### SUBJECT DETAILS

<table>
<thead>
<tr>
<th>Data on the subject</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
<td>EU Industry Regulation (Energy, Telecoms, Media, Transport) &amp; EU Public Procurement Law</td>
</tr>
<tr>
<td><strong>Degree</strong></td>
<td>Postgraduate in Master in International and European Business Law</td>
</tr>
<tr>
<td><strong>Year</strong></td>
<td>2016-17</td>
</tr>
<tr>
<td><strong>Nature</strong></td>
<td>Spring</td>
</tr>
<tr>
<td><strong>ECTS Credits</strong></td>
<td>3 ETCS Credits</td>
</tr>
<tr>
<td><strong>Department</strong></td>
<td>Economic and Social Law</td>
</tr>
<tr>
<td><strong>Area</strong></td>
<td>Commercial Law</td>
</tr>
<tr>
<td><strong>Teaching staff</strong></td>
<td>Guillermo González de Olano</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Data on the teaching staff</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Teaching staff</strong></td>
<td>Guillermo González de Olano</td>
</tr>
<tr>
<td><strong>e-mail</strong></td>
<td><a href="mailto:guillermo@gonzalezolano.com">guillermo@gonzalezolano.com</a></td>
</tr>
<tr>
<td><strong>Telephone</strong></td>
<td>636 455 702</td>
</tr>
<tr>
<td><strong>Office</strong></td>
<td>Pº Castellana 259-C (Torre de Cristal) 31st Floor</td>
</tr>
<tr>
<td><strong>Tutoring Schedule</strong></td>
<td>Upon request from students</td>
</tr>
</tbody>
</table>

### SPECIFIC DATA ON THE SUBJECT

**Pre-requisites**

- None

**Contribution of the degree to the professional profile**

- Provide a general understanding of industry regulation in the EU, its tools, objectives and interaction with other areas of EU Law (such as Competition Law).
- Provide a general vision and understanding of the EU Public Procurement regime and, more specifically, of the main aspects of PPPs infrastructure in Europe.
- Analyse the regulation, procedures, strategic and corporate aspects and principal contracts applicable to motorway and water concession projects.
COMPETENCES TO BE IMPROVED

What skills you’ll gain from this class:

Students will:

- Understand the current role of the European public authorities regarding industrial activity and public procurement.
- Get to know the general framework of EU industry regulation, specifically in the fields of Energy, Telecoms, Media, and Transport.
- Comprehend the basic goals and policies regarding public procurement.
- Learn to interpret EU information notices on public procurement procedures.
- Prepare themselves offers, acting as bidders in competitive selection procedures.
- Get acquainted with the concept of PPPs, infrastructures and project finance models.

THEMATIC AREA AND CONTENT

AREA 1: EU Industry Regulation (Energy, Telecoms, Media, Transport)

Theme 1: Historical overview

1.1 Economic features of network industries
1.2 The deregulation of network industries
   1.2.1 The role of technological evolution
   1.2.2 The role of industrial policy
   1.2.3 Deregulation and re-regulation
1.3 Legal basis for the deregulation of network industries
   1.3.1 Article 106 TFEU
   1.3.2 Article 114 TFEU
Milestones in the deregulation process

Theme 2: Energy

2.1 European energy policy
   2.1.1 Energy policy for Europe
   2.1.2 Market-based instruments
   2.1.3 Energy technologies
   2.1.4 Financial instruments
2.2 Internal energy market
   2.2.1 The market in gas and in electricity
   2.2.2 Trans-European energy networks
   2.2.3 Infrastructure
   2.2.4 Security of supply
2.2.5 Public procurement
2.2.6 Taxation

2.3 Energy efficiency
  2.3.1 Energy efficiency of products
  2.3.2 Building and services

2.4 Renewable energy
  2.4.1 Electricity
  2.4.2 Heating and cooling
  2.4.3 Biofuels

2.5 Nuclear energy
  2.5.1 Euratom
  2.5.2 Research and technology
  2.5.3 Safety
  2.5.4 Waste

2.6 Security of supply, external dimension and enlargement
  2.6.1 Security of supply
  2.6.2 External relations
  2.6.3 European energy Charter
  2.6.4 Treaty establishing the Energy Community,
  2.6.5 Enlargement

Theme 3: Telecoms

3.1 Telecoms general framework: Connected continent
3.2 Access
3.3 Authorisation
3.4 Universal Service
3.5 Privacy and Electronic Communications
3.6 Telecoms & the Internet

Theme 4: Media

4.1 Audio-visual Media Policy
4.2 Protection of minors
4.3 Cinema, film heritage and film industry

Theme 5: Transport

5.1 Introduction: General European transport policy
5.2. Air
5.3 Road
5.4. Rail
5.5 Maritime
5.6 Inland waterways

AREA 2: EU public procurement Directives and their enforcement

Theme 1: General Overview

1.11.1 Basic Concepts and Goals of Public Procurement
1.2 Framework International Regulations on Public Procurement
   1.2.1 WTO Agreement on Government Procurement
   1.2.2 Institutional Rules on Procurement
   1.2.3 UNCITRAL Model Law on Procurement of Goods, Construction and Services
1.3 Public Procurement in the EU
   1.3.1 EU Directives on Public Procurement (new directives vs. old ones)
   1.3.2 Reference to National Rules for Below-Thresholds Procurement and Contracts Outside the Blueprint of the Directives

Theme 2: Specifics of EU Public Procurement Rules (I)

2.1 Design / Initial stages in the Procurement Process
   2.1.1 Selection of Procedures
   2.1.2 Setting of Participation Criteria and Exclusion Clauses
   2.1.3 Drafting of Bid Documents
   2.1.4 Drafting of Technical Specifications
   2.1.5 Inclusion of Social and Environmental Criteria, and Other Secondary Policies
Analysis of Relevant Case Law of the European Court of Justice

Theme 3: Specifics of EU Public Procurement Rules (II)

3.1 Award of Contracts and Challenge/Revision Mechanisms
   3.1.1 Bid Evaluation (with specific reference to treatment of abnormally low tenders)
   3.1.2 Award of the Contract
   3.1.3 Challenges, Protests and Revision of Award Decisions (including stand-still)
Analysis of Relevant Case Law of the European Court of Justice

Theme 4: Strategic Analysis of Procurement Uses

4.1 Strategic Analysis of the Use of Procurement
   4.1.1 The Use of Procurement as a Tool for Economic Development
   4.1.2 The Use of Procurement as a Tool for Social and Environmental Development
   4.1.3 Preventing Corruption in Procurement

AREA 3: Infrastructure Concessions

Theme 1: General Overview

1.1 Concession Projects and PPS
# 1.2 Motorway Projects

## Theme 2: The Bidding Process

### 2.1 Type of Procurement Processes

### 2.2 The Bidding Package

### 2.3 The Contract

### 2.4 Case: Presentation of an Offer in a bidding process: concession contract negotiation

## Theme 3: The Consortium: finding the right partners

### 3.1 Case: Analysis of different shareholders’ agreement provisions depending on the composition of the Consortium

## Theme 2: The Bidding Process

### 4.1 Transfer of risks in the construction contract

### 4.2 Case: Construction Advance Payment and treatment in a termination scenario

### BIBLIOGRAPHY AND RESOURCES

#### AREA 1: EU Industry Regulation (Energy, Telecoms, media, Transport)

**Historical Overview**


**Energy**

   
   http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0001:EN:NOT

   

   

   
   http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0772:EN:NOT

   
6. Treaty establishing the European Atomic Energy Community (Euratom)


   http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0539:EN:NOT

### Telecoms


2. Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union Text with EEA relevance


### Media

coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive)


### Transport


2. Guide to European Community legislation in the field of civil aviation (June 2007)


3. Common rules for the operation of air services


http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0474:EN:NOT


http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004DC0140:EN:NOT

7. Freedom to supply services, unfair pricing practices and free access to ocean trade


### AREAS 2 and :: EU public procurement Directives and their enforcement / Infrastructure concessions

#### Text books

- Arrowsmith, S (ed), Public Procurement Regulation: An Introduction (2011) available at www.nottingham.ac.uk/law/pprg
- Avery, N., Public-Private Partnerships (Globe Business Publishing Ltd, 2010)
Law and Business, 2009).
Nihoul, P & Rodford, P, EU Electronic Communications Law (OUP, 2011)

Chapters of books

www.adb.org/documents/handbooks/Public-Private-Partnership/chapter7.pdf

Articles

EIB’s Role in PPPS:
“A guide to guidance” Sourcebook for PPPs, by the European PPP Expertise Centre.
Public information on EU Public Procurement

Legislation


TEACHING METHODOLOGY

General methodological aspects of the subject

Contact hours methodology: Activities

Participative classes, case study, presentations

Independent study methodology: Activities
### SUMMARY OF STUDENT WORK HOURS

<table>
<thead>
<tr>
<th>Activity</th>
<th>Number of class hours</th>
<th>Number of independent study hours</th>
<th>Total number of hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lecture</td>
<td>13,5</td>
<td>30</td>
<td>45</td>
</tr>
<tr>
<td>Practical class</td>
<td>5</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Debate</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>In class presentation</td>
<td>5</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Individual work</td>
<td>-</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Work in collaboration</td>
<td>-</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Evaluation: one minute paper</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Evaluation: class test</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Evaluation: exam</td>
<td>1,5</td>
<td>-</td>
<td>1,5</td>
</tr>
<tr>
<td>Evaluation: exam review</td>
<td>Upon request</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Others</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>ECTS Credits:</td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# GRADE EVALUATION AND CRITERIA

<table>
<thead>
<tr>
<th>Evaluation Activities</th>
<th>Generic Competences</th>
<th>Indicators</th>
<th>Evaluation Weighting</th>
</tr>
</thead>
</table>
| Individual work           | Analysis of a proposed issue related with the cases studied during class.             | Soundness of the paper  
Clear ideas                                                               | 10%                  |
| Work in collaboration     | Writing of a collective paper on a issue within the subject                           | Intelligent, straight forward approach                                     | 5%                   |
| Debate                    | Debate of questions posted during class                                               | Ability to apply general explanations in practical scenarios             | 5%                   |
| Class presentation        | Presentation over a proposed matter                                                  | Clarity of ideas                                                          | 10%                  |
| Evaluation: one minute paper | Answering of a quick unexpected question related over something recently explained | Clear concepts                                                           | 5%                   |
| Evaluation: class test    | Answering a list of short questions                                                  | Level of correct answers                                                  | 5%                   |
| Evaluation: exam (final)  | Answering a more in-depth exam                                                       | Level of correct answers                                                  | 50%                  |
| Attendance                | Presence at class                                                                    | Level of presence                                                         | 10%                  |