million and has already requested the fourth for an additional €10.000 million. Of them, more than €26.000 million have been assigned to the Autonomous Communities of Spain, the regional administrative system, that is in charge of competencies such as education, university, health, social services, housing, employment, etc. Of the received funding 89% has already been distributed through grants and public procurement, of which 83% is from direct distribution of the central administration and 17% from the Autonomous Communities. This economic injection in the equator of the PRTR, has been distributed among the two European priorities green and digital transition as follows: 40% has been dedicated to the ecologic transition axis of the PRTR and 30% to the digital transition axis —surpassing so far, the 37% and 20% minimum requirement— (IV Informe de Ejecución del PRTR, 2023).

The current research aims to assess what has so far, the impact of the Next Generation EU funding in Spain been, and most importantly, which amount can be considered to have been misused. This overview is of interest for several reasons. As stated, the Next Generation EU fund has been an extraordinary financial instrument set by the EU and has currently 4 years of existence. Researching such a fresh topic is not an easy task, but it can provide an early perspective of what the first effects of the funding have been.

Moreover, the Recovery and Resilience Facility has adopted a specific form of functioning, focusing the allocation of funds on the achievement of Milestones and Targets set in the beginning by the Council Implementing Decision. This structure was thought to produce a specific outcome: transforming the functioning of the European national administrations to become more resilient and work more efficiently, by following a New Public Management approach —centring itself in output control—, in a Keynesian-style policy. Because of this, even if it is from an early outlook, assessing the misuse of the funds, is extremely relevant. As it will be addressed later, it can be suspected that for various reasons, the allocations of these funds are not producing the radical transformation it was expected, rather funding the pre-existent structure and deterring the possibility of entering in a recessive economic period. In the same line, it is also of interest to try determining what amount of funds have been

allocated to contracts that are in risk of being fraudulently awarded, including malpractices surrounding them that may be occurring, including corruption, or hidden corruption.

Spain ranks 38th in the Transparency International Corruption Index, scoring 60 over 100 points. Since the start of the 21st century and after the bubble burst of 2008, Spanish people's perception on political corruption has skyrocketed, which can be also attributed to the 3.743 political corruption cases revealed between 2000 and 2020 in Spain (Abreu, 2022:3). In essence, Spain finds itself in the lower part of the UE-27 when it comes to corruption. So far there has been no clear link between corruption in public procurement depending whether it is EU funded or not, nonetheless, a preliminary study on whether some minor and/or grand corruption cases can be detected in relation to EU Next Generation funding, may be of interest taking into account the emphasis on anticorruption measures that the instrument has embedded, that are deployed throughout the execution and control of projects, and whether if these measures do have a positive effect in fighting against corruption.

The study will allow to answer to what extent the European Recover and Resilience Facility (RRF) through the Next Generation EU Funds has been vulnerable to misuse in Spain. Which will point towards the continuation of research in the same field and the capabilities of the system to prevent misuse of the funding.

2. Theoretical Framework

2.1. Definition of misuse

In public policy and financial management, understanding the intricacies of program implementation, vulnerability to misuse and the factors influencing these dynamics is paramount. The theoretical framework here used aims to serve as the intellectual scaffolding of the study, to analyse the complexities surrounding the European Recovery and Resilience Facility in its deployment in Spain.

The Cambridge Dictionary defines misuse as: «when something is used in an unsuitable way or in a way that was not intended». For the research, a more detailed specification is required.

The establishment of the definition firstly follows the normative body of the PRTR that establishes several principles that are of mandatory compliance, as established by Article 2.2 of the Orden HFP/1030/2021: a) The concept of milestone and target and the criteria for its follow-up and accreditation of the result. b) Green labelling and digital labelling. c) Risk

analysis in relation to possible significant negative impacts on the environment (do no significant harm, DNSH), follow-up and verification of the results of the initial evaluation. d) Reinforcement of mechanisms for the prevention, detection and correction of fraud, corruption and conflicts of interest. e) Compatibility of the state aid regime and prevention of double financing. f) Identification of the final recipient of the funds, either as a beneficiary of the aid, or awarded a contract or subcontractor. g) Communication.

Secondly, it takes into account the directions followed by the European Anti-Fraud Office (OLAF), and the European Public Prosecutor's Office (EPPO) that stem from the PIF Directive⁵. EU-expenditure fraud is established as «the use or presentation of incorrect or incomplete statements or documents leading to wrongful payment of funds; nondisclosure of required information; and misuse of funds for purposes others than those originally granted».

Thirdly, it must incorporate the Spanish National Antifraud Coordination Service (SNCA in Spanish) definitions found on the 2022 Guide for the application of antifraud measures⁶ in the context of the PRTR, and in particular the definition i) «of grave irregularities and grave breaches of the obligations established in the Financing Agreement».

The definition must for this case be broader than the ones established by OLAF, EPPO, and SNCA, as the aim of the research is to understand misuse a little further than those cases that can be criminally prosecuted. Therefore, the RRF funding, misuse will be understood in the following cases: (1) Fraud such as embezzlement, corruption, double funding, ghost projects or services; (2) Misallocation of funds, as in diverting resources away from the designed purposes; (3) Overpricing of costs; (4) Conflicts of interest; (5) Inadequate financial controls; (6) Environmental or social impact violations; (7) Failure to achieve project objectives, goals and milestones; (8) Lack of transparency; (9) Non-compliance with public procurement processes; (10) Projects not complying with PRTR principles, including environmental, digital and administration transformation objectives, publicity and communication obligations, and measures of protection of the Union's interests.

⁵ Directive (EU) 2017/1371 of the European Parliament and the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

⁶See:<https://www.igae.pap.hacienda.gob.es/sitios/igae/esES/snca/Documents/20220224%20Gu%c3%ada%20Medidas%20Antifraude.pdf>

Nonetheless, due to the scope of this work, it is unsurmountable to focus on each of the elements that a definition of this calibre requires. That is why a generalist analysis of the different elements, together with a specific focus on one of them, Risk of fraud in public procurement, has been the chosen approach for the research.

2.2. Political economic theory

2.2.1. Neo-Keynesianism

It can be argued that the RRF follows a Neo-Keynesian approach in its inception. Contrary to EU's reaction to the 2008 financial crisis, the sudden impact the COVID-19 pandemic had on EU's economy was approached in from a different perspective. Instead of focusing on austerity measures, in the case of highly probable entrance in a recession, the RRF focused on a countercyclical fiscal policy, by injecting the economy with an increase of funding directed to increase the public investment and kickstart the recovery post pandemic without having to undergo a recession. It is a signature characteristic to relate public investment to economic growth in a Keynesian perspective, as it is argued it has a multiplier effect over the economy. The RRF by focusing on key areas of the economic and social spheres, while promoting EU's priorities, in order to pursue economic growth, job creation and increasing productivity. Moreover, from a certain perspective, the RRF acts as a targeted fiscal policy tool at EU level, in this sense aiming to stabilize and support the economies of the most affected member states. Nonetheless, the impact of the Next Generation EU has not produced the results that would be expected from a Neo-Keynesian perspective (Dermine, Bobic, 2022:164; Myriodas, 2024:185-188)

The implementation of the RRF across the European Union has faced significant challenges that have hindered its potential outcomes, which would be expected from a Neo-Keynesian viewpoint. While the fund aimed to provide substantial public investment to spur economic recovery, the complexities of coordinating such a vast program across diverse member states have led to varied success rates. Issues such as administrative inefficiencies, delays in project approvals, and disparities in local governance capacity have limited the effective deployment of funds. Furthermore, the structural constraints within certain economies, such as inflexible labour markets and underdeveloped infrastructure, have reduced the expected multiplier effect of public spending. These factors combined suggest that while the RRF represents a significant attempt to apply Keynesian principles on a continental scale, the practical

challenges and existing structural issues within the EU have diluted its anticipated impact, highlighting the difficulties in achieving uniform economic growth and stability through such fiscal interventions.

2.2.2. *New Public Management*

While the RRF is not explicitly aligned with the principles of New Public Management, it is interesting to see some elements of this theory transpire through the form of application of the funding. Firstly, the RRF conception is clearly result-oriented, in a way that the evaluation of the success of the funds, is to be measured with indicators that show results and are, in theory, not based in economic expenditure. That is why, the EU made it mandatory to plan thoroughly the investments ahead and what the expected results, in order to measure those along the way of the execution of the funds. Nonetheless, there is great prevalence of indicators that were designed for different NRRPs that are not result oriented, rather input or output oriented, and therefore increase the risk of incentivising expenditure or wasteful and non-transformative projects, instead of promoting the development of highly impactful projects (Darvas, 2023).

Another element that is typical the NPM is the emphasis on monitoring and evaluation, as the RRF focuses on integrating evaluation processes in order to guarantee the compliance with the agreed objectives. In a sense, this can be read as an aim to enhance efficiency, effectiveness and accountability of the public sector, a core characteristic of the NPM. The RRF in its conception was thought with the goal to streamline administrative processes, and make it easier to access the funds. Nonetheless, in the case of Spain this goal has not been achieved and it can be argued that Next Generation EU funds have overcomplicated the bureaucratic load on the beneficiaries of the funds. Finally, another characteristic that is shared with NMP is the aim to promote public-private partnerships. For instance, in the case of the Spanish PRTR, one of the main features of the plan are the PERTEs, strategic projects that count with the cooperation of public and private entities in strategic sectors that were important for the economic relaunch.

2.3. **Other considerations**

Lastly, and most importantly, the present work also bases itself on Fazekas', and Tóth's 2016 chapter in the book *EU Cohesion Policy: Reassessing Performance and Direction*, titled "Corruption in EU Funds? Europe-wide evidence of the corruption effect of the EU-funded

public contracting”. The analytical framework used to explore the correlation between corruption in public procurement whether is EU funded or not, are of direct inspiration of the methodology that will be developed in the research.

Needless to say, the whole research done here takes into account the legal framework that embeds the RRF and the Next Generation EU funding. Namely, the Regulation (EU) 241/2021, that established the Recovery and Resilience Facility, and as for the Spanish case the Orden HFP/1030/2021, that establishes the management system of the PRTR, the Orden HFP/1031/2021, that establishes the procedure and format of information that the public entities have to provide for the fulfilment of milestones and targets, budget execution, and the measures of the PRTR, and the Orden HFP/55/2023, relative to the systematic analysis of conflict of interests in the procedures that execute the PRTR.

3. Literature review

The present document has explored so far, the publications that are related to the Next Generation EU Funds, and the Recovery and Resilience Facility, coding according to the year of publication. As the instrument is quite new there has not been yet to much studying over the topic, but enough relating to the theory of its implementation that provides a perspective on what was initially expected, and therefore the intentions of the RRF.

Sonja Bekker, explored in 2021, how the RRF introduced elements of conditionality to EU funding changing the historical approach of Cohesion Policy funding. Moreover, it pointed out how the National Recovery and Resilience Plans that had to be prepared in order to receive Next Generation Funding, had to be tied to the Country-Specific Recommendations (CSRs) in their targets and milestones. Bekker, although positive in how this shift will empower member states in the monitoring and management processes, is also sceptic to how the new management may negatively affect the participation of the regional authorities in the decision-making and the deployment of funding.

In a similar manner, Bokhorst and Corti, 2023, outline the functioning of the RRF, also explaining the constitution of the Council Implementing Decision (CID), that stems from agreement between the Commission and the member state, and is in charge of outlining the qualitative milestones and quantitative targets to be achieved with a defined timeframe. The authors point out that this new structure acts as a motivator for the actions of member states to allocate the resources based on their goals. They also point out how the RRF has the

objective of reshaping the decision-making processes at a national level, emphasizing a performance logic, and incentivising transversal cooperation within the administration. Their paper, raises concerns on the potential reduction of political space for other actors in policymaking and that this may act as a reinforcer of centralisation dynamics. This in itself may act as a hinderer of the principles of flexible experimentation and adaptability that the RRF would contradictorily like to promote. Therefore, an assessment is made on how the RRF can impact governance and the balance between discipline and discretion in governing in the member states.

Darvas and Welslau are the first to point out some incipient results and criticisms towards the RRF in “First lessons from the Recovery and Resilience Facility for the EU economic governance framework” (2023). Their research revises the interplay between the Recovery and Resilience Facility and the European Semester. They acknowledge certain benefits of aligning the facility with the European Semester, but also point out challenges that this has represented. For instance, the ineffectiveness of implementing CSRs and the limited scope for economic policy coordination due to divergent national interests and accountability structures. The authors also identify areas of improvement, such as enhancing transparency in evaluation processes, emphasizing result indicators in performance-based funding models as opposed to the milestones and targets system of the RRF, and empowering national authorities in designing fiscal and structural adjustment paths. And in sum, even if early to assess, they question the transformative impact of the Next Generation EU funding will have.

Konstantinos Myrodiadis retrieves from an Interview with a senior official in the Recovery and Resilience Facility of the European Commission, that the intention of the RRF went further than the economic recovery of the most affected countries of the Union by the COVID-19 crisis, but it had a political aim as well, to counterbalance the nationalist momentum that sparked the closure of borders and the pandemic-led fear (Myrodiadis, 2024:185). This approach is interesting to bear in mind as it points out that such an economic effort as the RRF has represented, is aimed at recovering EU solidarity. This shows the importance of the Neo-Keynesian policy that the RRF has represented, bringing and unprecedented case of indebtedness of the EU in favour of the Member States. As Myrodiadis points out, there is an associated risk to the policy, as the RRF does not only constitute grants for the Member States, but also incorporates loans in its structure, which could in the long term present a burden for traditionally more indebted countries such as is the case of Spain.

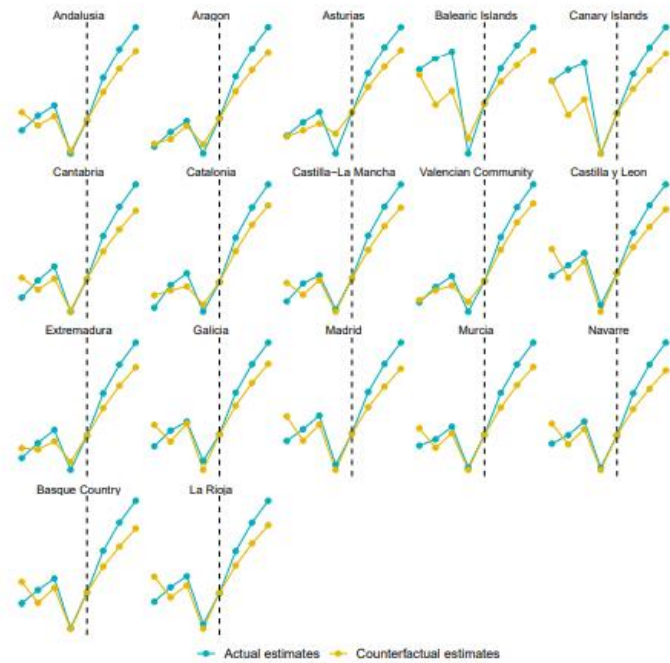
Moreover, the fact that the instrument was not designed to reduce the regional disparities, but to “calm the financial markets and ensure unity among member states”, it will probably not meet the objective of actually building a more resilient EU towards new crisis, as the existence of economic asymmetries tends to produce new crises (Myrodias, 2024:187). Consequently, the NextGenerationEU fund was never intended to be effective economically and therefore it is not properly deployed to transform the growth model of the south of Europe and neither it will reduce the gap with the North. This is very important to consider when analysing if the impacts have been thorough in the Spanish case, as well as to detect whether there has been a misuse of funding, as in the end of the day, the European objective was probably not as deep as the accountability that is here expected. As Myrodias puts it “the Next Generation EU is far from making a real commitment to an economically and politically sustainable Eurozone in the long term” (Myrodias, 2024:188).

In 2023, Espinosa, Aparicio-Pérez, Pávia and Tortosa-Ausina wrote a Working Paper for the Economics Department of the Universitat Jaume I that is probably the first in-depth analysis of the Next Generation EU Funds impact in Spain. The document aimed to establish a preliminary impact of the funding 2 years after the approval of the PRTR. The research allows to understand the magnitude of the economic impact the COVID-19 crisis had in Spain and how it generated one of the sharpest declines in GDP in Europe (by almost 12%), with the regions more affected being those that are heavily reliant on tourism (Espinosa et al, 2023:19). They studied the impact through comparing them with counterfactual models. The overall results of the study clearly show the early stimuli the funding produced in all regions of Spain, as their search was based on NUTS2 level of analysis. All of the Spanish regions were clearly benefited from the Next Generation EU Funding already by 2022, only a year after the introduction of the PRTR, and scored even higher for 2023 and 2024 peaking in the so far with a 4,5% of the GDP directly attributable to NGEU in the mean for the whole country. This can be very clearly appreciated in Figure 1 of the Working Papers:

Therefore, even if as Myrodias suggested there was no real economic intention to produce a lasting recovery and actual stabilisation of the economic disparities in the EU, the RRF has so far benefited Spain in recovering above its expected estimate without the funding. But it must be pointed out that this has resulted from a reimbursement of 37.000 million that Spain received by the end of 2023. That being equivalent to a 2% of Spain’s GDP and producing an outcome of a 4,5% indicates a clear spillover effect on the Spanish economy. But in terms

of quality of this investment to what extent was the amount redirected towards unlawful projects and has been misused?

Figure 1: Actual and counterfactual estimates of GDP per-capita evolution for the Spanish regions



Note: graphical representation of GDP per capita for each of the Spanish regions in the experimental and synthetic groups over the period 2017–2024.

Figure 1: Graphic comparison of the Next Generation EU impact in Spain's regions. Retrieved from Espinosa et al., 2023:42

Fazekas and Tóth explore in “Corruption in EU Funds: Europe-wide evidence of the corruption effect of EU-funding public contracting”, the impact of EU funding on the levels of corruption in public procurement. Their hypothesis establishes that EU Funds decrease institutionalised grand corruption across the EU, as they estimate that EU Funds can have both a positive and a negative impact on corruption control. Mainly, that EU Funding is more regulated at EU level with higher audit control which deters from corruption. On the other hand, they argue that an opposite effect could also happen where EU Funds damage the quality of government and increase corruption by weakening the link between domestic and civil society, taxation and policy performance; and spending on investment projects that have wide discretionarily which are more prone to involve corruption vis a vis non-discretionary spending.

Their study is a first step towards systematising the analysis of the presence of corruption in EU Funds. They focus their analysis on public procurement between 2009-2014 and

establish a series of criteria for the analysis of the open data available at the Tender Electronic Daily (TED), that point to a more probable case of corruption in tenders such as restricted procedures, single bidders and shorter length of submission period. These criteria are applied to both a control group with no EU Funds the selected procedures and the outcome turns into the rejection of their null hypothesis. With a 95% confidence they can assert that there is a negative effect of EU funding on corruption risks, that is, worsening corruption. Moreover, their outcome suggests that EU funded procurement contracts carry a greater risk of corruption than domestically funded ones, and that the context in which EU Funds are spent exercise a considerable impact on corruption risks. All of the results tend to point out towards the fact that regions with higher levels of corruption are in general in less capability to control additional corruption risks attached to EU Funds.

In the case of Spain, a country with mid-tier corruption risks in comparison with the EU average, even though found on the lower half, a similar comparison is also of interest.

4. Methodology

This project follows a mixed-methods approach by combining qualitative and quantitative data to gain the most complete picture of the reality of the RRF in Spain. This approach is necessary as the execution of the Next Generation EU funds is currently taking place, and a thorough assessment of its impact is not feasible at the moment. Moreover, it is improbable that the key stakeholders will take part in the methodological development of the current study. That is why, the more complete the approach is, the further it can be granted that the preliminary answer to the research question is properly addressed.

4.1. Qualitative assessment

The qualitative analysis of the study is based in the analysis of data, reports, publications and broadcasted news, which will provide the contextual body of information of the development and implementation of the Next Generation EU funds in Spain.

To this qualitative analysis it would have been interesting to complement it with interviewing key stakeholders. Nonetheless, no-one agreed on an interview, including very relevant actors, the two ex-directors of the PRTR in Spain, who have both resigned in less than 2-year time at the spot, the last one resigning in February 2024, in-midst of the negotiations for the 4th disbursement. When approached, they did not answer to the petition to be

interviewed, which has resulted in shrinking the qualitative methodology developed for the research (see limitations and further research).

4.2. Quantitative assessment

The quantitative approach of the research will follow two paths. On the one hand, a similar methodological approach to the Fazekas' and Tóth's article, studying the amount of public procurement that is financed with the Next Generation EU funds and whether they are complying with the principles outlined. On the other hand, a more generalist approach is suggested, developed through survey analysis of the perception of misuse in ongoing or executed PRTR projects.

4.2.1. Fraud in EU funded public contracting

Specifically, the systematic analysis will consist of studying the body of contracts that have been publicly announced in Spain from January 2022 onwards, as it is when the Spanish public procurement portal (PLCSP) started to collect the information on which contracts were under Next Generation EU funding. Once the body of all public procurement is collected only the Next Generation EU contracts will be selected, and the criteria that Fazekas and Tóth defined for their study will be applied similarly to the selected body of study.

From there the analysis will be able to determine what % of contracts are in a higher risk of not complying with public procurement rules from the bigger number of contracts that are funded with Next Generation EU funds. Following the two approaches that Fazekas and Tóth propose: (1) By the number of single-bidder contracts; (2) By applying a modified version of the Corruption Risk Index (CRI).

The first approach is very straightforward, it only requires to determine the % of contracts financed by the Next Generation EU fund have received single-bidders. Still, it is probably not the most trustworthy method, as, taking into account that the Next Generation EU has supposed a boost in public procurement increasing in more than 50% in comparison between 2019 and 2024. And with such a largening of the market it could be argued it is more probable that single-bidding happens, and not necessarily related to dishonest practices. That is why the CRI that Fazekas' and Tóth propose has been adapted to the Spanish case.

His CRI calculation is summarised as follows:

$$CRI^i = \sum_j w_j * CI_j^i \quad (13.1)$$

$$\sum_j w_j = 1 \quad (13.2)$$

$$0 \leq CRI^i \leq 1 \quad (13.3)$$

$$0 \leq CI_j^i \leq 1 \quad (13.4)$$

Figure 2: Fazekas' and Tóth's summary of the calculation of the Corruption Risk Index on a contract, in Fazekas; Tóth (2014:190)

Where, to calculate the CRI of contract i , they establish a weighted sum of all elementary Corruption Indicators (CI) observed in the tender of the contract i . And because all individual CI are a coefficient between 0 and 1, the result of the CRI will also be presented as a 0 to 1 probability, being 1 the highest indication of corruption risk.

The Corruption Indicators that Fazekas and Tóth suggest are: (1) call for tenders published in an official journal; (2) non-open procedure types; (3) length of the submission period; (4) weight of non-price evaluation criteria; (5) length of decision period. What has to be calculated is the coefficient of correlation between these indicators and when they produce a single-bidder contract, as it is the most relevant signal that they identify as pointing towards risk of corruption.

In our case, this methodology has been slightly adapted. Firstly, in Spain the public publication of a contract is mandatory for services and supplies contracts that are more than 15.000€, and 40.000€ for the case of construction works (VAT excluded). Therefore, most contracts under this pricing are not publicised in the PLCSP, but offers are required directly to the potential contractors. However, that does not mean that all contracts published in the PLCSP are published when the tender is open. That is the case for the negotiated procedures without advertisement, where the negotiation with the possible contractors happens before the publication in the PLCSP, and it is only published once it has been awarded to a specific tender. Thus, the first criteria of the methodology “Call for tenders publication” will take into account the negotiated procedures without advertisement.

Secondly, as already stated, the PLCSP does not only include open procedures, but also other types of non-open procedures. The types of procedures to include here are clear: the restricted contracts, and also the negotiated procedures without advertisement. This, however supposes a dilemma, as the negotiated procedure without advertisement is the used

for the first indicator and using it again to determine the second indicator, makes the second indicator not completely independent. That puts us in the situation in which we have to choose between two options:

- a) Restricted and negotiated without advertisement procedures = 1; the other procedures = 0;
- b) Restricted procedures = 1; the other procedures (including the negotiated without advertisement) = 0.

Option a) makes the indicator complete and is simpler as both procedure types are considered equal in risk value, however the indicator is then dependent of the first indicator “Call for tenders publication”. On the other hand, option b) does maintain the independence in respect from the first indicator, but provides less coverage on the risk without contemplating the all forms of non-open procedures. Nonetheless, if we opt for option a) we are doubling the weight that negotiated without advertisement procedures have on the Index, while option b) maintains both options equally. Taking all of this into account, the second CI is defined in option b) and renamed as: “other forms of non-open procedures” to only include restricted procedures.

Thirdly, the indicator of length of submission period is a continuous variable, and it must be converted into a dichotomic one. To do so, all the contracts were organised—excluding those

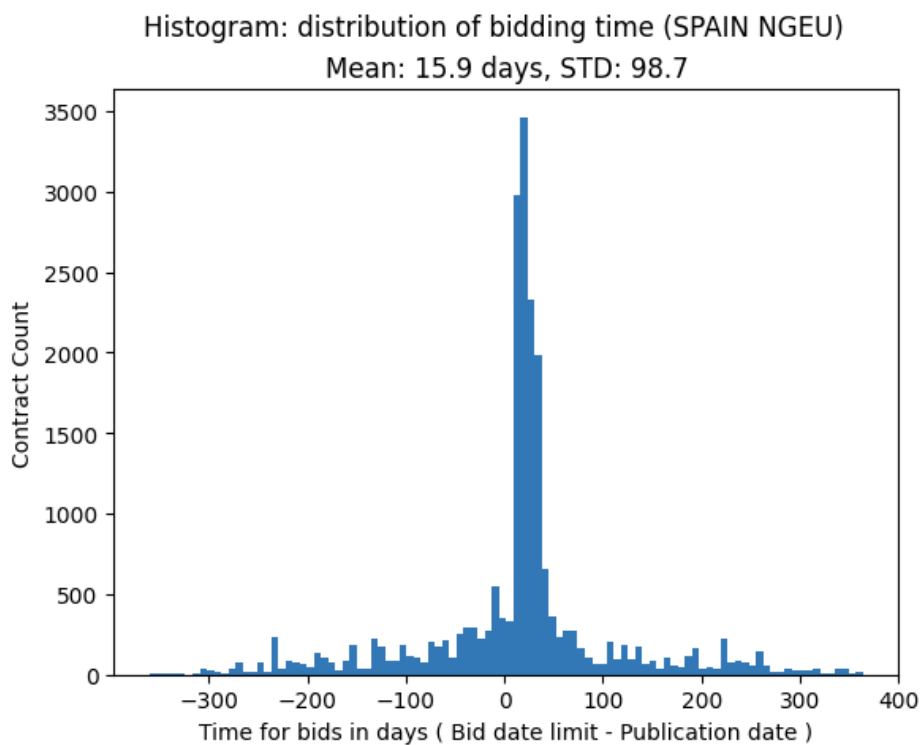


Figure 3: Author's creation

that ended with no bids—counting by the days (rounded) between the publication of the call for tenders and the submission deadline and found that many had negative days, as well as extreme numbers that are clear outliers with procedures open for more than 365 days. Limiting the dates to ± 365 days (to discard extreme outliers), all of the contracts with negative dates were counted for the coefficient which included 5.472 contracts of all the body of analysis, a 26%.

Later the indicator was limited to positive days count to establish what was the mean and the standard deviation, which is of 55,4 days and 68,5 respectively, but the median is of 28 days, and the mode is clearly around 30 days:

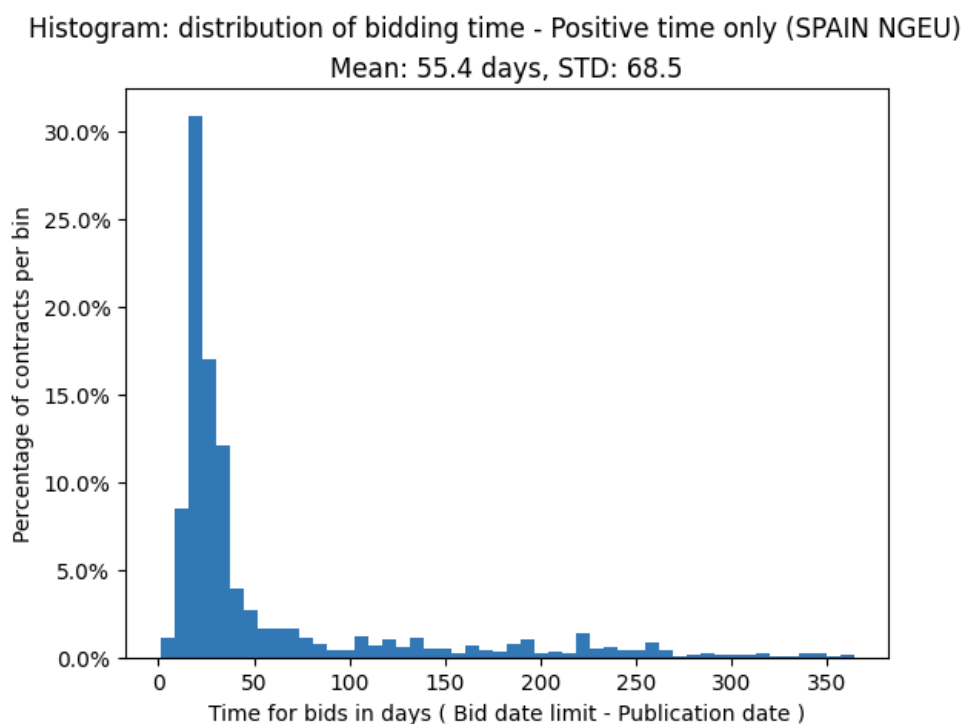


Figure 4: Author's creation

Taking all of this into account, and knowing that for all type of open procedures the minimum days that a tender should be open is of 15 days, as established by the new legislation specific to Next Generation EU procedures RDL 36/2020 , with some exceptions depending on the procedure type and the type of award criteria. Therefore, all contracts with less than 10 days represents a short submission period, limiting the competition.

In sum, the third indicator, for the length of decision period is put as follows:

If $< 10 = 1$; else 0

Fourthly, the indicator of the weight of non-price evaluation criteria is not available in the data available to extract from the PLCSP. Therefore, this indicator had to be discarded. Alternatively, two other indicators that Fazekas and Tóth do not include have been included to the CRI:

1. Procedures that have used urgent procedures of awarding contracts.
2. Procedures for which the propositions had to be presented manually instead of electronically.

This is argued as, with the law RDL 36/2020, that established urgent measures for the execution of the PRTR, it facilitated the use of urgent procedures to award contracts financed by Next Generation EU funds, greatly reducing periods of bidding, and formalisation, and increasing the economic thresholds of contracts so simplify procedures. Making it easier to use urgent procedures as an excuse to limit competition. Also, in Spain, even though it is rare, proposals can still be required to be presented only manually, which limits competition, by making commuting to the tenderer an obligation.

Finally, the last indicator was the length of decision, which accounts for the number of days between the submission deadline and the award announcement. Similarly to the third indicator, a continuous variable had to be converted to a dichotomic one. To do so, again it was limited to ± 365 days, making all negatives account for the coefficient:

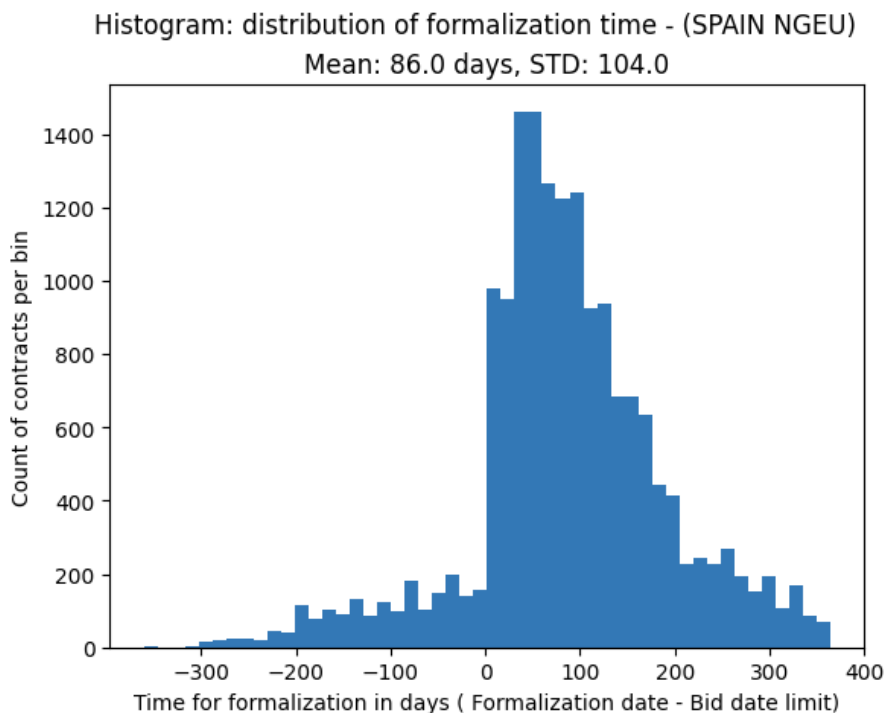


Figure 5: Author's creation.

Later the indicator was limited to positive days count to establish what was the mean and the standard deviation, which were 110,1 days, and 79,5 days respectively. Also, the median was of 90 days, which indicates that usually a contract is resolved in 90 days. However, the graphic allows us to infer that the mode is between 25 and 50, that is why everything under 20 does not fall into the minimal time to decide on who to award the contract:

Histogram: distribution of formalization time - Positives only (SPAIN NGEU)
 Mean: 110.1 days, STD: 79.5

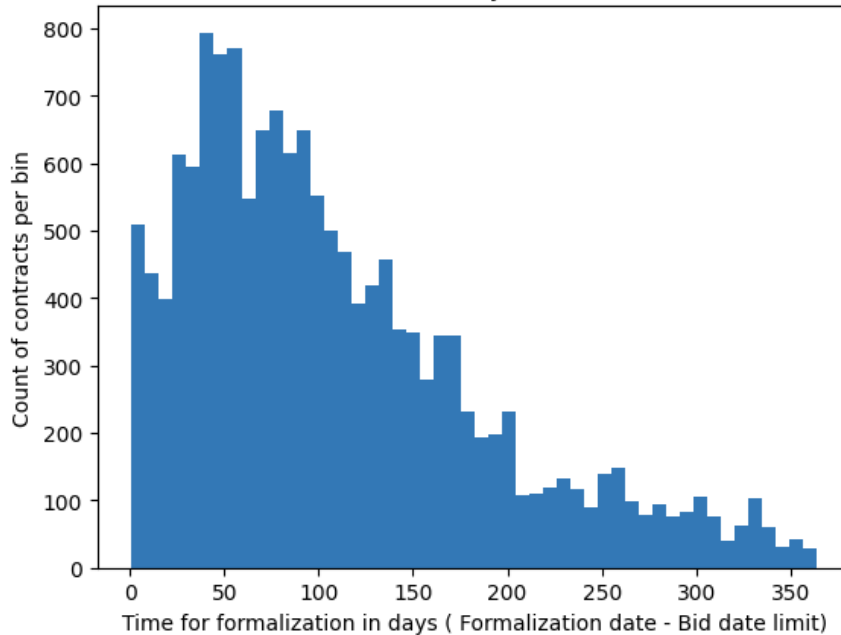


Figure 6: Author's creation.

Taking this data into account, the indicator was defined as follows:

If < 20 days = 1; else 0.

As a result, the summary of the elementary corruption indicators for the current research adapted to the Spanish case are (1) Call for tenders not published; (2) Other non-open procedures; (3) Limited length of submission period; (4) Urgent procedures; (5) Manual presentation of proposals; (6) Limited length of decision period; (7) Single bidder contract. The dichotomic values established for each of these indicators are described in figure 7.

To determine the coefficient of each indicator they will be correlated with the number of single-bidder contracts. As it is the case for their study, and so it happens here, there is no clear way to determine the relative weight of each Corruption Indicator, therefore, they are all weighed equally. This brings us to counting which of these contracts complied with the different indicators, to obtain a CRI per contract. Then the CRI will be aggregated to obtain

a general result for all the Next Generation EU funded contracts, published since January 2022.

<i>Indicator name</i>	<i>Indicator values</i>
Call for tenders not published	0 = Call for tenders published 1 = Negotiated procedures without advertisement
Other non-open procedures	0 = other procedures 1 = Restricted
Limited length submission period	0 > 11 days 1 < 10 days (including negatives)
Urgent procedures	0 = Ordinary or emergency procedures 1 = Urgent procedures
Manual presentation of proposals	0 = Electronic or Electronic & Manual 1 = Manual only
Limited length decision period	0 > 21 days 1 < 20 days (including negatives)
Single bidder contract	0 = more than 1 bid received 1 = only one bid received

Figure 7: Table summarizing the elementary corruption indicators. Author's creation.

4.2.2. Perception on misuse in Next Generation EU funds

The second approach that this research aims to have is, based on the recollection of data of executed or ongoing projects funded under the PRTR by the responsible civil servants of executing those projects, to assess the perception of misuse that they have. To do so, a survey has been designed to be massively sent to managers of Next Generation EU funded projects,

in order to collect estimable data on misuse of funds, stemming from the 10 categories of misuse defined in the theoretical framework. The unit of analysis are projects to ensure replicability independently from the type of beneficiary.

The survey is sent to all the public institutions that have so far been published in the website of the Commission on the execution of EU Funds in Spain⁷. That is governmental, regional and local public authorities; as well as other forms of public bodies governed by public law (public companies, universities, etc.).

The survey consists of 34 questions (see translated copy in annex), mainly yes/no questions, together with 1-5 evaluation of questions. Out of all questions 8 are optional to describe with more detail the previous answers. This allows for some of the questions to have a qualitative answer in case it is needed to have further explanations.

The goal of this second method of analysis is to have a more general approach on misuse, that goes further than the concept of fraud, by also focusing on more subjective aspects of the misuse, and also on aspects not as unlawful. For instance, question number 8 asks whether the project was written prior to 2020. Those projects that were written prior to 2020, cannot have been incepted aligned with the PRTR, even if they follow a similar logic, as the Plan was not even conceived. Similarly, the survey asks whether the project is actually promoting digital and transformation as they are the transversal principals of the PRTR, but may have been overestimated to achieve financing.

The survey will probably not draw conclusive information on the misuse of the funding within the PRTR projects, but it may point towards the weak points of the Plan and the overestimation of its transformative capabilities.

5. Contextual analysis of the RRF

5.1. The impact of the RRF

In February 2024 the European Commission carried out the mid-term evaluation of the Recovery and Resilience Facility, the mechanism of the Next Generation EU Funds to analyse its progress since the start of its implementation 3 years earlier. By the end of 2023,

⁷ See data in: https://spain.representation.ec.europa.eu/estrategias-y-prioridades/plan-de-recuperacion-para-europa-en-espana_es [Last accessed 01.06.2024]

member states had already implemented a substantial number of reforms and investments representing 1.150 milestones and targets achieved from those defined in the RRF and the respective National Recovery and Resilience Plans. This progress has translated already in clear benefits in the digital and environmental objectives: more than 28 million megawatt-hours of energy have been saved, over 5,6 million households have enhanced or received internet access, and climate disaster protections have been improved for almost 9 million people in the Union (European Commission, 2024a).

Financially, the RRF has already disbursed almost 225 billion euros to member states, counting the 67 billion that were provided as pre-financing support for the reforms and investments needed to face the COVID-19 and energy crises.

The economic impact of the RRF is evident in its equator in the clear increase in public investment across Europe. The Commission has estimated that approximately half of the projected rise in public investment from 2019 to 2025 will be attributable to the EU financed initiatives, and specifically the RRF. Unlike the 2008 financial crisis, the COVID-19 crisis together with the energy crisis have been faced with a rise in public investment that went from a 3,0% of GDP in 2019 to an estimated 3,3% and it is expected to increase further. Early and rapid implementation of the NRRPs has facilitated the pre-financing system and the successive disbursements for the member states, contributing to a revitalisation of the economy where activity levels are back to pre-pandemic numbers and unemployment rates have dropped to historic lows of around 6%. Economic modelling suggests that Next Generation EU could boost EU's GDP by 1,4% when the RRF is expected to finish in 2025, while increasing employment by up to 0,8% in the short term.

The RRF has also shown its adaptability when responding to new challenges. By the end of 2023, all 27 national recovery and resilience plans have been revised taking into account the geopolitical reality, the inflation spike that occurred since the start of the Russian invasion in Ukraine, and how it has affected the supply chains. Moreover, it revised the execution level in the member states and agreed with changes in the expected milestones that were at risk of not being achieved. That is the case of Spain that by June 2023, the Council Implementing Decision emitted an addendum to the PRTR that relaxed some of the deadlines together with the expected outcomes. These revisions have significantly increased EU aid to member states, adding almost 150 billion, including the funding from the REPowerEU mechanism that amassed 125,5 billion euros in new loans (European Commission, 2024a).

This mid-term evaluation has been of use to highlight the broad support for the RRF's performance-based approach, and how the injection of funding turned out to be an effective solution to dodge a the very probable recession that the COVID-19 crisis would have brought with itself. Nonetheless, the model also has areas of improvement, the rush in which has been implemented has not ensured sufficient flexibility for plans to adapt to changing realities, as well as allowing for robust administrative capacities in member states to develop from the execution, which hinder the resilience capacity of local authorities in the future to come.

5.2. The RRF in Spain

5.2.1. The impact in figures

In Spain the tendency was no different than Europe's. The government expects to allocate more than 160 billion euros under the PRTR framework by 2026 divided in 77 billion euros in grants and up to 84 billion euros in loans, in addition to the 2,6 billion euros that have been directed to energy autonomy investments as part of the REPowerEU.

By December 2023, Spain has already received three disbursements totalling 37 billion euros, and has already requested the next disbursement of 10 billion euros when accrediting the 2023's execution. With this the first phase of the PRTR has finished. The PRTR is divided in two phases, the first one (2021-2023) was mostly focused on immediate economic recovery, mostly by the implementation of reforms directly from the government as they were planned. From 2024 on, the second phase will be focused on investing and bolstering major projects, leveraging loans to enhance Spain's autonomy in critical economic sectors such as agriculture and food, energy, industry and technological and digital areas.

Strategic projects initiated under the PRTR encompass significant investments in green and digital transitions, thereby supporting social and territorial cohesion and promoting gender equality. The strategic projects have been and will be promoted through the PERTE tool, and are the key tool designed to ensure Spain's long-term economic sustainability and resilience. The PRTR has been distributing funds across Spain respecting its regional composition. As Spain's Autonomous Communities have varied levels of competences in different areas a big part of the funding has been canalised to the regional governments. This has resulted in a diverse level of funding, also depending on the promotion of regional governments of the

Funds, as well as the participation of local authorities in the elaboration and execution of projects.



Figure 8: Screenshot of ELISA, the Spanish tool to evaluate the results of the execution of the PRTR. Available at: <https://planderecuperacion.gob.es/ejecucion/elisa-el-plan-en-cifras> [Last accessed 01.06.2024]

As it can be seen in figure 3, the top three regions with most Next Generation EU funding are Madrid, Catalonia, and Andalusia, accounting for 5.455,15; 5.180,41; and 3.952,10 million of euros respectively. And from the total in Spain, more than half of the investments have been directed to the levers of urban and rural agenda, modernisation of the industry, and sustainable infrastructure. The importance of these levers can be directly attributed to the MOVES plan—an aid program for the acquisition of electric vehicles and infrastructure—the high-speed network deployment, and the digital infrastructure investments that have been carried out. These levers are followed by science and health, that rank a 12% of the total impact, but still remain in a secondary position behind the leading investments, including healthcare infrastructure and research projects such as precision medicine and the development of artificial intelligence to play a crucial role in improving public health and scientific advancements. The other levers remain all under 10% of the investments distributed through the PRTR, which is also explained through the fact that the costs financed are not as high as the infrastructure required for the first 4 ranked levers.

Because of the manner in which the PRTR is structured, its implementation results in projects. These in their term are basically in charge of articulating the distribution of funding through different juridic instruments: contracts, grants, agreements, sectorial conferences, commissions from own resources, being the first two the most used instruments. That makes most part of the real beneficiaries of PRTR funding enterprises from the private sector, who are being in charge of executing the financed projects.

CONVOCATORIAS RESUELTAS POR TIPO DE ADJUDICATARIO
 PORCENTAJE SOBRE EL TOTAL RESUELTO

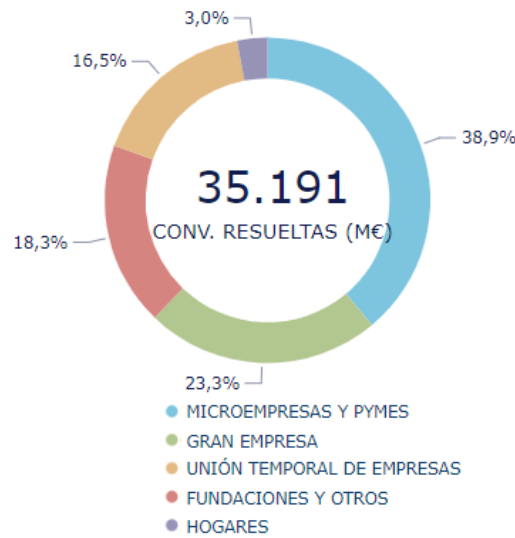


Figure 10: Screenshot of ELISA, the Spanish tool to evaluate the results of the execution of the PRTR that indicates the percentage of all distributed juridic instruments. Available at: <https://planderecuperacion.gob.es/ejecucion/elisa-el-plan-en-cifras> [Last accessed: 01.06.2024]

That is why, as it can be seen in figure 6, that more than 75% of the funds have been channelled to some form of enterprise, that being mostly SMEs but also big enterprises and temporary unions of enterprises. It is also interesting to point out that only 3% of the funding has been received by households, which shows how the priority of the funding is to incentivise the economic capacity of enterprises and mostly SMEs as the basis to keep the economy in growth. This effect is better observed in ESADE’s graphic differentiating the type of beneficiaries between private entities, public local entities, and other public sector entities:

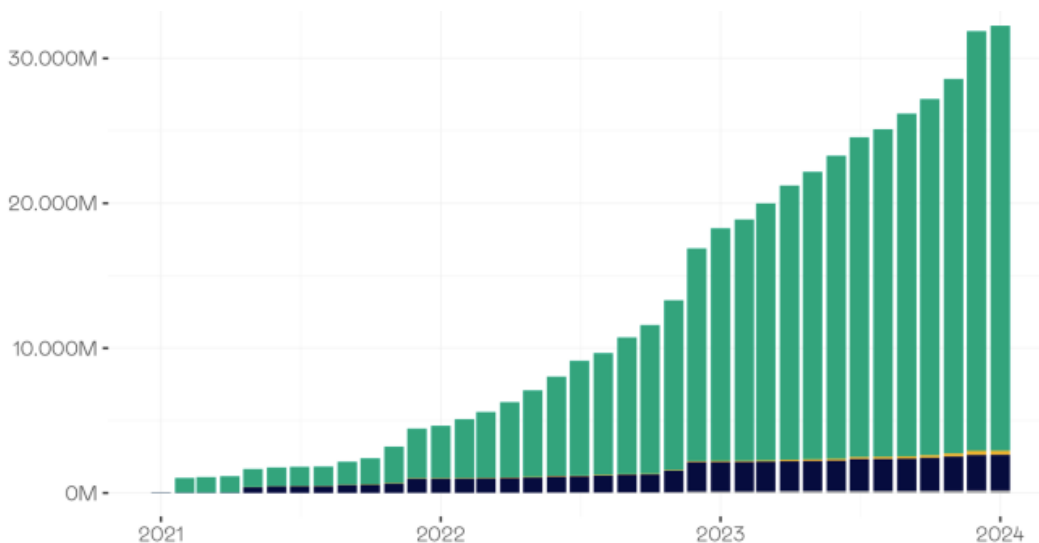


Figure 9: Distribution of the funding differetmiating by type of beneficiary. In green: private entities, in yellow: public local entities, and in dark blue: other public sector entities. Available at: https://www.esade.edu/ecpol/wp-content/uploads/2024/02/Brief_fondos_vmar.pdf [Last accessed 01.06.2024]

In total, by March 31, 2024, 21,661 procedures have been awarded to the final beneficiaries which includes all types of legal instruments. From these it equals to 35.191 million euros that have been already awarded (ELISA, 2024). Most of these, though, have been allocated to the same entities. The top 1% of entities has received 72% of the funding, which is a critical to determine that the funding has been at least unequally distributed if not unlawfully. Moreover, the 0,1%, around 154 enterprises accumulate the 42% of the distributed funding:



Figure 11: Distribution of the Next Generation EU funding in grants and contracts. Available at: https://www.esade.edu/ecpol/wp-content/uploads/2024/02/Brief_fondos_vmar.pdf [Last accessed 01.06.2024]

The three sectors of enterprises that have received most funding are firstly, construction (€4.241,4 Million); secondly, trade (€2.687,6 Million); and thirdly, information and communications (€2059,6 Million) (Hidalgo, et al., 2024).

When it comes to the milestones and targets that the PRTR has set, only a 20% has been fulfilled. Which seems a low number taking into account that the plan has already reached its equator and should fulfil the remaining 80% in the following 2 years and a half. However, this may be due to the fact that many mid-term milestones and targets have a 2024 deadline (European Commission, 2024b).

This brings the opportunity to address the problematic on the milestone-target system. Clearly, the idea, very reminiscent of New Public Management, is advocating for the change in line as it has been seen in other EU funded grants with direct management from the

Commission, which is to promote the efficiency and the effectiveness of measures by not focusing on expenditure, but results. In theory in the PRTR this mindset is clearly established. Each component has its own targets and milestones (M&T) that then translate to the funded projects that must also comply with the same M&T. However, the system has a trick, that is, most milestones are not result oriented. That is, for example a target can be a set amount of money to be spent in that specific digital label, instead of looking for actual results that would have tangible indicators independent of expenditure. Out of 497⁸ M&T for investments, 79 are specifically economic targets. In some cases, though, the indicator is not EUR, but the publication of a document in an official bulletin that summarizes the M&T being achieved. Others, that have not been counted as economic M&T depend of M&T that are economic. For instance, milestones 220 and 221 on the midterm execution of sustainable tourism plans, and finalisation of those plans respectively, are directly linked to targets 217, 218 and 219, that are economic targets, making the threshold for complying with 220 and 221, being closely linked with economic execution as well.

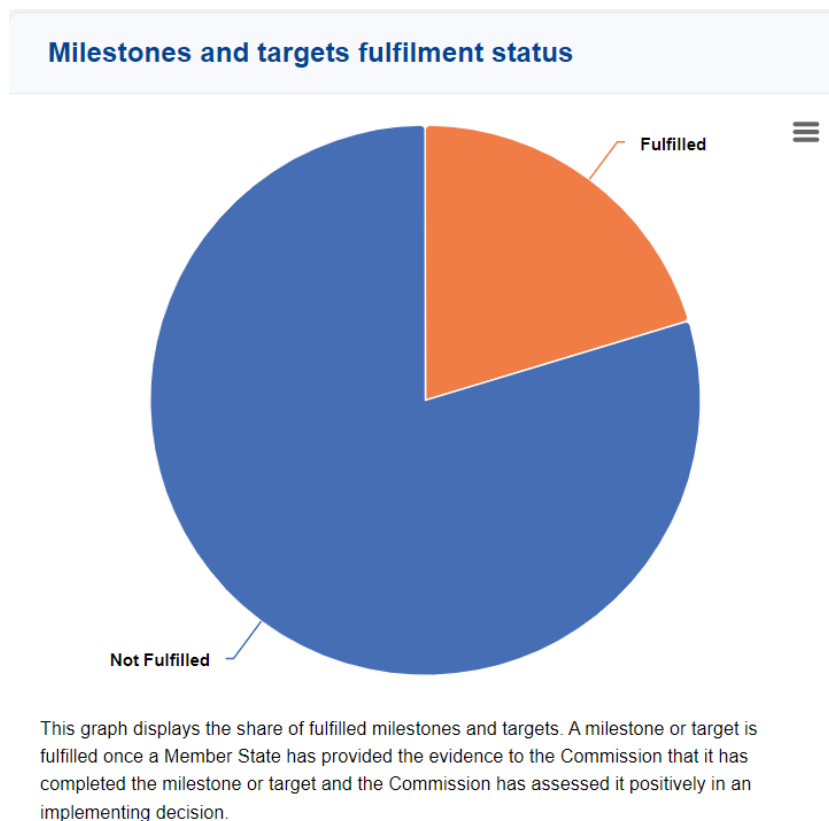


Figure 12: Screenshot from the country overview in the recovery and resilience facility scoreboard. Available at: https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/country_overview.html?country=Spain [Last accessed 01.06.2024]

⁸ See revised Annex of the Council Implementing Decision, relative to the approval of the evaluation of the PRTR. Available at: https://www.fondoseuropeos.hacienda.gob.es/sitios/dgpmrr/es-es/Documents/ST-13695-2023-ADD-1-REV-1_es.pdf. [Last accessed 01.06.2024]

This is relevant, as it could be argued that the idea of milestones and targets is flawed from the beginning, as if we take into account that most M&T are not the execution of projects, but the approval of new legislation, new strategies, and the publication of grants, the targets that have an indicator of finalisation of projects, that produce the effect of better efficiency and effectiveness of the projects is not as prevalent as it seems when looking through the disposition of the system. This is important because it can switch the motivation of executors from complying with the objectives of a measure in their project, and alternatively adapt the project to not-so-transformative initiatives that do comply with the economic targets.

In a sense, this undermines the transformative capacity of the PRTR, as it takes away the incentive to plan new projects that adapt to the current EU strategy and align with the objectives of the PRTR. And that is specifically what Darvas (2023; Darvas & Welslau, 2023) has pointed out in several publications, that the milestone and targets model is not conceived towards result, probably to lessen the risk that non-compliance would suppose, but it makes the model faulty from the start.

Finally, it is important to talk about the administrative and financial reporting system that Spain has put in place for the control of Next Generation EU funds, and how it has become a burden on the execution of PRTR projects. From the European Regulation 2021/241 that defined the RRF, the obligations of the beneficiaries were loosely defined. But when specified under Spanish regulation with the HFP/1030/2021 and HFP/1031/2021 rules, the system of the PRTR was still not completely developed and defined characteristics, that to date, are still not implemented.

This has led to a situation in which normative body of the PRTR and the explanation of its principles has occurred while the execution of the Plan was already ongoing. Generating a situation in which misuse or errors have been produced due to the lack of knowledge of the processes to partake in. The clearest example is with the two applications for the management of funds and the control of conflict of interests, called CoFFEE and MINERVA respectively.

While the mentioned PRTR norms were published in September 2021, the applicative CoFFEE—which is mentioned in said normative— did not come in use for all the public beneficiaries until the January 2023. And to date, some functions like the three sets of periodic reports that are to be integrated in the app monthly, every trimester and every

semester, are not available to be used. Therefore, the management and control of funding between responsible authorities and beneficiaries is being carried out in a hybrid manner, between CoFFEE, and numerous Excel sheets to report the advancements of funding.

Even worse has been the case for MINERVA, as the app requires CoFFEE to be functional from a beneficiary, for it to be able to carry out the massive data crossing to detect risks of conflict of interests. The norm that announced the MINERVA application was published on 24th of January 2023, and it came into force in 25th of January 2023, while most beneficiaries still did not have access to CoFFEE, let alone have all the structure of the projects integrated in the app. This has meant that there are uncountable cases of MINERVA controls carried out after the awarding of contracts or subventions, going against the basic idea of the application which is to have a preventive control of conflicts of interest in public procurement.

Nonetheless, the examples are not only extensive with informatic issues. There has not been a unified clarification of the application of the DNSH principle and the requirements expected to comply with it. Similarly, the use of climatic and environmental labels has not been explained in a unified manner. Rather, each authority responsible for the call has informed their subsequent beneficiaries how to fulfil such obligations.

These examples, show the importance of having a preestablished system before the implementation of a Plan of the magnitude of the PRTR, have checked its operation, and have a clear explanation for all its elements, as it has direct consequences on the possibility to comply with all the set norms.

5.2.2. The antifraud strategies

The PRTR has made it mandatory for all public institutions that are beneficiaries of Next Generation EU funds to have an Antifraud Plan. These plans should contemplate, (1) measures of prevention, including codes of conduct, and training of the personnel involved with the management of funding; (2) measures of detection, including internal control to mitigate de risks of fraud, a mailbox or save channels for the reporting of irregularities that ensure anonymity, and internal and external periodic audits; (3) measures of correction, by establishing procedures in case of detection of irregularities, and mechanisms of recovery of funding in cases where fraud is confirmed; (4) measures of dissuasion such as publicising the adopted measures that will be adopted in case of fraud to have a dissuasive effect; (5)

evaluation and revision, with continuous evaluation of the Antifraud Plan as well as annual informs of the antifraud activities carried out and the obtained results.

This obligation itself has probably already acted as a deterrent to fraud in the public system, as so far there have been no confirmed reports of fraud in Spain related to the Recovery and Resilience funds (European Public Prosecutor's Office, 2024a:56-57). That does not mean that there have been no accusations, but publicly there is no knowledge of these and it remains to be seen if any cases arise.

The EPPO has been investigating cases of fraud in projects financed under Next Generation EU, including public transport, infrastructure, green economy, digital transformation, education, health and public administration. Which means that the cases in Europe that may result in fraud, are transversal and not sector-specific. So far, the EPPO has detected that common deceptive practices involve the use of false or incomplete documents, non-disclosure of critical information, and concealment of conflicts of interests or double funding or illegitimately obtain financing. The most frequent offenses included document forgery and false statements to public authorities, with additional instances of bid-rigging and procurement fraud (European Public Prosecutor's Office, 2024a:68). Later, this text analyses which amount of public procurement in Spain is at risk of complying with such forms of fraud in public procurement.

There have also been cases of fraudulent activities connected to sham companies or fictitious operators who misappropriated funds meant for project initiation, often transferring these funds abroad, for example the case that was earlier this year in April of the alleged fraud of 600 million euros in Italy, but also involving Austria, Romania and Slovakia (European Public Prosecutor's Office, 2024b).

By the end of 2023, the EPPO had 206 active investigations into the Next Generation EU funding fraud, none of which seem to be affecting Spain, as exposed in their annual report of 2023. Organized crime groups have been identified as key perpetrators, orchestrating large-scale scams. Despite the appearance of disconnection, the EPPO affirms that these activities are centrally coordinated by higher-level individuals linked to serious organised crime. Interestingly the most important collaborators for fraud detection were national authorities and private parties, while the EU institutions had a minimal contribution in these investigations. This suggests that the closer the control to the beneficiaries executing the

funding, the more probable it is to detect and warn of signs of fraud or misuse of funds (European Public Prosecutor's Office, 2024a).

5.2.3. *The conception of the RRF in the Spanish press*

The press in Spain is mostly optimistic and keeps updated on the execution of the PRTR, but there are also some critical perspectives on the management and allocation of the funds. Nonetheless, there have been no piece of news found on any case of misuse in Spain.

The PRTR in Spain is seen as an opportunity. The optimistic narrative highlights the anticipated positive impacts on Spain's economy, particularly in terms of job creation and modernization of infrastructure (Marra, 2021; Delle Demmine, 2024; López, 2024; Maqueda, 2024). Conversely, there is a substantial critical discourse concerning the distribution of the funds (García, 2024; Sastre, 2021; Cuesta 2023; Caraballo, 2022). Interestingly the positions also align with the political tendency of the media outlets. Those more left-leaning and pro PSOE, point out more positive news—Público, El País, whereas more right-leaning and pro PP/Vox, are more critical with the allocation and risks of the funding—El Confidencial, El Economista, Hispanidad—.

Critics point out that a large portion of the funding—more than 40%—is being channelled into the construction sector (Bayona, 2023). Interestingly, this does not raise the alarms neither in Spain nor in Europe, even if the Do No Significant Harm (to the climate and environmental objectives) principle is very much embedded in the conception of the PRTR.

However, the DNSH is not very strict in the sense it does not go further than existing EU legislation prior to the start of the RRF, and therefore, all construction enterprises that were complying with EU law before the COVID-19 crisis, are complying with the DNSH principle in the PRTR. There is, yet, no in-depth analysis on this aspect of the PRTR, were an aggregated analysis of the environmental impact construction directly motivated by the Next Generation EU funds has had, and whether it has had a negative impact on the environment. But that is a topic for another time. Nonetheless, the sector-centric investment does raise some concerns.

The PRTR has also been reason for political tensions. The Spanish opposition headed by the right-wing Popular Party (PP), has accused the government of mismanagement and lack of transparency in the fund's allocation. An accusation that led to the reaction of the Spanish

government to involve in high-level engagements and public declarations aimed at demonstrating the proper utilization and positive impacts of the funds, emphasizing their commitment to transparency and effective management (Muñoz, 2022).

When analysed comparatively it is said that Spain's management of the Next Generation Funds is more effective than Italy's, the other great receptor of the RRF. Differently than Italy, Spain has not yet detected any case of corruption or fraud concerning the PRTR, and there have been no articles that point towards it. However, this does not indicate there have been no cases. Similarly, the EPPO is currently undergoing an investigation on several Spanish politicians for the Koldo case, in which the ex-adviser Koldo García of at-the-time Minister of Transports would have presumably pocketed illegal commissions in the purchase of masks during the pandemic. This investigation also involves the ex-Minister of Health, Salvador Illa, current candidate for the Presidency of Catalonia. The case is being investigated of fraud affecting structural EU funds (Gómez, 2024; Zamorano, 2024). However, this case, does not concern Next Generation EU funding therefore, it does not apply to the current research.

In conclusion, the coverage of the Next Generation EU funding in Spain presents a nuances picture, with a predominant sense of optimism tempered with critical perspectives on funding management and allocation. Despite the absence reported cases of misuse, concerns persist regarding the distribution of funds.

6. Fraud in Next Generation EU funded public procurement in Spain

6.1. Results and discussion

As explained in the methodology, this research has focused on assessing the corruption risk in public procurement, adapting the methodology proposed by Fazekas and Tóth.

The methodology was applied using the Spanish Public Procurement Platform (PLCSP) macroanalysis app that allowed to convert all the entries to the PLCSP and other autonomic public procurement platforms into a big data base inn form of a spreadsheet. With the following information: (1) date of actualization; (2) date of first publication; (3) state of the tender; (4) base budget; (5) CPV; (6) type of administration; (7) type of procedure; (8) type of processing; (9) form of presenting the offers; (10) deadline of bidding; (11) European funding; (12) result of the tender; (13) number of bids received; (14) date of award.

Only the contracts with Next Generation EU funding were considered, and also those contracts that were not resolved yet were discarded, so every tender procedure could be considered finalized, which made the total entries 24.764 from 2022 to April 2024. From this body of contracts, the first analysis was carried out: how many of them received a single bidding: 6.246 contracts. That represents a 25,22% of all contracts funded by Next Generation EU funds. According to Fazekas and Tóth this % should already point out the number of contracts at risk of having some form of fraud.

However, it is more interesting to dive into the CRI, and analyse all the single Corruption Indicators that have been established: (1) Call for tenders not published; (2) Other non-open procedures; (3) Limited length of submission period; (4) Urgent procedures; (5) Manual presentation of proposals; (6) Limited length of decision period, (7) Single bidder contract, for all of the 24.763 Next Generation EU funded contracts:

1. Call for tenders not published, that is, those contracts that followed a Negotiated without advertisement procedure: 985
2. Other non-open procedure types, that is, those contracts that followed a Restricted procedure: 362
3. Limited length of submission period: 5.823
4. Urgent procedures: 2.546
5. Manual presentation of proposals: 1.070
6. Limited length of decision period, that is less than 20 days from bidding to awarding of the contract: 3.081
7. Single bidder contract: 6.246

From these results we get the individualised coefficient of each indicator. And because we deemed that they are of equal weight, the mean of all coefficients. This results in an aggregated CRI of 0,12, far lower than only taking into account the single bidder.

Moreover, if we apply the different elementary corruption indicators in correlation with single-bidder contracts, we receive the following results of all single-bidder contracts:

1. Call for tenders not published, that is, those contracts that followed a Negotiated without advertisement procedure: 780.
2. Other non-open procedure types, that is, those contracts that followed a Restricted procedure: 86.

3. Limited length of submission period: 1.708
4. Urgent procedures: 660
5. Manual presentation of proposals: 586
6. Limited length of decision period, that is less than 20 days from bidding to awarding of the contract: 968

By calculating the CRI this way, it increases 1 decimal, and equals 0,13. Still, it is far from the 25% that was suggested by only taking into account those contracts that receive only one bid. This makes sense as single bigging may not always be due to restricted competence, but also it may occur in a very active market with a large amount of public procurement, taking into account that in 2023 the activity of the public procurement market was 51% higher than before the pandemic in 2019. Therefore, single-bidding indicator cannot on its own be definitive proof of risk of high risk of fraud.

According to Transparency International it is estimated that a 10% of the public procurement is fraudulent (Gimeno, 2016:250). In the case for the contracts in Spain that are funded by Next Generation EU funding, the CRI value resulting in around 12-13% would mean that the fact that there is EU funding, does not lower the risk of corruption respect the average in all of public procurement.

We can assume, that the calculation of CRI is probably closer to reality than the single-bidding indicator. Nonetheless, as we do not have statistics to compare to the real cases of fraudulent procedures, neither for EU funded nor not funded contracts, we do not have a base for comparison to estimate whether this result is high, moderate or low.

The results, also point that considering individual indicators is also relevant, as they can act as red flags that the authorities can take into account in order to further investigate cases of fraud. Lack of transparency and limited competition are critical factors in corruption risk, which should make the procedures less transparent be an outlier.

Interestingly, when correlating the types of procedures with single-bidding, we can detect an increased risk for the Negotiated procedures without advertisement. These, account for only a 3% of the Next Generation EU contracting, but are 12,5% of the single-bidder contracts. Moreover, 79,2% of these processes have only one bid, which indicates it is an important red flag to account for:

single bidder dico		Tipo de procedimiento											Total	
		Abierto	Abierto simplificado	Basado en un sistema dinámico de adquisición	Concurso de proyectos	Derivado de acuerdo marco	Diálogo competitivo	Licitación con negociación	Negociado con publicidad	Negociado sin publicidad	Normas internas	Otros		Restringido
0	Count	9726	6096	2	13	1992	20	34	13	205	54	86	276	18517
	% within row	52.5 %	32.9 %	0.0 %	0.1 %	10.8 %	0.1 %	0.2 %	0.1 %	1.1 %	0.3 %	0.5 %	1.5 %	
	% within column	79.5 %	78.4 %	100.0 %	92.9 %	68.0 %	87.0 %	53.1 %	56.5 %	20.8 %	28.1 %	56.6 %	76.2 %	
1	Count	2512	1681	0	1	939	3	30	10	780	138	66	86	6246
	% within row	40.2 %	26.9 %	0.0 %	0.0 %	15.0 %	0.0 %	0.5 %	0.2 %	12.5 %	2.2 %	1.1 %	1.4 %	
	% within column	20.5 %	21.6 %	0.0 %	7.1 %	32.0 %	13.0 %	46.9 %	43.5 %	79.2 %	71.9 %	43.4 %	23.8 %	
Total	Count	12238	7777	2	14	2931	23	64	23	985	192	152	362	24763
	% within row	49.4 %	31.4 %	0.0 %	0.1 %	11.8 %	0.1 %	0.3 %	0.1 %	4.0 %	0.8 %	0.6 %	1.5 %	
	% within column	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	100.0 %	

Figure 13: Comparison between the type of procedure and the proportion of single-bidder contracts. Author's creation.

From this table it is also relevant to point out that the open procedures together with the simplified open procedures account for more than 60% of single-bidder contracts, but they represent 80% of all the contracting procedures. Therefore, it makes sense that they score the highest in this result. Instead, when looking at the percentage of open procedures that are single-bidder contracts, only between 20 and 22% result in a single bid.

On those cases that at least some of the elementary corruption indicators was in effect and pondered by the 12,5% average of corruption risk that the CRI indicates, the amount of money that seems to be at risk of being under fraudulent contracts is of 631 million euros, that is only 2% of the 35.191 million euros that have been distributed in Spain. Even though it is a very small amount in terms of proportion, it is a very big number that should be assessed whether it has actually been affected by corruption.

6.2. Evaluation of safeguards and oversight mechanisms

The evaluation of safeguards and oversight mechanisms in EU-funded public procurement underscores the critical importance of transparency, competition, and accountability. While mandatory publication of tender calls serves as a cornerstone for transparency and competition promotion, there are still ways to bypass this requirement and limit competition for the desired contractor. For instance, the existence of negotiated procedures without advertisement allow to skip the economic thresholds that open procedures have, and should be even more scrutinised that they currently are. Moreover, the measures aimed at

encouraging competition, including open procedures and reasonable submission periods, are paramount in order to mitigate risks of favouritism and collusion. However, the prevalence of a significant amount of limited submission periods (over 25% of contracts), raises concerns about competition hindrance, highlighting the need for adjustments to ensure fairness in procurement processes.

According to Gimeno (2016), the most usual forms of corruption in public procurement can be summarised as follows. Before the tender: a) establishing specific conditions to favour certain bidders; b) participation of the bidders on the design of the tender; c) establishment of unclear selection criteria; d) use of selection criteria unjustifiable and disproportionate; e) the application of discriminator criteria of selection; f) the unruly use of framework agreements, g) conflicts of interests, i) bribery. In the case of Spain, the most extended practices are the participation of bidders in the design of the tender (80%) and the establishment of unclear selection criteria (72%) (Gimeno 2016:253)

During the tender, where most of infractions occur, include: a) unjustifiable exceptions of publication; b) incorrect application of the norms of cooperation between public entities (orders to own means); c) the unjustified use of the negotiated without advertisement procedure; d) the fractioning of the object of the contract to elude publicity; e) direct awarding; f) the abuse of the urgent and emergency procedures; g) the unruly use of the exception of security and defence. Also, during the tender, the following infractions are also usual in the fraudulent contracting that affect bidders: a) confusion of criteria of selection and award; b) the unjustified exclusion of bidders; c) fraudulent tenders; d) reclassifying to obtain the contract; e) the division in smaller lots (fractioning) to avoid competitive procedures; f) bid rigging (Gimeno, 2016:254).

And after the tender is over, during the execution phase, there are two more cases of fraudulent practices: a) unjustified modification of the contract (modifying bidding documents, specifications and budget); b) errors in the control and supervision of the contract (Gimeno, 2016:254).

Most of these specific cases, cannot be studied with the methodology deployed in this research as they refer mainly to the restriction of competition in relation of selection criteria. Nonetheless, some of them have been applied, such as the control for the negotiated without advertisement procedures, or the urgent procedures. It is important to point out, that

emergency procedures were excluded from the analysis as, with the current law of Spanish procurement of 2017 (LCSP) that was updated after Gimeno's publication, the procedure requires of documental justification, and a declaration of emergency, which has reduced the unjustified use of this type of processing.

Overall, the results obtained from the methodology align with several common forms of corruption identified by Gimeno, such as limited transparency, rushed procurement processes, and potential bidder influence. These findings underscore the significance of addressing systematic vulnerabilities within public procurement systems to mitigate corruption risks effectively. Transparent evaluation criteria and robust oversight mechanisms are essential to deter corruption and undue influence. Despite efforts to maintain transparency, challenges persist, and some additional measures should be adopted from the auditing systems of the state and the EU to further control corruption.

7. Perception on misuse in Next Generation EU funds

As is explained in the limitations of this research, due to the lack of responses the conduction of the survey to assess the perception on misuse in Next Generation EU funds has been discarded.

8. Recommendations

Based on the research findings regarding the misuse of Next Generation EU funded contracts, the following recommendations are proposed to strengthen the mitigation of risks in fraud and other cases of misuse effectively:

1. Strengthen procurement oversight

From our results we can determine that it is important to enhance the monitoring of single-bidder contracts. Single-bidder contracts should be the first red flag to identify to decide on a more in-depth review of the procurement cases. However, all of the identified indicators can independently signal that there is some abnormality when they correlate with single-bidding. Therefore, the system of recurrent control of the PLCSP should detect these red flags, and be in place to deploy more specific investigations. This includes tender calls, evaluation criteria, timings used and other indicators that may increase the CRI of a specific contract. The control system should also incorporate risk-based audits specifically targeted to those cases where red flags have been detected.

Moreover, the control should be extensive to the execution of the contracts, as well as the overall execution of PRTR funded projects. Modifications should be closely monitored to determine whether they were justified or if there were fraudulent motivations behind it.

2. Stricter control of the application of extraordinary procedures

As seen, the Spanish public procurement law (LCSP) does contemplate extraordinary procedures for specific cases. For instance, a negotiated procedure without advertisement can be used in cases of urgency or emergency, in cases of confidentiality, and in cases to resolve a conflict of interests, but also when there has been a previous open or restricted procedure that has not been awarded, or when there is only one provider in that specific market. This means, that it is quite easy to argue defending the use of a procedure that does not require publication on the PLCSP.

Similarly, the procedures of urgency are used more commonly than required, and because of the reduction of time, it supposes it is also a way to limit competition. The RDL 36/2020, opened the door to use this process for contracts financed under the PRTR, to incentivise the prioritisation of these contracts in order to comply with the set Milestones and Targets. Nonetheless, this may have had a negative impact in the consideration of which contracts are urgent and the overuse of this type of processing to simplify and limit competition of processes.

3. Improve transparency and competition:

It is clear that publication of processes enhances competitiveness and deters fraudulent awarding of contracts. That is why, it would be interesting that, at least those contracts that are EU funded, come with requirements that promote transparency. For example, there should be publication requirements in the public tender platforms independently of what procedure is concerned, even if participation to it is limited. To ensure that the even the processes based on negotiations happen while published. Basically, the negotiated without advertisement should be reserved for only very extraordinary cases, when public security is concerned or extreme urgency comes into place, but should be heavily scrutinised.

Another relevant measure in this sense that would promote more competition is not allowing processes to have only manual presentation. Manual presentation should be contemplated, but should in every instance be possible to present documentation electronically to avoid

biases based on proximity of the tender. Taking into account that one of the transversal objectives of the RRF is the digital transformation it is contradictory that only manual presentation of bids is still aloud, as there is clearly no benefit to it and only remains as a vestige of the past.

4. Non-economically and result based Milestones and Targets

One problematic detected is that of too many Milestones and Targets (M&T) are not result oriented, and many are economically-based. Even if the idea of M&T as a form to develop a whole plan is well thought out to promote New Public Management policies, and rely less on the economic execution of projects, if the M&T are backed up by economic expenditure the purpose is diluted. The difficulty in the case of the PRTR is that it works in a pyramid structure, where the lower levels have smaller M&T that aggregated contribute to a higher-level M&T, successively until the M&T that the Spanish government has compromised with the EU (the CID M&T). And because the disbursement of the funds has been done in advance—in order to promote recovery— if not spent, it must be returned to the EU, and it carries penalisations to it.

It is clear that the RRF as well as the PRTR were designed in a rush, and an experimental structure was put into place, without completely abandoning the traditional payment at finalisation of the execution with invoice evidence contrasted. But the mixed method has not been clear enough on differentiating expenditure and completion of M&T. That is why it would be recommended to choose either two possibilities.

First, deploy the funding in form of lump-sums, where expenditure control is non-existent, except in specific audits, and the control is focused on the outcome of the M&T. This option comes with the advantage for the beneficiary not to worry on exact amounts to be spent, and stress over specific economic execution dates. Still, the later control for misuse must be more intense on behalf of the Commission or the State. On the one hand, the control of the outcome must be thorough and strict, to ensure that the grant has clearly been spent in the defined means. On the other hand, financial control must also occur whenever red flags are detected. This method simplifies the justification tasks for the beneficiary, while it clearly increases the burden on the responsible authority, as the second must closely calculate beforehand the economic value of each activity, and is also responsible for close-up control. Because of this, such a system would be difficult to implement for the projects of the PRTR, as the magnitude

of the Recovery Plan is such that evaluating every budget to adjust the specific lump-sum would probably be too big of an effort. But still, it could be applied to specific calls of the PRTR.

Second, maintain the new method of the M&T, but do not advance payment unless required by the beneficiaries. Of course, the objective of advancing the grants had the objective to apply a Neo-Keynesian policy that would increase public spending and direct it to private businesses to keep the economy afloat. But when grants are awarded in the end, once the justification is finalised, the economic amount is clear, and does not imply penalisation when the beneficiary has spent less than expected, if the outcome is the one expected. Then the M&T system is more effective, and does not require to be based on economic expenditure.

5. Closer monitoring of mid-tier authorities

In the PRTR many of the grants and reforms are being deployed directly from the central government and its ministries. Considering that Spain is quite administratively decentralised, and counts with Autonomic Communities, Province delegations, Counties, and Municipalities, each with their own governments or democratically elected governmental structures, it is not clear why this mid-tier authority level has not been made use of.

Even in some cases where the topic of investment was competence of the Autonomic Communities, such as tourism, the ministry was in charge of awarding the grants, even if later they have been monitored in coordination with the regional authorities. From the begging the PRTR should have made use of this lower levels of administration, as it could be a way to create more accessible channels to detect misuse. The PRTR makes it mandatory for all public beneficiaries of Next Generation EU funds to have an antifraud plan that must include the inclusion of an anonymous mailbox through which anyone can denounce cases of misuse of the funds. However, this may not be the only system in which misuse is detected, and mid-tier authorities can carry out more specific control than the central government.

6. More flexible execution of projects

Moreover, if the projects are closely monitored, and the authorities in charge of the execution follow-up are administratively closer to the beneficiaries, the projects itself could be more

flexible. The flexibility of projects would also be key in achieving less misuse of the funds. The fact that what is applied for must be complied until the end, and only certain situations are reason to produce modifications, incentivises the beneficiaries to find ways to “technically” comply with the requirements, but may not be as focussed in producing the best outcome that the M&T could produce.

To establish a system based on M&T it is crucial to also have continuous evaluation that restructures projects in a more agile-like functioning, and assesses and adapts the execution according to the reality while ensuring the M&T will be met with the same quality. Moreover, the milestones and targets should be mostly result and impact oriented as Darvas (2023) suggests. Flexibility would mean, revisions of the projects already contemplated from the start to be implemented during its execution. For instance, to make apply better solutions, that when the application where not contemplated, adapt activities to the detected needs, etc. This would guarantee a more effective and efficient use of the invested money.

At the lower levels, for the executing entities the pressure to spend is felt the most. Mainly because if projects do not fulfil the 100% of the described measures in the application, they lose the totality of the grant and must return it with interests. Revision would allow more efficient expenditure, and not spending for spending, which is already happening in projects funded by the PRTR.

7. Clear tools for the implementation of obligations

Finally, but as importantly, the tools for the implementation of the obligations should be set clearer. Again, the rush in which the RRF and the PRTR were designed may explain the chaotic legal and normative structure of the Plan. This lack of structure from the start has affected the implementation of the PRTR, materially, as well as its legitimacy.

The overcomplication of forms of reporting and use of tools that keep being explained to beneficiaries as the execution takes place, is a constant burden on the executors. The compromise to develop a unified application as is CoFFEE for all Next Generation EU funded projects, requires a level of complexity that cannot, or should not be improvised. Similarly, the appearance of new requirements, such as it happened with the MINERVA testing for conflicts of interest in public procurement, without prior generalised announcement for the beneficiaries, denotes a lack of coordination in the Spanish government and it has aggregately diffculted execution of the funds.

The clearer and easier to use the system in place, the easier it is to ensure compliance with obligations, and that is something that the PRTR has clearly lacked so far.

9. Limitations and future research

First and foremost, the greatest limitation is the temporal moment when the study is being carried out, as in the first half of 2024, the PRTR is in full functioning and halfway through execution. And when evaluation is intended is always preferable to have some temporal distance to see the bigger picture and allow more data and evidence to be available. This is most notably seen in the aspect of the amount of literature that is accessible on the topic. Not many studies have been published on the matter, and most that have been published so far concern the designing of the funds and the RRF, the theory of implementation, and the expectations of the mechanism. Nonetheless, there have been some studies so far such as Espinosa's et al.'s which has explored a preliminary impact of the Next Generation EU Funds in Spain. That brings to the fact that the body of analysis has had to be limited to the publications of the PRTR, and media snippets that have addressed some information on the topics, but there have not been academic and documented publications on the matter that could guide more informed research.

Another great caveat is the difficulties in reaching the targeted professionals with the questionnaire. Out of more than 1.000 projects, involving more than 500 different entities responsible for the projects, almost none of the organisms have a publicly published contact e-mail to reach the people in charge of executing the project. This has resulted in an over involvement of resources on finding contact forms that were less ideal, including general information and general mail boxes of the institutions, with the added consequence of having less participation in the questionnaire. Taking into account that participation is already a difficulty, in a cold-sent questionnaire, relying on the people in charge of reading through general information e-mails to send the questionnaire through to the executors of the project deterred the possibility even more. That is why, for future research, the collaboration with the responsible authorities may be of great use, as they will have access to the contact data that will allow the questioning to take place directly to the beneficiaries, as well as having more authority to ask for answers.

Moreover, for future investigations, the resources should be greater, as this research was carried out in non-working hours, which has made it impossible to directly contact via phone

the general areas in charge of the execution of projects. To carry it out it would require at least one or two people during several weeks carrying out telephonic surveys to achieve an amount that would make the responses statistically significant. For the present case, at least 200 responses were needed to achieve a statistical confidence of the 95%, still, with the cold e-mail system less than 20 responses were obtained, taking into account that more than 1.000 e-mails were sent. That is why, half way through the research the strategy had to be abandoned.

There has been no intention to analyse the answers received, as it is also very probable that those answers gotten in the survey have a bias towards more implicated people in the projects who are the ones interested in answering the questionnaire. Moreover, there may also be a bias in avoiding to tell the truth in the more sensitive topics such as if there is any risk of corruption or embezzlement, as even if the survey clearly states the data will not be of use for external processes nor communicated to third parties, it is improvable that people have the trust to communicate the risks of these possibilities of happening. With these little answers the bias would clearly be accentuated, so analysing the data produced does not make much sense.

On the research over corruption to be found in public procurement, the first limitation is of methodological design. There is not enough evidence to suggest that the chosen red flags are indeed reason enough to believe that there are determinant in the definition of Corruption Risk. Mainly because there is no way of assessing the weight the indicators have on the specific cases. Also, in the current analysis it was not controlled by CPV as there was too much of segmentation of the market in 174 level 3 categories that had more than 10 contracts, for the 24.764 of the funded contracts. In addition to that, there was not a control group study carried out to compare to the non-funded contracts, as the information extracted from the PLCSP was only conducted in those that were financed by the PRTR.

Moreover, in Spanish public procurement law, contracts under 15.000€ for services and supplies, and 40.000€ for works and constructions do not need to be publicly published on the platform. These go under the radar, and they can be awarded without having to comply with any competition rule, that is why there are many cases of minor corruption that involve fractioning prices to not have to undergo public procurement procedures and award the contract as desired without competition. This, even if it is quite scrutinised, is another caveat where corruption with Next Generation EU funds could be happening. Nonetheless, to detect

it a more in-depth level of audit should be required that could analyse a more of a case-by-case strategy. This research assumed Fazekas' and Tóth's study results to be reliable, and an adapted, but direct application on the Spanish case should produce confident results on the same assumptions, but more discussion is required in order to ensure confidence to both their study and the current research.

Moreover, when contacting several antifraud authorities, they all rejected informing on none of the information about current investigations on Next Generation EU funds in Spain, even when reiterated that only a number of investigations or accusations was required to know whether there were any cases under check or none. OLAF, declined under confidentiality of its investigations, the EPPO only redirected to their annual report, and the Spanish National Service of Antifraud Coordination (SNCA), also declined under confidentiality but pointed to the option of officially inquiring through a request to public information under Law 19/2013, of December 9, on transparency and access to public information and good governance. However, the official inquiry, even though it has been processed, has to date no answer. In some years, these investigations—if any—will probably be accessible under request, and it will be easier to shed light on the misuse of this specific funding.

The last limitation has been the inability to find willing interlocutors to be interviewed that had been involved in the deployment and control of the PRTR. Both ex-directors of the PRTR were contacted via LinkedIn, and even if they accepted the connection request, they did not answer to the message, probably because of the lack of authority and appeal participating in a master's thesis has. Their participation could have greatly enriched the current study, but unfortunately it could not be carried out. In future studies it would be of interest to enter into contact with them, to understand their role in the deployment of the Next Generation EU funding, as well as in the approval of the 2023 addendum, and understand their step-down from office in such a short period of time.

For further analysis on the topic of misuse of Next Generation EU funds or EU funds in general, there are many things that should be investigated. This study has aimed at opening some debate and ideas towards where future investigation can look into, but in a very preliminary stage of the execution of Next Generation EU funding, none of the results can be conclusive. That is why, after this research it would be of great interest to keep a close follow-up on the execution of the Next Generation EU funds and assess whether any cases of misuse are detected. Also, once the financing is finished, it would be of interest to evaluate

the different tools and the control systems put in place and their effectiveness, such as the CoFFEE platform.

Another interesting approach should be to compare the forms in which the EU distributed funding and in which structure does it make more sense to promote New Public Management forms of executing funding, with a Milestone and Target structure. This would set an example for future programming periods of the EU and more have an evidence-based proposal on what procedure is most convenient for each form of funding.

From previous examples of fraud involving EU funds in Spain, and other cases of corruption, it is to be expected that some cases regarding the PRTR may still arise. The question also is, whether the cases that will happen are of severity or will only consist of petty forms of misuse, or minor fraud, or if they constitute cases of grand corruption and scandalous cases such as the one that the EPPO discovered in Italy on April 2024.

10. Conclusion

The Recovery and Resilience Facility (RRF) within the Next Generation EU framework represents a historic and unprecedented economic intervention by the EU, aimed at mitigating the severe economic repercussions that the COVID-19 pandemic had, and the recession that was expected to happen after it. After analysing the implementation of the Next Generation EU Funding in Spain, and some of the probable cases of misuse, mostly focused on public procurement some conclusions can be drawn.

Spain's Recovery and Resilience Plan (PRTR), the structure that the government put in place to articulate the RRF in Spain. By the end of last year, 2023, Spain had already received 3 disbursements totalling 37 billion euros, and requested an additional 10 billion euros. This injection, equivalent to 2% of Spain's GDP has catalysed substantial economic activity, and according to Espinosa, et. al. (2023), 4,5% of the National GDP of 2023 and 2024 is directly related to this investment. So far this underscores the effectiveness of the RRF in Spain where the multiplier effect of the public investment has maintained the economy afloat.

The governance structure of the PRTR involves rigorous monitoring and control mechanisms as mandated by the EU. The CoFFEE platform is the structure set in place to oversee the fulfilment of Milestones and Targets, indicators, and legal instruments of distribution of funding. However, the systems set in place are still lacking solidity, and some

misuse of the funds can be attributed to the unclear instructions given from the government to beneficiaries in the implementation of PRTR funded projects. The further the PRTR execution has advanced, more clarifications have appeared, but in the early stages of the Plan instructions and tools were not robust enough.

Under the PRTR the public entities beneficiaries of funding must have an Antifraud plan despite this, the risk of misuse and corruption of funds remains a concern. Drawing from the analytical framework by Fazekas and Tóth (2016), which explores the correlation between EU funding and corruption, this research has deepened in the cases in Spain's public procurement to assess what the Corruption Risk Index (CRI) was in Next Generation EU funded contracts. The analysis established a CRI of 0,12 indicating a level of risk close to the 10% that Transparency International identifies is usual in public procurement. Which probably means, that even with the measures put in place, the PRTR did not have a deterring effect on the usual corruption that occurs in public procurement.

Nonetheless, such conclusion can suppose a great accusation, taking into account that so far, Spain has not been found of any fraudulent case related to Next Generation EU funding, and by the end of 2023, it is not known of any investigations that involving the country. To this positive news, is important that Spain remains vigilant and puts in place the highest quality of control mechanisms to ensure the least amount of European funds are lost in misuse.

The RRF's implementation carries socio-political implications. As highlighted by Myrodiadis (2024), the RRF was not only aimed at economic recovery, but it sought to reinforce EU solidarity and the trust in the supranational institutions. This Neo-Keynesian approach to economic policy, involving significant EU-level indepthness to support member states, represents a strategic effort to foster unity and resilience within the Union. It seems that the RRF was not designed to reduce regional disparities but rather, calm the financial markets in front of the risk of recession and economic crisis. Consequently, while the RRF has provided economic benefits, as it is clear in the case of Spain, it remains to be seen its capacity to actually transform growth models and whether it can reduce the economic gap. This perspective raises questions on the truly resilient and balanced European economy in the long term.

List of abbreviations

CI: Elementary Corruption Indicator

CID: Council Implementing Decision

CoFFEE: Information of management and follow-up system

CRI: Corruption Risk Index

CSR: Country Specific Recommendations

DNSH: Do No Significant Harm – Environmental principle

EPPO: European Public Prosecutor’s Office

LCSP: Ley de Contratos del Sector Público (Public Sector Contracting Law)

MINERVA: Risk of Conflict of Interest Analysis system

M&T: Milestones and Targets

NGEU: Next Generation EU

NMP: New Public Management

NRRP: National Recovery and Resilience Plan

OLAF: European Anti-Fraud Office

PERTE: Proyectos Estrategicos para la Recuperación y Transformación Económica (Strategic Projects for the Economic Recovery and Transformation)

PLSCP: Plataforma de Contratación del Sector Público (Public Sector Contracting Platform)

PRTR: Plan de Recuperación, Transformación y Resiliencia (Resilience, Transformation and Recovery Plan)

RDL: Real Decreto Ley (Law)

RRF: Recovery and Resilience Facility

SNCA: Servicio Nacional de Coordinación Antifraude (National Service of Anti-Fraud Coordination)

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Bibliography

- Abreu, J.** (2022). "La corrupción política en España: un análisis descriptivo (2000-2020)". Research Institute of Applied Economics, University of Barcelona, 1-40.
- Bayona, E.** (2023, October 08). "El ladrillo se lleva dos de cada cinco euros de los fondos de recuperación de la UE". Público. Available at: <https://www.publico.es/economia/ladrillo-lleva-cinco-euros-fondos-recuperacion-ue.html#analytics-tag:listado> [Last accessed 01.06.2024]
- Bekker, S.** (2021). "The EU's Recovery and Resilience Facility: A Next Phase in EU Socioeconomic Governance?" *Politics and Governance*, 9(3), 175-185.
- Bokhorst, D., & Corti, F.** (2023). "Governing Europe's Recovery and Resilience Facility: Between Discipline and Discretion." *Government and Opposition*, 1-17.
- Caraballo, J.** (2022, January 25). "Alerta por la 'corrupción Next Generation'". *El Confidencial*. Available at: https://blogs.elconfidencial.com/espana/matacan/2022-01-25/alerta-corrupcion-next-generation_3363878/ [Last accessed 01.06.2024]
- Cuesta, C.** (2023, December 15). "La UE admite que debe perseguir el fraude en plena polémica por el descontrol del uso de los fondos europeos en España". *LibreMercado*. Available at: <https://www.libremercado.com/2023-12-15/la-ue-admite-que-debe-perseguir-el-fraude-en-plena-polemica-por-el-descontrol-del-uso-de-los-fondos-europeos-en-espana-7079579/> [Last accessed 01.06.2024]
- Darvas, Z.** (2023) "The EU Recovery and Resilience Facility falls short against performance-based funding standards: The rules and guidance underpinning EU economic recovery funds seek inputs and outputs, not result; this has led to uneven use of results indicators". *Bruegel*. Available at: <https://www.bruegel.org/analysis/eu-recovery-and-resilience-facility-falls-short-against-performance-based-funding> [Last accessed 05.06.2024]
- Darvas, Z. Weslau L.** (2023) "First lessons from the Recovery and Resilience Facility for the EU economic governance framework". *Economic Governance and EMU Scrutiny Unit (EGOV)*. Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/741748/IPOL_IDA\(2023\)741748_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/741748/IPOL_IDA(2023)741748_EN.pdf) [Last accessed 05.06.2024]
- Delgado, J. T.** (2024). "El responsable de los fondos UE de Hacienda dimite en plena negociación del cuarto pago." *Vozpopuli*. Available at:

https://www.vozpopuli.com/economia_y_finanzas/responsable-fondos-ue-dimite-cuarto-pago.html [Last accessed 19.05.2024]

Delle Femmine, L. (2024, May 14). "El Gobierno prevé la creación de 875.000 nuevos empleos de aquí a 2025". *El País*. Available at:

<https://elpais.com/economia/2024-05-14/el-gobierno-preve-la-creacion-de-875000-nuevos-empleos-de-aqui-a-2025.html> [Last accessed 01.06.2024]

Dermine, P., & Bobic, A. (2022). "Of Winners and Losers: A Commentary of the Bundesverfassungsgericht ORD Judgment of 6 December 2022: Cases 2 BvR 541/21 and 2 BvR 798/21, Own Resources Decision Judgment of 6 December 2022." *European Constitutional Law Review*, 20(1), 163-190.

Espinosa, P., Aparicio-Pérez, D., Pavía, J. M., & Tortosa-Ausina, E. (2023). "On the impact of Next Generation EU Funds: A Regional Synthetic Control Method Approach." Working Papers 2023/07, *Economics Department*, Universitat Jaume I, Castelló.

European Commission. (2024a, February 21). Halfway through its lifetime, the Recovery and Resilience Facility continues to deliver across the EU through ambitious reforms and investments [Press Release]. Available at:

https://ec.europa.eu/commission/presscorner/detail/en/ip_24_943 [Last accessed 01.06.2024]

European Commission. (2024b). Country Overview: Spain. Recovery and Resilience Scoreboard. Available at: https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/country_overview.html?country=Spain [Last accessed 01.06.2024]

European Public Prosecutor's Office (2024a) *EPPO Annual Report*. Luxembourg: Publications Office of the European Union. Available at:

https://www.eppo.europa.eu/sites/default/files/2024-02/EPPO_Annual_Report_2023.pdf [Last accessed 05.06.2024]

European Public Prosecutor's Office (2024b) "Investigation 'Resilient Crime': 22 arrests in raid against criminal organization suspected of €600 million fraud involving NextGenerationEU funds" *EPPO News*. Available at:

<https://www.eppo.europa.eu/en/media/news/investigation-resilient-crime-22-arrests-raid-against-criminal-organisation-suspected> [Last accessed 05.06.2024]

Fazekas, M., & Tóth, I. J. (2019). "Corruption in EU Funds? Europe-wide evidence of the corruption effect of EU-funded public contracting." In Bachtler et al. (2016)

EU Cohesion Policy: Reassuring Performance and Direction, Routledge, 186-205.

Fernandez-Cerezo, A., Moral-Benito, E., & Quintana, J. (2023). "A production network model for the Spanish economy with an application to the impact of NGEU funds." Banco de España. DOI: 10.53479/27333. Available at: <https://www.bde.es/f/webpi/SES/staff/fernandezalejandro/Files/AProductionNetworkModelFortheSpanishEconomy.pdf> [Last accessed 06.06.2024]

García, N. (2024, May 02). "España por debajo de la media europea en recepción de fondos 'Next Gen'". *El Economista*. Available at: <https://www.eleconomista.es/economia/noticias/12796339/05/24/espana-por-debajo-de-la-media-europea-en-recepcion-de-los-fondos-next-gen.html> [Last accessed 01.06.2024]

Gimeno Feliu, J. M. (2016) "La corrupción en la contratación pública. Propuestas para rearmar un model desde la perspectiva de la integridad" In Villoria Mendieta, M. et. al, (2016) *La corrupción en España. Ámbitos, causas y remedios jurídicos*. Atelier, 247-300.

Gómez, M. (2024, May 30). "La Fiscalía Europea reclama la investigación de todo el "caso Koldo"". *El País*. Available at: <https://elpais.com/espana/2024-05-30/la-fiscalia-europea-reclama-la-investigacion-de-todo-el-caso-koldo.html> [Last accessed 01.06.2024]

Gobierno de España (2021). Plan de Recuperación, Transformación y Resiliencia. Available at: https://www.lamoncloa.gob.es/temas/fondos-recuperacion/Documents/160621-Plan_Recuperacion_Transformacion_Resiliencia.pdf [Last accessed 02.06.2024]

Gobierno de España. (22 de febrero de 2024). El Mecanismo de Recuperación y Resiliencia sigue funcionando en toda la UE con ambiciosas reformas e inversiones. Plan de Recuperación, Transformación y Resiliencia, Noticias. Retrieved from: <https://planderecuperacion.gob.es/noticias/Mecanismo-Recuperacion-Resiliencia-MRR-sigue-funcionando-toda-UE-ambiciosas-reformas-inversiones-prtr> [Last accessed 19.05.2024]

Hidalgo, M., Galindo, J., & Martínez, J. (2024). "Evolución de los Fondos Next-Gen EU en España (Policy Brief)". *EsadeEcPol – Center for Economic Policy*. Available at: https://www.esade.edu/ecpol/wp-content/uploads/2024/02/Brief_fondos_vmar.pdf [Last accessed 01.06.2024]

- López, D.** (2024, May 04). “Las comunidades reciben más de 3.000 millones de fondos europeos para el coche eléctrico”. *El País*. Available at: <https://elpais.com/economia/2024-05-04/las-comunidades-destinan-mas-de-3000-millones-de-fondos-europeos-a-los-coches-electricos.html> [Last accessed 01.06.2024]
- Maqueda, A.** (2024, April 05). “España ha adjudicado 34.395 millones de los fondos europeos”. *El País*. Available at: <https://elpais.com/economia/2024-04-05/espana-ha-adjudicado-34395-millones-de-los-fondos-europeos.html> [Last accessed 01.06.2024]
- Marra, A.** (2021, May 06). ““Recuperación, transformación y resiliencia”, un proyecto de país”. *Público*. Available at: <https://blogs.publico.es/otrasmiradas/48822/recuperacion-transformacion-y-resiliencia-un-proyecto-de-pais/#analytics-tag:listado> [Last accessed: 01.06.2024]
- Ministerio de Hacienda y Función Pública.** (2023). Plan de Recuperación, Transformación y Resiliencia: IV Informe de Ejecución del Plan de Recuperación. Diciembre 2023. Retrieved from: https://planderecuperacion.gob.es/sites/default/files/2023-12/21122023_IV_Informe_de_Ejecucion_del_Plan_de_Recuperacion_completo_0.pdf [Last accessed 19.05.2024]
- Muñoz, M.** (2022, February 24). “El Gobierno defenderá su gestión de los fondos europeos en la Conferencia de Presidentes ante las críticas del PP”. *Público*. Available at: <https://www.publico.es/politica/gobierno-defendera-gestion-fondos-europeos-conferencia-presidentes-criticas-pp.html#analytics-tag:listado> [Last accessed 01.06.2024]
- Myrodias, K.** (2024). 7.3 The Keynesian Response to the Covid-19 Crisis. In Myrodias, K., *The Political Economy of the Eurozone’s Rollercoaster*. Greece and Portugal from the Global Financial Crisis to Covid-19. 177-188.
- Sastre, F.** (2021). “Riesgo de corrupción en fondos europeos”. *El Economista*. Available at: <https://www.economista.es/opinion-blogs/noticias/11510984/12/21/Riesgo-de-corrupcion-en-fondos-europeos.html> [Last accessed 01.06.2024]
- Student Posts.** (2022). [DRAFT] Protecting your money: How OLAF and the EPPO can help each other fight the misuse of EU funds. EU Law Enforcement. Utrecht

University. Available at: <https://eulawenforcement.com/?p=8241> [Last accessed 19.05.2024]

Transparency International. (2024). Corruption Perceptions Index 2023.

Zamorano, A. (2024, March 01). “Guía per entendre el cas Koldo (O Ábalos)”. *Ara*.

Available at: https://www.ara.cat/politica/guia-entendre-cas-koldo-abalos_1_4953132.html [Last accessed 01.06.2024]

Annex I

Proposed survey on the perception of misuse of Next Generation EU Funds in Spain:

1. Project Name
2. Component and Investment of the PRTR (format C01.I01)
3. Beneficiary Entity Name
4. Type of Beneficiary Entity
5. Project Duration in Years (example of format 2021-2026)
6. Is the project co-financed with sources other than the Recovery, Transformation and Resilience Plan?
7. Was the reception of Next Generation EU funding before or after the start of the project?
8. Was the project drafted before or after 2020?
9. Do the expected results of the project clearly align with the objectives established in the grant call, measure, and/or component of the PRTR? [1-5 evaluation]
10. Does the project involve a real transformation/innovation/change in the area of application?
11. Does the project contribute to any environmental or digital label from Annex I of Regulation (EU) 2021/241 of the MRR?
12. If yes, list the label numbers of the project.
13. Does the project go against or harm the development of any of the labels of the European Union's Recovery and Resilience Mechanism? [1-5 evaluation]
14. Does the project genuinely promote digital transformation? [1-5 evaluation]
15. Has the project fostered cross-functional work between areas/departments of the entity? [1-5 evaluation]
16. Has the project brought about a change in the entity's way of working, promoting a more efficient and interdisciplinary way of working? [1-5 evaluation]
17. Has the project highlighted any inefficiencies of the entity?
18. If yes, list the inefficiencies that have been highlighted if they have appeared.
19. Are public procurement processes financed with NextGenerationEU funds applied as stipulated by law? [1-5 evaluation]
20. Have there been contract fragmentations or manipulations of procurement processes to favour candidates? [1-5 evaluation]
21. Have prices over the market been used for contracting the execution of the project? [1-5 evaluation]

22. Has there been a conflict of interest in any procurement or other legal instrument of the project? [1-5 evaluation]
23. If there has been, has it been detected by the conflict-of-interest risk analysis of the MINERVA platform?
24. Has the communication regulation prescribed by the PRTR been complied with?
25. Risks of non-compliance [each between low, moderate or high]
 - a. Milestones and Targets
 - b. The maximum deadline of execution
 - c. Economic (over-costs, budgetary...)
 - d. Non desired environmental impact
 - e. Fraud, corruption and embezzlement
 - f. Conflict of interest
 - g. Double financing
 - h. Overfinancing of the project
 - i. In general, of the normative of the PRTR
26. What has been the result if the project has been audited by an external audit?
27. If audited, what have been the results?
28. If audited, have additional requirements been made?
29. Has it been necessary to return funds from NextGenerationEU allocated to the project in whole or in part?
30. Has the European funds management platform CoFFEE been used? [1-5 evaluation]
31. Do you consider that the PRTR is achieving the recovery and transformation objectives of the Spanish economy? Why?
32. What elements do you think are failing in the implementation and execution of the PRTR?
33. Assessment of the control and monitoring system of the PRTR provided by the State (CoFFEE, MINERVA, ministerial platforms, TAYS...)
34. Any other comments or contributions to add?
35. Thank you for your collaboration with the research project.
36. If you know technicians/responsible parties for the execution of NextGenerationEU-funded projects from your entity, or other public entities that can answer the questionnaire, it may be very useful to ensure a more statistically significant result.