**Public Contracts Law**

Prof. Giovanni D’Angelo

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to examine and critically study the fundamentals of public procurement law, in the light of Leg. Decree no. 50 of 18 April 2016 (Public Procurement Code) and according to national and European case-law.

The intended learning outcomes include the students’ acquisition of fundamental elements to evaluate the contractual activity of the public administration, the national and European regulation on public contracts, and the specific methods of judicial protection.

More specifically, students will be able to understand the *ratio* of the fundamental institutions, know the content of the main provisions, master the technical language of the subject and clearly distinguish between the different levels of regulation of public contracts. Students who attend the lectures will be encouraged to present and discuss on the basis of what they have learned also in other courses, and of their general culture.

In addition, attending students who will report on judgements and practical cases presented by the lecturer in class on a voluntary basis, will be able to correctly qualify a specific factual situation and to argue, albeit in a simple way, in support of a possible definition of the specific case and will develop the basic skills for orally presenting complex legal problems and their possible solutions in the field of public contract law.

The students will acquire the communication skills necessary to clearly and also critically present the topics covered by the course. For students who actively participate in lectures and in the presentation of practical cases, these skills will be assessed and will receive corrective feedback from the lecturer.

***COURSE CONTENT***

The contractual activity of the public administration. The European directives of 2014 and the new Public Procurement Code. Functions and guidelines of ANAC (National Anti-Corruption Authority). The scope of the code. Principles. The procedure for choosing the contractor: methods for selecting economic operators; award criteria; criteria for evaluating the offers. General and special requirements. Pooling. The mandatory nature of the causes of exclusion; the preliminary relief. The responsibility of the public administration within the framework of its contractual activity. Internal review powers before and after the conclusion of the contract. Judicial protection and the special proceedings governed by the administrative procedure code.

***READING LIST***

Suggested textbooks: F. Mastragostino (edited by), *Diritto dei contratti pubblici,* Giappichelli, Turin, latest edition, chs. 1, 3, 4, 5, 6, 9, 10, 11, (only §§ 9-10), 12.

Students who take an 8 ECTS exam are required to supplement the exam study material with ch. 2.

***TEACHING METHOD***

Classroom lectures with case-law analysis in the light of the most significant rulings. Attending students will be invited to discuss in class the judgements and practical cases that will be presented by the lecturer, in the form of seminars.

***ASSESSMENT METHOD AND CRITERIA***

Assessment of regularly attending students will be based on their participation in seminar activities and on a final oral exam.

Assessment of non-attending students will be based on an oral exam aimed at testing their knowledge of the subject as described in the suggested textbook.

The oral exam will consist of a series of questions on the topics covered in the course and will be designed to test the overall knowledge acquired by the students, their ability to critically approach the topics analysed during lectures and to relate the different parts of the course contents. For attending students, the exam will focus on the cases examined in class.

The final mark will result from the average of the scores obtained in the questions and will be assigned on a 30-point scale. The mark will be equally based on the students’ mastery of argumentation (where both the quality and breadth of the reasoning will be considered), their critical view of the topics covered, and the ability to relate the topics addressed in the course. In the exam assessment, particular emphasis will be given to the students’ ability to correctly and appropriately use the language, and to understand the underlying reasons of the institutions characterising the contractual activity of the public administration.

Students who demonstrate a comprehensive view of the topics addressed, contextualise them with a critical approach and have a good command of the subject-specific language, will be assigned excellent marks (from 28 to 30/30 with honours). Students providing correct but incomplete answers and using the language in an appropriate manner will be assigned good marks (from 24 to 27/30). Students with unstructured synthetical and analytical skills and/or a correct but not always appropriate use of the language, will be assigned satisfactory marks (from 21 to 23/30). Students with knowledge gaps and/or inappropriate use of the language – although in a context characterised by limited knowledge of the subject – will be assigned a pass mark (from 18 to 20/30). Students with important knowledge gaps (concerning, for ex., general principles, fundamental institutions of the subject, etc.) and/or inappropriate use of the language and/or lack of familiarity with the reference legislative texts, will be assigned a fail mark.

***NOTES AND PREREQUISITES***

In view of the topics addressed, the prerequisite for attending the course is a basic knowledge of administrative law. A good knowledge of the institutional elements of private law is also recommended.

We also remind that students may sit the Public Contracts Law exam only after passing the Administrative Law exam (see the Faculty Handbook).

In case the current Covid-19 health emergency does not allow frontal teaching, remote teaching will be carried out following procedures that will be promptly notified to students.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG, or on the Faculty notice board.