

# **PUBLIC PROCUREMENT ISSUES AND CHALLENGES IN EUROPE**

**BIANCAMARIA RAGANELLI**

**Università degli Studi di Roma Tor Vergata**

**[biancamaria.raganelli@uniroma2.it](mailto:biancamaria.raganelli@uniroma2.it)**

# PUBLIC PROCUREMENT

Public procurement refers to the purchase by governments and state-owned enterprises of goods, services and works. As public procurement accounts for a substantial portion of the taxpayers' money, governments are expected to carry it out efficiently and with high standards of conduct in order to ensure high quality of service delivery and safeguard the public interest.



DIVERSI I SETTORI COINVOLTI, TRA CUI EDILIZIA, TRASPORTI, DIFESA, TELECOMUNICAZIONI E SERVIZI SANITARI

**12% of GDP**

is the amount spent in OECD countries on public procurement

**CIRCA 14% DEL PIL DELL'UNIONE E UN VOLUME DI SCAMBI CHE SI STIMA PARI A CIRCA 2.500 MILIARDI DI EURO**

**Il valore economico in Italia nel 2021 è stato di quasi 200 miliardi di euro**

# PUBLIC NEEDS

## INFRASTRUCTURAL NEEDS AND GAP (WORKS, SERVICES, GOODS)

*Evidence of the large and growing gap between infrastructure needs and the resources that governments have invested in meeting those needs is everywhere.*

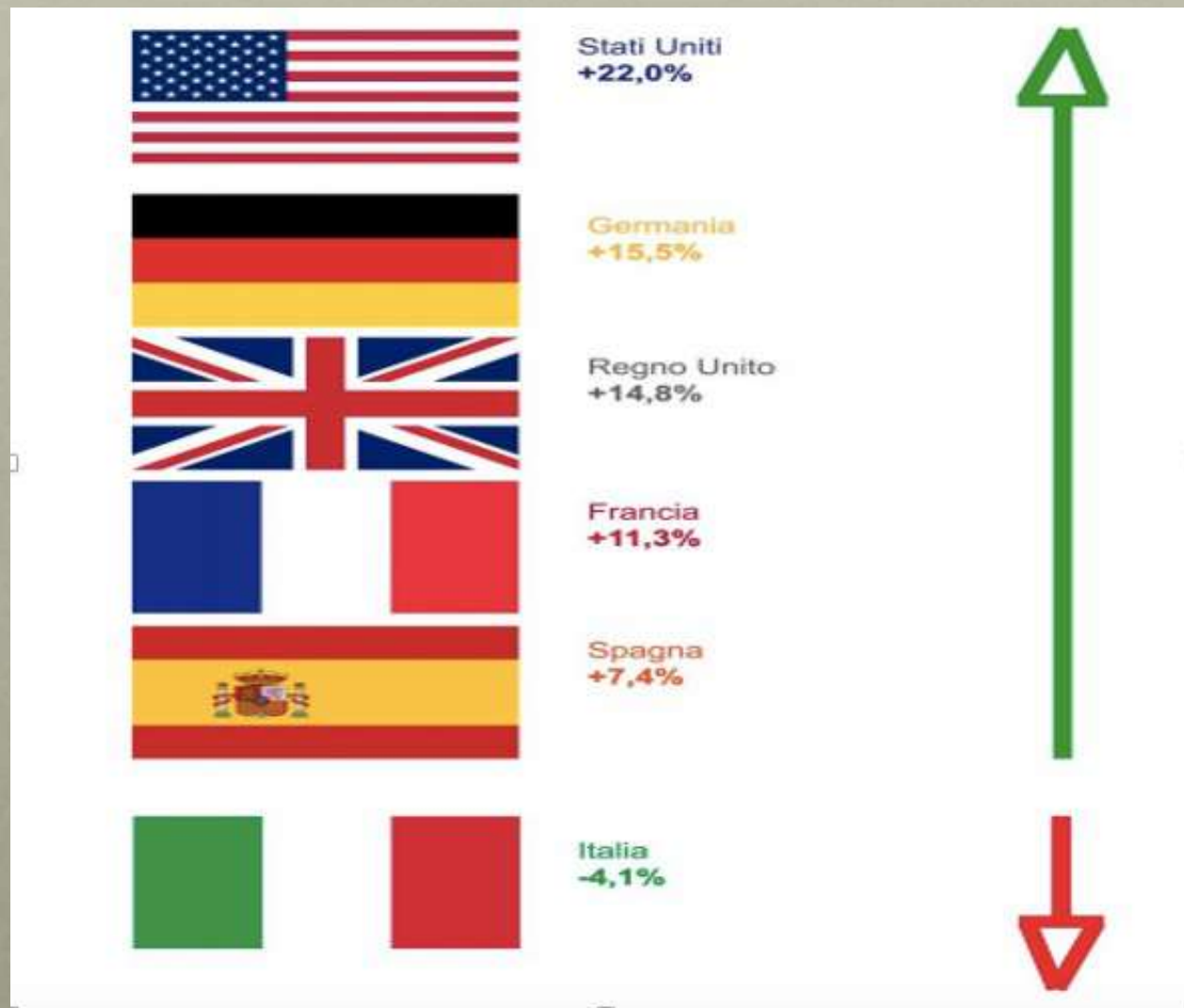
*Congested roads; bridges in need of repair; poorly maintained transit systems and recreational facilities; deteriorated hospitals, schools, and waste treatment facilities all in urgent need of rehabilitation and repair.*

*World Bank*



































**GDP 2007-  
2009  
PRE COVID  
CRISIS  
DATA**



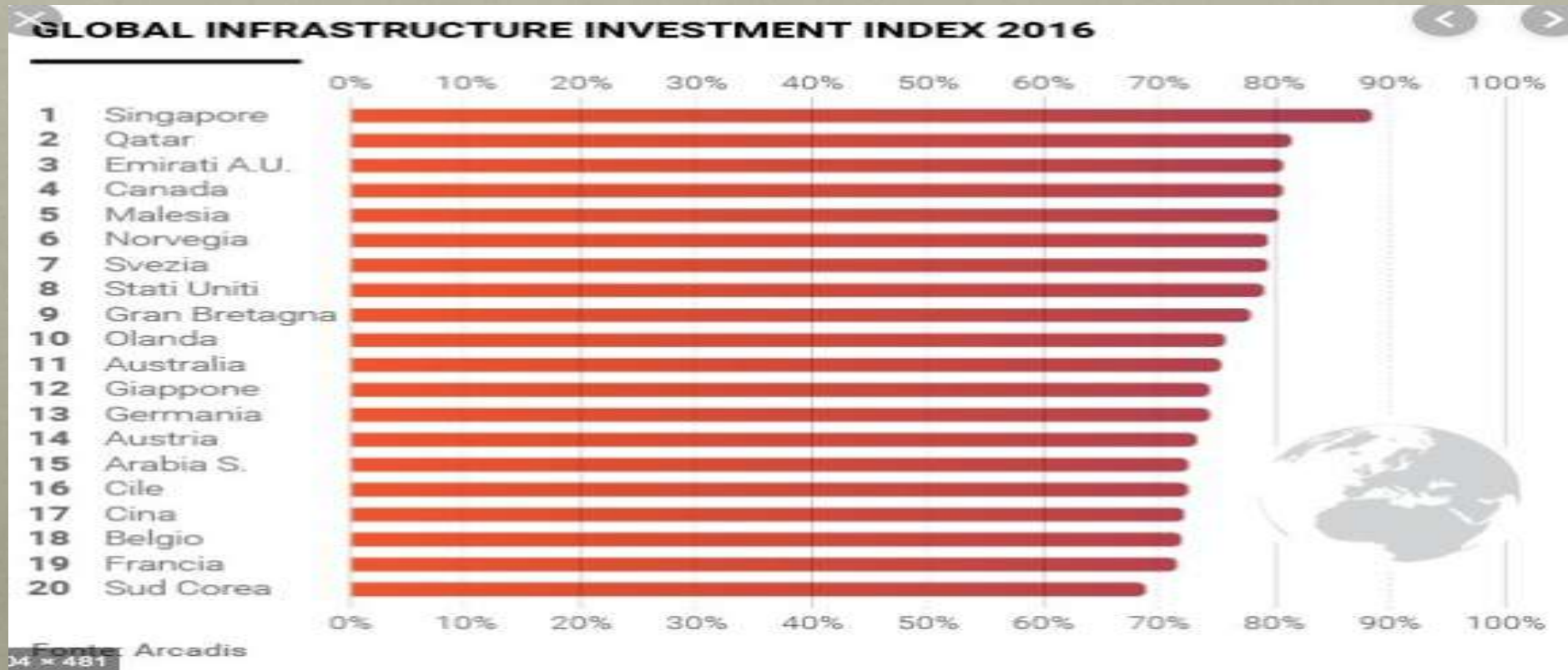
# ECONOMIC GROTH AND COMPETITIVENESS

ITALY  
VERSUS  
OTHER  
COUNTRIES

## FASTEST GROWING ECONOMIES IN EUROPE GDP GROWTH RATE(1980 - 2022)

Ireland		5.2 %	Poland		3.7 %	Croatia		2.7 %
Spain		4.83 %	Serbia		3.54 %	Turkey		2.7 %
Malta		4.79 %	Greece		3.53 %	Slovakia		2.6 %
Andorra		4.5 %	Iceland		3.25 %	Austria		2.58 %
Portugal		4 %	Bulgaria		3.2 %	BiH		2.45 %
Norway		3.99 %	N. Macedonia		3.2 %	Denmark		2.3 %
Montenegro		3.8 %	Netherlands		2.97 %	Czechia		2.28 %
UK		3.75 %	Sweden		2.95 %	Italy		2.27 %
Hungary		3.73 %	France		2.94 %	Romania		2.2 %
Slovenia		3.7 %	Kosovo		2.8 %	Switzerland		2.2 %

# GLOBAL INFRASTRUCTURE INVESTMENT INDEX



# WORLD BANK RANKING

Country	Year	LPI Rank	LPI Score	Customs	Customs	Infrastructure	International shipments	Logistics competence	Tracking & trading	Timeliness
Germany	2018	1	4.20	1	4.09	4.37	3.86	4.31	4.24	4.39
Sweden	2018	2	4.05	2	4.05	4.24	3.92	3.98	3.88	4.28
Belgium	2018	3	4.04	14	3.66	3.98	3.99	4.13	4.05	4.41
Austria	2018	4	4.03	12	3.71	4.18	3.88	4.08	4.09	4.25
Japan	2018	5	4.03	3	3.99	4.25	3.59	4.09	4.05	4.25
Netherlands	2018	6	4.02	5	3.92	4.21	3.68	4.09	4.02	4.25
Singapore	2018	7	4.00	6	3.89	4.06	3.58	4.10	4.08	4.32
Denmark	2018	8	3.99	4	3.92	3.96	3.53	4.01	4.18	4.41
United Kingdom	2018	9	3.99	11	3.77	4.03	3.67	4.05	4.11	4.33
Finland	2018	10	3.97	8	3.82	4.00	3.56	3.89	4.32	4.28
United Arab Emirates	2018	11	3.96	15	3.63	4.02	3.85	3.92	3.96	4.38
Hong Kong, China	2018	12	3.92	9	3.81	3.97	3.77	3.93	3.92	4.14
Switzerland	2018	13	3.90	16	3.63	4.02	3.51	3.97	4.10	4.24
United States	2018	14	3.89	10	3.78	4.05	3.51	3.87	4.09	4.08
New Zealand	2018	15	3.88	13	3.71	3.99	3.43	4.02	3.92	4.26
France	2018	16	3.84	19	3.59	4.00	3.55	3.84	4.00	4.15
Spain	2018	17	3.83	17	3.62	3.84	3.83	3.80	3.83	4.06
Australia	2018	18	3.75	7	3.87	3.97	3.25	3.71	3.82	3.98
Italy	2018	19	3.74	23	3.47	3.85	3.51	3.66	3.85	4.13

SACE DATA  
(gruppo Cassa  
Depositi e  
Prestiti) because  
of the  
infrastructural  
gap, Italy loses  
4% of gdp  
every year for  
loss of import



# PUBLIC CONTRACTS

- The purchase of goods and services and the ordering of works by a public authority such as a national government, a local authority or their dependent bodies.

# WHY DO WE NEED TO REGULATE?

- To prevent FRAUD, CORRUPPTION OR LOCAL PROTECTIONISM, the law of most countries regulates government procurement more or less closely
- It usually requires the procuring authority to issue public tenders if the value of the procurement exceeds a certain threshold.

# GLOBAL PRINCIPLES



## US 2003 ANTICORRUPTION CONVENTION

### Art. 9

NEED TO DEVELOP PUBLIC  
PROCUREMENT RULES AND MECHANISMS  
FOR PUBLIC CONTRACT NEGOTIATION  
COMPLIANT TO PRINCIPLES  
OF TRANSPARENCY AND FREE  
COMPETITION

AIM: AVOIDING CORRUPTION

## WORLD BANK REGULATION/POLICY

Public procurement operations comply with basic principles of **equal treatment**, **non-discrimination**, **proportionality** and **transparency**, while ensuring the **most efficient use of public funds** and making best use of modern procurement techniques and methods.

# INTERNATIONAL AGREEMENTS ON PUBLIC CONTRACTS

- **Multilateral Agreement on Government Procurement (AGP)**
- **International award procedure within the World Trade Organisation (WTO).**

# EFFECTS OF OPENING UP PUBLIC CONTRACTS WITHIN EUROPE

Opening up these contracts, which account for a large proportion of the GDP of the EU, has allowed

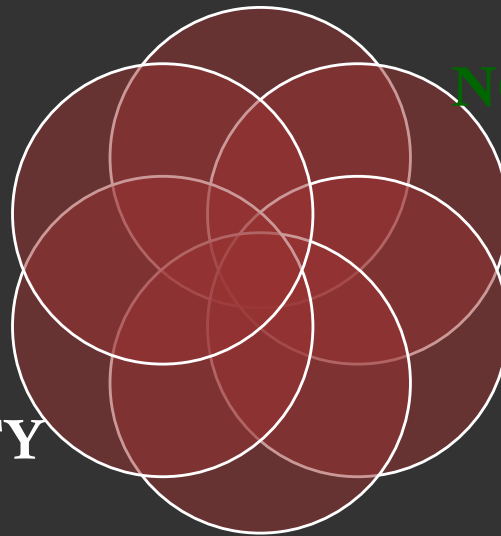
- **an increase in competition between the enterprises of the European Union,**
- **reducing prices and**
- **guaranteeing better quality of services for citizens.**

# EU PRINCIPLES

**FREE  
COMPETITION**

**PUBLICITY**

**NO DISCRIMINATION**



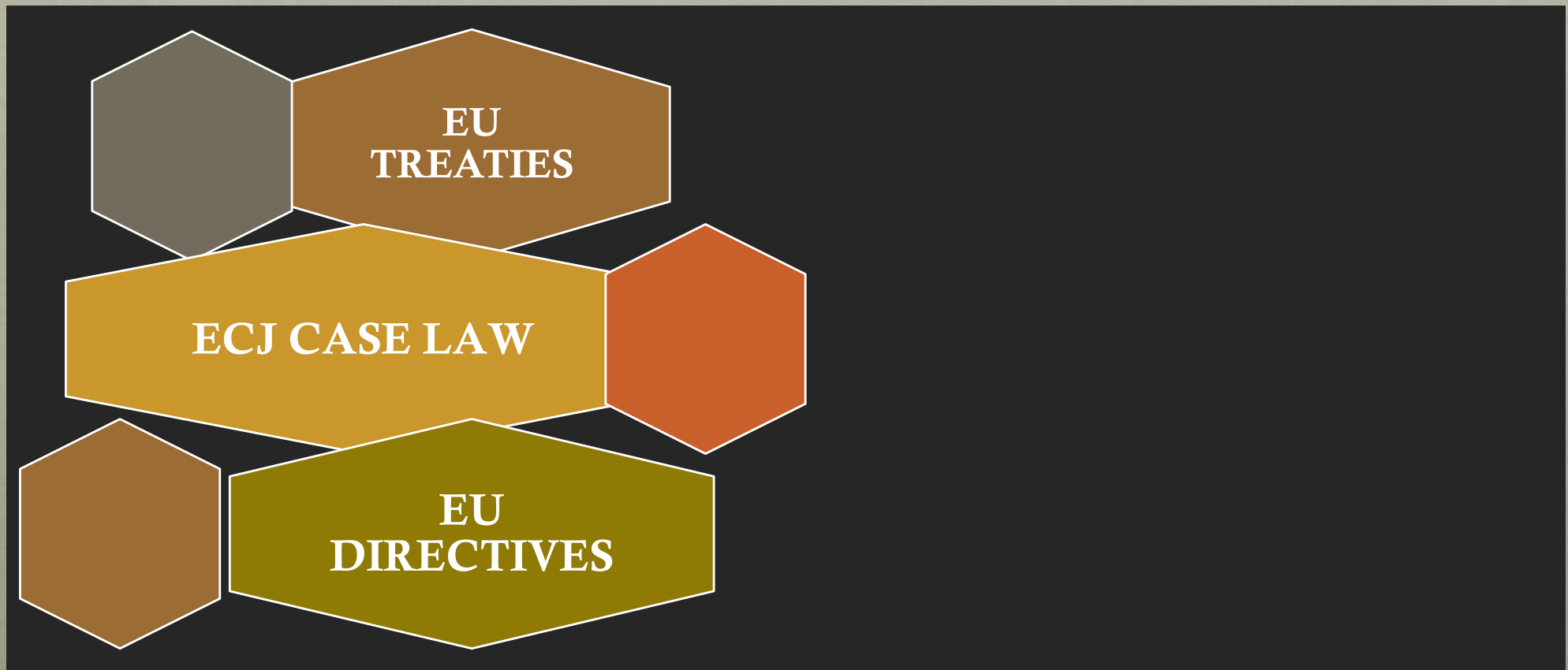
**PROPORTIONALITY**

**EQUAL  
TREATMENT**

**SUSTAINABILITY (ESG)**

**TRANSPARENCY**

# FRAMEWORK REGOLAMENTARE EUROPEO



# EU SECONDARY LAW

- Over the years, the EU has introduced **legislative provisions** which modernise and facilitate the **award of contract process**  
**2014/23/UE, 2014/24/UE, 2014/25 EU**  
**DIRECTIVES IN FORCE**



# MAIN RULES

Contract award criteria

Rules on publication and transparency

Technical specifications of a material, supply or service

Economic operators' capabilities and combating fraud and corruption

Traditional and electronic means of communication are on equal footing

# THRESHOLDS

- The "traditional" directive applies to public works contracts, public supply contracts and public service contracts which have a value excluding VAT estimated to be no less than the pre-established **thresholds**.
- The thresholds are recalculated by the **Commission** every two years.
- For those Member States which have not adopted the single currency, the value of these thresholds is calculated and published by the European Commission in the Official Journal once the recalculated thresholds in Euros are published.

# MODERNISATION OF PUBLIC PROCUREMENT

To increase the quality and trans-nationality of public procurement: sustainable public procurement, based on new environmental and social criteria, public health protection

Sustainability criteria are essential in order to fight against social dumping and unfair competition within and beyond EU's borders.

# SUSTAINABLE PUBLIC PROCUREMENT

- New criteria for MEAT
  - Application of the « Most Economically Advantageous Tender»
  - Improvement of **environmental criteria**
  - Introduction of **social criteria**

- Selection and award criteria, as well as exclusion grounds must be linked to the respect of:
  - Collective labour agreements
  - Laws on environmental protection
  - Laws on public health
- All these criteria are instruments for the contracting authorities to take into account in order to deliver better quality procurement
- Reinforcement of the rules on Abnormally Low Tenders (ALTs)

# SUB-CONTRACTING

- End of « unfair sub-contracting »
- Economic operators shall provide detailed information on the amount of the subcontract and on its subcontractor
- Member States may establish a liability principle throughout the sub-contracting chain

# MAIN QUESTIONS:

Why do we need to harmonize regulation on public contracts?

The selection of private partner

- FRAUD AND CORRUPTION (*FATHER, SON, RELATIVES*)
- TRADE OFF: REGULATION *VERSUS* FLEXIBILITY

The enforcement of the contract

AN IMPORTANT  
CHALLENGE: HOW TO  
MANAGE DISCRETION

**THE ROLE OF INNOVATION TO  
FOSTER TRANSPARENCY AND TO  
REDUCE DISTORTIVE EFFECTS**



AN EXAMPLE  
THE COMPETITIVE DIALOGUE

THE NEED FOR  
FLEXIBILITY

THE ISSUE TO  
MANAGE PA  
DISCRETION