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**ROMANITIES CLAIMING SUSTAINABILITY:
THE CHALLENGE OF PRESERVING URBAN AND
ARCHAEOLOGICAL ENVIRONMENT IN THE CONTEXT OF
PUBLIC PROCUREMENT PROCESS**

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ABSTRACT

Taking as starting point some peculiarities of the archaeological and urban environment involved in the planning of Rome new underground line – what we mentioned as “romanities” –, this article proposes some reflections on the topic of sustainable public procurement and its strategic use as privileged instrument for the promotion of horizontal public policies in the light of the European Union normative paradigm on the matter. The article brings a definition of sustainable public procurement and presents the European Union normative framework that offers a wide juridical legitimisation to the institution as a parameter that must orientate the decisions of the contracting authorities. Furthermore, it demonstrates from a case study how public policies for ecological and cultural protection can be legitimately introduced into public procurement procedures. The case study involves the construction of a new subway line (Line C) – the most modern infrastructure of public transportation of this kind in Italy –, and how it seems to be contributing to the growth of the levels of sustainability of the cultural and urban environment for the benefit of Rome.

Keywords: horizontal policies; public procurement; sustainability; sustainable public contracts.

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ROMANIDADES QUE RECLAMAM SUSTENTABILIDADE: O
DESAFIO DA PRESERVAÇÃO DO MEIO-AMBIENTE URBANÍSTICO
E ARQUEOLÓGICO NO CONTEXTO DA CONTRATAÇÃO PÚBLICA

RESUMO

Tomando como ponto de partida certas peculiaridades do meio ambiente arqueológico e urbanístico envolvido na construção da nova linha da rede metropolitana de Roma, Itália – o que denominamos “romanidades” –, o presente artigo propõe algumas reflexões sobre o tema das contratações públicas sustentáveis e sua utilização estratégica como instrumento de promoção de políticas horizontais, à luz do paradigma normativo euro-comunitário sobre a matéria. O artigo traz uma definição de contratação pública sustentável e apresenta o quadro normativo europeu que confere uma ampla legitimação jurídica ao instituto enquanto paradigma que deve orientar as decisões das entidades adjudicantes. Além disso, demonstra, a partir de um estudo de caso, como as políticas públicas de proteção ecológica e cultural podem ser legitimamente introduzidas nos procedimentos de contratação pública. O estudo de caso envolve a construção de uma nova linha de metrô (Linha C) – a mais moderna infraestrutura de transporte público desse tipo na Itália –, e como ela parece estar contribuindo para o crescimento dos níveis de sustentabilidade do meio-ambiente cultural e urbano em benefício de Roma.

Palavras-chave: contratação pública; contratações públicas sustentáveis; políticas horizontais; sustentabilidade.

INTRODUCTION

The city of Rome, capital of Italy, is fascinating for the beauty inherited throughout history. Inserted in a unique context, it owes to the fruits of art, archaeology and culture a substantial part of its identity. Its monumental architectures and archaeological heritage are an incomparable legacy that offers a time-travel to the events that shaped western civilization's lifestyle and institutions.

This paper aims to present a brief reflection on the sustainability paradigm in the context of the modernization process of European Public Procurement Law. It starts from the analysis of certain peculiarities of the urban environment of Rome – what are now called “romanities” –, and then goes into a topic that is gaining more and more space in the European community policy-makers summits: the strategic use of public procurement as privileged instrument for the promotion of horizontal – or secondary – public policies of environmental and social matter. This is what has been called “sustainable public procurement”.

The article presents what should be understood by the term “sustainable public procurement”, presents the European Union normative framework that offers a wide juridical legitimisation to the institution and challenges a look at the horizontal role of public procurement from a concrete situation: the building of the third underground line of the subway of Rome (Line C) – one of the most modern infrastructure that Italy has ever implemented –, and its relation to urban environmental problems and the preservation of the historical and archaeological heritage.

1 SUSTAINABLE PUBLIC PROCUREMENT – GENERAL CONCEPTS

Public procurements can be considered as sustainable when, apart from satisfying the necessities for the contracting authorities for goods, services or works, incorporates politics of sustainability through the introduction of environmental and social considerations along the procurement process, or during the execution of the effective contract; therefore making itself – apart from economically profitable – socially just and responsible toward the environment (SANTOS, 2018).

This definition covers the principle elements to be considered approaching the topic: in a traditional perspective competitive procedures

that anticipated public procurement were always seen as a way to go after the more profitable proposal for the contracting authorities, this from the mere economic point of view – “best value for money”.

The sustainability factor, nevertheless, adds new ethical standards to the concept, proposing a new multifaceted perspective of the matter instead of a strictly economic logic (PEPE, 2012).

Here we specifically refer to the promotion of public policies through the inclusion of social and environmental considerations – which are not always easy to evaluate economically – as a necessary aim for public procurement:

[...] to ensure that customers make better use of public procurement in support of common social objectives: these include environmental protection, greater energy efficiency and resources, the fight against climate change, the promotion of innovation and social inclusion and finally the guarantee of the best possible conditions for the provision of high quality public services (CARANTA, 2012a, p. 381-382).

Despite oriented towards the immediate goal of satisfying the contracting authorities’ demand for goods, services or works, the government contractual activity must make sure that the circulation of the contracted goods will also lead to the promotion of public horizontal intents.

In the end, what we observe is a kind of inducing intervention from the contracting government in the economic domain, starting from a contractual management that stimulates economic actors towards sustainable behaviours, both environmentally, socially and economically.²

The proposed challenge is not irrelevant: it is the configuration of the government, due to its buying capacity and in virtue of its influence as agent on the market, as a sustainable consumer, conscious of its preserving duties towards the environment and, consequently, inclined to use its own procurements as an instrument to inspire actions, implement public policies and determine sustainable behaviours – without eroding the traditional principles of isonomy, anti-trust, transparency and equal treatment.³

2 “È facilmente percepibile l’importanza strategica rivestita dagli appalti pubblici ai fini di una maggiore competitività dell’UE, soprattutto in considerazione dell’enorme potenziale che caratterizza il settore della ecoindustria, la quale può dar vita ad un circolo virtuoso nel quale alla crescita della domanda di prodotti verdi se accompagna un notevole incremento del progresso scientifico e tecnico, in considerazione del forte stimolo all’innovazione innescato proprio dall’aumento della domanda” (SAITTA, 2008, p. 385).

3 The same reasoning is put forward by the Advocate General at the trial of Case C-368/10 (Commission v. Netherlands) of the Court of Justice of the European Union: “Se, e in che misura, sia consentita, nelle procedure di aggiudicazione, la considerazione di esigenze di natura ecologica e sociale [...] è una questione di importanza fondamentale per l’ulteriore sviluppo del diritto degli appalti pubblici. Nella soluzione di detta questione, la Corte è chiamata a trovare un equilibrio equo fra esigenze del mercato interno ed esigenze di natura ambientale e di politica sociale, senza tuttavia

2 EUROPEAN UNION NORMATIVE PARADIGM: PUBLIC PROCUREMENT AND HORIZONTAL POLITICS PROMOTION

The EU is the “biggest public procurement market in world in absolute monetary terms” (RODRIGUES, 2013, p. 193). The expenses of the contracting entities for the acquisition of works, goods and services reach nearly the 14% of the Union Gross Domestic Product (GDP), consisting in around 1,8 trillion Euros a year (EC, 2016).

For this very reason the area is considered as strategic for the realisation of the Internal European market.⁴ Its relevance, and representativeness, pose to the European Community Law the regulatory concern of not allowing the competitive freedoms to be diminished by discriminatory actions occurring during public procurement processes within the Member States (TELLES, 2013).

Hence the effort of adopting practices that might, somehow, promote an approach between the national legislations, as appropriate for the creation of the single Market. Thus, we talk about a “europeanisation” of public contracts referring to the phenomenon of the increasing convergence and harmonization between different juridical systems referring to this subject in the European space (ESTORNINHO, 2006).

It is in this relatively integrating context that the sources of the European Community law arise, as factors of normative approach among the national legislations.⁵

In terms of sustainable public procurement the Interpretative Communications of the European Commission gain prominence, among which we can mention, in chronological order of edition: COM (1998) 143 final, on Public Procurement in the European Union; COM (2001) 274 final, on the

trascurare le esigenze pratiche delle procedure di aggiudicazione. Da un lato, non si può pervenire ad una discriminazione di potenziali offerenti o ad una compartimentazione del mercato. Dall'altro, le amministrazioni aggiudicatrici devono potersi procurare, con un onere amministrativo accettabile, prodotti rispettosi dell'ambiente, biologici e del commercio equo e solidale” (quoted by CARANTA, 2012, p. 1132).

4 “[...] l'attenzione rivolta dalla Comunità alla c.d. apertura degli appalti pubblici discenda anzitutto – conformemente ai principi base contenuti nel Trattato istitutivo – dall'esigenza di applicare i principi del mercato interno (segnatamente quelli relativi alla libera prestazione di servizi ed alla concorrenza) [...] La liberalizzazione degli appalti pubblici rivestiva, infatti, la massima importanza, sia sotto il profilo economico generale, sia sotto il profilo più specifico della integrazione europea, nella prospettiva della creazione di un grande spazio economico” (SAITTA, 2008, p. 17).

5 “The European Union (EU) regulations regarding public procurement were enacted to help create a European Internal Market [...]. One of the consequences of the EU regulation of public procurement is the harmonization of legislation in twenty-eight Member States, each with competing interests and legal traditions” (TELLES, 2013, p. 4; 11).

Community law applicable to public procurement and the possibilities for integrating *environmental* considerations into public procurement; COM (2001) 566 final, on the Community law applicable to public procurement and the possibilities for integrating *social* considerations into public procurement; COM (2008) 400 final, entitled “Public procurement for a better environment”; COM (2011) 15 final, which brought the “Green Paper” on the modernisation of EU public procurement policy towards a more efficient European Procurement Market; COM (2011) 206 final, by which the European Commission lists twelve levers to boost growth and strengthen mutual confidence within the European Single Market, highlighting among them the importance of a “revised and modernised public procurement legislative framework, with a view to underpinning a balanced policy which fosters demand for environmentally sustainable, socially responsible and innovative goods, services and works” (EC, 2011).

Special mention should be made of the COM (2010), 2020 final, dealing with a Communication from the European Commission entitled “Europe 2020 – A strategy for smart, sustainable and inclusive growth”. The recital 95 of Directive 2014/24/EU highlights the important role of public procurement in achieving the targets set by the Europe 2020 strategy: “it is of utmost importance to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 strategy” (EUROPARL, 2014), which are based on three mutually reinforcing priorities: developing an economy based on knowledge and innovation (smart growth); promoting a more resource efficient, greener and more competitive economy (sustainable growth); and fostering a high-employment economy delivering social and territorial cohesion (inclusive growth).

Apart from Interpretative Communications, it’s important to highlight the importance of the two most recent clusters of European Directives in the realm of public procurement: the ones of 2004 (n. 2004/17 and n. 2004/18) and the ones of 2014 (n. 2014/23; n. 2014/24 and n. 2014/25)⁶. As a matter of fact, and as perceptible by the countless normative actions conceived in relation to the issue, the concern of the EU for the protection of the environment is a quite consolidated position, nevertheless it was only in the occasion of European Directives of 2004 that the relationship between environmental concern and public procurement became clearer,

6 “La Direttiva ha una sua propria efficacia quale strumento normativo; infatti contiene delle disposizioni obbligatorie, nel senso che gli Stati devono corrispondere alle esigenze da essa indicate; tuttavia essi sono liberi di scegliere i mezzi ed i procedimenti idonei a raggiungere i risultati indicati” (PENNACCHINI *et al.*, 1983, p. 74).

and established in a “synergy between Public Procurement Law and Environmental Legislation” (ESTORNINHO, 2012, p. 5).⁷

This euro-normative paradigm pro-sustainability of public procurements is reinforced by the publication of technical-educational contents that, despite being non-binding, have the function of soft-law, spreading the orientations established by the EU for this sector. For instance, we can mention two handbooks published by the European Commission: “Buying Green – A handbook on green public procurement” and “Buying social – A guide to taking Account of social Considerations in Public procurement”.

Fair enough. This set of norms, measures and acts show the political clout and the increasing rise of the topic of sustainable public procurement among the European Union, constituting a real “constitutional block” to protect it juridically.

In reality, there is a new awareness about the relevance of the role of public procurement for the achievement of the goals of a sustainable progress, answering to the necessity to overcome the economical-financial crisis and the social turmoil experienced recently in the continent.

In the frame of a Community that started being just “European and Economic”, other nuclear values seem to join inexorably the context of its macropolitical, socio-economic and environmental goals. Furthermore, considering its relevant purchase power and influence on the markets, public procurement gained a particularly strategic function in the current scenario of promotion of sustainable development.

3 PUBLIC PROCUREMENT IN THE BUILDING OF ROME SUBWAY’S LINE C

3.1 “Romanities” that challenge sustainability

It’s not everywhere in the world that we run the risk of crashing by accident into a marble bust of Emperor Julius Cesar while excavating trying to open up underground tunnels for the construction of a subway line. Or, as really happened, to see emerging from the debris Nero’s gymnasium and rounding dinner room, or even the monumental lounge of Emperor Hadrian’s *Ateneum* (EGIDI; FILIPPI; MARTONE, 2010).

⁷ In this same sense: “[...] se su un piano generale l’obiettivo di assicurare un elevato livello di protezione dell’ambiente e il miglioramento della qualità di quest’ultimo rappresenta da tempo una delle pietre angolari che segnano l’evoluzione della normativa comunitaria, sul piano più specifico della legislazione in tema di appalti pubblici, la previsione di requisiti in materia ambientale (Direttiva 2004/18/CE) rappresenta una novità assoluta, sia per il legislatore comunitario che per quello interno” (SAITTA, 2008, p. 383).

Surprising discoveries mingle with building sites of the third line of Rome Underground. Unique heritage in the world, extraordinary monuments and the most famous historical buildings rise at any excavation.

One of the difficulties encountered in Rome, in the conception of an efficient subway line, derives exactly from the value of the archaeological pre-existences in its subsoil. Along its subterranean trail, Line C crosses the city almost entirely, passing through its historical centre and, consequently, meeting urban sites of singular value:

The subsoil of Rome is unpredictable, every hundred meters there are important vestiges and work is naturally affected: it is a very difficult contract. We simply wanted to solve a question of urban traffic, a subway with a shield, like in Munich, in Dublin, but here the subsoil has eight layers, we must transform ourselves into archaeologists, into speleologists (EGIDI; FILIPPI; MARTONE, 2010, p. 1).

From the archaeological point of view, the project of the new line demanded various preliminary analysis, preventive surveys, researches, documentary studies, excavation campaign and others preparatory activities conducted by Rome Archaeological Superintendence.

Preventive archaeology has the power to attest – even if with some limitations – the presence of underground archaeological sites, especially in places corresponding to Rome historical centre. According to the conclusion of the preliminary studies the trail of the line is generally modified to avoid repercussions and damages to the archaeological strata. This did happen, for example, in May 2006, when the first archaeological researches confirmed the presence of ancient building artefacts at Largo di Torre Argentina causing the removal of station Argentina from the project (EGIDI; FILIPPI; MARTONE, 2010).

Notwithstanding the efforts of the preventive work, unforeseen archaeological events are ineluctable. To any new “fortuitous discovery” the public organs responsible for the preservation of the archaeological heritage are called to intervene and the works on the Line C get temporarily interrupted until a solution appears for the management of the findings.^{8,9}

8 It is considered “fortuitous discovery” “tutte quelle situazioni in cui il ritrovamento avviene in conseguenza di un’attività che non rientra in un programma di ricerca archeologica o, che comunque non è verosimilmente conseguente al tipo di ricerca che lo scopritore aveva posto in essere al momento del rinvenimento: anzi deve essere considerata occasionale anche la scoperta che consegue ad attività di scavo ma che non sia specificamente finalizzata al ritrovamento di oggetti di quel genere” (LEONE; TARASCO, 2006, p. 593).

9 As mere general information, article n. 826 of the Italian Civil Code establishes that historical and archaeological objects of the subsoil belong to the government from the very moment of their discovery. Therefore, this constitutes an exception to what established in article n. 840 of the same Civil Code, which affirms that the right of property of the soil is extended to the sub-soil and to all what it contains: “la natura stessa del bene impone un’interruzione dell’acquisto a titolo originário del

These specificities make interferences for the construction of a subway line, in Rome, and especially of the dimension of Line C, one of the most complex and challenging project from the archaeological, technological and engineering perspective:

[...] represents a completely innovative experience, in which a plurality of disciplines with different competences, from cultural and archaeological to technological and engineering ones, contribute in a physical context, such as that represented by the historic center of Rome, which is unique in nature in importance, extension and archaeological and monumental characters (REPUBBLICA ITALIANA, 2011, p. 8).

Conversely, and despite the difficulties here presented, the offer of a new underground line in the city was presented as a crucial measure in the framework of the strategy for the development of quick public transport sector (tram, undergrounds, and local railways) envisioning a more effective and sustainable urban mobility net in Italy.

Urban mobility in fact is an important factor for the economic growth and the sustainable development of a country. It is estimated that every year the European economy suffers loss equivalents to 1% of community GDP because of vehicles congestion (EC, 2001). In Italy the loss in this factor would sum 27 billion euros, almost 2% of GDP in 2008:

For example, there are 227 hours that, on average, a Roman spends in the car in a year [...] (not surprisingly, Italian cities are at the lowest levels of the continental scale for mobility index: from 2.1 to 2.7 trips per person per day against over 3.1 in Amsterdam and Berlin, 3.5 in Paris and Barcelona, 3.6 in Oslo and Helsinki). It seems proven, in few words, that, abroad, a good local public transport system makes citizens more mobile and, at the same time, less dependent on the car (CARMINUCCI; TREPIEDI; PROCOPIO, 2011, p. 8).

As a matter of fact the costs deriving from the congestion and lack of appropriated infrastructures of public transportation are significant. Apart from the economic, social and sanitary impact, negative effects on people's life quality and environmental conditions, related to the augmentation of pollutants gases, has recently become evident.¹⁰

In occasion of the Deliberation n. 21/2011/G – which has as object

privato affinché sia lo Stato a prendere in consegna l'oggetto per assicurarne l'ingresso, ex art. 826, comma 2º, c.c. nel patrimonio indisponibile della Nazione" (LEONE; TARASCO, 2006, p. 590). For this reason the article n. 90 of Italian Code of cultural heritage and landscape imposes to the founder of the discoveries the responsibility to promptly – *in continenti* – communicate the fact to the local competent public authorities.

10 "Atmospheric and noise pollution is intensifying every year. Urban traffic is responsible for 40% of CO2 emissions and 70% of emissions of other pollutants from road transport. [...] Despite the progress of automotive technology, increased traffic and 'halt' nature of urban driving mean that cities are a large (and growing) source of CO2 emissions, contributing to climate change" (EC, 2007, p. 4 e 9).

the analysis of the progress of Line C construction – Italian Court of Auditors produces statistic data revealing the contrast between Rome and other European cities on the matter of urban mobility: Rome’s model seems to be too much concentrated on private motor transportation rather than on public collective transports:

The use of collective vehicles represents 67.7% of motorized mobility in Barcelona, 64% in Helsinki and Budapest, 63.6% in Paris, 63.3% in Madrid, 57% in Prague, the 56% in Stockholm, 47.7% in London, 47% in Milan and only 28.2% in Rome, the only city, moreover, with a percentage falling compared to the previous survey. In addition to being the first European city in terms of motorization rate, Rome ranks third in terms of the number of vehicles in circulation, after Paris and London, which, however, have almost three times the number of inhabitants of the capital. Rome is, therefore, in first place for road surfaces subtracted from the presence of the cars; it is estimated that one fifth of the total is occupied by parked or moving vehicles (REPUBBLICA ITALIANA, 2011, p. 10).

The rate of private motoring in Rome is very high: 678 vehicles per thousand inhabitants, followed by Turin (670), Prague (635), Amsterdam (585), Milan (582), Madrid (504), Paris (455), Brussels (439), Barcelona (411), Vienna (403), Helsinki (381), Stockholm (380), London (328), Berlin (322) (REPUBBLICA ITALIANA, 2011).

The current scenario of limitation of urban mobility to private transportation is even worsened by another specific condition of Italian performance in comparison to its European colleagues: the dominance of motor vehicles to track-laying vehicle in the context of collective public transportation.

Also in this inquiry – infrastructures and use of quick public transportation – the deficit of Italian cities in terms of lines extension and number of passengers is quite significant: only 30% of travels in Italy take place on rail, while in France, Germany and UK this percentage arrives respectively to 67%, 58% and 53%. Reducing the comparison only among the subway lines, Rome underground serves around 22% of all the users of public transportation, while in Wien, Stockholm, Prague, Madrid and Barcelona the percentage is more than 40% and in Paris is 37,5% (CARMINUCCI; TREPIEDI; PROCOPIO, 2011).

In terms of extension Italian cities subway lines arrive in their totality to 218,5 km while Germany counts with 625,4 Km, Spain 569,3 Km, the UK 552,1 km, and France 358,8 km. This disparity is even more evident comparing only big European capitals: Berlin underground counts with

147,5 km, Paris 219,5 km, Madrid 290,3 km, London 464,2 km and Rome only 60 km, already considering the first part of line C (REPUBBLICA ITALIANA, 2017, p. 124).

Finally, in terms of density Rome presents the lowest proportion of kilometres for millions of inhabitants: only 9,6, against 101,6 in Oslo, 79,3 in Valencia, 79 in Stuttgart, 62,5 in London, 56,8 in Stockholm, 46,5 in Amsterdam, 38,1 in Madrid 26 in Wien, 24,3 in Berlin, 23,5 in Barcelona, 19 in Paris and 14,4 in Brussels (REPUBBLICA ITALIANA, 2011, p. 13).

The presented scenario shows a completely opposite reality to the European strategy for the public transportation policy, which proposed that the reach of sustainable progress in urban mobility must involve a gradual passage from road to rail (EC, 2001).¹¹

In Italy the attempt to re-establish a balance between private and public transportation and, among this, between motor and rail was assigned to two important investment programs contemplated in laws n. 211/1992 and n. 443/01 (*Legge Obiettivo*).¹²

The new subway line (Line C) has been conceived exactly in this perspective. Its purpose is implementing the development of public transportation on rail in the urban mobility scenario, with the attempt to reduce the lack of public rapid transports with enough capillarity to face Rome's structural traffic and pollution problems.

Therefore, two "romanities" interweave in the above mentioned circumstances demanding a position from the government that do not forget the aspects linked to environmental sustainability. As an answer to the urgent need for a qualitative technological progress in the infrastructures of public transportation to face the current urban problems in terms of mobility and pollution, the investment in a new option of urban track transport on the one hand seems to be an administrative decision taking into consideration the *urban-environmental* sustainability in the definition of the object of public procurement; on the other hand this decision will have to face the challenge of maintaining its sustainability from the *cultural-environmental*

11 In the same vein, Communication COM (2009) 490 of 30 September 2009, containing the "Action Plan on Urban Mobility", provides for the development of sustainable urban mobility plans in order to ensure a harmonizing policy between means of transport and protection of the environment (EC, 2009).

12 "La questione ambientale sarà centrale per la promozione di una mobilità realmente sostenibile. Le leve sulle quali agire possono sintetizzarsi nell'ottimizzazione sia di sistema (offerta dei servizi) che di singola componente (veicoli), avendo consapevolezza che l'unica strategia antinquinamento destinata ad avere successo consisterà nel ridimensionamento dell'uso dell'auto a favore dei mezzi collettivi (efficienza) e di quelli su ferro ed elettrici in particolare (efficacia). La maggiore sensibilità ambientale opererà per un trasferimento della domanda verso il trasporto pubblico locale soprattutto nelle aree dove questo risulterà competitivo con il mezzo privato." (ROMA, 2017, p. 28).

perspective: being able to defend and preserve the pre-existing archaeological heritage engaged in current interventions.

Furthermore, this was what had been stated by the Court of Auditors in occasion of deliberation n. 21/2011/G:

The challenge of the new line consists in finding a satisfactory compromise between the transportation demand and the need to preserve the archaeological discoveries existing in the underground, as well as in protecting existing important architectures and giving consideration to the added value represented by the cultural enrichment deriving from the findings emerged during the works (REPUBBLICA ITALIANA, 2011, p. 8).

The procurement of a work of the entity of Line C, in a city with the infrastructural and archaeological peculiarities of Rome, gives us an opportunity to reflect on the consideration of the aspects of environmental sustainability in the frame of contractual procedure.

3.2 Three-dimensional sustainability: “From road to rail”, archaeological opportunity and “museum-stations”

Countless critics have been exposed against the construction of Rome subway third line. The problem is ancient, and entered in the agenda of Italian authorities deliberations in the Nineties of the last century, when it had even been thought about inaugurating the new line by the beginning of the Jubilee celebrations, in 2000. Nevertheless the procurement has only been assigned in the end of 2006, the construction lasts for more than 10 years now and still depends on many others more to be completed.^{13,14}

Despite the critics, from a certain perspective Line C seems to be contributing to the achievement of a “triple function” for the benefit of Rome’s environmental sustainability.

By triple function we refer to 3 contribution that the construction of a new subway line of the dimension of this one has been already able to offer besides the existing limitations, on terms of growth of the levels of

¹³ At the moment of the writing of this article – February/March 2019 – the works on Line C are not yet completed. Of the 42 stations introduced in Rome new local strategic plan (“*Nuovo piano regolatore generale di Roma*”), 22 have already been delivered and are already operational (the last opened station was the one of “San Giovanni”, in May 2018). The works of the following path, which involves two stations – “Amba Aradam” and “Fori Imperiali” – are under construction since 2013, and the end is planned for 2022. The remaining path is still waiting for formal financial approval (ROMA, 2019).

¹⁴ The purpose of this article is not discussing conflictive matters and occurrences – related to the planning, timing, executive and financial management of the work – that took place during the execution of the contract. For more information on these aspects we suggest the reading of the entire document of *Deliberazione* n. 21/2011 (REPUBBLICA ITALIANA, 2011).

sustainability of the cultural and urban environment.

First, we emphasise the decision of the adjudicating entity in occasion of the definition of the object of the public procurement. The doctrine has indicated this as one of the relevant moments in the realm of public procurement to let considerations on the environment emerge and be taken into consideration (GOMES; CALDEIRA, 2017).

In this specific case, facing the above described circumstances, the decision of promoting the investment on rail transportation, consequently contributing to the reduction of the social costs of the negative externalities coming from traffic congestion in Rome central areas (like air and noise pollution, high energy consumption, inefficiencies that affect commerce and economy, long travelling times and reduction of the attractiveness of the area and of life quality etc.) seems absolutely appropriated:

The development of rail transport is linked, in our country, with a concrete opportunity to move towards more sustainable mobility models in cities. This is a statement that is in itself trivial, given its evidence, but nevertheless necessary to cultivate a perspective of greater effective sustainability of transport policies and, in a broader sense, of urban policies.

[...] iron is the resource able to make the difference, becoming, as a whole (tramways, subways and local railways), the 'supporting pillar' of transport choices that tend to be more sustainable and advantageous for the community (CARMINUCCI; TREPIEDI; PROCOPIO, 2011, p. 1; 8).

The investment assigned to the new underground line is not low. According to the auction notice the initially estimated cost of the work was 2 billion 510 million Euros, a cost supported by the national, regional and local governments in different percentages. This is the most modern subway in the country. Its trains don't need the presence of a driver on board since they are controlled remotely by an integral automation system. It's the first big infrastructure of public transportation of this kind in Italy.

Line C crosses the city from northwest to southeast, connecting peripheral areas and suburbs to the city centre. Once in full activity, its extension it will nearly double the pre-existing subway network, expecting to transport 600.000 people a day and with a capacity of 60.000 passengers at peak hours, offering a relevant capacity of absorption of people's transportation request.

There is no doubt that the solution of air pollution and urban mobility passes through a multiple activity and the adoption of a logic of long term intervention. Despite Line C cannot be considered a fully adequate

solution, its realization represents an extremely necessary infrastructural intervention to help rebalancing the situation of travelling options, still predominantly dominated by private and motor transportation.¹⁵

Secondly, we enhance the archaeological opportunities provided by the public works' excavations.

The excavation of underground galleries necessary to the new subway line can be considered a significant opportunity of exploration of the archaeological patrimony of the crossed areas. In times of a shortage of resources and availability of investments, excavations with similar magnitude and depth would hardly been supported economically by the financial management of Italian archaeology.

In the future location of the station "Amba Aradam", between 2016 and 2017 an extraordinary archaeological richness has been luckily discovered during the excavations: a military complex from the age of Emperor Hadrian, constituted by a roman headquarters with more than thirty rooms decorated with frescos and mosaic floors. Later on, also in "Amba Aradam", new findings arose, identified as the "*Domus* of the Commander": a room, located three meters under of the headquarters that had been previously discovered, dedicated to the troop's commander (AMBA ARAD-AM..., 2018).

According to the information of Rome Special Superintendence for Archaeology Fine Arts and Landscape Office, the "*Domus* of the Commander" has been selected as one of the five discoveries nominated in the final of the international prize for the archaeological discoveries of 2018, one of the most important world prizes promoted by UNESCO and UNWTO, with the support of the BMTA (Fellowship for Archaeological Tourism of the Mediterranean) and of the leading international publications in this area (MIC, 2018).

Archaeology instead of being an obstacle for the modernization of the city infrastructures, became an additional reason to extend the excavations. As a matter of fact without the construction works some wonderful discoveries that can now be enhanced would not have happened.

Thirdly, in conclusion, in this interaction between the modernization of urban transportation infrastructures, public procurement and preservation

¹⁵ "É ben chiaro a chiunque come in una capitale abitata da due milioni e mezzo di abitanti, ma sulla quale gravitano giornalmente almeno quattro milioni di persone in movimento, la sola presenza delle due preesistenti linee di metropolitana (A e B) risultati da lungo tempo del tutto inadeguata" (EGIDI; FILIPPI; MARTONE, 2010, p. XV).

of cultural heritage, the solution adopted by Rome Archaeology Superintendence regarding the destination of the discoveries appeared on the route of the new line has become particularly relevant.

The project of the “museum stations”, or “archaeological stations”, consists in the creation of integrative works in some stations of the Line, with the aim of creating a specific space for the relocation of the findings.

A clear example are the stations of “San Giovanni” and “Amba Aradam”. For both stations the archaeological structures discovered during the excavations have been initially removed and restored. Once restored, the intention is to place the findings inside the underground station, which will be provided of specific installations to host them (METRO, 2019). Public and passengers entering the new stations will have the opportunity to admire this archaeological heritage from a terrace and a big window (BOCCACCI, 2016).

The project is admirable and representative of the government position, multiplying the efforts to present the new subway line “*not only as a simple mean of transport, but also as an instrument for highlighting Rome historical heritage*” (EGIDI; FILIPPI; MARTONE, 2010, p. 9).

CONCLUSION

The European Union has nowadays a normative framework offering a wide juridical legitimisation to the institution of “sustainable public procurement”. The norms of the European Community that altogether compose this contractual paradigm pro-sustainability are manifold: from the key tenets underpinning of the founding treaties of the community, passing through the European Directives, to Interpretative Communications and soft-law instruments related to the topic.

Within the frame of its strategies for a smart sustainable and inclusive growth, the European Union recognizes to public procurement a relevant role in the promotion of the so-called “horizontal politics”. Considering its relevant purchase power and its influence on the markets, the consumer state, through its necessities for goods services and works, has the duty to make of its acquisitions a privileged instrument serving – also – the defence of natural cultural and urban environment.

The new Line C is one of the biggest infrastructural urban interventions ever conceived in Rome, challenging to wave a different look over the horizontal role of public procurement in the frame of the large civil works contracts.

The unique archaeological density of the city subsoil – on account of historical reasons – and its peculiar public transport infrastructures and urban mobility (in comparison to other big European cities) shape what we mentioned as “romanities” claiming sustainability in their dedicated public solutions.

The satisfaction of the adjudicating entity’s demand for a public transportation alternative, must be integrated, horizontally, with the consequences of environmental sustainable deviations: from the *urban-environmental* perspective, the decision of resources allocation to provide less polluting transports, on tracks, able to promote improvements on traffic congestion matters, on the enjoyment of public spaces and on the accessibility to the urban area and its sustainable mobility; and last, from the *cultural-environmental* perspective, the preservation and enhance of the archaeological heritage emerged during the excavations and the conception of museum-stations.

From the idea of a “public procurement serving sustainable development” – as parameter that must orientate the decisions of the authorities in contractual procedures solving big cities problems – emerges a permanent challenge: to balance the economic growth and urban accessibility with the improvement of the quality of life and the protection of the natural urban and cultural environment.¹⁶

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¹⁶ “Tutte le azioni del PUMS devono convergere sul perseguimento della sostenibilità economica, sociale e ambientale, della macchina urbana” (ROMA, 2017, p. 17).

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