

EU Public Procurement Law

**(GENERAL APPROACH, REMARKS ON PROCUREMENT DURING THE COVID CRISIS,
AND SOME NOTES ON PORTUGUESE LAW)**

(Intensive Course)

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Short summary and objectives:

Public procurement and, more broadly, public contracts, are both a fundamental piece of the economy, and a central area of contemporary Law, notably, EU Law.

From the point of the view of the State and public bodies in general, the promotion of competition and equal treatment between the players in the market is a priority, to address integrity concerns, fight corruption, contribute to sustainability and development goals, and obtain best value for the taxpayer's money.

The sector is also increasingly marked by a trend towards international and comparative perspectives, strengthening the importance of the exchange of knowledge between different experiences, which increases the interest of the course for foreign students.

Also, the Covid crisis has pointed out some specific concerns for procurement, but also some positive aspects, namely the trend towards cooperative and joint procurement, which should be addressed.

The course will also offer some points regarding Portuguese Law (which transposes EU Law).

Syllabus of the intensive course:

- 1. Overview, scope and general principles of EU Public Procurement Law**, in light of the Treaties, Directives 2014/23, 2014/24 and 2014/25, and CJEU case law; some notes on its implementation in Portugal and other systems
- 2. The Strategic Use of Public Procurement** as a Tool to achieve Sustainable Development Goals;
- 3. Integrity Issues:** Prevention of Corruption and Conflicts of Interest in Public Procurement;
- 4. Collusion and Anti-Competitive Behaviour** in Public Procurement;
- 5. Challenges of e-procurement;**
- 6. Procurement during the Covid crisis:** emergency procurement, and beyond. The “Commission Guidance from the European Commission on using the public procurement framework in the emergency situation related to the COVID-19 crisis 2020/C 108 I/01”;
- 7. Does the Covid crisis reveal the need for reform of Public Procurement systems?**

Select references¹:

Folliot-Lalliot, Laurence/Torricelli, Simone (Coords.), *Contrôles et contentieux des contrats publics/Oversight and Challenges of public contracts*, Bruxelles, 2018.

Eiró, Vera, "E-procurement: the Portuguese experience", *Public Procurement Law Review*, (1), 2016, pp. NA5-NA16 (available at westlaw.com, [a legal database which students can access in the Library of the Law School](#)).

European Commission, *Communication from the Commission – Guidance from the European Commission on using the public procurement framework in the emergency situation related to the COVID-19 crisis – 2020/C 108 I/01*, 1 April 2020, published in the *Official Journal of the European Union*, C 108I (available online at <https://eur->

¹ This select bibliography is generally available in the Library of the Law School, or online in open access.

[lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.CI.2020.108.01.0001.01.ENG\)](https://lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.CI.2020.108.01.0001.01.ENG)

Racca, Gabriella M./Yukins, Christopher (Eds.), *Integrity and Efficiency in Sustainable Public Contracts*, Bruxelles: Bruylant, 2015.

Raimundo, Miguel Assis, "Good Contracting Authorities Can Predict the Future – A Note on *Finn Frogne*", *European Papers*, 2, (1), 2017, pp. 411 ss. (available in free access at ssrn.com or <http://www.europeanpapers.eu/it/europeanforum/good-contracting-authorities-can-predict-future-note-finn-frogne-case>).

Raimundo, Miguel Assis, ""Aiming at the market you want": a critical analysis of the duties on division into lots under Directive 2014/24/EU", *Public Procurement Law Review*, (4), 2018, pp. 167-187 (available at [westlaw.com](https://www.westlaw.com), a legal database which students can access in the Library of the Law School).

Raimundo, Miguel Assis, "Damages in Public Procurement Law: A Right or a Privilege? Some Thoughts After the Fosen-Linjen Saga", *European Procurement & Public Private Partnership Law Review*, 14, (4), 2019, pp. 255-261.

Sánchez-Graells, Albert, *Public Procurement and the EU competition rules*, 2.^a ed., Oxford-Portland, Oregon: Hart Publishing, 2015.

Schill, Stephan, "Transnational Legal Approaches to Administrative Law: Conceptualizing Public Contracts in Globalization", *Rivista Trimestrale di Diritto Pubblico*, 1, 2014, pp. 1 ss.

Sjafjell, Beate / Wiesbrock, Anna (Eds.), *Sustainable Public Procurement Under EU Law*, Cambridge: Cambridge University Press, 2016.

Several authors: texts included in numbers 4 and 5 (2020) of the *Public Procurement Law Review* dedicated to public procurement in the Covid-19 crisis (available at [westlaw.com](https://www.westlaw.com), a legal database which students can access in the Library of the Law School).