SUBJECT DETAILS

Data on the subject

<table>
<thead>
<tr>
<th>Full Name</th>
<th>EU Industry Regulation (Energy, Telecoms, Media, Transport) &amp; EU Public Procurement Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code</td>
<td>E000001230</td>
</tr>
<tr>
<td>Degree</td>
<td>Postgraduate in Master in International and European Business Law</td>
</tr>
<tr>
<td>Year</td>
<td>2022-23</td>
</tr>
<tr>
<td>Nature</td>
<td>Spring</td>
</tr>
<tr>
<td>ECTS Credits</td>
<td>3</td>
</tr>
<tr>
<td>Department</td>
<td>Law</td>
</tr>
<tr>
<td>Area</td>
<td>Law</td>
</tr>
<tr>
<td>Teaching staff</td>
<td>Guillermo González de Olano</td>
</tr>
</tbody>
</table>

Data on the teaching staff

| Name                        | Guillermo González de Olano                                                             |
|                            | ggdeolano@comillas.edu                                                                  |
| Telephone                  | 636 455 702                                                                            |
| Tutoring Schedule          | Upon request from students                                                              |

SPECIFIC DATA ON THE SUBJECT

Framework of 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 concession projects regarding public interest infrastructures.

**Competences - Goals**

**Competences to be developed**

**Generic Competences**

- GC 1: Analysis and synthesis abilities
- GC 3: Ability to manage information
- GC 7: Ability to work in an international context
- GC 8: Critical appraisal skills
- GC 10: Ability to develop autonomous learning skills
- GC 11: Concern for quality
- GC 12: Ability to apply theoretical knowledge into practice

**Specific Competences**

- SC 8 Knowing in depth the main rules regulating markets in special sectors (like financial markets, utilities and markets for consumer goods)

**COURSE SYLLABUS AND CONTENT**

**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
1.4 Milestones in the deregulation process

**Theme 2. Energy**

2.1 European energy policy
   2.1.1 A policy for energy
   2.1.2 Market-based instruments
   2.1.3 Research and innovation
2.2 Internal energy market
| 2.2.1 | A competitive internal market |
| 2.2.2 | An interconnected internal market |
| 2.2.3 | Public procurement |
| 2.2.4 | Taxation |
| 2.3 | Energy efficiency |
| 2.3.1 | Policy orientations |
| 2.3.2 | Delivering energy efficiency |
| 2.3.3 | Energy efficiency of products |
| 2.4 | Renewable energy |
| 2.4.1 | Policy orientations |
| 2.4.2 | Electricity |
| 2.4.3 | Heating and cooling |
| 2.5 | Nuclear energy |
| 2.5.1 | Euratom |
| 2.5.2 | Nuclear research and development |
| 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 dimension |

**Theme 3. Telecoms**

| 3.1 | Telecoms general framework: Connected continent |
| 3.2 | Roaming in the EU |
| 3.3 | Telecommunication services |
| 3.4 | Internet access |
| 3.5 | Data protection and online privacy |

**Theme 4. Media**

| 4.1 | Audio-visual Media Policy: Audiovisual Media Services Directive (AVMSD) |
| 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 | Road transport |
| 5.3 | Rail transport |
| 5.4 | Waterborne transport |
| 5.5 | Air transport |
| 5.6 | Transport, energy and the environment |
| 5.7 | Intermodality and trans-European networks |
| 5.8 | Mobility and passenger rights |
### Theme 1. General Overview

1.1 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 4. The Bidding Process

4.1 Transfer of risks in the construction contract

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

### TEACHING METHODOLOGY

#### General methodology of the subject

#### Contact hours methodology: Activities
Participative classes, case study, presentations

**Outside class methodology: Activities**

Analysis of the information provided/suggested.

**SUMMARY OF STUDENT WORK HOURS**

<table>
<thead>
<tr>
<th></th>
<th>Lecture</th>
<th>Practical class</th>
<th>Debate</th>
<th>In class presentation</th>
<th>Individual work</th>
<th>Evaluation : exam</th>
</tr>
</thead>
<tbody>
<tr>
<td>NUMBER OF CONTACT HOURS</td>
<td>13.5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>1.5</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Lecture</th>
<th>Practical class</th>
<th>Debate</th>
<th>In class presentation</th>
<th>Individual work</th>
<th>Evaluation : exam</th>
</tr>
</thead>
<tbody>
<tr>
<td>NUMBER OF INDEPENDENT WORK HOURS</td>
<td>20</td>
<td>5</td>
<td>5</td>
<td>15</td>
<td>15</td>
<td></td>
</tr>
</tbody>
</table>

**ECTS CREDITS: 3 (75,00 hours)**

**GRADE EVALUATION AND CRITERIA**

<table>
<thead>
<tr>
<th>Evaluation Activities</th>
<th>Indicators</th>
<th>Evaluation weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>Active and substantive participation in class. Student demonstrates he or she read the material.</td>
<td>5%</td>
</tr>
<tr>
<td>Exam 1 (Continuous Eval)</td>
<td>Indicators to be discussed in class</td>
<td>35%</td>
</tr>
<tr>
<td>Evaluation: exam (final)</td>
<td>Indicators to be discussed in class</td>
<td>50%</td>
</tr>
<tr>
<td>Attendance</td>
<td>Regular attendance to classes - control by signature of a daily sheet</td>
<td>10%</td>
</tr>
</tbody>
</table>

**BIBLIOGRAPHY AND RESOURCES**

Basic Bibliography and Resources
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)
- Dimitri, N et al (eds), Handbook of Procurement (Cambridge University Press, 2006).
- Nihoul, P & Rodford, P, EU Electronic Communications Law (OUP, 2011)

CHAPTER OF BOOKS

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

REQUIRED READINGS

Historical Overview


Energy

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


4. Communication from the Commission of 13 November 2008 - Energy efficiency: delivering the 20% target
   [COM(2008) 772]
   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

Telecom
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
1. Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the 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

SUGGESTED ARTICLES
5. “A guide to guidance” Sourcebook for PPPs, by the European PPP Expertise Centre: Public information on EU Public Procurement