

LEGAL ISSUES IN AUDITS RELATED TO NATURAL DISASTERS

Jesús M^a Royo Crespo

President

Auditing Chamber of Aragon

Ana Isabel Beltrán Gómez

Vice president

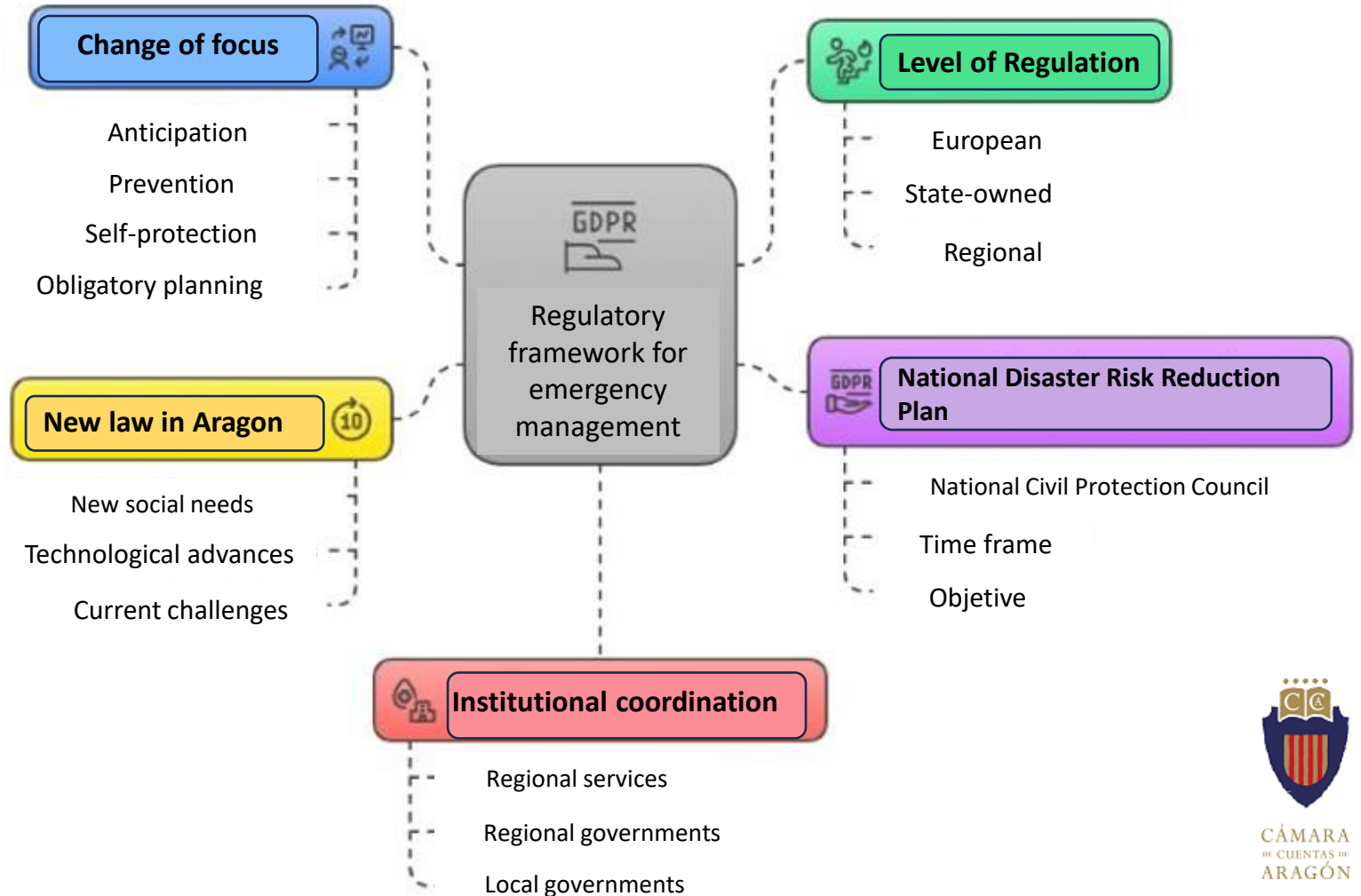
Auditing Chamber of Aragon

EMERGENCY MANAGEMENT IN ARAGON

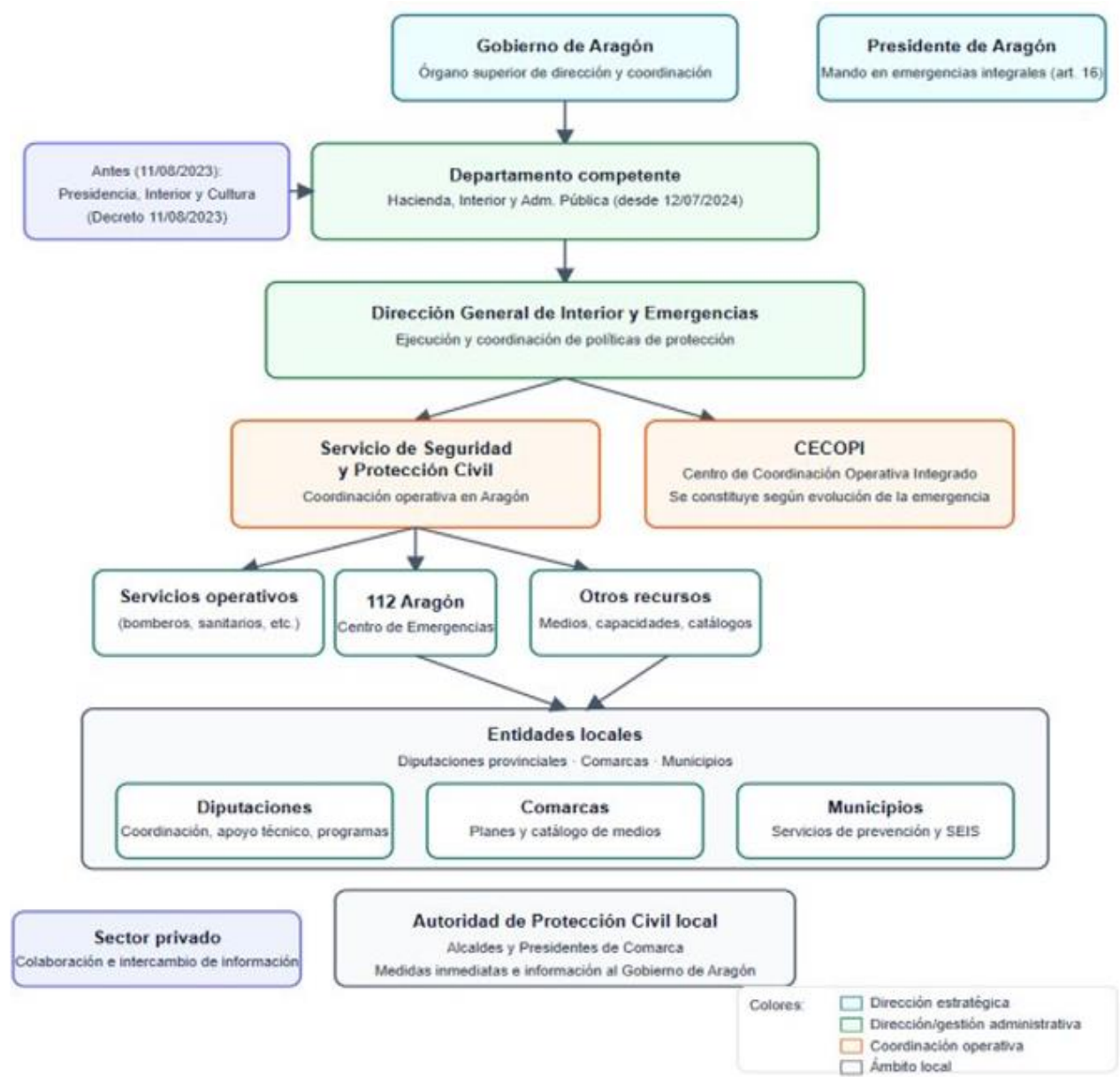


REGULATORY FRAMEWORK FOR EMERGENCY MANAGEMENT

It is no longer enough to react to emergencies; instead, the focus is on preventing risks, planning ahead, and coordinating efforts between all administrations and territorial levels.



EMERGENCY MANAGEMENT AND RESPONSE



QUESTIONS

EMERGENCY MANAGEMENT AND RESPONSE



Transfer of authority

When is control transferred to the State?

Can there be dual control by Aragón and the State at the same time?

Dual control



Criteria emergency

What objective criteria determine the declaration of a national emergency?

Who is the sole representative?

Sole representative



Cost allocation

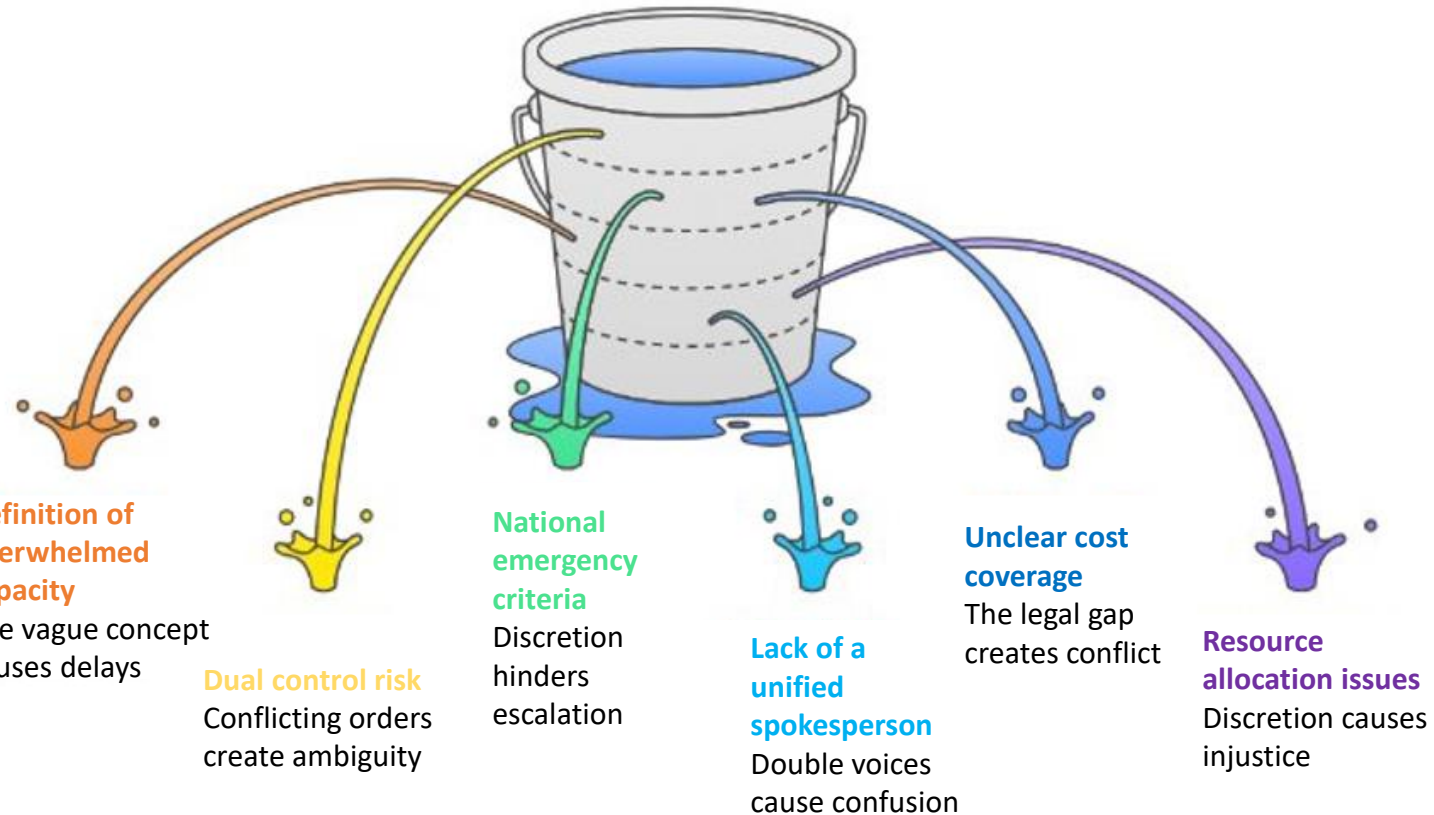
Who pays the costs when State resources are used without a national declaration?



CÁMARA
DE CUENTAS DE
ARAGÓN

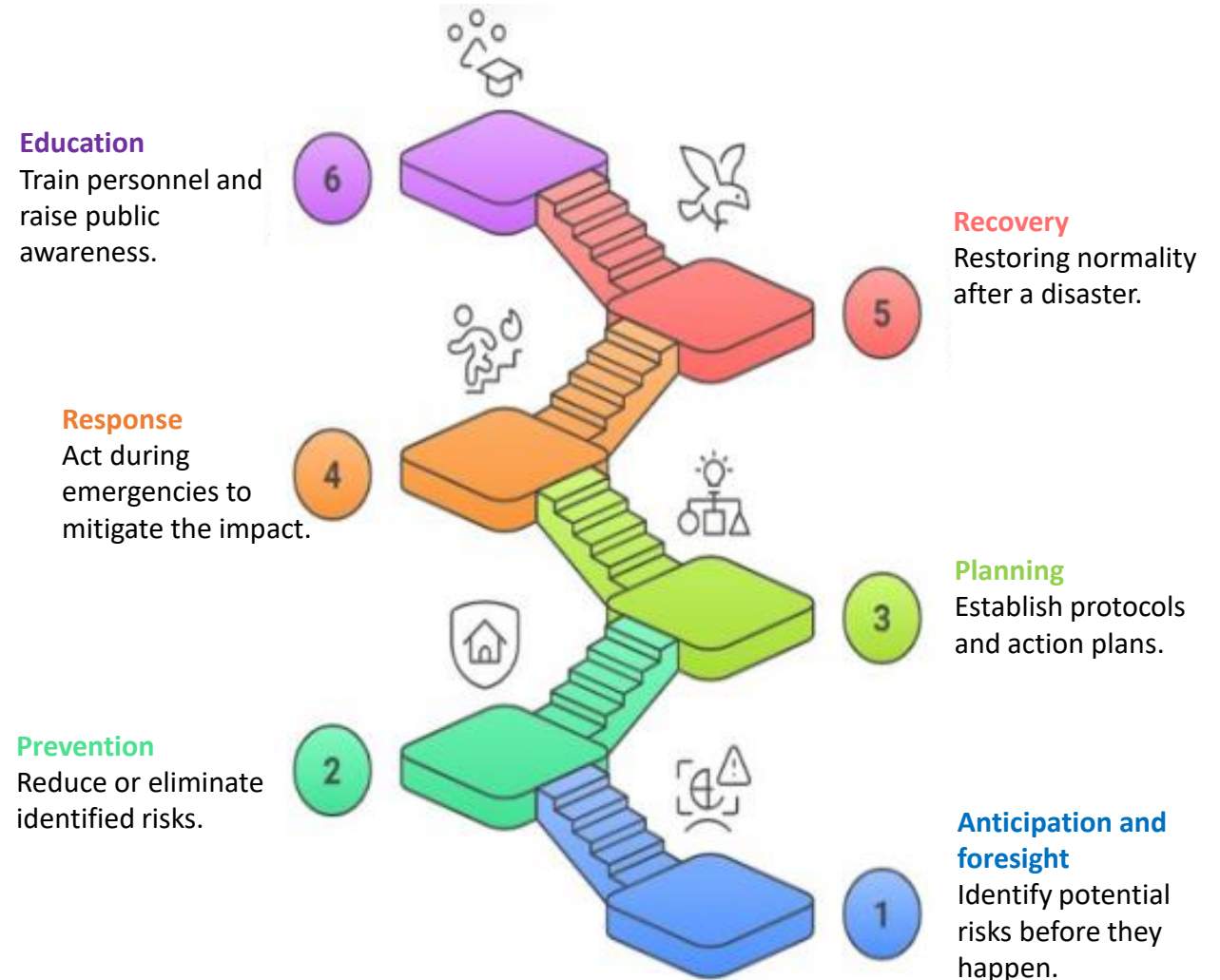
What happens if several autonomous communities request the same state resource?

Resource request



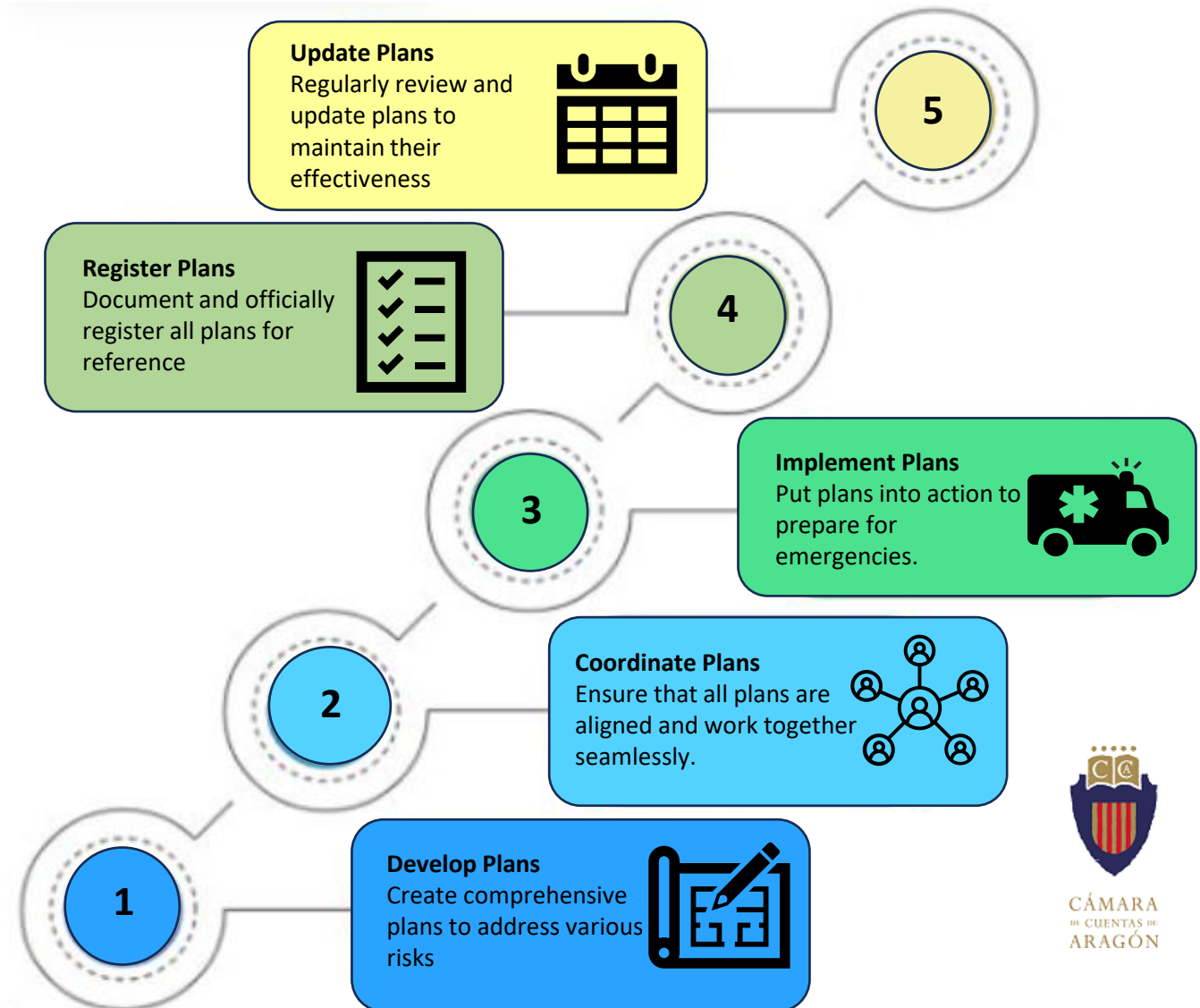
IMPLEMENTATION OF THE CIVIL PROTECTION STRATEGY

The **Civil Protection Strategy of Aragon** is a **six-phase framework plan** that organizes prevention, preparedness, response, and recovery in the event of emergencies, ensuring that all resources (human, material, and financial) are coordinated and available.

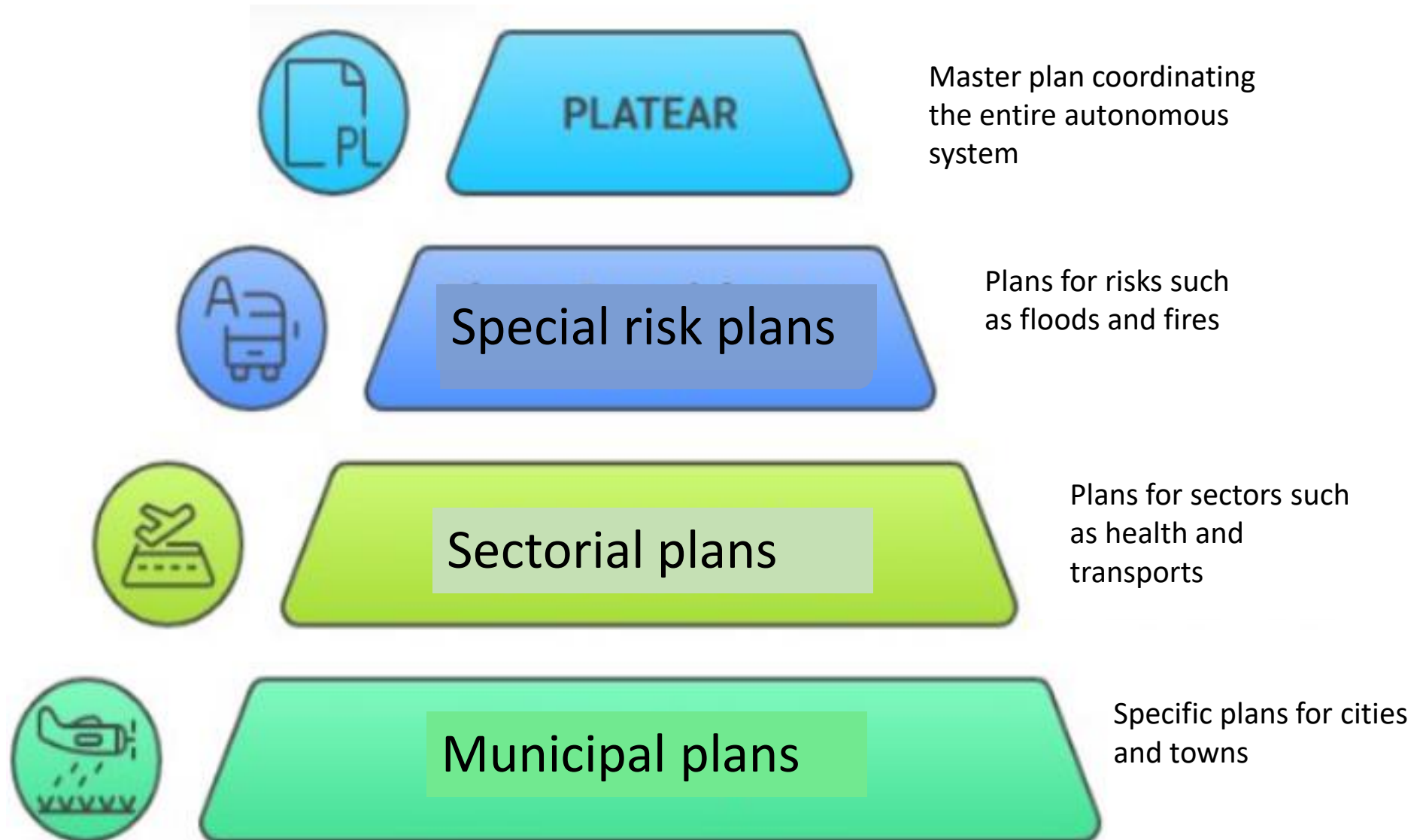


ADMINISTRATIVE TOOLS FOR PLANNING MANAGEMENT

Civil protection plans are an **essential tool** for anticipating, coordinating, and executing emergency responses, ensuring that all actors are aware of their roles, available resources, and protocols for action.

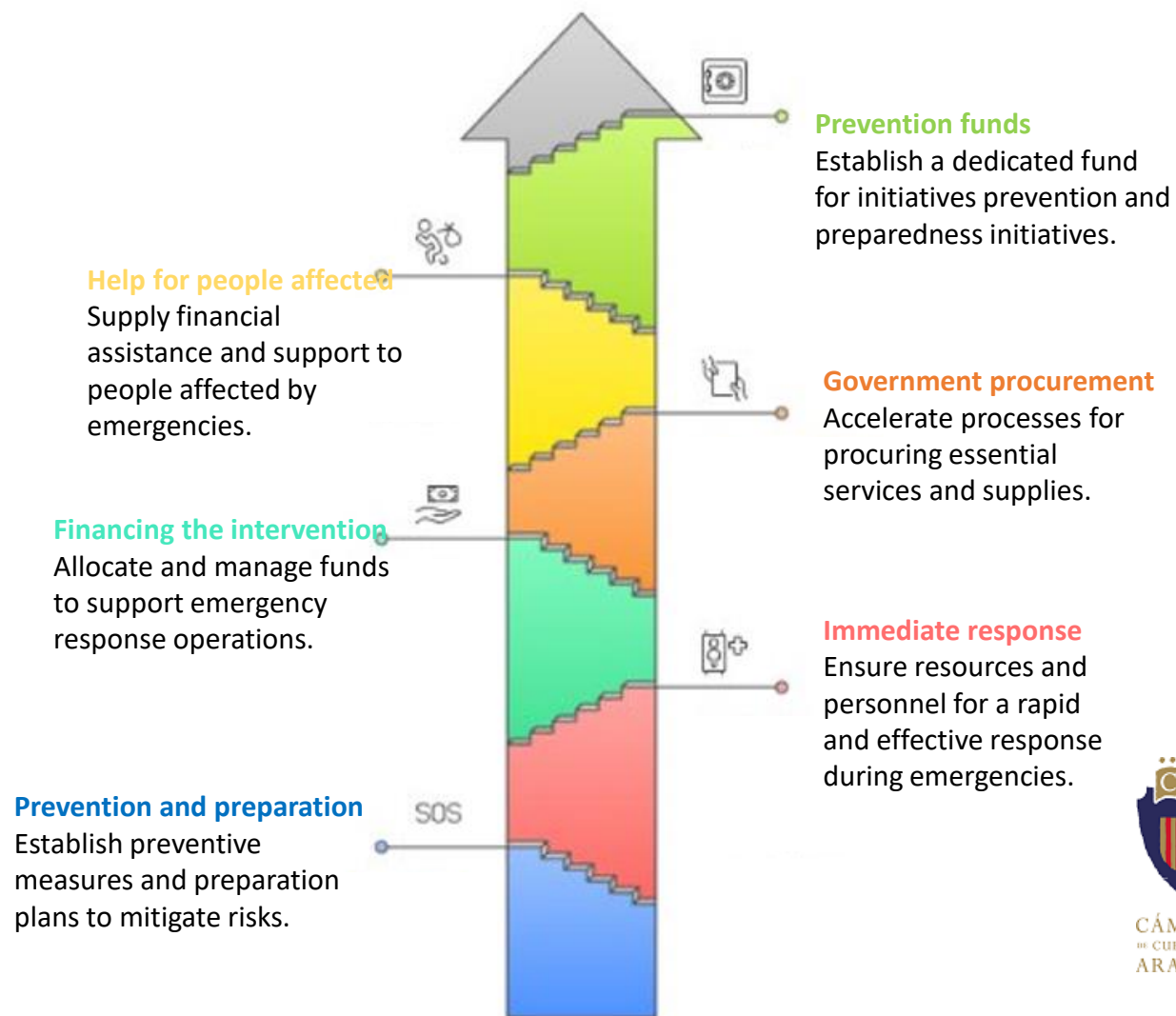


TYPES OF PLANS



CIVIL PROTECTION ECONOMIC POLITICS

Law 4/2024 provides flexible the budgets and mechanisms to support both prevention (stable funds and programs) and response (extendable loans, emergency hiring, and immediate aid), including a Prevention Fund to support analysis, training, and awareness-raising throughout the country.



EMERGENCY HIRING IN DISASTERS

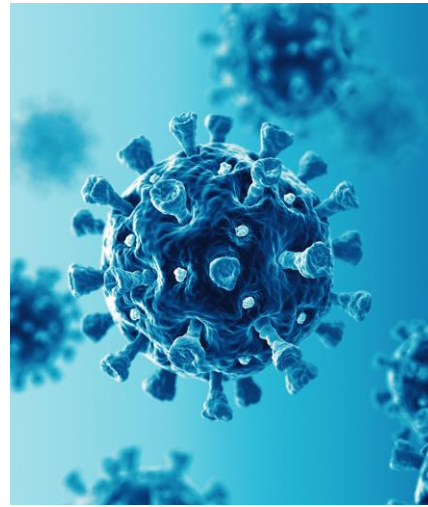


EMERGENCY HIRING AS ONE OF THE TOOLS FACE UP TO OF DISASTERS

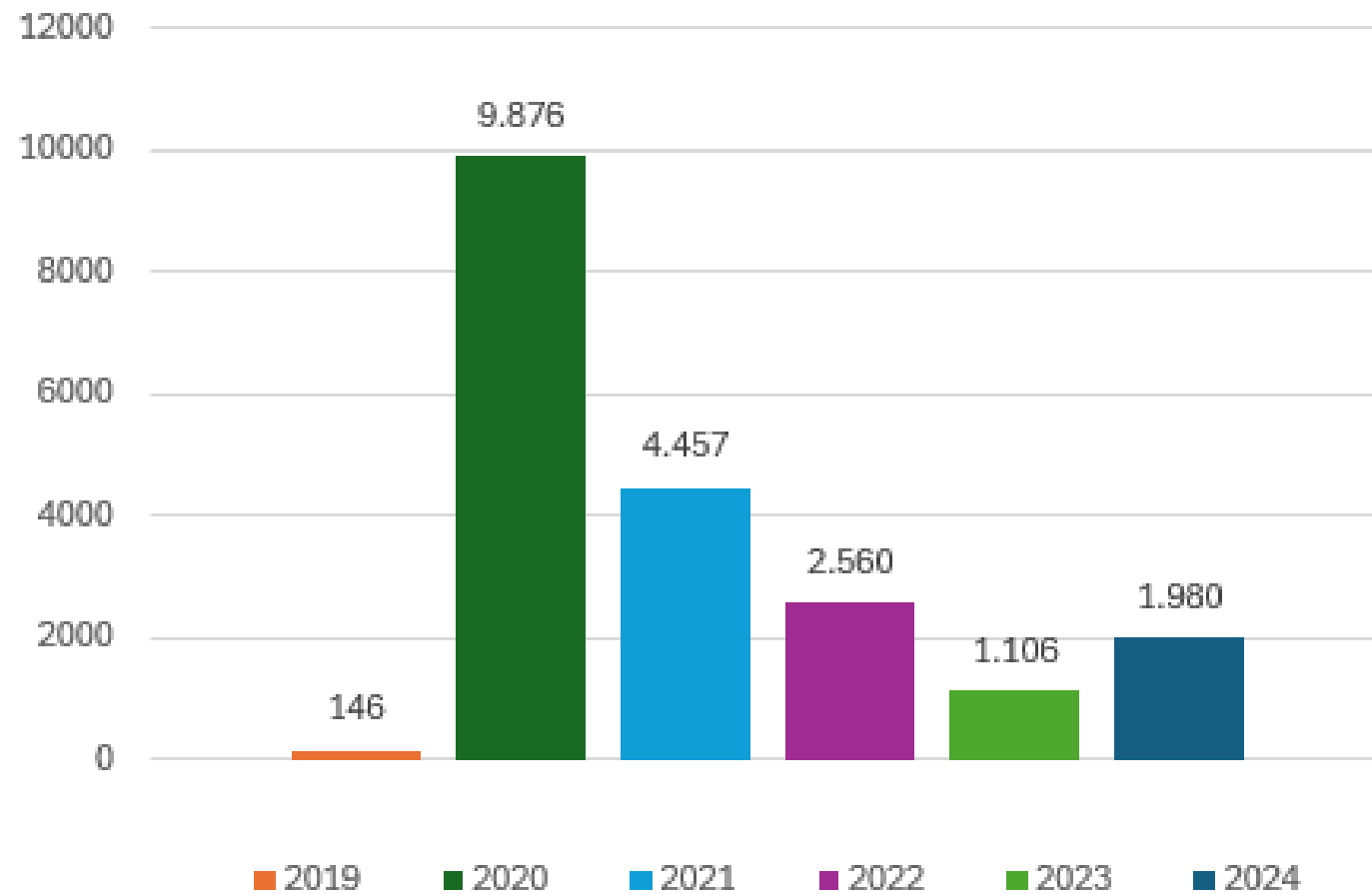
Historical data in Spain
(since 1852).

There is no uniform and
consistent information on its
use.

The data available indicates an
upward trend.



Annual Supervision Report OIReScon 2024



REGULATION

Common European regulations

The European framework **does not take into account for a specific procedure** called “emergency procurement,” but foresees exceptions within Directive 2014/24/EU, allowing procurement negotiated without publication in cases of “extreme urgency.”

These exceptions require **justification of the cause** of the urgency (unforeseeable events not attributable to the Administration) and avoidance of abuse of the concept.



REGULATION

In Spain processing, no procedure

Mechanism oriented to act immediately in response to **“catastrophic events, situations mean serious danger, or emergencies affecting national defense.”**

Article **120 of the LCSP** excludes the obligation to process a procurement file and, therefore, the need to publish the tender notice in subjection only to the formal requirements provided for in ordinary processing.

Publication is limited to the obligation **to report emergency processing agreements** to the Council of Ministers, in the case of the state level.



Immediate and absolutely necessary action

Enabling cases under the LCSP

Report to the Council of Ministers (or governing authority of the autonomous community, where applicable)

Impossible application of other procedures less restrictive of free competition to ensure the achievement, in a timely manner, of the intended purpose.

The hiring authority expressly recognizes the urgency of the situation

The strictly necessary duration

The cause not attributable to the hiring authority

IRREGULARITIES DETECTED BY ICEX

2024 COURT OF AUDITORS REPORTS ON EMERGENCY HIRING DERIVED FROM COVID

The object of the emergency contracts was **directly or indirectly linked to the adoption of measures to protect against the spread of COVID-19**, except in some cases where no such link was apparent or the justification for the emergency suffer from defects.

In the **preparation of contracts**, 7% of those audited showed a certain lack of clarity regarding the services that constituted their subject matter. In 22% of cases, the execution period was not expressly determined or was set in a flexible or imprecise manner.

In **execution**, 9% of the contracts audited failed to comply with the legally established one-month deadline for commencement, or the date of commencement was not verified.



IRREGULARITIES DETECTED BY ICEX

RECOMMENDATIONS OF THE COURT OF AUDITORS OF SPAIN

- **Prepare a file** containing all the necessary documents to justify the emergency and the needs that motivate the contract.
- Formalize contracts in a **written document**, detailing specific services to ensure compliance.
- Appoint a **contract manager**, in accordance with Article 62.1 of the LCSP.
- Verify the technical **capacity and financial solvency** of the successful bidders, except in cases where this compromises the urgency.
- **Request bids** from multiple bidders and negotiate terms, provided that this is compatible with the emergency.
- **Conduct detailed audits** of emergency contracts, including information on contractors, goods purchased, and justification for the exceptional procedure and the needs to be met.
- Obtain **references** for the market prices of the goods and services contracted.

SPECIAL REPORTS ON THE SUPERVISION OF CONTRACTS PROCESSED BY EMERGENCY PROCEDURE OIReScon

Confusion between “type of procedure” and “type of processing.” Emergency processing is not covered by European directives and is a residual regulatory legacy of our legal system.

Greater **transparency** in the decisions adopted by governing bodies, indicating at least the amount, the successful bidders, and the contracts awarded to their own resources.

Uniform **advertising parameters are recommended** in all autonomous communities and in the General State Administration.

NEED TO AMEND THE LCSP

A REAL CASE: PUERTO NAOS (LA PALMA)



El Cabildo insta al Gobierno de España a modificar la Ley de Contratos para “avanzar en la recuperación de la Isla”

El presidente de la primera Corporación, Sergio Rodríguez, destacó en casos como el volcán, la DANA de Valencia o los incendios por todo el territorio nacional es necesario afrontar los trabajos de recuperación durante muchos años



Imagen de archivo de la obra de reconstrucción de las carreteras del barrio de La Laguna, afectado por el volcán Tajogaite (19 de septiembre-12 de diciembre 2021). (c)Alejandro Ramos

THANK YOU

camara@camaracuentasaragon.es