



ADACI

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Governance and organization of contracting authorities

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1. Introduction: aggregation of PPs

- Aggregation of public procurements: two main legal instruments: Central Purchasing Bodies (CPBs) and Framework Agreements (FAs)
 - CPBs: contracting authorities, offering procurement services to other contracting authorities. A lot of variety, but main possible models are:
 - agent or wholesaler model;
 - mandatory or optional recourse to CPBs
 - FAs: two-tier model:
 - Framework agreement, establishing the terms (ex. Price, delivery conditions) governing future contracts for a certain work/good/service for a certain period of time with 1 or more undertakings;
 - Contracts based on a FA, regulating the single purchase.



1. Introduction: aggregation of PPs

- Legal problems:
 - CPBs: how can a CA buy from or through a CPB without following a public procurement procedure?
 - FAs: possible anti-competitive effects.
- Legal solution in procurement Directives 2004 and 2014:
 - CPBs: if the public procurement procedure is followed by CPB, then the CA can purchase from or through a CPB;
 - FAs: time limitation (4-8years) and prior indication of participating CAs. Plus ECJ introduced another limitation: FAs should state the maximum amount and contracts based on FAs cannot exceed it,



1. Introduction: aggregation of PPs

- Both CPBs and FAs already existed in member States before Procurement Directives
- The scope of Directives is to maintain them and make them compatible with competition rules in the EU



1. Introduction: aggregation of PPs

- Quite widespread:
 - FAs: in 2017-24, 37% of total value of PP in EU (source: EC evaluation of 2014 directives, 2025)
 - CPBs: no official numbers, but see C. Risvig Hamer – M. Comba, *Centralising Public Procurement. The Approach of Member States in Europe*, Cheltenham, Elgar publishing, 2021.
- CPBs resort almost exclusively to FAs: more providers for more buyers
 - “double” aggregation;
- Moreover, procurement Directives also allow the use of CPBs from another Member State: “triple” aggregation?
- What are legal tools for centralizing purchases in the private sector?



2. Proper mix between national and local PP

- It is mainly a question of market analysis;
- Proper balance between economies of scale and variety in the definition of goods/services required;
- Ex. food procurement – From farm to fork
 - Local food, zero.km purchases ...
- However, in case of mandatory recourse to CPBs, legal problems may arise:
 - Ex in Italy – CONSIP vs local CPBs for global services



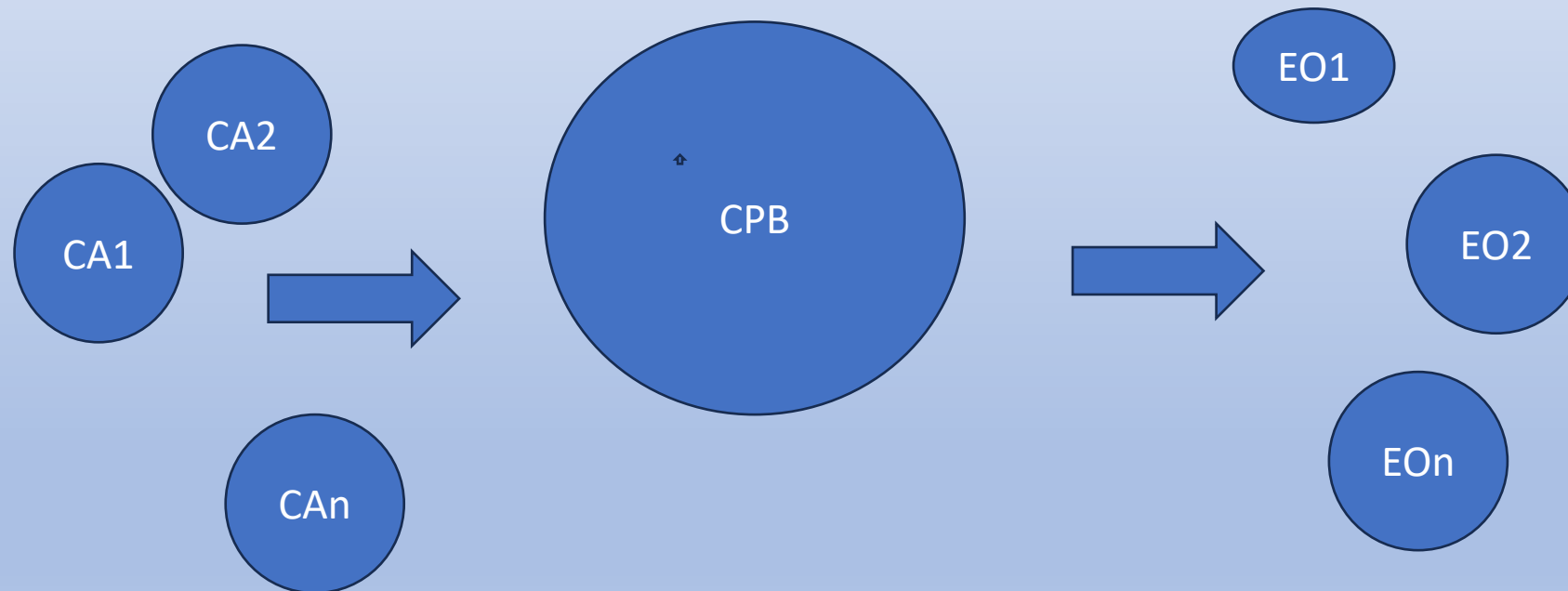
3. Central coordination or centralized procurement

- Central coordination is an alternative to centralized procurement
- Ex. Price analysis carried out by CONSIP – but local CPBs free to operate as long as within the maximum price.
- Ex. Supply platforms run by CONSIP



4. Definition of roles and responsibility

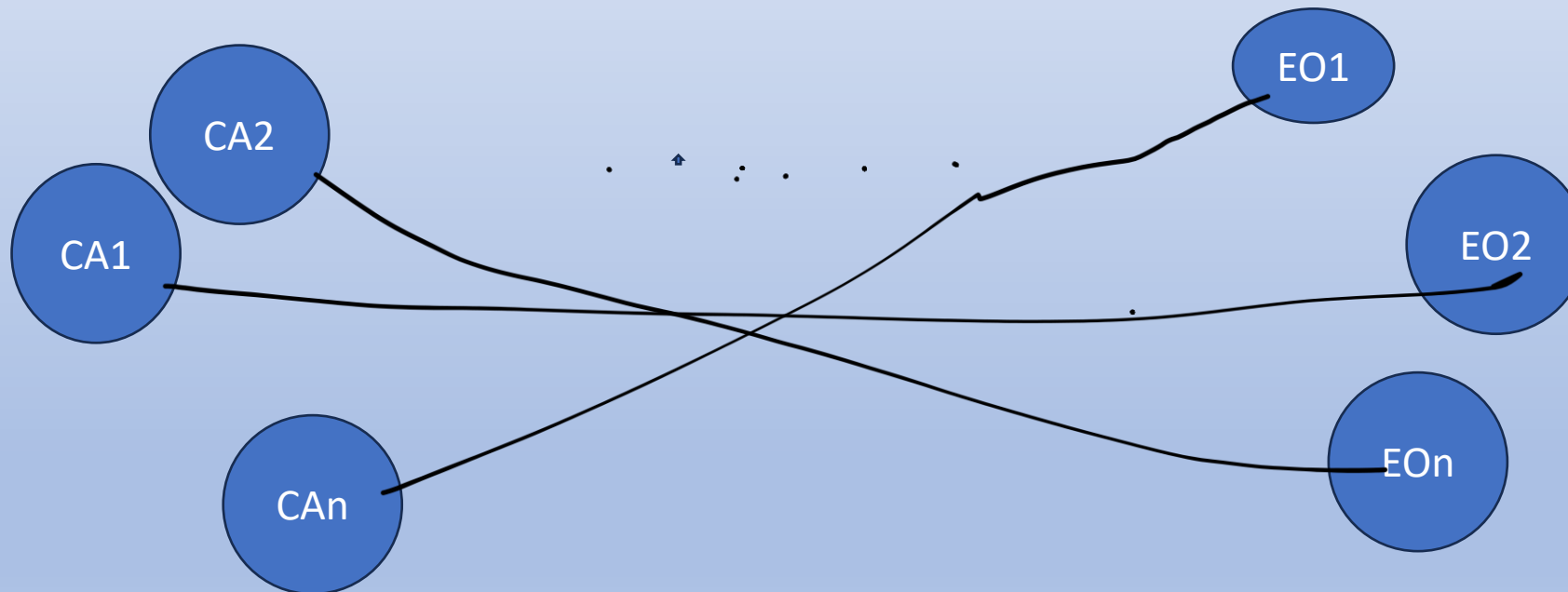
- AGENCY MODEL, phase 1





4. Definition of roles and responsibility

- AGENCY MODEL, phase 2



5. Collaborative approaches and open dialogue with supply markets



- CPBs can make better use of collaborative approaches and open dialogue with supply market
- Only limit: obligation to comply with fair competition and equal treatment
- Procurement directives of 2014 (not only for CPBs):
 - Competitive dialogue
 - Preliminary market consultation
 - Prior information notices

6. Flexible and efficient proceeding: automation supported by AI agents, KPI and financial audits



- Not easy to find info on efficiency of aggregated procurements
- Only some sectorial market analysis (ex. on medicines purchase)
- Certain national CPBs publish yearly reports.
- What are the goals of aggregation?
 - Specialization of competence:
 - stricter control against corruption;
 - Lower cost and more efficient procedures
 - Lower purchase prices.

Conclusion



- Public procurements have very peculiar problems and specificities, especially in relation to governance and organization of purchasing entities.
- However, the logic and dynamics of aggregated procurements possibly present some common issues with the private sector.
- there is no evidence of substantial comparative studies and experience exchanges between public and private aggregated procurements.