

# Results of the research network “Public Contracts in Legal Globalization” as a basis for ReNEUAL

Presentation for the  
**EU Ombudsman / ReNEUAL conference**

**Towards an EU administrative procedure law ?**

Brussels, March 15-16<sup>th</sup> 2012

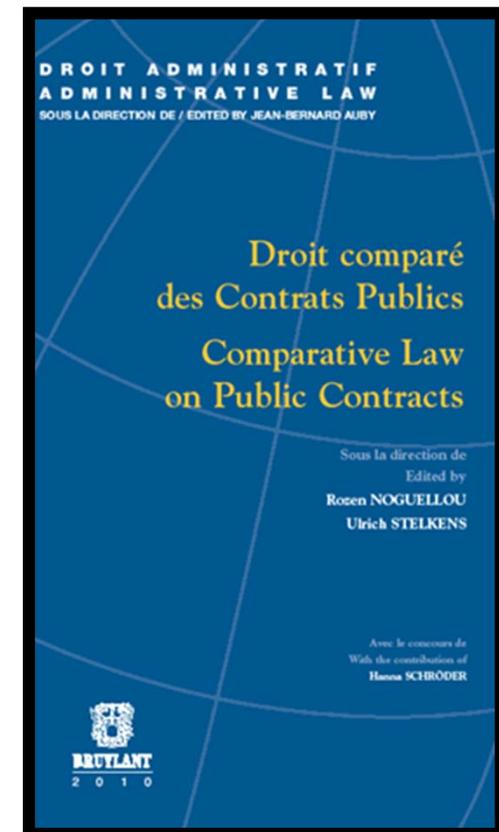
# The “Public Contracts in Legal Globalization” Network



We set up our « Public Contracts in Legal Globalization » Network in 2007 when realizing that:

- contracts made by public authorities had become a «hot topic» in all legal systems while, here and there, they tended to be considered as back office issues, not deserving to be worked on by administrative law
- Issues raised about these contracts were widely similar so that they constituted an excellent field for comparative and intersystemic reflection

- The Network, coordinated by the Chair “Mutations de l’Action Publique et du Droit Public” at Sciences Po, comprises a group of international experts that work on the issues related to public contracts.
- It brings together not only scholars, but also practitioners who come from more than 40 countries: European and non-European ones, common law systems and civil law ones
- It has evolved a wide collective research on: comparative law on public contracts, EU and international on public contracts, International arbitration in the field of public contracts...
- Publications: Comparative Law on Public Contracts (2010), EU Law on Public Contracts (forthcoming)
- An Electronic Review “International Journal of Public Contracts” to be launched in 2012
- Web site:  
<http://www.public-contracts.eu/inhalte/home.asp>



# Main Issues addressed

## 1. Concepts and scope

- concept of « public contract »
  - classification of public contracts
- scope of contract as a specific tool for public action

## 2. Making of contracts

- award: procedures, criteria
- conclusion: who is entitled to sign? Procedures.

## 3. Execution and termination

- execution: treatment of hazards, unilateral modification
- termination: unilateral termination

## 4. Supervision and litigation

- supervision
  - fight against corruption and conflicts of interest...
- litigation:
  - judges and procedures
  - actions available to third parties..



## Results so far

### 1. Concepts and scope

- concepts: 3 main traditions (common law, German, French)
- use of contract: issues related to « contracting out »

### 2. Making of contracts

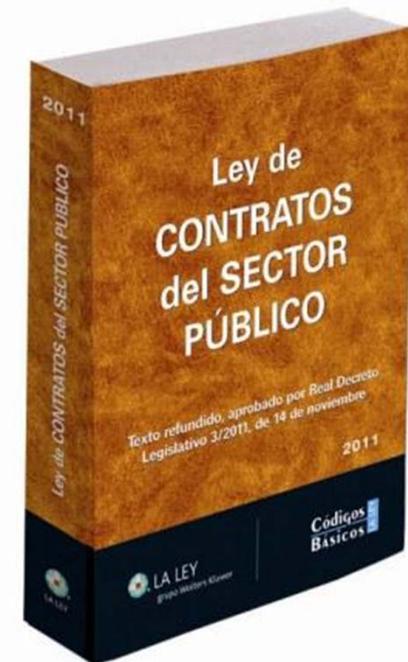
- award: Eu rules, national practice
- conclusion: consequences of irregularities

### 3. Execution and termination

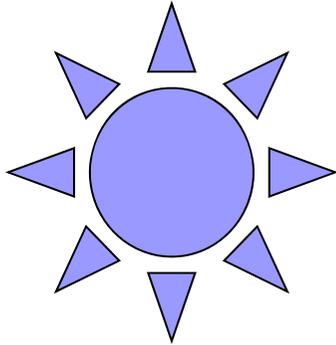
- on both issues, alternatives:
  - Everything depends on the contract
  - Unwritten principles, linked with the specific nature of public contracts

### 4. Supervision and litigation

- main issues= related to litigation
  - In particular, treatment of third parties: competitors, subcontractors, citizens



## Possible Contribution to the ReNEUAL project



### 1. EU law on contracts made by EU institutions

- If it has to be elaborated more systematically:  
which conceptual models and classifications  
seem to work better?

### 2. National law on contracts made by EU institutions

- Possible research on how EU authorities contracts are  
dealt with or could be dealt with by national courts

### 3. Law on domestic contracts made by domestic institutions in the implementation of EU policies

- What kind of interaction between EU principles and  
national law on public contracts?

### 4. Law on transnational contracts made by national administrations in the implementation of EU policies

- Same issue as previously, but also a « conflict of  
laws » dimension

