

Joint Public Procurement and Innovation

Lessons Across Borders

Innovation in public procurement is essential for sustainable and inclusive growth in an increasingly globalized economy. To achieve that potential, both the promises and the perils of innovation must be investigated, including the risks and opportunities of joint procurement across borders in the European Union and the United States.

This in-depth research investigates innovation in public procurement from three different perspectives. First, leading academics and practitioners assess the *purchase of innovation*, with a particular focus on urban public contracting in smart cities involving meta-infrastructures, public-private partnership arrangements and smart contracts. A second line of inquiry looks for ways to *encourage innovative suppliers*. Here, the collected authors draw on emerging lessons from the US and Europe, to explore both the costs and the benefits of spurring innovation through procurement.

A third perspective looks to various *innovations in the procurement process* itself, with a focus on the effects of joint and cross-border procurement in the EU and US landscapes. The chapters review new technologies and platforms, the increasingly automated means of selecting suppliers, and the related efficiencies that “big data” can bring to public procurement.

Expanding on research in the editors’ prior volume, *Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally* (Bruylant 2014), this volume builds on a series of academic conferences and exchanges to address these issues from sophisticated academic, institutional and practical perspectives, and to point the way to future research on the contractual models that are emerging from new procurement technologies.

Directed by G.M. Racca and C. R. Yukins, this book contains the texts of: A. Asatryan, J.-B. Auby, M. Borodina, R. Cavallo Perin, L. Diesing, G.M. Di Giuda, D. Dragos, G.F. Ferrari, L. Folliot-Lalliot, J.M. Gimeno Feliu, M. Ismail, J. Kaufman, C. Kronke, I. Locatelli, P. Magina, P.T. McKeen, A. Miño Lopez, J. Molino, M. Pignatti, S. Ponzio, G.M. Racca, B. Racolța, A. Romeo, C. Santerre-Funderburg, D. Schoeni, M.A. Simovart, P. Valcarcel Fernandez, Ch. R. Yukins

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DROIT ADMINISTRATIF
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27

Gabriella M. RACCA
Christopher R. YUKINS

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Edited by
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**DROIT ADMINISTRATIF
ADMINISTRATIVE LAW**

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**Joint Public Procurement
and Innovation**

Lessons Across Borders

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FOREWORD

Edited by Gabriella M. Racca and Christopher R. Yukins, *Joint Public Procurement and Innovation: Lessons Across Borders* brings in contributions by internationally recognized experts. It is therefore with great pleasure that we have included this book in the “Droit Administratif / Administrative Law” Series.

The book is based on joint efforts made by the Public Contracts in Legal Globalization (PCLG) international research network, whose members have carried out collective research on a number of topics linked to public contracts since 2007.⁽¹⁾ Driven by the Sciences Po Governance and Public Law Centre (Chaire Mutations de l’Action Publique et du Droit Public), the PCLG Network comprises European and non-European researchers and practitioners as well. The PCLG Network publication *Comparative Law on Public Contracts* (2010) has shown that public procurement law offers suitable topics for comparative research also on account of its cross-border implications.

This book comes after many other volumes of the “Droit Administratif / Administrative Law” Series. The most recent one, *Contrôles et contentieux des contrats publics – Oversight and Challenges of Public Contracts* edited by L. Folliot-Lalliot and S. Torricelli (2018), has shown the strategic importance of European Union Law in the evolution of public contracts law. The previous work, *Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally* edited by G.M. Racca and C.R. Yukins (2014), has shown how corruption, collusion, favoritism, and conflict of interest undermine the efficiency of public spending. It has also shed light on how corruption implies violations of fundamental rights, and undermines the fiduciary relationship between citizens and public institutions. In that view, transparency and accountability could be regarded as prisms for evaluating the suitability of public contracts – an analysis that led to identifying the need for a strategic reorganization of the public contracts sector.

Building on the aforementioned publications, the aim of this book is to focus on procurement innovation in organizations, cross-border procurement, and award procedures while examining the subject matter of the contract and the procurement process also with a view to suggest ways of encouraging the participation of innovative suppliers.

(1) The Network site address is www.public-contracts.org/.

All this developed from discussions carried out during the workshop “Public Contracts and Innovations – Contrats Publics et Innovation” led by Gabriella M. Racca, Professor at the University of Turin, and Christopher R. Yukins, Professor at the George Washington University (Government Procurement Programme), which was held at the International Training Centre of The International Labour Organisation (ILO) in Turin on 27 May 2016. The Turin workshop, in fact, focused on the demand-side driven innovation for sustainability, efficiency, and integrity in public contracts as well as techniques and instruments for electronic and aggregated procurement (joint procurement and centralized purchasing bodies, framework agreements, eProcurement). Also discussed were innovation partnerships, risks of collusion, public contracts and smart cities.

During the PCLG Network meeting held in Paris on 16 December 2016 (“Public Contracts and Innovation – Contrats publics et innovation”), further discussion involving the participation of the Procurement Unit of the Public Governance and Territorial Development Office of the Organization for Economic Co-operation and Development (OECD) brought about updates on ongoing research on innovation in the evaluation of procurement systems, and also on the relationship between smart cities and procurement.

The latest updates on the subjects of interest were discussed during the PCLG Network meetings held in Paris on 15 December 2017 and 14 December 2018.

Indeed, the Turin workshop and Paris meetings provided the fundamentals for this edited collection by offering insights into a wide range of means that can foster innovation in the public contracts cycle, and outlining future prospects.

The work of our academic consortium has emphasized progress in four different areas as far as public procurement is concerned. Firstly, the digital transformation of public procurement since traditional processes have given way to what we now call “e-procurement”. Secondly, innovation has emerged as a key theme in public contract law and administrative law as well in that both have to adapt to change despite the fact that assimilating innovation in public procurement has often proved to be challenging – as discussed thoroughly in this volume. Thirdly, smart cities (cities built and designed around electronic data) have become a key issue, partly because reshaping public purchasing is necessary to meet the smart cities’ special needs of innovative and integrated procurement. Finally, owing to rapid advances in transnational procurement (and law), it has become clear that existing administrative structures, including procurement rules, need to be revisited and reformed. Our consortium’s work has spanned all these areas, and set the stage for this volume on innovation in procurement in many ways.

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This book examines innovation from three different perspectives. Firstly, innovation in the subject matter of contracts, considering smart cities and strategies for buying innovative solutions. Secondly, innovation in award procedures envisaging the efficient use of award criteria with the aim to encourage innovative suppliers in the procurement process. And lastly, innovation in procurement processes envisaging the strategic use of organizational models and contractual tools (such as central purchasing bodies, cross-border procurements, electronic means and framework agreements).

It should be noted that the differences between the U.S. and EU procurement systems have been taken into consideration by the editors of this book, whose comparative approach has offered views from academic, institutional, and practical standpoints. Their work, supported by different worldwide networks, has created a sound basis for further and more thorough developments in the fields under examination.

The authors of the chapters of this book are all specialists in their own disciplines, respectively. Their diversity in terms of cultural and professional backgrounds is a valuable resource that has provided fertile ground for the scholarly research presented in this book.

In continuity with the previous books, we hope that this research will foster further transnational academic cooperation, and encourage innovation in public contracts for the benefit of public institutions and their citizens.

Torino, Italy 20 May 2019

Jean-Bernard AUBY

Professor Emeritus of Public Law, Sciences Po, Paris

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A great opportunity for a better understanding of the book's issues was the involvement in the EU Projects Happi, PPI2Innovate and, more recently, CirePro and Euriphi, with the fruitful discussions with all the partners.

The Editors owe gratitude to the University of Turin for supporting the research activities at the heart of the scholarly work presented in this book.

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Amongst his main publications are *Tortious liability of Statutory Bodies. A Comparative and Economic Analysis of Five English Cases*, co-authored with B.S. Markesinis, D. Coester-Waltjen and S.F. Deakin (Oxford, Hart Publishing, 1999); *The Public Law | Private Law Divide; Une entente assez cordiale?*, co-edited by Mark Freedland (Hart Publishing, 2006); *Droit de l’urbanisme et la construction*, 10th edition, (Montchrestien, 2015); *Droit des collectivités locales*, 5th edition, (PUF, 2015); *Droit de la fonction publique*, 5th edition, (Daloz, 2009); *Droit administratif des biens*, 6th edition, (Daloz, 2016); *La globalisation, le droit et l’État*, 2nd edition, (Montchrestien, 2010) (Spanish translation, 2013; English translation, *Globalization, Law and the State*, Hart Publishing, 2017); Chinese translation, *La décentralisation et le droit*, LGDJ, 2006; and *Droit de la Ville. Du fonctionnement juridique des villes au droit à la Ville*, 2nd edition, (Lexis Nexis, 2016).

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using the electronic procurement environment in all the procurements to be conducted by the contracting authority. Over the years, Marina has had the chance to evaluate comprehensively all the advantages and disadvantages of the electronic tendering process – the topic explored in the article.

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Giuseppe Martino DI GIUDA is Associate Professor of Building Production at the Politecnico of Milano. He specialises in the implementation of Building Information Modeling (BIM) for Public Administrations as an element of analysis and strategic definition of public investments. His research also focuses on the digitization of tenders through the Most Economically

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Lena DIESING has been a policy analyst for public procurement at the Organization for Economic Cooperation and Development (OECD) Directorate for Public Governance since 2016. She works on the development of the Methodology for Assessing Procurement Systems (since 2015) while conducting public procurement reviews in OECD countries. Throughout her career, Lena has shown her commitment in promoting value for money. Her most recent engagements include working with the OECD's Development Assistance Committee on the nexus of development and corruption, money laundering, and organised crime. She also worked in the financial industry by conducting due diligence reviews for a risk management firm.

Lena holds a Master of Arts in International Economics and International Relations from the Johns Hopkins School of Advanced International Studies (SAIS). She studied in Washington DC (US), Bologna (Italy), and Bonn (Germany).

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His research publications include two edited books, seven chapters in international books, four single-author books in Romanian and four co-authored volumes adding to over thirty papers in scientific journals. His recent publications include Dragos and Caranta (ed.), *EU Public Procurement – Outside The*

Directives, Inside The Treaty? (Copenhagen, Djøf, 2012); Dragos, Neamtu and Hamlin, *Law in Action: Case Studies in Good Governance*, Institute for Public Policy and Social Research, Michigan State University, East Lansing, MI, USA, 2011; Dragos and Neamtu, *LCC in the New Directive Proposal*, in *European Public Procurement and PPP Law Review*, Lexxion, Germany, special issue: 'Sustainable Public Procurement', 2013; Dragos, Neamtu, Cobarzan, 'Procedural Transparency in Local Administration: Linking Implementation with Administrative Capacity', in *International Review of Administrative Sciences*, 2012; Dragos and Neamtu, 'Europeanisation of Administrative Law in Romania: Current Developments in Jurisprudence and Legislation', in *Review of European Administrative Law*, no. 1/2009, Europa Law Publishing; Dragos and Neamtu, 'The Implementation of the Services Directive in Romania', in Stelkens and Weiss (eds), *Implementation of Service Directive*, TMC Asser Press, Springer, 2012; Dragos and Neamtu, 'Sanctions Mechanisms of the World Bank on the Matter of International Corruption', in M. Audit and S. Knill, *The Internationalization of Public Contracts*, Brussels, Bruylant, 2013; Dragos, Neamtu and Veliscu, 'Judicial Review in Romania between Tradition and Dialogue', in Caranta and Gerbrandy (eds), *Traditions and Change in European Administrative Law*, Groeningen/Utrecht, Europa Law Publishing, 2011; Dragos, Neamtu, Veliscu, 'Remedies in Public Procurement in Romania', in Treumer and Lichere (eds), *Enforcement of EU Public Procurement Rules*, Copenhagen, Djøf, 2011; Dragos, Gellen, Kovac and Langbroek (eds) 'The NISPAcee', in *Journal of Public Administration and Policy*, Vol. IV, No. 2, 2011/2012, Special Issue: Law and Public Management Revisited.

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Dr. Ismail's work experience includes being a Senior Legal Advisor to H.E the Egyptian Minister of Petroleum. He represented the Egyptian government at the United Nations Conference on Trade and Development (UNCTAD) in Geneva, and in negotiations for Bilateral Investment Treaties (BITs) with developing countries. Furthermore, he collaborated with the national and international counsels to the Egyptian Government, which he represented in State international business transactions in the oil and gas industry, especially in the United Kingdom, where he collaborated with law firms such as Shearman Sterling and Baker McKenzie. Earlier on he had been a Senior Legal Advisor to H.E the Egyptian Minister of Trade and Industry, and Senior Legal Advisor to the Investment Sector Ministry in Egypt.

Dr. Ismail has been awarded by the Arab Republic of Egypt the 2011 State Prize Laureate in Academic Legal Research, the highest academic recognition in the MENA region since 1958. Currently, his research work includes projects undertaken as a Member of the Public Contract in Legal Globalization research network at the Sciences Po University in Paris.

In academia he has fulfilled teaching positions internationally. He is Visiting Professor and PhD examiner at the British universities, and Guest Speaker at the University of London. He has been a Visiting Professor at the Cairo University in Egypt, Lecturer at the Cairo Regional Centre of the International Commercial Arbitration (CRCICA), and Lecturer at the Arab League and BCDR-AAA in the Kingdom of Bahrain since 2000, where he has taught International State Contracts and Arbitration focusing more particularly on infrastructure projects.

Dr Ismail is an internationally renowned specialist on State contracts, public procurement, international arbitration in State contracts and public private partnerships as far as the legal systems of the MENA countries are concerned. He distinguished himself as one of the few scholars to have published extensively in English and in Arabic in the UK, Germany, the MENA region, and other countries as well.

Justin B. KAUFMAN serves as an Assistant Commissioner for the State of Minnesota's Information Technology Services agency. In his role, Justin works to leverage business operations teams, including information technology procurement, to build value for the State of Minnesota and support the delivery of efficient and effective information technology solutions. Prior to his current position, Justin worked within the State of Minnesota's Office of State Procurement for eleven years, where he served as counsel, focused on public contract negotiations, established a procurement negotiation training program, ensured fair and open competition in the procurement process, worked extensively with cooperative purchasing contracts and programs, and oversaw statutory compliance for executive branch contracts.

Since 2008, Justin has served as an Adjunct Professor at William Mitchell College of Law (now Mitchell Hamline School of Law), teaching a variety of courses, including Business Practicum, Deals and Dispute Resolution, and Transactions and Settlements. Since 2014, Justin has been an annual guest lecturer for the Government Procurement Law Program at George Washington University. He is actively involved in the National Association of State Procurement Officials, where he serves on the advisory board for the association's annual Law Institute.

Justin holds a Juris Doctor degree from William Mitchell College of Law and a Bachelor of Arts in International Affairs and Political Science from Marquette University.

Akad. Rat a. Z. Dr. **Christoph KRÖNKE** is a postdoc fellow ('Habilitation') at the Institute of Public Policy and Law of the Ludwig Maximilian University in Munich, Germany. He received his Doctor Juris degree from Munich University in 2013. Dr Krönke has published several books and articles in the field of public law, including his dissertation on "The Procedural Autonomy of the Member States of the European Union" (2012) and two text books on the law of State organization (1st ed. 2012, 2nd ed. 2015) and on fundamental constitutional rights (1st ed. 2012, 2nd ed. 2015, 3rd ed. 2018). Besides public procurement law, his research focuses on constitutional law, European and international law, administrative law – with a focus on public commercial law – as well as legal and administrative theory. Dr Krönke graduated from Munich University in 2009 (First State Examination) and passed his Second

State Examination in 2014, after practical legal training in civil, criminal and administrative law courts in Munich and in the cabinet of the President of the Court of Justice of the European Union.

Ivo LOCATELLI. After graduating from the University of Rome, in 1989 he started his professional career as an economic researcher supporting the preparation of Structural Funds for the Italian regions. He then completed a traineeship at the research department of Confindustria, the Italian business trade association.

Since joining the European Commission in 1992, Ivo Locatelli has worked in different departments of that institution, initially fulfilling a position at the Directorate-General XIII (Telecommunications) which required focusing on economic issues and studying other aspects as well. He then worked as a Japan expert within the unit in charge of industrial cooperation, thereby managing an important programme of industrial cooperation between European and Japanese ICT industries.

At the Information Society and Media Directorate-General he began working as member of a team in charge of implementing the liberalisation of the telecommunications sector in the EU. Thereafter he was involved in the negotiation process for the adoption of the EU Directives regulating electronic communications, which would be adopted by the EU legislator in 2009. He also worked in the international relations unit as a member of the Euromed Group of Telecommunications Regulators, and then in the eHealth unit.

In 2012 he joined the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), within the unit in charge of innovative and e-procurement. By leading the e-procurement and cooperative procurement teams, he contributed to shaping policies and strategies in those areas of work. As cooperative procurement team leader, he designed and was responsible for the training course on the SME-friendly policies in central purchasing bodies. He was also responsible for the feasibility study on the implementation of joint cross-border procurement procedures in the EU.

Since Summer 2018 he has been working in the Dir A – European Semester and Member States Competitiveness, thereby focusing on public procurement issues as well. Back to public procurement directorate, Ivo now deals with procurement of innovation and cooperative procurement, leading the corresponding team. He is Senior Expert.

Antonio MIÑO LÓPEZ is Lawyer of the Xunta of Galicia (Regional Administration of Galicia, Spain) and contract Lecturer at the University of Vigo (Spain).

As a lawyer representing a public litigant, he fulfilled the role of barrister before the Spanish courts from 2002 to 2004. During that period, he gained

extensive experience in litigation on administrative, civil, and labour issues. With regard to public litigation in particular, he defended the Xunta of Galicia against claimants in any proceeding issued on the activities run by that Regional Administration, including the provision and management of public goods, liability of regional public goods, compulsory expropriation, public procurement, proceedings for civil matters filed by civil servants, and other administrative procedure issues. As far as civil litigation is concerned, the cases he managed range from controversies on regional real estates to issues in connection with minor children under public guardianship. At labour court, he served as defendant of the Galician Administration in hearings for cases filed by their own staff as claimants.

Since 2004 he has been working as Lawyer of the Xunta of Galicia, thereby advising two Departments, Social Affairs and Public Works, while gaining other experience as detailed below.

In 2006 he was temporarily transferred to the headquarters of regional lawyers, where he worked until 2009 as advisor on European law matters such as competition, State aid and European projects. In his role, he took part in two proceedings before the Court of Justice of the European Union (CJEU), ruling on coastal shipping and freedom of services in one case, and in the other on the rights of temporary public staff. From May 2006 to March 2007, the Xunta of Galicia supported him in his study-and-work year in Brussels, where he obtained a Master's degree in European Projects Consultancy from the Université Libre de Bruxelles while working as a *stagiaire* at the European Commission, Directorate General for Competition, regional aids unit (mainly granting aids to enterprises upon prior evaluation).

During the 2009-2011 term he worked as advisor for the Rural Affairs Department.

From May 2011 to November 2015 he was Head of Investigation of the Galician Council of Competition. In his role, he investigated potential malpractice and filed claims against firms breaching the Spanish Competition Law for collusive practices, abuse of dominant position, unfair competition, and other infringements.

Since May 2015 he has been serving as an advisor to the Rural Affairs Department of the Xunta of Galicia.

Furthermore, since 2010, he has fulfilled a contract lecturer position at the University of Vigo, thereby teaching Public Procurement, Administrative Law, Public Ethics, and Electronic Government and Administration.

He has written several articles and book chapters on public procurement and competition law, and the connections between both areas. Currently, he is concluding his doctoral research on antitrust behaviours in public procurement.

Paulo MAGINA has headed the Public Procurement Unit at the OECD Public Governance Directorate since March 2014.

On the strength of his ten-year experience in the public sector, he recently served as Board Member and CFO of the Portuguese Central Government Shared Services Agency managing finance, accounting, HR, IT, and public procurement for the public administration. From 2010 to 2010 he was President and CEO of the Portuguese National Public Procurement Agency, where he led the set-up of the central purchasing body and the e-procurement implementation. He also worked with the EBRD and UNCITRAL to advise policy and legal reforms, develop action plans and road maps for restructuring public procurement systems in the CIS region in the 2012-2014 period.

Former deputy member of the Cabinet of the Secretary of State for transport in Portugal, he has held managerial positions as Member of the Board of Directors and CFO of the Portuguese national railway company CP. Earlier on, for more than twelve years, he worked as Investment Director in the transportation, banking, and private equity sectors. During those years he was responsible for assessing several PPPs and infrastructure projects, and also led the financial team in the design and setting up of light-rail projects and motorways in Portugal.

Paulo Magina holds a Master's degree in Business Administration and Management from the Catolica Lisbon School of Business & Economics. He has been an invited lecturer in that university, where he has taught Financial Strategy, Private Equity, and Venture Capital in postgraduate and MBA programs. He has also given lectures and led courses on PPPs and, more recently, on aspects of Public Procurement.

Peter T. MCKEEN's procurement career spans twenty-five years, during which he has been teaching courses in public procurement while working in contract administration and as a procurement law analyst for national law firms specializing in government contracts law. He currently works as an analyst with the government contracts practice at Arnold & Porter in Washington, D.C. Mr. McKeen has served on the adjunct faculty at the University of Virginia since 2002. He teaches courses to the U.S. public procurement workforce in procurement law and contracts management in the University's School of Continuing and Professional Studies. He is active with academic groups and international organizations involved in the study and reform of national procurement systems. He has also conducted training and instruction for procurement officials in countries seeking to enhance their national procurement systems.

McKeen earned a B.A. from the University of Southern Maine and an M.A. from the George Washington University.

Among his numerous publications, mention should be made of ‘United States – Discretion, Oversight and the Culture of Compliance’ in L. Folliot Lalliot, S. Torricelli (eds), *Oversight and Challenges of public contracts* (Bruylant 2017); Michael E. Giboney and Peter T. McKeen, *Federal Services Contracting for the Contracts Professional* (SMG 2016); Michael E. Giboney and Peter T. McKeen, *Federal Procurement Law for the Contracts Professional* (SMG 2014); ‘The Importance Of A Professionally Educated Public Procurement Workforce: Lessons Learned From The U.S. Experience’, in G. M. Racca and C. R. Yukins (eds) *Integrity And Efficiency In Sustainable Public Contracts* (Brussels, Bruylant, 2014); and Michael E. Giboney and Peter T. McKeen, *Capstone Course Topics In Federal Procurement* (SMG 2011).

Jellie MOLINO is finishing her PhD research on *The Role of Multilateral Development Banks in Promoting Sustainable Public Procurement for Innovation Toward Smart Cities* at the University of Turin (Italy). She holds an LL.M in Government Procurement and Environmental Law from The George Washington University Law School (2016), an Executive Master’s Degree in Business Administration (EMBA) from the Asian Institute of Management (2014), a Doctor of Jurisprudence degree from the University of Batangas (2005), and BA degree in Philosophy from the University of the Philippines-Diliman (October 1998). Her research interests focus on the improvement of regulations and practices on government procurement, sustainability, and anti-corruption mechanisms in developing countries.

She has been a member of the Philippine Bar since 2007 and has been active in litigation on environmental and administrative cases, including corporate compliance. She has well-rounded experience in public procurement. She was a former member of the Bids and Awards Committee (BAC) of Batangas State University (BatStateU) (2006-2010), Chair of the BAC in Pangasinan State University (PSU), and Head of the Technical Working Group of BAC in PSU (2015). She also has experience in international procurement. She was a legal and procurement specialist in the Office of General Counsel at the Asian Development Bank (2015), a visiting professor for sustainable public procurement, private-public partnership and corporate social responsibility at the International Training Center of the International Labor Organization in Turin, Italy (August, 2018, 2019), and a consultant for the Supreme Court of the Republic of the Philippines on procurement related issues in the Official Development Assistance (ODA) funded projects in the Philippines (January – February, 2019).

Prior to pursuing her graduate studies, she had positions of responsibility in the academy in the Philippines. She joined the faculty of Batangas State University as College Instructor in 1999. She was promoted to Assistant

Professor IV in 2006, and, started teaching law subjects. In 2007, she was appointed to the position of Board and University Secretary V, and, in 2010, she became the first Vice President for Resource Generation and External Affairs. She also served as Vice President for Administration and Finance in PSU in 2015. She left those positions to pursue her international graduate studies.

Matteo PIGNATTI is Post-doctoral researcher at the Department of Management of the University of Turin (Italy). He obtained his PhD in Administrative Law at the University of Turin (2012) with a dissertation on the contractual activity of central purchasing bodies. Having successfully passed the bar examination (2011) at the Court of Appeal of Turin, he has become a legal practitioner. He is an assistant professor teaching Public Law, Administrative Law, and Public Contract Law. His research interests include public contracts, organizational models for Central Purchasing Bodies (CPBs), contractual tools such as framework agreements and dynamic purchasing systems for demand aggregation by public purchasers, eProcurement, transparency and integrity issues.

He took part in the Italian Research Unit working at a EU project on Public Procurement for Innovation (PPI), Healthy Ageing and Public Procurement of Innovations, funded by the EU Commission (DG Enterprises – Call ENT/CIP/11/C/N02C011). He currently takes part in the Italian Unit of the project on Public Procurement for Innovation Capacity Building to Boost the Usage of Public Procurement of Innovation (PPI) in Central Europe – PPI2INNOVATE funded by the Central Europe Programme of the European Regional Development Fund (Interreg) for the 2016-2019 period (*see* www.interreg-central.eu/Content.Node/PPI2Innovate.html). The project directly targets public procurers at all administrative levels in the EU with a view to building regional capacities in PPI. He is also involved in the Interreg Europe project Smart Circular Procurement (CircPro) and in the project Financing Impact on the Regional Development of Cultural Heritage Valorisation (FINCH) – Interreg Europe. A member of the Public Contracts in Legal Globalization comparative law network (*see* www.contrats-publics.net), he has published several articles in the field of public contracts.

Silvia PONZIO is Associate Professor of Administrative Law at the Department of Management of the University of Turin. She teaches Administrative Law, Public law for Economics, Labour Law and Public Contracts Law in graduate and postgraduate courses. She is responsible for the teaching activities of the SEIIC Master's degree course on Italian public contracts, which has been organised with the National Authorities on Anticorruption (ANAC).

Her research interests include public contracts and public procurement, collaborative procurement and central purchasing bodies, public procurement

of innovation (PPI), and the liability of public administrations in connection with general and special contracts as well as technical specifications and documents defining the rules for awarding procedures. Also, in the scope of her study is evaluating transparency in the activities performed by public bodies and civil servants, as well as their accountability not only in the light of ethical issues and disciplinary measures to be undertaken. She has shared her research outcomes through publishing books, essays, and articles.

She has been involved in the Italian Unit of the EU project on Public Procurement for Innovation (PPI), Healthy Ageing and Public Procurement of Innovations, funded by the EU Commission (DG Enterprises – Call ENT/CIP/11/C/N02C011). The HAPPI Project, underpinning the first joint cross-border procurement with an FA anticipating art. 39 of the Dir. 24/14/EU, was referenced in the *Feasibility Study Concerning the Actual Implementation of a Joint Cross-border Procurement Procedure by Public Buyers from Different Member States* prepared for the EU Commission by the BBG, Ski and EU Commission, *Making Public Procurement Work in and for Europe*, 3.10.2017, COM (2017) 572 final. She is currently involved in the Italian Unit of the project on Public Procurement for Innovation Capacity Building to Boost the Usage of Public Procurement of Innovation (PPI) in Central Europe – PPI2INNOVATE, funded by the Interreg Central Europe Programme (European Regional Development Fund for the period 2016-2019 (see <http://www.interreg-central.eu/Content.Node/PPI2Innovate.html>). The project directly targets public procurers at all administrative levels in Central Europe with a view to building regional capacities in PPI, changing attitudes towards PPI, strengthening linkages among relevant stakeholders in regional innovation systems, thus boosting use of PPI in Central Europe. Moreover, she is involved in the Smart Circular Procurement Project (CircPro) – Interreg EUROPE, and the project Financing Impact on the Regional Development of Cultural Heritage Valorisation (FINCH) – Interreg Europe.

She is a member of the editorial board of the *Diritto amministrativo* journal, and also of the Italian editorial board of the *Ius Publicum Network Review*. Furthermore, she is a member of the Public Contracts in Legal Globalization research network (www.contrats-publics.net) and the Procurement Law Academic Network (www.planpublicprocurement.org/main/).

Gabriella M. RACCA is Professor of Administrative Law at the Department of Management of the University of Turin (Italy) and coordinator of the PhD in Law and Institutions at the University of Turin. She has been Deputy Dean of the School of Economics (2005-2012). She is the Director of the Master SEIIC, on Efficiency, Integrity and Innovation in Italian Public contracts, organized with the National Authority on Anticorruption (ANAC).

She is the coordinator of the *Ius Publicum Network Review* and Italian Head of the 'Public Contracts' section. Founded in Madrid, on 26 April 2010, by the Editorial Boards of *Die Verwaltung*, *Diritto amministrativo*, *International Journal of Constitutional Law*, *Public Law*, *Revista de Administración Pública*, and *Revue Française de Droit Administratif*, the aim of this network is to follow the developments in Administrative and Public Law in each network member's country and their relevance to other legal cultures (www.ius-publicum.com).

Her main research interest is the public procurement cycle, from the definition of needs to the execution of the contract. She has also steered her studies toward public services, concessions, PPP, public liability, compensation for damages, the accountability of public administrations, and integrity issues. More recently, she has broadened her research field by focusing on collaborative procurement and central purchasing bodies, GPOs, framework agreements (especially in the European Healthcare Systems), sustainability (environmental and/or social) and public procurement of innovation.

She has been a consultant to the Organisation for Economic Co-operation and Development (OECD) on public procurement in the healthcare sector. She also is Member of the Steering Committee of the Public Contracts in Legal Globalization research network (*see* www.contrats-publics.net). With Christopher R. Yukins, Professor at the George Washington University School of Law, she has co-directed the research project *Integrity and Efficiency in Sustainable Public Contracts. Balancing Corruption Concerns in Public Procurement Internationally* which led to the publication of the previous book in this series (2014) in *Droit administratif/Administrative Law* collection. She is co-director of the research project *Joint Public Procurement and Innovation: Lessons Across Borders*, since 2016, aimed at highlighting the key role of innovation in Public Procurement.

Prof. Racca led the Italian Unit of the EU project on Public Procurement for Innovation (PPI), Healthy Ageing and Public Procurement of Innovations, funded by the EU Commission (DG Enterprises – Call ENT/CIP/11/C/N02C011). The HAPPI project is aimed at conducting a legal study on innovative procurement models for an EU cross-border joint procurement system in Healthcare. It is also aimed at bringing to the fore relevant legal aspects while identifying the most appropriate tools to open the way to collaboration among public entities, or CPBs from different countries, in order to overcome the existing barriers within Europe, thus encouraging competition and the Internal Market opening. From that perspective, data recording, benchmarking, and information exchange among Public Interest Entities in the EU may help achieve the goals set out in the *Europe 2020* strategy. According to that strategy, high quality health care should be provided without increasing

the expenditure budget. The HAPPI project led to establishing one of the first joint cross-border procurement, with a FA anticipating art. 39 of the Dir. 24/14/EU. The project was referenced in the *Feasibility Study Concerning the Actual Implementation of a Joint Cross-border Procurement Procedure by Public Buyers from Different Member States* prepared for the EU Commission by the BBG, Ski and EU Commission, *Making Public Procurement Work in and for Europe*, 3.10.2017, COM (2017) 572 final “in the HAPPI project, innovative solutions for healthy ageing have been procured jointly by contracting authorities in several Member States”, recalling that “more than 20 health-care organisations from France, Italy, Luxembourg, Belgium or Netherlands purchased HAPPI solutions”.

She has recently been appointed a member of the Advisory Committee to the EURIPHI (“European Innovative Procurement of Health Innovation”) project, funded by the EU’s Horizon 2020 research and innovation programme. The project aims to establish an effective and sustainable cross-border Community of Practice to share experiences and support development of cross-border public procurement and value-based approach.

Combining her commitment to education and scholarly expertise, she has led the Job Placement High Education Project named “Educational Path in Collaborative Public Procurement”, funded by the Regional Government of Piedmont (European Social Fund).

Currently, she is Head of the Italian Unit working at the project Public Procurement for Innovation Capacity Building to Boost the Usage of Public Procurement of Innovation (PPI) in Central Europe – PPI2INNOVATE, funded by Interreg Central Europe Programme (European Regional Development Fund) for the 2016-2019 period (see www.interreg-central.eu/Content.Node/PPI2Innovate.html). The project directly targets public procurers at all administrative levels in Central Europe so as to build regional capacities in PPI, change attitudes towards PPI, strengthen ties among relevant stakeholders in regional innovation systems, thus boost the use of PPI in Central Europe. As its spearhead, the PPI2Innovate project is aimed at delivering three thematic tools (Smart Health, Smart Energy and Smart ICT), fully customised to six national institutional frameworks and translated into the national language of each of them, and at the implementation of regional joint competence centers in PPI.

She is also Scientific Director of the Smart Circular Procurement Project (CircPro) – Interreg Europe (see <https://www.interregeurope.eu/circpro/>). Project CircPro aims to promote the transition to Circular Economy in the procurement sector and to combine efficiency, sustainability and innovation with the principles of Circular Economy in the whole procurement cycle. She

is involved in the project Financing Impact on the Regional Development of Cultural Heritage Valorisation (FINCH) – Interreg Europe (see <https://www.interregeurope.eu/finch/>).

Moreover, she is Member of the Scientific Board of two postgraduate programmes. Firstly, the Master's of Science degree in Public Procurement Management for Sustainable Development, jointly organized by the International Training Centre of International Labour Organisation (ITC – ILO) of the University of Turin. Secondly, the *Master en Gouvernance et management des marchés publics en appui au développement durable*, jointly organised by the International Training Centre of International Labour Organisation (ITC – ILO), the University of Sciences Po Paris, and the University of Turin.

She is currently involved as a teacher in the postgraduate diploma/master in Public Procurement Regulation in the EU and in its Global Context MA/Pg Dip, at the King's College in London.

Aside from the network mentioned earlier, Prof. Racca is Member of the steering committee of different organisations, including the Association of Italian Professors of Administrative Law (AIPDA) (see www.diritto-amministrativo.org/), and of the Italian section of the International Institute of Administrative sciences (see www.iias-iisa.org and www.iisa.it/). She is also a member of the Procurement Law Academic Network (<http://www.planpublicprocurement.org/main/>), the Research Network on EU Administrative Law (www.reneual.eu/), the European Law Institute (www.europeanlawinstitute.eu/), the International Society of Public Law (icon-society.org/), the European Procurement Law Group (eplgroup.eu/), the British Institute of International and Comparative Law (www.biicl.org/), the Italo-Brasilian Administrative Law Professor Network, the Smart Cities and Digital Administration Network the Transnational Administrative Law Network (www.transadmlaw.eu) and the Future of Administrative Law Network. She has published extensively. Selected writings by her are available from the SSRN web site (see ssrn.com/author=1571949).

Bianca RACOLȚA. PhD Candidate at the Babes Bolyai University Faculty of Law in Cluj Napoca (Romania) with a thesis on State Aid and Public Procurement, she is a practicing lawyer in the Cluj Napoca Bar.

She graduated in law in 2013 and holds a Master's Degree in International Law. She taught Labour Law at the Babes Bolyai University Faculty of Law in 2013-2014. Still at the Babes Bolyai University, since 2017 she has taught a course on Administrative Law in English at the College of Political, Administrative and Communication Sciences. She has won the 2nd Prize in the 2016 FBE International Contract Competition (Commercial Contract Negotiations) held in Warsaw. As a speaker she has attended international conferences as

well, for instance the 2017 and 2018 annual conferences of the European Group of Public Administration held in Milan and Geneva, respectively, as well as the 2017 and 2018 Transylvanian International Conference in Public Administration that took place in Cluj-Napoca. She has published in the *European Procurement and PPP Law Review*, *The Scientific Journal of Humanistic Studies*, and the *Romanian Journal of Legal Notes and Studies*.

Anna ROMEO is currently Professor of Administrative Law at the Department of Law of the University of Messina. She obtained her PhD in Public Law at the University of Turin, she was researcher of Administrative Law at the LUSPIO University of Rome and Associate Professor of Administrative Law at the Faculty of Law of the University of Messina. She is Vice-Coordinator of the PhD in Legal Sciences – curriculum *Company, Society and Market Regulation*, and an expert, appointed by the Ministry of Education, for the revision of research projects of national interest, member of the Insurance Commission of the quality of the research at the aforementioned Department of Law in Messina. She holds the courses of Administrative Law, Urban Planning Law and Comparative Administrative Law, and, previously, of Local Government Law, as well as at the School of Specialization for Legal Professions of the University of Messina. She also taught at the School of Public Administration, at Masters and Training Courses and at the School of Specialization for Legal Professions of the “Mediterranea” University of Reggio Calabria. She is author of two monographs and more than 60 publications on the subject of administrative procedure, silence of the public administration, public tenders, expropriation, administrative justice. She has been speaker at numerous national and international conferences and she was Visiting Fellow at the Chengdu Administration Institute in Chengdu-China. She is a member of the Italian Association of Professors of Administrative Law (AIPDA), of the Italian-Argentine, Italian-Spanish and Italian-Brazilian Associations of Professors of Administrative Law.

Daniel SCHOENI has been with the U.S. Air Force JAG Corps since 2004. His past assignments include California, Germany, Washington DC, Massachusetts, and Arizona. He has served as prosecutor, trial and appellate defense counsel, program counsel, and deputy staff judge advocate. He has twice deployed (six months to Colombia, a year to an undisclosed location in Southwest Asia), and is now assigned to Creech AFB, Nevada. He is a graduate of Brigham Young University (B.A. Philosophy 2000), the University of Iowa Graduate College (M.A. Philosophy 2003), the University of Iowa College of Law (J.D. 2003), the University of Nottingham (LL.M. Public Procurement Law and Policy 2011), and the George Washington University (LL.M. Government Procurement Law 2014). Prior to the military, he clerked for the Honorable Jerry Larson of the Iowa Supreme Court. He has published

articles on a variety of procurement subjects, including defense offsets, cybersecurity, suspension and debarment, the World Trade Organisation's Agreement on Government Procurement, public-private partnerships, and defense innovation. His writings have earned several awards, including the American Bar Association's Standing Committee on Armed Forces Law's Keith E. Nelson writing award and the U.S. Air Force JAG School's Thomas P. Keenan award for international and operational law. He is a Ph.D. candidate at the University of Nottingham, and his dissertation considers the subtle non-tariff barriers that would impair transatlantic public procurement trade between the United States and the European Union even if the overt barriers were removed. He is an adjunct at King's College London's school of law, teaching a course on defense procurement in the European Union.

Dr Iur **Mari Ann SIMOVART** is Associate Professor at the School of Law, University of Tartu, Estonia. Her research is focused on EU public procurement law, in particular the public contract performance stage, featuring contract modification and termination, contractual liability, and more broadly the interaction of national contract law with the EU public procurement law. Recently, she has been engaged in projects on the enforcement of remedies in public procurement matters as well as innovation in public procurement. She teaches public procurement law classes on postgraduate courses by classes which have repeatedly been awarded the title of the best class of the School of Law. Furthermore, she has led training courses and seminars on public procurement law.

As a speaker, Dr Simovart has attended several conferences on EU public procurement law, for instance the 'Public Procurement: Global Revolution' conference held in Nottingham (UK) in 2017, the 2016 and 2017 *Upphandlingskonferensen* in Stockholm (Sweden), and others.

Dr Simovart has published numerous articles on EU public procurement law and participated in international book projects. For instance, she co-authored the recently published commentary on the EU public procurement remedies directives in *Brussels Commentary on EU Public Procurement Law* edited by Steinicke/Vesterdorf (C.H. Beck, Hart, and Nomos, 2018). Currently, she leads the project of writing the Commentary on Estonian Public Procurement Act, to be published in 2019. She is a Member of the Council of the procurement law journal *URT*, issued in Stockholm (*see* www.urt.cc/?q=radet); an academic member of the Procurement Law Academic Network (*see* www.planpublicprocurement.org/main/), and a Member of the Public Contracts in Legal Globalization research network (*see* www.contrats-publics.net).

Patricia VALCÁRCEL FERNANDEZ is Associate Professor of Administrative Law (with the qualification for Full Professor), at the University of Vigo

(Spain). She holds a Ph.D. in Law (Summa Cum Laude and Extraordinary Doctorate Prize). She has been a visiting scholar in different Universities, including the Università degli Studi di Firenze (Italy), the Universidade da Lusíada in Lisbon (Portugal), and the University of Nottingham (UK).

Professor Valcárcel is an author of nearly 100 publications on Administrative Law. She has published extensively on public contracts, and is the author of a monograph on the execution and financing of public works, *Ejecución y financiación de obras públicas. Estudio de la obra pública como institución jurídico-administrativ* (Thomson-Civitas, Madrid, 2006). She has also written articles and book chapters on public-private partnership, the strategic use of public procurement, and innovation in public procurement. She has edited two books, the most recent of which is *Joint Purchasing and Aggregate Demand of Contracting in the Public Sector. A Legal and Financial Analysis* (Aranzadi Thomson Reuters, 2016).

She is a founding member of the Spanish Public Procurement Observatory (OBCEP) in 2011, and a member of different international research networks in this field: Procurement Law Academic Network (PLAN), Public Contracts in Legal Globalization (PCLG) and the European Procurement Law Group (EPLG).

She has participated in different national and international research projects, the most recent of which is a national research project funded by the Spanish Ministry of Economy, Industry and Competitiveness (Spanish Government) on Smart Procurement (Ref: DER2015-67102-C2-2-P).

Professor Valcárcel was a former counsel for the *Garrigues Abogados y Asesores Tributarios*, a position that allowed her to gain extensive experience in the practice of Administrative Law, in the fields of national and international public contracts. Currently, she is a consultant in public procurement for public bodies and private firms.

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