

The Strategic Role of Public Food Procurement in the Just Food Transition

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ABSTRACT (IN INGLESE): Public Food Procurement emerges as a strategic tool for sustainable governance, capable of guiding an equitable and systemic food transition. This analysis takes a multilevel approach to the topic, focusing on minimum environmental criteria, spaces for innovation beyond mandatory regulations, and challenges related to food upcycling, novel foods, and the food sharing economy. It also highlights the importance of sharing best practices among public administrations. Particular attention is given to the indirect effects of public action through nudging and moral suasion to highlight the transformative potential of public food procurement in promoting sustainable behaviors and a new food ethic.

KEYWORDS: Sustainable public procurement; public food procurement; minimum environmental criteria; food governance; food ethics

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1. Some Introductory Thoughts on Food and its Challenges in the Context of Transition

From the Homeric banquets of antiquity, through the assault on the ovens described by Manzoni, to the famous «Sir, I want some more» of little Oliver Twist, and the synthetic dystopian meals imagined by Orwell, food has always been a central element in the human experience,

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spanning eras, social classes and cultures and standing as a mirror of the evolutions, including legal ones, of society¹.

Several aspects orbit around the concept of food. In the truest sense of the concept of complexity², each of these aspects follows more or less regular paths, often finding specific points of contact: the analysis of the food sector implies an awareness of the inevitable intertwining of social sciences and hard sciences, of economics and the need to protect the environment, of production models and fundamental rights³.

This shows how food production, distribution and consumption are the result of dynamics involving culture, technology, public policy and social justice⁴.

Establishing and stabilizing these balances is increasingly challenging, especially in a period of systemic transition⁵, the success of which will determine the future of current and future generations⁶.

The profound changes affecting agri-food systems, such as overpopulation, land use, global warming, agri-food sector emissions, excessive plastic production, the need to innovate food preservation techniques, the promotion of sustainable diets, and the definition of the scope of action for new functional foods, raise the question of the role of public authorities in this transition⁷.

In this context, legal issues extend beyond standard regulatory requirements and encompass a system of fundamental principles. The multidimensionality of the law discussed here includes recognizing food

¹ For a sociological perspective on food as an element of social evolution, see J.P. POULAIN, *Sociologies de l'alimentation*, Paris, 2017.

² On the issue of complexity see E. MORIN, *Introduction à la pensée complexe*, Paris, 2014. Regarding this issue, the French philosopher and sociologist formulated a theory of complexity in critique of reductionism which advocates for systems thinking and an interdisciplinary framework. As he sees it, reality consists of intertwined myriad connections, interdependencies, and non-linear dynamics, which renders impossible to understand through fragmentation and isolated analyses.

³ For a general examination of the problems involved in recomposing knowledge relating to different fields, see F. CAPRA, *Il punto di svolta. Scienza, società e cultura emergente*, Milano, 2013.

⁴ For an up-to-date and in-depth analysis of these challenges translated into legal language, please refer to L. SCAFFARDI, V. ZENO-ZENCOVICH, *Cibo e diritto. Una prospettiva comparata*, 1, Roma, 2020 and L. COSTATO, F. ALBISINNI, T. GEORGOPOULOS (eds), *European and global food law*, Milano, 2025.

⁵ On the role of law in transitions, see F. FRACCHIA *Transizioni: il punto di vista del diritto amministrativo*, Napoli, 2024. For a thorough exploration of the role of law in a particular transition, such as the ecological one, refer to J. MAKOWIAK, *Transitions*, in *Revue Juridique de l'Environnement*, 48(1), 2023, 5.

⁶ On the role of intergenerational responsibility in the context of transition, see F. FRACCHIA, *I doveri intergenerazionali. La prospettiva dell'amministrativista e l'esigenza di una teoria generale dei diritti intergenerazionali*, in P. PANTALONE (ed), *Doveri intergenerazionali e tutela dell'ambiente*, Modena, 2021, 55. This issue arises in the broader context of the evolution of sustainable law principles. There is abundant literature on the subject. Therefore, without claiming to be exhaustive, reference is made to P. FOIS (ed), *Il principio dello sviluppo sostenibile nel diritto internazionale ed europeo dell'ambiente*, Napoli, 2007; R. BIFULCO, A. D'ALOIA, *Un diritto per il futuro. Teorie e modelli dello sviluppo sostenibile e della responsabilità intergenerazionale*, Napoli, 2008; F. FRACCHIA, *Il principio dello sviluppo sostenibile*, in M. RENNA, F. SAITTA (eds) *Studi sui principi del diritto amministrativo*, Milano, 2012, 433; Id., E. FREDIANI, *Il paradigma trasversale dello sviluppo sostenibile*, in *Il Diritto dell'Economia*, 1, 2015, 49; J.D. SACHS, *L'era dello sviluppo sostenibile*, Milano, 2015; B.G. MATTARELLA (ed), *Il governo dello sviluppo sostenibile*, Torino, 2023; M. DELSIGNORE, *Lo sviluppo sostenibile e la sua evoluzione: da principio privo di cogenza giuridica a modello da realizzare anche per il tramite del diritto*, in *Lexambiente*, 1, 2023, 1.

⁷ For a comprehensive analysis of the concrete challenges facing the state and the related legal implications, a general overview is provided by F. DE LEONARDIS, *Lo stato ecologico*, Torino, 2023.

as an essential human right⁸ and addressing the sector's technical and regulatory challenges, also dealing with critical matters of food safety and security⁹.

In this regard, it is important to implement the dialogue between vertical systems that lead to transnational governance through organizational frameworks like those of the United Nations, European Union or national legislatures and horizontal movements which come from local areas through creative managerial arrangements, civic engagement activities, and grassroots initiatives. Local governments actively shape this multilevel equilibrium while connecting higher policies with community demands which involves coordinating needs assessment and service delivery planning.

This paper aims to analyze the strategic role of public administrations, with a focus on the Italian experience, as institutional actors responsible for implementing regulatory instruments and as programmers capable of orienting food governance toward sustainable and integrated models¹⁰. In other words, public administration becomes a strategic driver for integrating socio-environmental variables into market dynamics and promoting innovation that combines environmental, social, and economic objectives in full compliance with Article 41 of the Italian Constitution and the integration principle of Article 11 of the Treaty on the Functioning of the European Union (TFEU).

In this context, there is an increasing urgency to pursue these food goals through a One Health approach¹¹. This approach calls for an integrated paradigm to develop public policies that can address environmental, health, and economic challenges systematically, focusing on the interconnectedness of human, animal, and ecosystem health.

From a multilevel perspective, the variety of challenges mentioned requires a strategic vision that can link to advanced operational tools. For this purpose, the selected angle of analysis includes public

⁸ For an in-depth discussion of the topic, see A. CIERVO, *Il diritto al cibo. Presupposti normativi e precedenti costituzionali di un nuovo diritto fondamentale*, in *Parole-chiave*, II, 2017, 55; L. COSTATO, *Diritto al cibo*, in *Digesto civ.*, sez. civ., XI agg., 165; S. PITTO, *Diritto al cibo*, in *Digesto pubbl.*, 2021; L. COSTATO, P. BORCHI, S. RIZZIOLI, V. PAGANIZZA, L. SALVI, *Compendio di diritto alimentare*, Milano, 2022; and A. JANNARELLI, *Cibo e diritti. Per un'agricoltura sostenibile*, Torino, 2015, which highlights the conceptual link between the *right to food*—in both its individual and collective dimensions—and *food sovereignty*. For an updated overview, at international, European and national level, of the stages of the right to food and its current state of the art, reference is made to M. GALBUSERA, *Cibo, diritti fondamentali e identità nazionale: verso un nuovo valore costituzionale?*, in *Sociologia del diritto*, 51(2), 2024, 146.

⁹ With reference to food safety and security, see L. CALIFANO (ed), *Sicurezza alimentare, diritto al cibo, etica della sostenibilità. Politiche giuridiche, economiche e sociali*, Milano, 2022 and S. PITTO, *La rilevanza costituzionale e globale della sicurezza alimentare. Una lettura olistica e comparata della food security*, Napoli, 2024.

¹⁰ In general, on the subject of the continuity of the transformative needs of the Public Administration, see E. BORGONOV, *Ripensare le amministrazioni pubbliche. Tendenze evolutive e percorsi di approfondimento*, Milano, 2004.

¹¹ For a general analysis about the One Health approach, see S. PITTO, *Cambiamento climatico e sicurezza alimentare: dall'approccio One Health ai modelli olistici del Global South*, in *BioLaw Journal - Rivista Di BioDiritto*, 2, 2023, 315. F. APERIO BELLA (ed), *One Health: la tutela della salute oltre i confini nazionali e disciplinari*, Napoli, 2023, G. ANTONELLI, F. PENNA, E. CHATURVEDI, A. CILENTO (eds), *Planetary Health Laws, Policies and Science on the 'One Health' Approach*, Cham, 2025; With reference to the specificity of the One Health approach in relation to food, see M. LEGGIO, A.G. CARAGLI, *Governance e regolazione del settore agroalimentare verso il paradigma One Health*, Torino, 2024.

contracting in the food transition¹². It analyzes the topic's current state and tries to outline its prospects. This highlights how public administration can act as a proactive player with a holistic vision of sustainability.

2. Food Procurement as a Multilevel Tool for Sustainable Governance: International, European, and National Perspectives

Public Food Procurement¹³ refers to the set of food procurement activities by the Public Administration, carried out through tenders or other contractual instruments, to provide food to school canteens, hospitals, prisons, armed forces, universities and other public entities.

Widening the angle of view, the institution in question becomes an engine capable of integrating the three different dimensions of Sustainable Public Procurement. At this moment, public purchasing is indeed connected to a complex cycle of spending that aims at simultaneously achieving strategic and interrelated holistic synergetic economic, social and environmental outcomes aligned with the core objective of the 2030 Agenda: leaving no one behind.

The United Nation agenda 2030 directly Sustainable Public Procurement¹⁴ as one of the critical tools for achieving Sustainable Development Goals (SDGs), within a tri-dimensional framework comprising Green Public Procurement (GPP), Socially Responsible Public Procurement (SRPP) and Ethical Public Procurement (EPP).

In relation to this the European Union has been actively biased towards incentivizing the strategic application of public procurement as a powerful means for unleashing transformative change for just and green public spending in alignment with the ambition of The European Green Deal. This Plan, adopted in 2019 is European Union's strategy towards climate neutrality by 2050 while rethinking sustainably the whole European economy including agribusiness.

One of the key additions to the Green Deal¹⁵ is the From Farm to Fork strategy¹⁶ that places food sustainability front and center on Europe's agenda by encouraging more equitable, resilient, and climate-

¹² L.F.J. SWENSSONA, D. HUNTERB, S. SCHNEIDER, F. TARTANACA, *Public food procurement as a game changer for food system transformation*, in *The Lancet Planetary Health*, 5(8), 495 - 496.

¹³ For an in-depth analysis on this topic, see FAO, ALLIANCE OF BIOVERSITY INTERNATIONAL AND CIAT AND EDITORA DA UFRGS, *Public food procurement for sustainable food systems and healthy diets*, 1. Rome, 2021. M. STEIN, M. MARIANI, R. CARANTA, Y. POLYCHRONAKIS, (eds), *Sustainable Food Procurement: Legal, Social and Organisational Challenges*, New York, 2024.

¹⁴ Reference is made to A. LA CHIMIA, *Appalti e sviluppo sostenibile nell'Agenda 2030*, in L. FIORENTINO, A. LA CHIMIA (eds), *Il Procurement delle Pubbliche Amministrazioni*, Bologna, 2021, 73; see also, T. STOFFEL, C. CARVERO, A. LA CHIMIA, G. QUINOT, *Multidimensionality of Sustainable Public Procurement (SPP) - Exploring concepts and effects in Sub-Saharan Africa and Europe*, in *Sustainability*, 11, 2019, 6352.

¹⁵ See the Communication from the European Commission *The European Green Deal*, COM (2019) 640 final, Brussels, 11 December 2019. For those interested in exploring the topic further, recommended readings include N. CHOMSKY, R. POLLIN, *The Climate Crisis and the Global Green New Deal: The Political Economy of saving the Planet*, Versobook, 2020, D. BEVILACQUA, E. CHITI, *Green Deal. Come costruire una nuova Europa*, Bologna, 2024 and D. Bevilacqua, *Il Green New Deal*, Milan, 2024.

¹⁶ Communication *A Farm to Fork Strategy for a fair, healthy and environmentally friendly food system*, COM (2020) 381 final, Brussels, 20 May 2020. For an analysis on this topic, see A.SIMONATO, *Le strategie 'dal produttore al consumatore' e per la biodiversità*, in *Aggiornamenti sociali*, 10, 2020, 694 and F.VENTURI, *The farm to fork*

neutral food production, distribution, and consumption systems. The strategy also underscores public procurement as a major driver toward more sustainable standards in the agrifood market, urging member countries to integrate environmental and social considerations into public catering and food procurement tenders¹⁷. In recent decades, there has been a strong pivot within Europe toward enhancing value for money while addressing public interest goals in the contracting framework¹⁸.

The 2014 Procurement Directives¹⁹- most notably Directive 2014/24/EU- moved the dial significantly by granting greater freedom to administrations to incorporate environmental, social or innovative factors during all stages of procurement processes spanning planning design through execution. These directives not only expanded strategic discretion for contracting authorities but solidified spending taxpayer funds as an instrument of substantive policy aimed at fostering protective measures for the environment, social inclusion, public health, workers' rights alongside economic-resilient territorial sustainability²⁰.

With the implementation of the mentioned European directives through Legislative Decree No. 50/2016, now replaced by the new Public Contracts Code (Legislative Decree 36/2023), the Italian system is moving in the same direction as supranational actors.

This change has led to a strategic vision of public contracting and, for the effect also on that which laps the agribusiness sector.

This aspect is closely linked to the new "principle of result", which, according to Article 1 of the new code, also refers to the ability of the contract to contribute to public policy objectives²¹.

strategy. A comprehensive but cautious approach to "multidimensional" food sustainability, in RQDA., 1, 2021, 70.

¹⁷ At page 14, it states: «To improve the availability and price of sustainable food and to promote healthy and sustainable diets in institutional catering, the Commission will determine the best way of setting minimum mandatory criteria for sustainable food procurement. This will help cities, regions and public authorities to play their part by sourcing sustainable food for schools, hospitals and public institutions and it will also boost sustainable farming systems, such as organic farming. The Commission will lead by example and reinforce sustainability standards in the catering contract for its canteens. It will also review the EU school scheme to enhance its contribution to sustainable food consumption and to strengthen educational messages on the importance of healthy nutrition, sustainable food production and reducing food waste».

¹⁸ With reference to the description of the evolutionary stages of contract law at European and national level, please allow me to refer to A. DEPIETRI, *Il Green Public Procurement tra riforme, mercato ed effettività*, in Munus, 3, 2023, 787.

¹⁹ Specifically, these directives are Directive 2014/24/EU, which concerns procurement in ordinary sectors; Directive 2014/25/EU, which concerns procurement procedures by entities operating in the water, energy, transport, and postal services sectors; Directive 2014/23/EU, which concerns concession contracts. These measures make the configuration of public procurement in terms of sustainability clear. According to Recital 2 of Directive 2014/24/EU, public procurement is a key pillar of the Europe 2020 Strategy because it «is one of the market-based instruments necessary for achieving smart, sustainable, and inclusive growth while ensuring the most efficient use of public funds».

²⁰ On the importance of the procurement system understood as a lever for systemic transition, see S. VALAGUZZA, *Sustainable Development in Public Contracts: An Example of Strategic Regulation*, Naples, 2016; id., *Governing by Contract: Procuring for Value. Creating Value through Public Contracts*, Naples, 2021. With particular focus on ecological transition, see also R. CARANTA, C. CRAVERO, *Sustainability and Public Procurement*, in A. LA CHIMIA, P. TREPTE (eds) *Public Procurement and Aid Effectiveness*, Oxford, 2019, 173.

²¹ On this point, it should be noted that the new public procurement code has been defined without any changes to the directives. What has changed is the structure of the code, which, in this case, formulates a new

As pointed out by the Italian Council of State²², the evolution of the procurement system can be summarized in three phases: a "unipolar" phase, characterized by purely accounting objectives focused on the lowest price; a "bipolar" phase, in which, alongside the accounting aspect, the need to protect competition and the market has emerged; and finally, a "multipolar" phase, in which public contracting must also consider environmental and social variables.

3. Minimum Environmental Criteria in the Food Sector: The Mandatory Side of Public Food Procurement in Italy

In the new Italian Public Contracts Code, the concept of multipolar procurement is translated into practices such as social clauses and Minimum Environmental Criteria. In fact, Article 57 of Legislative Decree No. 36/2023 promotes social inclusion and environmental sustainability in public procurement. Regarding social clauses, the renewed procurement system continues to guarantee equal generational and gender opportunities, as well as promote the employment inclusion of people with disabilities or in disadvantaged situations. It is also committed to ensuring employment stability for the staff involved. Provision is also made for the application of national and territorial sector collective agreements, thus ensuring the economic and regulatory protection of workers in subcontracts, so that they can enjoy conditions like those of the contractor's employees and are protected against illegal labor²³. With respect, on the other hand, to environmental sustainability, contracting stations and awarding bodies must contribute to the achievement of environmental objectives by incorporating the technical specifications and contract clauses established by the Minimum Environmental Criteria (CAM)²⁴ into design and tender documentation. These criteria must also be considered when preparing the documentation required to apply the criterion of the most economically advantageous tender.

systematization of principles, including that of results. M. RENNA, *I Principi*, in S. FANTINI, H. SIMONETTI (eds.), *Il nuovo corso dei contratti pubblici. Principi e regole in cerca di ordine*, Il Foro it. Specials, 1, 2023, 1; see also, G. NAPOLITANO, *Il nuovo Codice dei contratti pubblici: i principi generali*, in *Giornale di diritto amministrativo*, 3, 2023, 287. The same report on the Code of the Italian Council of State, available at www.giustiziamministrativa.it, states that «the principles make the harmonious, organic, and unified design underlying the Code intelligible with respect to the fragmentation of its parts and, at the same time, allow for a better understanding of these parts, connecting them completely».

²² Council of State, Sec. III, May 27, 2024, no. 4701; See the relevant note on the judgment by C. TOZZI MARTELLI, *Consiglio di Stato, Sez. III, 27 maggio 2024, n. 4701*, in *CERIDAP*, 2, 2024, 390.

²³ M. FORLIVESI, *Le clausole sociali negli appalti pubblici: il bilanciamento possibile tra tutela del lavoro e ragioni del mercato*, in *WP CSDLE "Massimo D'Antona.IT"*, 275, 2015, 13; M. PALLINI, *Diritto europeo e limiti di ammissibilità delle clausole sociali nella regolazione nazionale degli appalti pubblici di opere e servizi*, in *Giornale di diritto del lavoro e delle relazioni industriali*, 2016, 526; see also F. PANTANO, *Le clausole sociali nell'ordinamento giuridico italiano. Concorrenza e tutela del lavoro negli appalti*, Pisa, 2020.

²⁴ Reference is made to F. DE LEONARDIS, *L'uso strategico della contrattazione pubblica: tra GPP e obbligatorietà dei CAM*, in *RQDA*, 3, 2020, 62.; A. PERINI, *Appalti verdi: una strategia per lo sviluppo sostenibile*, in *Le Regioni*, 1-2, 2022, 147; O. HAGI KASSIM, *I criteri di sostenibilità energetica e ambientale negli appalti pubblici. L'emersione dell'istituto degli "appalti verdi" nel panorama europeo e nazionale*, in *Italiappalti.it*, 14 febbraio 2017 (last access 18/06/2025). Dating back to preliminary research about the interaction between environment and market, reference is made to M. CLARICH, *La tutela dell'ambiente attraverso il mercato*, in *Diritto Pubblico*, 2007, 219. M. CAFAGNO, F. FONDERICO, *Riflessione economica e modelli di azione amministrativa a tutela dell'ambiente*, in P. DELL'ANNO, E. PICOZZA (eds.), *Trattato di diritto dell'ambiente*, I., *Principi generali*, Padova, 2012, 487.

The CAMs, developed by the Ministry of the Environment and Energy Security, establish technical requirements and minimum criteria that contracting stations must follow when designing and awarding contracts. The mandatory nature of their application makes the Italian system unique in the European context, as it represents a generalized constraint that goes beyond the simple voluntary approach adopted by other member states²⁵.

The inclusion of social and environmental clauses in public tenders requires a significant revision of the bid evaluation criteria. From the simple logic of the lowest price, the focus scales to the most economically advantageous bid, which is also evaluated on qualitative, environmental and social factors²⁶. This approach aims to reward companies that invest in sustainable innovation, social responsibility and labor quality, thus contributing to an overall improvement in market standards²⁷.

In the food sector, the adoption of the Minimum Environmental Criteria proves to be crucial in guiding the choices of contracting stations toward organic, low environmental impact, local or short supply chain food products. This approach not only helps reduce food waste but also promotes healthy diets and animal welfare²⁸.

Collective catering, which includes school, hospital and corporate catering, is a prime context for the application of these standards. The Italian legislature's detailed mandates within food service deal with the nutrition and sustainability of products, how food is transported and stored, the use of compostable materials, and food education. These requirements go beyond just technical specifications for public health benefits as they advance social equity while safeguarding essential foundational nutrition²⁹. Within Europe, Italy is in the lead of incorporating sustainability principles into the public food system for contracting but still faces challenges like fragmentation between regions, low technical skill among some procuring entities, and need for better assessment of what effects have been caused³⁰.

²⁵ A. MALTONI, *Contratti pubblici e sostenibilità ambientale: da un approccio "mandatory-rigido" ad uno di tipo "funzionale"?*, in *Ceridap*, 3, 2023;

²⁶ On the subtypes of the most economically advantageous tender, see F. CARDARELLI, *Criteri di aggiudicazione*, in M.A. SANDULLI, R DE NICTOLIS (eds), *Trattato sui contratti pubblici*, III, Milan, 2019, 534.

²⁷ For an in-depth analysis, please refer to F. BASSANINI, G. NAPOLITANO L. TORCHIA, *Lo Stato promotore: una ricerca sul mutamento degli strumenti di intervento pubblico nell'economia*, in *Irpa working progress*, 1, 2021, 3.

²⁸ G. CADDEO, *I CAM per le mense scolastiche: uno strumento di attuazione dello sviluppo sostenibile e di educazione alimentare*, in *Federalismi*, 14, 2024, 19.

²⁹ These CAMs were adopted by Ministerial Decree no. 65 of March 10, 2020, in Official Gazette no. 90 of April 4, 2020. It establishes the Minimum Environmental Criteria for the award of collective catering services and the supply of foodstuffs and provides some guidance to contracting authorities to enhance their environmental effectiveness. The ministerial decree aims to address various environmental aspects throughout the life cycle of collective catering services, from the production of foodstuffs to their distribution, packaging, meal preparation, and waste disposal, proposing solutions for environmental improvement throughout the entire process. The objectives of the CAM were identified based on an analysis of the environmental impacts generated at each stage of service delivery, considering the market context and organizational models of collective catering and differentiating them according to the different sectors and users of the service itself.

³⁰ Regarding the effectiveness of public procurement in practice and possible empirical quantitative tools for monitoring it, see E. SCARPONI, *Il Green Public Procurement: strumenti di rilevazione e quantificazione del fenomeno*, in *RQDA*, 2, 2024, 435.

4. Rethinking Public Food Contracts: Unlocking Innovation Beyond Regulatory Requirements

Regardless, innovation in the role of public administrations and their function continues to emerge will now mark the evolution of public procurement. Such agencies must ensure compliance with bid laws such as Minimum Environmental Criteria and must also design tenders and set precise award thresholds that achieve equilibrium between robust open competition and a plethora of other factors.

This change in outlook demands proactive thinking about what lies ahead in the future, shifting focus from merely responsible toward development regarding problem solving rational techniques. These tools should not be imposed from above, but should also incorporate grassroots input, taking a bottom-up approach to the evolution of public policies³¹. In this respect, public administrations become co-creators of innovative and participatory policies that reflect the specific needs of territories and local communities.

When it comes to Food Public Procurement, there are multiple challenges to consider. As well as properly applying the Minimum Environmental Criteria (CAM), public administrations can design procurement processes that consider major ongoing changes affecting agri-food systems.

In the author's view, key emerging themes could include food upcycling, novel foods and the food sharing economy.

In relation to the agri-food sector, food upcycling³² consists in the use of waste and by-products to produce new and usable food products or edible ingredients. Extremely valuable from an environmental as well as economic standpoint, this method mitigates waste along the entire supply chain while simultaneously creating something useful from materials which would otherwise be deemed trash. Not only does this eliminate potential disposal costs, but there is a secondary environmental benefit in not having to process those materials. Food upcycling can be enabled through public procurement because public administrations can drive further sustainable innovation throughout food supply chains. By leveraging public demand, administrations can guide the market towards more circular production models by rewarding the use of secondary raw materials, incentivizing waste prevention, and supporting enterprises that transform food waste into new, safe, quality products.

Although the current Minimum Environmental Criteria (CAM) for collective catering do not yet explicitly reference food upcycling, nothing prevents Public Administrations from going beyond the minimum requirements, anticipating more advanced standards and acting as pioneers for regulatory

³¹ Studies related to the implementation of European law by local authorities, such as regions in Italy, are of particular interest on this issue, as they closely concern agricultural issues. For an in-depth analysis of top-down and bottom-up mechanisms, please refer to M. LOMBINI, L. POMA, *Livello bottom up e sviluppo del territorio*, Milano, 2010 and G. SAPUTELLI, *Le Regioni e l'attuazione del diritto europeo nel sistema europeo multilivello*, in *Federalismi.it*, 20, 2022, 571 (last consultation 21/06/2025). For a general overview about bottom-up theories, refer to T. MORI, *Democratization of the Administration-From the Top Down and/or From the Bottom Up*, in *European-Asian Journal of Law and Governance (Special Issue: Constitutionalism in East Asia)*, 2011, 79; E. THOMANN, N. VAN ENGEN, L. TUMMERS, *The Necessity of Discretion: A Behavioral Evaluation of Bottom-Up Implementation Theory*, in *Journal of Public Administration Research and Theory*, 28(4), 2018, 583.

³² J. ASCHEMANN-WITZEL, D. ASIOLI, M. BANOVIC, M. A. PERITO, A. O. PESCHEL, V. STANCU, *Defining upcycled food: The dual role of upcycling in reducing food loss and waste*, in *Trends in Food Science & Technology*, 132, 2023, 132. See also, UPCYCLED FOODS DEFINITION TASK FORCE, *Defining Upcycled Foods*, University of Harvard, 2020 https://chlp.org/wp-content/uploads/2013/12/Upcycled-Food_Definition.pdf.

updates. In this example, public buyers could create award criteria that encourage enterprises to adopt waste recovery systems and reuse by-products processed waste³³, as well as work with local companies and startups working in circular economy³⁴.

Here, the public administration can actively promote novel foods and help in bridging the gap between social acceptance and technological innovation. Novel foods³⁵ encompass all food products resulting from new technologies or production methods and foods which are traditionally consumed outside of the European Union. Their safety is ensured within EU borders because it undergoes a rigorous scientific evaluation system led by the European Food Safety Authority (EFSA). Each novel food must go through a stringent approval process where consumer risk assessment is conducted, brand transparency safeguards are implemented to ensure no false representation occurs, consumer trustable labeling devoid of misleading information is provided ensuring unambiguous identification for consumers, nutrition assessment proving sufficiency when substituting traditional food is performed alongside PE claim substantiation of adequate nutritional values during replacement, claiming sufficient nutrition value after replacing traditional food. Well-designed public procurement policies may enable pilot

³³ It should be noted that the issue of reusing production waste, including in the food sector, still faces implementation difficulties at the European level due to regulatory uncertainties regarding the identification of distinctive features between waste and by-products. This constitutes an obstacle to the full implementation of food upcycling. For an overview of the Italian system, please refer to A. DEPIETRI, *Residui di produzione e bioeconomia: un'analisi dei principali driver dell'economia circolare*, in *Federalismi*, 6, 2023, 40.

³⁴ The most authoritative definition of circular economy is that developed by the Ellen MacArthur Foundation, an organization that promotes the circular development paradigm worldwide: «The circular economy is a conceptually regenerative industrial economy that mimics nature in actively improving and optimizing the systems through which it operates». As is well known, the concept of circular economy has been of interest to economists for many years. The starting point was the 1983 Brundtland Report, which already highlighted the unsustainability of the so-called “linear” system. With reference to circular economy, see F. De Leonardis, *Il diritto dell'economia circolare e l'art. 41 Cost.*, in *RQDA*, 1, 2020, 51; *Id*, voce *Economia Circolare (diritto pubblico)*, in *Digesto delle Discipline Pubblicistiche*, Torino, 2021, 165; E. Scotti, *Poteri pubblici, sviluppo sostenibile ed economia circolare*, in *Diritto dell' Economia*, 1, 2019, 493, M. Cocconi, *Un diritto per l'economia circolare*, in *Diritto dell'Economia*, 3, 2019, 127, *Id*, *La regolazione dell'economia circolare*, Milano, 2020. Among the most recent contributions on this subject, S. VERNILE, *Dall'economia circolare al principio di circolarità*, Torino, 2024.

³⁵ See, Regulation (EU) 2015/2283 of November 25, 2015, on novel foods, amending Regulation (EU) 1169/2011 and repealing Regulation (EC) 258/97 and Regulation (EC) 1852/2001. Since the purpose of this contribution is to emphasize the potential relevance of this institution in the context of public food procurement rather than to delve into its specifics, please refer to the relevant literature on the subject ; S. RIZZIOLI, *Novel Foods*, in L. COSTATO, F. ALBISINNI (eds), *European Food Law*, 2012, 393; C. BALLKE, *The New Novel Food Regulation –Reform 2.0*, in *European Food and Feed Law Review*, 9, 2014, 285; A. VOLPATO, *La riforma del regolamento sui Novel Food: alla ricerca di un impossibile equilibrio?*, in *Rivista di Diritto Alimentare*, IX (4), 2015, 26; D. PISANELLO, G. CARUSO (eds), *Novel Foods in the European Union*, Cham, 2018; G. FORMICI, *L'evoluzione della disciplina normativa in materia di Novel Food: una sfida sul tavolo del legislatore europeo*, in *Diritto pubblico europeo Rassegna online*, 1, 2018, 1. L. SCAFFARDI, *Novel Food, un futuro ancora da definire*, in *BioLaw Journal –Rivista di BioDiritto*, 2, 2020, 43; B. LA PORTA, *Il Regolamento europeo in materia di novel food: riflessioni sugli “alimenti tradizionali dei Paesi terzi”*, in *Cultura e diritti*, 1, 2020, 59; V. PAGANIZZA, *I nuovi alimenti (“Novel foods”)*, in P. BORGHI, I. CANFORA, A. DI LAURO, L. RUSSO (eds), *Trattato di diritto alimentare italiano e dell'Unione europea*, 2021, 560; L. SCAFFARDI, G. FORMICI, *Novel Foods and Edible Insects in the European Union. An Interdisciplinary Analysis*, Cham, 2022; M. GRUBE, K. PASCH, S. TÖPFL, *The Food Law Assessment of Novel Foods by Process*, in *European Food and Feed Law Review*, 18, 2023, 166; H. SCHEBESTA, K. PURNHAGEN, *Pre-market authorization of novel products: Novel Food Regulation*, in H. SCHEBESTA, K. PURNHAGEN, *EU Food Law*, Oxford, 2024.

initiatives aimed at these target populations through service provision in schools, hospitals, or workplace canteens so they raise awareness about these new foods while achieving economies of scale and reduced production-distribution costs. This would build citizens' trust in sustainable, ethical and nutritious food solutions.

Furthermore, the Food Sharing Economy³⁶ should be recognized as a set of collaborative practices for sharing, redistributing or exchanging surplus food based on digital platforms, civic networks or cooperative models. This rapidly expanding phenomenon sits at the intersection of environmental sustainability, social inclusion and digital innovation, offering practical solutions to food waste and nutritional poverty. Public administration can enhance the Food Sharing Economy's potential by providing regulatory and logistical support, and by establishing specific criteria for awarding public tenders for managing food surpluses.

The evolution of public contracting affects in a directly proportional way the awareness about the renewed role of Public Administrations. Indeed, the latter are not only required to ensure the correct application of existing regulations (such as those related to CAM), but it is essential that they actively engage in the design of calls for tenders, establishing award criteria that maintain a balance with the principle of free competition³⁷.

This change in perspective requires a new attitude on the part of public administrations, especially in terms of strategic visions and dynamics to be adopted in the immediate term. What is essential, in fact, is the development of governance tools that are not imposed from above, but that also integrate the needs that emerge from below, following a bottom-up approach functional to the evolution of public policies.

Public Administrations are called to move out of the role of mere executors and into that of co-creators of innovative and participatory policies, capable of responding to the real needs of territories and local communities.

5. Lessons from Best Practices and Collaborative Approaches

A key element in improving the effectiveness of Public Food Procurement lies in the enhancement and systematization of best practices³⁸, i.e., those administrative and design practices that have proven to

³⁶ For a general overview on the regulation of sharing economy, reference is made to K. ZUREK, *Food Sharing in Europe: Between Regulating Risks and the Risks of Regulating*, in *European Journal of Risk Regulation*, 7(4), 2016, 675; C. CAUFFMAN, J.M. SMITS, *The Sharing Economy and the Law: Food for European Lawyers*, in *Maastricht Journal of European and Comparative Law*, 23, 2016, 903. S.R. MILLER, *First Principles for Regulating the Sharing Economy*, in *Harvard Journal on Legislation*, 53, 2016, 147. Among Italian scholars, see G. SMORTO, *Verso una disciplina giuridica della sharing economy*, in *Mercato concorrenza regole*, 17 (2) 2015, 245.

³⁷ The topic of call for tenders' design is of great interest, as it constitutes the main step towards the effective pursuit of the results sought by procurement policies. For some general theories on the subject, see, for example, A. P. KING, *Enhancing the effectiveness of design and build tendering*. Diss. Sheffield Hallam University (United Kingdom), 2008; R. KOZIK, *The process of the tender evaluation in public procurement for implementation of design documentation*, *IOP Conference Series: Earth and Environmental Science*. 222. 1, 2019.

³⁸ For a contextualization of best practices, in terms of definition and systematization in the field of Administrative Law, see D. ZARING, *Best practices*, in *NYU Law Review*, 81, 2006, 294.

be effective, already tested and evaluated in real-world contexts, and capable of generating positive environmental, social, economic, and health impacts.

In the context of public food procurement policies, best practices developed through collaborations between contracting stations need to assume an increasingly important role. Some experiences, born from sharing processes between institutions, have proved particularly effective in promoting virtuous models of Food Public Procurement capable of combining environmental sustainability, nutritional quality, social inclusion and rationalization of public spending.

The development of these best practices is often linked to the creation of central purchasing bodies, which facilitate the exchange of know-how, the joint drafting of specifications, the definition of innovative criteria and the sharing of strategies to monitor and evaluate impacts. In this sense, Collaboration between administrations not only helps to overcome the structural difficulties of individual contracting stations (particularly smaller ones), but also raises the quality level of tender procedures, thanks to the sharing of expertise and resources³⁹.

From a legal point of view, these practices are part of the operating framework principles of loyal collaboration and administrative cooperation, which are also enhanced by the Public Contracts Code (Legislative Decree 36/2023), which promotes forms of aggregation of procurements to ensure greater effectiveness, efficiency and cost-effectiveness. Moreover, cooperation between public administrations is fully in line with the constitutional principle of good performance (Art. 97 Const.), rising to the role of a dynamic expression of horizontal and vertical subsidiarity⁴⁰.

These practices, while not having normative formalization, are gaining increasing importance as sources of operational soft law, especially when included within guidelines. They have the power to guide administrative action and influence the creation of more integrated public policies. In this context, it is crucial to see them not only as tools of technical innovation, but also as expressions of cooperative and proactive administration, capable of generating public value through the sharing of best practices.

Numerous collaborative best practices, developed at both national and European levels, have been recognized as replicable models for sustainable public food supply. These experiences demonstrate the effectiveness of cooperation between public administrations, local actors and agribusiness stakeholders.

Among the most significant initiatives are territorial networks for school canteens, created to meet the requirements of Minimum Environmental Criteria (CAM) and to enhance the quality and origin of products. Then there is no shortage of inter-municipal cooperation projects that, operating on a supra-local scale, experiment with innovative green procurement and food governance solutions. an emblematic

³⁹ The topic finds more scope for discussion in F. FRACCHIA, P. PANTALONE, *La fisionomia delle linee guida: abbozzo di una traiettoria evolutiva con specifico riferimento al settore dei contratti pubblici*, in *Il Diritto dell'Economia*, 104 (1), 2021, 11.

⁴⁰ It should be noted that the pursuit of these objectives in recent years has been supported by funds made available by the National Recovery and Resilience Plan. This plan was established under Regulation (EU) 2021/241 and is regulated at the national level by Decree Law No. 77/2021 (converted into Law No. 108/2021) and Decree Law No. 13/2023 (converted into Law No. 41/2023). Please refer to F. GALASSO, *Il Pnrr propulsore della innovazione manageriale della pubblica amministrazione*, in *Rivista Italiana di Public Management*, 5(1), 2533.

example is the Green Deal Cantines Durables project⁴¹, launched in 2019 in Wallonia (Belgium). This project aims to transform mass catering into a tool for a transition to more sustainable, local and equitable food. The initiative involves different public entities, such as school canteens, kindergartens, and nursing homes, and promotes cooperation between local authorities, agricultural producers, food processors, and facilitators, with the common goal of providing healthy, affordable, and environmentally friendly meals, with a view to short supply chain and social justice.

In Denmark, the Kitchen of Tomorrow project⁴² is a shining example of how guidelines for sustainable public procurement can be combined with culinary innovation through encouraging the use of environmentally friendly ingredients, such as alternative proteins.

A significant Italian example, however, resides at the City of Milan, thanks to the implementation of a Food Policy aimed at encouraging local and organic sourcing in school canteens and adopting initiatives to combat food waste⁴³.

Tools such as the Buy Better Food Campaign⁴⁴ and the European network European Procurement Forum⁴⁵ represent key resources to facilitate the sharing and dissemination of these best practices at the European level, feeding a network of administrations, operators and stakeholders committed to the development of increasingly sustainable public food procurement. These platforms enable the exchange of experiences, operational tools and guidelines, fostering a collaborative and integrated approach that strengthens the environmental, social and economic impact of public food procurement.

6. Shaping Behavior Through Procurement – The Nudging and Moral Suasion Effects of Public Food Policies

The potential of public food procurement cannot be fully appreciated without acknowledging its potential ethical impact on society. The difficulty in interpreting this aspect lies in its regulatory evanescence. However, the absence of references to food ethics in legal and operational instruments should not prevent us from exploring this area of analysis. If approached strategically in terms of nudging and

⁴¹ See the following link <https://www.mangerdemain.be/green-deal-cantines-durables/>

⁴² See the following link <https://foodshift2030.eu/labs/kitchen-of-tomorrow-lab/>

⁴³ More pieces of information are available at the following link https://www.comune.milano.it/aree-tematiche/food_policy

⁴⁴ Buy Better Food Campaign is a European initiative that supports public administrations in improving the quality and sustainability of food purchases. Through this campaign, local authorities, schools, hospitals and other facilities can access practical resources, examples of sustainable procurement, training tools and information materials to integrate environmental, social and nutritional criteria into their procurement procedures. The goal is to encourage procurement that favors local, organic, seasonal and environmentally friendly products, thus helping to transform the public food system into a healthier and more equitable model. <https://buybetter-food.eu/>.

⁴⁵ The European Procurement Forum is a network that brings together public administrations, procurement professionals, experts and stakeholders from different European countries. This network fosters the exchange of knowledge, experience and best practices regarding sustainable public procurement strategies by promoting an ongoing dialogue among participants. Through workshops, events, online platforms and shared publications, the Forum helps develop innovative and collaborative approaches to make procurement processes more effective and consistent with European sustainability policies, such as the Green Deal and the Farm to Fork strategy. <https://eupf.org/>.

moral suasion, this type of procurement can encourage a cultural shift, even before a legal one, in a critical sector of the transition⁴⁶.

The issue of Food Public Procurement involves the role of moral suasion exercised by the public administration. In this case, it is a type of influence that is not coercive and goes beyond the enforcement of rules and regulations. This persuasive capacity manifests itself through the creation of policies, guidelines, reward criteria and information campaigns, thus becoming a powerful tool to steer the food system toward more sustainable, just and responsible patterns.

Here, the type of influence being considered is neither coercive nor is it limited to mere compliance with rules and regulations. Such influence in more subtle forms can be called “persuasive” and is exercised through the development of policies, frameworks, criteria for rewards, as well as campaigns based on disseminating specific information. In this case, information campaigns serve to harness greater control over the food system towards sustainability, justice and responsibility in all its dimensions.

On the other hand, nudging⁴⁷ is a non-coercive strategic and behavioral tool that significantly impacts the guidance of choice architecture towards more ethical, sustainable, and socially desirable scenarios. In the context of public food procurement, it refers to design measures that encourage proactive behaviors, such as offering vegetarian menus by default with meat options available upon request. These actions do not prescribe a specific behavior; rather, they facilitate choices based on ethical values oriented towards social responsibility. Thus, they contribute to changing the culture of food consumption in public institutions. In this context, nudging is not a secondary element but a fundamental factor in the administration's transformative effect.

Within public food procurement, this form of influence entails adherence to basic moral practices which include animal welfare, environmental stewardship like fighting against the needless waste of food, promotion of local and seasonal produce, and decent work terms within production value chains. This description captures very well the ethics of food⁴⁸ which highlights a holistic approach whereby food connotes a good that is cultural and social while also possessing economic and ecological politics embedded within its structural fabric. These approaches not only improve the quality of purchased products but also invite individual citizens to think more deeply about the choice of consumption and

⁴⁶ Please refer to L. MÉLON, *More than a nudge? Arguments and tools for mandating green public procurement in the EU*, in *Sustainability* 12(3), 2020, 988; D. KLINGLER, S. L. SCHOONER, *Promoting Sustainable Public Procurement Through Economic Policy Tools: From Moral Suasion to Nudging*, in *European Journal of Public Procurement Markets*, 4(4), 2023, 67.

⁴⁷ This theory is based on the premise that there is no decision without context, and people often make decisions with according to the findings of behavioral science, people often experience cognitive distortions and errors when making decisions. The theory argues that, through appropriate construction of the context (also known as choice architecture), it is possible to push (encourage, prod) people to make decisions and behave in ways that increase of the context, also known as choice architecture, to encourage people to make decisions and behave in ways that increase their own well-being, as well as the well-being of others. C. R. SUNSTEIN, R. THALER, *Nudge. La spinta gentile. La nuova strategia per migliorare le nostre decisioni su denaro, salute, felicità*, Milano, 2008. For an in-depth legal analysis about nudging in the field of Administrative Law, reference is made to A. ZITO, *La nudge regulation nella teoria giuridica dell'agire amministrativo*, Milano, 2021. See also, L. LEONE, *When Nutrition Policy Meets Behavioural Sciences. Regulating-by-Nudging in the Innovation Union*, in *Rivista di Diritto Alimentare*, 1, 2017, 20.

⁴⁸ About this topic, see the philosophical analysis by P. GOMARASCA, *Etica del cibo*, Brescia, 2021.

production patterns to be adopted. The systemic integration of moral suasion and nudging in the context of Public Food Procurement elevates the role of administration to a level of ethical-sustainable governance, within what is called "Just Transition"⁴⁹. In this sense, the discussion fully aligns with the broader framework of consumer food education⁵⁰, fostering a critical and systemic awareness of food choices as not merely individual acts, but as expressions of responsible and participatory citizenship within the transition towards fairer, more sustainable, and inclusive food systems.

6. Conclusions

This analysis shows how public administration, if equipped with the appropriate skills and resources, can play a crucial role in promoting the shift to more sustainable, inclusive and resilient food systems by conforming the plethora of available tools to a holistic One Health approach.

The potential proactive engagement that public administration can lend in the food sector fills that *modus operandi* of a bottom-up approach that respects the specific needs and characteristics of specific local communities with content.

Public procurement, then, takes the form of a changing operational tool through which Public Administration plays an active role at the level of food governance, moving from different levels: from the enforcement of regulations to the exercise of discretion where possible, to the indirect promotion of a new food ethic through moral suasion and nudging.

In this context, the administration does not just manage resources but creates new horizons of meaning by educating the market, businesses, and citizens. The decision about what food to buy, from whom, and with what quality standards is not indifferent: it brings with it different ideas, development models, and ethical values. It is precisely in these choices that the possibility of governance capable of generating change hinges.

By crediting the efficiency of the leading by example model, public administration can generate a multiplier effect in the market, stimulating sustainable supply and raising standards in the private sector as well.

Achieving these goals requires continuous and specialized training for civil servants, including modular programs and regular updates on technical, environmental and social issues, complemented by practical learning and real case studies. In addition, it is crucial to strengthen cooperation among public agencies, regulators, businesses and civil society, facilitated by collaborative networks, shared digital platforms and joint planning activities to improve coordination and synergy. Such a collaborative

⁴⁹ About the topic of Just Transition, see R.J. HEFFRON, *Achieving a Just Transition to a Low-Carbon Economy*, Cham, 2021; J. MORRISON, *The Just Transition A Systems-Thinking Approach To Managing Climate Action*, Cham, 2024.

⁵⁰ For an in-depth analysis on this topic, reference is made to E. SIRSI, *Il diritto all'educazione del consumatore di alimenti*, in *Rivista di Diritto Agrario*, XC, (4), 2011, 496; A. DI LAURO, *Comunicazione pubblicitaria e informazione nel settore agro-alimentare*, Milano, 2005, ID., *La comunicazione e la disciplina della pubblicità nel settore agroalimentare*, in *Trattato di diritto agrario*, III, Torino, 547; ID. (ed), *Nutridialogo*, Bologna, 2016; S. BOLOGNINI, *Il consumatore nel mercato agro-alimentare europeo fra scelte di acquisto consapevoli e scelte di acquisto sostenibili*, in *Rivista di Diritto Agrario*, I, 2019, 615.

ecosystem makes it possible to overcome fragmentation of expertise, optimize resources, and create an enabling environment for mutual learning and social innovation.

The ability to embrace and incorporate these innovative approaches will be a clear sign of the maturity and effectiveness of the public sector in driving systemic change.

Chapter 8