

Press Release

Following the specifications and recommendations of the European Commission report published on July 20, 2010, on progress in Romania under the Cooperation and Verification Mechanism, National Authority for Regulating and Monitoring Public Procurement is able to provide the following information:

National Authority for Regulating and Monitoring Public Procurement had a series of meetings with representatives of the European Commission and European Parliament in May and June of this year. The discussions focused mainly around regulatory measures on conflict of interest legislation the Romanian public procurement - introduced measures, the specific rules applicable to public procurement, through the adoption of Government Emergency Ordinance no. 76/2010 *amending and supplementing Government Emergency Ordinance no. 34/2006 (concerning the award of public procurement of public works concession contracts and services concession contracts)*.

Thus, the Government Emergency Ordinance no. 76/2010 adopted by the Romanian Government on 30.06.2010 and published in the Official Gazette No. 453 on 07/02/2010, the conflict of interest was covered regarding the national legislation governing public procurement by introducing a new article in the Government Emergency Ordinance no. 34/2006, Art. 69¹, which states: *"The tenderer / candidate / tenderer partner / subcontractor which has the members of the board / governing body or supervisory and / or have shareholders or associates who are spouse, relative or godson/goddaughter up to the fourth degree or who are in trade relations, as they referred on Art. 69 a), regarding the person holding the office of the contracting authority's decision is excluded from the tender process. "*

NARMPP also stated that the detailed rules concerning the application of Government Emergency Ordinance no. 34/2006, as amended by Government Emergency Ordinance no. 76/2010 - rules currently being developed, with the deadline for their completion on August 15, 2010 - will detail the procedure, the evaluation by the contracting authority and by the National Authority for Regulating and Monitoring of Public Procurement in the sense to avoid such conflicts of interest in public procurement processes.

We also note that the regulation on conflict of interest as required by art. 69¹, quoted above, is the strictest of law in Romania in that field. Provisions of Law no. 161/2003 regarding some measures for ensuring transparency in the exercise of public dignities, public offices and businesses, preventing and sanctioning corruption establish rules governing conflict of interest by referring only to the husband, wife and relatives of first degree.

Furthermore, according to the recommendations contained in the report the European Commission, National Authority for Regulating and Monitoring of Public Procurement will settle through aforementioned rules the categories of persons subject to the provisions relating to conflict of interests - including those designated in the original report as "local politicians", form which, in our view, includes the county and local councilors. Currently, according to Law no. 161/2003, conflicts of interest in respect of both the chairmen and deputy chairmen of county councils and the county and local councilors are provided in Art.47 of the Local Public Administration Law no. 215/2001, with subsequent amendments.

Therefore, regarding the conflict of interest within the national law applicable in public procurement, we believe that we followed the requests of the European Commission and the

updated information should reach the EC representatives, as the Commission report was issued, probably before the adoption on Government meeting of 2 July 2010, with the Government Emergency Ordinance no. 76/2010.