


5.00 credits

30.0 h

Q2

Teacher(s)	Wauters Kris ;
Language :	French
Place of the course	Louvain-la-Neuve
Learning outcomes	
Evaluation methods	On oral exam will be organised
Teaching methods	<p>The course is a lecture course whose first ambition is to explain, on the basis of the existing doctrine and jurisprudence of the Council of State and the Court of Justice, the law on public contracts, which is currently not very well developed in Belgium. Reference will sometimes also be made to other legal systems in order to make comparisons.</p> <p>The course will mainly be based on slides available before the course on I-moodle. Jurisprudence will take a central place and will be the subject of practical comments during the course. It is not excluded that students may be asked to read some case law in a preliminary way.</p> <p>The section on public procurement and service concessions will be given in English.</p>
Content	<p>This course focuses on the changes in state action at work in the development of forms of contractualisation of public action. The aim of this course is to describe a fundamental change in the way public authorities organise and manage their mission of general interest. For a long time, this organisation and management was done internally or on the basis of unilateral arrangements. Despite the fact that public authorities have for centuries relied on contracts or other forms of cooperation, it is especially since the 1980s that contracts have appeared at all levels, integrating the ideas of the New Public Management. This is how the phenomenon of the contractualisation of the administration is referred to. The starting point of the course is the applicable public law.</p> <p>Several factors have prompted the administration to resort to private law instruments. They all contribute to the idea of rationalising the functioning of the administration and improving its efficiency. For example, there is a need for flexibility and diversity in the range of instruments available to the administration. According to some, the aim is to get around the difficulties posed by the application of public law alone.</p> <p>More frequent and closer collaboration with private law legal persons was also seen as a way of making the recipient of the standard more responsible and thus optimising the functioning of the public service. The same applies to cooperation between the public authorities themselves. Pooling resources contributes, for example, to the rationalisation, this time in budgetary terms, of public services.</p> <p>The influence of European law, and in particular the case law of the Court of Justice of the European Union, should not be overlooked either. The obligation to introduce competitive tendering, the scope of which is constantly increasing, has forced the administration to adopt a new way of operating, which in most cases involves recourse to procedures deriving from private law.</p> <p>The course will be divided into three main parts. An introductory part will describe the history of contractualisation, the meaning of contractualisation and the difference with other phenomena within the organisation and management of missions of general interest. In a second part, the general theory of public contracts will be explained: capacity to conclude contracts, categories of contracts, applicable rules,... In a third part, some categories of contracts will be examined: public contracts, concessions, PPPs, sectoral agreements,...</p>
Faculty or entity in charge	BUDR

<b>Programmes containing this learning unit (UE)</b>				
Program title	Acronym	Credits	Prerequisite	Learning outcomes
Master [120] in Law (shift schedule)	DRHD2M	5		
Master [120] in Law	DROI2M	5		