

## DIREITO DA CONTRATAÇÃO PÚBLICA

Degree in Public Management

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Code: 16802

Main Scientific Area: Administrative and Tax Law

Lecturer: Eva Cristina da Silva Gonçalves Macedo

Language of Instruction: Portuguese

Regime: S1

Contact Hours: 60h Total Workload: 80h

ECTS: 5,0

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### Objectives

The main goal is to provide the students with a basic yet broad knowledge of Public Procurement legal framework, both from a theoretical and a practical point of view, so that students can gather the essential skills to deal with these procedures professionally.

At the end of this course, students should be able to identify the main principles that underlie Public Procurement procedures, the several stages and steps that precede a public contract, identifying and applying the most relevant European and internal legislation, such as the Public Contracts Code.

### Learning Outcomes

Students will be led to master the main concepts, principles and legal rules that apply, being able to solve practical problems on the subject. At the end of the course, they should be able to:

- \_ Identify the origin of Portuguese Public Procurement Law in the European Law;
- \_ Know and apply the general principles and legislation;
- \_ Identify the actors and the object of Public Procurement;
- \_ Identify and select the pre-contract procedures;
- \_ Know the exceptions: excluded contracts and excluded contractual activity;
- \_ Master the criteria for contracting selection and non-adjudication causes;
- \_ Know contract execution and jurisdictional control.

### Course Contents

In order to meet the objectives defined for the UC, the program was structured in four chapters, to be addressed throughout the classes, individually or together, as defined in the Schedule of the Teaching Activity. Chapter I - Theoretical and normative framework of Contract Law in Public Administration in Portugal 1. The concepts of

administrative contract and public contract 2. The principles of public procurement 3. The Community Directives 4. The Public Contracts Code (CCP) 5. The State Budget Laws Chapter II - The subjects and the object of public procurement 1. The object of public procurement a) The concepts of public contract and administrative contract b) Excluded contracts 2. The subjects of public procurement a) The concepts of contracting authority, public contractor and public law body; b) Inter-administrative contracts; c) Contracting excluded: non-competitive contracting and in house contracting. Chapter III - Award procedures 1. The list of pre-contractual procedures 2. Criteria for choosing the procedure 3. The progress of award procedures 4. Applicable legal regime: the CCP and the "new CCP" Chapter IV - Effectiveness and validity of public contracts 1. Validity assumptions. 2. Additions. 3. Practical perspective. Examples. Legal cases.

### **Recommended Bibliography**

ESTORNINHO, M. J. (2006), *Direito Europeu dos Contratos Públicos*, Almedina;  
FONSECA, I. C. M. (2009), *Direito da Contratação Pública - uma introdução em dez aulas*, Almedina, Coimbra;  
OLIVEIRA, M. E OLIVEIRA, R.E. (2016) "Concursos e Outros Procedimentos de Contratação Pública", Almedina;  
TAVARES, G. G. DENTE, N. M. (2008), *Código dos Contratos Públicos, Âmbito da Sua Aplicação*, Almedina;  
VIANA, C. (2008), *Os Princípios Comunitários na Contratação Pública*, Coimbra Editora, 2007; "A Globalização da Contratação Pública e o Quadro Jurídico Internacional", in *Estudos da Contratação Pública*, Coimbra Editora

### **Learning and Teaching Methods**

The methodologies to be used throughout the teaching of the Public Procurement Law curricular unit should take into account their specificities, especially considering the complexity and increasing importance of public procurement in Public Management, this curricular unit being fundamental for the future exercise of a professional activity in the area. The UC will have a very theoretical slant, required by the nature of the subjects, in order to provide students

with the necessary knowledge to achieve the defined objectives, particularly the knowledge of the basic concepts, principles and norms of Public Procurement Law and the Code of Contracts Public. In order to facilitate the comprehension of the contents, some case studies and jurisprudence will be presented and practical activities will be developed, in the context of the class and on the Moodle Platform, also encouraging students to develop oriented research on some themes. The acquisition of the expected skills should be further developed through careful study of the material available on the platform, namely the documents with the thematic content defined for the UC, specific articles on the topics under analysis, as well as texts recommended by the teacher.

### **Assessment Methods**

A continuous assessment model is adopted. The learning skills shown by each student will be classified at the end of the course on a scale of 0 to 20 values. 1) Regular:

The components and weightings in the final classification are as follows: Final written test (in the classroom): 70%. Participation in practical activities, namely a group work: 30%

2) E-learning:

The evaluation will consist of a written paper - (minimum 10) - worth 30% (25% for the written paper and 5% for the oral presentation) and a final written test worth 70%.