

# The SAPIENS Network

## Greener project final conference

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Project n. 3 on circular economy.

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# The SAPIENS Network

Sustainability and Procurement in International, European, and National Systems

Main goal is to contribute to the uptake of SPP and using SPP as a tool to address the social and environmental challenges of the 21st century.

✓ 10 Beneficiaries-academic research centers

✓ 19 Leading Researchers





15 Early-Stage Researchers

## 19 Partnering Organisations



# The SAPIENS Network

## Dissemination and outreach

- ❖ Secondments (practical work) and research stay
- ❖ Publications in open access
- ❖ Advanced Training Courses <https://www.youtube.com/@sapiensnetwork6660>
  - LinkedIn <https://www.linkedin.com/company/sapiensnetwork/>
  - Twitter [https://twitter.com/sapiens\\_network](https://twitter.com/sapiens_network)
  - SAPIENS Website <https://sapiensnetwork.eu/>
  - SAPIENS Newsletter <https://sapiensnetwork.eu/newsletter/>
  - SPP Law Course <https://sapiensnetwork.eu/trainings/spp-law-course/>

# Research project n.3

## Public Procurement as a Leverage for the CE

- Lack of a universally accepted legal definition of CE (EU Taxonomy; Voorter J. et al. '*The concept 'Circular Economy': towards a more universal definition*')
- Lack of PP&CE legal literature (extended producer's responsibility, polluter pays principle, waste hierarchy, etc.)
- Lack of in-depth analysis of the preparation, tendering, and contract clauses of PP from a Circular Economy perspective.
- Need to respond to the academic criticism: Circularity  $\neq$  Sustainability

# Objective & methods

**Are there any aspects of the EU public procurement legislation hampering the transition towards a CE?**

**How can PP legislation accelerate the transition to a Sustainable Circular Economy?**

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01

## Description and classification

Systematical analysis of the EU legal framework and classification in the context of legal system to uncover loopholes.

02

## Comparison and evaluation

Comparison between chosen Member States to uncover similarities and differences, and subsequent evaluation in view of the EU regulation/case law and EU strategies.

03

## Legal proposals and recommendations

## The dispute

Cons. St., terza, 14.10.2022 n. 8773/2022

**A tender for catering supply was awarded to the company LADISA and a contract was stipulated.**

**The 4<sup>th</sup> classified Pastore brought an action before the regional court and then appealed before the Council of State to ask the re-launching of the whole procedure and the ineffectiveness of the contract.**

**The 4<sup>th</sup> classified, Pastore alleged the absence of MECs (mandatory environmental criteria) in the tendering procedure.**

## Findings & decision

**01** *(MECs) far from being mere programmatic rules, they are in fact immediately binding obligations for contracting authorities, as can be seen from the (Italian PP code).*

**02** *The rationale of the MECs is the need to ensure that the national policy on GPP is effective in reducing the environmental impact [...] in promoting more sustainable, "circular" production and consumption models and in spreading "green" employment.*

**03** *MECs contribute to the evolution of the PP contract from a mere instrument of acquisition of goods and services to an instrument of economic policy, i.e. GPP which are seen to be a part of the circular economy.*

**04** *Even if the winning bid offered a supply in line with the MECs, this it is characterised by being only partial, random and occasional: above all, voluntarily 'granted' by the tenderer (who, according to the tender law, was not obliged to do so).*

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Thank You!

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