

# WEBINAR

## CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

Global policy, U.S. experiences and the New European  
Green Deal

WEDNESDAY | SEPTEMBER 30  
9.00 AM, ET 15:00 CET



More info: [www.publicprocurementinternational.com](http://www.publicprocurementinternational.com),  
[www.5pcommonplace.com](http://www.5pcommonplace.com) and [www.prosilesia.pl/en](http://www.prosilesia.pl/en)



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# CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

**Prof. Jerzy Buzek**

**New Green Deal and Just Transition Fund**



TIME 3:25

# CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

**Prof. Alexandra Harrington**  
**Adv. Magdalena Stryja**

—  
Intersections between Global Governance  
Regimes and Climate Change Law

TIME 3:40



## INTERSECTIONS BETWEEN GLOBAL GOVERNANCE REGIMES AND CLIMATE CHANGE LAW

UNFCCC - As a framework, the UNFCCC establishes a structure through which these issues are to be addressed and allows for flexibility in terms of the legal regimes used. Establishes the Secretariat as the main administrative entity and the Conference of the Parties as the highest-level decision-making entity.

Paris Agreement - Adopted by the UNFCCC & international community in 2015. Reflects emerging knowledge of climate change and impacts now and in the future. Focus areas include: Ambition, Adaptation, Mitigation & Governance Systems.

- *Establishes the Nationally Determined Contributions reporting requirements, including global stock-taking.*
- *Establishes Transparency Framework.*
- *Establishes Technology Mechanism.*
- *Establishes Compliance Committee system.*

## INTERSECTIONS BETWEEN GLOBAL GOVERNANCE REGIMES AND CLIMATE CHANGE LAW

### COP24 in Katowice (2018)

- *Katowice and Silesia region have deep historical and modern-day connections with the coal industry, making the choice of Katowice as the COP venue meaningful. The COP brought significant changes to innovation in Silesia and has resulted in new technologies which have the potential to impact procurement across the globe.*
- *In the Katowice Rulebook from COP24, the Transparency Framework and Technology Mechanisms were further defined and given legal and reporting parameters, as were the NDCs. The Compliance Committee was given a formal mandate and authorized to select members.*

## INTERSECTIONS BETWEEN GLOBAL GOVERNANCE REGIMES AND CLIMATE CHANGE LAW

COP 25 in Madrid (2019) - Elected Compliance Committee members, expanded reporting requirements and procedure for Internationally Transferred Mitigation Outcomes, expanded capacity-building as part of Paris Agreement implementation, established the parameters of the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures.

COP 26 in Glasgow (2021) – Postponed due to COVID-19. Is scheduled to address health and climate change, disaster preparedness, green growth and green economy, energy sector reform

COVID-19 impacts – delays in NDC filings, uncertainty regarding future filing deadlines, questions regarding ability to implement NDCs, concerns over how recovery plans will impact climate change, especially energy sector.

# CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

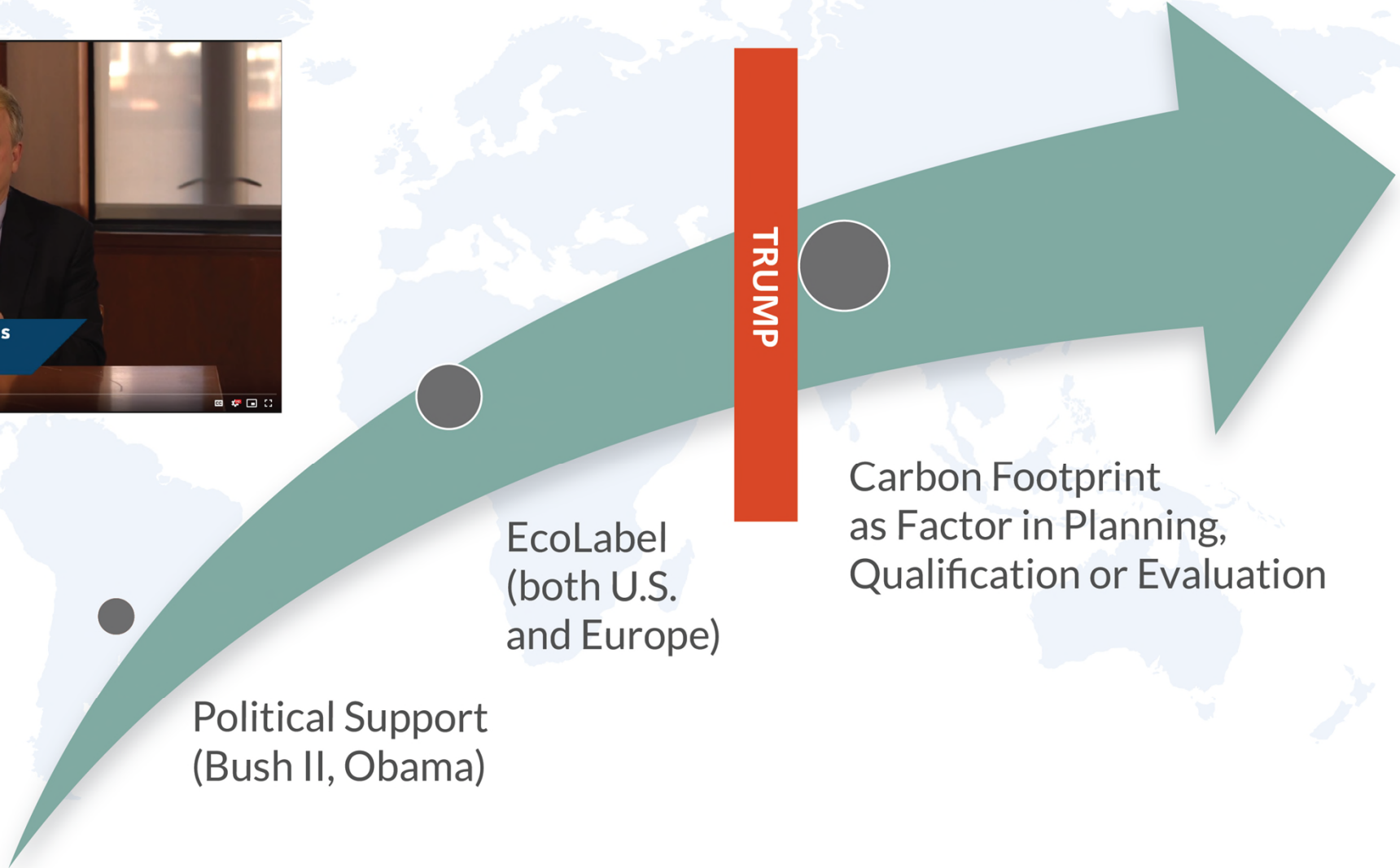
**Prof. Christopher Yukins**

—  
The U.S. experiences with the support  
of environmental aspects in government Contracting



TIME 3:50

# GREEN PROCUREMENT IN U.S. GOVERNMENT PROCUREMENT: TRAJECTORY





# CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

**PH.D. Wojciech Hartung**

—  
European Green Deal and Just Transition Fund  
reflections on the European Public Procurement  
legal regime

TIME 4:00



## GREEN DEAL AND PUBLIC PROCUREMENT COME TOGETHER, BECAUSE...

Environmental protection requirements must be integrated into the definition and implementation of the **Union's policies and activities**, in particular with a view to promoting sustainable development – Article 11 of the Treaty on the Functioning of the European Union



GREEN DEAL as EU policy  
TRANSITION FACILITY MECHANISM as a supportive instrument  
PUBLIC PROCUREMENT and CONCESSION DIRECTIVES as an implementing tools



TRANSITION FACILITY MECHANISM may support different public projects implemented through  
PUBLIC PROCUREMENT DIRECTIVES - energy and transport infrastructure, district heating networks, energy efficiency measures including renovation of buildings, as well as social infrastructure...

## GREEN DEAL AND PUBLIC PROCUREMENT COME TOGETHER BUT...

Public procurement and concession directives clarify how contracting authorities can contribute to environmental protection and the promotion of sustainable development, while ensuring that they obtain the best value for money for their contracts



The broad meaning of the best value principle, i.e. covering environmental aspects, is at odds with the best value principle understood here and now (budgetary constraints, but not only)

best = lowest  
value = price



National regulations introduce restrictions on the application of the lowest price principle, e.g. in Poland, price can be a maximum of 60% of the weighting of bid evaluation criteria

## GREEN DEAL AND PUBLIC PROCUREMENT COME TOGETHER WHEN...

01

ELIGIBLE  
PROJECTS

02

RELEVANT  
PROVISIONS

03

BEST  
PRACTICES

04

TECHNICAL/  
ADMINISTRATIVE  
(...) SUPPORT

# CURRENT CHALLENGES AND OPPORTUNITIES FOR GREEN PUBLIC PROCUREMENT

**Adv. Katarzyna Kuzma**

—  
The support of the green effects in the new  
Polish Public Procurement Law

TIME 4:10



## GREEN (OR INNOVATIVE) PROCUREMENT IN POLAND:

**1%**

Share of green or innovative public contracts in the total number of public contracts awarded

Share of green or innovative public contracts in the total value of public contracts awarded

**3%**

# WILL THE ADDITIONAL MECHANISMS CONTAINED IN THE NEW PUBLIC PROCUREMENT LAW (ENTRY INTO FORCE: 1 JANUARY 2021) IMPROVE THIS SITUATION?

## STATE PURCHASING POLICY

*The State's purchasing policy lays out the Republic of Poland's priority measures in the area of public procurement and also the desired direction of contracting authorities' measures as regards contracts to be awarded, which particularly covers the purchase of innovative or sustainable products and services, taking into account:*

*(...)*

*life cycle costing of products;*

*(...)*



## NEW EFFICIENCY PRINCIPLE

*The contracting authority awards contracts in a manner ensuring (...) that the best procurement outcomes are achieved, e.g. social, environment and economic outcomes, provided that some of these outcomes are achievable in a given contract, in relation to the expenditure incurred.*





## ANALYSIS OF THE CONTRACTING AUTHORITY'S NEEDS

*Before starting a contract award procedure, a public contracting authority analyses needs and requirements, taking into account the type and value of the contract. An analysis (...) indicates:*

*(...)*

*the possibility of taking account of social, environmental or innovative procurement aspects;*

*(...)*



# QUESTIONS AND ANSWERS



- **Prof. Jerzy Buzek:** What are the greatest challenges related to the Just Transition Mechanism that we are likely to observe in typical coal mining regions like Silesia?
- **Prof. Christopher Yukins:** What will be the role of central government when it comes to implementing environmentally friendly solutions in the U.S.? Who should act first – local or central players?
- **Prof. Alexandra Harrington, Adv. Magdalena Stryja:** How has the Covid-19 pandemic influenced the implementation of sustainable goals? Are we currently stuck, or we are being more serious about the approaching global challenges?
- **PH.D. Wojciech Hartung:** if and when the GPP criteria are published, is the European Commission expecting them to be updated or extended? Do we need new EU Directives in order to achieve the current EU policies?
- **Adv. Katarzyna Kuźma:** Which quick actions need to be implemented in order to support Green aspects in public procurement in Poland? Is it a question of the legal culture or ruthless taxonomy?