**The European Business Regulation on Public-Private Partnerships (PPPs)**

**[Some thoughts concerning the Green Paper issued by the Commission]**

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1. **INTRODUCTION**

The main legal aspects of PPPs.

1. The PPP contract. A matter of national law and commercial practice
2. The Public Procurement Law on PPPs. A matter of EU law intervention
3. The Financial Law on PPPs (relations with third parties)
4. The legal characterization of the PPP contract (“Public Contract” or “Concession”?). The Greek law provides a broad interpretation of “Public Contract”
5. **THE GREEN PAPER ON PPPs**

30/04/2004: Commission adopts the Green Paper on Public-Private Partnerships and Community Law on Public Contracts and Concessions

Public debate throughout the E.U.

Replies to the Green Paper: Total replies: 195 [mainly by Governments or individual Ministries - strong representation from UK, Germany, France, Italy and Austria, 111 associations, 38 enterprises and 13 individuals, but also by the European Economic and Social Committee and the Committee of Regions].

03/05/2005: Commission issues a Report on the replies received

15/11/2005: Commission issues a White Paper on the planned next steps

**Key issues in the Green Paper:**

**1. Community competence to intervene**

Question as to the necessity and form (legislation or soft law?) of community intervention.

Almost unanimous reply: Soft-law approach (shared better practice) preferable

**2. The Public Procurement Law of PPPs**

Commission’s main concern is the prevention of discrimination. The main issues of this concern are:

a) The “in-house” issue: Clarification of the term by the Commission – soft-law approach

b) The “Institutionalized PPPs” – A soft-law approach is again proposed

c) The “Competitive Dialogue”: A new term – A matter of better practice

**3. The Contract Law (substance) of PPPs**

a) The “step-in” clauses

b) The subcontracting issue

c) The duration and alteration of the contract and performance by the parties.

Matters of better practice and good construction of the contract

**4. The Commission’s next steps**

a) New legislation on concessions (similar to law on public contracts),

b) A “soft-law” approach to PPPs

**III. CONCLUSION – THE GREEK LAW (3389/22-9-2005)**