

دروس في المصطلحات القانونية

Lessons in English Terminology

ماستر 1 قانون أعمال / السداسي الثاني

2021/2022

Lesson 1 :

ALGERIAN PUBLIC PROCUREMENT LAW

قانون الصفقات العمومية

The public procurement regulations (PPR) intends to set the **procedures** governing the works, supplies, services and studies contracts, the realization of which is wholly or partly financed, on a temporary or permanent assistance of the State.

Public procurement regulations are considered to be one of the **most complicated** areas of **public law** due to the **intervention** of **legislator** leading to **repeal** and an **overhauling** of its legislation body during last 30 years. Excluding the current **enforceable Presidential Decree**

N°15-247 dated 16th September 2015 pertaining public procurement rules and delegations of public service, Algeria have seen not less than five (05) old versions covering such area of law which have taken place in 1967, 1982, 1991, 2005 and 2010.

As an illustration of **volatility** in this area of law, 2010 **version** have seen at least four major **amendments** in 2011, 2012 and 2013, which led in turn to its **annulment** and **adoption** by Algerian legislator of new rules in 2015, which are still **effective** to date.

Determination Financial criteria and organic criteria covered by Public Procurement law :

First of all, it is important to stress the **nature of Algerian legal system**, especially when it comes to administrative law. **As general rule** ,Algerian administrative law, as distinct body of law, **doctrine, case-law and procedure** from private law, adopts an **organic criteria to differentiate** between the two bodies of laws. The **repartition** between the two bodies of law is **predominantly** substantiated on organic criteria. The said criteria have an influence as to determination of competent jurisdiction for resolution between **ordinary private law and administrative law conflicts**.

As consequence, referral of an issue to a **competent court** is a matter of **public order** and any mis-directed legal suit will lead to its **rejection** on sua sponte basis.

The Algerian legislator in order to ascertain entities covered by public procurement law, as public purchaser, has adopted different criteria, surely without **eliminating** organic criteria.

Financial criteria may well influence as well applicability of public procurement law over companies organized under private law, such as owned State companies (Entreprises Publiques Economiques “*EPE*”) operating in the sphere of commercial law. The said statement is true especially, if the project fulfilled by these companies is financed wholly or partly from a temporary or definite contribution from the State or Territorial Communities (1).

(1)<https://www.village-justice.com/articles/most-essential-algerian-public-procurement-law-and-procedure-presidential,36143.html>

شرح المصطلحات

Complicated : معقدّ

Public Law : عام قانون

Intervention : تدخل

Legislator : مشرّع

Repeal : إلغاء

Overhauling : اصلاح

Enforceable : نافذ

Presidential Decree : مرسوم رئاسي

Delegations of public service : تفويض المرفق العام

Volatility : التقلبات

Version : النسخة

Amendments : التعديل

Annulment : الإلغاء

Adoption : اعتماد

Effective : ساري المفعول

Nature of Algerian legal system : طبيعة النظام القانوني الجزائري

As general rule : كقاعدة عامة

doctrine : الفقه

Case-law : الاجتهاد القضائي

Procedure : اجراءات

Organic criteria : المعيار العضوي

Differentiate : تمييز

Repartition : تقسيم

Predominantly : غالبا

Resolution : تسوية / حل

التسوية تكون بموجب حكم تحكيمي، مفاوضات ،توافق الآراء
اما الحل فيكون بموجب حكم أو قرار قضائي

Ordinary private law : القضاء العادي

administrative law conflicts : النزاع الإداري

**تعتبر المادة 801.800 من قانون الاجراءات المدنية و الادارية مرجعا مهما
من أجل فهم النزاع الاداري.**

Public order : النظام العام

Eliminating : الغاء

Financial criteria : المعيار المالي

Territorial communities : الجماعات الاقليمية

Project : مشروع

Financed : مُمَوَّل

Temporary : مؤقت

Dr.Zaki Lounaouci