

Audit report on the emergency contracts for managing the COVID-19 pandemic that were concluded in 2020 by national ministries and their autonomous bodies

Compliance

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FULL REPORT (ES) 

What we assessed and why

The aim of the audit was to examine emergency procurement in 2020 to deal with the COVID-19 pandemic, given the significant number and monetary value of the contracts concerned, as well as the exceptional procedures followed and subsequent limited guarantees. We specifically audited procurement in ministries dealing with economic matters. The Ministry of Health concluded the highest number of contracts, and was responsible for 97 % of expenditure.

We analysed how the emergency procedure was justified, whether the procurement was reported in a timely and procedurally appropriate manner, and what the dynamics of these contracts were, from preparation through to implementation, considering the rules and principles applicable to public procurement.

What we found

The World Health Organization deemed the public health emergency caused by COVID-19 a global pandemic. This exceptional situation prompted the government to implement a set of measures to ensure the supply and delivery of certain products necessary to protect health.

Thus, on 5 March 2020 the Minister for Health approved the centralised supply by the state of these products “due to exceptional supply difficulties and to ensure optimum distribution”. Furthermore, emergency procedures were drawn up to procure various goods and services required by public-sector entities.

All these contracts were concluded in the context of an unprecedented global pandemic, where the Spanish market production was unable to meet the urgent need for necessary products. It was therefore necessary to resort to the international – mainly Asian – market.

Out of 152 concluded contracts (worth a total of €529 million), 133 were audited (€526 million). The Ministry of Health was responsible for 63 of these contracts (€510 million).



What we concluded

- In 95 % of cases, the subject matter of the audited contracts was directly or indirectly linked to the measures for dealing with the COVID-19 pandemic.
- There were some formal shortcomings when reporting the contracts to the Comptroller or the Council of Ministers, and in the publication of their award and formalisation.
- The services to be provided were somewhat vague for 7 % of the contracts, and the time frame for implementation was not explicitly outlined, or was flexible or imprecise for 22 % of the contracts.
- There were various incidents and irregularities in the implementation of 21 % of the audited contracts concluded by the Ministry of Health, due to late fulfilment of obligations or defective performance. Depending on the case, this led to termination, delays in implementation (causing deadline extensions and further delays in meeting the new deadlines), and requests to replace defective equipment or to refund its cost (some of which are still pending). In some cases where the equipment did not meet requirements, the entity did not request a refund and/or replacement.
- Surgical masks without the CE logo were received until April 2020 and accepted pursuant to Commission Recommendation (EU) 2020/403, which allowed their purchase “where market surveillance authorities find that [they] ensure an adequate level of health and safety” and stated that they could only be made available to healthcare workers during the ongoing health crisis. The Ministry of Health distributed at least 28.6 million masks outside the national health system. It is unknown whether end recipients were healthcare workers.
- As for the concentration of successful tenderers, one company was awarded four contracts worth a total of €217 million for surgical masks, even though the stated purpose of the company was unrelated to the supply. Moreover, three product supply contracts were awarded to a company to which INGESA had already awarded two other contracts. The overall value of the five contracts was €187 million.