

How can Green Public Procurement contribute to Social Sustainability?

¿Cómo puede contribuir la contratación pública ecológica a la sostenibilidad social?

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Artículo de investigación

<https://doi.org/10.32719/26312484.2025.43.1>

Fecha de recepción: 7 de junio de 2024

Fecha de revisión: 18 de agosto de 2024

Fecha de aceptación: 5 de septiembre de 2024

Fecha de publicación: 2 de enero de 2025

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RESUMEN

Ya se ha escrito mucho sobre las políticas secundarias, luego promovidas a horizontales y ahora casi a la par con el objetivo primario de la contratación pública: la competencia.

Hay que tener en cuenta que la jurisprudencia europea, seguida por las directivas de contratación pública, siempre ha limitado el uso de la contratación pública como vehículo para la promoción de políticas medioambientales, sociales y de desarrollo sostenible, lo que recientemente se ha acentuado con la transición de la economía lineal a la economía circular. Por razones vinculadas al carácter transversal de las políticas medioambientales y a la conexión económica nacional de las políticas sociales, las primeras se prestan más a la armonización de los ordenamientos jurídicos de los Estados miembros. En consecuencia, la promoción del impacto social de la contratación pública suele limitarse a las materias en las que la Unión Europea realmente legisla: el ámbito laboral. O a las dimensiones más primarias de la constitucionalidad asociadas al principio de igualdad y a los derechos humanos. Por ello, la reflexión pretende ir un paso más allá de lo que la jurisprudencia y las directivas europeas consagran y reconocen, planteándonos si las políticas medioambientales no podrían contribuir también a la sostenibilidad social. Intentaremos lograrlo presentando ejemplos prácticos. Los casos presentados, como método, pretenden ser una “prueba de concepto”.

PALABRAS CLAVE: contratación pública sostenible; políticas medioambientales; sostenibilidad social; múltiples repercusiones; directivas europeas de contratación; contratación pública estratégica; compra pública verde; resultados sociales.

ABSTRACT

Much has already been written about secondary policies, and then promoted to horizontal and now almost on a par with the primary objective of public procurement-competition. It should be noted that European jurisprudence, followed by the Public Procurement Directives, has always limited the use of public procurement as a vehicle for the promotion of environmental, social and sustainable development policies, which has recently become increasingly emphasised with the transition from linear to circular economy. For reasons linked to the cross-cutting nature of environmental policies and the national economic connection of social policies, the former are more suited for harmonising member states' legal systems. As a result, the promotion of the social impact of public procurement is of-

ten limited to matters in which the European Union legislates —the labour field— or to the more primary dimensions of constitutionality associated with the principle of equality and Human Rights. Our reflection therefore aims to go beyond what European case law and directives enshrine and recognise, asking whether environmental policies might contribute to social sustainability as well. We will try to prove this by presenting practical examples. The cases presented, as a method, are meant to be a “proof of concept”.

KEYWORDS: Sustainable Public Procurement; Environmental Policies; Social Sustainability; multiple impacts; European procurement directives; Strategic Public Procurement; Green Public Procurement; social outcomes.

FORO

INTRODUCTION

Finding a specific area for public procurement (PP hereinafter) with a social sustainability dimension is not always straightforward or obvious.¹ Traditionally, we tend to relate social sustainability in PP to issues and areas of labour law. In fact, if we consider the European documentation on this subject, including the Directives, this is precisely the area that is the most emphasised.² For example, in the European Union document “15 Frequently Asked Questions on Socially Responsible Public Procurement”, the first question —“What is socially responsible public procurement (SRPP)?” refers “promoting employment opportunities and social inclusion; providing opportunities for social economy enterprises; encouraging decent work; ensuring compliance with social and labour laws”.³ Many of these terms correspond to legal obligations of the Member States (MS hereinafter), which have already incorporated

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1. Kirsi-Maria Halonen, “Is public procurement fit for reaching sustainability goals? A law and economics approach to green public procurement”, *Maastricht Journal of European and Comparative Law* 28, n.º 4 (2021): 535-55, doi:10.1177/1023263X211016756.
 2. See recital (36) and (37) of Directive 2014/24/UE.
 3. European Union, “15 Frequently Asked Questions on Socially Responsible Public Procurement”, 2021, 3.

them into their legal systems.⁴ When they are expressly included in the tender documents, either as terms or conditions or as attributes of tenders, they cannot be seen as the contracting authority's own options.⁵ It is important to find room for social sustainability beyond the fulfilment of legal obligations. Only in these circumstances can we conclude that the PP tool pursues other policies, by decision of the contracting authority, in addition to seeking best value for money. Because it is only for the contracting authority to discern how that specific procedure and subsequent contract can be successful in implementing cross-cutting goals. It is possible to expect social sustainability outcomes from the application of factors linked to environmental policies and transition strategies from linear to circular economy.⁶

Therefore, the main questions are: Are social outcomes only attainable through resolute and specific social measures? Can Green Public Procurement (GPP hereinafter) be used as a catalyst for fostering social outcomes? Can horizontal policies have several goals?⁷

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4. See article 18 of Directive 2024/24/EU that sets up the obligation of economic operators to follow environmental, social and labour obligations established by Union law, national legislation, collective agreements, or the provisions of international environmental, social and labour law listed in Annex X.
 5. Sue Arrowsmith, "The purpose of the EU procurement directives: Ends, means and the implications for national regulatory space for commercial and horizontal procurement policies", *Cambridge Yearbook of European Legal Studies* 14 (2012): 1-47, doi:10.1017/S152887000000872; Marta Andhov, "Contracting Authorities and Strategic Goals of Public Procurement-A Relationship Defined by Discretion", en *Discretion in EU Public Procurement Law* (Oxford: Hart, 2019).
 6. A different issue is how to audit and evaluate those impacts, Fatima Hafsa, Nicole Darnall y Stuart Bretschneider, "Estimating the True Size of Public Procurement to Assess Sustainability Impact", *Sustainability* 13 (2021), doi:10.3390/su13031448. Monica Da Ponte, Megan Foley, y Charles H. Cho, "Assessing the Degree of Sustainability Integration in Canadian Public Sector Procurement", *Sustainability* 12, n.º 14 (2020): 5550, doi:10.3390/su12145550.
 7. Sofia Lundberg y Per-Olov Marklund, "Green public procurement and multiple environmental objectives", *Economia e Politica Industriale* 45, n.º 1 (3 de marzo de 2018): 37-53, doi:10.1007/s40812-017-0085-6. M. Cozzio, "Public Procurement as a Tool to Promote Sustainable Business Strategies: The Way Forward for the European Union", *International Community Law Review* 24, n.º 1-2 (2022): 166-82, doi:10.1163/18719732-12341488; Andrea Genovese, Jon Morris, y Adolf Acquaye, "An investigation into design and performance of supply chains for public procurement projects", *Production Planning & Control* 33, n.º 9-10 (2022): 811-30, <https://doi.org/10.1080/09537287.2020.1837930>; Tim Stoffel et al., "Multi-dimensionality of Sustainable Public Procurement (SPP)-Exploring Concepts and Effects in Sub-Saharan Africa and Europe", *Sustainability* 11, n.º 22 (2019), doi:10.3390/su11226352.

After a brief overlook of European's guidelines on the issue, Portuguese law will be used as an example of the separation between the two (three) paths of sustainable development policies: environmental, (circular) and social policies.

Then, trying to answer the questions, several examples from other MS will show that these policies are intertwined and can be used from different perspectives and, thus, achieve different, yet linked impacts.⁸

SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

Before entering the discussion, which, hopefully, will enable us to answer the main question and the subsequent ones, what does

Socially responsible public procurement" mean? According to the European Commission, it "aims to address the impact on society of the goods, services and works bought by the public sector. It recognises that public buyers are not just interested in buying at the lowest price or best value for money, but also in ensuring that procurement achieves social benefits and prevents or mitigates adverse social impacts during the performance of the contract. [...] Social considerations can be combined with green and circular criteria and procurement of innovation for a more comprehensive approach to sustainability in public procurement."⁹

Furthermore, the same document of *soft law* establishes that MS must strengthen the need for implementation of social policies through the PP mechanism. It suggests a variety of instruments to be included in PP to implement social considerations and identifies social outcomes beyond mandatory labour and social rules, such as promoting fair employment opportunities and social inclusion; providing opportunities for social economy and social enterprises; promoting decent work and fair trade,¹⁰ and so on. However, most of these indications are related to legal or constitutional framework that bounds con-

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8. C. McCrudden, "Using public procurement to achieve social outcomes", *Natural Resources Forum* 28, n.º 4 (2004): 257-67, doi:10.1111/j.1477-8947.2004.00099.x.
 9. European Commission, "Buying Social-a guide to taking account of social considerations in public procurement", 26 de mayo de 2021.
 10. Carmen Aviles Mendizabal, "Fair Trade in the Framework of Public Procurement", *Cuadernos Europeos de Deusto*, n.º 63 (2020): 237-67, doi:10.18543/ced-63-2020pp237-267.

tracting authorities. Therefore, besides GPP's social impact, there is still room for improvement in this area regarding social impact assessment.¹¹

CONSTITUTIONAL AND INTERNATIONAL FRAMEWORK

Almost all MS' Constitutions foresee the right to labour, fair employment, and social inclusion.¹² Moreover, the European Union has the same protection in the Chart of Fundamental Rights: article 15th (Professional freedom and the right to work); article 23rd (Equality between men and women must be guaranteed in all areas, including employment, labour and pay); article 31st (Fair and equitable working conditions). And the European Social Charter, from the Council of Europe, seen as the "Social Constitution of Europe".¹³ However, this very brief list allows us to conclude that the protection of labour and workers' rights is already an obligation of states bound by international treaties (even re-

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11. Ramon Bernal, Leire San-Jose, y Jose Luis Retolaza, "Improvement Actions for a More Social and Sustainable Public Procurement: A Delphi Analysis", *Sustainability* 11, n.º 15 (2019), doi:10.3390/su11154069.
 12. For instance, in Portuguese Constitution: article 13th (principle of equality); article 53th (Employment security); article 58th (Right to work), article 59th (Workers' Rights: without any discrimination, the right to "The remuneration of work, according to quantity, nature and quality, observing the principle that equal pay for equal work, in order to guarantee a decent existence; b) The organisation of work in socially dignified conditions, so as to facilitate personal fulfilment and allow the reconciliation of professional activity and family life; c) The provision of work in conditions of hygiene, safety and health; d) Rest and leisure, a maximum working day, weekly rest and periodic paid holidays; e) Material assistance when they are involuntarily unemployed; f) Assistance and fair compensation when they are victims of an accident at work or an occupational disease"; article 35th of Spanish Constitution: "Article 35 (1) All Spaniards have the duty to work and the right to work, to free choice of profession or trade, to promotion through work and to sufficient remuneration, profession or trade, promotion through work and sufficient remuneration to satisfy their needs and those of their family to satisfy their needs and those of their family, without discrimination on grounds of sex under any circumstances. 2. The law shall regulate the status of workers"; articles 36 and 37 of Italian Constitution; Slovenian Constitution also protects the freedom of work in article 49th. Although Chile does not belong to European Union, its Constitution also recognizes the freedom of work in article 16th.
 13. The European Social Charter <https://www.coe.int/en/web/european-social-charter> accessed June 4th, 2024-Part I, n.º 2-4.

gional ones), by the EU Charter of Fundamental Rights, by the Member States and, from the outset, by their constitutions. Moreover, by internal legal norms.

The use of PP as a tool to help implement social policies cannot be seen as a tool to implement legal obligations. The possibility to include in PP policies other than economic ones must be understood as a step forward regarding the legal labour and social obligations (like social security systems).

THE PORTUGUESE RULE ON HORIZONTAL POLICIES

Portugal has transposed articles 67 and 68 of Directive 2014/24/EU into only one article-article 75 of the Public Contracts Code (PCC hereinafter).¹⁴ The limits of using factors that could implement other policies are “linked to the subject of the contract” (n.º 1).¹⁵ However, the Portuguese legislator has tried to densify the term in nos. 4 and 5:

4. For the purposes of paragraph 1, factors and sub-factors shall be deemed to be related to the subject matter of the contract when they are related to the works, goods or services to be executed or supplied under that contract, in any respect and at any stage of their life cycle. 5. Even if they do not form part of the material substance of the contract, factors involved in the specific process of production or supply of the works, goods or services or in a specific process in relation to another phase of its life cycle shall be deemed to be related to the subject matter of the contract.

Reading the several nos. and paragraphs of article 75, the factors appear as “quality”, then the “organisation, qualifications and experience of the staff responsible for executing the contract” and only then:

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14. Raquel Carvalho, “Life-cycle costing in the Member States: Does the tool meet its goals?”, en *Cost and EU Public Procurement Law: Life-Cycle Costing for Sustainability*, 2019, 36-64; Katriina Alhola et al., “Exploiting the Potential of Public Procurement: Opportunities for Circular Economy”, *Journal of Industrial Ecology* 23, n.º 1 (febrero 2019): 96-109, doi:10.1111/jiec.12770.
 15. Fernando Olmo López, *Consideraciones sociales en la contratación pública: criterios de adjudicación y condiciones especiales de ejecución. Las falsas cláusulas sociales. Especial referencia a la doctrina del Tribunal Central de recursos contractuales* (Valencia: Tirant lo Blanch, 2022).

the environmental or social sustainability of the way in which the contract is executed, in particular with regard to transport time and making the product or service available, especially in the case of perishable products, the designation of origin or geographical indication in the case of certified products, energy efficiency, especially in the supply of energy, and the use of organically produced products.

Here, some circular factors already can be found, even though the next paragraph is dedicated to that transition: “circularity, namely the use of circular products and services, the choice of short distribution circuits, the efficient use of materials and the reduction of environmental impacts”. The ecological dimension is very present. Only after all these paragraphs do more social dimensions arise, such as scientific employment, promotion of cultural activities and cultural heritage, and compliance with labour laws. For the last example, it is not within the range of contracting authority’s will to comply or not with labour laws. That mention should be redrawn from the law. Concerning life-cycling cost, a circular dimension, nos. 7 and ff. establishes several dimensions and rules that deepen the environmental policy.

Recently, the Portuguese Government has issued a Regulation-Council of Minister’s Resolution n.º 132/2023, de October 25th. This Regulation, which is hierarchically inferior to the Law, has been discussed in Portugal because it sets up some mandatory factors to be followed by some of the contracting authorities.¹⁶

ILLUSTRATIVE CASES

There are several examples of GPP where we can name social outcomes:

a) Basque Country (Spain): linkage between environmental considerations and social ones. The primary goal of the procedure was “to address issues of plastic waste and to reduce spending on bottled water” and offer high quality drinking water at varying temperatures. Mutualia, a provider of social services

16. Raquel Carvalho, “Ecological factors in public procurement and corporate sustainability policies”, *Juridical Tribune-Review of Comparative and International Law* 14, n.º 1 (2024): 83-97; Raquel Carvalho, “Os fatores ambientais na contratação pública-apreciação crítica da Resolução do Conselho de Ministros n.º 132/2023, de 25 de outubro”, *Revista de Direito Administrativo* 20 (2024); Willem Janssen y Roberto Caranta, *Mandatory Sustainability Requirements in EU Public Procurement Law-Reflections on a Paradigm Shift* (Oxford: Hart, 2023).

and medical care, running 17 service centres in the Basque country, decided “to install water fountains connected to the public water network, offering tap water instead of buying bottled water”. There were accessibility conditions in the ward criteria such the height of the fountains and conditions to people with reduced mobility. In 2019, it was possible to conclude that Mutualia saved “an estimated EUR 17 000 annually on water for its patients, employees, and visitors”. With this option, not only the use of plastic bottles were reduced (environmental outcome), but the quality factors helped the access to water by disabled or people with reduced mobility.¹⁷ This case has clear social outcomes that are a result of environmental factors, in the public procurement procedure.

b) Söderhamn (Sweden): create opportunities to support social enterprises: “there was a tender to purchase fresh fruit basket deliveries for employees of the municipality once or twice a week. Only social enterprises had the opportunity to take part and submit tenders for this contract, which was below the threshold for application of the Public Procurement Directives”. The supplier had the opportunity to hire a person that had been long-term unemployed to deliver the fruit baskets. The cost of the baskets was fully comparable with a commercial company delivering to the private sector.¹⁸ Not only did this solution enable EMS to enter public procurement procedures, but it also enforced labour public policies on long-term unemployment.

c) Pesaro School (Italy): Within the managing of school buildings and construction, and the “necessity to comply with EU directives on energy efficiency”, the city promoted public procurement procedures regarding buildings “friendly to the environment and people”. The tender requirements on this goal were “achieving zero annual energy balance using non-renewable energy sources and specific indoor air quality standards. EU GPP criteria, national energy standards, and LEED certification were utilized to formulate these requirements”. There were environmental impacts (the project enshrined a circular economy approach —“optimized sustainable building materials and technologies to reduce waste and save raw materials”) but social impacts as well:

an abandoned urban area [was transformed] into a communal space, which promotes social integration and inclusion. [...] the school has become a hub for com-

17. European Commission, “Buying Social—a guide to taking account of social considerations in public procurement”. 26 May 2021.

18. Ibid.

munity engagement, attracting families and educators, and stimulating local businesses and infrastructure development. This comprehensive revitalization has not only enriched the educational landscape but also invigorated the socio-economic fabric of the surrounding area, demonstrating a successful model for urban renewal and community development.¹⁹

This case is especially relevant for the “proof of concept”. This is since its’ primary goal was to improve school buildings environmentally, however the social outcomes were far better than expected.

d) Dutch Custodial Institution Agency (Netherlands): the primary goal was to address the “complaints about the lack of quality, flexibility and choice in prison foods, which has generated a large quantity of food waste”. However, due to the mission of the Agency, “the enforcement of sentences and custodial measures issued by Dutch courts as well as the day-to-day care and rehabilitation of detainees” could be boosted also through a better nutrition. Therefore, among other requirements, “the tenderer was instructed to describe how they can contribute to the social mission of DJI by guiding Offenders to a successful return to society”. The proposals were asked address several topics: how detainees could participate in the process for nutrition, regarding the several stages being the preparation, distributions or other stage; (ii) if detainees could assist and learn how to cook (iii) if there were strategies to guide detainees to employment”.²⁰

e) Emilia Romagna’s Health System (Italy): an Agency develops electronic markets and acts like a central purchasing body. “The Agency intends to pursue both environmental and social goals in its tendering procedures”. Besides the requirements of promoting gender equality, eliminating payment gaps between men and women, measures to foster parenthood, it was also required to guar-

19. For further details, Green PP at Pesaro School: Enhancing sustainability in educational infrastructure-Case study of the city of Pesaro, Italy (https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/green-public-procurement-pesaro-school-enhancing-sustainability-educational-infrastructure_en) accessed 31st May 2024. Referring to the proximity factor in food products purchase, implementing circular economy features, Chiara Falvo y François Lichère, “Proximity in french public procurement: the caso of food products”, *Revista General de Derecho Administrativo* 64 (2023).

20. For further details, Reducing food waste by improving quality in prisons-Case study of the Dutch Custodial Institution Agency, Netherlands (https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/reducing-food-waste-improving-quality-prisons_en) accessed 31st May 2024.

antee that exotic food products such as pineapples, bananas, and coffee bought abroad were produced for labour and environmental rights, it sought the supply of organic farming products and products from social agriculture. There were measures to reduce food waste and online training for staff:

on the techniques and methodologies of acceptance, storage and preservation of raw materials, and on different methods of processing, cooking, preservation and portioning of meals; preparation of menus that prevent food waste, including the provision of half portions and weightings designed with nutritionists to guarantee the correct caloric intake; the provision of doggy bags to the Health System's staff for leftovers; and distribution of unadministered meals to Food Banks and charitable organisations.²¹

As we can recognise, there were multiple environmental and social impacts from this procedure.²²

f) Case study of Helsinki (Finland): "In 2020, the City of Helsinki opened its Urban Environment House to agglomerate its approximately 1,500 employees in the urban environment sector into a single office building". After a detailed process of planning led by the goal of carbon neutrality, the contracting authority wanted to seek for "restaurant, cafe and catering services for the Urban Environment House that were diverse, attractive, variable and considerate of potential environmental and climate impacts". There were technical specifications, factors in award criteria and contract clauses on climate goals. The healthiness of meals and compliance with recommendations from the National Nutrition Centre were mandatory requirements and "the restaurant was required to give preference to climate and environmentally friendly ingredients and recipes". Furthermore: (i) technical specifications included a wide range of vegetarian and vegan options, identification of the origin of meat; the species of fish available in the lunch options are restricted to those not marked with a "red traffic light"; "preference for vegetables, root vegetables and fruits is given to seasonal crops"; "Leftover lunch food is sold by the restaurant at an afford-

21. For further details, Provision of environmentally-friendly and socially responsible meals to the staff of Emilia Romagna's Health System-Case study of Intercent-ER, Italy https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/provision-environmentally-friendly-and-socially-responsible-meals-staff-emilia-romagnas-health_en accessed 31st May 2024.

22. Ibid.

able price”; “friendly packaging materials and recyclable disposable containers from renewable sources”; (ii) award criteria: “the service provider’s commitment to employ two or three persons in a weak labour market position during the contract period. This includes the long-term unemployed, young people, immigrants, people with disabilities and people with partial work capacity”; several monitoring processes; assist in determining the carbon footprint of the restaurant.²³

From the technical specifications to the factors in award criteria we can unfold both environmental and social policies and social impacts from environmental policies. Mainly, social concerns regarding healthy nutrition (season food, compliance with nutrition standards, vegan meals, regime of leftovers-social concerns).²⁴

g) Case study of the cities of Stavanger, Sandnes, Sola, and Randaberg, (Norway): the city of Stavanger adopted a long-term development strategy to tackle environmental issues, diversity, public health and societal security. The procurement object was the acquisition of medical consumables “to serve a variety of institutions such as nursing homes, health and welfare centres, emergency rooms, housing associations, care homes, children’s care homes, home nursing and others”. Concerning the award criteria, “tenderers must have an environmental management system in place” and they “had to demonstrate that they had at least a ‘basic’ ethical approach to trace and assess risks along the supply chain (minimum level of due diligence)”. Besides the compliance with OECD’s Due Diligence Guidance for Responsible Business Conduct, it should “identify and assess adverse impacts in operations, supply chains and business relationships”, and focus on traceability. According to present knowledge, “disposable medical gloves are classified as presenting a high-risk of violations of workers’ and human rights with regard to assembly/manufacturing, components”. Through this procedure, the city of Stavanger strongly believes “that

23. For further details, Meeting Sustainability Objectives in the Helsinki Urban Environment House’s Restaurant and Café Services-Case study of Helsinki, Finland (https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/meeting-sustainability-objectives-helsinki-urban-environment-houses-restaurant-and-cafe-services_en) accessed June 3rd 2024.

24. Adrian Morley, “Procuring for change: An exploration of the innovation potential of sustainable food procurement”, *Journal of Cleaner Production* 279 (enero de 2021), doi:10.1016/j.jclepro.2020.123410.

traceability is key to identifying and assessing adverse impact on human rights he supply chain”.^{25 26}

h) Case study of the municipality of Rincón de la Victoria (Spain): the city wanted to acquire services to maintain public spaces, embodying both environmental and social concerns. The public procedure had the MEAT criteria. There were several environmental and social factors:

Vehicles and machinery; technological improvements and innovations aimed at reducing environmental impact, use of alternative fuels, reduction of noise and pollutant emissions (2 points); materials and chemical products to be used in the execution of the contract: taking into account their contribution to sustainability, longer useful life, less need for conservation, manufacturing process respectful of the environment, etc. (1 point); processes: design of contractual processes in accordance with environmental criteria (minimisation of fuel and electricity consumption, greenhouse effect and optimisation of resources of all types) (1 point); Impact:

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25. For further details, Procuring medical consumables by tackling social considerations along the supply chain-Case study of the Cities of Stavanger, Sandnes, Sola, and Randaberg, Norway (https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/procuring-medical-consumables-tackling-social-considerations-along-supply-chain_en) accessed June 3rd 2024. Olabisi D. Akinkugbe, “Public Procurement and Human Rights: Opportunities, Risks and Dilemmas for the State as Buyer”, *Business and Human Rights Journal* 6, n.º 1 (febrero 2021): 174-7, doi:10.1017/bhj.2021.1; Olga Martin-Ortega et al., “Towards a Business, Human Rights and the Environment Framework”, *Sustainability* 14, n.º 11 (mayo 2022): 6596, doi:10.3390/su14116596; Olga Martin-Ortega, “Public Procurement as a Tool for the Protection and Promotion of Human Rights: A Study of Collaboration, Due Diligence and Leverage in the Electronics Industry”, *Business And Human Rights Journal* 3, n.º 1 (enero 2018): 75-95, doi:10.1017/bhj.2017.35; O. Martin-Ortega, O. Outhwaite, y W. Rook, “Buying power and human rights in the supply chain: Legal options for socially responsible public procurement of electronic goods”, *International Journal of Human Rights* 19, n.º 3 (2015): 341-68, doi:10.1080/13642987.2015.1029295; Olga Martin-Ortega y Clarire Methven O’Brien, *Public Procurement and Human Rights* (Elgar, 2019); F. McGaughey et al., “Public procurement for protecting human rights”, *Alternative Law Journal* 47, n.º 2 (2022): 143-9, doi:10.1177/1037969X221083832. John C. Mubangizi y Prenisha Sewpersadh, “A Human Rights-based Approach to Combating Public Procurement Corruption in Africa”, *African Journal of Legal Studies* 10, n.º 1 (2017): 6-90, doi:10.1163/17087384-12340015; Raquel Carvalho, “Contratação Pública e Direitos Fundamentais”, en *Estudos em Homenagem ao Professor Doutor João Caupers* (Gestlegal, 2024), 1211-31.
 26. H.-T. Liao y C.-L. Pan, “The Role of Resilience and Human Rights in the Green and Digital Transformation of Supply Chain”, en *2021 IEEE 2nd International Conference on Technology, Engineering, Management for Societal Impact using Marketing, Entrepreneurship and Talent, TEMSMET 2021*, 2021, doi:10.1109/TEMSMET53515.2021.9768730.

minimisation of the impact of the service on the environment and urban landscape (up to 1 point); planning of training programmes for staff assigned to the service (1 point); collaboration and work plan with Special Employment Centres, whose focus is to provide workers with disabilities with remunerative employment and to facilitate their access to the labour market (1 point); prevention, occupational health and safety measures to be applied (0,5 points); measures to reconcile work and family life (0,5 points); measures for equality between men and women (0,5 points); Integration of persons with disabilities, disadvantaged people, or members of vulnerable groups (0,5 points).

Not to mention the public space recuperation and the social impacts: more interconnection in the community, more quality air and health.²⁷

i) Environment and Resources Authority (Malta): the Environment and Resources Authority of Malta launched a public procurement for green cleaning services in 2019. There was a National Plan that required that all public contracts under the Directives should include green factors in this subject. The Authority had been trying to apply a combination of environment and social criteria. One of the factors was ecolabels as proof of several information: “For each product offered, a list of all substances contained in a quantity that exceed 0,01 % by weight of the final product, together with their Chemical Abstracts Service (CAS)-Number 3 (where available) and any risk phrases with which they are classified; The name and function of all biocides. For all biocides classified as R50/53 or R51/53” some information was mandatory; “total quantity of elementary phosphorus; the total quantity of phosphates per wash”. There were forbidden a certain type of ingredients on Phosphorus and biocides. There were also social clauses about written contracts and wages paid by credit transfer. There was also required to meet some health and safety features such as safe working environment (“e.g. via provision of appropriate signage for wet floors, provision of necessary implements such as gloves, etc.”); “to include measures taken to ensure safety, for example, provision of harnesses, adequate

27. For further details, Reaching social and environmental objectives through maintenance of public green spaces-Case study of the Municipality of Rincón de la Victoria, Spain (https://green-business.ec.europa.eu/green-public-procurement/good-practice-library/reaching-social-and-environmental-objectives-through-maintenance-public-green-spaces-0_en) accessed June 3rd 2024.

equipment enabling reaching of windows located at high floors from a lower one, etc.”.²⁸

Besides the labour clauses, we would say that all the environmental factors, alongside the ecological concerns and impacts, also had social impacts on the health of buildings’ workers and users where the cleaning services were provided. Thus, once more, this example proves the close relationship between environment and social impacts.

CONCLUSION

There are three key points to underline as a conclusion:

- a) The social impacts of PP are more difficult to implement than the environmental one due to the different context of the two policies.
- b) Social policies, as horizontal policies to be pursued by PP, cannot resume to the legal obligations, in labour law.
- c) There are already several examples where the connection between environmental and social impacts are perceived by contracting authorities and put into action.
- d) There is room for improvement regarding PP with social impact.

Therefore, the answer to the question is: yes, GPP can contribute to social sustainability; no, social outcomes are not only attainable through adamant and specific social measures; yes, horizontal policies can have several goals.

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DECLARACIÓN DE CONFLICTO DE INTERESES

La autora declara no tener ningún conflicto de interés financiero, académico ni personal que pueda haber influido en la realización del estudio.



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Foro: Revista de Derecho

no. 43, p. 9 - 26, 2025

Universidad Andina Simón Bolívar,

ISSN: 1390-2466

ISSN-E: 2631-2484

DOI: <https://doi.org/10.32719/26312484.2025.43.1>