

EXPANDED ABSTRACT

Social Economy and Public Procurement: the reserved procurements tool

The European 2020 is a milestone for the change of paradigm of public procurement, which has to become an important part of the sustainable development strategy. The legal evolution from the 2004 to the 2014 package of directives has increased the possibilities to introduce environmental and social consideration., overcoming the traditional system for choosing the most economically efficient offer and linking that selection not only with the price offered but also with criteria related to quality.

This new legal framework opens an opportunity to encourage the participation of the Social Economy organizations in it, aiming to contribute to different social and environmental objectives. In Spain, Law 9/2017 establishes the promotion of the Social Economy (in addition to the SMEs) as one of its priorities. To that end it consolidates the introduction of social and environmental criteria linked with the core activities of the Social Economy.

One of the main legal impulses to broaden the participation of social enterprises into public procurement are the changes that Law 9/2017 has introduced regarding the reserved procurements. This type of procurement differs from regular ones in that participation is limited to two types of organizations: the social integration businesses (Empresas de Inserción) and the Special Employment Centers (Centros Especiales de Empleo) and, among the second ones, only the non-profit entities.

The main novelty created by the Law is the obligation that every public administration has to set a governmental agreement in order to establish the precise amount and sectors that will be reserved for the aforementioned types of entities. This creates an enormous opportunity for these social enterprises, and also offers a huge potential to find new opportunities for collectives at risk of exclusions these organizations normally work with, but also raises a concern about the readiness and preparation of the business to be up to the challenge.

The main aim of this article is to study the evolution and characteristics of the reserved procurements in the period between 2008 and 2018. Despite the potential importance of these instruments, they have been scarcely studied. There is a gap on public procurement research not only regarding the legal characteristics of this type of procurements but especially in relation to their impact. This paper seeks to contribute to the bridging of this research gap using a sample of more than 250 processes extracted from the national and regional procurement platforms in Spain. One of the problems to be faced was the inexistence of the obligation of publication of the procurement in a centralized platform. until the coming into force of the Law 9/2017.

The methodology employed for the study required the construction of a database with the different procurements found and the identification of diverse characteristics of each of them to favor the analysis. Therefore, the following quantitative and qualitative variables regarding the preparation and evaluation phases have been chosen for the analysis: amount of the contract, type of procedure, category of services, works or supplies (classified according the Common Procurement Vocabulary as regulated by the European Union), and criteria used to award the contract.

The analysis did not focus only on the reserved procurements but also seeks to establish a comparison with the regular procurement to analyze the possible differences between the two types. To do so, two more variables, related to the awarding phase, were considered. The economic efficiency of the contracts, defined as the difference between the procurement budget and the final amount of the contract, and the degree of concurrency, measured as the number of offers presented to each procedure.

To proceed with the comparison, a sample of 100 regular procurements was taken, from similar contractual objects to those of the reserved procurement ample, extracted from the Public Sector Procurement Platform, with the objective of establishing whether or not there are differences between both groups.

The results obtained from the analysis of the reserved procurement sample show that their distribution is heterogenous inside of Spain. Regions like Cataluña, Euskadi and Navarra have advantage both in the of procedures and in accumulated amount over others like La Rioja or Extremadura which are just starting. Moreover, services are the general sector where those contracts are developed, since there is a residual presence of supplies or works. Nevertheless, it is important to note that this kind of procurements have been used in activities beyond the traditional market niche of the social enterprises that might participate in them. Almost 20 types of activities have been identified and most of them have in common the fact that they are intensive on workforce, which is logical due to the social aim of the entities that can benefit from the reserve.

Regarding the procedures used, the reserved procurements are more transparent than the regular ones, with a vast presence of the open procedures. Finally, it is also remarkable that these procedures do not necessarily imply that the criteria used for the awarding are also social or environmental. In comparison with the regular procedures, a similar economic efficacy has been detected, whereas the degree of concurrency is lower in the reserved one, due to the smaller number of businesses that can participate.

This research faces several limitations that also present research opportunities for the future. Firstly, and due to the lack of information, some of the procurements, couldn't be found and therefore were not included in the sample. Secondly, more qualitative variables should be added to the study to esta-

blish the real impact of the procurements and the obstacles faced by both the public sector and the social entities. Knowing the opinion of the agents involved could point to the difference between regions that rely in the same national law.

Practical conclusion is that, although there is still a long way to go, the reserved procurements have a solid base of example on which the regions in the last positions can stand in order to improve their situation. The study also shows, for the first time, that in economic terms there are not big difference between the reserved procurements and the regular ones, thus supporting the arguments cemented by the new legislation about the possibilities of combining social value without harming the economic efficiency.

KEYWORDS: Public procurement, reserved procurements, social enterprises.