

Integrity and Efficiency in Sustainable Public Contracts

Balancing Corruption Concerns in Public Procurement Internationally

Ensuring **efficiency and integrity** throughout the public procurement cycle is essential to a sound allocation of taxpayers' money. Yet public contracts are plagued by **corruption, collusion, favoritism and conflicts of interest**. This book addresses these problems from sophisticated, academic, institutional and practical perspectives.

The book's ambition is to shape the public debate in the procurement community by highlighting how corruption implies **violations of fundamental rights** and undermines the fiduciary **relationship between citizens and public institutions**. The analysis underlines how corruption may stem from - and yet be resolved - through the exercise of discretion in the public procurement system. Focusing on the **effects** of public corruption and private collusion on procurement integrity, the book marks the features of misconduct and suggests needed **counter-measures**. The work also emphasizes that the pursuit of efficiency and integrity in public contracts must be rooted in professional skills, and in ethical regulations and training for public officers.

The research reflected in these pieces comes from sources around the world, and offers an excellent foundation for further development of these topics. Expanding on prior research, this volume builds on a more active transnational academic cooperation and exchanges of ideas on integrity in public contracts for the benefit of citizens.

This book is intended as both a textbook and an edited collection and it is available as e-book too. The authors of the chapters are all specialists in their respective fields, and their different geographical and professional perspectives represent a valuable contribution to the scientific literature.

- ✓ European Law
- ✓ International Law

INTEFFSUS
ISBN : 978-2-8027-4294-4



9 782802 742944

www.bruylant.be • www.stradalex.com



Integrity and Efficiency in Sustainable
Public Contracts

Editors

Gabriella M. RACCA
Christopher R. YUKINS

18

COLLECTION
DROIT ADMINISTRATIF
ADMINISTRATIVE LAW
DIRECTOR JEAN-BERNARD AUBY

COLLECTION

DROIT ADMINISTRATIF
ADMINISTRATIVE LAW
DIRECTOR JEAN-BERNARD AUBY

Integrity and Efficiency in Sustainable Public Contracts

Balancing Corruption Concerns
in Public Procurement Internationally

Editors:

Gabriella M. RACCA
Christopher R. YUKINS



bruylant

COLLECTION
DROIT ADMINISTRATIF
ADMINISTRATIVE LAW

Director

Jean-Bernard AUBY
Professor, Sciences Po Paris,
Director « Mutations de l'Action Publique et du Droit Public » Centre

Scientific Counsel

Sabino CASSESE
Professor, University of La Sapienza, Roma
Member of the Italian Constitutional Court

Paul CRAIG
Professor
University of Oxford (St John's College)

Jacqueline DUTHEIL DE LA ROCHÈRE
Professor and former President
University Panthéon-Assas Paris II

Fernando SAINZ MORENO
Professor, Université Complutense, Madrid

Jürgen SCHWARZE
Professor, University of Freiburg

Tom ZWART
Professor, University of Utrecht

The purpose of the “Droit Administratif – Administrative Law” series is to gather administrative law studies which can commonly attract the interest of the various European and international administrative law doctrines.

It includes:

- works concerning one national administrative law but susceptible, by the adopted approach, to be relevant for foreign doctrines;
- comparative works;
- writings concerning the incidence of EU law or the European convention on national administrative laws;
- and, finally, works concerning the part of the EU law that can be considered as having the nature of administrative law.

Published in French or in English, the books appearing in the collection “Administrative law – Droit Administratif” can be treaties, essays, theses, conference materials or readers. They are selected according to the contribution which they can bring to the European and international doctrinal debate concerning questions of administrative law.

COLLECTION

**DROIT ADMINISTRATIF
ADMINISTRATIVE LAW**

18

**Integrity and Efficiency
in Sustainable
Public Contracts**

Balancing Corruption Concerns
in Public Procurement Internationally

Editors:

Scientific Direction

Gabriella M. Racca

Professor at the University of Turin

Christopher R. Yukins

Professor at the George Washington University

Scientific Committee

Gian Luigi Albano - Head of Research, Consip S.p.A.

Jean-Bernard Auby - Professor at SciencesPo, Paris

Roberto Cavallo Perin - Professor at the University of Turin

Bernardo G. Mattarella - Professor at the University of Siena

Albert Sanchez Graells - Senior Lecturer at the University of Leicester



bruylant

For further information on our titles in your matters of interest, please visit us on : www.larciergroup.com.

© Groupe Larcier s.a., 2014
Éditions Bruylant
Rue des Minimes, 39 • B-1000 Bruxelles

Tous droits réservés pour tous pays.

Il est interdit, sauf accord préalable et écrit de l'éditeur, de reproduire (notamment par photocopie) partiellement ou totalement le présent ouvrage, de le stocker dans une banque de données ou de le communiquer au public, sous quelque forme et de quelque manière que ce soit.

Imprimé en Belgique

Dépôt légal
Bibliothèque nationale, Paris : septembre 2014
Dépôt légal 2014/0023/140

ISSN : 2031-4922
ISBN : 978-2-8027-4294-4

IN THE SAME COLLECTION

1. *L'argument de droit comparé en droit administratif français*, sous la direction de Fabrice MELLERAY, 2007.
2. *Droit administratif européen*, 2^e édition complétée, par Jürgen SCHWARZE, 2009.
3. *L'état actuel et les perspectives du droit administratif européen*, Jürgen SCHWARZE (éd.), 2009.
4. *Le contrôle juridictionnel de la légalité des actes administratifs en Chine : éléments d'analyse comparée des contentieux administratifs chinois et français*, par Zhang LI, 2009.
5. *Droit comparé des Contrats publics. Comparative Law on Public Contracts*, sous la direction de Rozen NOGUELLOU et Ulrich STELKENS, 2010.
6. *Au-delà de l'Etat*, Sabino CASSESE, 2011.
7. *Transatlantic Perspectives on Administrative Law*, Ed. Herwig C.H. HOFMANN et Russell L. WEAVER, 2010.
8. *Contrats publics et arbitrage international*, sous la direction de Mathias AUDIT, 2010.
9. *Partenariats public-privé : Rapports du XVIII^e congrès de l'académie internationale de droit comparé – Public-Private Partnership: International Academy of Comparative Law XVIIIth Congress*, sous la direction de François LICHÈRE, 2011.
10. *Les aspects juridiques de la régulation européenne des réseaux*, Léa RODRIGUE, 2012.
11. *Le lobbying en droit public*, Grégory HOUILLON, 2012.
12. *La légalité de la lutte contre l'immigration irrégulière par l'Union européenne*, sous la direction de Laurence DUBIN, 2012.
13. *Codification of Administrative Procedure*, Jean-Bernard AUBY (ed.), 2013.
14. *Traité de droit administratif européen*, sous la direction de Jean-Bernard AUBY et Jacqueline DUTHEIL DE LA ROCHÈRE, 2^e édition, 2013.
15. *EU Public Contract Law. Public Procurement and Beyond*, Martin TRYBUS, Roberto CARANTA and Gunilla EDELSTAM (eds.), 2013.
16. *Bonne administration et Union européenne*, Emilie CHEVALIER, 2014.
17. *La notion de contrat administratif. L'influence du droit de l'Union européenne*, Mathias AMILHAT, 2014.

FOREWORD

It is a great pleasure for our “*Droit Administratif / Administrative Law*” series to welcome this book, edited by Gabriella M. Racca and Christopher R. Yukins and bringing together contributions of international recognized experts.

This book is based on the joint efforts made by the international research network “*Public Contracts in Legal Globalization*” (PCLG)(1) that carried out collective research on a number of topics linked to Public Contracts since 2007. Driven by the “*Governance and Public Law Centre*” (*Chaire “Mutations de l’Action Publique et du Droit Public”*) from Science Po University, the PCLG Network is made of researchers and practitioners, European and non-European. The PCLG’s publication *Comparative Law on Public Contracts* (2010) has shown that Public Procurement and Public Contracts law are very suitable topics for comparative research due to their cross-border implications. The following book *EU Public Contract Law, Public Procurement and Beyond* (2014) has remarkably showed the strategic importance of EU Law in the evolution of public contracts law.

The purpose of this book is thus to improve the outcomes of the aforementioned publications with a specific focus on integrity issues in public contracts. Corruption, collusion, favouritism and conflict of interest seem to undermine the efficiency of a relevant amount of public spending. Such discussion emerged from the workshop “*Integrity and Efficiency in Sustainable Public Contracts*” organized by Gabriella M. Racca (www.ius-publicum.com) of the University of Turin and Christopher R. Yukins of George Washington University (Government Procurement Programme) in Turin on June 8th, 2012.

The Turin workshop focused on the link among integrity, objectivity of the award procedure and quality of the contract performance. During the following meeting of the PCLG-Network in Paris on December 19th, 2012, the discussion continued more in-depth with the participation also of the Procurement Unit of the Public Governance and Territorial Development office of the Organisation for Economic Co-operation and Development (OECD).

Both the workshops and the following discussions provided the outline for this collective book through an overview on the wide range of means that foster

(1) The Network site address is: <http://www.public-contracts.net>. Since March 2013, the Network publishes a periodical, the International Journal of Public Contracts: <http://www.direitodoestado.com.br/ijpc>.

integrity and efficiency in the entire cycle of Public Contracts. In particular, the principles of transparency and accountability are both addressed as a prism for evaluating the suitability of Public Contracts and the tools for achieving the “desiderata” of any procurement system. This book highlights the issues to achieve this task from academic, institutional and practical perspectives. The research has been accomplished by different worldwide networks, and might be an excellent basis for further developments on these topics. The authors of the chapters are all specialists in their own fields and their different background, both by a geographical and professional perspective, represent a precious contribution for the scientific achievements reached by the book.

In continuity with the previous books, this research might permit to achieve a more active transnational academic cooperation and circulation of ideas on integrity in Public Contracts for the benefit of public institutions and of the citizens.

Turin, May 2nd, 2014

Jean-Bernard AUBY

Professor of Public Law, Sciences Po, Paris

Director, Governance and Public Law Center

(Chaire “Mutations de l’Action Publique et du Droit Public”)

ACKNOWLEDGEMENTS

The Editors would like to thank Dr. Matteo Pignatti, Mr. Franco Peirone and Ms. Anna Malandrino (University of Turin) for style-editing and compiling the detailed table of contents, and Professor Peter McKeen (Adjunct Professor at the University of Virginia) for his generous assistance in editing this volume.

The Editors' gratitude goes also to the University Institute of European Study (IUSE) of Turin, which has supported the research activities at the foundation of the scientific achievements presented in the book.

BRUYLANT

TABLE OF CONTENTS

Foreword.....	vii
Acknowledgements.....	ix
Table of contents	xi
Authors and editors.....	xv
Introduction. Steps for integrity in public contracts, by Gabriella M. RACCA and Christopher R. YUKINS.....	1
Applying OECD public procurement principles, by Paulo MAGINA and Jeremy McCRARY	11
Part I. Corruption as a Violation of Fundamental Rights.....	21
Chapter 1. Corruption as a violation of fundamental rights: reputation risk as a deterrent against the lack of loyalty, by Gabriella M. RACCA and Roberto CAVALLO PERIN.....	23
Chapter 2. An emblematic case: corruption as an illicit secondary consideration in public procurement in Italy, by Antonio ROMANO-TASSONE.....	49
Chapter 3. Perspectives on fighting corruption in public contracts in Italy, by Francesco MANGANARO	53
Chapter 4. The Italian efforts on anti-corruption, by Bernardo Giorgio MATTARELLA	61
Chapter 5. Fighting corruption in public procurement: the case of Romania, by Bogdana NEAMTU and Dacian C. DRAGOS.....	69
Chapter 6. The criminal repression of corruption in public procurement of Tunisia, by Ridha JENAYAH.....	101
Part II. Corruption in the Award Phase.....	115
Chapter 1. Integrity challenges in the EU and U.S. procurement systems, by Daniel I. GORDON and Gabriella M. RACCA.....	117

BRUYLANT

Chapter 2. Regulating discretion in public procurement: an anti-corruption tool? by Paula BORDALO FAUSTINO	147
Part III. Corruption and Collusion in Public Contracts	153
Chapter 1. Demand aggregation and collusion prevention in public procurement, by Gian Luigi ALBANO	155
Chapter 2. Prevention and deterrence of bid rigging: a look from the new EU directive on public procurement, by Albert SÁNCHEZ GRAELLS	171
Chapter 3. Contracting authorities' inability to fight bid rigging in public procurement: reasons and remedies, by Antonio LÓPEZ MIÑO and Patricia VALCÁRCCEL FERNÁNDEZ	199
Chapter 4. Debarment in public procurement: rationales and realization, by Erling HJELMENG and Tina SØREIDE	215
Chapter 5. Brief notes on bid rigging and price fixing in Poland, by Anna GORCZYNSKA	233
Part IV. Contract Modifications and Corruption in the Execution Phase	245
Chapter 1. Material changes in contract management as symptoms of corruption: a comparison between EU and U.S. procurement systems, by Gabriella M. RACCA and Roberto CAVALLO PERIN	247
Chapter 2. The modification of public contracts: an obstacle to transparency and efficiency, by Francisco J. VÁZQUEZ MATILLA	275
Chapter 3. Brief notes on modifications of public contracts in Italy, by Paolo LAZZARA	307
Part V. The Need for Professionalisation in the Procurement Market	317
Chapter 1. The importance of a professionally educated public procurement workforce: lessons learned from the U.S. experience, by Peter T. McKEEN	319

TABLE OF CONTENTS

XIII

Chapter 2. Front-line public servants, discretion and corruption, by André SADDY.....	343
Chapter 3. Integrity and efficiency in collaborative purchasing, by Bushra RAHMAN, Eugene S. SCHNELLER and Natalia WILSON	357
Chapter 4. Brief notes on tenderer requirements in Italy, by Anna ROMEO	387
Chapter 5. Brief notes on the role of “protocols of legality” in Italy, by Loredana GIANI	397
Detailed table of contents.....	413

BRUYLANT

AUTHORS AND EDITORS

Gian Luigi ALBANO, is Head of Research at Consip S.p.A., the National Central Purchasing Body, Italy. He obtained his PhD in Economics from the Université catholique de Louvain (Belgium) and a B.A. (Hons) from the Università “L. Bocconi” (Milan, Italy). Before joining Consip, Dr. Albano lectured at the Department of Economics of University College London from 1999 until 2005. His research topics belong to the flourishing field of the law and economics of public procurement, and his research papers are published in several international peer-reviewed journals. He is invited Professor at the University LUISS “G. Carli” (Rome, Italy), where he teaches both at the undergraduate and the postgraduate levels, as well as invited Lecturer at the Italian School of Administration (SNA) and the ITC-ILO (Turin, Italy). Dr. Albano serves as Associate Editor of the *Journal of Public Procurement*. He is an expert on public procurement for the EC, the Inter-American Development Bank, the OECD, SIGMA (joint venture between the OECD and the European Union), the World Bank, the UN and is currently advising the Italian Treasury Department on the “Emission Trading Scheme”.

Paula BORDALO FAUSTINO, is currently finishing her PhD research project on *Public Procurement Award Criteria in the EU Member States: A Comparative Case Study* at the School of Law, University of Nottingham (UK). She is also a part-time tutor of European Law and a teaching assistant of the Corruption module in the Executive Postgraduate Programme in Public Procurement Law and Policy at the same University. She is co-editor of the book reviews for the *Public Procurement Law Review* (PPLR). Paula is a Portuguese lawyer with experience in giving legal advice to contracting authorities throughout public procurement procedures (including litigation). She took part in the task force assigned by the Portuguese government to draft the Portuguese *Public Contracts’ Code* (implementing EC Directives 2004/17 and 2004/18). Paula also taught public procurement postgraduate courses at several Portuguese law schools, and worked as a professional trainer on public procurement for the Portuguese Public Administration.

Roberto CAVALLO PERIN, is Professor of Administrative Law at the Department of Law of the University of Turin and Lawyer qualified for the access to Italian Supreme Courts. His research interests include Administrative Procedure, Public Utilities Law, Local Authorities Law, Public Contracts and Public Procurement Law, Civil Service Law and Judicial Review, the Ethics of Civil Servants and Integrity Issues. He is member of the Steering Committee of the Italian *Association of Administrative Law Professors* (AIPDA), the Italian *Association of*

BRUYLANT

Administrative Procedural Law Professors, the Italian Association of City Planning Law and in 2001-2006 he was Member of the Committee for the High Surveillance and Guarantee for the Winter Olympic Games of Turin. He is the Italian Director of the *Ius Publicum Network Review* – www.ius-publicum.com founded in Madrid, on April 26th, 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 *Ius Publicum Network Review* is to follow the recent developments in each network member country, focusing on the development of Administrative and Public Law in connection with other legal cultures. He is Member of the Scientific Board of the PhD Programme in *Law and Institutions* at the University of Turin, Deputy Director of the Law Review *Diritto Amministrativo* and Member of the Scientific Board of *Foro amministrativo – Consiglio di Stato*. He is a Member of the *European Law Institute* (<http://www.europeanlawinstitute.eu/>), of the *Research Network on EU Administrative Law* (<http://www.reneual.eu/>), of *Public Contracts in Legal Globalization* (www.contrats-publics.net), of the *Procurement Law Academic Network* (<http://www.planpublicprocurement.org/main/>), of the *Association du Droit de la Fonction Publique* (ADFP) and of the *Association of Italian-Spanish Law Professors* (AAIS). He has published in the main international reviews in the field of Public Contracts, including *Public Contract Law Journal*, the *Public Procurement Law Review*, the *European Procurement & Public Private Partnership Law Review*, as well as in many books including in S. Arrowsmith – R. D. Anderson (eds. by), *The WTO Regime on Government Procurement. Challenge and Reform*, Cambridge, 2011. He currently teaches Public Law and Administrative Law.

Dacian C. DRAGOS, is Jean Monnet Professor of Administrative and European Law at the Public Administration Department of the Babes Bolyai University, Cluj Napoca, Romania, and Co-director of the Center for Good Governance Studies. He is Vice President of the Research Council of the University, he was also Vice Dean and Acting Dean of the Faculty of Political, Administrative and Communication Sciences (2008-2012); Marie Curie Fellow at Michigan State University (2005-2006); Visiting Scholar at Rockefeller College of Public Administration and Policy, SUNY Albany, USA (2002) and University of Padova (2008). He has been awarded the Romanian Writers Association National Prize for legal research (2003); Scientific Coordinator of the Commission for drafting the Administrative Procedure Code of Romania (2006-2008) and Expert in the Commission for drafting the Administrative Code (2010-2011). He is Chair of the “Law and Administration” Panel of the European Group of Public Administration (since 2010). Member of the editorial board of *European Public Procurement and PPP Law Review*, *International Journal for Court Administration*, *Transylvanian Review of Administrative Sciences*. His research publications include 2 edited books, 7 chapters in international books, 4 books in Romanian as single author and 4 in collaboration, over 30 papers in

BRUYLANT

scientific journals. Recent publications: Dragos and Caranta (eds. by), *EU Public Procurement – Outside The Directives, Inside The Treaty?*, Djoef Copenhagen, 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. by), *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*, Bruylant, Bruxelles, 2013; Dragos, Neamtu and Veliscu, *Judicial Review in Romania between Tradition and dialogue*, in Caranta and Gerbrandy (eds. by), *Traditions and Change in European Administrative Law*, Europa Law Publishing, Groningen-Utrecht, 2011; Dragos, Neamtu, Veliscu, *Remedies in Public Procurement in Romania*, in Treumer and Lichere (eds. by), *Enforcement of EU Public Procurement Rules*, Djøf, Copenhagen, 2011; Dragos, Gellen, Kovac and Langbroek (eds. by) *The NISPACEe*, in *Journal of Public Administration and Policy*, Vol. IV, No. 2, 2011/2012, Special Issue: Law and Public Management Revisited.

Loredana GIANI, is Professor of Administrative Law at the University of L'Aquila. She is Coordinator of the Master's Degree *Expert in building renovation and environment*. Member of the Arbitration Chamber of the AVCP. Member of the board of the PhD in *Institutions, market, guarantees and protection of individuals* (Department of Industrial and Information Engineering and Economics – University of L'Aquila) and the PhD in *Public, International and Comparative Law* (University of Rome, "La Sapienza"). Member of the Scientific Committee of *Rivista amministrativa degli appalti (Administrative Review Of Public Contracts)* and Co-editor of *Il diritto della cultura (Journal of Cultural Law)*. Member of the Commission for the *Reconstruction of the areas in Abruzzo devastated by the earthquake of 6 April 2009*. Responsible for national and international research projects. Speaker at numerous national and international conferences and seminars. Author of several books and numerous articles in Italian and English on Administrative Law, Administrative Process, Economic Law and Planning Law and Public Procurement.

Anna GORCZYNSKA, PhD, is Assistant Professor, is employed in the Chair of the European Economic Law at the Faculty of Law and Administration

of the University of Lodz, Poland. She is the Director of the Centre of Public Procurement and Public-Private Partnership. She read law at the University of Lodz and prepared her dissertation titled “Public procurement in the EU law”. She was also a law student in German universities (Münster, Giessen, Bonn). She has worked in regional lobbying offices in Brussels and regional self-government. Her main scientific interests and publications refer to public procurement law, public-private partnership, European economic law, competition law, regional policy, structure funds of the EU, e-administration, ICT, sports law. Anna Górczynska is an experienced university lecturer (lectures in English and in Polish on Public Procurement Law, European Economic Law, European Legal System, EU Structure Funds Projects) as well as trainer on the courses for both contracting authorities and entrepreneurs.

Daniel I. GORDON, is Associate Dean for Government Procurement Law. Before joining GW Law School in January 2012, he was the Administrator for Federal Procurement Policy, a position to which he was nominated by President Obama and confirmed by the Senate. Before that, he worked for 17 years in the Office of General Counsel of the Government Accountability Office (GAO), where he began as a line attorney, rising through the ranks and ultimately holding the positions of Deputy General Counsel and then Acting General Counsel. Among his other work at GAO, he headed the bid protest unit for a number of years, and served as counsel to the congressionally-chartered Commercial Activities Panel, which looked into questions regarding the use of contractors and federal employees to provide commercial-type services. Before joining GAO, he served as a court law clerk at the U.S. Court of Appeals for the District of Columbia Circuit and then practiced for a number of years with a private law firm in Washington, DC. Dean Gordon has frequently testified on acquisition issues before Congress, and he has published law review articles and book chapters on various aspects of procurement law and policy. During his tenure at GAO, he served for many years as a member of the Law School’s adjunct faculty. Dan Gordon has worked with many U.S., foreign, and international entities in efforts to improve acquisition policies, practices, and training, including federal agencies, the World Trade Organization, the United Nations Commission on International Trade Law, and the World Bank.

Erling HJELMENG, is Professor at the Department of Private Law of the University of Oslo. He is affiliated with the Centre for European Law. He is also a Visiting Professor at the Norwegian School of Economics, Bergen. His main research and teaching have been in the field of competition law and EU law, with particular focus on enforcement both on a national and international level. He has also published books and articles in the field of tort law. Since 2009, he is a co-editor of *Tidsskrift for rettsvitenskap* (Journal of Legal Science). Currently, he is the leader of the research group *Markets – Innovation – Competition* at the University of Oslo. He is regularly involved in consulting for law firms and companies as

well as public authorities, and is widely used as a speaker. He was the Chairman of the committee reviewing the Norwegian Competition Act (2011-2012).

Ridha JENAYAH, has a chair of Public Law and is the Dean of the PhD School at the Faculty of Law and Political Sciences of Sousse (Tunisia). He is the author of several publications in the field of Administrative Law, including a handbook of Administrative Law, (Second Ed., CPU, Tunis, 2008) and a Collection of major decisions of Tunisian Administrative Jurisprudence (CPU, Tunis 2007).

Paolo LAZZARA, PhD, is Associate Professor of Administrative Law at the University of “Roma Tre”. He is qualified as full Professor in Administrative law (2010). In 2008, he joined the University of “Roma Tre” as Associate Professor where he teaches Administrative Law and Environmental Law. He was Research Scholar in the “Università Sapienza” of Rome, LUISS “Guido Carli” of Rome, and in «Max Planck Institute for Comparative Public Law and International Law» in Heidelberg. His scientific activities have, above all, focused on the themes of public contracts, discretionary power and judicial review, Independent Agencies and European Law, administrative procedures. He has been lecturer and taught Administrative Law in the most important Italian Universities. He takes part in the Scientific Committee of *Diritto Amministrativo*, (Giuffrè), and in the Editing Committee of *Foro Amministrativo* (Giuffrè).

Antonio LÓPEZ MIÑO, is a Lawyer of the Xunta of Galicia and the current Director of Investigation of the Consello Galego da Competencia (regional competition authority). He is Professor by contract on Public Procurement for the University of Vigo, as well. During his tenure as regional lawyer he used to advise the Xunta on public contract awarding and implementation. Mr. López Miño is also a member of the Spanish Public Procurement Observatory. His current research focuses mainly on two topics: antitrust practices in the field of public procurement and innovative public procurement (pre-commercial procurement and innovation partnership).

Jeremy McCrARY, is Senior Policy Analyst and Public Procurement Portfolio Manager, Organisation for Economic Co-operation and Development, Governance and Territorial Development Directorate, Public Sector Integrity Division.

Paulo MAGINA, is Policy Analyst (Procurement), Organisation for Economic Co-operation and Development, Governance and Territorial Development Directorate, Public Sector Integrity Division.

Francesco MANGANARO, is Professor of Administrative Law at the University Mediterranea of Reggio Calabria where he teaches Administrative Law. He is the Scientific Coordinator of the PhD Programme in *Law and Economics* at the University Mediterranea of Reggio Calabria. He is also the scientific responsible of the Master in *Management of Local Governments*. He has taught at the Sorbonne University, in Paris and at Santiago de Compostela. He is Member of

the Steering Committee of the Italian *Association of Administrative Law Professors* (AIPDA). He is the scientific responsible of editorial series of reviews: *Percorsi di diritto amministrativo* (Routes of Administrative Law). He is a Member of scientific boards of National and International reviews. He wrote on the principle of *bona fide* in Administrative Law and on the participation in the Italian administrative proceedings and on the motivation of the administrative act. His research interests include also the inactivity of Public Administration, the coordination and cooperation among public entities especially concerning the agreement of program, the interlocutory judgment towards of public entities, the local entities and the administrative simplification.

Bernardo G. MATTARELLA, is Professor of Administrative Law at the University of Siena Law School and in the Luiss “Guido Carli” University Law School, Rome. Head of the Legislative Office of the Italian Minister of Public Administration. He was awarded the “Giuseppe Mantellini” Prize of the Accademia Nazionale dei Lincei for public administration studies (2008). Clerk at the Italian Constitutional Court (1995-1996 and 2007-2009). Member of several study commissions appointed by the Italian Government, including the Commission on Transparency and Corruption in Public Administration (2012). Member of the Group of Specialists on Public Ethics at Local Level of the Council of Europe. Participant and director of many group researches. Rapporteur in over 150 symposiums and seminars in Italy and abroad. Author of over 300 scientific publications from 1993 to 2014. Deputy Editor of the *Rivista trimestrale di diritto pubblico*.

Peter T. McKEEN, is Adjunct Faculty at the University of Virginia (U.S.). Peter T. McKeen’s public procurement experience spans a period of more than 25 years. Mr. McKeen’s experience includes work in the administration of public contracts and as a procurement analyst for a number of U.S. based national law firms specializing in public procurement law, where he performs research and analysis on the full spectrum of procurement law issues. Mr. McKeen has served as a member of the adjunct faculty for the University of Virginia’s Procurement and Contracts Management Program since 2002. Mr. McKeen has authored course materials and texts, academic papers and articles on procurement law and contract management topics and he participates in academic workshops and conferences promoting the study and reform of national procurement systems. Mr. McKeen is co-author with Michael E. Giboney of *Federal Procurement Law For The Contracts Professional*. Mr. McKeen received his B.A. from the University of Southern Maine and his M.A. from the George Washington University.

Bogdana NEAMTU, PhD, is Associate Professor at the Public Administration Department of the Babes Bolyai University, Cluj Napoca, Romania, and co-director of the Center for Good Governance Studies. Her academic background includes a BA in public administration (2002) and a M.A. in European law (2003) from Babes Bolyai, as well as a M.A. in urban planning from Michigan State

University, USA (2006). She obtained her PhD in Sociology in 2008, with a topic on urban growth management in Romania. Since 2009, she has been involved in several researches on public procurement. Her publications include 5 chapters in international books, 3 books as single author and 2 co-edited, over 20 articles in journals. Recent publications: Dragos and Neamtu, *Effectiveness of administrative appeals – Empirical evidence from Romanian local administration*, in *Lex Localis-Journal of Local Self Governmeent*, vol.1/1, 2013; Dragos and Neamtu, *LCC in the new directive proposal*, in *European Public Procurement and PPP Law Review*, Lexxion, 2013; Neamtu, *Measuring the social sustainability of urban communities: the role of local authorities*, in *Transylvanian Review of Administrative Sciences*, 2012, no. 37E, 112-127; Dragos, Neamtu and Cobarzan, *Procedural transparency in rural Romania: Linking implementation with administrative capacity?*, in *IRAS*, 2012, 78(1), 134-157; 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, Neamtu and Hamlin, *Law in Action: Case Studies in Good Governance*, IPPSR & Center for Good governance Studies, East Lansing, Michigan, USA, 2011; 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.

Gabriella M. RACCA, is Professor of Administrative Law and Deputy Director of the Department of Management at the University of Turin. Her research interests include Administrative Procedure, Public Services, Public Contracts and Public Procurement, Concessions, PPP, Public Accountability and Integrity issues. She is in charge of the Italian Unit of the EU project on Public Procurement for Innovation (PPI), *Healthy Ageing in Public Procurement of Innovation* – <http://www.happi-project.eu/>, funded by the EU Commission (DG Enterprises – Call ENT/CIP/11/C/N02C011) for the drafting of an innovative EU joint procurement system in the Healthcare sector. She is Member of the Scientific Board of the *Master Programme on Public Procurement Management for Sustainable Development* of the International Training Centre of International Labour Organization (ITC – ILO) in partnership with the University of Turin, as well as Member of the *Master en Gouvernance et Management des Marchés Publics en Appui au Développement Durable* of the ITC – ILO, the University of Turin and SciencesPo (Paris). She has been consultant to the Organisation for Economic Co-operation and Development (OECD). She coordinates the *Ius Publicum Network Review* – www.ius-publicum.com founded by *Die Verwaltung*, *Diritto amministrativo*, *International Journal of Constitutional Law*, *Public Law*, *Revista de Administración Pública* and *Revue Française de Droit Administratif*. She is Member of the *International Society of Public Law-ICON-S* (www.icon-society.org), of the Scientific Board of the PhD Programme in *Law and Institutions* at the University of Turin, and of the Scientific Committee of

the reviews *Diritto Amministrativo* and *Foro Amministrativo – Consiglio di Stato*. She is a Member of the *European Law Institute*, of the *Research Network on EU Administrative Law*, of *Public Contracts in Legal Globalization*, of the *Procurement Law Academic Network*, of the *European Procurement Law Group*, of the *British Institute of International and Comparative Law* and of the *Istituto Italiano di Scienze Amministrative*. She has recently published in *Public Procurement Law Review*, “Collaborative procurement and contract performance in the Italian Healthcare Sector: illustration of a common problem in European procurement”, 2010, 119; in *Public Contract Law Journal*, “Competition in the execution phase of public procurement”, vol. 41, 2011, 89; in *Ius Publicum Network Review – www.ius-publicum.com*, “The Electronic Award and Execution of Public Procurement”, 2012; in *European Procurement & Public Private Partnership Law Review*, “Material Amendments of Public Contracts during their Terms: From Violations of Competitions to Symptoms of Corruption” (with R. Cavallo Perin), 2013, 279-293; in S. Arrowsmith – S. Treumer (eds. by), *Competitive Dialogue*, Cambridge, 2012, “Competitive dialogue in Italy”; in C. Harland – G. Nissimbeni – E. Schneller (eds. by), *Strategic Supply Management (SAGE Handbook)*, London, 2013, “Collaborative Public Procurement and Supply Chain in the EU experience”; in R. Caranta and M. Trybus (eds. by) *The Law of Green and Social Procurement in Europe (European Procurement Law Series)*, Copenhagen, 2010, “Aggregate Models of Public Procurement and Secondary Consideration: an Italian Perspective”; in S. Treumer – F. Lichère (eds. by) *Enforcement of the EU Public Procurement Rules*, Copenhagen, 2011, “Derogations from the standstill period, ineffectiveness and remedies in the new tendering procedures: efficiency gains vs. risks of increasing litigation”; in D. Dragos – R. Caranta (eds. by) *Outside the EU Procurement Directives – Inside the Treaty?*, Copenhagen, 2012, “The Role of IT solutions in the Award and Execution of Public Procurement below Threshold and List B Services Overcoming E-Barriers”; in M. Comba – S. Treumer (eds. by) *Award of Contracts in EU Procurements*, Copenhagen, 2013, “The Electronic Award of Public Procurement”.

Bushra RAHMAN, is a graduate medical student (Class of 2017) at the University of Arizona, Tucson, AZ. She worked as a Research Associate and Administrator for the Health Sector Supply Chain Research Consortium (HSRC-ASU) between 2008-2013. Her educational background includes a Masters in Business Administration and Masters in Health Sector Management, W.P. Carey School of Business, ASU, AZ. She has also worked in the Pharmaceutical industry in India and looks forward to practicing clinical medicine in the future.

Antonio ROMANO-TASSONE, was Professor of Administrative Law at the University of Messina (from 2005). Previously he was Professor of Administrative Law at the University of Reggio Calabria (since 1990) and Catanzaro (1997). He was *Professeur invité* at the University of Paris 1 (Sorbonne) and 3 Lyon (Jean Moulin).

BRUYLANT

He was Member of the Board of Directors of *Ius Publicum Network Review* – www.ius-publicum.com and Member of the Scientific Committee of several Italian Public Law Review such as *Diritto Amministrativo*, *Diritto e Processo Amministrativo*, *Foro Amministrativo*, *Sanità Pubblica e Privata*). He was Member of the Steering Committee of the *Association of Italian-Argentinian Administrative Law Professors* and of the Italian *Association of Administrative Law Professors* (AIPDA).

Anna ROMEO, is Associate Professor of Administrative Law at the Department of Law at the University of Messina where she is also Member of the Scientific Board of the PhD Programme in *Juridical Sciences*. She attained the national scientific qualification as full Professor. She taught Administrative European Law and Public Law of Economics at the LUSPIO – Rome where she was researcher from 2008 to 2011. She is Member of the Editing Committee of the Journal *Diritto e processo amministrativo* (*Law and Administrative Process*), published by ESI, and author of two books: *L'impugnabilità degli atti amministrativi* (Actionability of administrative acts) and *Collegialità e ruolo presidenziale nella sentenza amministrativa* (Collegiality and presidential role in the administrative judgment) as well as of various articles on administrative procedure, silence of public administration, public procurement, electoral disputes, expropriation.

André SADDY, PhD, Postdoctoral fellow at the University of Oxford; PhD in Administrative Law from the University Complutense at Madrid; Master in Public Administration from the University of Lisbon and Postgraduate in Public Regulation and Competition at the University of Coimbra. He is an adjunct professor at the Fluminense Federal University (Niterói, Brazil) and Professor of the Master in Constitutional Law in this same institution. He is currently CEO of the Centre for Empirical Legal Studies – CEEJ and founding partner of the office Saddy Lawyers. He has published several articles in Brazilian and International journals, is coordinator of several collective books and has recently published three books: *Administrative discretion in the rule of law*; *Forms of action and intervention of the Brazilian state in the economy*; *Administrative silence in the Brazilian system*.

Albert SÁNCHEZ GRAELLS joined the Law School of the University of Leicester as Senior Lecturer in Commercial Law in October 2013. Until September 2013 he was Lecturer in Law at the University of Hull, where he was Director of the Hull Commercial Law and Policy Centre. Prior to this appointment and since October 2009, Albert was Lecturer in European and Commercial Law at the Law Faculty of the Comillas Pontifical University (Madrid, Spain), as well as Director of its Master in International and European Business Law. Albert has spent significant research time at the Library of Congress (Washington, USA), the Centre for Competition Law and Policy of the University of Oxford (UK) and the Law Department of the Copenhagen Business School (DK). His main publication to date is *Public Procurement and the EU Competition Rules* (Oxford, Hart, 2011), of which he is preparing a second edition.

BRUYLANT

Eugene S. SCHNELLER, is Professor of Supply Chain Management, W.P. Carey School of Business, Arizona State University. He is Co-Director of the Health Sector Supply Chain Research Consortium. His research and consulting bring the most recent strategic thinking into practice for hospitals, group purchasing organizations and distributors. His book, *Strategic Management of the Health Care Supply Chain*, is the recognized standard for analysis of health care supply chain management in the U.S. His book, *Orchestrating Change in the Public Services*, provides a penetrating analysis of large scale innovation in both the health and educational sectors in the U.S., England and Canada. He is a co-author of *The Sage Handbook of Strategic Supply Management*. He was named, in 2007, one of the most influential individuals in the area of health sector supply chain management. He is a frequent key-note speaker at professional and trade meetings in the US, Canada and Europe.

Tina SØREIDE, PhD, is a postdoc researcher in Law and Economics at the Faculty of Law, University of Bergen in Norway, on leave from Chr. Michelsen Institute (CMI). She holds a PhD in Economics from the Norwegian School of Economics and Business Administration (NHH) and a Master from the Department of Economics, University of Bergen. Previously she worked at the World Bank in Washington DC. She teaches several courses, including Political Economy and the Economics of Corruption. Her publications address primarily criminal law and corruption-related issues in governance and sector regulation.

Patricia VALCÁRCEL, is Associate Professor of Administrative Law at the University of Vigo. She worked as a lawyer specialised in Administrative Law for *Garrigues Abogados y Asesores Tributarios*, where she achieved experience in the field of national and international public contracts. Professor Valcárcel has widely published on execution and financing of Public Works and Public Private Partnership. Her current research focuses on three main topics: Central Purchasing Bodies; Definition of Awarding Procedure Rules; Enforcement of Public Procurement Law. Professor Valcárcel has been a Member of the Spanish Public Procurement Observatory since it was created. She is also Member of several international research networks on this field.

Francisco Javier VÁZQUEZ MATILLA, PhD, is Member of the Procurement Administrative Court of Navarre. Legal Counsel of the City of Pamplona (Spain). Masters in Specialization and Research in Law. PhD student in public procurement. Member Group Technical Committee on Information Society and New Technologies of the Spanish Federation of Municipalities. Secretary of the Committee on Contracting Oversight Pamplona City Council. He has spoken at numerous presentations on good practices in public procurement, new directives, contract modifications for various Spanish and foreign universities and various administrations, federations, institutes and public agencies. He has twenty publications including books and journal articles. He has been editor of various

laws for adaptation in Spain of the public procurement directives and of the different administrations expressed opinions on contractual changes.

Natalia WILSON, MD, MPH is co-director of the Health Sector Supply Chain Research Consortium at Arizona State University (HSRC-ASU) and research assistant professor in the College of Health Solutions. Dr. Wilson's clinical experience has included partnership in a community-based private internal medicine practice where she focused on preventive medicine and women's health. Her current areas of research include unique device identification, building collaborative relationships in health care and physician engagement in the health care supply chain. Recent publications include *Revision Total Hip and Knee Arthroplasty Implant Identification: Implications for Use of Unique Device Identification*, *Value of Unique Device Identification in the Digital Health Infrastructure*, *Engaging Physicians in Collaborative Supply Cost Management*, *Aligning Stakeholder Incentives in Orthopaedics*, and *Hip and Knee Implants: Current Trends and Policy Considerations*.

Christopher R. YUKINS is Professor in Government Procurement Law at the George Washington University and Co-Director of the Government Procurement Law Program. He has many years of experience in public procurement law. He was for several years a trial attorney with the U.S. Department of Justice, where he handled trials and appeals involving bid protests and contract claims against the U.S. government. He teaches on government contract formations and performance issues, bid protests, Contract Disputes Act litigation, and comparative issues in public procurement, and focuses especially on emerging public policy questions in U.S. procurement.

He is an active member of the Public Contract Law Section of the American Bar Association, serves on the steering committee to the International Procurement Committee of the ABA International Law Section, and previously served as the president of the Tysons Corner Chapter of the National Contract Management Association. He is a faculty advisor to the Public Contract Law Journal, and has contributed pieces on procurement reform, international procurement, electronic commerce and information technology to a broad range of journals, including Washington Technology, Government Contractor, Legal Times, and Federal Computer Week. He has published on procurement reform in scholarly journals, including the Public Contract Law Journal, Georgetown Journal of International Law, and Public Procurement Law Review (United Kingdom). Together with Professor Steven Schooner, he runs a popular *colloquium* series on procurement reform at The George Washington University Law School. In private practice, Professor Yukins has been an associate, partner, and of counsel at leading national firms; he is currently of counsel to the firm of Arnold & Porter LLP. He was an advisor to the U.S. delegation to the working group on reform of the United Nations Commission on International Trade Law (UNCITRAL) Model Procurement Law, and he teaches and speaks often on issues of comparative and international procurement law.