

LAW 98 19 May 2016

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LAW No. 98 of 19 May 2016 on public procurement

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• PARLIAMENT

Published in the OFFICIAL GAZETTE No. 390 of 23 May 2016

Note ...

[Article XI of EMERGENCY ORDINANCE No. 26 of 18 March 2022](#), published in the OFFICIAL GAZETTE No. 272 of 21 March 2022, provides:

Article XI

- (1) The provisions [of Articles I and II](#) shall apply to procurement procedures initiated after the date of entry into force of this Emergency Ordinance.
- (2) Procurement procedures already in progress on the date of entry into force of this Emergency Ordinance shall remain subject to the legislation in force at the time of their initiation. An ongoing award procedure means any procedure for which a contract notice, a simplified contract notice or, where applicable, an invitation to tender had been issued by the date of entry into force of this Emergency Ordinance.
- (3) The provisions of [Articles I and II](#) of this Emergency Ordinance shall apply to public procurement contracts, sectoral contracts and framework agreements concluded from the date of entry into force, and to ongoing contracts only in respect of legal situations arising from the date of entry into force of this Emergency Ordinance.
- (4) The provisions of [Article III](#) of this Emergency Ordinance shall apply only to challenges, applications or complaints lodged, and to the time limits for bringing proceedings, commencing from the date of entry into force of this Emergency Ordinance.
- (5) Appeals, legal proceedings and applications pending before the National Council for the Settlement of Appeals or, where applicable, before the courts on the date of entry into force of this Emergency Ordinance shall be adjudicated in accordance with the rules laid down by the law in force on the date on which they were registered.
- (6) The provisions of [Articles IV and V](#) of this Emergency Ordinance shall also apply to applications submitted and not yet resolved by the date of entry into force of this Emergency Ordinance.
- (7) The provisions [of Article VI\(1\) to \(7\) and Articles VII to IX](#) of this Emergency Ordinance shall apply after the entry into force of this Emergency Ordinance.
- (8) The provisions of [Article VI\(8\)](#) of this Emergency Ordinance shall not apply to notifications sent to local authorities until the date on which this Emergency Ordinance comes into force.

[Article III of Law No. 86 of 12 April 2022](#), published in the Official Gazette No. 366 of 13 April 2022, provides:

Article III

- (1) Procurement procedures already in progress on the date this Act comes into force shall be governed by the legislation in force at the time they were initiated.
- (2) An ongoing award procedure means any procedure for which a contract notice, a simplified contract notice or an invitation to tender has been issued by the date of entry into force of this Act.

[Article XI of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024, provides:

Article XI(1) This Emergency Ordinance applies to public/sectoral procurement contracts and framework agreements concluded after the date of its entry into force.(2) The provisions of this Emergency Ordinance shall apply mutatis mutandis to the amendment of public procurement contracts, sectoral procurement contracts or framework agreements that are in force on the date of its entry into force.(3) Where award procedures are at a stage prior to the deadline for the submission of tenders, the contracting authority or entity is obliged to take the necessary steps to ensure the proper application of this Emergency Ordinance. The Romanian Parliament hereby adopts this

law. + Chapter I General Provisions + Section 1 Subject-matter, purpose and principles + Article 1 This law regulates the conduct of public procurement, the procedures for awarding public procurement contracts and organising design contests, the specific instruments and techniques that may be used for the award of public procurement contracts, as well as certain specific aspects relating to the performance of public procurement contracts. + Article 2(1) The purpose of this Act is to provide the necessary legal framework for the procurement of goods, services and works under conditions of economic and social efficiency.(2) The principles underpinning the award of public procurement contracts and the organisation of design contests are: a) non-discrimination; ... b) equal treatment; ... c) mutual recognition; ... d) transparency; ... e) proportionality; ... f) accountability. ... + Section 2 Definitions + Article 3(1) For the purposes of this Act, the terms and expressions set out below shall have the following meanings:a) professional misconduct – any culpable conduct that affects the professional credibility of the economic operator concerned, such as infringements of intellectual property rights, committed intentionally or through gross negligence, including breaches of the rules of professional conduct within the strict meaning of the profession to which that operator belongs; ... b) procurement or public procurement – the acquisition of works, supplies or services through a public procurement contract by one or more contracting authorities from economic operators designated by them, regardless of whether the works, supplies or services are intended to serve a public interest or not; ... (c) framework agreement – an agreement concluded in writing between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms and conditions governing public procurement contracts to be awarded during a specific period, in particular as regards the price and, where appropriate, the quantities envisaged; ... (d) ancillary procurement activities – activities consisting of the provision of assistance and support for procurement activities, in particular the technical infrastructure enabling contracting authorities to award public procurement contracts or conclude for works, products or services, or assistance and advice on the conduct or structuring of public procurement procedures, or the preparation and administration of award procedures on behalf of and for the benefit of the contracting authority concerned; ... e) centralised procurement activities - activities carried out by a centralised purchasing body on a permanent basis through the procurement, in its own name, of products and/or services intended for one or more other contracting authorities, or through the award of public procurement contracts or the conclusion of framework agreements for works, products or services on behalf of and for one or more other contracting authorities; ... (f) continuously valid notice of intent – the notice of intent published by the contracting authority as a means of initiating an award procedure for the procurement of social services or other specific services, as set out in Annex 2, as an alternative to the contract notice, which specifically refers to the categories of services covered by the contracts to be awarded, states that those contracts will be awarded without the subsequent publication of a notice of invitation to tender, and invites interested economic operators to express their interest in participating in the award procedure in writing; ... g) candidate – any economic operator who has submitted a request to participate in a restricted tender procedure, competitive negotiation, competitive dialogue or innovation partnership, or who has been invited to participate in a negotiated procedure without prior publication; ... h) labelling requirements – the requirements that works, products, services, processes or procedures must meet in order to obtain a specific label; ... i) life cycle

- the set of successive and/or interdependent stages, including the research and development to be carried out, production, marketing and the conditions thereof, transport, use and maintenance, throughout the entire life of a product, a work or the provision of a service, from the procurement of raw materials or the generation of resources to disposal, site clearance and the end of the service or use; ... j) design contests – procedures enabling the contracting authority to acquire, particularly in the fields of spatial planning and town planning, architecture and engineering, or data processing, a plan or design selected by a jury on a competitive basis, with or without the award of prizes; ... k) [work – the result of a set of building or civil engineering works, sufficient in itself to fulfil an economic or technical function; \(on 28 July 2022, Letter k\) of Paragraph \(1\), Article 3, Section 2, Chapter I was amended by Point 1, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022\)](#)
- ... l) public procurement contract – a contract for consideration, treated by law as an administrative act, concluded in writing between one or more economic operators and one or more contracting authorities, the subject matter of which is the execution of works, the supply of products or the provision of services; ... m) [public works contract – a public procurement contract the subject matter of which is: either exclusively the execution, or both the design and execution of works relating to one of the activities set out in Annex 1; either exclusively the execution, or both the design and execution of a work; or the realisation, by any means, of a work that meets the requirements laid down by the contracting authority which exercises a decisive influence over the type or design of the work; \(on 28 July 2022, Point \(m\) of Paragraph \(1\), Article 3, Section 2, Chapter I was amended by Point 1, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022\)](#) ...
- (n) public procurement contract for products – a public procurement contract whose subject matter is the procurement of products by purchase, including payment by instalments, hire, leasing with or without an option to purchase, or by any other contractual means under which the contracting authority benefits from these products, regardless of whether or not it acquires ownership of them; a public procurement contract for products may, on an ancillary basis, include works or siting and installation operations; ... o) public procurement contract for services – a public procurement contract whose subject matter is the provision of services, other than those

covered by a

public works contract as defined in point (m); ... p) long-term contract – a public procurement contract concluded for a term of at least 5 years, covering the duration of the works, if it includes a component consisting of the execution of works, as well as the duration of the provision of services, determined in such a way as to enable the contractor to make a reasonable profit; (on 28 July 2022, subparagraph (p) of paragraph (1), Article 3, Section 2, Chapter I was amended by [Point 1, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022](#)) ... q) contractor – any economic operator who is a party to a public procurement contract; ... r) CPV – the reference nomenclature in the field of public procurement, adopted by Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV); ... s) ESPD – the European Single Procurement Document provided in electronic format using the standard format established by the European Commission, consisting of the economic operator's declaration on their own responsibility regarding compliance with the qualification and selection criteria; ... t) e-Certis – the electronic system implemented and administered by the European Commission containing information on certificates and other supporting documents routinely requested by contracting authorities in the context of award procedures; ... u) label – any document, certificate or attestation confirming that works, products, services, processes or procedures meet certain requirements; ... v) European Technical Assessment – the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the relevant European Assessment Document, as defined in Article 2(12) of Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC; ... w) supplier – an entity which makes products available to a contractor, including, where applicable, services for their installation or fitting, or which provides services to the contractor, and which is not a subcontractor; ... x) procurement service provider – a person governed by public or private law which offers ancillary procurement activities on the market; ... y) procurement document – the contract notice, the tender documentation, and any supplementary document issued by the contracting authority or to which it refers in order to describe or establish elements of the procurement or the award procedure; ... z) tender documentation – the procurement document containing the requirements, criteria, rules and other information necessary to ensure that economic operators are provided with complete, accurate and explicit information regarding the requirements or elements of the procurement, the subject-matter of the contract and the conduct of the award procedure, including the technical specifications or descriptive document, the proposed contractual terms, the formats for the submission of documents by candidates/tenderers, and information on the applicable general obligations; ... aa) innovation – the creation of a new or significantly improved product, service or process, including production or construction processes, new marketing methods or new organisational methods in commercial activity, workplace organisation or the organisation's external relations, amongst other things, with the aim of contributing to addressing societal challenges or supporting the Europe 2020 strategy for smart, green and inclusive growth; ... bb) electronic tender – the iterative process conducted by electronic means following a comprehensive initial evaluation of tenders, in which tenderers have the opportunity to reduce the prices quoted and/or improve other aspects of their tenders, enabling the ranking of tenders through automated evaluation methods; ... cc) official lists – lists maintained by the competent bodies, containing information on the economic operators included on the lists and serving as evidence of compliance with the qualification and selection requirements set out in the lists; ... dd) lot – each part of the subject-matter of the public procurement contract, which is divided in order to adapt the scope of the resulting individual contracts so as to better meet the needs of the contracting authority, as well as the capacity of small and medium-sized enterprises, or on qualitative grounds, in accordance with the various trades and specialisations involved, in order to tailor the content of the individual contracts more closely to the specialised sectors of SMEs, or in accordance with the various subsequent phases of the project; ... (ee) civil engineering works – construction works falling within classes 45.21, 45.23, 45.24 and 45.25 of Annex 1, with the exception of those relating to the construction of buildings; ... ee¹) [IT mechanism for simplified procedures – a technical facility implemented in SEAP for the conduct of simplified procedures; \(on 13 July 2020, Paragraph \(1\) of Article 3, Section 2, Chapter I was supplemented by Point 1, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) ... ff) electronic means – electronic equipment for the processing, including digital compression, and storage of data issued, transmitted and received by cable, radio, optical means or other electromagnetic means; ... gg) tenderer – any economic operator who has submitted a tender in a procurement procedure; ... hh) tender – the legal act by which the economic operator expresses its intention to enter into a legally binding public procurement contract. The tender comprises the financial proposal, the technical proposal and any other documents specified in the tender documentation; ... ii) alternative tender – a tender which meets the minimum requirements and any specific requirements set out in the procurement documents, but which proposes a solution that differs to a greater or lesser extent; ... jj) [economic operator - any natural or legal person, whether governed by public or private law, or any group or association of such persons, including any temporary association formed between two or more of these entities, which lawfully offers on the market the execution of works, the supply of products or the provision of services, and which is established in: \(i\) a Member State of the European Union; ... \(ii\) a Member State of the European Economic Area \(EEA\); ... \(iii\) third countries that have ratified the World Trade Organisation \(WTO\) Agreement on Government Procurement \(GPA\), in so far as the public procurement contract awarded falls within the scope of Annexes 1, 2, 4 and 5,](#)

6 and 7 to Appendix I of the European Union to that Agreement; ... (iv) third countries which are in the process of acceding to the European Union; ... (v) third countries which do not fall within the scope of point (iii), but which are signatories to other international agreements under which the European Union is obliged to grant free market access in the field of public procurement; ... (as at 5 April 2021, subparagraph (jj) of paragraph (1), Article 3, Section 2, Chapter I was amended by Point 1, Article I of EMERGENCY ORDINANCE No. 25 of 31 March 2021, published in the OFFICIAL GAZETTE No. 346 of 5 April 2021) ... kk) innovation partnership – the procurement procedure used by the contracting authority for the development and subsequent procurement of an innovative product, service or works, where the solutions available on the market at a given time do not meet the contracting authority's needs; ... ll) decision-makers – the head of the contracting authority, members of the contracting authority's decision-making bodies involved in the award procedure, as well as any other persons within the contracting authority who may influence the content of the procurement documents and/or the conduct of the award procedure; ... mm) technical reference – any specification drawn up by European standardisation bodies, other than European standards, or by other organisations engaged in standardisation activities to which Romania is a party, in accordance with procedures adapted to changing market requirements; ... nn) the Electronic Public Procurement System, hereinafter referred to as SEAP – means the public-utility IT system, accessible via the internet at a dedicated address, used for the purpose of conducting award procedures by electronic means and for the purpose of publishing notices at national level; ... oo) in writing – any set of words or figures that can be read, reproduced and subsequently communicated, including information transmitted and stored by electronic means; ... pp) dynamic purchasing system – the procurement process organised entirely by electronic means and open, throughout its entire duration, to any economic operator meeting the qualification and selection criteria, for routine purchases whose characteristics, generally available on the market, meet the contracting authority's needs; ... qq) request to participate – the request submitted by the economic operator together with the documents required to meet the qualification requirements at the first stage of a restricted tender procedure, competitive negotiation, competitive dialogue or innovation partnership; ... rr) technical specifications

- requirements, specifications and technical characteristics that enable each product, service or work to be described objectively, in a manner appropriate to meeting the contracting authority's needs; ... ss) common technical specification – a technical specification in the field of information and communications technology drawn up in accordance with Articles 13 and 14 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council; and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council; ... tt) standard – a technical specification adopted as an international standard, a European standard or a national standard by a recognised standardisation body, for repeated or continuous application, which is not mandatory; ... uu) European standard – a standard adopted by a European standardisation organisation, which is made available to the public; ... vv) international standard – a standard adopted by an international standardisation body, which is made available to the public; ... ww) national standard – a standard adopted by a national standardisation body, which is made available to the public; ... xx) Member State – any Member State of the European Union or of the European Economic Area; ... yy) subcontractor – any economic operator who is not a party to a public procurement contract and who carries out certain parts or elements of the works or services, being responsible to the contractor for the organisation and execution of all the stages necessary for this purpose. The provision of machinery or the supply of materials/goods under a public procurement contract is not considered subcontracting for the purposes of this Act; (on 30 August 2021, subparagraph (yy) of paragraph (1), Article 3, Section 2, Chapter I was amended by Point 1, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) ... zz) TFEU – Treaty on the Functioning of the European Union; ... aaa) Treaties – the Treaty on European Union and the Treaty on the Functioning of the
- ; ... bbb) centralised purchasing body – a contracting authority providing centralised procurement activities and, where applicable, ancillary procurement activities; ... ccc) separate operational unit – a structure within the contracting authority that is technically, geographically or organisationally separate from other structures of the contracting authority; ... ddd) days – calendar days, unless it is expressly stated that they are working days
-eee) investment project – the expected outcome of a limited-term capital investment, resulting from the execution of one or more works, situated on a distinct, demarcated site, which ensures that the requirements set by the beneficiary are met; (on 28 July 2022, Paragraph (1) of Article 3, Section 2, Chapter I was supplemented by Point 2, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022).....fff) public investment – all expenditure from public funds, whether initial or subsequent, intended for the creation of fixed assets belonging to the public and/or private domain of the state or the administrative-territorial unit, including the replacement of worn-out fixed assets, as well as the expenditure incurred in replacing them, which is financed wholly or partly from public funds. (on 28 July 2022, Paragraph (1) of Article 3, Section 2, Chapter I was supplemented by Point 2, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022)

(2) The time limits provided for in this Act shall

be

calculated in accordance with the following rules: (a) when calculating a time limit expressed in days, months or years from a specific event, act or action, the date on which that event, act or action occurs shall not be included in

consideration; ... b) subject to the provisions of points (a) and (d) being applied as appropriate, the period expressed in days shall begin at the start of the first hour of the first day of the period and shall end at the expiry of the last hour of the last day of the period; ... c) subject to the provisions of points (a) and (d) being applied mutatis mutandis, a period expressed in months or years shall commence at the start of the first hour of the first day of the period and shall end at the expiry of the last hour of the day which is the day in the last month or year corresponding to the day on which the period commenced; if, in the case of a period expressed in months or years, there is no day in the month in which the period ends that corresponds to the day on which the period began to run, the period shall end at the expiry of the last hour of the last day of that month; ... (d) if the last day of a period expressed in days, months or years is a public holiday, a Sunday or a Saturday, the period shall end at the end of the last hour of the next working day; ... (e) when calculating a time limit expressed in working days, the provisions of points (a), (b) and (d) shall apply mutatis mutandis, with the exception that non-working days falling within the time limit shall not be taken into account. ... + Section 3 Contracting Authorities + Article 4(1) The following shall be deemed contracting authorities for the purposes of this Act: a) central or local public authorities and institutions, as well as their constituent bodies which have been delegated the role of authorising officer and which have established powers in the field of public procurement; ... b) bodies governed by public law; ... c) associations formed by one or more contracting authorities among those referred to in points (a) or (b). (on 22 December 2017, point (c) of paragraph (1), Article 4, Section 3, Chapter I was amended by Point 1, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) ... (2) 'Public-law bodies' within the meaning of paragraph (1)(b) means any entities, other than those referred to in paragraph (1)(a), which, regardless of their form of incorporation or organisation, cumulatively fulfil the following conditions: (a) they are established to meet needs of general interest, of a non-commercial or non-industrial nature; ... b) have legal personality; ... c) are financed, for the most part, by entities referred to in paragraph (1)(a) or by other bodies governed by public law, or are subordinate to, under the authority of, or subject to the coordination or control of an entity referred to in paragraph (1)(a) or by another body governed by public law; or more than half of the members of the board of directors/management or supervisory body are appointed by an entity referred to in paragraph (1)(a) or by another body governed by public law (3) It shall be

deemed that

the general interest needs referred to in paragraph (2)(a) are of an industrial or commercial nature if the entity established, in accordance with the law, by a contracting authority cumulatively fulfils the following conditions: (a) it operates under normal market conditions; ... (b) it aims to make a profit;.....c) it bears the losses arising from the conduct of its business. ... (On 22 December 2017, Article 4 of Section 3, Chapter I was supplemented by Point 2, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) + Section 4 Scope + Paragraph 1 Thresholds + Article 5 The provisions of this Act shall apply to public procurement contracts, framework agreements and design contests. + Article 6(1) This Act applies to the award by a legal entity not acting as a contracting authority of a works contract, where all of the following conditions are met: a) the contract is directly financed or subsidised, to an extent exceeding 50 per cent of its value, by a contracting authority; b) the estimated value, excluding VAT, of the contract is

equal to or greater than the threshold set out in Article 7(1)(a); Note ...

Delegated Regulations (EU) No 2025/2150, No 2025/2151 and No 2025/2152 of the European Commission, amending Directives 2014/25/EU, 2014/23/EU and 2014/24/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives shall apply from 1 January 2026 to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2026, the amounts of the new thresholds will be as follows:

Article 6(1)(b) of Law No 98/2016 – for works – from 27,334,460 lei (5,538,000 EUR) will be reduced to 26,960,556 lei (5,404,000 EUR). Note ...

Delegated Regulations (EU) No 2023/2510, No 2023/2497, No 2023/2495 and No 2023/2496 of the European Commission amending Directives 2009/81/EC, 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives entered into force on 1 January 2024 and apply to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2024, the amounts of the new thresholds will be as follows:

Article 6(1)(b) of Law No 98/2016 – for works – from 26,093,012 lei (5,382,000 EUR) will be increased to 27,334,460 lei (5,538,000 EUR). ... (c) the contract includes one of the activities referred to in paragraph (2)

.....(2)

The activities covered by paragraph (1)(c) are as follows: (a) civil engineering works;b) construction works for hospitals, facilities intended for sporting, recreational and leisure activities, buildings of pre-university and university educational institutions, and administrative buildings.....(3) This Act applies to the award

by a legal entity not acting as a contracting authority of a service contract, provided that all of the following conditions are met: a) the contract is directly financed or subsidised, in

more than 50 per cent of its value is awarded by a contracting authority; ... [b\) the estimated value, excluding VAT, of the contract is equal to or greater than the threshold set out in Article 7\(1\)\(c\); \(on 4 June 2018, point \(b\) of paragraph \(3\), Article 6, paragraph 1, Section 4, Chapter I was amended by Point 1, Article I of EMERGENCY ORDINANCE No 45 of 24 May 2018, published in the OFFICIAL GAZETTE No 459 of 4 June 2018\)](#) ... Note ... Delegated Regulations (EU) No 2025/2150, No 2025/2151 and No 2025/2152 of the European Commission, amending Directives 2014/25/EU, 2014/23/EU and 2014/24/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives shall apply from 1 January 2026 to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2026, the amounts of the new thresholds will be as follows:

Article 6(3)(b) of Law No 98/2016 – for regional/local public procurement of goods and services – from 1,090,812 lei (221,000 EUR) will be reduced to 1,077,624 lei (216,000 EUR) Note ...

Delegated Regulations (EU) No 2023/2510, No 2023/2497, No 2023/2495 and No 2023/2496 of the European Commission amending Directives 2009/81/EC, 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives entered into force on 1 January 2024 and apply to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2024, the new thresholds will be as follows:

Article 6(3)(b) of Law No 98/2016 - for goods and services procured by regional/local contracting authorities – from 1,042,363 lei (215,000 EUR) to 1,090,812 lei (221,000 EUR) (c) the contract relates to a works contract falling within the scope of paragraph (1) (4) Contracting authorities which finance or subsidise the contracts referred to in

paragraphs (1) and (3) shall be obliged to ensure compliance with the provisions of this Act where they do not themselves award the financed/subsidised contract or where they award it on behalf of and for other entities. +

[Article 7\(1\) The contracting authority is required to publish a contract notice and/or an award notice in the Official Journal of the European Union in the case of procurements whose estimated value, excluding VAT, is equal to or greater than the following thresholds: \(on 13 July 2020, the introductory part of paragraph \(1\), Article 7, Paragraph 1, Section 4, Chapter I was amended by Point 2, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\) \(a\) 26,960,556 lei, for public procurement contracts/framework agreements for works;* .b\) 698,460 lei, for public procurement contracts and framework agreements for products and services;* c\) 1,077,624 lei, for public procurement contracts/framework agreements for goods and services awarded by the county council, the local council, the General Council of Bucharest, as well as by the public institutions under their authority;*d\) 3,741,750 lei, for public procurement contracts/framework agreements for services relating to social services and other specific services, as set out in Annex 2.* ... \(on 4 June 2018, Paragraph \(1\) of Article 7, Sub-paragraph 1, Section 4 , Chapter I was amended by Point 2, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) Note ...

* Delegated Regulations (EU) No 2025/2150, No 2025/2151 and No 2025/2152 of the European Commission, amending Directives 2014/25/EU, 2014/23/EU and 2014/24/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives shall apply from 1 January 2026 to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2026, the amounts of the new thresholds will be as follows:

Article 7(1)(a) of Law No 98/2016 – for works – from 27,334,460 lei (5,538,000 EUR) will be reduced to 26,960,556 lei (5,404,000 EUR)

Article 7(1)(b) of Law No 98/2016 – for goods and services – from 705,819 lei (143,000 EUR) to 698,460 lei (140,000 EUR)

Article 7(1)(c) of Law No 98/2016 – for regional/local public administration products and services – from 1,090,812 lei (221,000 EUR) to 1,077,624 lei (216,000 EUR)

Article 7(1)(d) of Law No 98/2016 – for social services and other specific services – from 3,701,850 lei (750,000 EUR) will be increased to 3,741,750 lei (750,000 EUR). Note ...

Delegated Regulations (EU) No 2023/2510, No 2023/2497, No 2023/2495 and No 2023/2496 of the European Commission amending Directives 2009/81/EC, 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives entered into force on 1 January 2024 and apply to all

procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2024, the amounts of the new thresholds will be as follows:

Article 7(1)(a) of Law No 98/2016 – for works – from 26,093,012 lei (5,382,000 EUR) to 27,334,460 lei (5,538,000 EUR)

Article 7(1)(b) of Law No. 98/2016 – for goods and services – from 678,748 lei (140,000 EUR) to 705,819 lei (143,000 EUR)

Article 7(1)(c) of Law No 98/2016 – for regional/local public administration products and services – from 1,042,363 lei (215,000 EUR) to 1,090,812 lei (221,000 EUR)

Article 7(1)(d) of Law No 98/2016 – for social services and other specific services – from 3,636,150 lei (750,000 EUR) to 3,701,850 lei (750,000 EUR). (2) The contracting authority is obliged to award public procurement contracts/framework agreements and to organise design contests relating to public procurement where the estimated value is below the relevant thresholds set out in paragraph (1) by applying a simplified procedure, in accordance with the principles set out in Article 2(2). (On 10 September 2022, Paragraph (2) of Article 7, Section 1, Part 4, Chapter I was amended by Point 1, Article I of Law No. 208 of 11 July 2022, published in the OFFICIAL GAZETTE No. 697 of 12 July 2022) (3) Repealed. (on 4 June 2018, Paragraph (3) of Article 7, Paragraph 1, Section 4, Chapter I was repealed by Point 3, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018)

(4) The conditions and procedures for applying the simplified procedure provided for in paragraph (2) shall entail, at a minimum, shorter time limits than those laid down in this Act and reduced procedural formalities compared with those laid down therein for the award of public procurement contracts, framework agreements and design contests whose estimated value exceeds the relevant thresholds set out in paragraph (1). (5) The contracting authority is entitled to procure products or services directly where the estimated value of the procurement, excluding VAT, is less than 270,120 lei, or works, where the estimated value of the procurement, excluding VAT, is less than 900,400 lei. (on 10 September 2022, Paragraph (5) of Article 7, Section 1, Chapter 4, Chapter I was amended by Point 1, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (6) The legal commitment to cover the expenditure relating to direct procurement may take the form of a public procurement contract, a purchase order or any other type of document concluded in accordance with the law, including in the case of procurements initiated through payment instruments that allow the holder to use them in dealings with traders to make for the purchase of goods, services and/or works via a terminal, such as, but not limited to, payment cards and/or e-wallets. (on 10 September 2022, Article 7 of Paragraph 1, Section 4, Chapter I was supplemented by Point 2, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (7) In the case of direct procurement, the contracting authority: (a) is obliged to use the electronic catalogue made available by SEAP or to publish a notice in a dedicated section of its own website or that of SEAP, accompanied by a description of the products, services or works to be procured, for procurements with an estimated value exceeding 200,000 lei, excluding VAT, for products and services, and 560,000 lei, excluding VAT, for works; ... (b) is required to consult at least three economic operators for procurements with an estimated value exceeding 140,000 lei, excluding VAT, for products and services, and 300,000 lei, excluding VAT, for works, but not exceeding the value specified in point (a); if, following the consultation, the contracting authority receives only one tender that is valid in terms of the requirements specified, the procurement may be carried out; ... c) has the right to award the contract on the basis of a single tender if the estimated value of the procurement is less than or equal to 140,000 lei, excluding VAT, for goods and services, and 300,000 lei, excluding VAT, for works; ... d) has the right to pay directly, on the basis of a legal commitment, without prior acceptance of a tender, if the estimated value of the procurement is less than 9,000 lei, excluding VAT. ... (on 10 September 2022, Article 7 of Paragraph 1, Section 4, Chapter I was supplemented by Point 2, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (8) The contracting authority is required to submit a quarterly notification to SEAP regarding direct purchases, grouped by category, which must include at least the subject matter, the quantity purchased, the value and the CPV code, with the exception of purchases made using the SEAP electronic catalogue, in accordance with the provisions of paragraph (7)(a). (on 10 September 2022, Article 7 of Paragraph 1, Section 4, Chapter I was supplemented by Point 2, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) Note ... With effect from 1 January 2026, Article 4 of Directive No. 24/2014 on public procurement and repealing Directive 2004/18/EC, published in the Official Journal of the European Union No. 94 of 28 March 2014, as amended and supplemented by Delegated Regulation No 2170/2015 amending Directive 2014/24/EU of the European Parliament and of the Council as regards the application thresholds for public procurement procedures, published in the Official Journal of the European Union, Commission Delegated Regulation (EU) No 2365/2017 of 18 December 2017 amending Directive 2014/24/EU of the European Parliament and of the Council as regards the application thresholds for public procurement award procedures, published in the Official Journal of the European Union, Delegated Regulation (EU) 2021/1952 amending Directive 2014/24/EU of the European Parliament and of the Council, published in the Official Journal of the European Union, Delegated Regulation (EU) 2023/2495 amending Directive 2014/24/EU of the European Parliament and of the

Council, published in the Official Journal of the European Union; and Delegated Regulation (EU) 2025/2152 amending Directive 2014/24/EU of the European Parliament and of the Council as regards the application thresholds for public supply, service and works contracts and for design contests for the years 2026–2027, published in the Official Journal of the European Union, provide as follows:

This Directive applies to public procurement contracts whose estimated value, excluding value added tax (VAT), is equal to or greater than the following thresholds:

- (a) EUR 5 404 000, for public works contracts;
- (b) EUR 140 000, for public supply and service contracts awarded by central government authorities and design contests organised by those authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, this threshold applies only to contracts relating to the products listed in Annex III;
- (c) EUR 216 000, for public supply and service contracts awarded by regional and local contracting authorities and design contests organised by those authorities; that threshold also applies to public supply contracts awarded by central government authorities operating in the defence sector, where those contracts relate to products not listed in Annex III;
- (d) EUR 750 000 for public service contracts for social services and other specific services listed in Annex XIV.

According to the Commission Communication on the corresponding values of the thresholds laid down in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council for the period 2026–2027, published in the Official Journal of the European Union, Part C, on 23 October 2025, the values corresponding to the thresholds laid down in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU, expressed in national currencies other than the euro, are as follows:

80 000 EUR	CZK	Czech koruna	1 995 040
	DKK	Danish krone	596,800
	HUF	Hungarian forint	31,664,480
	PLN	Polish zloty	344,800
	RON	Romanian leu	399,120
	SEK	Swedish krona	908,080
140,000 EUR	CZK	Czech koruna	3,491,320
	DKK	Danish krone	1,044,400
	HUF	Hungarian forint	55,412,840
	PLN	Polish zloty	603,400
	RON	Romanian leu	698,460
	SEK	Swedish krona	1,589,140
216,000 EUR	CZK	Czech koruna	5,386,608
	DKK	Danish krone	1,611,360
	HUF	Hungarian forint	85,494,096
	PLN	Polish zloty	930,960

	RON	Romanian leu	1,077,624
	SEK	Swedish krona	2,451,816
432,000 EUR	CZK	Czech koruna	10,773,216
	DKK	Danish krone	3,222,720
	HUF	Hungarian forint	170,988,192
	PLN	Polish zloty	1,861,920
	RON	Romanian leu	2,155,248
	SEK	Swedish krona	4,903,632
750,000 EUR	CZK	Czech koruna	18,703,500
	DKK	Danish krone	5,595,000
	HUF	Hungarian forint	296,854,500
	PLN	Polish zloty	3,232,500
	RON	Romanian leu	3,741,750
	SEK	Swedish krona	8,513,250
1,000,000 EUR	CZK	Czech koruna	24,938,000
	DKK	Danish krone	7,460,000
	HUF	Hungarian forint	395,806,000
	PLN	Polish zloty	4,310,000
	RON	Romanian leu	4,989,000
	SEK	Swedish krona	11,351,000
5,404,000 EUR	CZK	Czech koruna	134,764,952
	DKK	Danish krone	40,313,840
	HUF	Hungarian forint	2,138,935,624
	PLN	Polish zloty	23,291,240

	RON	Romanian leu	26,960,556
	SEK	Swedish krona	61,340,804

Note ...

Article 4 of Directive No 24/2014 on public procurement and repealing Directive 2004/18/EC, published in the Official Journal of the European Union No 94 of 28 March 2014, as amended and supplemented by Delegated Regulation No 2170/2015 amending Directive 2014/24/EU of the European Parliament and of the Council as regards the application thresholds for public procurement procedures, published in the Official Journal of the European Union, Commission Delegated Regulation (EU) No 2365/2017 of 18 December 2017 amending Directive 2014/24/EU of the European Parliament and of the Council as regards the application thresholds for public procurement award procedures, published in the Official Journal of the European Union, Delegated Regulation (EU) 2021/1952 amending Directive 2014/24/EU of the European Parliament and of the Council, published in the Official Journal of the European Union, and Delegated Regulation (EU) 2023/2495 amending Directive 2014/24/EU of the European Parliament and of the Council, published in the Official Journal of the European Union, provides as follows:

This Directive applies to public procurement contracts whose estimated value, excluding value added tax (VAT), is equal to or greater than the following thresholds:

- (a) EUR 5 538 000, for public works contracts;
- (b) EUR 143 000, for public supply and service contracts awarded by central government authorities and design contests organised by those authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, this threshold applies only to contracts relating to the products listed in Annex III;
- (c) EUR 221 000, for public supply and service contracts awarded by regional and local contracting authorities and design contests organised by those authorities; that threshold also applies to public supply contracts awarded by central government authorities operating in the defence sector, where those contracts relate to products not listed in Annex III;
- (d) EUR 750 000 for public service contracts for social services and other specific services listed in Annex XIV.

According to the Commission Communication on the corresponding values of the thresholds laid down in Directives 2014/23/EU, 2014/24/EU, 2014/25/EU and 2009/81/EC of the European Parliament and of the Council, published in the Official Journal of the European Union, Part C, on 16 November 2023, the values corresponding to the thresholds laid down in Directives 2014/23/EU, 2014/24/EU, 2014/25/EU and 2009/81/EC, expressed in national currencies other than the euro, are as follows:

EUR 80 000	BGN	New Bulgarian leva	156 464
	CZK	Czech koruna	1,955,200
	DKK	Danish krone	595,344
	HUF	Hungarian forint	30,628,000
	PLN	New Polish zloty	370,968
	RON	New Romanian leu	394,864
	SEK	Swedish krona	865,008

143,000 EUR	BGN	New Bulgarian lev	279,679
	CZK	Czech koruna	3,494,920
	DKK	Danish krone	1,064,177
	HUF	Hungarian forint	54,747,550
	PLN	New Polish zloty	663,105
	RON	New Romanian leu	705 819
	SEK	Swedish krona	1,546,202
221,000 EUR	BGN	New Bulgarian lev	432,232
	CZK	Czech koruna	5,401,240
	DKK	Danish krone	1,644,638
	HUF	Hungarian forint	84,609,850
	PLN	New Polish zloty	1,024,799
	RON	New Romanian leu	1,090,812
	SEK	Swedish krona	2,389,585
443,000 EUR	BGN	New Bulgarian lev	866,419
	CZK	Czech koruna	10,826,920
	DKK	Danish krone	3,296,717
	HUF	Hungarian forint	169,602,550
	PLN	New Polish zloty	2,054,235
	RON	New Romanian leu	2,186,559
	SEK	Swedish krona	4,789,982
750,000 EUR	BGN	New Bulgarian lev	1,466,850
	CZK	Czech koruna	18,330,000
	DKK	Danish krone	5,581,350

	HUF	Hungarian forint	287,137,500
	PLN	New Polish zloty	3,477,825
	RON	New Romanian leu	3,701,850
	SEK	Swedish krona	8,109,450
1,000,000 EUR	BGN	New Bulgarian lev	1,955,800
	CZK	Czech koruna	24,440,000
	DKK	Danish krone	7,441,800
	HUF	Hungarian forint	382,850,000
	PLN	New Polish zloty	4,637,100
	RON	New Romanian leu	4,935,800
	SEK	Swedish krona	10,812,600
5,538,000 EUR	BGN	New Bulgarian lev	10,831,220
	CZK	Czech koruna	135,348,720
	DKK	Danish krone	41,212,688
	HUF	Hungarian forint	2,120,223,300
	PLN	New Polish zloty	25,680,260
	RON	New Romanian leu	27,334,460
	SEK	Swedish krona	59 880 179

+ Paragraph 2 Revision of thresholds + Article 8(1) The value thresholds set out in Article 7(1), as well as any revised thresholds resulting from the application of this paragraph, shall be amended by the European Commission in accordance with the relevant rules and procedures laid down in Article 6 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

(2) From the date of entry into force of any value thresholds amended by the European Commission in accordance with the relevant rules and procedures laid down in Article 6 of Directive 2014/24/EU, the value thresholds set out in Article 7(1) or any previously amended thresholds shall be replaced by the corresponding amended thresholds, and any reference or mention within this Act to the thresholds set out in Article 7(1) shall be construed as a reference or mention to the corresponding thresholds thus amended. (3) The National Public Procurement Agency, hereinafter referred to as ANAP, shall publish on its website the value thresholds set by the European Commission in accordance with the relevant rules and procedures laid down in Article 6 of Directive 2014/24/EU, on the date

they enter into force. + Paragraph 3 Method of calculating the estimated value of the procurement + Article 9(1) For public works or services contracts whose subject matter concerns the realisation of new public investment projects or works to improve existing ones, the contracting authority shall choose the award procedure on the basis of the following considerations: (a) the estimated value of the contract for the provision of services relating to the preparation of a feasibility study for each individual investment project, if the contract includes a clause concerning the transfer of copyright; ... (b) the estimated value of the contract for the provision of technical design and assistance services by the designer for each individual investment project, combined with that of the works relating to the investment project, if these are covered by the same public works contract; ... c) the estimated value of the contract for the provision of technical design and assistance services by the designer for each individual investment project, separate from the estimated value of the contract for the execution of the works relating to the investment project, if separate contracts are awarded for technical design and assistance services by the designer, or for the works respectively; ... d) for specific services relating to a project, such as design verification, expert assessments, energy audits, environmental impact assessments, fire safety plans, consultancy, technical assistance and others, which require certified or accredited specialists to carry them out, the estimated value of each service shall be determined for each individual investment project and, based on the value obtained for each service, the appropriate procurement method shall be established. ... (on 28 July 2022, Paragraph (1) of Article 9, Paragraph 3, Section 4, Chapter I was amended by Point 3, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022) (2) Where the contracting authority provides, in accordance with the provisions of this Law, for the award of prizes or bonuses to tenderers or candidates, the determination of the estimated value of the procurement must also include the value of those prizes or bonuses. + Article 10(1) Where the contracting authority comprises separate operational units, the estimated value shall be calculated by taking into account the total estimated value for all operational units considered separately. (2) By way of derogation from the provisions of paragraph (1), if an operational unit is independently responsible for its own procurements or for certain categories thereof, the estimated values may be calculated at the level of that unit. (3) For the purposes of paragraph (2), an operational unit is independently responsible for its procurement or for certain categories thereof if all of the following conditions are met: (a) the operational unit conducts the award procedures independently; ... (b) the operational unit takes procurement decisions independently; ... c) the operational unit has budgetary resources specifically earmarked for procurement; ... d) the operational unit concludes public procurement contracts independently; ... e) the operational unit ensures payment for public procurement contracts from the budget at its disposal + Article 11(1) The contracting authority shall not be entitled to use methods for calculating the estimated value of the procurement with the aim of circumventing the award procedures laid down in this Act. (2) The contracting authority shall not be entitled to split the public procurement contract into several separate contracts of a lower value, nor to use calculation methods that result in an underestimation of the estimated value of the public procurement contract, with the aim of avoiding the application of the award procedures governed by this Act. + Article 12 The estimated value of the procurement shall be determined prior to the commencement of the award procedure and shall be valid at the time of the commencement of the award procedure. The award procedure shall be commenced in one of the following ways: a) by submitting the contract notice for publication; (b) in the case of the procurement of social services or other services the specific requirements set out in Annex 2, the submission for publication of the contract notice or the notice of intent, which remains valid on a continuous basis; (c) the sending of the invitation to participate in the negotiated procedure without prior publication of a contract notice. ... + Article 13(1) In the case of the design contest referred to in Article 105(a), the estimated value shall be calculated on the basis of the estimated value, excluding VAT, of the public service contract, including any prizes or payments to participants. (2) In the case of the design contest referred to in Article 105(b), the estimated value shall be calculated by reference to the total value of the prizes or payments to participants and shall include the estimated value, excluding VAT, of the public service contract that may be concluded pursuant to the provisions of Article 104(7), where the contracting authority has stated in the competition notice its intention to award that contract. + Article 14 In the case of a framework agreement or a dynamic purchasing system, the estimated value of the procurement shall be deemed to be the maximum estimated value, excluding VAT, of all subsequent public procurement contracts anticipated to be awarded under the framework agreement or through the use of the dynamic purchasing system throughout its duration. + Article 15 In the case of an innovation partnership, the estimated value of the procurement shall be deemed to be the maximum estimated value, excluding VAT, of the research and development activities to be carried out during all phases of the envisaged partnership, as well as of the products, services or works to be produced and procured at the end of that partnership. + Article 16 In the case of public works contracts, the estimated value of the procurement shall be calculated by taking into account both the cost of the works and the total estimated value of the products and services made available to the contractor by the contracting authority, which are necessary for the execution of the works. + Article 17(1) Where the contracting authority intends to procure works or services, and the contracts may be awarded in separate lots, the estimated value of the procurement shall be determined by taking into account the estimated total value of all the lots. (on 28 July 2022, Paragraph (1) of Article 17, Paragraph 3, Section 4, Chapter I was amended by Point 4, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022) (2) Where the cumulative value of the lots

is equal to or greater than the corresponding value thresholds set out in Article 7(1), the award procedures governed by this Act shall apply to the award of each lot, regardless of its estimated value. + Article 18(1) Where the contracting authority intends to procure similar products and the contracts may be awarded in separate lots, the estimated value of the procurement shall be determined by taking into account the total estimated value of all lots.(2) Where the cumulative value of the lots is equal to or greater than the corresponding value thresholds set out in Article 7(1), the award procedures governed by this Act shall apply to the award of each lot.(3) For the purposes of paragraph (1), 'similar products' means those products which cumulatively meet the following conditions: (a) they are intended for identical or similar uses; ... (b) they form part of the normal range of products supplied or marketed by economic operators carrying out regular business in the sector concerned. ... + Article 19 By way of derogation from the provisions of Articles 17 and 18, the contracting authority may apply the simplified procedure or, subject to the conditions of Article 7(5), direct procurement, for the award of contracts in individual lots, provided that all of the following conditions are met:(a) the estimated value, excluding VAT, of the relevant lot is less than 399 120 lei in the case of the procurement of goods or services, or less than 4 989 000 lei in the case of the procurement of works;* (on 4 June 2018, Point (a) of Article 19, Paragraph 3, Section 4, Chapter I was amended by Point 4, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) ... b) the cumulative value of the lots for which the condition set out in point (a) is met and which are or have been awarded pursuant to this Article shall not exceed 20 per cent of the total value of all the lots into which the work in question, the procurement of similar products or the services in question have been divided view. ... (on 22 December 2017, Article 19, Paragraph 3, Section 4, Chapter I was amended by Point 6, Article I of EMERGENCY ORDINANCE No 107 of 20 December 2017, published in the OFFICIAL GAZETTE No 1022 of 22 December 2017) Note ...

* Delegated Regulations (EU) No 2025/2150, No 2025/2151 and No 2025/2152 of the European Commission, amending Directives 2014/25/EU, 2014/23/EU and 2014/24/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives shall apply from 1 January 2026 to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2026, the amounts of the new thresholds will be as follows:

Article 19(a) of Law No 98/2016 – for goods and services – lots – from 394,864 lei (80,000 EUR) will increase to 399,120 lei (80,000 EUR), and for works – lots – from 4,935,800 lei (1,000,000 EUR) to 4,989,000 lei (1,000,000 EUR) Note ...

Delegated Regulations (EU) No 2023/2510, No 2023/2497, No 2023/2495 and No 2023/2496 of the European Commission amending Directives 2009/81/EC, 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, concerning the amounts of the new thresholds applicable in public procurement procedures at national level. These amendments to the aforementioned Directives entered into force on 1 January 2024 and apply to all procedures launched after that date. The Regulations are binding in their entirety and directly applicable in all Member States. These amendments are made by the European Commission and are of a regular nature.

Thus, from 1 January 2024, the amounts of the new thresholds will be as follows:

Article 19(a) of Law No 98/2016 – for goods and services – lots – from 387,856 lei (80,000 EUR) will increase to 394,864 lei (80,000 EUR), and for works – lots – from 4,848,200 lei (1,000,000 EUR) to 4,935,800 lei (1,000,000 EUR) + Article 20 In the case of public procurement contracts for goods or services of a recurring nature or which are intended to be renewed during a specific period, the estimated value of the procurement shall be calculated on the basis of the following:(a) either the actual total value of all similar successive contracts awarded in the last 12 months or in the previous financial year, adjusted, where possible, to take account of changes in quantity and value that may occur within a 12-month period from the date of the initial contract; ... (b) or the estimated total value of all successive contracts awarded within a period of 12 months from the first delivery. ... + Article 21 In the case of public procurement contracts for the supply of products by instalment purchase, hire or leasing, with or without an option to purchase, the estimated value of the procurement shall be calculated on the basis of the duration of the contract, as follows:(a) in the case of public procurement contracts concluded for a fixed term of 12 months or less, the estimated value is the total estimated value for the entire duration of the contract in question; ... (b) in the case of public procurement contracts concluded for a fixed term of more than 12 months, the estimated value is the total estimated value for the entire duration of the contract in question, plus the estimated residual value of the products at the end of the period for which the contract was concluded; ... c) in the case of public procurement contracts concluded for an indefinite period or where their duration cannot be determined at the time of the estimate, the estimated value shall be calculated by multiplying the monthly value of the contract by 48.+

Article 22 In the case of public service contracts relating to insurance services, the estimated value of the procurement shall be calculated on the basis of the insurance premiums to be paid and any other forms of remuneration relating to those services. + Article 23 In the case of public service contracts for banking or other financial services, the estimated value of the procurement shall be calculated on the basis of

fees, commissions to be paid, interest and any other forms of remuneration relating to the services in question. + Article 24 In the case of public service contracts for design services, the estimated value of the procurement shall be calculated on the basis of the fees, commissions to be paid and any other forms of remuneration relating to the services in question. + Article 25 In the case of public service contracts which do not specify a total price, the estimated value of the procurement shall be calculated on the basis of the duration of the contract, as follows: (a) in the case of public service contracts concluded for a fixed term of 48 months or less, the estimated value is the total value of the contract for its entire duration; ... b) in the case of public service contracts concluded for an indefinite period or for a fixed term exceeding 48 months, the estimated value shall be calculated by multiplying the monthly value of the contract by 48. ... + Section 5 Exemptions + Paragraph 1 Contracts in the water, energy, transport and postal services sectors + Article 26(1) This Act shall not apply to: (a) sectoral procurement contracts, sectoral framework agreements and sectoral design contests awarded or organised by contracting authorities which are required to apply the provisions of the Act on sectoral procurement; ... (b) sectoral procurement contracts, sectoral framework agreements and sectoral design contests excluded from the application of the provisions of the law on sectoral procurement(2) This Act shall not apply to public procurement contracts, framework agreements and design contests awarded or organised by a contracting authority providing postal services within the meaning of the provisions of the law on sectoral procurement for the purpose of carrying out the following activities:(a) value-added services relating to electronic mail, provided entirely by electronic means, including the secure transmission by electronic means of encrypted documents, address management services and the transmission of registered electronic mail;(b) financial services falling under CPV codes 66100000-1 to 66720000-3 and the provisions of the law on sectoral procurement, which mainly include postal money orders and transfers based on current accounts ; ... c) philatelic services;d) logistics services, consisting of services combining physical delivery and/or storage for purposes other than postal services. ... + Paragraph 2 Specific exemptions in the field of electronic communications + Article 27(1) This Act shall not apply to public procurement contracts, framework agreements and design contests whose main purpose is to enable contracting authorities to provide or operate public electronic communications networks or to provide one or more electronic communications services to the public. (2) For the purposes of paragraph (1), the terms 'public electronic communications network' and 'electronic communications service' shall have the meanings set out in [Article 4\(1\)\(9\) and \(10\) of Government Emergency Ordinance No. 111/2011](#) on electronic communications, approved with amendments and additions by [Law No. 140/2012](#), as subsequently amended and supplemented. + Paragraph 3 Public procurement contracts/framework agreements awarded and solution competitions organised in accordance with international standards + Article 28(1) [This Act shall not apply to public procurement contracts/framework agreements and solution competitions which the contracting authority is obliged to award or organise in accordance with award procedures different from those provided for in this Act: a\) established by a legal instrument creating international legal obligations, such as an international agreement, concluded in accordance with the Treaties, between Romania and one or more third countries or their subdivisions, concerning works, products or services intended for the joint implementation or operation of a project by the signatories, or as a result of the application of a specific procedure provided for by European legislation, in the context of territorial cooperation programmes and projects;\(b\) established by an international organisation. ... \(on 22 December 2017, Paragraph \(1\) of Article 28, Paragraph 3, Section 5, Chapter I was amended by Point 7, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (2) [Contracting authorities are required to inform ANAP of the agreements referred to in paragraph \(1\)\(a\) existing within their sphere of activity, concluded in accordance with the Treaties. \(On 22 December 2017, Paragraph \(2\) of Article 28, Paragraph 3, Section 5, Chapter I was amended by Point 7, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (3) ANAP is obliged to communicate to the European Commission the information received in accordance with paragraph (2). (4) This Act does not apply to public procurement contracts/framework agreements and design contests which are awarded or organised by the contracting authority in accordance with the procurement rules laid down by an international organisation or an international financial institution, where the public procurement contracts/framework agreements or design contests in question are fully funded by that organisation or institution.(5) In the case of public procurement contracts/framework agreements and design contests co-financed for the most part by an international organisation or an international financial institution, the parties shall agree on the applicable award procedures. (6) In the case of public procurement contracts/framework agreements and design contests involving defence or security aspects and which are awarded or organised in accordance with international rules, the provisions of Article 39 shall apply. + Paragraph 4 Specific exemptions for service contracts + Article 29(1) This Act shall not apply to the award of public service contracts or framework agreements for services having as their subject matter: (a) the purchase or lease, by any financial means, of land, existing buildings, other immovable property or rights thereto;(b) the purchase, development, production or co-production of programme material intended for audiovisual media services, awarded by media service providers, or contracts for broadcasting time or the supply of programmes awarded to media service providers;c) arbitration, mediation and other forms of alternative dispute resolution;d) any of the legal services referred to in paragraph

(3);e) financial services relating to the issue, sale, purchase or transfer of securities or

other financial instruments, within the meaning of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, central bank services and operations carried out with the European Financial Stability Facility and the European Stability Mechanism; ... f) loans, whether or not related to the issue, sale, purchase or transfer of securities or other financial instruments; ... g) employment contracts; ... (h) civil defence, civil protection and hazard prevention services, provided by non-profit organisations, falling under CPV codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and

85143000-3, with the exception of ambulance services for the transport of patients; ... (i) public passenger transport services by rail or metro. (2) For the purposes of paragraph (1)(b): (a) the terms 'audiovisual media service' and 'media service provider'

'media service provider' have the meanings set out in [Article 1\(1\)\(1\) and \(12\) of the Audiovisual Law No 504/2002](#), as subsequently amended and supplemented; (b) the term 'programme' encompasses both programmes having the meaning set out in

[Article 1\(1\)\(4\) of Law No 504/2002](#), as subsequently amended and supplemented, included in a television programme service, as well as programmes included in a radio programme service and programme material, and the term 'programme material' has the same meaning as the term 'programme'. (3) The legal services referred to in paragraph (1)(d) are as follows: (a) the assistance and representation of a client by a lawyer within the meaning of the provisions [of Law No. 51/1995](#) on the organisation and practice of the legal profession, as republished, as subsequently amended, in the context of arbitration or mediation proceedings or any other form of alternative dispute resolution conducted before a court or other national arbitration, mediation or alternative dispute resolution body in Romania or in another state, or before an international arbitration, mediation or alternative dispute resolution body; (b) the assistance and representation

a client by a lawyer within the meaning of the provisions [of Law No. 51/1995](#), as republished, with subsequent amendments, in the context of legal proceedings before courts or national public authorities in Romania or in another state, or before international courts or institutions; c) legal assistance and advice provided by a lawyer, in advance or in preparation for any of the proceedings referred to in points (a) and (b), or where there are concrete indications and a high probability that the case in relation to which the legal assistance and advice is provided will be the subject of such proceedings; d) services for the certification and authentication of

documents provided by notaries public in accordance with the law; e) legal services provided by trustees or receivers, or other legal services provided by entities appointed by a national court or designated in accordance with the law to carry out specific tasks under the supervision and control of the courts; ... f) services provided by bailiffs. +

Paragraph 5 Service contracts awarded on the basis of an exclusive right + Article 30 This Law shall not apply to the award of public service contracts or framework agreements by a contracting authority to another contracting authority or contracting entity as defined by the law on sectoral procurement, or to an association of contracting authorities or contracting entities, on the basis of an exclusive right they enjoy to provide those services pursuant to legislative acts or administrative acts of a regulatory nature, in so far as these are compatible with the provisions of the TFEU. + Paragraph 6 Public procurement contracts/framework agreements concluded between public sector entities + Article 31(1) This Act shall not apply to public procurement contracts/framework agreements awarded by a contracting authority to a legal person governed by private or public law where all of the following conditions are met: (a) the contracting authority exercises over the legal person in question a control similar to that which it exercises over its own departments or services; (b) more than 80 per cent of the activities of the controlled legal person are carried out

the performance of the tasks entrusted to it by the contracting authority exercising control over it or by other legal entities controlled by that contracting authority; c) there is no direct private participation

in the capital of the controlled legal person, with the exception of forms of private capital participation which do not confer control or a right of veto, but whose existence is required by law, in accordance with the Treaties, and which do not exercise a decisive influence over the controlled legal person (2) For the purposes of paragraph (1)

point (a), a contracting authority shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments or services where it exercises a decisive influence on both the strategic objectives and the important decisions of the controlled legal person; such control may also be exercised by another legal person, which is itself controlled in the same way by the contracting authority.

(3) The provisions of paragraph (1) shall also apply where a controlled legal person acting as a contracting authority awards a contract to the contracting authority that controls it or to another legal person controlled by the same contracting authority, provided that there is no direct private participation in the capital of the legal person to which the contract is awarded, with the exception of forms of private capital participation which do not confer control or a right of veto, but whose existence is required by law, in accordance with the Treaties, and which do not exercise a decisive influence over the controlled legal person. (on 13 July 2020, Paragraph (3) of Article 31, Paragraph 6, Section 5,

[Chapter I was amended by Point 3, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) (4) This Act shall not apply to public procurement contracts or framework agreements awarded to a legal person governed by private or public law by a contracting authority which does not exercise control over that legal person within the meaning of paragraph (1), where all of the following conditions are met: (a) the

exercises, jointly with other contracting authorities, control over the legal person in question similar to that which it exercises over its own departments or services; ... (b) more than 80 per cent of the activities of that legal person are carried out for the purpose of performing the tasks entrusted to it by the contracting authorities which control it or by other legal persons controlled by the same contracting authorities; ... (c) there is no direct private participation in the capital of the controlled legal person, with the exception of forms of private capital participation which do not confer control or a right of veto, but whose existence is required by law, in accordance with the Treaties, and which do not exercise a decisive influence over the controlled legal person(5) For the purposes of paragraph (4)(a), contracting authorities shall jointly exercise

control over a legal person if all of the following conditions are met: (a) the decision-making bodies of the controlled legal person are composed of representatives of all the participating contracting authorities, with the same person being entitled to represent several or all of the participating contracting authorities;(b) the contracting authorities are in a position to jointly exercise a decisive influence over the strategic objectives and major decisions of the controlled legal person;c) the controlled legal entity does not pursue interests

contrary to those of the contracting authorities that control it(6) This Act shall not apply to contracts concluded exclusively between two or more contracting authorities where all of the following conditions are met: a) the contract establishes or implements cooperation between the participating contracting authorities, with the aim of ensuring that the public services they are required to provide are delivered in order to achieve common objectives;(b) the implementation of the cooperation is based exclusively on considerations

of public interest;c) the participating contracting authorities carry out less than 20 per cent of activities covered by the cooperation (7) The percentages set out in paragraph (1)(b), paragraph (4)(b) and paragraph (6)(c) shall

shall be determined on the basis of the average total turnover or an appropriate alternative indicator based on the activity carried out, such as the costs incurred by the legal person or the contracting authority, as the case may be, in connection with services, products and works during the three years preceding the award of the contract.(8) Where, in the situation referred to in paragraph (7), due to the date on which the legal person or the contracting authority, as the case may be, was established or commenced its activities, or as a result of the reorganisation of its activities, the turnover or another appropriate alternative indicator based on the activities carried out, such as costs, is not available for the last 3 years or is no longer relevant, the percentages referred to in paragraph (1)(b), paragraph (4)(b) and paragraph (6)(c) may be determined using estimation methods, in particular by using business forecasts. + Paragraph 7 Other exceptions + Article 32(1) This Act shall not apply to legal acts, other than public procurement contracts or framework agreements, concluded by a person acting as a contracting authority under this Act, such as the granting of repayable or non-repayable funding to natural or legal persons under the terms of special legislation, or the establishment, together with natural or legal persons, of companies or associations without legal personality in accordance with the provisions [of Law No 287/2009](#) on the Civil Code, as republished, with subsequent amendments.(2) Where, regardless of the name or form used, legal acts concluded by persons acting as contracting authorities under this Act constitute public procurement contracts or framework agreements, the provisions of this Act shall apply. + [Article 33\(1\) This Act shall not apply to the award of public procurement contracts by contracting authorities operating within the territory of other states where the contract value is below the thresholds set out in Article 7\(1\).](#)(2) For the award of public procurement contracts falling within the scope of paragraph (1), the contracting authority shall draw up its own rules to ensure the application of the principles set out in Article 2(2) of this Act. (on 22 December 2017, [Article 33 of Paragraph 7, Section 5, Chapter I was amended by Point 8, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017](#)) + Section 6 Mixed Procurement + Article 34(1) In the case of mixed contracts covering both procurements to which the provisions of this Act apply and procurements to which the provisions of other legislative acts apply, where the various parts of a given mixed contract are objectively separable, the contracting authority shall have the right to choose between awarding separate contracts for the separate parts and awarding a single contract.(2) Where, pursuant to paragraph (1), the contracting authority chooses to award separate contracts for the separate parts, the legal regime and the legislative act applicable to the award of each of these separate contracts shall be determined in accordance with the characteristics of each part in question.(3) Where, pursuant to paragraph (1), the contracting authority chooses to award a single contract—except where the provisions of Article 38 apply—the award of the mixed contract shall be carried out in accordance with the provisions of this Act, regardless of the value of the parts which, if they were included in separate contracts, would be subject to another legislative act, and regardless of the legislative act that would apply to those parts.(4) In the case of mixed contracts covering both the procurement of goods, works or services and concessions, the provisions of this Act shall apply to the award of the contract exclusively in situations where the estimated value of the part or parts of the contract constituting public procurement, calculated in accordance with the provisions of Articles 9–25, is equal to or exceeds the corresponding value thresholds set out in Article 7(1).(5) By way of derogation from the provisions of paragraph (3), the award of mixed contracts covering both procurements to which the provisions of this Act apply and procurements carried out for the purpose of carrying out an activity falling within the scope of the sectoral

procurement legislation shall be carried out in accordance with the provisions of the sectoral procurement legislation.(6) In the case of mixed contracts covering both procurements to which the provisions of this Act apply and procurements to which the provisions of other legislative acts apply, where the various parts of a particular contract are not objectively separable, the contract shall be awarded in accordance with

the applicable legislation depending on its main subject matter. + Article 35(1) Contracts covering at least two types of public procurement, consisting of works, services or supplies, to which the provisions of this Act apply, shall be awarded in accordance with the provisions of this Act applicable to the type of procurement that constitutes the main subject matter of the contract in question.(2) In the case of mixed contracts covering both social services and other specific services, as set out in Annex 2, and other services, as well as in the case of mixed contracts covering both services and products, the main subject-matter shall be determined on the basis of the higher of the estimated values of the respective services or products. + Section 7 Special circumstances + Paragraph 1 Research and development services + Article 36 This Act applies to public service contracts for the provision of research and development services falling under CPV codes ranging from 73000000-2 to 73120000-9, 73300000-5, 73420000-2 or 73430000-5, provided that all of the following conditions are met: (a) the results are intended exclusively for the contracting authority's own use in the performance of its own activities; and ... (b) the service provided is remunerated in full by the contracting authority. ... + Paragraph 2 Defence and security + Article 37(1) This Act applies to public procurement contracts/framework agreements awarded and design contests organised in the fields of defence and national security, with the exception of those to which the provisions [of Government Emergency Ordinance No. 114/2011](#) on the award of certain public procurement contracts in the fields of defence and security apply, as amended and supplemented by [Law No. 195/2012](#), and those to which the provisions [of Government Emergency Ordinance No. 114/2011](#), as amended and supplemented by [Law No. 195/2012](#), do not apply, in accordance with [Articles 21, 22 or 56 of Government Emergency Ordinance No. 114/2011](#), approved with amendments and additions by [Law No. 195/2012](#).(2) This Act shall not apply to public procurement contracts/framework agreements awarded and design contests organised in the fields of defence and national security which are not exempted under paragraph (1), insofar as the protection of the State's essential security interests cannot be guaranteed solely by less intrusive measures, such as the imposition of requirements to safeguard the confidentiality of information made available by the contracting authority during an award procedure in accordance with the provisions of this Act.(3) This Act shall not apply to public procurement contracts or framework agreements awarded, or to design contests organised, in the fields of defence and national security which are not exempted under paragraph (1), in so far as the application of this Act would oblige the contracting authority to provide information the disclosure of which is contrary to the essential interests of national security in accordance [with Article 346\(1\)\(a\) of the TFEU](#).(4) This Act shall not apply to public procurement contracts, framework agreements or design contests in respect of which at least one of the following conditions is met:(a) the award and performance of the public procurement contract, framework agreement or design contest constitute state secrets, in accordance with the legal provisions on the protection of classified information; ... (b) the award and performance of the public procurement contract, framework agreement or design contest require the imposition, in accordance with the legal provisions, special security measures to protect essential national security interests, provided that these cannot be guaranteed by less intrusive measures, such as the requirements set out in paragraph (2). ... + Paragraph 3 Mixed procurements involving defence or security aspects + Article 38(1) In the case of mixed contracts covering both procurements to which the provisions of this Act apply and procurements to which the provisions [of Government Emergency Ordinance No. 114/2011](#), approved with amendments and additions by [Act No. 195/2012](#), or of other legislative acts/memoranda issued pursuant to [Article 20\(3\) of Government Emergency Ordinance No 114/2011](#), as amended and supplemented by [Law No 195/2012](#), in relation to the situations provided for in Article 346 of the TFEU, and the various parts of a particular mixed contract are objectively separable, the contracting authority shall have the right to choose between awarding separate contracts for the separate parts and awarding a single contract.(2) Where, pursuant to paragraph (1), the contracting authority chooses to award separate contracts for the separate parts, the legal regime applicable to the award of each of these separate contracts shall be that determined on the basis of the characteristics of each part in question.(3) Where, pursuant to paragraph (1), the contracting authority chooses to award a single contract, the following criteria shall apply in determining the legal regime applicable to the award of that contract: (a) where a part of the contract is subject to the legislative acts issued pursuant to [Article 20\(3\) \(3\) of Government Emergency Ordinance No 114/2011](#), as amended and supplemented by [Law No 195/2012](#), in relation to the situations provided for in Article 346 of the TFEU, the contract may be awarded without applying the provisions of this Act, provided that the award of a single contract is justified on objective grounds; ... b) where part of the contract is subject to the provisions [of Government Emergency Ordinance No 114/2011](#), approved with amendments and additions by [Law No 195/2012](#), the contract may be awarded in accordance with the provisions [of Government Emergency Ordinance No 114/2011](#), approved with amendments and additions by [Law No 195/2012](#), provided that the award of a single contract is justified on objective grounds (4) The provisions of paragraph (3)(b) are without prejudice to the thresholds and exceptions provided for in the provisions [Government Emergency Ordinance No. 114/2011](#), approved with amendments and additions by [Law No. 195/2012](#).(5) Where, in relation to a particular contract, both the provisions of paragraph (3)(a) and those of paragraph (3)(b) are applicable, the provisions of paragraph (3)(a) shall apply. (6) The decision to award a single contract may not be taken by the contracting authority pursuant to paragraph (1) for the purpose of exempting the award of contracts from the application of the provisions of this Act or [of Government Emergency Ordinance No. 114/2011](#), approved with amendments and additions by [Act No. 195/2012](#).(7) In the case of mixed contracts covering both procurements to which the provisions of this Act apply and procurements to which the provisions

[of Government Emergency Ordinance No. 114/2011](#), as approved with

amendments and additions by [Law No. 195/2012](#), or other legislative acts issued pursuant to [Article 20\(3\) of Government Emergency Ordinance No 114/2011](#), approved with amendments and additions by [Law No 195/2012](#), in relation to the situations provided for in Article 346 of the TFEU, and the various parts of a particular mixed contract are not objectively separable, the contract may be awarded in accordance with the provisions of the legislative acts issued pursuant to [Article 20\(3\) of Government Emergency Ordinance No 114/2011](#), approved with amendments and additions by [Law No 195/2012](#), if it includes elements relating to the situations provided for in [Article 346 of the TFEU](#), or in accordance with the provisions of [Government Emergency Ordinance No 114/2011](#), as amended and supplemented by [Law No 195/2012](#), otherwise. + Paragraph 4 Public procurement contracts/framework agreements and design contests involving defence or security aspects, awarded or organised in accordance with international rules

+ Article 39(1) This Act shall not apply to public procurement contracts/framework agreements and design contests involving matters of defence or national security, which the contracting authority is obliged to award or organise in accordance with award procedures different from those provided for in this Act, established in one of the following ways: (a) by an international agreement or arrangement, concluded in accordance with the Treaties, between Romania and one or more third countries or their subdivisions, concerning works, products or services intended for the joint implementation or operation of a project by the signatories; ... (b) by an international agreement or arrangement relating to the stationing of troops and concerning economic operators of a Member State or a third country; ... (c) by an international organisation (2) Contracting authorities are required to inform ANAP of the agreements referred to in paragraph (1)(a) existing within their sphere of activity. (3) ANAP is obliged to communicate to the European Commission the information received in accordance with paragraph (2). (4) This Act shall not apply to public procurement contracts/framework agreements and design contests involving matters of defence or national security which are awarded or organised by the contracting authority in accordance with the procurement rules laid down by an international organisation or an international financial institution, provided that the public procurement contracts/framework agreements or design contests in question are fully funded by that organisation or institution. (5) In the case of public procurement contracts/framework agreements and design contests involving defence or security aspects that are largely co-financed by an international organisation or an international financial institution, the parties shall agree on the applicable award procedures. + Section 8- Centralised procurement activities and occasional joint procurement + Paragraph 1 Centralised procurement activities + [Article 40 The establishment of centralised purchasing bodies and the circumstances and conditions under which contracting authorities procure goods or services from centralised purchasing bodies providing centralised procurement activities, as well as the circumstances in which centralised purchasing bodies providing centralised procurement activities award public procurement contracts or conclude framework agreements for works, products or services intended for other contracting authorities, shall be determined by a Government decision or by a decision of the local deliberative authorities, respectively. \(on 4 June 2018, Article 40 of Paragraph 1, Section 8, Chapter I was amended by Point 5, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) + Article 41(1) The contracting authority shall not apply the provisions of this Act to procurements which meet one of the following conditions: (a) they relate to products or services procured from a centralised purchasing body which carries out centralised procurement activities

; b) concern works, products or services procured under contracts awarded by a centralised purchasing body providing centralised procurement services; c) relate to works, products or services procured through the use of a dynamic purchasing system administered by a centralised purchasing body providing centralised procurement activities; d) concern works, products or services procured through a framework agreement concluded by a centralised purchasing body providing centralised procurement services, in so far as the identity of the contracting authority was specified in the contract notice published as part of the procedure for the award of the framework agreement organised by the centralised purchasing body (2) In the case referred to in paragraph (1), the contracting authority is obliged to

apply the provisions of this Act only in respect of the activities it carries out itself, such as: (a) the award of a contract under a dynamic purchasing system administered by a centralised purchasing body; b) the conclusion of a subsequent contract by reopening competition in the performance of a framework agreement concluded by a centralised purchasing body; c) determining, in accordance with the provisions of Article 118(1)

(a) and (c), of the economic operators party to the framework agreement which carry out a specific activity in the performance of a framework agreement concluded by a centralised purchasing body. ... + Article 42 All award procedures organised by a centralised purchasing body shall be conducted by electronic means of communication, in accordance with the provisions of Articles 64–66 and the methodological rules for the application of this Act. + Article 43(1) [The contracting authority is not obliged to apply the award procedures governed by this Act where, under the conditions laid down in the decision referred to in Article 40, it awards a public service contract to a centralised purchasing body for the provision of centralised procurement services. \(on 4 June 2018, Paragraph \(1\) of Article 43, Paragraph 1, Section 8, Chapter I was amended by Point 6, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) (2) Public service procurement contracts referred to in paragraph (1) may also include the

provision of ancillary procurement activities.(3) The award of public service contracts relating to the provision of ancillary procurement activities, other than by a centralised purchasing body in accordance with paragraph (2), shall be carried out by applying the award procedures governed by this Act in the case of procurement contracts

public procurement services. (4) The provisions of this Act shall not apply where a centralised purchasing body provides centralised procurement services or a procurement service provider provides ancillary procurement services to a contracting authority other than under a public procurement contract. + Paragraph 2 Occasional joint procurement + Article 44(1) Two or more contracting authorities may agree to carry out certain specific procurements jointly.(2) Where a public procurement procedure is organised entirely jointly, in the name and on behalf of all the contracting authorities referred to in paragraph (1), they shall be jointly and severally liable for the fulfilment of their obligations under this Act.(3) The provisions of paragraph (2) shall apply mutatis mutandis where a single contracting authority organises the award procedure, acting both in its own name and on behalf of the other contracting authorities referred to in paragraph (1).(4) Where a public procurement procedure is not organised entirely in the name and on behalf of the contracting authorities referred to in paragraph (1), they shall be jointly and severally liable only in respect of the activities carried out jointly.(5) In the case referred to in paragraph (4), each contracting authority shall be individually liable for the fulfilment of its obligations under this Act in respect of the activities it carries out in its own name. + Section 9 Procurement involving contracting authorities from other Member States

+ Article 45(1) Without prejudice to the provisions of Article 31, national contracting authorities may act jointly with contracting authorities from other Member States for the award of public procurement contracts in accordance with the provisions of Articles 46–48.(2) National contracting authorities shall not use the means and instruments governed by the provisions of Articles 46–48 for the purpose of circumventing the application of mandatory national public law rules which, in accordance with European Union law, apply to their status or activities. + Article 46(1) National contracting authorities shall be entitled to use centralised procurement services provided by a centralised purchasing body from another Member State.(2) The provision of centralised procurement services by a centralised purchasing body from another Member State shall be carried out in accordance with the provisions of the national law of the Member State in which the centralised purchasing body is situated.(3) The provisions of the national legislation of the Member State in which the centralised purchasing body is situated shall also apply to: (a) the award of a contract under a dynamic purchasing system; ... (b) the conclusion of a subsequent contract through reopening of competition in the performance of a framework agreement; ... (c) the determination, in accordance with the provisions of Article 118(1)(a) and (c), of the economic operators party to the framework agreement which carry out a specific activity (4) National contracting authorities may, together with contracting authorities from other Member States, jointly award a public procurement contract, conclude a framework agreement or operate a dynamic purchasing system, and, in so far as the identity of the contracting authorities was specified in the contract notice published as part of the procedure for the award of the framework agreement, conclude contracts in performance of the framework agreement or under the dynamic purchasing system. (5) In the case referred to in paragraph (4), and unless the necessary elements are laid down in an international agreement concluded between Romania and the Member State concerned, the participating contracting authorities shall conclude an agreement setting out: (a) the responsibilities of the parties and the applicable provisions of national law; (b) the internal organisational aspects of

the award procedure, including the organisation of the procedure, the allocation of the works, supplies or services to be procured, and the conclusion of contracts. ... + Article 47(1) A contracting authority participating in a procurement carried out in accordance with the provisions of Article 46(4) shall not be obliged to apply the provisions of this Act when procuring works, products or services that are the subject of the procurement from the contracting authority responsible for organising the award procedure.(2) Contracting authorities participating in a procurement carried out in accordance with the provisions of Article 46(4) may, in accordance with the provisions of Article 46(5)(a), determine the allocation of specific responsibilities amongst themselves and may agree on the application of the national legislation of any of the Member States in which the participating contracting authorities are situated.(3) The allocation of responsibilities and the applicable national law shall be specified in the tender documentation for public procurement contracts awarded jointly in accordance with the provisions of Article 46(4). + Article 48(1) Where several contracting authorities from Romania and other Member States have established a joint entity, including a European Grouping of Territorial Cooperation pursuant to Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC) or another entity under European Union law, the participating contracting authorities shall agree, by a decision of the competent body of the joint entity, on the application of the national public procurement law of one of the following Member States: (a) the Member State in which the joint entity has its registered office;.....(b) the Member State in which the joint entity carries out its activities(2) The agreement referred to in paragraph (1) may

be valid for an indefinite period, where it is incorporated into the articles of association of the joint entity, or may be limited to a fixed period, certain types of contracts, or one or more individual contract awards. + Chapter II General rules on participation and the conduct of award procedures + Section 1 Economic operators + Article 49(1) Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner. (2) In so far as they fall within the scope of Annexes 1, 2, 4, 5, 6 and 7 to Appendix I of the European Union to the GPA and of the other international agreements imposing obligations on the European Union, contracting authorities shall accord works, products, services and economic operators of the

signatories to those agreements treatment equal to that accorded to works, products, services and economic operators from the European Union. (as at 5 April 2021, Article 49 of Section 1, Chapter II was amended by Point 2, Article I of EMERGENCY ORDINANCE No. 25

[of 31 March 2021, published in the OFFICIAL GAZETTE No. 346 of 5 April 2021](#)) + Article 50(1) Contracting authorities shall not design or structure procurements or elements thereof with the aim of exempting them from the application of the provisions of this Law or of artificially restricting competition.(2) For the purposes of paragraph (1), an artificial restriction of competition shall be deemed to exist where the procurement or elements thereof are designed or structured with the aim of unjustifiably favouring or disadvantaging certain economic operators.

+ Article 51(1) The contracting authority shall specify in the tender documentation the mandatory regulations in the environmental, social and labour relations fields, as laid down by legislation adopted at European Union level, national legislation, collective agreements, or international treaties, conventions and agreements in these fields, which must be complied with during the performance of the public procurement contract, or shall indicate the competent institutions from which economic operators may obtain detailed information on those regulations.(2) In the case referred to in paragraph (1), the contracting authority is also obliged to require economic operators to state in their tender that, in drawing it up, they have taken into account the relevant obligations in the environmental, social and labour relations fields. + Article 52(1) Economic operators who, under the law of the State in which they are established, are entitled to carry out a specific activity falling within the scope of the procurement may not be rejected solely on the grounds that, under the law of the Member State in which the contract is awarded, they are required to be natural persons or legal persons.(2) In the case of public service contracts, public works contracts and public supply contracts which also include services or works or siting and installation operations, the contracting authority may require legal persons or other entities established in another form of organisation provided for by law to indicate, in their tenders or requests to participate, the names and relevant professional qualifications of the natural persons responsible for the performance of the contract in question.

+ Article 53(1) Economic operators as defined in Article 3(1)(jj) are entitled to participate in the award procedures provided for in Article 68, in the capacity of individual tenderer, joint tenderer, candidate, supporting third party or subcontractor. (as at 5 April 2021, Paragraph (1) of Article 53, Section 1, Chapter II was amended by [Point 3, Article I of EMERGENCY ORDINANCE No. 25 of 31 March 2021, published in the OFFICIAL GAZETTE No. 346 of 5 April 2021](#)) (1st) The contracting authority shall exclude from the award procedure any natural or legal person, acting as an individual tenderer, joint tenderer, candidate, supporting third party or subcontractor, who does not fall within the definition set out in Article 3(1)(jj), without it being necessary to verify compliance with the provisions of Articles 164, 165 and 167. (on 5 April 2021, Article 53 of Section 1, Chapter II was supplemented by [Point 4, Article I of EMERGENCY ORDINANCE No. 25 of 31 March 2021, published in the OFFICIAL GAZETTE No. 346 of 5 April 2021](#)) (2) In order to comply with the principles of transparency and equal treatment, the contracting authority is entitled to request, and the economic operator is obliged to provide the identification details of the holders/beneficial owners of bearer shares, where the legal form of the economic operator acting as tenderer/candidate, supporting third party or subcontractor in the procedure is that of a joint-stock company, with share capital represented by bearer shares. (On 27 July 2020, Article 53 of Section 1, Chapter II was supplemented by [Point 1, the SOLE ARTICLE of Law No. 148 of 23 July 2020, published in the Official Gazette No. 658 of 24 July 2020](#)) (3) The legal representative of the economic operator shall submit a declaration on their own responsibility regarding the holders/beneficial owners of bearer shares, subject to the penalties provided for in Article 326 of Law No. 286/2009 on the Criminal Code, as subsequently amended and supplemented. (On 27 July 2020, Article 53 of Section 1, Chapter II was supplemented by [Point 1, the SOLE ARTICLE of Law No. 148 of 23 July 2020, published in the Official Gazette No. 658 of 24 July 2020](#)) (On 22 December 2017, Article 53 of Section 1, Chapter II was amended by [Point 9, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017](#)) + Article 54(1) The contracting authority shall not have the right to require economic operators participating jointly in the award procedure to adopt or establish a specific legal form for the submission of a tender or a request to participate.(2) The contracting authority is entitled to require economic operators participating jointly in the award procedure whose tender has been declared the successful tender to adopt or establish a specific legal form, provided that this has been stipulated in the contract notice and the tender documentation and in so far as such a change is necessary for the proper performance of the public procurement contract.(3) The contracting authority shall be entitled to specify in the tender documentation, where necessary and justified on objective grounds, the manner in which economic operators are to fulfil the requirements relating to economic and financial capacity and technical and professional capacity in the case of joint participation in the award procedure, whilst respecting the principle of proportionality.(4) The contracting authority is entitled to set out in the tender documentation certain specific conditions regarding the performance of the public procurement contract or framework agreement where economic operators participate jointly in the award procedure, which differ from those applicable to individual tenderers, provided that such conditions are justified by objective reasons and comply with the principle of proportionality.(5) The methodological rules for the implementation of this Act shall lay down standard provisions or requirements concerning the manner in which economic operators participating jointly in the award procedure are to fulfil the requirements relating to economic and financial capacity and technical and professional capacity. + Article 55(1) [The contracting authority shall require the tenderer/candidate to specify in the tender or in the request to participate: \(a\) the categories of services/works under the contract which they intend to subcontract, as well as the percentage or value relating to](#)

the activities indicated in the tender as being carried out by subcontractors; and (on 30 August 2021, subparagraph (a) of paragraph (1) of Article 55, Section 1, Chapter II was amended by Point 2,

Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) ... b) the identification details of the proposed subcontractors, if the latter are known at the time of submission of the tender or the request to participate. ... (on 22 December 2017, Paragraph (1) of Article 55, Section 1, Chapter II was amended by Point 10, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (2) Subcontractors proposed in the tender or involved/declared after the contract has been signed must comply with the same obligations as tenderers in the environmental, social and labour relations fields, as laid down by legislation adopted at European Union level, national legislation, collective agreements or international treaties and agreements in these fields, as set out in the tender documentation in accordance with Article 51(1). (On 30 August 2021, Paragraph (2) of Article 55, Section 1, Chapter II was amended by Point 3, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) + Section 2 Reserved Contracts + Article 56(1) The contracting authority may reserve the right to participate in the award procedure solely to sheltered workshops authorised under Law No. 448/2006 on the protection and promotion of the rights of persons with disabilities, as republished, with subsequent amendments and additions, and to social integration enterprises as provided for by Law No. 219/2015 on the social economy.(2) In the contract notice or invitation to tender, the contracting authority shall explicitly refer to this Article as the legal basis for the award procedure. + Section 3 Confidentiality

+ Article 57(1) Without prejudice to the other provisions of this Act or to the legal provisions on free access to information of public interest, or to other legislative acts governing the activities of the contracting authority, the contracting authority is obliged not to disclose information contained in the technical proposal, elements of the financial proposal and/or price/cost justifications submitted by economic operators which they have indicated and proven to be confidential, insofar as such information constitutes: personal data, technical or trade secrets, or is protected by an intellectual property right. Confidentiality applies only to data/information identified and proven to be personal data, technical or trade secrets, or protected by an intellectual property right. (on 13 July 2020, Paragraph (1) of Article 57, Section 3, Chapter II was amended by Point 4, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (2) The provisions of paragraph (1) do not affect the contracting authority's obligations set out in Articles 145 and 215 regarding the submission for publication of the contract award notice and, respectively, the communication of the outcome of the award procedure to candidates/tenderers.(3) The contracting authority may impose certain requirements on economic operators in order to protect the confidentiality of the information it makes available throughout the entire award procedure.(4) Economic operators shall indicate and substantiate within the tender which information in the technical proposal, elements of the financial proposal and/or price/cost justifications are confidential because they constitute: personal data, technical or trade secrets, or are protected by an intellectual property right. The information identified by economic operators in the technical proposal, elements of the financial proposal and/or price/cost justifications as being confidential must be accompanied by evidence establishing its confidential nature; such evidence shall form an annex to the tender, failing which the provisions of paragraph (1) shall not apply. (on 13 July 2020, Article 57 of Section 3, Chapter II was supplemented by Point 5, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) + Section 4 Rules on the avoidance of conflicts of interest + Article 58 During the conduct of the procurement procedure, the contracting authority is obliged to take all necessary measures to prevent, identify and remedy situations of conflict of interest, with a view to avoiding distortion of competition and ensuring equal treatment for all economic operators. + Article 59 For the purposes of this Act, 'conflict of interest' means any situation in which members of the staff of the contracting authority or of a procurement service provider acting on behalf of the contracting authority, who are involved in the conduct of the award procedure or who may influence its outcome, have, directly or indirectly, a financial, economic or other personal interest which could be perceived as compromising their impartiality or independence in the context of the award procedure. + Article 60(1) Situations that could give rise to a conflict of interest within the meaning of Article 59 include, by way of example, the following: (a) the participation in the process of verifying or evaluating requests to participate or tenders by persons holding shares, stakeholders, or shares in the subscribed capital of one of the tenderers/candidates, proposed third-party supporters or subcontractors, or of persons who are members of the board of directors/management or supervisory body of one of the tenderers/candidates, proposed third-party supporters or subcontractors; ... (b) the participation in the process of verifying/evaluating requests to participate/tenders by a person who is the spouse, relative or relative by marriage, up to and including the second degree, of persons who are members of the board of directors/management or supervisory body of one of the tenderers/candidates, supporting third parties or proposed subcontractors; ... c) the participation in the process of verifying or evaluating requests to participate or tenders by a person in respect of whom it is established, or in respect of whom there are reasonable grounds or concrete information to suggest, that they may have, directly or indirectly, a personal, financial, economic or other interest, or is in any other situation likely to affect their independence and impartiality during the evaluation process; ... d) a situation where the individual tenderer/consortium tenderer/candidate/proposed subcontractor/supporting third party has, as members of its board of directors/management or supervisory body and/or as significant shareholders or partners, persons who are a spouse, relative or relative by marriage up to and including the second degree, or who are in a commercial relationship with

persons with decision-making powers within the contracting authority or the procurement service provider involved in the award procedure; ... (e) where the tenderer/candidate has nominated, amongst the key personnel designated to perform the contract, persons who are a spouse, relative or relative by marriage up to and including the second degree, or who have commercial relations with persons holding decision-making positions within the contracting authority or the procurement service provider involved in the award procedure; ... (f) [where the individual tenderer/consortium tenderer/candidate/proposed subcontractor/supporting third party organised as a public limited company with share capital represented by bearer shares fails to comply with the provisions of Article 53\(2\) and \(3\). \(on 27 July 2020, Paragraph \(1\) of Article 60, Section 4, Chapter II was supplemented by Point 2, SOLE ARTICLE of Law No. 148 of 23 July 2020, published in the Official Gazette No. 658 of 24 July 2020\) ...](#) (2) For the purposes of paragraph (1)(d), 'significant shareholder or partner' means a person who exercises rights attached to shares which, taken together, represent at least 10 per cent of the share capital or confer on the holder at least 10 per cent of the total voting rights at the general meeting. + Article 61 The successful tenderer with whom the contracting authority has concluded the public procurement contract shall not be entitled to enter into or conclude any other agreements concerning the provision of services, directly or indirectly, for the purpose of performing the public procurement contract, with natural or legal persons who were involved in the process of verifying or evaluating the requests to participate or tenders submitted in the course of an award procedure, or with employees or former employees of the contracting authority or of the procurement service provider involved in the award procedure with whom the contracting authority or procurement service provider involved in the award procedure has terminated their contractual relations following the award of the public procurement contract, for a period of at least 12 months from the conclusion of the contract, on pain of the automatic rescission or termination of that contract. + Article 62(1) Where the contracting authority identifies a situation that may give rise to a conflict of interest within the meaning of Article 59, it shall be obliged to take all necessary steps to determine whether that situation constitutes a conflict of interest and to provide the candidate/tenderer in that situation with a statement of the reasons which, in the contracting authority's opinion, are likely to give rise to a conflict of interest.(2) In the case referred to in paragraph (1), the contracting authority shall request the candidate or tenderer to submit their views on the situation in question.(3) Where, following the application of the provisions of paragraphs (1) and (2), the contracting authority determines that a conflict of interest exists, the contracting authority shall take the necessary measures to remove the circumstances giving rise to the conflict of interest, including measures such as replacing the persons responsible for evaluating tenders where their impartiality is compromised, where possible, or the exclusion of the tenderer/candidate who has a relationship with persons holding decision-making functions within the contracting authority. + Article 63(1) The contracting authority shall specify in the procurement documents the names of the persons holding decision-making functions within the contracting authority or the procurement service provider involved in the award procedure.(2) The contracting authority shall publish, by electronic means, the name and identification details of the tenderer/candidate/proposed subcontractor/supporting third party, within a maximum of 5 days from the expiry of the deadline for the submission of requests to participate/tenders, with the exception of natural persons, in whose case only the name shall be published. + Section 5 Rules applicable to communications + Article 64(1) Any communication, request, information, notification and the like, as provided for by this Act, shall be transmitted in writing, by electronic means of communication or, exceptionally, by means other than electronic ones.(2) The tools and devices used for communication by electronic means, as well as their technical characteristics, must be non-discriminatory, generally available, must ensure interoperability with general-purpose products in the field of information and communications technology, and must not restrict economic operators' access to the award procedure.(3) By way of derogation from the provisions of paragraph (1), oral communication may be used for communications other than those concerning the essential elements of an award procedure, provided that the main elements of the content of the oral communication are recorded in writing, provided that the award procedures are complied with, and provided that all participants are informed.(4) For the purposes of paragraph (3), the essential elements of the award procedure include the procurement documents, requests to participate and tenders.(5) The content of verbal communications with tenderers which could have a significant impact on the content and evaluation of tenders shall be recorded by appropriate means, such as minutes, audio recordings or summaries of the main elements of the communication. + Article 65(1) The contracting authority is obliged to ensure the protection of data integrity, the confidentiality of tenders and requests to participate in all operations involving the communication, transmission and storage of information. (2) [The content of tenders and requests to participate, as well as that of plans/projects in the case of design contests, shall remain confidential until the procedure report is published. \(on 4 June 2018, Paragraph \(2\) of Article 65, Section 5, Chapter II was amended by Point 7, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) (3) The contracting authority shall take note of the content of tenders, requests to participate or plans/projects in the case of design contests only from the date set for their opening. + Article 66(1) The contracting authority is entitled, where necessary, to require the use of tools and devices that are not generally available, provided that it offers alternative means of access.(2) The contracting authority shall provide appropriate alternative means of access if it is in one of the following situations: (a) it provides direct, unrestricted, full and free access, by electronic means, to the tools and devices referred to in paragraph (1) from the date of publication of the contract notice; the contract notice specifies the internet

address at which these tools and devices are accessible; ... b)

ensures that economic operators who do not have access to the tools and devices referred to in paragraph (1) and are unable to obtain them within the set time limits – provided that the lack of access cannot be attributed to the economic operator in question – may access the award procedure by using provisional devices made available free of charge online; ... (c) ensure the availability of an alternative method for the electronic submission of tenders. ... + Article 67 The implementing rules for this Act shall establish, taking into account technological progress, the following: (a) the situations and conditions in which the use of means of communication other than electronic ones is permitted; ... b) the rules and requirements to be met by the devices and tools used in connection with the transmission and receipt of tenders, requests to participate or plans/designs in the case of design contests, including the circumstances and conditions under which the use of an advanced electronic signature may be required or is necessary, as well as the procedures for its implementation; ... (c) the use of specific technical standards to ensure the interoperability of the tools and devices used for electronic communication. ... + Chapter III Award Procedures + Section 1 Award Procedures + Paragraph 1 Application of award procedures + [Article 68\(1\) The award procedures governed by this Act, applicable to the award of public procurement contracts/framework agreements or the organisation of design contests with an estimated value equal to or greater than the thresholds set out in Article 7\(5\), are as follows: a\) open tender; ... b\) restricted tender; ... c\) competitive negotiation; ... d\) competitive dialogue; ... e\) innovation partnership; ... f\) negotiation without prior publication; ... g\) design contest; solutions; ... h\) the award procedure applicable to social services and other specific services; ... i\) the simplified procedure\(2\) Repealed. \(on 13 July 2020, Paragraph \(2\) of Article 68, Section 1, Chapter III was repealed by Point 6, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\) \(on 22 December 2017, Article 68 of Paragraph 1, Section 1, Chapter III was amended by Point 11, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\) + Article 69\(1\) The contracting authority shall award public procurement contracts/framework agreements, where the estimated value is greater than or equal to the thresholds set out in Article 7\(1\), by applying the open or restricted tender procedures.\(2\) By way of derogation from the provisions of paragraph \(1\), the contracting authority is entitled to apply the innovation partnership under the conditions set out in Articles 95–103.\(3\) By way of derogation from the provisions of paragraph \(1\), the contracting authority is entitled to apply the competitive negotiation and competitive dialogue procedures only in the cases and under the conditions set out in Article 70.\(4\) By way of derogation from the provisions of paragraph \(1\), the contracting authority is entitled to apply the negotiated procedure without prior publication of a contract notice exclusively in the cases and under the conditions set out in Article 104.\(5\) By way of derogation from the provisions of paragraph \(1\), the contracting authority is entitled to organise a design contest under the conditions set out in Article 3\(1\)\(j\) and Articles 105–110.\(6\) By way of derogation from the provisions of paragraph \(1\), the contracting authority shall award public procurement contracts or framework agreements for social services and other specific services under the conditions set out in Articles 111 and 112. + Article 70\(1\) The contracting authority shall be entitled to apply the competitive negotiation procedure or the competitive dialogue procedure for the procurement of works, products or services, provided that at least one of the following criteria is met: \(a\) the contracting authority's needs cannot be met without the rapid adaptation of solutions available on the market; ... \(b\) the works, supplies or services involve design solutions or innovative solutions;\(c\) the contract cannot be awarded without prior negotiations due to specific circumstances relating to its nature or complexity, or to its legal and financial structure, or due to the risks associated with these;d\) the cannot be defined with sufficient precision by the contracting authority by reference to a standard, a European Technical Assessment, a Common Technical Specification or a technical reference...\(2\) \[The contracting authority shall have the right to apply the competitive negotiation procedure or the competitive dialogue procedure for the procurement of works, products or services where, following a simplified, open or restricted tender procedure, only non-compliant or unacceptable tenders have been submitted. \\(On 30 August 2021, Paragraph \\(2\\) of Article 70, Paragraph 1, Section 1, Chapter III was amended by Point 4, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021\\) \\(3\\) In the case provided for in paragraph \\(2\\), the contracting authority is entitled not to publish a contract notice if it invites to the award procedure only those tenderers who, in the context of a previously conducted simplified, open or restricted tender procedure, met the qualification criteria and submitted tenders in accordance with the formal requirements of the award procedure. \\(On 30 August 2021, Paragraph \\(3\\) of Article 70, Paragraph 1, Section 1, Chapter III was amended by Point 4, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021\\)\]\(#\) + Paragraph 2 Open tender + Article 71 In an open tender procedure, any economic operator has the right to submit a tender following the publication of a contract notice. + Article 72 The open tender is initiated by submitting a notice of participation for publication, in accordance with the provisions of Article 144\(2\) and \(3\), through which the contracting authority invites economic operators to submit tenders. + Article 73\(1\) The open tender procedure shall be conducted in a single mandatory stage. \(2\) The contracting authority shall have the right to decide to organise a final stage of electronic tendering, in which case it shall be obliged to specify this decision in the contract notice and in the tender documentation. + Article 74\(1\) The period between the date on which the contract notice is sent for publication in the Official Journal of the European](#)

Union and the deadline for the submission of tenders shall be at least 35 days.(2) Where the contracting authority has published a notice of intent relating to the public procurement contract to be awarded,

it shall be entitled to reduce the period referred to in paragraph (1) to at least 15 days if all of the following conditions are met: (a) the notice of intent included all the information required for the contract notice, in so far as that information was available at the time of publication of the notice of intent; ... (b) the notice of intent was submitted for publication between 35 days and 12 months

before the date of submission of the contract notice(3) Where an emergency, duly demonstrated by the contracting authority, makes it impossible to comply with the period provided for in paragraph (1), the contracting authority may set a reduced period for the submission of tenders, which may not be less than 15 days from the date on which the contract notice was submitted for publication.(4) The contracting authority is entitled to reduce the period for the submission of tenders provided for in paragraph (1) by 5 days where it accepts the submission of tenders by electronic means, subject to the conditions laid down in this Act. + Article 75 The tenderer shall submit a tender drawn up in accordance with the information and requirements set out in the procurement documents, accompanied by the documents or the European Single Procurement Document, in accordance with the provisions of Articles 193–197, as applicable, which demonstrate compliance with the qualification criteria established by the contracting authority. + Paragraph 3 Restricted tender + Article 76 In a restricted tender procedure, any economic operator shall be entitled to submit a request to participate following the publication of a contract notice, whereupon only those candidates who meet the qualification and selection criteria set by the contracting authority shall be entitled to submit a tender at the subsequent stage. + Article 77 The restricted tender procedure is initiated by the submission for publication of a contract notice, in accordance with the provisions of Article 144(2) and (3), whereby the contracting authority invites economic operators to submit requests to participate with a view to providing the information and documents for qualification and selection as determined by the contracting authority. + Article 78(1) The restricted tender procedure shall be conducted in two mandatory stages: (a) the stage of submitting requests to participate and selecting candidates, by applying the qualification and selection criteria; (b) the stage of submission of tenders by the candidates selected in the first stage and the evaluation

these tenders, by applying the award criterion and the evaluation factors(2) In the stage referred to in paragraph (1)(a),

The contracting authority is entitled to limit the number of candidates who meet the qualification and selection criteria and who will be invited to submit tenders in the second stage, provided that a certain minimum number of candidates is ensured.(3) The contracting authority is obliged to specify in the contract notice the objective and non-discriminatory criteria or rules it intends to apply, the minimum number of candidates it intends to invite to submit tenders in the second stage of the procedure and, where applicable, the maximum number.(4) The minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (3) must be sufficient to ensure genuine competition and, in any event, may not be less than 5. (5) When selecting candidates, the contracting authority is obliged to apply only the selection criteria set out in the contract notice.(6) Upon completion of the stage referred to in paragraph (1)(a), the contracting authority shall simultaneously send all selected candidates an invitation to participate in the second stage.(7) The contracting authority is obliged to invite to the second stage a number of candidates at least equal to the minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (4).(8) Where the number of candidates meeting the qualification and selection criteria is lower than the minimum number specified in the contract notice in accordance with the provisions of paragraph (4), the contracting authority shall be entitled to choose either to continue the award procedure only with the candidate(s) who meet the required criteria or to cancel the procedure, under the conditions laid down in Article 213.(9) The contracting authority shall not be entitled to invite to the second stage an economic operator who has not submitted a request to participate in the first stage or who has not met the qualification and selection criteria.(10) The contracting authority is entitled to decide to organise a final stage of an electronic auction, in which case it is obliged to specify this decision in the contract notice and in the tender documentation. + Article 79(1) The period between the date on which the contract notice is sent for publication in the Official Journal of the European Union and the deadline for the submission of requests to participate shall be at least 30 days.(2) The period between the date on which the invitation to participate in the second stage of the award procedure is sent and the deadline for the submission of tenders shall be at least 30 days.(3) Where the contracting authority has published a notice of intent concerning the public procurement contract or framework agreement to be awarded, it is entitled to reduce the period provided for in paragraph

(2) to at least 10 days if all of the following conditions are met: (a) the notice of intent included all the information required for the contract notice, in so far as that information was available at the time of publication of the notice of intent;b) the notice of intent was submitted for publication between 35 days and 12 months before the date of submission of the contract notice(4) The has the right to reduce the period for the submission of tenders provided for in paragraph (2) by 5 days where it accepts the submission of tenders by electronic means, subject to the conditions of this Act.(5) Where an emergency, duly demonstrated by the contracting authority, makes it impossible to comply with the time limits set out in paragraph (1) or (2), or that resulting from the application of paragraph (3), the contracting authority may set: (a) a reduced period for the submission of requests to participate, which may not be less than 15 days from the date on which the contract notice was sent for publication; (b) a reduced period for the submission of tenders, which

may not be less than 10 days from the date on which the invitation to participate in the second stage of the award procedure is sent. ... + Paragraph 4 Competitive Negotiation + Article 80 In the competitive negotiation procedure, any economic operator is entitled to submit a request to participate following the publication of a contract notice, whereupon only those candidates who meet the qualification and selection criteria set by the contracting authority shall be entitled to submit initial tenders at the subsequent stage, on the basis of which the contracting authority shall

conduct negotiations with a view to improving them. + Article 81 Competitive negotiation is initiated by the submission for publication of a contract notice, in accordance with the provisions of Article 144(2) and (3), whereby the contracting authority invites economic operators to submit requests to participate in order to provide the information and documents for qualification and selection as determined by the contracting authority. + Article 82(1) The competitive negotiation procedure shall, as a rule, be conducted in two mandatory stages: (a) the stage of submitting requests to participate and selecting candidates, by applying the qualification and selection criteria; ... (b) the stage of the submission of initial tenders by the candidates selected in the first stage and the assessment of their compliance with the minimum requirements set by the contracting authority in accordance with Article 83(2), and negotiations aimed at improving the initial tenders, the submission of final tenders and their evaluation, by applying the award criterion and the evaluation factors (2) At the stage referred to in paragraph (1)(a), the contracting authority is entitled to limit the number of candidates who meet the qualification and selection criteria and who will be invited to submit initial tenders, provided that a minimum of 3 candidates is ensured.(3) The contracting authority is obliged to specify in the contract notice the objective and non-discriminatory criteria or rules it intends to apply, the minimum number of candidates it intends to invite to submit initial tenders in the second stage of the procedure and, where applicable, the maximum number.(4) The minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (3) must be sufficient to ensure genuine competition, provided that a minimum of three candidates is ensured. (5) When selecting candidates, the contracting authority is obliged to apply only the selection criteria set out in the contract notice.(6) Upon completion of the stage provided for in paragraph (1)(a), the contracting authority shall simultaneously send all selected candidates an invitation to participate in the second stage. (7) The contracting authority is obliged to invite to the second stage a number of candidates at least equal to the minimum number of candidates indicated in the contract notice in accordance with the provisions of paragraph (4).(8) Where the number of candidates meeting the qualification and selection criteria is lower than the minimum number specified in the contract notice, in accordance with the provisions of paragraph (4), the contracting authority shall be entitled to choose either to continue the award procedure only with that candidate or those candidates who meet the required criteria, or to cancel the procedure, under the conditions laid down in Article 213.(9) The contracting authority shall not be entitled to invite to the second stage an economic operator who has not submitted a request to participate in the first stage or who has not met the qualification and selection criteria.(10) The contracting authority may award the public procurement contract or framework agreement on the basis of the initial tenders, without negotiation, if it has reserved this option in the contract notice.(11) The contracting authority has the right to decide to organise a final stage of electronic tendering, in which case it is obliged to specify this decision in the contract notice and in the tender documentation. + Article 83(1) In the tender documentation, the contracting authority shall define the subject-matter of the procurement by describing the contracting authority's requirements and the characteristics required of the products, works or services to be procured, and shall set out the award criteria and the factors for evaluating tenders.(2) In describing the elements referred to in paragraph (1), the contracting authority shall specify the minimum requirements in relation to them that tenders must meet.(3) The information provided in the tender documentation must be sufficiently precise to enable economic operators to determine the nature and general scope of the procurement and, on that basis, to decide whether to submit a request to participate or not to take part in the award procedure. + Article 84(1) The period between the date on which the contract notice is sent for publication in the Official Journal of the European Union and the deadline for the submission of requests to participate shall be at least 30 days.(2) The period between the date of dispatch of the invitation to participate in the second stage of the award procedure and the deadline for the submission of initial tenders shall be at least 30 days.(3) Where the contracting authority has published a notice of intent concerning the public procurement contract or framework agreement to be awarded, it is entitled to reduce the period provided for in paragraph (2) to at least 10 days if all of the following conditions are met: (a) the notice of intent included all the information required for the contract notice, insofar as that information was available at the time of publication of the notice of ;.....(b) the notice of intent was submitted for publication between 35 days and 12 months before the date of submission of the contract notice(4) The contracting authority is entitled to reduce by 5 days the period for the submission of initial tenders provided for in paragraph (2) where it accepts the submission of tenders by electronic means, subject to the conditions of this Act. (5) Where an emergency, duly demonstrated by the contracting authority, makes it impossible to comply with the periods provided for in paragraph (1) or (2), or that resulting from the application of paragraph (4), the contracting authority may set: a) a reduced period for the submission of requests to participate, which may not be less than 15 days from the date on which the contract notice was sent for publication; (b) a reduced period for the submission of initial tenders, which may not be less than 10 days from the date on which the invitation to participate in the second stage of the award procedure is sent. ... + Article 85(1) Except in the circumstances provided for in Article 82(10), the contracting authority shall negotiate with tenderers on their initial tenders and any subsequent tenders submitted by them, with the exception of final tenders, with a view to improving their content.(2) The minimum requirements established by the contracting authority in accordance with Article 83(2), the award criterion and the evaluation factors

may not be subject to negotiation.(3) During the negotiations, the contracting authority is obliged to ensure compliance with the principle of equal treatment of all tenderers and not to provide information in a discriminatory manner that could give one or more tenderers an advantage over the others.(4) The contracting authority shall inform in writing all tenderers whose tenders have not been excluded from the competition in accordance with paragraphs (8) and (9) of any changes to the technical specifications or other documents of the

the procurement procedure, with the exception of the provisions relating to the minimum requirements established by the contracting authority in accordance with Article 83(2), which may not be amended. (5) Following the amendments provided for in paragraph (4), the contracting authority shall allow tenderers sufficient time to amend their tenders and resubmit the amended tenders, where appropriate. (6) The contracting authority shall not disclose to the other participants any confidential information provided by a candidate or tenderer taking part in the negotiations without that party's written consent. (7) The consent referred to in paragraph (6) may not be given in general terms, but must be given in respect of each specific instance where the contracting authority intends to disclose particular information. (8) The contracting authority is entitled to conduct negotiations in successive rounds, with the aim of reducing the number of tenders to be negotiated. (9) The reduction in the number of tenders in accordance with the provisions of paragraph (8) shall be carried out solely on the basis of the evaluation criteria set out in the contract notice or other procurement document. (10) The contracting authority must indicate in the contract notice or another procurement document that it intends to exercise the option provided for in paragraph (8). (11) Where the contracting authority intends to conclude negotiations, it shall inform the tenderers remaining in the competition and set a deadline for the submission of new or revised tenders, which shall constitute the final tenders. (12) The contracting authority shall verify whether the final tenders referred to in paragraph (11) comply with the minimum requirements set by the contracting authority in accordance with Article 83(2) and the other requirements set out in the tender documentation, shall evaluate the final tenders, and shall award the contract on the basis of the award criterion and the evaluation factors. + Paragraph 5 Competitive dialogue + Article 86 In the competitive dialogue procedure, any economic operator is entitled to submit a request to participate following the publication of a contract notice; only candidates who meet the qualification and selection criteria set by the contracting authority shall be entitled to participate in the dialogue stage, and the candidates remaining at the end of the dialogue phase shall be entitled to submit final tenders. + Article 87 The competitive dialogue procedure shall be initiated by the submission for publication of a contract notice, in accordance with the provisions of Article 144(2) and (3), whereby the contracting authority invites economic operators to submit requests to participate with a view to providing the information and documents for qualification and selection as determined by the contracting authority. + Article 88(1) The competitive dialogue procedure shall be conducted in three stages: (a) the stage of submitting requests to participate and selecting candidates, by applying the qualification and selection criteria; ... (b) the stage of dialogue with the selected candidates, with a view to identifying the solution(s) capable of meeting the contracting authority's needs and on the basis of which the final tenders will be submitted; ... c) the stage of the submission of final tenders by the candidates remaining after the dialogue stage and their evaluation, by applying the award criterion and the evaluation factors (2) During the stage referred to in paragraph (1)(a), the contracting authority shall have

the right to limit the number of candidates who meet the qualification and selection criteria and who will be invited to participate in the dialogue stage, provided that a certain minimum number of candidates is ensured. (3) The contracting authority is obliged to specify in the contract notice the objective and non-discriminatory criteria or rules it intends to apply, the minimum number of candidates it intends to invite to the second stage of the procedure and, where applicable, the maximum number. (4) The minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (3) must be sufficient to ensure genuine competition and, in any event, may not be less than 3. (5) When selecting candidates, the contracting authority is obliged to apply only the selection criteria set out in the contract notice. (6) Upon completion of the stage referred to in paragraph (1)(a), the contracting authority shall simultaneously send all selected candidates an invitation to participate in the second stage. (7) The contracting authority is obliged to invite to the second stage a number of candidates at least equal to the minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (4). (8) Where the number of candidates meeting the qualification and selection criteria is lower than the minimum number specified in the contract notice in accordance with the provisions of paragraph (4), the contracting authority shall be entitled to choose either to continue the award procedure only with the candidate(s) who meet the required criteria or to cancel the procedure, under the conditions laid down in Article 213. (9) The contracting authority shall not be entitled to invite to the second stage an economic operator who has not submitted a request to participate in the first stage or who has not met the qualification and selection criteria. (10) Upon completion of the stage referred to in paragraph (1)(b), the contracting authority shall simultaneously send all remaining candidates an invitation to submit final tenders. + Article 89 The period between the date of dispatch of the contract notice for publication in the Official Journal of the European Union and the deadline for the submission of requests to participate shall be at least 30 days. + Article 90(1) The contracting authority shall set out its needs and requirements in the contract notice and define them in the contract notice and/or a descriptive document. (2) The contracting authority shall set out and define, in the contract notice and/or the descriptive document referred to in paragraph (1), the award criterion and the evaluation factors chosen, as well as an indicative timeframe for the conduct of the award procedure. (3) [The award criteria used in the competitive dialogue procedure shall be the best value for money or the best quality-cost ratio, as provided for in Article 187\(3\)\(a\) and \(b\). \(On 10 September 2022, Paragraph \(3\) of Article 90, Paragraph 5, Section 1, Chapter III was amended by Point 3, Article I of Law No. 208 of 11 July 2022, published in the OFFICIAL GAZETTE No. 697 of 12 July 2022\)](#) + Article 91(1) The contracting authority shall conduct the dialogue phase with each selected candidate individually, with a view to identifying and defining the best means

of meeting its needs.(2) Only candidates selected by the contracting authority following the completion of the stage provided for in Article 88(1)(a) may participate in the dialogue stage. (3) During the dialogue, the contracting authority and the selected candidates may discuss all aspects relating to the procurement.(4) During the dialogue, the contracting authority is obliged to ensure compliance with the principle of equal treatment of all candidates and not to

provide information in a discriminatory manner that could give one or more candidates an advantage over the others. (5) The contracting authority is obliged not to disclose to the other candidates the proposed solutions or other confidential information communicated by a candidate participating in the dialogue, without that candidate's written consent. (6) The consent referred to in paragraph (5) may not be given in general terms, but must be given in respect of each specific intention to disclose particular information. + Article 92(1) The contracting authority is entitled to conduct the dialogue in successive rounds, with the aim of reducing the number of solutions to be discussed during the dialogue phase. (2) The reduction in the number of solutions in accordance with the provisions of paragraph (1) shall be carried out solely on the basis of the evaluation criteria set out in the contract notice and/or the descriptive document referred to in Article 90(1).

(3) The contracting authority must indicate its intention to apply the option provided for in paragraph (1) in the contract notice and/or the descriptive document referred to in Article 90(1). (4) The contracting authority shall continue the dialogue until it is in a position to identify the solution or solutions capable of meeting its needs. (5) Once the contracting authority has declared the dialogue phase closed and has informed the remaining candidates accordingly, it shall invite each of them to submit their final tenders based on the solution or solutions presented and specified during the dialogue. (6) The final tenders referred to in paragraph (5) shall include all the elements required and necessary for the implementation of the project. (7) The contracting authority shall be entitled to request clarifications, further details and improvements to the final tenders. (8) The clarifications, specifications and improvements referred to in paragraph (7), as well as any additional information provided by the tenderer, shall not lead to a change in the essential elements of the award procedure, including the needs and requirements set out in the contract notice and/or the descriptive document referred to in Article 90(1), (1), where any alteration to these elements, needs and requirements is likely to distort competition or have a discriminatory effect. + Article 93(1) The contracting authority shall evaluate the tenders received on the basis of the award criterion and the evaluation factors set out in the contract notice and/or in the descriptive document referred to in Article 90(1). (2) At the request of the contracting authority, negotiations may be held with the tenderer whose final tender has been identified as offering the best value for money following the application of the evaluation factors established by the contracting authority, with a view to confirming the financial commitments or other terms and conditions included in the tender in order to establish the terms of the contract, provided that such negotiations do not result in substantial changes to the essential aspects of the tender or the public procurement, including the needs and requirements set out in the contract notice or the descriptive document referred to in Article 90(1), and do not risk distorting competition or leading to discrimination. + Article 94 The contracting authority may provide for bonuses or payments to participants in the dialogue under the conditions set out in the procurement documents. + Paragraph 6 Innovation partnership + Article 95 Within the framework of an innovation partnership, any economic operator is entitled to submit a request to participate following the publication of a contract notice, whereupon only candidates meeting the qualification and selection criteria set by the contracting authority shall be entitled to submit initial tenders at the subsequent stage, on the basis of which the contracting authority shall conduct negotiations with a view to improving them. + Article 96 The innovation partnership is initiated by the submission for publication of a call for participation, in accordance with the provisions of Article 144(2) and (3), whereby the contracting authority invites economic operators to submit requests to participate with a view to providing the information and documents for qualification and selection as determined by the contracting authority. + Article 97(1) The Innovation Partnership shall be conducted in three stages: (a) the stage of submitting requests to participate and selecting candidates, by applying the qualification and selection criteria; ... (b) the stage of the submission of initial tenders by the candidates selected in the first stage and the assessment of their compliance with the requirements set by the contracting authority in accordance with Article 98(3); ... c) the stage of negotiations aimed at improving the initial tenders, the submission of final tenders and their evaluation, by applying the award criterion and the evaluation factors (2) During the stage referred to in paragraph (1)(a), the contracting authority is entitled to limit the number of

candidates who meet the qualification and selection criteria and who will be invited to submit initial tenders, provided that a certain minimum number of candidates is ensured. (3) The contracting authority is required to specify in the contract notice the selection criteria and the objective and non-discriminatory rules it intends to apply for the selection of candidates, the minimum number of candidates it intends to invite to the second stage of the procedure and, where applicable, the maximum number. (4) The minimum number of candidates specified in the contract notice in accordance with the provisions of paragraph (3) must be sufficient to ensure genuine competition and, in any event, may not be less than three. (5) When selecting candidates, the contracting authority is obliged to apply only the qualification and selection criteria set out in the contract notice. (6) Upon completion of the stage referred to in paragraph (1)(a), the contracting authority shall simultaneously send all selected candidates an invitation to participate in the second stage. (7) The contracting authority is obliged to invite to the second stage at least as many candidates as the minimum number specified in the contract notice in accordance with the provisions of paragraph (4). (8) Where the number of candidates meeting the qualification and selection criteria is lower than the minimum number specified in the contract notice in accordance with the provisions of paragraph (4), the contracting authority shall be entitled to choose either to continue the award procedure only with the candidate(s) who meet the required criteria or to cancel the procedure, under the conditions laid down in Article 213. (9) Upon completion of the stage provided for in paragraph (1)(b), the

contracting authority shall simultaneously send all candidates an invitation to participate in the third stage of the award procedure. + Article 98(1) The contracting authority shall apply the innovation partnership where it identifies a need for the development and subsequent procurement of an innovative product, service or works, a need which cannot be met by solutions available on the market at a given time. (2) In the tender documentation

tender documentation, the contracting authority shall describe the requirements relating to the innovative product, service or works that cannot be met by the procurement of products, services or works available on the market at that time.(3) In describing the elements referred to in paragraph (2), the contracting authority shall set out the minimum requirements in relation to them that tenders must meet.(4) The information provided in the procurement documents must be sufficiently precise to enable economic operators to determine the nature and scope of the solution required and, on that basis, to decide whether to submit a request to participate or not to take part in the award procedure.(5) The contracting authority may decide to implement the innovation partnership with a single partner or with several partners carrying out separate research and development activities.(6) The award criteria used in the case of an innovation partnership are the best value for money or the best cost-effectiveness, as provided for in Article 187(3)(a) and (b). (On 10 September 2022, Paragraph (6) of Article 98, Paragraph 6, Section 1, Chapter III was amended by Point 4, Article I of Law No. 208 of 11 July 2022, published in the OFFICIAL GAZETTE No. 697 of 12 July 2022) + Article 99 The period between the date of transmission of the contract notice for publication in the Official Journal of the European Union and the deadline for the submission of requests to participate shall be at least 30 days. + Article 100 The aim of the innovation partnership is to develop an innovative product, service or works and the subsequent procurement of the resulting products, services or works, provided that they meet the performance levels and maximum costs agreed between the contracting authority and the participants. + Article 101(1) The innovation partnership shall be carried out in successive phases, following the sequence of stages in the research and innovation process, which may include the manufacture of products, the provision of services or the completion of works.(2) Within the innovation partnership, interim targets to be achieved by the partners shall be set, as well as payment of the price in corresponding instalments. (3) On the basis of the targets set in accordance with paragraph (2), the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership concluded with several partners, to reduce the number of partners by terminating certain individual contracts, provided that the contracting authority has specified these possibilities in the tender documentation, together with the conditions for their application. + Article 102(1) With regard to the qualification and selection of candidates, the contracting authority shall, in particular, lay down criteria relating to the candidates' capacity in the field of research and development, the development of innovative solutions and their implementation.(2) Only candidates selected by the contracting authority following the completion of the stage provided for in Article 97(1)(a) may submit research and innovation projects that meet the needs identified by the contracting authority which cannot be met by existing solutions.(3) In the tender documentation, the contracting authority shall set out the rules applicable to intellectual property rights. (4) In the case of an innovation partnership involving several partners, the contracting authority shall not disclose to the other partners the proposed solutions or other confidential information communicated by a partner within the partnership without that partner's consent.(5) The agreement referred to in paragraph (4) may not be expressed in general terms, but must be specified in relation to each intended disclosure of specific information.(6) The contracting authority shall ensure that the structure of the partnership and, in particular, the duration and value of its various phases reflect the degree of innovation of the proposed solution and the sequence of research and innovation activities necessary for the development of an innovative solution that is not available on the market.(7) The estimated value of the products, services or works must not be disproportionate to the investment required for their development. + Article 103(1) The contracting authority shall negotiate with tenderers on their initial tenders and any subsequent tenders submitted by them, with the exception of final tenders, with a view to improving their content.(2) The minimum requirements established by the contracting authority in accordance with Article 98(3), the award criterion and the evaluation factors may not be subject to negotiation.(3) During the negotiations, the contracting authority is obliged to ensure compliance with the principle of equal treatment of all tenderers and not to provide information in a discriminatory manner which could give one or more tenderers an advantage over the others.(4) The contracting authority shall inform in writing all tenderers whose tenders have not been eliminated from the competition in accordance with paragraphs (8) and (9) regarding any amendments to the technical specifications or other procurement documents, with the exception of provisions relating to the minimum requirements established by the contracting authority in accordance with Article 98(3), which may not be amended.(5) Following the amendments provided for in paragraph (4), the contracting authority shall allow sufficient time for tenderers to amend their tenders and resubmit the amended tenders, where applicable.(6) The contracting authority shall not disclose to the other participants any confidential information provided by a candidate or tenderer taking part in the negotiations without that party's written consent. (7) The consent referred to in paragraph (6) may not be given in general terms, but must be given in respect of each specific instance where the contracting authority intends to disclose particular information.(8) The contracting authority is entitled to conduct negotiations in successive rounds, with the aim of reducing the number of tenders to be negotiated.(9) The reduction in the number of tenders in accordance with the provisions of paragraph (8) shall be carried out solely on the basis of the evaluation criteria set out in the contract notice or another procurement document.(10) The contracting authority must indicate in the contract notice or another procurement document that it intends to exercise the option provided for in paragraph (8). + Paragraph 7 Negotiation without prior publication + Article 104(1) The contracting authority is entitled to apply the negotiated procedure without prior publication of a contract notice for the award of public procurement contracts or framework agreements for works, supplies or services in one of

the following cases:(a) if, in an open, restricted or simplified tender procedure organised for the procurement of the relevant works, supplies or services, no tenders or requests to participate were submitted, or only unsuitable tenders or requests to participate were submitted, with

provided that the initial terms of the procurement are not substantially altered and, at the request of the European Commission, a report is submitted to it; (On 22 December 2017, point (a) of paragraph (1) of Article 104, paragraph 7, Section 1, Chapter III was amended by point 12, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) ... b) if the works, products or services can be supplied only by a specific economic operator for one of the reasons set out in paragraph (2); ... c) as a strictly necessary measure, where the time limits for open tender, restricted tender, competitive dialogue or simplified procedures cannot be met due to extreme urgency resulting from unforeseeable events and which are in no way attributable to any action or inaction on the part of the contracting authority. (On 24 May 2024, subparagraph (c), paragraph (1), Article 104, Section 1, Chapter III was amended by Point 1., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) ... (d) repealed. (On 24 May 2024, subparagraph (d), paragraph (1), Article 104, Section 1, Chapter III was repealed by Point 2., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) ... (2) The grounds set out in paragraph (1)(b) are as follows: (a) the purpose of the procurement is the creation or acquisition of a work of art or a unique artistic performance; ... (b) there is no competition for technical reasons ; ... c) the protection of exclusive rights, including intellectual property rights (3) The may apply the negotiated procedure without prior publication of a contract notice in the case provided for in paragraph (1)(b) only if, in relation to the grounds set out in paragraph (2)(b) and (c), there is no reasonable alternative or substitute solution, such as the use of alternative distribution channels within or outside Romania or the procurement of works, products or services that are functionally comparable, and the absence of competition or the protection of exclusive rights is not the result of an artificial restriction by the contracting authority of the procurement parameters with a view to the forthcoming award procedure. Technical grounds may also arise from specific interoperability requirements that must be met to ensure the proper functioning of the works, products or services to be procured. (4) In the case provided for in paragraph (1)(c), the contracting authority shall not be entitled to specify in the procurement documents a contract duration longer than that necessary to address the unforeseen circumstances that led to the application of the negotiated procedure without prior publication of a contract notice. (on 21 March 2022, Paragraph (4) of Article 104, Paragraph 7, Section 1, Chapter III was amended by Point 2, Article I of EMERGENCY ORDINANCE No. 26 of 18 March 2022, published in the OFFICIAL GAZETTE No. 272 of 21 March 2022) (4¹) Repealed. (on 24 May 2024, Paragraph (4¹), Article 104, Section 1, Chapter III was repealed by Point 3, Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (5) The contracting authority is entitled to apply the negotiated procedure without prior publication of a contract notice for the award of public supply contracts in one of the following cases: (a) where the products to be procured are manufactured exclusively for the purposes of scientific research, experimentation, study or development, and the public procurement contract does not provide for the mass production of quantities of the product with a view to establishing its commercial viability or recovering research and development costs; (b) where it is necessary to purchase from the original contractor of products intended to partially replace or extend existing products or installations, and only if a change of the original contractor would place the contracting authority in a position where it would have to procure products with technical characteristics different from those already in place, which would result in incompatibility or disproportionate technical difficulties in use and maintenance; (c) for products quoted and procured on a commodities market. (as at 4 June 2018, subparagraph (c) of paragraph (5), Article 104, Paragraph 7, Section 1, Chapter III was amended by Point 10, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (d) for the purchase of products or services on special on favourable terms from an economic operator that is permanently ceasing its commercial activities or is subject to bankruptcy proceedings, a composition with creditors or similar proceedings (6) The duration of contracts/additional concluded in accordance with the provisions of paragraph (5)(b), as well as the duration of the initial contracts, shall not, as a rule, exceed three years. (7) The contracting authority is entitled to apply the negotiated procedure without prior publication of a contract notice for the award of public service contracts where, following a design contest, the public service contract is to be awarded, in accordance with the rules laid down in the relevant design contest, to the winning entrant or to one of the winning entrants of that contest; in the latter case, the contracting authority is obliged to send an invitation to negotiate to all the winning entrants. (8) The contracting authority is entitled to apply the negotiated procedure without prior publication of a contract notice where, following the award of a public works or services contract, the contracting authority intends to procure new works or services, and only if all of the following conditions are met: (a) the contract is awarded to the original contractor, and the new works or services consist of the repetition of similar works or services provided for in the contract originally awarded and comply with the requirements set out in the procurement documents drawn up at the time of the original award; (b) the estimated value of the initial procurement of works or services was determined by taking into account, inter alia, the new works or services that may be procured at a later date; (on 10 September 2022, Point (b) of Paragraph (8), Article 104, Paragraph 7, Section 1, Chapter III was amended by Point 8, Article I

of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022)

... (c) the contract notice for the procedure applied for the award of the initial contract specified that the contracting authority has the right to opt for the subsequent procurement of new works or new services from the economic operator whose tender is declared the successful tender in that procedure; ... d) the negotiated procedure without prior publication of a contract notice shall be applied within a period not exceeding 3 years from the conclusion of the initial contract. ... + Paragraph 8 Design contest + Article 105 A design contest may be organised in one of the following ways: a) as part of a procedure for the award of a public service contract; ... b) as a separate award procedure, with prizes or payments awarded to participants. ... + Article 106(1) A design contest shall be initiated by the contracting authority publishing a contest notice inviting interested economic operators to submit proposals.(2) Where the contracting authority intends to award a subsequent public procurement contract for services following a negotiated procedure without prior publication in accordance with the provisions of Article 104(7), the contracting authority shall state this in the competition notice.(3) The contracting authority which has organised a design contest shall submit a notice regarding the results of the contest for publication and must be able to provide evidence of the date on which the notice was submitted.(4) By way of derogation from the provisions of paragraph (3), where the disclosure of information concerning the outcome of the design contest would impede the application of legal provisions, would be contrary to the public interest, would prejudice the legitimate commercial interests of a public or private undertaking, or could prejudice fair competition between service providers, the publication of such information is not mandatory. + Article 107 Where the contracting authority intends to limit the number of participants in a design contest, it shall establish clear, objective and non-discriminatory qualification and selection criteria, which must be explicitly set out in the procurement documents. + Article 108(1) For the purpose of evaluating the projects submitted in a design contest, the contracting authority shall appoint a jury composed exclusively of natural persons who are independent of the participants in the contest.(2) Where participants in the design contest are required to possess a specific professional qualification, at least one third of the members of the jury must hold that qualification or an equivalent one. + Article 109(1) The jury shall be independent in the decisions and opinions it issues.(2) The jury is obliged to assess, anonymously and exclusively on the basis of the criteria set out in the competition notice, the plans and designs submitted by the candidates.(3) [Anonymity shall be maintained until the jury adopts a decision or formulates an opinion; in this regard, the provisions of Article 63\(2\) concerning the obligation to publish, by electronic means, the name and identification details of the tenderer/candidate/proposed subcontractor/supporting third party shall not apply. \(On 22 December 2017, Paragraph \(3\) of Article 109, Paragraph 8, Section 1, Chapter III was amended by Point 13, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (4) On the basis of the qualitative assessment of each project, the jury shall draw up a ranking of the projects, as well as any observations and issues requiring clarification, in a report signed by all members of the jury. (5) Candidates may be invited, if necessary, to answer the questions set out in the report drawn up by the jury, with a view to clarifying any aspect relating to the projects.(6) The jury is required to draw up a full minutes of the dialogue between the jury members and the candidates. + Article 110 Detailed rules on the organisation of the design contest shall be laid down in the methodological rules for the implementation of this Act. + Paragraph 9 Social services and other specific services + Article 111(1) [The award procedure provided for in Article 68\(1\)\(h\), applicable to social services and other specific services set out in Annex 2, is a specific procedure, and the contracting authority is obliged to comply with the principles set out in Article 2\(2\).](#)(2) In applying the provisions of paragraph (1), in the case of procurements whose estimated value is equal to or greater than the threshold value set out in Article 7(1)(d), the contracting authority shall have the following additional obligations: (a) to make known its intention to procure the said services either by publishing a contract notice or by means of a continuously valid notice of intent; ... (b) to publish a contract award notice.(3) The notices referred to in paragraph (2) shall be published in accordance with the standard form established by the European Commission pursuant to the provisions of Article 51 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, and shall contain the information set out in Annex V, namely in Parts H, I or J of that Directive.(4) As an alternative to publishing individual award notices, the contracting authority is entitled to group together, on a quarterly basis, the award notices referred to in paragraph (2)(b); in such cases, the contracting authority is obliged to submit the award notices thus grouped for publication within 30 days of the end of each quarter.(5) By way of derogation from the provisions of paragraph (1) and paragraph (2)(a), in the cases and under the conditions set out in Article 104, the contracting authority is entitled to apply the negotiated procedure without prior publication for the procurement of social services and other specific services, as set out in Annex 2, the estimated value of which is equal to or greater than the threshold value set out in Article 7(1)(d); the obligation set out in paragraph (2)(b) remains applicable.(6) The award criteria used for the award of public procurement contracts/framework agreements relating to social services and other specific services, as set out in Annex 2, and with an estimated value equal to or greater than the threshold value set out in Article 7(1)(d) are the best value for money or the best quality-cost ratio, as provided for in Article 187(3)(a) and (b), taking into account the quality and sustainability criteria of social services. (On 24 May 2024, Paragraph (6) of Article 111, Section 1, Chapter III was amended by Point 4 of Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May

2024) (on 13 July 2020, Article 111 of Paragraph 9, Section 1, Chapter III was amended by Point 7, Article I of EMERGENCY ORDINANCE

[No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020](#)) + Article 112(1) The contracting authority is entitled to stipulate that participation in procedures for the award of public procurement contracts relating exclusively to the health, social and cultural services referred to in Article 111, which fall under CPV codes 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, ranging from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8, be reserved for certain economic operators, such as non-profit legal entities, social enterprises and sheltered workshops, accredited as social service providers, and public social service providers. (2) Economic operators to whom participation in the award procedures referred to in paragraph (1) may be reserved must cumulatively fulfil the following conditions: (a) the purpose for which the economic operator was established is to fulfil objectives in the field of public services, in connection with the provision of the services referred to in paragraph (1); ... (b) the profit made by the economic operator is reinvested in order to fulfil the purpose for which it was established; where the profit is distributed or redistributed, this is based on considerations relating to the participation of employees in the benefits of the economic operator's activities; ... (c) the organisation of the management structures or the structures holding the economic operator performing the contract is based on the principle of employee participation within the structures holding the economic operator or requires the active participation of employees, users or other interested entities; ... (d) the economic operator has not been awarded a contract for the services in question by the relevant contracting authority, pursuant to this Article, within the last 3 years. (3) The maximum duration of the public procurement contracts referred to in paragraph (1) shall be three years. (4) The notices referred to in Article 111(1)(a), published with a view to the award of the public procurement contracts referred to in paragraph (1), shall refer to this Article. + Paragraph 10 Simplified procedure + Article 113(1) [The contracting authority shall apply the simplified procedure under the conditions set out in Article 7\(2\). \(on 13 July 2020, Paragraph \(1\) of Article 113, Paragraph 10, Section 1, Chapter III was amended by Point 8, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) (2) The simplified procedure is initiated by the publication in SEAP of a simplified contract notice, accompanied by the relevant tender documentation. (3) The contracting authority is required to set the period for the submission of tenders in accordance with the complexity of the public procurement contract or framework agreement and the specific requirements, so that interested economic operators have an adequate and sufficient period of time to prepare their tenders and to draw up the qualification and selection documents, if these are required by the procurement documents. (4) The contracting authority may decide to conduct the simplified procedure: a) either in a single stage; b) or in several stages involving both the selection of candidates and the negotiation and evaluation of tenders (4[^]1) [In the case provided for in paragraph \(4\)\(a\), the contracting authority](#) [The contracting authority has the right to decide to organise a final stage of electronic tendering, in which case it is obliged to specify this decision in the simplified contract notice and in the tender documentation. \(on 22 December 2017, Article 113 of Paragraph 10, Section 1, Chapter III was supplemented by Point 15, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (5) In accordance with paragraph (4)(a) and without prejudice to the provisions of paragraph (3), the minimum period between the date of dispatch of the notice of participation in the simplified procedure and the deadline for the submission of tenders shall be at least: (a) 10 days, where the award of a public procurement contract for services or goods is envisaged; b) 6 days, where the intention is to award a public procurement contract for products of low complexity;c) 15 days, where the award of a public procurement contract for works (6) In the case referred to in paragraph (4)(b), if the contracting authority decides to organise a stage of negotiation of tenders, it shall specify this in the simplified contract notice. (7) In the case referred to in paragraph (4)(b), the contracting authority is obliged to submit the simplified contract notice for publication on SEAP at least 10 days before the deadline for the submission of requests to participate. (8) In the case referred to in paragraph (4)(b), the contracting authority is obliged to send, simultaneously to all selected candidates, an invitation to participate in the second stage. (9) In the second stage of the case referred to in paragraph (4)(b), the minimum period between the date of sending the invitation to participate and the deadline for the submission of tenders shall be at least 10 days. Where the award of a public procurement contract for products of low complexity is envisaged, the minimum period shall be at least 6 days. (10) Where an emergency, duly demonstrated by the contracting authority, makes it impossible to comply with the time limits set out in paragraph (5) or paragraph (9), the contracting authority may set a reduced time limit for the submission of requests to participate or tenders, which may not be less than 6 days from the date of transmission for publication of the contract notice, or the date of transmission of the invitation to tender, in the case of the award of a public procurement contract for services or supplies, or 9 days in the case of a public procurement contract for works. (11) [Repealed. \(on 30 August 2021, Paragraph \(11\) of Article 113, Paragraph 10, Section 1, Chapter III was repealed by Point 5, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021\)](#) (12) [Methodological rules for the implementation of this law may lay down additional conditions and procedures for the application of the simplified procedure. \(On 4 June 2018, Article 113 of Paragraph 10, Section 1, Chapter III was supplemented](#)

by Point 13, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (13) Repealed. (On 22 December 2017, Paragraph (13) of Article 113, Paragraph 10
, Section 1, Chapter III was repealed by Point 16, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) + Article 113^1(1)

Contracting authorities shall apply the IT mechanism for simplified procedures, in accordance with the principles set out in Article 2(2). (2) The IT mechanism referred to in paragraph (1) consists of granting contracting authorities simultaneous access to all documents submitted by tenderers via the SEAP. (On 13 July 2020, Paragraph 10 of Section 1, Chapter III was supplemented by Point 9, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) + Section 2 Specific instruments and techniques for the award of public procurement contracts + Paragraph 1 Framework agreement + Article 114 The contracting authority shall award framework agreements by applying the relevant procedures set out in Article 68. (On 22 December 2017, Article 114 of Paragraph 1, Section 2, Chapter III was amended by Point 17, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) + Article 115(1) The duration of a framework agreement may not exceed 4 years, except in exceptional cases which the contracting authority duly justifies, in particular by reference to the subject matter of the framework agreement in question.(2) In the procedure for awarding the framework agreement, the contracting authority shall specify in the procurement documents that the framework agreement is to be concluded in one of the following ways: (a) with a single economic operator; ... (b) with several economic operators.(3) The contracting authority is obliged to identify the economic operator or, where applicable, the economic operators that are party to the relevant framework agreement by applying the qualification and selection criteria, the award criterion and the evaluation factors set out in the procurement documents. + Article 116(1) Contracts awarded in the performance of a framework agreement may only be concluded between the contracting authority or authorities mentioned in the contract notice by which the procedure for awarding the framework agreement was initiated and the economic operator or operators that are party to that agreement.(2) The terms of a contract awarded under a framework agreement may under no circumstances substantially alter the terms and conditions originally laid down in that framework agreement. + Article 117(1) Where the framework agreement is concluded with a single economic operator, the framework agreement must provide for at least: (a) the main obligations undertaken by the economic operator in its tender;(b) the unit price which the economic operator has set out in its tender and on the basis of which the price of each subsequently awarded contract will be determined (2) The contracting authority is obliged to award subsequent public procurement contracts under the framework agreement only in accordance with the technical and financial conditions laid down in that framework agreement.(3) Whenever it intends to award a subsequent public procurement contract under a framework agreement, the contracting authority may consult the economic operator in writing, requesting, where necessary, that the tender be supplemented. + Article 118(1) Where the framework agreement is concluded with several economic operators, the framework agreement shall be implemented in one of the following ways: (a) without reopening competition, in accordance with the terms and conditions set out therein, where the framework agreement sets out all the terms and conditions governing the performance of the works, the provision of the services and the supply of the products forming the subject matter of the agreement, as well as the objective criteria for determining which of the economic operators party to the framework agreement will perform the works, provide the services or supply the products; b) by reopening competition amongst the that are party to the framework agreement, where the framework agreement does not set out all the terms and conditions governing the performance of the works, the provision of the services and the supply of the products that form the subject matter ;c) partly without reopening competition amongst economic operators, in accordance with point (a), and partly with the reopening of competition, in accordance with point (b), only if this possibility was provided for in the tender documentation drawn up as part of the procedure for awarding the framework agreement, where the framework agreement sets out all the terms and conditions governing the execution of the works, the provision of the services and the supply of the products constituting its subject matter. (2) The provisions of paragraph (1)(a) shall apply where the contracting authority has expressly in the tender documentation drawn up as part of the procedure for the award of the framework agreement the objective criteria on the basis of which it is determined which of the economic operators party to the framework agreement will carry out the works, provide the services or supply the products that form the subject matter of the agreement.(3) The provisions of paragraph (1)(c) shall apply where the contracting authority has expressly specified in the tender documentation drawn up as part of the procedure for the award of the framework agreement the objective criteria on the basis of which it is determined whether certain works, products or services covered by the shall be procured either through a new competitive procedure or directly, without a new competitive procedure, in accordance with the terms and conditions set out in the framework agreement, as well as the terms and conditions set out in the framework agreement under which a new competitive procedure may be conducted.(4) The provisions of paragraph (1)(c) shall apply mutatis mutandis to any lot under a framework agreement for which all the terms and conditions governing the performance of the works, the provision of services and the supply of products constituting the subject-matter of that lot, regardless of whether or not all the terms and conditions governing the performance of the works, the provision of services and the supply of products constituting the subject-matter of the other lots have been established. + Article 119 In the cases provided for in Article 118(1)(b) and (c), the contracting authority shall reopen the competition on

the basis of the same terms and conditions applied for the award of the framework agreement, detailed where necessary and supplemented, where appropriate, by other terms and conditions set out in the tender documentation drawn up as part of the procedure for awarding the framework agreement, and in accordance with the following procedural rules: (a) for each contract to be awarded, the contracting authority shall consult in writing the economic operators party to the relevant framework agreement who are capable of performing the contract; (b) the contracting authority shall set a sufficient period for the submission of tenders for the award of the contract, taking into account specific factors such as the complexity of the subject-matter of the contract and the time required for the submission of tenders; c) tenders shall be submitted in writing and shall not be opened until the expiry of the period set by the contracting authority; d) where any of the

economic operators who are signatories to the framework agreement fails to respond to the request to submit a tender, the contracting authority shall be entitled to continue the procedure with the other tenderers and to award each contract to the tenderer submitting the most advantageous tender, determined by applying the award criterion and the evaluation factors set out in the tender documentation drawn up as part of the procedure for the award of the framework agreement. (on 28 July 2022, Point (d) of Article 119, Paragraph 1, Section 2, Chapter III was amended by Point 5, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022)

... + Paragraph 2 Dynamic purchasing system + Article 120(1) The contracting authority is entitled to use a dynamic purchasing system for routine purchases, the characteristics of which, as generally available on the market, meet the contracting authority's requirements.(2) The dynamic purchasing system shall be organised and operated entirely as an electronic process and shall be open, throughout its period of validity, to any economic operator meeting the qualification and selection criteria. (3) The dynamic purchasing system may be divided into categories of products, works or services which are defined objectively on the basis of the characteristics of the procurements to be carried out within the category in question; such characteristics may include references to the maximum permissible value of specific subsequent contracts or to a specific geographical area in which the specific subsequent contracts are to be performed. + Article 121(1) When carrying out a procurement under a dynamic purchasing system, the contracting authority shall apply the rules governing restricted procedures, as well as the specific rules set out in this paragraph.(2) All candidates who meet the qualification and selection criteria shall be admitted to the system; the contracting authority shall not be entitled to limit the number of candidates to be admitted to the system.(3) Where the contracting authority has divided the system into categories of products, works or services in accordance with the provisions of Article 120(3), the contracting authority shall specify the qualification and selection criteria applicable to each category. + Article 122(1) The contracting authority shall be required to comply with the following time limits: (a) the minimum period for the submission of requests to participate shall be 30 days from the date on which the contract notice is sent for publication; ... (b) the minimum period for the submission of tenders shall be 10 days from the date on which the invitation to tender is sent(2) From the moment the invitation to to the second stage of the procedure for the first specific procurement under a dynamic purchasing system, no further time limits shall apply to the submission of requests to participate. (3) The provisions of Article 79(3) and (4) concerning the reduction of time limits for the submission of tenders shall not apply in the case of a dynamic purchasing system. + Article 123 All communications within a dynamic purchasing system shall be carried out exclusively by electronic means, in accordance with the provisions of Article 64(1) and (2), Article 65, Article 66 and the methodological rules for the application of this Act. + Article 124 When awarding contracts under a dynamic purchasing system, the contracting authority shall have the following obligations: (a) to publish a contract notice clearly stating that a dynamic purchasing system is being used for the award of the public procurement contract(s); (b) to specify in the procurement documents at least the nature and estimated quantity of the procurements envisaged

, as well as all necessary information regarding the dynamic purchasing system, including how it operates, the electronic equipment used, and the technical connection methods and specifications;.....c) to specify any division into categories of products, works or services and the characteristics defining them; d) to

allow, in accordance with the provisions of Article 150, throughout the entire period of validity of the dynamic purchasing system, from the date of publication of the contract notice until the closure of the system, unrestricted, direct and full access to the content of the procurement documents. ... + Article 125(1) Following the launch of the dynamic purchasing system and throughout its period of validity, subject to the conditions laid down in Articles 121 and 122, the contracting authority shall be obliged to allow any interested economic operator to submit a request to participate with a view to being admitted to the system.(2) Upon receipt of a request to participate, the contracting authority shall assess whether the candidate meets the established qualification and selection criteria. (3) The contracting authority is obliged to complete the assessment referred to in paragraph (2) within 10 working days of the date of receipt of the request to participate.(4) The time limit set out in paragraph (3) may be extended to 15 working days in specific circumstances, where this is justified in particular by the need to examine additional documents or to verify in some other way compliance with the qualification and selection criteria. (5) By way of derogation from the provisions of paragraphs (3) and (4), provided that the contract notice for the first specific procurement under the dynamic purchasing system has not yet been sent for publication, the contracting authority may extend the evaluation period, provided that no invitation to participate in the second stage of the procedure is sent during the evaluation period thus extended.(6) The contracting authority shall specify in the procurement documents the duration of the extension it intends to apply.(7) The contracting authority shall inform economic operators of their admission to the dynamic purchasing system or, where applicable, of the rejection of their request to participate immediately after the completion of the evaluation referred to in paragraph (2), in accordance with the provisions of Articles 214 and 215. + Article 126(1) The contracting authority shall, in accordance with the provisions of Article 151, send an invitation to participate to each participant admitted to the dynamic purchasing system, with a view to the submission of tenders for each specific procurement within the system.(2) Where the dynamic purchasing system has been divided into categories of works, supplies or services, the contracting authority shall, in accordance with

the provisions of Article 151, send an invitation to tender to each participant admitted to the dynamic purchasing system in the category corresponding to the specific procurement in question, with a view to the submission of tenders for each specific procurement within that category. + Article 127(1) The contracting authority shall award the public procurement contract to the tenderer submitting the most advantageous tender, determined by applying the award criterion and the evaluation factors set out in the contract notice published upon the launch of

the dynamic purchasing system.(2) Where appropriate, the award criterion and evaluation factors referred to in paragraph (1) may be set out in detail in the invitation to tender referred to in Article 126. + Article 128(1) The contracting authority shall be entitled, at any time during the period of validity of the dynamic purchasing system, to request the admitted participants to submit, in accordance with the provisions of Articles 193 and 194, a renewed and updated declaration on their own responsibility, within 5 working days of the date on which the request is sent.(2) The provisions of Articles 196–198 shall apply throughout the period of validity of the dynamic purchasing system. + Article 129(1) The contracting authority shall specify the period of validity of the dynamic purchasing system in the contract notice.(2) The contracting authority shall inform the European Commission of any change to the period of validity of the dynamic purchasing system, using the following standard forms: (a) the form used for the contract notice for the dynamic purchasing system, if the period of validity is amended without the system being closed; ... (b) the form used for the contract award notice, if the dynamic purchasing system is closed.....+

Article 130 It is prohibited to charge fees to interested economic operators or participants in the dynamic purchasing system. + Paragraph 3 Electronic auction + Article 131(1) The contracting authority may use electronic tendering in the following situations and only if the content of the procurement documents, in particular the technical specifications, can be precisely determined: [a\) as a final stage of an open tender procedure, a restricted tender procedure, a competitive dialogue or a simplified procedure; \(on 22 December 2017, subparagraph \(a\) of paragraph \(1\), Article 131, paragraph 3, Section 2, Chapter III was amended by Point 18, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (b) upon the resumption of competition between the economic operators party to a framework agreement, in accordance with the provisions of Article 118(1)(b) and (c);.....c) upon the submission of tenders for the award of a public procurement contract within the framework of a dynamic purchasing system.....(2) The contracting authority is obliged to announce the decision to organise a electronic auction in the contract notice and in the tender documentation. (3) The methodological rules for the implementation of this Act shall set out the minimum information to be included in the procurement documents in relation to the organisation of an electronic auction. + Article 132(1) Electronic auctions may not be used for the award of public procurement contracts or framework agreements for services and works whose scope includes intellectual services, such as the design of works, as these cannot be classified using automated evaluation methods.(2) The methodological rules for the implementation of this Act shall specify the categories of contracts covered by paragraph (1), for the award of which electronic tendering may not be used. + Article 133 The electronic tender shall be based on one of the following elements of the tenders: a) exclusively on prices, where the contract is awarded on the basis of the lowest price criterion;(b) on prices and/or on the new values of the elements of the tenders specified in the procurement documents, where the contract is awarded on the basis of the ‘best value for money’ or ‘lowest cost’ award criterion. ... + Article 134(1) Before the electronic auction begins, the contracting authority is required to carry out a full initial evaluation of the tenders, in accordance with the award criterion and the evaluation factors set out in the procurement documents.(2) The contracting authority is required to send, simultaneously and by electronic means, the invitation to the electronic auction to all tenderers who have submitted admissible tenders.(3) The invitation to the electronic auction must specify the date and time of the start of the electronic auction, as well as the necessary instructions for establishing an individual connection to the electronic equipment used to participate in the electronic auction.(4) The contracting authority shall not be entitled to commence the electronic auction earlier than two working days from the date on which the invitations to the electronic auction were sent. (5) The electronic auction shall take place in one or more successive rounds. + Article 135(1) The invitation to the electronic tender shall be accompanied by: a) the result of the comprehensive evaluation of the tender submitted by the qualified tenderer to whom the invitation is sent, carried out by applying the award criterion and the evaluation factors set out in the procurement documents;(b) the mathematical formula to be used in the electronic auction to automatically determine the new ranking, based on the new prices and/or new values submitted by the tenderers. (2) Except where the most economically advantageous tender is identified by applying the lowest-price criterion, the mathematical formula provided for in paragraph (1)(b) shall incorporate the weightings of all the evaluation factors to be applied in determining the most economically advantageous tender, as specified in the contract notice or in the other procurement documents.(3) In the situation referred to in paragraph (2), any value ranges shall be reduced in advance to specific values. (4) Where alternative tenders are permitted, a separate formula shall be provided for each alternative tender. + Article 136(1) During each round of the electronic auction, the contracting authority shall be obliged to communicate instantly to all tenderers at least the information sufficient to enable them to determine, at any time, their position in the ranking.(2) The contracting authority is entitled to provide further information concerning: (a) the number of participants in that round of the electronic auction; (b) the new prices or values submitted during that round by other tenderers, provided that this has been stipulated in the procurement documents. (3) During the course of the rounds of the electronic auction, the contracting authority may not, under any circumstances, disclose the identity of the tenderers. + Article 137(1) The contracting authority shall conclude the electronic auction in one of the following

ways or by a combination thereof: (a) on the date and at the time previously indicated; b) if no further prices and/or values that meet the requirements regarding minimum differences, provided that a time limit has been specified which shall run from the receipt of the last tender until the conclusion of the electronic auction; c) when the number of bidding rounds bidding indicated in advance has been exhausted. (2) Where the contracting authority intends to conclude

Where the electronic auction is conducted in the manner provided for in paragraph (1)(a) or (c), or in the manner provided for in paragraph (1)(c) in combination with the manner provided for in paragraph (1)(b), the invitation to participate in the electronic auction shall specify the timetable for each round of bidding. + Article 138 The contracting authority shall award the public procurement contract by applying the award criterion and the evaluation factors set out in the procurement documents, on the basis of the result obtained following the completion of the electronic auction. + Chapter IV Organisation and conduct of the award procedure + Section 1 Market consultation + Article 139(1) Before initiating the award procedure, the contracting authority is entitled to organise market consultations with a view to preparing the procurement, in relation to the subject-matter of the public procurement contract, and to inform economic operators of the procurement plans and the requirements envisaged in connection therewith, publicising this via the SEAP, as well as by any other means.(2) In the consultations referred to in paragraph (1), the contracting authority is entitled to invite independent experts, public authorities or economic operators, including organisations representing them. (3) The contracting authority is entitled to use or implement the opinions, suggestions or recommendations received during the consultations referred to in paragraph (1) for the preparation of the procurement and for the organisation and conduct of the award procedure, provided that the use or implementation of such opinions, suggestions or recommendations does not have the effect of distorting competition and/or infringing the principles of non-discrimination and transparency.(4) The terms, conditions and procedure for organising and conducting the consultations referred to in paragraph (1) shall be laid down in the methodological rules for the implementation of this Act. + Article 140(1) Where a candidate/tenderer or an entity linked to a candidate/tenderer has provided opinions, suggestions or recommendations to the contracting authority in connection with the preparation of the award procedure, during the consultations provided for in Article 139 or in any other way, including as part of consultancy services, or has otherwise participated in the preparation of the award procedure, the contracting authority shall take all necessary measures to ensure that the participation of that candidate/tenderer in the award procedure is not such as to distort competition.(2) The measures referred to in paragraph (1) may include, amongst other things, the disclosure to the other candidates/tenderers of relevant information that was provided in the context of the candidate's/tenderer's participation in the preparation of the award procedure or that arises from such participation, and the setting of appropriate deadlines for the submission of tenders.(2¹) [The measures adopted in accordance with paragraph \(2\) shall be justified in the procedure report provided for in Article 216\(1\). \(on 13 July 2020, Article 140 of Section 1, Chapter IV was supplemented by Point 10, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) (3) [Repealed. \(On 4 June 2018, Paragraph \(3\) of Article 140, Section 1, Chapter IV was repealed by Point 14, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) + Section 2 Division into lots + Article 141(1) The contracting authority is entitled to award public procurement contracts and framework agreements by lots and, in such cases, to determine the size and subject matter of the lots, provided that this information is included in the procurement documents. (2) For the purposes of paragraph (1), the contracting authority shall determine the subject matter of each lot, either on a quantitative basis, adapting the size of individual contracts so as to better correspond to the capacity of small and medium-sized enterprises, or on a qualitative basis, in accordance with the various trades and specialisations involved, in order to tailor the content of individual contracts more closely to the specialised sectors of SMEs or in accordance with the various subsequent phases of the project.(3) Where the contracting authority does not award the contract in lots, it is obliged to justify its decision not to award the contract in lots. (4) In the case provided for in paragraph (1), the contracting authority shall specify in the contract notice whether tenders may be submitted for one, several or all lots.(5) The contracting authority shall have the right, even where tenders may be submitted for several or all lots, to limit the number of lots that may be awarded to the same tenderer. (6) In the situation referred to in paragraph (5), the contracting authority shall specify in the contract notice the maximum number of lots that may be awarded to a tenderer.(7) The contracting authority is obliged to set out in the procurement documents the objective and non-discriminatory criteria and rules to be applied in determining which lots are to be awarded to the same tenderer, in the event that the application of the award criterion and the evaluation factors would result in a tenderer being awarded a number of lots greater than the maximum permitted number.(8) Where several lots may be awarded to the same tenderer, the contracting authority shall be entitled to decide to award the contract(s) by combining several lots or all lots and awarding them to the same tenderer, provided that it has specified in the contract notice that it reserves the right to do so and has indicated the lots or groups of lots that may be combined.(9) Where several lots may be awarded to the same tenderer, the contracting authority shall carry out a comparative assessment of the tenders, to determine whether the tenders submitted by a tenderer for a particular combination of lots, taken as a whole, would receive a higher score through the application of the award criterion and the evaluation factors set out in the tender documentation in relation to those lots, compared with the total score obtained by the tenders for the individual lots in question taken separately.(10) The contracting authority shall carry out the comparative evaluation provided for in paragraph (9) by first determining the scores of the tenders for each lot individually by applying the award criterion and the evaluation factors set out in the tender documentation, and then by comparing the total score thus obtained with the score awarded to the tenders submitted by a tenderer for that combination of lots, taken as a whole. + Section 3 Rules on publicity and transparency + Article 142 The contracting authority is obliged to ensure the transparency of the procedure for the award of public procurement contracts/framework agreements

by publishing, in accordance with the provisions of this Act, notices of intent, notices of invitation to tender and award notices. +

Article 143(1) The contracting authority may make known its intentions regarding planned procurements by publishing a notice of intent. (2) The notice of intent shall be published in the Official Journal of the European Union and at national level, in accordance with the provisions of Articles 146–148. + Article 144(1) The contracting authority is required to submit a contract notice for publication when: (a) it initiates an open tender procedure, a restricted tender procedure, a competitive dialogue or competitive negotiations, or an innovation partnership, for the award of public procurement contracts or framework agreements; ... (b) it launches a dynamic purchasing system; ... c) it organises a design contest; ... d) it initiates the procedure for the award of public procurement contracts or framework agreements for social services and other specific services, as set out in Annex 2, unless a continuously valid notice of intent has been published. (2) Publication of the contract notice in the Official Journal of the European Union

European procurement is mandatory in all cases where the estimated value of the public procurement contract or framework agreement is greater than or equal to the thresholds set out in Article 7(1).(3) The contract notice shall be published in the Official Journal of the European Union and at national level, in accordance with the provisions of Articles 146–148. + Article 145(1) The contracting authority shall be required to submit an award notice for publication within 30 days of the date of: (a) the conclusion of the public procurement contract or framework agreement following the completion of the award procedure; ... (b) the completion of a design contest by determining the successful tenderer;(c) the award of a public procurement contract through a dynamic purchasing system; ..(d) the closure of a dynamic procurement system. (2) In the case of public procurement contracts concluded in the performance of framework agreements, the

shall group the award notices on a quarterly basis and is obliged to submit the grouped award notices for publication within 30 days of the end of each quarter.(3) In the case of public procurement contracts or framework agreements awarded through a dynamic procurement system, the contracting authority shall be entitled to group award notices on a quarterly basis and shall be obliged to submit the award notices, thus grouped, for publication within 30 days of the end of each quarter.(4) Where the disclosure of information concerning the award of a public procurement contract or framework agreement would prevent the application of legal provisions, would be contrary to the public interest, would prejudice the legitimate commercial interests of a particular economic operator, whether public or private, or could prejudice fair competition between economic operators, the publication of such information is not mandatory.(5) The contract award notice shall be published in the Official Journal of the European Union and at national level, in accordance with the provisions of Articles 146–148. + Article 146 The notices referred to in Article 142, including the corresponding corrigenda, shall be transmitted for publication by the contracting authority by electronic means under the conditions laid down in the methodological rules for the implementation of this Act and shall be published in the Official Journal of the European Union in accordance with the established by the European Commission pursuant to the provisions of Article 51 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014. + Article 147(1) The notices referred to in Article 142 may not be published at national level before the date of their publication in the Official Journal of the European Union. (2) By way of derogation from the provisions of paragraph (1), the publication at national level of the notices referred to in Article 142 is permitted where the contracting authority has not been notified by the Publications Office of the European Union of the publication in the Official Journal of the European Union of the notices submitted for publication within 48 hours of the Publications Office of the European Union confirming receipt of the notice submitted for publication. + Article 148 The notices referred to in Article 142 published at national level must not contain any information other than that contained in the corresponding notices published in the Official Journal of the European Union and must state the date of transmission to the Publications Office of the European Union. + Article 149 In the case of the award of media advertising contracts with an estimated value greater than or equal to the thresholds set out in Article 7(1)(b), the contracting authority shall have the following specific obligations regarding advertising and transparency, in addition to those laid down in the provisions of this section concerning the advertising and transparency of public service contracts: (a) the obligation to publish a contract notice on the electronic platform used for the procurement, at a dedicated address, as well as on its own website, accompanied by a justification of the need for the procurement; b) the obligation to publish a contract award notice on the electronic platform used to

carry out the procurement, at a dedicated address, as well as on its own website;c) upon termination of the media advertising, the obligation to publish on the electronic platform used to carry out the procurement a report assessing the impact of the procurement of the relevant advertising services. ... + Article 150(1) The contracting authority shall ensure, by electronic means via the SEAP, direct, full, unrestricted and free access for economic operators to the procurement documents from the date of publication of the contract notice.(2) The contracting authority shall include in the contract notice the web address at which the procurement documents are available. (3) Where the contracting authority is unable to provide, by electronic means, direct, full, unrestricted and free access to certain procurement documents, and the contracting authority is in one of the situations provided for in the methodological rules for the application of this Act in which the use of means of communication other than electronic ones is permitted, the contracting authority shall indicate in the contract notice the method by which it ensures economic operators' access to the procurement documents.(4) In the case provided for in paragraph (3), the contracting authority is obliged to extend the deadline for the submission of

tenders or requests to participate by 5 days, except in emergency situations duly demonstrated by the contracting authority, as provided for in Article 74(3), Article 79(5) and Article 84(5). (5) Where the contracting authority, for reasons relating to the protection of the confidentiality of information, is unable to provide, by electronic means, direct, full, unrestricted and free access to certain procurement documents, it shall specify in the contract notice

the measures it requires to protect the confidentiality of the information, as well as the manner in which it ensures economic operators' access to those documents.(6) In the case provided for in paragraph (5), the contracting authority is obliged to extend the deadline for the submission of tenders by 5 days, except in emergency situations duly demonstrated by the contracting authority, as provided for in Article 74(3), Article 79(5) and Article 84(5). + Article 151(1) In restricted tender procedures, competitive dialogue, competitive negotiation and innovation partnership procedures, the contracting authority shall be obliged to send the invitation to participate in the second stage of the procedure to all selected candidates, simultaneously and in writing.(2) The invitation to participate referred to in paragraph (1) shall include a reference to the email address at which the procurement documents have been made available to economic operators by electronic means.(3) Where, for one of the reasons set out in Article 150(3) or (5), the contracting authority has been unable to provide, by electronic means, direct, full, unrestricted and free access to certain procurement documents, and these have not been made available by other means, the contracting authority shall attach the procurement documents to the invitation to tender referred to in paragraph (1). (4) The information to be included in the invitation to tender referred to in paragraph (1) shall be laid down in the methodological rules for the implementation of this Act. + Article 152(1) Without prejudice to the applicability of the provisions of this Act relating to the minimum time periods that must be ensured between, on the one hand, the date of transmission for publication of the notices of participation and, on the other hand, the deadline for the submission of tenders or requests to participate, the contracting authority is obliged to coordinate and set the period for the submission of tenders in accordance with the complexity of the public procurement contract or framework agreement and the specific requirements, so that interested economic operators have an adequate and sufficient period of time to prepare their tenders or requests to participate and to draw up the qualification and selection documents required by the procurement documents.(2) Where tenders or requests to participate can only be drawn up after a site visit or after on-site consultation of additional documents on which the procurement documents are based, the period set by the contracting authority for the submission of tenders or requests to participate shall be longer than the minimum period provided for in this Act for the award procedure used and shall be set in such a way that interested economic operators have a real and effective opportunity to obtain all the information necessary for the proper preparation of tenders or requests to participate. + Article 153(1) The contracting authority shall extend the period set out in the contract notice or in the procurement documents for the submission of tenders or requests to participate in the following cases:(a) where, for any reason, the additional information or the contracting authority's response to requests for clarification submitted by economic operators is not provided within the time limits laid down in Article 161, even though the clarifications or additional information were requested by the economic operator within the time limit specified in the contract notice/simplified notice/competition notice; (on 22 December 2017, subparagraph (a) of paragraph (1), Article 153, Section 3, Chapter IV was amended by Point 19, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) ... b) where the procurement documents are significantly amended.....(2) The duration of the extension of the period set in accordance with paragraph (1) is

proportionate to the volume and complexity of the information provided in clarifications, supplementary information or amendments to the procurement documents.(3) The duration of the extension of the period referred to in paragraph (2) may not be less than 6 days, or 4 days in emergency situations duly demonstrated by the contracting authority, as provided for in Article 74(3) and Article 79(5), or 3 days in the case of the simplified procedure, or two days in emergency situations duly demonstrated by the contracting authority as provided for in Article 113(10), these time limits being calculated from the date on which the additional information is provided until the deadline set for the submission of tenders or requests to participate. (on 4 June 2018, Paragraph (3) of Article 153, Section 3, Chapter IV was amended by Point 15, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (4) Where additional information has not been provided in good time or the information provided by the contracting authority is irrelevant to the preparation of tenders, the contracting authority is not obliged to extend the deadline for the submission of tenders. + Section 4: Preparation of the tender documentation + Article 154(1) The contracting authority is obliged to prepare the tender documentation containing all the information necessary to ensure that economic operators are provided with complete, correct and accurate information regarding the procurement requirements, the subject matter of the contract and the conduct of the award procedure.(2) The contracting authority is entitled to require tenderers to provide a tender guarantee, the period of validity of which must be at least equal to the period of validity of the tender.

The value of the tender guarantee may not exceed 1 per cent of the estimated value of the public procurement contract or, in the case of a framework agreement, of the estimated value of the largest subsequent contract.(3) The contracting authority is obliged to require the contractor to provide a performance guarantee amounting to a maximum of 10 per cent of the contract price, excluding VAT. With the exception of design service contracts and works contracts, the estimated value of which is less than the value specified in Article 7(1), as well as in the case of a contract awarded following the application of the negotiated procedure without prior publication of a contract notice, the contracting authority shall be entitled not to require the contractor to provide a performance guarantee.(4) The tender guarantee or, where applicable, the performance guarantee must be irrevocable and unconditional and shall be provided by: a) bank transfer; b) guarantee instruments issued

in accordance with the law, as follows: (i) letters of guarantee issued by banking institutions in Romania or in another country;(ii) letters of guarantee issued by non-bank financial institutions in Romania or another country for the procurement of works with an estimated value of 40,000,000 lei or less

40,000,000 lei excluding VAT and, respectively, for the procurement of products or services with an estimated value not exceeding 7,000,000 lei excluding VAT; ... (iii) guarantee insurance issued:– either by insurance companies holding operating licences issued in Romania or in another Member State of the European Union and/or which are listed in the registers published on the website of the Financial Supervisory Authority, as applicable; ... – or by insurance companies from third countries through branches authorised in Romania by the Financial Supervisory

; ... c) the deposit of cash sums at the cashier's office if the amount is less than 5,000 lei; ... d) successive deductions from the amounts due for partial invoices, in the case of a performance guarantee; ... e) combining two or more of the methods of provision set out in points (a) to (c), in the case of a performance guarantee. ... (on 6 October 2022, Paragraph (4) of Article 154, Section 4, Chapter IV was amended by Article IV of EMERGENCY ORDINANCE No. 136 of 5 October 2022, published in the OFFICIAL GAZETTE No. 975 of 6 October 2022) Note ...

In accordance with Article VII of EMERGENCY ORDINANCE No. 136 of 5 October 2022, published in the OFFICIAL GAZETTE No. 975 of 6 October 2022, Article IV applies to award procedures initiated after the date of entry into force of this emergency ordinance. An 'initiated award procedure' means any procedure for which a call for competition, a concession notice, a simplified call for competition or, where applicable, an invitation to tender has been issued by the date of entry into force of this Emergency Ordinance.

(5) The procedure for withholding the tender guarantee, the deadline for providing the performance guarantee, and the procedure for providing the performance guarantee through successive deductions and for making claims against it shall be regulated in a separate chapter of the methodological rules for the implementation of this Act. (On 10 September 2022, Article 154 of Section 4, Chapter IV was amended by Point 10, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) + Article 154¹(1) The tender bond, provided by the tenderer whose tender has been declared the successful one, shall be returned by the contracting authority within a maximum of 3 working days from the date on which the performance bond is provided.(2) In the case of a procedure for the award of a framework agreement, as well as in the case of the award of a contract for which the provision of a performance guarantee is not mandatory, the tender guarantee provided by the tenderer whose tender has been declared the successful one shall be refunded by the contracting authority within a maximum of 3 working days from the date of signing the framework agreement/contract.(3) The tender guarantee provided by tenderers whose tenders were not declared successful shall be refunded by the contracting authority following the signing of the public procurement contract or framework agreement with the tenderer or tenderers whose tenders were declared successful, but no later than 3 working days from the date of signing the public procurement contract/framework agreement with the successful tenderer. (4) Where the contracting authority is, in accordance with the provisions of Article 212(1) or Article 213, required to cancel the award procedure, the tender security shall be returned after the expiry of the time limit for lodging an appeal against that decision, but no later than 3 working days from that date.(5) Upon receipt of the notification referred to in Article 215, tenderers whose tenders have been declared unsuccessful are entitled to have their tender security released before the expiry of the period referred to in paragraph (3), provided they submit a request to that effect to the contracting authority. The contracting authority is obliged to return the tender guarantee within a maximum of 3 working days of receiving such a request. (On 10 September 2022, Section 4 of Chapter IV was supplemented by Point 11, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) + Article 154²(1) In the case of a supply contract, the contracting authority is obliged to release or return the performance guarantee within no more than 14 days from the date of drawing up the acceptance report for the products covered by the public procurement contract/subsequent contract and/or from the payment of the final invoice, provided that it has not raised any claims against it by that date.(2) In the case of a service contract, the contracting authority is obliged to release or return the performance bond within a maximum of 14 days from the date on which the contractor has fulfilled the obligations assumed under the relevant public procurement contract or subsequent contract, provided that no claims have been made against it by that date.(3) In the case of design service contracts, the contracting authority is obliged to release or return the performance guarantee as follows:(a) the amount of the performance guarantee relating to the pre-feasibility and/or feasibility studies, within 14 days of the date of handover and acceptance/approval of the relevant technical and economic documentation or of the date of completion of all obligations under the service contract, provided that no claims have been made against it by that date; ... (b) the amount of the performance bond relating to the technical design and/or construction details, within 14 days of the date of signing the acceptance certificate upon completion of the works carried out under the relevant design, provided that no claims have been made against it by that date, but no later than 3 years from the handover of the relevant technical documentation, if the contracting authority has not awarded the works contract in question during that period (4) In the case of contracts relating to works supervision/site management

, the contracting authority is obliged to release/return the performance bond as follows: a) 70 per cent of the value of the bond, within 14 days of the date of signing the completion certificate upon completion of the works, provided that no claims have been made against it by that date; ...b) the remaining 30 per cent of the value of the guarantee, within
within 14 days of the date of issue of the final supervision report or the expiry of the guarantee period granted for

the works in question (5) In the case of works contracts, the contracting authority is obliged to release/return the performance bond as follows: a) 70 per cent of the value of the bond, within 14 days of the date of signing the acceptance certificate upon completion of the works, provided that no claims have been made against it by that date and the risk of latent defects is minimal; b) the remaining 30 per cent of the value of the guarantee, upon expiry of the guarantee period

for the works carried out, on the basis of the final acceptance report ..(6) The acceptance certificates for Certificates of completion of works and, respectively, of final acceptance may also be drawn up for parts or elements of the works, provided that these are physically and functionally distinct, in proportion to the value of the works accepted. (On 10 September 2022, Section 4 of Chapter IV was supplemented by [Point 11, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022](#)) + Article 155(1)

Technical specifications are set out in the tender documentation and define the required characteristics of the works, services or products that are the subject of the procurement.(2) The characteristics referred to in paragraph (1) may also relate to the specific process or method of carrying out the works, manufacturing the products or providing the services required, or to a specific process at another stage of their life cycle, even if these elements do not form part of the material content of the products, the works or services to be procured, provided that these characteristics are related to the subject-matter of the public procurement contract or framework agreement and are proportionate to its value and objectives. (3) The technical specifications may also specify whether the transfer of intellectual property rights is required.(4) For all procurements intended for use by natural persons, whether the general public or the staff of the contracting authority, the technical specifications shall be defined in such a way as to take account of the accessibility requirements of persons with disabilities or the concept of design for all, except in duly justified cases.(5) Where a legislative act adopted at European Union level introduces mandatory accessibility requirements, the technical specifications shall be defined, with regard to accessibility requirements for persons with disabilities or the concept of design for all, by reference to the mandatory requirements thus introduced.(6) Technical specifications must allow all economic operators equal access to the award procedure and must not have the effect of creating unjustified obstacles to effective competition between economic operators. + Article 156(1) Without prejudice to mandatory national technical standards, in so far as they are compatible with legislative acts adopted at European Union level, technical specifications shall be established in one of the following ways:(a) by reference to performance or functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise to enable tenderers to determine the subject-matter of the contract and contracting authorities to award the contract;(b) by reference to technical specifications and, in order of priority, to national standards transposing

European standards, European Technical Assessments, Common Technical Specifications, international standards, other technical reference systems established by European standardisation bodies or, in the absence of any of these, to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of works and the use of products; each reference shall be accompanied by the words 'or equivalent';.....(c) by reference to performance requirements or functional requirements, as referred to in point (a), and by reference to

the technical specifications referred to in point (b) as a means of presuming conformity with those performance or functional requirements; (d) by reference to the technical specifications set out in point (b) for certain

characteristics and by reference to the performance or functional requirements set out in point (a) for other characteristics. .(2) Unless justified by the subject-matter of the contract, the technical specifications shall not specify a particular manufacturer, a particular origin or a particular process characterising the products or services supplied by a particular economic operator, nor shall they refer to trade marks, patents, types, a specific origin or production, which would have the effect of favouring or eliminating certain economic operators or products.(3) By way of derogation from the provisions of paragraph (2), the establishment of technical specifications by specifying the elements set out in paragraph (2) is permitted in exceptional circumstances, where it is not possible to provide a sufficiently precise and intelligible description of the subject-matter of the contract in accordance with the provisions of paragraph (1); in such situations, the specification of the elements set out in paragraph (2) shall be accompanied by the words 'or equivalent'. (4) Where the contracting authority establishes the technical specifications in accordance with the provisions of paragraph (1)(b), it shall not reject a tender on the grounds that the works, products or services offered do not comply with the technical specifications referred to, if the tenderer demonstrates in its tender, by any appropriate means, that the proposed solutions meet the requirements defined by the technical specifications in an equivalent manner.(5) Where the contracting authority establishes the technical specifications in accordance with the provisions of paragraph (1)(a), it shall not reject a tender for works, products or services that comply with a national standard transposing a European standard, with a European technical approval, with a common technical specification, an international standard or a technical reference system drawn up by a European standardisation body, provided that these specifications relate to the performance or functional requirements laid down by the contracting authority.(6) In the case referred to in paragraph (5), the tenderer shall demonstrate in its tender, by any appropriate means, including those provided for in Article 158, that the works, products or services complying with the standard meet the performance or functional requirements laid down by the contracting authority. + Article 157(1) Where the contracting authority intends to procure works, products or services with specific environmental, social or other characteristics, it may require, through the technical specifications, the evaluation criteria or the conditions for the performance of the contract, a specific label as evidence that the works, services or products meet the required criteria, provided that all of the following conditions are met: (a) the labelling requirements relate solely to criteria that are linked to the subject-matter of the contract and are appropriate for

defining the characteristics of the works, products or services that are the subject-matter of the contract;
.....(b) the labelling requirements are based on non-discriminatory criteria
and
objectively verifiable;c) the labels are established through an open and transparent procedure, in which

all relevant interested parties, including government bodies, consumers, social partners, manufacturers, distributors and non-governmental organisations, may participate; ... d) the labels are accessible to all interested parties; ... e) the labelling requirements are established by a third party over which the economic operator applying for the label cannot exercise a decisive influence(2) Where it does not require that the works,

To ensure that the products or services meet all labelling requirements, the contracting authority shall specify the labelling requirements to be met.(3) Where, in accordance with the provisions of paragraph (1), the contracting authority requires a specific label in relation to the works, products or services it is procuring, it shall accept all labels confirming that the works, products or services meet equivalent labelling requirements.(4) Where the economic operator can demonstrate that it has no possibility of obtaining the specific label required by the contracting authority or an equivalent label within the set time limits, for reasons not attributable to it, the contracting authority shall be obliged to accept other appropriate means of proof, which may include a technical dossier from the manufacturer, provided that the economic operator in question demonstrates that the works, products or services it is to carry out, supply or provide meet the requirements of the specific label or the specific requirements requested by the contracting authority.(5) Where a label meets the conditions set out in paragraph (1)(b) to (e), but also lays down requirements that are not related to the subject-matter of the contract, the contracting authority shall not require the label as such, but may define the technical specifications by reference to those detailed specifications of the label in question or, where necessary, to parts thereof, which are related to the subject-matter of the contract and are suitable for defining the characteristics of the subject-matter of the contract. + Article 158(1) The contracting authority is entitled to require economic operators to provide a test report issued by a conformity assessment body or a certificate issued by such a body as evidence attesting to the conformity of the products, services or works covered by the procurement with the requirements or criteria set out in the technical specifications, evaluation criteria or the conditions for the performance of the contract. (2) In the case referred to in paragraph (1), where the contracting authority requires the submission of certificates issued by a specific conformity assessment body, it shall also accept equivalent certificates issued by other conformity assessment bodies.(3) For the purposes of paragraphs (1) and (2), a conformity assessment body is a body that carries out conformity assessment activities, including calibration, testing, certification and inspection, accredited in accordance with the provisions of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93. + Article 159 Where an economic operator does not hold the certificates or test reports referred to in Article 158(1) or is unable to obtain them within the specified time limits for reasons not attributable to it, the contracting authority shall be obliged to accept other appropriate means of proof, such as a technical dossier from the manufacturer, provided that such evidence demonstrates that the works, products or services carried out, supplied or provided meet the requirements or criteria set out in the technical specifications, the evaluation criteria or the conditions for the performance of the contract. + Article 160(1) [Any interested economic operator is entitled to request clarifications or further information regarding the tender documentation, subject to the deadline set by the contracting authority in the contract notice/simplified notice/invitation to tender. \(on 22 December 2017, Paragraph \(1\) of Article 160, Section 4, Chapter IV was amended by Point 20, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (2) [The contracting authority shall specify, in the contract notice/simplified notice/invitation to tender, one or two deadlines by which it will respond clearly and comprehensively to all requests for clarification or additional information, in accordance with the provisions of the methodological rules under this Act. \(on 22 December 2017, Paragraph \(2\) of Article 160, Section 4, Chapter IV was amended by Point 20, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) (3) The contracting authority is obliged to publish the replies, together with the relevant questions, on the website where the procurement documents are available, as indicated in accordance with the provisions of Article 150(2), whilst taking measures to ensure that the identity of the economic operator who requested the clarifications or additional information is not disclosed.(4) The provisions of Article 150(3)–(6) shall apply mutatis mutandis to replies to requests for clarification or additional information. + Article 161(1) [Provided that requests for clarification or additional information have been submitted within the time limit specified in the contract notice or competition notice, the contracting authority's response to such requests must be sent at least 10 days in advance, or 5 days in cases of urgency duly demonstrated by the contracting authority, as provided for in Article 74\(3\) and Article 79\(5\), before the deadline set for the submission of tenders or requests to participate.](#)(2) [Where the simplified procedure is applied, the time limits set out in paragraph \(1\) shall be reduced to 6 days in the case of a public works contract, and to 3 days in the case of a public supply or service contract, or by at least two days, in the case of public procurement contracts for goods of low complexity or in emergency situations, duly demonstrated by the contracting authority, prior to the deadline set for the submission of tenders or requests to participate. \(On 4 June 2018, Article 161 of Section 4, Chapter IV was amended by Point 16, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) + Section 5 Alternative Tenders + Article 162(1) The contracting authority shall have the right to permit or require tenderers to submit alternative tenders only if it has explicitly stated in the contract notice that it permits or requires the submission of alternative tenders.(2) Where

If the contracting authority has not explicitly stated that it permits or requires the submission of alternative tenders in accordance with the provisions of paragraph (1), the contracting authority shall not be entitled to take alternative tenders into consideration. (3) Alternative tenders must relate to the subject-matter of the public procurement contract or framework agreement. (4) A contracting authority which permits or requires the submission of alternative tenders is obliged to specify in the procurement documents the minimum mandatory requirements with which they must comply and any other specific requirements for the submission of alternative tenders, in particular if alternative tenders may be submitted only where a tender which is not an alternative tender has also been submitted. (5) In the situation referred to in paragraph (4), the contracting authority must ensure that it is possible to apply the award criterion and the evaluation factors established both to alternative tenders that meet the minimum requirements set in accordance with the provisions of paragraph (4) and to compliant tenders that are not alternative tenders. (6) The contracting authority is obliged not to take into account alternative tenders that do not comply with the minimum requirements established in accordance with the provisions of paragraph (4).

(7) In the case of procedures for the award of public procurement contracts for goods or services, the contracting authority which has permitted or requested the submission of alternative tenders shall not be entitled to reject such an alternative tender on the sole ground that, if it were declared the successful tender: (a) the supply contract for the award of which the procedure was organised qualifies as a service contract; or ... (b) the service contract for the award of which the procedure was organised qualifies as a supply contract (8) Where the contracting authority

contracting authority permits or requires the submission of alternative tenders, tenderers may submit only an alternative tender. + Section 6 Qualification and selection criteria + Paragraph 1 Application of qualification and selection criteria + Article 163 The contracting authority is entitled to apply, within the award procedure, only qualification and selection criteria relating to: a) grounds for the exclusion of the candidate/tenderer;

..... (b) the capacity of the candidate/tenderer. ... + Paragraph 2 Grounds for exclusion of the candidate/tenderer + Article 164(1) The contracting authority shall exclude from the procedure for the award of the public procurement contract/framework agreement any economic operator in respect of whom it has established, following an analysis of the information and documents submitted by that economic operator, or of which it has otherwise become aware, that they have been convicted by a final judgment of a court of law for committing one of the following offences: (a) the formation of an organised criminal group, as provided for in [Article 367 of Law No 286/2009 on the Criminal Code](#), as subsequently amended and supplemented, or in the corresponding provisions of the criminal law of the state in which the economic operator in question was convicted; (b) corruption offences, as provided for in [Articles 289–294 of Law No 286/2009](#), as subsequently amended and supplemented, and offences treated as corruption offences as provided for in [Articles 10–13 of Law No 78/2000](#) on the prevention, detection and punishment of acts of corruption, as subsequently amended and supplemented, or by the corresponding provisions of the criminal law of the state in which the economic operator in question was convicted; (c) offences against the financial interests of the European Union, as set out in [Articles 18¹–18⁵ of Law No 78/2000](#), as subsequently amended and supplemented, or in the corresponding provisions of the criminal law of the state in which the economic operator in question was convicted; d) acts of terrorism, as provided for in [Articles 32–35](#) and

[Articles 37–38 of Law No. 535/2004](#) on the prevention and combating of terrorism, as subsequently amended and supplemented, or by the corresponding provisions of the criminal law of the state in which the economic operator in question was convicted; (e) money laundering, as provided for in [Article 29 of Law No 656/2002](#) on the prevention and

the punishment of money laundering, as well as for the establishment of measures to prevent and combat the financing of terrorism, as republished, as subsequently amended, or the financing of terrorism, as provided for in [Article 36 of Law No 535/2004](#), as subsequently amended and supplemented, or by the corresponding provisions of the criminal law of the state in which the economic operator in question was convicted; (f) trafficking in and exploitation of vulnerable persons,

as provided for in [Articles 209–217 of Law No 286/2009](#), as subsequently amended and supplemented, or in the corresponding provisions of the criminal law of the State in which the economic operator in question was convicted; (g)

fraud, within the meaning of Article 1 of the Convention on the Protection of the European Communities' Financial Interests of 27 November 1995. (2) The obligation to exclude an economic operator from the award procedure, in

accordance with the provisions of paragraph (1), shall also apply where the person convicted by a final judgment is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision-making or control within it. + Article 165(1) The contracting authority shall exclude from the award procedure any economic operator in respect of whom: (a) it is aware that they have breached their obligations regarding the payment of taxes, duties or contributions to the general consolidated budget, and this has been established by a court judgement or an administrative decision that is final and binding in accordance with the law of the State in which that economic operator is established or with that of the Member State of the

contracting authority;(b) or can demonstrate by any appropriate means that the economic operator in question has failed to fulfil its obligations regarding the payment of taxes, duties or contributions to the general consolidated budget.....(2)

The economic operator shall not be excluded from the award procedure if, prior to the exclusion decision, it fulfils its obligations by paying the taxes, duties or contributions to the general consolidated budget due, or by other means of settling them, or benefits, in accordance with the law, from a payment plan or other facilities for their payment, including, where applicable, any interest or late payment penalties accrued or fines.(3) To comply with the provisions of paragraph (2), at the stage provided for in Article 196(2), the economic operator shall submit, for its principal place of business, documents demonstrating that it does not fall within the scope of Article 165(1), and, for secondary offices/branches, a sworn statement regarding the fulfilment of obligations to pay any taxes, duties or contributions due to the general consolidated budget. (As at 30 August 2021, Article 165

of Paragraph 2, Section 6, Chapter IV was supplemented by [Point 6, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021](#)) (On 13 July 2020, Article 165 of Paragraph 2, Section 6, Chapter IV was amended by [Point 11, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020](#)) + Article 166(1) By way of exception to the provisions of Article 164(1) and (2), in exceptional cases, the contracting authority is entitled not to exclude from the award procedure an economic operator who is in one of the situations provided for in Article 164(1) and (2), on imperative grounds of general interest, such as public health or environmental protection.(2) By way of derogation from the provisions of Article 165(1) and (2), an economic operator shall not be excluded from the award procedure where the amount of taxes, duties and contributions to the general consolidated budget that are due and outstanding is less than 10,000 lei. (On 4 June 2018, Paragraph (2) of Article 166, Paragraph 2, Section 6, Chapter IV was amended by [Point 17, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018](#)) + Article 167(1) The contracting authority shall exclude from the procedure for the award of a public procurement contract or framework agreement any economic operator who is in any of the following situations: (a) has breached the obligations laid down in Article 51, and the contracting authority can demonstrate this by any appropriate means of evidence, such as decisions by the competent authorities establishing the breach of these obligations; ... (b) is subject to insolvency proceedings or is in liquidation, under judicial supervision or ceasing trading; ... (c) has committed a serious professional misconduct that calls into question its integrity, and the contracting authority can demonstrate this by any appropriate means of evidence, such as a decision by a court of law or an ; ... d) the contracting authority has sufficient reasonable grounds/concrete information to consider that the economic operator has entered into agreements with other economic operators aimed at distorting competition within the framework of or in connection with the procedure in question; ... (e) it is in a situation of conflict of interest in the context of or in connection with the procedure in question, and this situation cannot be effectively remedied by other, less severe measures; ... f) the economic operator's prior involvement in the preparation of the award procedure has led to a distortion of competition, and this situation cannot be remedied by other, less severe measures; ... g) the economic operator has seriously or repeatedly breached its main obligations under a previously concluded public procurement contract, sectoral procurement contract or concession contract, and these breaches have led to the early termination of that contract, the payment of damages or other comparable penalties; ... h) the economic operator has made false statements in the information provided at the contracting authority's request for the purpose of verifying the absence of grounds for exclusion or the fulfilment of the qualification and selection criteria, has failed to provide such information, or is unable to produce the supporting documents requested; ... i) the economic operator has attempted to unlawfully influence the contracting authority's decision-making process, to obtain confidential information which- could confer an unjustified advantage in the award procedure, or has negligently provided incorrect information that may have a significant influence on the contracting authority's decisions regarding the exclusion of that economic operator from the award procedure, its selection, or the award of the public procurement contract or framework agreement to that economic operator

economic operator (1[^]1) The contracting authority is obliged to exclude from the award procedure any economic operator

economic operator, organised as a public limited company, whose share capital consists of bearer shares and which fails to provide evidence of the identity of the holders/beneficial owners of the bearer shares. (On 27 July 2020, Article 167 of Paragraph 2, Section 6, Chapter IV was supplemented by [Point 3, the SOLE ARTICLE of Law No.](#)

[148 of 23 July 2020, published in the OFFICIAL GAZETTE No. 658 of 24 July 2020](#)) (2) By way of derogation from the provisions of paragraph (1)(b), the contracting authority shall not exclude from the award procedure an economic operator against whom general insolvency proceedings have been opened where, on the basis of the information and/or documents submitted by the economic operator in question, it determines that the latter has the capacity to perform the public procurement contract or framework agreement. This presupposes that the economic operator in question is either in the observation phase and has taken the necessary measures to draw up a feasible reorganisation plan, enabling the sustainable continuation of its current activities, or is in the judicial reorganisation phase and is fully complying with the timetable for implementing the reorganisation plan approved by the court.(3) For the purposes of paragraph (1)(c), 'serious professional misconduct' means any misconduct committed by the economic operator that affects its professional reputation, such as cartel-type breaches of competition rules aimed at rigging tenders or infringements of intellectual property rights, committed intentionally or through gross negligence.

(4) Repealed. (on 22 December 2017, Paragraph (4) of Article 167, Paragraph 2, Section 6, Chapter IV was repealed by [Point 22, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017](#)) Note ...

By [DECISION No. 738 of 20 November 2018](#), published in the OFFICIAL GAZETTE No. 260 of 4 April 2019, the plea of unconstitutionality was upheld, it being held that the provisions [of Article 167\(4\) of Law No. 98/2016](#) on public procurement are unconstitutional.

Pursuant to [Article 147\(1\) of the CONSTITUTION OF ROMANIA](#), republished in the OFFICIAL GAZETTE No. 767 of 31 October 2003, the provisions of laws and ordinances in force, as well as those of regulations, found to be

unconstitutional, shall cease to have legal effect 45 days after the publication of the Constitutional Court's decision if, within that period, Parliament or the Government, as the case may be, does not bring the unconstitutional provisions into line with the provisions of the Constitution.

Prior to the publication of this decision in the Official Gazette, [paragraph \(4\) of Article 167](#) was repealed by [point 22 of Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017](#), published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017.(5) For the purposes of paragraph (1)(d), the contracting authority shall be deemed to have sufficient plausible indications to consider that the economic operator has concluded agreements with other economic operators aimed at distorting competition within or in connection with the procedure in question in the following situations, which are set out by way of example:(a) the tenders or requests to participate submitted by two or more economic operators taking part in the award procedure show significant similarities in terms of the content of documents not standardised in accordance with the tender documentation; ... (b) the management bodies of two or more economic operators participating in the award procedure include the same persons, or persons who are spouses, relatives or relatives by marriage up to and including the second degree, or who have common interests of a personal, financial, economic or any other nature; ... c) a tenderer/candidate has submitted two or more tenders/applications to participate, either individually or jointly with other economic operators, or solely jointly with other economic operators; ... (d) a tenderer/candidate has submitted a tender/request to participate either individually or jointly with other economic operators and is named as a subcontractor in another tender/request to participate (6) Before excluding an economic operator pursuant to paragraph (1)(d), the contracting authority shall request in writing the Competition Council's opinion on the indications identified regarding the distortion of competition within or in connection with the award procedure in question, which the Council shall submit within a maximum of 15 days.(7) The contracting authority is obliged to provide all information requested by the Competition Council for the purpose of formulating its opinion, in accordance with the provisions of paragraph (6).[\(7^1\) Before the contracting authority excludes from the procedure a candidate or tenderer who is in the situation referred to in paragraph \(1\)\(f\), it must give that candidate or tenderer the opportunity to demonstrate that their involvement in the preparation of the procurement procedure cannot distort competition. \(on 13 July 2020, Article 167 of Paragraph 2, Section 6, Chapter IV was supplemented by Point 12, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) (8) For the purposes of the provisions of paragraph (1)(g), serious breaches of contractual obligations shall be deemed to include, by way of example, failure to perform the contract, or the delivery/provision/performance of products/services/works that exhibit major non-conformities rendering them unfit for the use intended under the contract. + Article 168(1) The contracting authority is obliged to accept as sufficient and relevant for demonstrating that the tenderer/candidate does not fall within any of the situations provided for in Articles 164, 165 and 167, any document deemed conclusive in this regard in the country of origin or in the country where the tenderer/candidate is established, such as certificates, criminal records or other equivalent documents issued by the competent authorities of that country.(2) Where there is uncertainty as to the existence or non-existence of a ground for exclusion, the contracting authority shall be entitled to request information directly from the relevant foreign authorities referred to in paragraph (1).(3) Where, in the country of origin or in the country in which the tenderer or candidate is established, documents of the kind referred to in paragraph (1) are not issued, or where such documents do not cover all the situations provided for in Articles 164, 165 and 167, the contracting authority shall be obliged to accept a declaration on one's own responsibility or, if there are no legal provisions in that country relating to declarations on one's own responsibility, an authenticated declaration made before a notary, an administrative or judicial authority, or a professional body competent in this regard. + Article 169 The contracting authority shall exclude an economic operator at any stage of the award procedure where it becomes aware that the economic operator is, in view of actions or omissions committed before or during the procedure, in one of the situations referred to in Articles 164, 165 and 167, which would give rise to exclusion from the award procedure. + Article 170(1) The contracting authority is obliged to verify that none of the grounds for exclusion set out in Articles 164, 165 and 167 apply in respect of the proposed subcontractors.(2) Where a ground for exclusion is identified, with the provisions of Article 171 applying accordingly, the contracting authority shall request the tenderer/candidate, on a single occasion, to replace a subcontractor in respect of whom the verification has revealed that they are in such a situation.(3) For the purposes of the verification referred to in paragraph (1), the subcontractor shall complete a declaration on their own responsibility in accordance with the provisions of Articles 193–195, stating that they are not in any of the situations giving rise to exclusion from the award procedure. + Article 171(1) Any economic operator in any of the situations set out in Articles 164 and 167 which give rise to exclusion from the award procedure may provide evidence to show that the measures taken by that economic operator are sufficient to demonstrate, in concrete terms, its credibility in relation to the grounds for exclusion.(2) Where the contracting authority considers the evidence submitted by the economic operator in accordance with the provisions of paragraph (1) to be sufficient to demonstrate its credibility in practice, the contracting authority shall not exclude the economic operator from the award procedure.(3) The evidence which an economic operator in any of the situations provided for in Articles 164 and 167 may provide to the contracting authority, for the purposes of paragraph (1), relates to the economic operator making payment or undertaking to pay compensation in respect of any damage caused by a criminal offence or other unlawful act, the economic operator's full clarification of the facts and circumstances in which the criminal offence or other unlawful act was committed, through active cooperation with the investigating authorities, and the adoption by the economic operator of concrete and appropriate measures at a technical, organisational and personnel level, such as severing ties with individuals and organisations involved in the misconduct, measures to reorganise staff, the

implementation of control and reporting systems, the establishment of an internal audit

to verify compliance with legal provisions and other rules, or the adoption of internal rules on liability and the payment of compensation, in order to prevent the commission of further offences or other unlawful acts.(3^{^1}) The contracting authority shall assess the measures taken by economic operators and demonstrated in accordance with the provisions of paragraph (3), taking into account the seriousness and specific circumstances of the offence or breach in question. (on 13 July 2020, Article 171 of Paragraph 2, Section 6, Chapter IV was supplemented by Point 13, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (3^{^2}) Where the contracting authority considers the measures provided for in paragraph (3^{^1}) to be insufficient, it shall provide the economic operator with a statement of the reasons leading to the decision to exclude it from the award procedure. (on 13 July 2020, Article 171 of Paragraph 2, Section 6, Chapter IV was supplemented by Point 13, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (4) Where a final court judgement has imposed on the economic operator a ban on participating in procedures for the award of a public procurement contract/framework agreement or a concession contract, which takes effect in Romania, the provisions of paragraphs (1) to (3) shall not apply for the entire period of exclusion established by that judgment.(5) Where the economic operator has not been subject, by a final court judgement, to a prohibition on participating in procedures for the award of a public procurement contract, a framework agreement or a concession contract for a specific period, the grounds for exclusion set out in Articles 164 and 167 shall not apply: (a) if, in the case of the acts referred to in Article 164, a period of 5 years has elapsed since the date of the final conviction; ... (b) if, in the case of the situations, acts or events referred to in Article 167, a period of three years has elapsed since the date on which the situation arose, the act was committed or the relevant event occurred. ... + Paragraph 3 Criteria relating to capacity + Article 172(1) The contracting authority is entitled to apply, in the award procedure, only capacity criteria relating to: a) the capacity to carry out the professional activity; ... b) economic and financial standing; ... c) technical and professional capacity (2) The contracting authority shall not be entitled to impose on economic operators any other requirements eligibility to participate in the award procedure, as set out in paragraph (1).(3) The contracting authority shall lay down only those participation requirements that are necessary and appropriate to ensure that a candidate or tenderer has the legal and financial capacity and the technical and professional competence to perform the public procurement contract or framework agreement to be awarded.(4) The contracting authority may not lay down participation requirements for subcontractors proposed by the tenderer/candidate in the tender or request to participate, but shall take into account the technical and professional capacity of the proposed subcontractors in relation to their part of the contract to be performed, provided that the documents submitted are relevant in this respect.(5) All capacity requirements imposed by the contracting authority must be related to the subject-matter of the public procurement contract or framework agreement and must be proportionate to that subject-matter. + Article 173(1) The contracting authority shall be entitled to require any economic operator to submit relevant documents proving its form of registration and, where applicable, its professional certification or membership, in accordance with the legal requirements of the country in which the economic operator is established.(2) In procedures for the award of public service contracts, where economic operators are required to hold a special authorisation or to be members of a specific organisation in order to be able to provide the services in question in their country of origin, the contracting authority is entitled to require them to demonstrate that they hold such an authorisation or are members of such an organisation. + Article 174(1) The contracting authority is entitled to require the tenderer/candidate to provide relevant information and documents concerning the technical and professional capacity of the proposed subcontractors, in relation to the part or parts of the contract which they are to perform.(2) Where the information and documents submitted in accordance with paragraph (1) do not demonstrate that the proposed subcontractor possesses the necessary technical and professional capacity for the part or parts of the contract which it is to actually perform, the contracting authority shall reject the proposed subcontractor and shall request the tenderer or candidate, on one occasion only, to replace that subcontractor and to propose another subcontractor who possesses the necessary technical and professional capacity for the part or parts of the contract which that subcontractor is actually to perform. + Article 175(1) The contracting authority is entitled to lay down, in the tender documentation, requirements concerning economic and financial standing that are necessary and appropriate to ensure that economic operators possess the economic and financial capacity required to perform the public procurement contract and to protect itself against any risk of the contract not being performed properly.(2) The requirements relating to economic and financial standing laid down by the contracting authority may relate to elements such as: (a) a certain minimum level of annual turnover, including a certain minimum turnover in the field covered by the public procurement contract or framework agreement; the minimum annual turnover required of economic operators must not exceed twice the estimated value of the public procurement contract or, where applicable, the maximum anticipated value of subsequent contracts to be performed at the same time or, if this is not known, the estimated value of the largest subsequent contract; (on 22 December 2017, subparagraph (a) of paragraph (2), Article 175, paragraph 3, Section 6, Chapter IV was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017)(b) certain levels of other relevant economic and financial indicators , such as the annual liquidity level; ... c) an appropriate level of professional indemnity insurance.....(3)

By way of derogation from the provisions of paragraph (2)(a), the minimum annual turnover required of economic operators may

exceed the limit set out in paragraph (2)(a) in duly justified cases, such as those relating to the existence of specific risks associated with the nature of the works, services or products covered by the public procurement contract or framework agreement.(4) In the case provided for in paragraph (3), the contracting authority shall set out in the procurement documents the main reasons justifying such a requirement. + Article 176(1) Where public procurement contracts are to be awarded on the basis of a framework agreement with renewed competition, the minimum annual turnover threshold referred to in Article 175(2)(a) (2)(a) shall be based on the maximum anticipated value of the subsequent contracts to be performed at the same time or, if this is not known, on the estimated value of the largest subsequent contract. (on 22 December 2017, Paragraph (1) of Article 176, Paragraph 3, Section 6, Chapter IV was amended by Point 24, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (2) In the case of a dynamic purchasing system, the minimum annual turnover threshold provided for in Article 175(2)(a) shall be calculated in relation to the maximum anticipated value of the subsequent contracts to be awarded under that system. + Article 177(1) The economic operator shall demonstrate compliance with the requirements concerning economic and financial standing, as a rule, by submitting, where applicable, some or all of the following information and documents: (a) relevant bank statements or extracts or, where applicable, proof of professional risk insurance

; ... b) the submission of financial statements or extracts from financial statements, where the publication of financial statements is required by the legislation of the country in which the economic operator is established; ... (c) a statement of the economic operator's total turnover and, where applicable, the turnover relating to the field of activity covered by the contract, for no more than the last three financial years available, depending on the date of the economic operator's incorporation or commencement of business, insofar as information on turnover is available(2) Where, for objective and justified reasons, the economic operator is not

is unable to provide one or more of the information and documents referred to in paragraph (1), the economic operator is authorised to provide evidence of its economic and financial standing by means of any other document which the contracting authority deems appropriate. + Article 178(1) The contracting authority is entitled to lay down, in the procurement documents, requirements relating to technical and professional capacity that are necessary and appropriate to ensure that economic operators possess the human and technical resources and the experience required to perform the public procurement contract or framework agreement to an appropriate standard of quality.(2) The requirements relating to technical and professional capacity laid down by the contracting authority may, in particular, relate to the existence of an appropriate level of experience, as demonstrated by contracts performed in the past. (3) In the case of procedures for the award of public procurement contracts/framework agreements for services or works, or public procurement

contracts/framework agreementsframework agreements for products requiring siting or installation works or operations, the professional capacity of economic operators to provide the services or to carry out the works or installation operations may be assessed on the basis of their skills, competences, efficiency, experience and potential. (on 28 July 2022, Paragraph (3) of Article 178, Paragraph 3, Section 6, Chapter IV was amended by Point 6, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022)

+ Article 179 The economic operator shall demonstrate compliance with the requirements relating to technical and professional capacity by submitting, where appropriate, some or all of the following information and documents: (a) a list of works carried out over a period covering no more than the last 5 years, accompanied by certificates of satisfactory completion for the most significant works; where necessary to ensure an adequate level of competition, the contracting authority may stipulate that relevant works carried out more than five years ago shall be taken into account; (b) a list of the main supplies of products or the main services provided a period covering no more than the last 3 years, specifying the values, dates and public or private beneficiaries; where necessary to ensure an adequate level of competition, the contracting authority may stipulate that relevant product supplies or services carried out more than 3 years ago shall be taken into account; (c) details of the technicians or technical bodies involved, regardless of

whether or not they form part of the economic operator's organisation, in particular those responsible for quality control and, in the case of public works contracts, those made available to the contractor for the execution of the works; d) a description of the technical facilities and measures used by the economic operator to ensure

quality, as well as its study and research facilities;e) details of the management and traceability systems within the supply chain which the economic operator may apply during the performance of the contract;

.....(f) where the products or services to be supplied are complex or, exceptional cases, are intended for a specific purpose, the results of an inspection carried out by the contracting authority or, on its behalf, by a competent official body in the country where the economic operator is established, subject to that body's agreement, concerning the production capacities of the economic operator supplying the products or the technical capacity of the economic operator providing the services and, where necessary, the study and research facilities at its disposal and the quality control measures it intends to apply;(g) the educational and professional qualifications of the economic operator providing services

or carries out the works, or of the economic operator's management staff, where these do not constitute evaluation criteria; h) a description of the environmental management measures that the economic operator

will be able to implement
during the performance of the contract; i) a statement regarding the average annual number of staff of the
providing services or carrying out works and the number of management staff over the last 3 years;.....j) a
statement regarding the machinery, plant and technical equipment available to the economic operator which

provides services or carries out works for the performance of the contract; ... k) a specification of the part(s) of the contract which the economic operator intends to subcontract; ... l) samples, descriptions or photographs of the products to be supplied, the authenticity of which must be certified at the request of the

; ... m) certificates issued by official quality control institutes or bodies with recognised competence, attesting to the conformity of the products to be supplied, clearly identified by reference to technical specifications or standards. ... + Article 180(1) Where the contracting authority intends to award a public procurement contract or framework agreement in lots, it shall apply the capacity requirements in relation to each lot individually.(2) By way of derogation from the provisions of paragraph (1), the contracting authority may set the requirements regarding the minimum annual turnover in relation to groups of lots, where the award of several lots to the same tenderer is permitted and the contracts for those lots are to be performed simultaneously.(3) By way of derogation from the provisions of paragraph (1), as a condition for the possibility of awarding contracts comprising several lots to the same tenderer, the contracting authority may set requirements regarding technical and/or professional resources in relation to groups of lots, where the use of such resources under the contracts takes place simultaneously or makes it impossible to allocate the same resource(s) to several contracts being performed at the same time. + Article 181 The criteria relating to capacity and the minimum requirements for meeting them, together with the corresponding means of proof, shall be set out in the contract notice.

+ Article 182(1) The economic operator is entitled, where appropriate and in relation to a specific public procurement contract or framework agreement, to rely on the support of one or more third parties with regard to the fulfilment of the criteria relating to economic and financial standing and/or the criteria relating to technical and professional capacity, regardless of the nature of the legal relationship between the economic operator and the third party or parties concerned.(2) [With regard to meeting the criteria relating to educational and professional qualifications set out in Article 179\(g\) or to relevant professional experience, the economic operator may rely on the capacity of the supporting third party only where that third party will actually carry out the works or services in relation to which those qualifications are required. \(on 22 December 2017, Paragraph \(2\) of Article 182, Paragraph 3, Section 6, Chapter IV was amended by Point 25, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\) \(2^1\) Repealed. \(on 24 May 2024, Paragraph \(2^1\) , Article 182, Section 6, Chapter IV was repealed by Point 5, Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024\)](#) (3) Where the economic operator demonstrates its economic and financial standing and/or technical and/or professional capacity by relying on the support provided, in accordance with the provisions of paragraphs (1) and (2), by one or more third parties, the economic operator is obliged to prove to the contracting authority that it has taken all necessary measures to have access at any time to the necessary resources, by submitting a commitment to that effect from the third party or parties. (4) Together with the commitment of support, the tenderer/candidate is obliged to submit documents provided to them by the supporting third party or parties, showing the actual manner in which the supporting third party or parties will ensure the fulfilment of their own commitment of support; these documents shall constitute annexes to that commitment. (5) [Repealed. \(on 22 December 2017, Paragraph \(5\) of Article 182, Paragraph 3, Section 6, Chapter IV was repealed by Point 26, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December](#)

[\(2017\)](#) + Article 183(1) The contracting authority shall verify whether the third party or parties providing support in relation to the fulfilment of the criteria concerning economic and financial standing or technical and/or professional capacity meet/meet the relevant capacity criteria or fall within the grounds for exclusion set out in Articles 164, 165 and 167. (2) If the third party or parties do not meet the relevant capacity criteria or fall within one of the grounds for exclusion set out in Articles 164, 165 and 167, the contracting authority shall request, on a single occasion, that the economic operator replace the supporting third party or parties, without prejudice to the principle of equal treatment set out in Article 2(2)(b). + Article 184 [Where an economic operator demonstrates compliance with the criteria relating to economic and financial standing by relying on the support of one or more third parties, the contracting authority shall require the economic operator and the supporting third party or parties to be jointly and severally liable for the performance of the public procurement contract or framework agreement. \(as at 10 September 2022, Article 184 of Paragraph 3, Section 6, Chapter IV was amended by Point 13, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#) + Article 185(1) [Where several economic operators participate jointly in the award procedure, compliance with the criteria relating to technical and professional capacity, as well as those relating to economic and financial standing, shall be demonstrated by taking into account the resources of all members of the group, and the contracting authority shall require them to be jointly and severally liable for the performance of the public procurement contract or framework agreement. \(On 22 December 2017, Paragraph \(1\) of Article 185, Paragraph 3, Section 6, Chapter IV was amended by Point 27, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\) \(2\) Where several economic operators participate jointly in the award procedure, they may rely on the support of one or more third parties in meeting the criteria relating to economic and financial standing and/or technical and professional capacity, subject to the provisions of this Act. \(on 10 September 2022, Paragraph \(2\) of Article 185, Paragraph 3, Section 6, Chapter IV was amended by Point 14, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#) + Article 186 In the case of contracts

In the case of public procurement of works or services, and of the siting or installation works or operations under a public procurement contract for supplies, the contracting authority may require that certain essential tasks be carried out directly by the tenderer or, in the case of a tender submitted by a consortium of economic operators, by a specific member of the consortium. + Section 7 Award Criteria + Article 187(1) Without prejudice to any legal or administrative provisions concerning the price of certain products or the remuneration for certain services, the contracting authority shall award the public procurement contract or framework agreement to the tenderer who has submitted the most economically advantageous tender.(2) For the purposes of paragraph (1), the contracting authority shall determine the most economically advantageous tender on the basis of the award criterion and the evaluation factors set out in the procurement documents.(3) In determining the most economically advantageous tender in accordance with the provisions of paragraph (2), the contracting authority is entitled to apply one of the following award criteria: a) the best value for money; ... b) the best quality-cost ratio; ... c) the lowest cost; ... d) the lowest price. ... (on 10 September 2022, Paragraph (3) of Article 187, Section 7, Chapter IV was amended by Point 15, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (3¹) The contracting authority may use the 'lowest price' criterion only where it procures goods, services or works for which the estimated contract value does not exceed the thresholds set out in Article 7(1), as well as where the negotiated procedure without prior publication of a contract notice provided for in Article 104(1)(b) is applied. (On 10 September 2022, Paragraph (3¹) of Article 187, Section 7, Chapter IV was amended by Point 16, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (4) For the purposes of paragraph (3)(a) and (b), the best value for money shall be determined on the basis of evaluation criteria that include qualitative, environmental and/or social aspects relating to the subject matter of the public procurement contract or framework agreement. (On 24 May 2024, Paragraph (4), Article 187, Section 7, Chapter IV was amended by Point 6., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (4¹) For the award of public procurement contracts whose subject matter has an environmental impact throughout their entire life cycle, the contracting authority shall include in the

the award criteria set out in paragraph (3)(a) and (b), evaluation factors relating to environmental protection. (On 24 May 2024, Paragraph (4¹), Article 187, Section 7, Chapter IV was amended by Point 6., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024)

(5) The evaluation criteria set out in paragraph (4) may relate, amongst other things, to: a) quality, including technical advantages, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics, and marketing and the conditions thereof; ... b) the organisation, qualifications and experience of the staff assigned to perform the contract, where the quality of the assigned staff may have a significant impact on the quality of the contract's performance; ... c) after-sales services, technical support and delivery conditions, such as the delivery date, the delivery process and the delivery or completion; ... d) whether the tenderer has a collective labour agreement at unit level concluded with a trade union organisation, or whether a collective labour agreement at sectoral level is applicable to it. (on 17 November 2024, Paragraph (5), Article 187, Section 7, Chapter IV was supplemented by Point 1, Article VIII of Law No. 283 of 13 November 2024, published in the Official Gazette No. 1139 of 14 November 2024) ... (6) For the purposes of paragraph

(3)(a), the award criterion of 'best value for money' usually includes a price or cost element; where the contracting authority initiates a fixed-budget award procedure in which the price or cost element is a fixed price or cost, the evaluation criteria shall relate solely to the qualitative aspects of the products, services or works to be procured. (On 24 May 2024, Paragraph (6) of Article 187, Section 7, Chapter IV was amended by Point 6., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (7) For the purposes of paragraph (3)(c), the lowest cost shall be determined on the basis of cost-effectiveness, using factors such as life-cycle costing. (On 24 May 2024, Paragraph (7) of Article 187, Section 7, Chapter IV was amended by Point 6., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) Note ...

See ORDER No. 12/1/2026 on the revision of the discount rate to be used in the award of public procurement contracts in 2026, published in the OFFICIAL GAZETTE No. 38 of 20 January 2026.(8) Except where the negotiated procedure without prior publication of a contract notice, as provided for in Article 104(1)(b), is applied, the contracting authority shall not use the lowest cost/lowest price as an award criterion in the case of:

(a) categories of public procurement contracts/frameworkfor works or services relating to intellectual services; ... b) public procurement contracts/framework agreements for design and works or services relating to trans-European transport infrastructure projects, as defined in this Act, and county roads; ... c) certain categories of public procurement contracts/framework agreements for products that have an environmental impact throughout their entire life cycle. ... (on 24 May 2024, Paragraph (8) of Article 187, Section 7, Chapter IV was amended by Point 6., Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024, published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (9) The categories of public procurement contracts/framework agreements referred to in paragraph (8), as well as the maximum weight that the price or cost element may have within the award criterion for such contracts, shall be established by the methodological rules for the implementation of this Act.(9¹) The categories of public procurement contracts/framework agreements referred to in paragraph (8)(c) shall

shall be laid down in the methodological rules for the implementation of this Act. (On 16 April 2022, Article 187 of Section 7, Chapter IV was supplemented by [Point 3, Article I of Law No. 86 of 12 April 2022, published in the Official Gazette No. 366 of 13 April 2022](#)) (10) Where two or more tenders are equivalent, contracting authorities may apply an additional criterion, for example: combating unemployment, which shall be explicitly mentioned in the contract notice. + Article 188(1) The evaluation criteria set out in Article 187(4) are directly related to the subject-matter of the public procurement contract/framework agreement-framework agreement when they relate in any way to the goods, services or works to be supplied/provided/carried out under the public procurement contract/framework agreement and at any stage of their life cycle, even if these factors do not form part of the material substance of the goods, services or works in question.(2) For the purposes of paragraph (1), the contracting authority may take into account evaluation criteria relating to: (a) the specific process of production, supply or marketing of the works, products or services; ... (b) a specific process relating to another stage of the life cycle of the works, products or services (3) For the purposes of paragraph (1), for the categories of public procurement contracts

public procurement contracts/framework agreements referred to in Article 187(8)(c), the contracting authority shall take into account, as a minimum, evaluation criteria relating to: (a) the contribution of the manufacturing process to environmental protection;b) the supply chain

— short supply chains;c) the shortest distance from the place of production to the place of consumption. ... (on 16 April 2022, Article 188 of Section 7, Chapter IV was supplemented by [Point 4, Article I of Law No. 86 of 12 April 2022, published in the Official Gazette No. 366 of 13 April 2022](#)) + Article 189(1) The contracting authority shall not be entitled to use evaluation criteria which would lead to unlimited discretion.(2) For the purposes of paragraph (1), the evaluation criteria used by the contracting authority must ensure genuine competition between economic operators and be accompanied by provisions allowing for the effective verification of the information provided by tenderers, for the purposes of applying the evaluation criteria.(3) Where it deems it necessary, the contracting authority shall verify the accuracy of the information and evidence provided by tenderers. + Article 190(1) The contracting authority shall specify in the procurement documents the relative weighting it assigns to each evaluation criterion to be applied in determining the most economically advantageous tender, unless the most economically advantageous tender is determined by applying the lowest price criterion.(2) The relative weightings referred to in paragraph (1) may be expressed in terms of value ranges. (3) Where it is not possible to establish a weighting for objective reasons, the contracting authority shall indicate the evaluation criteria in descending order of importance. + Article 191 The calculation of life-cycle costs shall cover, to the extent relevant, all or part of the following costs over the life cycle of a product, service or works:(a) costs borne by the contracting authority or other users, such as procurement costs, operating costs, including energy and other resource consumption, maintenance costs, and end-of-life costs, such as collection and recycling costs;(b) costs arising from external environmental effects relating to the product, service or works throughout their life cycle, provided that their monetary value can be determined and verified; these costs may include the cost of greenhouse gas emissions and other polluting emissions, and other costs of mitigating the effects of climate change. ... + Article 192(1) Where the contracting authority assesses costs using a life-cycle cost approach, it shall specify in the procurement documents the data to be provided by tenderers, as well as the method the contracting authority intends to use to determine the life-cycle costs on the basis of that data.(2) The method used by the contracting authority to assess the costs arising from the environmental externalities referred to in Article 191(b) must cumulatively fulfil the following conditions: (a) it is based on non-discriminatory and objectively verifiable criteria; in particular, where it has not been established for repeated or continuous application, it must not unduly favour or disadvantage certain economic operators; ... b) it must be accessible to all interested parties;(c) the data requested can be provided

with reasonable effort by economic operators exercising due diligence, including economic operators from third countries that are party to the World Trade Organisation Agreement on Government Procurement or to other international agreements under which the European Union has undertaken obligations.(3) In all cases where a common method for calculating life-cycle costs has become mandatory by virtue of a legislative act adopted at European Union level, that common method shall apply for the assessment of life-cycle costs. + Section 8 The European Single Procurement Document. E-Certis + Article 193(1) The contracting authority shall accept, at the time of submission of requests to participate or tenders, the ESPD, consisting of an up-to-date declaration on one's own responsibility, as preliminary evidence in lieu of certificates issued by public authorities or by third parties confirming that the economic operator in question meets the following conditions:(a) it is not in any of the situations of exclusion referred to in Articles 164, 165 and 167;(b) it meets the capacity criteria as required by the contracting authority;(c) if the case, it meets the selection criteria established by the contracting authority in accordance with the provisions of this Act. (2) Where the tenderer/candidate demonstrates compliance with the criteria relating to economic and financial situation or concerning technical and professional capacity by relying on the capacities of other entities, invoking, where applicable, the support of a third party, the ESPD, together with the commitment to support, must be completed separately by the supporting third party or parties on whose capacity the tenderer

or candidate relies. The ESPD submitted by the supporting third party or parties shall include all the information referred to in paragraph (1)(a), as well as the information in paragraph (1)(b) and (c) that is relevant to the support provided in the context of the respective award procedure. (at

22 December 2017, Paragraph (2) of Article 193, Section 8, Chapter IV was amended by [Point 29, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017](#)) (3) Where the tenderer/candidate intends to subcontract part or parts of the contract, the ESPD shall also include information regarding the part of the contract that is to be subcontracted, if any, and the subcontracting agreement shall be attached thereto. Subcontractors on whose capacities the tenderer/candidate relies must, in turn, complete a separate ESPD, including all the information referred to in paragraph (1)(a), as well as that in paragraph (1)(b) and (c) that is relevant to the capacities of the subcontractors on which the tenderer/candidate relies in the context of the relevant award procedure. In the case of subcontractors on whose capacities the tenderer/candidate does not rely, the DUAE shall contain only the information referred to in paragraph (1)(a). (on 22 December 2017, Paragraph (3) of Article 193, Section 8, Chapter IV was amended by [Point 29, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017](#)) (4) In addition to the information provided for in paragraphs (1) to (3), the ESPD shall also contain information regarding the public authority or third party responsible for drawing up the supporting documents, as well as an official declaration certifying that the economic operator is obliged to provide, upon request and without delay, the relevant supporting documents.(5) Where the contracting authority can obtain the supporting documents referred to in paragraph (4) directly by accessing a database, the ESPD shall also include the information required for this purpose, such as the website address of the database, any identification details and, where applicable, the necessary declaration of consent.(6) [In the simplified procedure and the procedure applied for the award of a contract or framework agreement funded under the National Recovery and Resilience Plan, contracting authorities are required to select in the ESPD 'α: the general indication for all selection criteria' \(as at 10 September 2022, Article 193 of Section 8, Chapter IV was supplemented by Point 18, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#) + Article 194: Economic operators may reuse an ESPD already used in a previous procurement procedure, provided they confirm that the information contained therein remains accurate and valid at the time of its submission. + Article 195: The ESPD shall be drawn up on the basis of a standard form approved by the European Commission and shall be provided exclusively in electronic format. + Article 196(1) [The contracting authority may require candidates/tenderers to submit all or part of the supporting documents as evidence of the information contained in the ESPD at any time during the course of a procurement procedure, if this is necessary to ensure the proper conduct of the procedure. The documents requested must be submitted by candidates/tenderers, on pain of exclusion, within a maximum of 5 working days of receiving the request from the contracting authority, with the possibility of an extension of up to 5 working days, upon a reasoned request from the candidate/tenderer concerned. \(on 28 July 2022, Paragraph \(1\) of Article 196, Section 8, Chapter IV was amended by Point 7, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022\)](#) (2) [Prior to the award of the public procurement contract or framework agreement—with the exception of subsequent contracts awarded in the performance of a framework agreement—the contracting authority shall, within one working day of determining the tenderer ranked first following the application of the award criterion, or within one working day of the issue of the approval notice, where the documentation is subject to ex-ante control in accordance with Government Emergency Ordinance No. 98/2017 on the ex-ante control function for the award of public procurement contracts/framework agreements, sectoral and works and services concession contracts, approved by Law No. 186/2018, as subsequently amended and supplemented, it shall request the tenderer to submit updated supporting documents demonstrating compliance with all qualification and selection criteria, in accordance with the information contained in the ESPD, with the exception of multi-stage procedures, where supporting documents are requested prior to the dispatch of invitations to the second stage to the selected candidates, granting the tenderer/candidate a period of up to 7 working days to respond to the request for clarification, failing which the tender shall be rejected as unacceptable. This time limit may be extended, upon a justified request from the tenderer/candidate, by a maximum of 3 working days. \(as at 21 March 2022, Paragraph \(2\) of Article 196, Section 8, Chapter IV was amended by Point 4, Article I of EMERGENCY ORDINANCE No. 26 of 18 March 2022, published in the OFFICIAL GAZETTE No. 272 of 21 March 2022\)](#) (2[^]1) [Repealed. \(On 21 March 2022, Paragraph \(2[^]1\) of Article 196, Section 8, Chapter IV was repealed by Point 5, Article I of EMERGENCY ORDINANCE No. 26 of 18 March 2022, published in the OFFICIAL GAZETTE No. 272 of 21 March 2022\)](#) (3) The contracting authority may invite candidates/tenderers to supplement or clarify the documents referred to in paragraph (1) or (2). + Article 197(1) By way of derogation from the provisions of Article 196, economic operators shall not be required to submit supporting documents or other evidence in support of the information declared in the ESPD where and to the extent that the contracting authority is able to obtain the relevant certificates or information directly, by accessing a national database in any Member State, available free of charge, such as a national public procurement register, a virtual company register, an electronic document storage system or a pre-selection system.(2) By way of derogation from the provisions of Article 196, economic operators shall not be required to submit supporting documents in support of the information declared in the ESPD where the contracting authority that awarded the public procurement contract or concluded the framework agreement is already in possession of those documents.(3) For the purposes of paragraph (1), databases containing relevant information on economic operators must be accessible to all contracting authorities in all

Member States and must be updated regularly as appropriate. + Article 198 ANAP shall make available to the European Commission and update in e-Certis the complete list of databases containing relevant information on economic operators established in Romania. + Article 199(1) In order to facilitate cross-border award procedures, ANAP shall ensure that information on certificates and other forms of supporting documents entered into e-Certis is kept up to date at all times. (2) Contracting authorities shall use e-Certis and shall primarily request those types of certificates or forms of supporting documents that are available in e-Certis.

+ Article 200(1) Where the contracting authority requires economic operators to submit specific certifications, issued by independent bodies, attesting to their compliance with certain quality assurance standards, including those relating to accessibility for persons with disabilities, or environmental management standards or systems, this shall refer to quality assurance systems based on the relevant European standards certified by accredited bodies. (On 22 December 2017, Paragraph (1) of Article 200, Section 8, Chapter IV was amended by Point 30, Article I of EMERGENCY ORDINANCE No.

107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (2) The contracting authority is obliged, in accordance with the principle of mutual recognition, to accept certificates equivalent to those provided for in paragraph (1), issued by accredited certification bodies established in other Member States. (3) Where it can be demonstrated that an economic operator has not had access to a quality or environmental certificate as required by the contracting authority, or is unable to obtain it within the specified time limits, for reasons not attributable to it, the contracting authority shall be obliged to accept any other evidence or proof submitted by that economic operator, provided that the evidence or proof submitted confirms that an appropriate level of quality or, where applicable, environmental protection, equivalent to that required by the contracting authority, is ensured.

+ Section 9: Official lists of approved economic operators and certification by public or private bodies + Article 201(1) The methodological rules for the implementation of this Law shall lay down the procedures for the certification or inclusion on official lists, at national level, of economic operators who opt for a certification scheme. (2) ANAP is obliged to inform the European Commission of the details and mode of operation of the certification system referred to in paragraph (1). (3) Economic operators included on the official lists or holding a certificate may submit to the contracting authorities, as part of a procedure for the award of a public procurement contract or framework agreement, a certificate of registration issued by the competent authority or the competent certification body; such certificates shall indicate the references on which the inclusion of economic operators on the official list or their certification was based, as well as their ranking on that list. (4) The inclusion of economic operators on official lists certified by the competent bodies or a certificate issued by a certification body constitutes a relative presumption that the economic operator included on that list or holding that certificate meets the qualification and selection requirements covered by the official list or that certificate. + Article 202(1) The information resulting from inclusion on official lists or from certificates issued by certification bodies may not be called into question without justification. (2) With regard to the payment of taxes, duties and contributions to the general consolidated budget, an additional certificate may be requested from any economic operator included on an official list or holding a certificate when awarding a public procurement contract or framework agreement. (3) Economic operators from other Member States are not required to be included on an official list organised in accordance with the provisions of this Act or to obtain in Romania a certificate of the type regulated in this section in order to participate in a procedure for the award of a public procurement contract or framework agreement. (4) Where the contracting authority requires certain certificates as part of a procurement procedure, it shall be obliged to accept equivalent certificates issued by bodies established in other Member States or other equivalent means of proof. + Section 10 Electronic catalogues + Article 203(1) Where legal provisions require the use of electronic means of communication, the contracting authority may require that tenders be submitted in the form of an electronic catalogue or include an electronic catalogue. (2) The implementing rules for this Act shall specify the categories of procurement in respect of which the contracting authority is obliged to require the use of electronic catalogues.

(3) Tenders submitted in the form of electronic catalogues may be accompanied by other documents supplementing them. + Article 204(1) Electronic catalogues shall be drawn up by candidates/tenderers with a view to participating in a specific award procedure, in accordance with the technical specifications and format established by the contracting authority. (2) Electronic catalogues shall comply with the requirements applicable to electronic communication tools, as well as any additional requirements laid down by the contracting authority, in accordance with the provisions of Articles 64–66 and the methodological rules for the application of this Act. + Article 205(1) Where the contracting authority accepts or requires tenders to be submitted in the form of electronic catalogues, it shall: (a) specify this in the contract notice; ... (b) set out in the procurement documents all necessary information regarding the format, the electronic equipment to be used, and the technical connection arrangements and specifications for the catalogue. (2) In the event that a framework agreement has been concluded with several economic operators on the basis of tenders submitted in the form of electronic catalogues, the contracting authority may provide that the reopening of competition for the award of subsequent contracts shall be carried out on the basis of updated catalogues. (3) In the case referred to in paragraph (2), the contracting authority shall use one of the following methods: (a) invite tenderers to resubmit their electronic catalogues, adapted to the requirements of the contract in question; (b) inform tenderers that it intends to extract from

the electronic catalogues that have already been submitted the information necessary to draw up tenders adapted to the requirements of the contract in question, provided that the use of this method was announced in the procurement documents

on which the conclusion of the framework agreement was based. (4) Where the contracting authority reopens competition for the award of subsequent contracts under the framework agreement in accordance with the provisions of paragraph (3)(b), it shall notify tenderers of the date and time at which it intends to collect the information necessary to draw up tenders tailored to the requirements of the contract in question and shall give tenderers the opportunity to refuse such collection of information.(5) The contracting authority must allow a reasonable period of time between the notification referred to in paragraph (4) and the actual collection of the information.(6) Before awarding the contract, the contracting authority shall provide the information collected in accordance with the provisions of paragraph (4) to the tenderer concerned, in order to give them the opportunity to challenge or confirm that the tender thus prepared does not contain any significant errors. + Article 206(1) The contracting authority may award public procurement contracts on the basis of a dynamic purchasing system, by inviting tenders for a specific contract in the form of an electronic catalogue.(2) The contracting authority may also award public procurement contracts on the basis of a dynamic purchasing system, in accordance with the provisions of Article 205(3)(b) and paragraphs (4)–(6), provided that the invitation to participate in the dynamic purchasing system is accompanied by an electronic catalogue complying with the technical specifications and format established by the contracting authority. (3) The electronic catalogue referred to in paragraph (2) shall subsequently be completed by the candidates when they are informed of the contracting authority's intention to invite tenders on the basis of the procedure set out in Article 205(3)(b). + Section 11 Award of public procurement contracts and conclusion of framework agreements + Article 207(1) The contracting authority shall determine the successful tender on the basis of the award criterion and the evaluation factors specified in the invitation to tender/contract notice and in the procurement documents, provided that all of the following conditions are met:(a) the tender in question meets all the requirements, conditions and criteria set out in the contract notice and the procurement documents, taking into account, where applicable, the provisions of Article 162;.....(b) the tender in question has submitted by a tenderer who meets the capacity criteria and, where applicable, the selection criteria, and is not subject to any grounds for exclusion. (on 22 December 2017, point (b) of paragraph (1), Article 207, Section 11, Chapter IV was amended by Point 31, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017)(2) In the case of where the contracting authority is unable to conclude the contract or framework agreement with the tenderer whose tender has been declared the successful one, because that tenderer is in a situation of force majeure or is fortuitously unable to perform the contract or framework agreement, the contracting authority is obliged to declare the tender ranked next in order as the successful tender, provided that such a tender exists and is admissible. (on 13 July 2020, Paragraph (2) of Article 207, Section 11, Chapter IV was amended by Point 15, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (3) Where, in the situation provided for in paragraph (2), there is no admissible bid ranked next in order, the provisions of Article 212(1)(e) shall apply. (on 13 July 2020, Paragraph (3) of Article 207, Section 11, Chapter IV was amended by Point 15, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) + Article 208 The methodological rules for the implementation of this Act shall set out the specific cases and conditions in which the contracting authority is entitled, within the framework of an open tender procedure, to assess the conformity of tenders with the technical specifications and other requirements set out in the procurement documents, and to apply the award criterion and evaluation factors prior to verifying compliance with the qualification and selection criteria. + Article 209(1) Where the information or documents submitted by economic operators are incomplete or incorrect, or where certain documents are missing, the contracting authority is entitled to request, within a specified time limit, that tenderers or candidates provide clarifications and, where appropriate, supplementary information regarding the documents submitted by them in their tenders or requests to participate, in accordance with the principles of equal treatment and transparency. (1^1) In the case of simplified procedures organised for the award of contracts under infrastructure projects financed from European funds, where the information or documents submitted by economic operators are incomplete or incorrect, or where certain documents are missing, the contracting authority shall be entitled to request from tenderers/candidates, as a rule no more than twice during the evaluation process, clarifications or supplementary information regarding the documents submitted by them in their tenders or requests to participate, in accordance with the principles of equal treatment and transparency. (on 13 July 2020, Article 209 of Section 11, Chapter IV was supplemented by Point 16, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (2) The contracting authority shall not be entitled to use the requested clarifications or additions to create a clear advantage in favour of a tenderer or candidate.(3) The time limit granted to tenderers/candidates for submitting a response to the request referred to in paragraph (1), including any extension requested and justified by the economic operator, shall not exceed 15 working days and shall be determined according to the complexity of the request. (On 10 September 2022, Article 209 of Section 11, Chapter IV was supplemented by Point 19, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) + Article 210(1) In the case of a financial proposal that appears to be abnormally low in relation to the works,

products or services forming the subject matter of the public procurement contract or framework agreement to be awarded or concluded, the contracting authority is obliged to request clarification from the tenderer who submitted such a tender regarding the price or costs proposed in that tender. (On 22 December 2017, Paragraph (1) of Article 210, Section 11, Chapter IV was amended by Point 32, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the

No. 1022 of 22 December 2017) (2) The clarifications referred to in paragraph (1) may relate in particular to: a) the economic justification for the pricing method, with reference to the production process, the services provided or the construction methods used; ... b) the technical solutions adopted and/or any particularly favourable conditions from which the tenderer benefits for the supply of products or services or the performance of works; ... c) the originality of the works, products or services proposed by the tenderer; ... d) compliance with the obligations set out in Article 51(1); ... e) compliance with the obligations set out in Article 218; ... f) the possibility that the tenderer may benefit from State aid. (3) The contracting authority shall assess the information and documents provided by the tenderer whose tender is of an apparently abnormally low price and shall reject that tender only where the evidence provided does not adequately justify the low level of the proposed price or costs, taking into account the factors referred to in paragraph (2). (4) The contracting authority shall always reject a tender where it finds that it is abnormally low because it does not comply with the obligations laid down in Article 51(1). (5) Where the contracting authority finds that a tender has an abnormally low price because the tenderer is benefiting from State aid, that tender may be rejected on that ground alone only if, following the clarifications requested, the tenderer has been unable to demonstrate, within a reasonable time limit set by the contracting authority, that the State aid was granted lawfully. (6) Where the contracting authority rejects a tender on the grounds set out in paragraph (5), it shall inform the European Commission after consulting the Competition Council. + Section 12 Conclusion of the award procedure + Article 211 The award procedure shall be concluded by: (a) the conclusion of the public procurement contract or framework agreement; or(b) the cancellation of the procedure award. ... + Article 212(1) The contracting authority is obliged to cancel the procedure for the award of the public procurement contract/framework agreement in the following cases: (a) if no tender or request to participate has been submitted, or if no admissible tender has been submitted;(b) if tenders that cannot be compared due to the inconsistent treatment of technical and/or financial solutions; c) if breaches of legal provisions affect the award procedure or if it is impossible to conclude the contract; ..d) the National Council for the Settlement of Appeals or the court orders that certain technical specifications or requirements in the tender documents or other documents issued in connection with the award procedure be amended or removed, such that the purpose of the procurement can no longer be properly achieved, and the contracting authority is unable to take remedial measures without these affecting the principles of public procurement set out in Article 2(2); (on 22 December 2017, point (d) of paragraph (1), Article 212, Section 12, Chapter IV was amended by Point 33, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017).....(e) if the contract or framework agreement cannot be concluded with the tenderer whose tender was declared as the successful tender due to the fact that the tenderer in question is in a situation of force majeure or is fortuitously unable to perform the contract/framework agreement and there is no admissible tender ranked next in order of merit. (on 13 July 2020, point (e) of paragraph (1), Article 212, Section 12, Chapter IV was amended by Point 17, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (2) For the purposes of paragraph (1)(c), 'breaches of the legal provisions' shall mean a situation where, during the award procedure, errors or omissions are identified and the contracting authority is unable to take corrective measures without this leading to a breach of the principles set out in Article 2(2). + Article 213(1) The contracting authority shall be entitled to cancel the procedure for the award of the public procurement contract or framework agreement in the situations provided for in Article 78(8), Article 82(8), Article 88(8) and Article 97(8). (2) The contracting authority is obliged to publish the decision to cancel the procedure for the award of the public procurement contract or framework agreement, together with the grounds for cancelling the award procedure, via the electronic platform referred to in Article 150(1), within one working day of the adoption of the cancellation decision. (as at 30 August 2021, Paragraph (2) of Article 213, Section 12, Chapter IV was amended by Point 8, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) + Section 13: Notification of candidates/tenderers + Article 214(1) The contracting authority is obliged to send the successful tenderer a notice confirming the acceptance of their tender, thereby expressing its agreement to conclude the public procurement contract or framework agreement. (2) Repealed. (on 4 June 2018, Paragraph (2) of Article 214, Section 13, Chapter IV was repealed by Point 20, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (3) The contracting authority shall draw up the report on the procedure within a period not exceeding: a) 60 working days, for the procedures provided for in Article 68(1)(a), (b), (e) and (g), from the deadline for the submission of tenders/initial tenders/proposals;b) 20 working days, for the procedures set out in Article 68(1)(f) and (i), from the deadline for the submission of tenders; c) 100 working days, for the procedures set out in Article 68(1)(c) and (d), from the deadline for the submission of tenders. ... (on 13 July 2020, Paragraph (3) of Article 214, Section 13, Chapter IV was amended by Point 18, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (4) The contracting authority shall draw up the interim report relating to the procedures provided for in Article 68(1)(b),

(c), (d) and (e) within a period not exceeding 20 working days from the deadline for the submission of requests to participate. (on 13 July 2020, Article 214 of Section 13, Chapter IV was supplemented by Point 19, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (5) By way of exception to the provisions of paragraphs (3) and (4), in duly justified cases

and with the approval of the head of the contracting authority, the deadline for drawing up the procedure report or the interim report may be extended once only, by a period not exceeding: a) 30 working days, for the procedures referred to in Article 68(1)(a), (b), (e) and (g); ... b) 15 working days, for the procedures set out in Article 68(1)(f) and (i); ... c) 50 working days, for the procedures set out in Article 68(1)(c) and (d). ... (on 30 August 2021, Paragraph (5) of Article 214, Section 13, Chapter IV was amended by Point 9, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) (5¹) In the cases provided for in paragraph (5), the contracting authority shall notify the economic operators involved in the procedure of the decision to extend the deadline for drawing up the procedure report, within no more than two working days of the expiry of the initial evaluation deadline. (on 30 August 2021, Article 214 of Section 13, Chapter IV was supplemented by Point 10, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) (6) Where, following a decision issued by the National Council for the Settlement of Appeals or a court of law, the contracting authority is obliged to annul an act, issue an act or adopt the measures necessary to restore legality, the period within which the contracting authority must implement the decision shall not exceed 10 working days from the date of its notification. (on 30 August 2021, Paragraph (6) of Article 214, Section 13, Chapter IV was amended by Point 9, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) (7) For multi-lot procedures, by way of derogation from the provisions of paragraph (3), in duly justified cases and with the approval of the head of the contracting authority, the deadline for drawing up the procedure report may be extended once only, by a period not exceeding 50 working days. (On 30 August 2021, Article 214 of Section 13, Chapter IV was supplemented by Point 11, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021) + Article 215(1) The contracting authority shall inform each candidate/tenderer of the decisions taken regarding the outcome of the selection, the outcome of the procedure, and the award/conclusion of the public procurement contract/framework agreement or admission to a dynamic purchasing system, including the reasons underlying any decision not to award a contract, not to conclude a framework agreement, not to implement a dynamic purchasing system or to restart the award procedure, as soon as possible, but no later than 3 days after the relevant decisions have been issued. (on 4 June 2018, Paragraph (1) of Article 215, Section 13, Chapter IV was amended by Point 21, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (2) In the notification regarding the outcome of the procedure provided for in paragraph (1), the contracting authority is required to include: (a) for each rejected candidate, the specific reasons underlying the decision to reject their application to participate; ... (b) for each rejected tenderer, the specific reasons underlying the decision to reject their tender; (on 22 December 2017, point (b) of paragraph (2), Article 215, Section 13, Chapter IV was amended by Point 36, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) ... (c) to each tenderer who has submitted an admissible tender but whose tender has not been declared the winning tender, the characteristics and relative advantages of the tender(s) designated as the winning tender(s) in comparison with their own tender, the name of the tenderer to whom the public procurement contract is to be awarded or, where applicable, of the tenderer(s) tenderers with whom a framework agreement is to be concluded; ... d) to each tenderer who has submitted an admissible tender, information regarding the conduct and progress of the negotiations and the dialogue with the tenderers.....(3) **Admissible tender**

is a tender that is not unacceptable, non-compliant or unsuitable. (As at 22 December 2017, Paragraph (3) of Article 215, Section 13, Chapter IV was amended by Point 37, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (4) A tender shall be deemed unacceptable if it does not comply with the formal requirements relating to its preparation and submission, if it has been submitted by a tenderer who does not possess the necessary qualifications, or if its price exceeds the estimated value, as established and documented prior to the commencement of the award procedure, and this value cannot be increased. (on 22 December 2017, Paragraph (4) of Article 215, Section 13, Chapter IV was amended by Point 37, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (5) A tender shall be deemed non-compliant if it does not meet the requirements set out in the procurement documents, was received late, shows signs of anti-competitive arrangements or corruption, or has been deemed by the contracting authority to be abnormally low. (on 22 December 2017, Paragraph (5) of Article 215, Section 13, Chapter IV was amended by Point 37, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (5¹) A tender shall be deemed unsuitable if it is irrelevant to the subject-matter of the contract and clearly cannot, without substantial modifications, meet the needs and requirements of the contracting authority as set out in the procurement documents. (on 22 December 2017, Article 215 of Section 13, Chapter IV was supplemented by Point 38, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) (6) An application to participate shall be deemed unsuitable where the candidate is in one of the situations of exclusion provided for in Articles 164, 165 and 167 or does not meet the qualification criteria established by the contracting authority. (on 22 December 2017, Paragraph (6) of Article 215, Section 13, Chapter IV was amended by Point 37, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No.

[1022 of 22 December 2017](#)) (7) The contracting authority is entitled not to disclose certain

information referred to in paragraphs (1) and (2) concerning the award of a public procurement contract, the conclusion of a framework agreement or admission to a dynamic purchasing system, where disclosure of such information: (a) would impede the application of legal provisions or would be contrary to the public interest; ... (b) would prejudice the legitimate commercial interests of an economic operator, whether public or private, or could prejudice fair competition between economic operators. ... + Section 14: The procurement file and the award procedure report + Article 216(1) The contracting authority is required to draw up an award procedure report for each public procurement contract awarded or framework agreement concluded, as well as for each dynamic purchasing system launched.^(1^1) The interim report and the award procedure report shall be published on the SEAP, signed with a qualified electronic signature, on the same day as the notification referred to in Article 215(1) is sent, without reference to information which the economic operator specifies and proves to be confidential or protected by an intellectual property right. (on 13 July 2020, Article 216 of Section 14, Chapter IV was supplemented by Point 20, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (2) The report on the award procedure referred to in paragraph (1) must contain at least the following documents/information: a) the name and address of the contracting authority, the subject matter and value of the public procurement contract/framework agreement or dynamic purchasing system; ... b) where applicable, the results of the qualification and/or selection process for candidates/tenderers and/or the reduction in their number during the award procedure; ... c) the reasons for rejecting a tender with an abnormally low price; ... d) the name of the successful tenderer and the reasons why their tender was selected as the winning tender; ... e) to the extent known, the part(s) of the public procurement contract or framework agreement that the successful tenderer intends to subcontract to third parties and the names of the subcontractors; ... f) the reasons for the choice of the award procedure, where competitive negotiation, competitive dialogue or negotiation without prior publication of a contract notice have been used; ... g) the reasons why the contracting authority decided to cancel the award procedure; ... h) where applicable, the reasons why means of communication other than electronic ones were used for the submission of tenders; ... i) where applicable, any conflicts of interest identified and the measures taken in this regard (3) The information referred to in paragraph (2)(b)

is as follows: a) the names of the qualified and/or selected candidates/tenderers and the reasons for those decisions; ... b) the names of the rejected candidates/tenderers and the reasons for their rejection. (4)

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is not obliged to draw up the report referred to in paragraph (1) in respect of subsequent contracts awarded in the performance of a framework agreement, where the framework agreement is concluded in accordance with the provisions of Article 117 or Article 118(1)(a).⁽⁵⁾ In so far as the notice of the award of the public procurement contract or framework agreement contains the information referred to in paragraph (2), the contracting authority may refer to that notice in the report on the award procedure.⁽⁶⁾ The report on the award procedure referred to in paragraph (1) or any significant elements thereof shall be communicated to the European Commission or to the competent public authorities and institutions, at their request. + Article 217(1) The contracting authority is required to compile the public procurement file for each public procurement contract or framework agreement concluded, and for each dynamic purchasing system launched.⁽²⁾ The public procurement file shall be retained by the contracting authority for as long as the public procurement contract or framework agreement remains in force, but for no less than 5 years from the date of termination of the contract in question. (3) In the event of the cancellation of the award procedure, the file shall be retained for at least 5 years from the date of cancellation of that procedure.⁽⁴⁾ Following the completion of the award procedure, the public procurement file shall be deemed a public document.⁽⁵⁾ Access by members of the public to the public procurement file in accordance with paragraph (4) shall be granted in accordance with the time limits and procedures laid down in the legal regulations on free access to information of public interest and may only be restricted to the extent that such information contained within the technical proposals, financial proposals and/or price/cost justifications have been declared and substantiated in accordance with Article 57(4) as being confidential, in accordance with the law. (as at 13 July 2020, Paragraph (5) of Article 217

, Section 14, Chapter IV was amended by Point 21, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (6) By way of derogation from the provisions of paragraph (5), following notification of the outcome of the award procedure, the contracting authority is obliged to grant, upon request, within a period not exceeding one working day from the date of receipt of the request, unrestricted access to any tenderer/candidate to the report on the award procedure and to information that does not form part of the technical proposals, financial proposals and/or price/cost justifications. The contracting authority is obliged to grant, upon request, within a period not exceeding one working day from the date of receipt of the request, unrestricted access to any tenderer/candidate to the information contained in the technical proposals and/or to the price/cost justifications which have not been declared and substantiated by the tenderers as confidential. (on 13 July 2020, Paragraph (6) of Article 217, Section 14, Chapter IV was amended by Point 21, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (7) The contents of the public procurement dossier shall be determined by the methodological rules for the implementation of this Act. + Chapter V Performance of the public procurement contract/framework agreement + Section 1 Subcontracting + Article 218(1) The contracting authority shall make payments corresponding to the part or parts of the contract performed by the

subcontractors proposed in the tender, at their request and in accordance with the contractual schedule agreed by the parties, for services, products or works supplied to the contractor under the contract between the contractor and the subcontractor in accordance with the applicable legal provisions, where the nature of the contract so permits and provided that the proposed subcontractors have expressed their preference to that effect. (on 28 July 2022, Paragraph

[\(1\) of Article 218, Section 1, Chapter V was amended by Point 8, Article I of Law No. 256 of 21 July 2022, published in the Official Gazette No. 744 of 25 July 2022\)](#) (2) For the purposes of paragraph (1), subcontractors shall, at the time of concluding the public procurement contract or at the time of their inclusion in the public procurement contract, as the case may be, express their preference to be paid directly by the contracting authority. The contracting authority shall make direct payments to approved subcontractors only when their performance is confirmed by documents agreed upon by all three parties, namely the contracting authority, the contractor and the subcontractor, or by the contracting authority and the subcontractor where, without justification, the contractor blocks confirmation of the fulfilment of the obligations undertaken by the subcontractor. (3) Where a subcontractor elects to be paid directly, the contracting authority is obliged to include in the public procurement contract binding contractual clauses providing for the legal transfer of payment obligations to the subcontractor(s) for the part(s) of the contract relating to them, once the fulfilment of the obligations assumed under the subcontract has been confirmed, in accordance with the provisions of paragraph (2). (4) The contracting authority is obliged, upon conclusion of the public procurement contract or when new subcontractors are introduced, to request the submission of the contracts concluded between the contractor and the subcontractor(s) named in the tender or subsequently declared, so that the activities to be carried out by them, as well as the amounts relating to the services, are included in the public procurement contract. (5) The contracts submitted in accordance with the provisions of paragraph (4) must be consistent with the tender and shall form annexes to the public procurement contract. (6) The provisions set out in paragraphs (1) to (5) do not diminish the contractor's liability regarding the performance of the future public procurement contract or framework agreement. [\(7\) The provisions of paragraph \(1\) may also apply, as appropriate, to suppliers and/or subcontractors of subcontractors and/or any other economic operators, provided that this possibility has been provided for in the procurement documents. \(on 21 March 2022, Article 218 of Section 1, Chapter V was supplemented by Point 6, Article I of EMERGENCY ORDINANCE No. 26 of 18 March 2022, published in the OFFICIAL GAZETTE No. 272 of 21 March 2022\)](#) + Article 219(1) The contracting authority shall request the contractor, no later than the date on which the performance of the contract commences, to provide the names, contact details and legal representatives of its subcontractors involved in the performance of the public procurement contract, insofar as this information is known at that time. (2) The contractor is obliged to notify the contracting authority of any changes to the information referred to in paragraph (1) during the term of the public procurement contract. (3) The contractor shall be entitled to engage new subcontractors during the performance of the public procurement contract, provided that their appointment does not constitute a substantial amendment to the public procurement contract, subject to the provisions of Article 221. (4) In the situation referred to in paragraph (3), the contractor shall provide the contracting authority with the information referred to in paragraph (1) and shall obtain the contracting authority's consent regarding any new subcontractors subsequently involved in the performance of the contract. (5) [Where the replacement or introduction of new subcontractors takes place after the contract has been awarded, they shall submit the certificates and other documents necessary to verify the absence of any grounds for exclusion and, respectively, the existence of the resources/capacities corresponding to their part in the contract to be performed. \(On 30 August 2021, Paragraph \(5\) of Article 219, Section 1, Chapter V was amended by Point 12, Article I of ORDINANCE No. 3 of 25 August 2021, published in the OFFICIAL GAZETTE No. 821 of 27 August 2021\)](#) + Article 220 For the purposes of full disclosure, the contracting authority shall be entitled to extend the application of the obligations set out in Article 219: (a) in respect of suppliers involved in public works or services contracts; ... (b) in respect of the subcontractors of the contractor's subcontractors or subcontractors at subsequent levels of the subcontracting chain. ... + Section 2 Amendment of the public procurement contract/framework agreement + Article 221(1) Public procurement contracts/framework agreements may be amended, without organising a new award procedure, in the following situations: [\(a\) where the amendments, regardless of their value, were provided for in the initial procurement documents in the form of clear, precise and unambiguous revision clauses, which may include price revision clauses; \(on 4 June 2018, point \(a\) of paragraph \(1\), Article 221, Section 2, Chapter V was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) ... (b) for additional works, services or supplies from the original contractor, up to a maximum of 50 per cent of the value of the original contract, which have become necessary and were not included in the original procurement procedure, and a change of contractor: (i) is impossible for economic or technical reasons, such as requirements regarding interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement procedure; and ... (ii) would result in a significant increase in costs for the contracting authority; ... (on 4 June 2018, point (b) of paragraph (1), Article 221, Section 2, Chapter V was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) ... (c) where all of the following conditions are met: (i) the modification has become necessary as a result of circumstances which a contracting authority acting with due diligence could not have foreseen; ... (ii) the modification does not affect the general nature of the contract; ... (iii) the price increase does not exceed 50 per cent of the value of the original public procurement contract or framework agreement; [\(d\) where the contractor with whom the contracting authority originally concluded the contract](#)

A public procurement contract is replaced by a new contractor in one of the following situations: (as at 4 June 2018, the introductory part of point (d), paragraph (1), Article 221, Section 2, Chapter V was amended by [Point 23,](#)

459 of 4 June 2018) (i) as a result of a revision clause or an option established by the contracting authority in accordance with subparagraph (a) and paragraph (2); ... (ii) the rights and obligations of the original contractor arising from the public procurement contract are assumed, as a result of universal succession or by universal title as part of a reorganisation process, including through merger, division, acquisition or insolvency, by another economic operator that meets the qualification and selection criteria originally laid down, provided that this change does not entail any other substantial amendments to the public procurement contract and is not carried out with the aim of circumventing the application of the award procedures laid down in this Act; (on 4 June 2018, Point (ii) of Letter d), Paragraph (1), Article 221, Section 2, Chapter V was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) ... (iii) where the contracting authority assumes the obligations of the main contractor towards its subcontractors, and those of the subcontractors towards the contracting authority; (on 22 December 2017, Point (iii) of Subparagraph (d), Paragraph (1), Article 221, Section 2, Chapter V was amended by Point 39, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017) ... (e) where the amendments, regardless of their value, are not substantial; ... f) without the need to verify whether the conditions set out in paragraph (7)(a)–(d) are met, where the following conditions are cumulatively met: (on 13 July 2020, the introductory part of point (f), paragraph (1), Article 221, Section 2, Chapter V was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) ... (i) the value of the amendment is less than the corresponding thresholds set out in Article 7(1); ... (ii) the value of the amendment is less than 10 per cent of the price of the original public procurement contract, in the case of public procurement contracts for services or supplies, or less than 15 per cent of the price of the original public procurement contract, in the case of public procurement contracts for works; ... (iii) the amendment does not affect the general nature of the contract or the framework agreement on the basis of which the subsequent contract in question is awarded. ... (on 4 June 2018, Point (f) of Paragraph (1), Article 221, Section 2, Chapter V was amended by Point 23, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (2) In the situation referred to in paragraph (1)(a), the review clauses shall specify the limits and nature of any amendments, as well as the conditions under which they may be invoked, and shall not provide for amendments or options that would affect the general nature of the public procurement contract or the framework agreement. (on 4 June 2018, Paragraph (2) of Article 221, Section 2, Chapter V was amended by Point 24, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (3) For the purposes of paragraph (1)(b), a change of contractor is not possible where all of the following conditions are met: (a) a change of contractor cannot be carried out for economic or technical reasons, such as requirements relating to interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement procedure; ... (b) a change of contractor would cause the contracting authority significant difficulties or a significant increase in costs. (4) Where the contract price is increased through several successive amendments in accordance with paragraph (1)(b) and (c), the cumulative value of the amendments to the contract shall not exceed the value of the original contract by more than 50 per cent. (5) The contracting authority shall not be entitled to make successive amendments to the public procurement contract or framework agreement in accordance with paragraph (1)(b) and (c) for the purpose of circumventing the application of the award procedures provided for in this Act. (6) Contracting authorities which amend a public procurement contract or framework agreement in the situations provided for in paragraph (1)(b) and (c) shall be required to publish a notice to that effect in the Official Journal of the European Union, in accordance with the standard form established by the European Commission pursuant to the provisions of Article 51 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014. (as at 13 July 2020, Paragraph (6) of Article 221, Section 2, Chapter V was amended by Point 22, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (7) For the purposes of paragraph (1)(e), an amendment to a contract or a framework agreement, during its term, shall be considered substantial only where, as a result of that amendment, the contract or framework agreement exhibits characteristics that differ substantially from those of the original document. Without prejudice to the provisions of paragraph (1), an amendment to a public procurement contract or framework agreement, during its term, shall be considered a substantial amendment where at least one of the following conditions is met: (a) the amendment introduces conditions which, had they been included in the initial award procedure, would have allowed for the selection of candidates other than those initially selected, or the acceptance of a tender other than the one initially accepted, or would have attracted other participants to the award procedure; (b) the amendment alters the economic balance of the public procurement contract or framework agreement in favour of the contractor in a manner not provided for in the original public procurement contract or framework agreement; c) the amendment the scope of the public procurement contract/framework agreement; d) a new contractor replaces the original contractor, in cases other than those provided for in paragraph (1)(d). ... (on 13 July 2020, Paragraph (7) of Article 221, Section 2, Chapter V was amended by Point 22, Article I of EMERGENCY

ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) (7^1)
Deleted. (On 13 July 2020, Paragraph (7) of Article 221, Section 2, Chapter V was deleted by the repeal of
EMERGENCY ORDINANCE No. 23 of 4 February 2020, published in the OFFICIAL GAZETTE No. 106 of 12
February 2020, by Article XII of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL
GAZETTE No. 614 of 13 July 2020.) (8) Repealed. (On 4 June 2018, Paragraph (8) of Article 221,

Section 2, Chapter V was repealed by Point 27, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018) (9) In the situation provided for in paragraph (1)(f), where several successive amendments are made, the value of the amendments shall be determined on the basis of the cumulative net value of the successive amendments made solely pursuant to point (f), without taking into account amendments that do not result in an increase in the contract price and without prejudice to the general nature of the contract or framework agreement. (on 21 March 2022, Paragraph (9) of Article 221, Section 2, Chapter V was amended by Point 7, Article I of EMERGENCY ORDINANCE No. 26 of 18 March 2022, published in the OFFICIAL GAZETTE No. 272 of 21 March 2022) (10) For the calculation of the price referred to in paragraph (1)(b)(iii), (c)(iii) and (f), the updated price of the public procurement contract or framework agreement shall be used, which constitutes the reference value where the public procurement contract includes an indexation clause. (11) For the purposes of this Article, the general nature of the contract shall be understood to mean the main objectives pursued by the contracting authority in carrying out the initial procurement, the main subject-matter of the contract and the main rights and obligations under the contract, including the main quality and performance requirements. (on 10 September 2022, Paragraph (11) of Article 221, Section 2, Chapter V was amended by Point 20, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022) (12) The methodological rules for the implementation of this Law shall impose on the contracting authority the obligation to notify the institution responsible for ex-ante control of its intention to make amendments to public procurement contracts/framework agreements under the conditions set out in this Article. Note ...

Articles 1–8 of EMERGENCY ORDINANCE No. 47 of 14 April 2022, published in the OFFICIAL GAZETTE No. 377 of 15 April 2022, provide as follows:

Article 1(1) The value of public procurement contracts/sectoral contracts/concession contracts/framework agreements relating to investment objectives/projects/routine maintenance and repair works/major repairs financed, in whole or in part, from public funds as defined in Article 2(27) of Law No. 500/2002 on public finances, as subsequently amended and supplemented, and, respectively, Article 2(32) of Law No. 273/2006 on local public finances, as subsequently amended and supplemented, or from the contracting authorities' or entities' own funds as provided for in Article 4(1) of Law No. 98/2016 on public procurement, as subsequently amended and supplemented, Article 4(1) of Law No. 99/2016 on sectoral procurement, as subsequently amended and supplemented, and Article 9(b) and (c) and Article 10(1)(b) and (c) of Law No. 100/2016 on works concessions and service concessions, as subsequently amended and subsequent amendments, which are ongoing on the date of entry into force of this Emergency Ordinance, shall be adjusted, in accordance with the terms of this Emergency Ordinance, to take account of any increase or decrease in the costs on which the contract price was based. (2) The provisions of paragraph (1) shall apply to public procurement contracts/sectoral contracts/concession contracts/framework agreements for works as defined in Article 3(1)(a)

(c) and (m) of Law No. 98/2016, as subsequently amended and supplemented, Article 3(1)(b) and (l) of Law No. 99/2016, as subsequently amended and supplemented, and Article 5(1)(g) of Law No. 100/2016, as subsequently amended and supplemented, including framework contracts/agreements covering facilities and/or technological and functional machinery and equipment necessary for the execution of the works and, respectively, for commissioning and/or intended for the specific fitting out and equipping of the sites/investment projects/routine maintenance and repair works/major repairs, as set out in Annex No. 6, Section 4, points 4.3–4.5 of Government Decision No. 907/2016 on the stages of preparation and the framework content of the technical-economic documentation relating to investment objectives/projects financed from public funds, as subsequently amended and supplemented, as well as public procurement contracts, sectoral contracts and framework agreements for the preparation of feasibility studies and/or technical designs relating to transport infrastructure of national interest and which include geotechnical studies. (3) The adjustment provided for in paragraph (1) shall also apply to public works contracts concluded by legal entities not acting as contracting authorities, in accordance with the provisions of Article 6(1) of Law No 98/2016, as subsequently amended and supplemented. (4) The provisions of paragraph (1) shall apply to public works contracts, sectoral contracts, concession contracts and framework agreements for works referred to in paragraphs (2) and (3), which are in force on the date of entry into force of this Emergency Ordinance: (a) concluded prior to the date of entry into force of Law No. 98/2016, as subsequently amended and supplemented, Law No. 99/2016, as subsequently amended and supplemented, and Law No. 100/2016, as subsequently amended and supplemented, as defined in accordance with the public procurement legislation in force at the time of conclusion; b) concluded after the date of entry into force of Law No. 98/2016, as subsequently amended and supplemented, Law No. 99/2016, as subsequently amended and supplemented, and Law No. 100/2016, as subsequently amended and supplemented, respectively, regardless of their duration of performance, and in which no price revision clauses were provided for, in accordance with the provisions of Article 221(1)(a) of Law No. 98/2016, as subsequently amended and supplemented, Article 236 of Law No. 99/2016, as subsequently amended and supplemented, and Article 101 of Law No. 100/2016, as subsequently amended and supplemented. (5) The provisions of paragraph (1) shall apply to public procurement contracts, sectoral contracts and framework agreements for products, financed from the funds referred to in paragraph (1), as defined in Article 3(1)(1)(c) and (n) of Law No. 98/2016, as subsequently amended and supplemented, and in Article 3(1)(b) and (m) of Law No. 99/2016, as subsequently amended and

supplemented, respectively, provided that all of the following conditions are met:(a) the contracts/framework agreements are in force on the date of entry into force of this Emergency Ordinance and do not contain any price revision clauses in accordance with the provisions [of Article 221\(1\)\(a\) of Law No 98/2016](#),

as subsequently amended and supplemented, or in accordance with the provisions [of Article 236 of Law No. 99/2016](#), as subsequently amended and supplemented; b) relate to technological and functional equipment and machinery, as provided for in [paragraph \(2\)](#), and these are necessary for the commissioning and/or specific fitting out and equipping of the investment projects/works of routine maintenance and repairs/major repairs, as provided for [in paragraph \(1\)](#), in accordance with their intended function, or strictly necessary for the execution of works in connection with one of the activities set out in [Annex No. 1 to Law No. 98/2016](#), as subsequently amended and supplemented, in [Annex No. 1 to Law No. 99/2016](#), as subsequently amended and supplemented, and in [Annex No. 1 to Law No. 100/2016](#), as subsequently amended and supplemented. (6) The provisions [of paragraph \(1\)](#) shall also apply to public procurement contracts, sectoral contracts and framework agreements for products, [as referred to in paragraph \(5\)\(a\)](#), which have as their subject matter the procurement of facilities and/or technological and functional machinery and equipment, as referred to in [paragraph \(2\)](#), as well as those relating to the procurement of products intended for the maintenance, repair, administration or operation of roads of national, county or local importance, classified in accordance with the provisions [of Government Ordinance No. 43/1997](#) on the road regime, as republished, with subsequent amendments and additions, where the procurement is carried out through the award of a separate contract. (7) The provisions [of paragraph \(1\)](#) apply to public procurement contracts, sectoral contracts and framework service agreements, financed from the funds referred to [in paragraph \(1\)](#), as defined in [Article 3\(1\) \(1\)\(c\)](#) and [\(o\) of Law No. 98/2016](#), as subsequently amended and supplemented, and in [Article 3\(1\)\(b\)](#) and [\(n\) of Law No. 99/2016](#), as subsequently amended and supplemented, [respectively](#), the subject matter of which is the carrying out of feasibility studies and/or technical designs, which include the geotechnical investigation of the foundation ground through drilling/boring for national transport infrastructure, which were ongoing on the date of entry into force of this Emergency Ordinance and which do not contain the review clauses provided for [in paragraph \(4\)\(b\)](#). (8) The adjustment provided [for in paragraph \(1\)](#) shall also apply to public procurement contracts, sectoral contracts, concession contracts and framework agreements for works, which are in progress on the date of entry into force of this Emergency Ordinance, and which include a price adjustment clause in accordance with the provisions [of Article 2\(6\) of Government Ordinance No. 15/2021](#) on the regulation of certain fiscal and budgetary measures for the adjustment of prices in public procurement contracts, approved with amendments and additions by [Law No. 281/2021](#), and in accordance with the provisions [of Article III\(1\) and \(2\) of Law No. 281/2021](#) approving [Government Ordinance No. 15/2021](#) on the regulation of certain fiscal and budgetary measures, as well as public procurement contracts, sectoral contracts, concession contracts and framework agreements for works, products and design services for transport infrastructure of national interest referred to [in paragraph \(7\)](#), the terms of which provide for a fixed price.

Article 2 The provisions of this Emergency Ordinance shall not apply to: a) public procurement contracts, sectoral contracts, concession contracts or framework agreements relating to projects financed from non-repayable external funds; b) award procedures relating to projects financed from non-repayable external funds which are ongoing on the date of entry into force of this Emergency Ordinance; c) projects funded through the NATO Security Investment Programme, for which price adjustments are made following approval by the relevant NATO bodies, in accordance with the provisions [of Article 3\(2\) \(2\) of Law No. 294/2007](#) on the implementation in Romania of projects funded through the NATO Security Investment Programme, as subsequently amended and supplemented.

Article 3(1) The adjustment determined in accordance with the provisions of this Emergency Ordinance shall apply exclusively to the remaining part to be executed/supplied/provided as at the date of entry into force of this Emergency Ordinance, until the completion of the objectives/investment projects/works provided for in the framework agreements/routine maintenance and repair works/major repairs and the acceptance of the works upon completion, in accordance with the legal provisions in force on the date of acceptance, until the full supply and acceptance of the procured products, in accordance with the contractual provisions, and, respectively, until the acceptance of the technical and economic documentation relating to the design services, feasibility studies and/or technical designs—which also include the geotechnical study—for transport infrastructure of national interest, in accordance with the contractual provisions, following a justified request from the contractor. (2) The adjustment provided [for in paragraph \(1\)](#) shall apply to each payment request throughout the entire duration of the contract. (3) Contractors shall justify the adjustment to the amount of the payment request by applying the total construction cost index, hereinafter referred to as the ICC, published by the National Institute of Statistics in official publications. (4) In order to adjust the value of the payment claim in accordance [with paragraph \(1\)](#), the

the following formula shall be used: where:— V_a represents the adjusted value of the payment claim, V_o represents the value of the payment claim based on the prices set out in the tender on which the contract or framework agreement was based, a represents the percentage of the advance payment determined as the ratio between the value of the advance received and not repaid/unjustified and the contract price, p represents the percentage of profit determined as the ratio between the value of the profit expressed in monetary terms and the contract price, ICC_n represents the total construction cost index for the month of the payment claim, and $ICC_reference_date$ represents the total construction cost index for the month preceding the deadline for submission of the tender, in accordance with the tender documentation or the documents relating to the direct procurement. In the case of subsequent contracts concluded under a framework agreement, $ICC_reference_date$

represents the total construction cost index for the month preceding the deadline for submitting the tender relating to the framework agreement. Where the month corresponding to the deadline for submitting the tender is prior to January 2019, ICC_reference_date shall be taken as the total construction cost index for January 2019.

The advance payment and profit, expressed in monetary terms, shall be those set out in the tender on which the contract or framework agreement was based. (5) In the case of supplementary order forms, the reference date for adjusting the value of the payment request shall be the month preceding the deadline for the submission of tenders relating to public procurement contracts/sectoral contracts/concession contracts/framework agreements, in accordance with the tender documentation or the documents relating to direct procurement, or the reference date treated as equivalent in accordance with [paragraph \(4\)](#), as applicable, for quantities of additional works and/or products that have an equivalent in the initial tender, or the month in which the tender was submitted for quantities of additional works and/or products that do not have an equivalent in the initial tender. (6) Where, for the ICC_n index referred to in [paragraph \(4\)](#), no officially published values exist or these are not final at the date of submission of payment claims to the contracting authorities/entities, the latest available indices shall be used, and the adjustment shall be recalculated by the contractor once the indices become final, determining the final value of the payment claim on the basis of which the parties shall proceed to settle the amounts paid and due. (7) The value of the payment claim in accordance with the prices set out in the tender on which the contract V_o was based, as provided for in [in paragraph \(4\)](#), shall include, where applicable: a) direct and indirect costs relating to the works and/or costs relating to the procurement of facilities and/or machinery and technological and functional equipment as provided for in [Article 1\(2\)](#), and shall not include the costs relating to design and technical assistance set out in [Annex 6, Section 3, to Government Decision No. 907/2016](#), as subsequently amended and supplemented, where this also forms part of the works contract; or (b) the cost, excluding profit, relating to the procurement of products intended for the performance of maintenance, repair, administration or operation works on roads of national, county or local importance, classified in accordance with the provisions of [Government Ordinance No. 43/1997](#), as republished, as subsequently amended and supplemented, where the procurement is carried out through the award of a separate contract. (8) In the case of the design work referred to in [Article 1\(2\)](#) and the framework service contracts/agreements referred to in [Article 1\(7\)](#), the adjustment shall apply to each payment request, throughout the duration of the contract, by applying the total consumer price index, hereinafter referred to as the CPI, published by the National Institute of Statistics in official publications, using the following

formula: where – V_a represents the adjusted value of the payment claim, V_o represents the value of the payment claim based on the prices set out in the tender on which the contract/framework agreement was based, IPCn represents the total consumer price index for the month of the payment claim, and IPC_reference_date represents the total consumer price index for the month preceding the deadline for submitting the tender, as set out in the tender documentation or the documents relating to the direct procurement. In the case of subsequent contracts concluded under a framework agreement, the reference CPI represents the consumer price index for the month preceding the deadline for submitting the tender relating to the framework agreement. Where the month corresponding to the deadline for the submission of tenders is prior to January 2019, the reference CPI shall be taken as the consumer price index for January 2019. ... [Article 4\(1\)](#) Within 45 days of the date of entry into force of this Emergency Ordinance, contractors may submit a written request to the contracting authorities/entities seeking an adjustment to the value of the remaining work to be performed or goods to be supplied, existing on the date of entry into force of this Emergency Ordinance, for all public procurement contracts, sectoral contracts, concession contracts and framework agreements to which they are party, as provided for in [Article 1\(2\)](#), [\(3\)](#) and [\(5\)–\(8\)](#), using the formula and the other provisions of this Emergency Ordinance, and the conclusion of addenda to the contracts within the time limit and with the content provided for in [in paragraph \(3\)](#). (2) Contracting authorities/entities which have registered the requests referred to in [in paragraph \(1\)](#) within the time limit specified therein shall be obliged to take the necessary legal steps to adjust the price of public procurement contracts/sectoral contracts/concession contracts/framework agreements by concluding addenda thereto. (3) The addenda referred to in [in paragraph \(2\)](#) shall be concluded within 45 days of the expiry of the deadline set out in [paragraph \(1\)](#) and shall mandatorily specify the remaining work to be performed or supplies to be provided as at the date of entry into force of this Emergency Ordinance, determined in terms of quantity and value, the documents on the basis of which the remaining work to be performed is determined, which shall form annexes to the supplementary agreement; the formula set out in [Article 3\(4\)](#) or [\(8\)](#), as applicable; the value of the advance payment expressed as a percentage and in monetary terms; the profit expressed as a percentage and in monetary terms, broken down by contract category according to the subject matter — works, supply, the method of applying the provisions of [Article 3\(6\)](#), as well as the reference date provided for in [Article 3\(4\)](#) or [\(8\)](#), as applicable. (4) In the case of public procurement contracts/sectoral contracts/concession contracts/framework agreements for works which include a price adjustment clause in accordance with the provisions of [Government Ordinance No. 15/2021](#), approved with amendments and additions by [Law No. 281/2021](#), with the exception of the contracts referred to in [Article 2\(8\) of the same Ordinance](#) and in [Article III\(3\) of Law No. 281/2021](#), by means of the addendum provided for in paragraph (3), in addition to specifying the mandatory elements mentioned in that paragraph, the parties agree that the wording introduced into the contract in accordance with [Government Ordinance No. 15/2021](#), approved with amendments and additions by [Law No. 281/2021](#), shall be replaced by the wording provided for in [Article 3\(4\)](#). (5) Failure by the contracting parties to submit the letter requesting an adjustment to the value for the remaining work to be carried out or supplies to be provided as at the date of entry into force of this Emergency Ordinance, within the

time limit set out in [paragraph \(1\)](#), shall result in their forfeiture of the right to benefit from the application of the provisions of this Emergency Ordinance.(6) The final contract price shall be determined following the submission of the final payment claim, on the basis of the summary statement setting out all expenditure incurred under the contract, including under any addenda thereto, and approved by the contractor, the site manager and/or the engineer/

supervisor/consultant, as appropriate, and approved by the contracting authority/entity, by means of an addendum to the contract. In the case of public procurement contracts, sectoral contracts, concession contracts or framework agreements relating to routine maintenance and repair works, for which there is no legal obligation for the works to be supervised by authorised site managers, engineers, supervisors or consultants, as appropriate, the summary report shall be endorsed by the contractor and approved by the contracting authority or entity. The final price of the public procurement contract, sectoral contract, concession contract or framework agreement for works must fall within the range of the technical and economic indicators relating to the investment objective or project covered by the contract, except where the final price exceeds the value of the technical and economic indicators as a result of the application of the provisions of this Emergency Ordinance. In such a case, the technical and economic indicators shall be updated under the sole responsibility of the chief authorising officer, in accordance with the law.

[Article 5\(1\)](#) Approval is hereby granted for the additional sums required to adjust the price of public procurement contracts, sectoral contracts, concession contracts or framework agreements to be met from the State budget, through the budgets of the chief authorising officers or authorising officers implementing national investment programmes, following the conclusion of the addenda referred to in [Article 4\(3\)](#), or as a result of the conclusion of contracts after the entry into force of this Emergency Ordinance containing the adjustment clause established in accordance with the provisions of this Emergency Ordinance, exclusively for those relating to eligible expenditure corresponding to the contribution from the State budget through programmes established by the funding contracts, in accordance with the specific legal regulations applicable to each individual national programme, for investment objectives/projects funded through national programmes on the basis of funding contracts, concluded in accordance with the provisions [of Article 34\(2\) of Law No 273/2006](#), as subsequently amended and supplemented.(2) The commitment appropriations and budgetary appropriations required to amend the funding agreements referred to [in paragraph \(1\)](#) shall be allocated in the budgets of the chief authorising officers when the draft annual budget laws and budgets are drawn up, in accordance with the provisions [of Law No. 500/2002](#), as subsequently amended and supplemented, and of [Article 30\(2\) of the Fiscal and Budgetary Responsibility Law No. 69/2010, as republished](#).(3) For the purposes of implementing the provisions of this Emergency Ordinance, beneficiaries of national programmes shall, during the term of the funding contracts referred to [in paragraph \(1\)](#), submit requests setting out the amounts required to adjust the price of public procurement/sectoral procurement/concession contracts or in accordance with the provisions of this Emergency Ordinance, until the completion of the investment objectives/projects or until the supply of the products, drawn up in accordance with the specific legal regulations for each national programme, accompanied by the following documents:(a) the addenda referred [to in Article 4\(3\)](#) or the contracts containing the adjustment clause established in accordance with the provisions of this Emergency Ordinance, as applicable, in a copy certified as a true copy of the original; (b) a supporting note setting out the method used to determine the additional sums requested and the calculation elements used;c) the documents specified in accordance with the regulations set out in the legislative acts on which the conclusion of the funding contracts was based. (4) The requests referred to [in paragraph](#)

[\(3\)](#) may be submitted by beneficiaries of national programmes only after at least 85 per cent of the amount allocated under the funding agreements has been utilised.(5) During the term of the funding agreements referred [to in paragraph \(1\)](#), provided that commitment appropriations and budgetary appropriations have been allocated in the budgets of the chief authorising officers, in accordance with the provisions [of paragraph \(2\)](#), addenda to the funding agreements shall be concluded between the chief authorising officers/authorising officers managing the national programmes and the beneficiaries who have submitted applications [in accordance with paragraph \(3\)](#).(6) Where beneficiaries do not submit applications, accompanied by the documents referred to in [paragraph \(3\)](#), during the period of validity of the funding agreements referred to [in paragraph \(1\)](#), the amounts required to adjust the price of public procurement contracts/sectoral contracts/concession contracts/framework agreements for works/products shall be borne by the beneficiaries.(7) The requests referred to [in paragraph \(3\)](#) may be drawn up and submitted in electronic form, in accordance with the provisions [of Government Emergency Ordinance No. 38/2020](#) on the use of electronic documents by public authorities and institutions.

Article 6(1) Notwithstanding the provisions [of Article 47\(9\)](#) and [\(10\) of Law No 500/2002](#), as subsequently amended and supplemented, for the duration of the national programmes they manage, as determined in accordance with the legal regulations establishing them, and/or during the term of public procurement contracts/sectoral contracts/concession contracts/framework agreements falling within the scope of this Emergency Ordinance, chief authorising officers are authorised to transfer budgetary appropriations between budget chapters and between programmes, beyond the prescribed limits, throughout each year, until the completion and acceptance of the works, or until the supply and acceptance of the products, in accordance with the approved budgetary provisions, with a view to financing the expenditure arising from the adjustment of prices under public procurement contracts/sectoral contracts/concession contracts/framework agreements in accordance with [Article 5](#).(2) Notwithstanding the provisions [of Article 49\(7\) of Law No. 273/2006](#), as subsequently amended and supplemented, during the term of public procurement contracts/sectoral contracts/concession contracts/falling within the scope of this Emergency Ordinance, the decision-making bodies of local public administration shall be entitled to transfer budgetary appropriations between budget chapters and between programmes, beyond the prescribed limits, throughout each year, until the completion and acceptance

of the works, or until the supply and acceptance of the products, in accordance with the approved budgetary provisions, with a view to financing the expenditure arising from the adjustment of prices in public procurement contracts/sectoral contracts/concession contracts/framework agreements in accordance with [Article 5](#).

Article 7(1) The provisions of this Emergency Ordinance shall also apply to public procurement contracts/contracts

sectoral contracts/concession contracts/framework agreements for works/products/services relating to the design of transport infrastructure of national interest, for which award procedures or direct awards are ongoing on the date this Emergency Ordinance comes into force, where the tender documentation or the documents relating to the direct procurement do not include price revision clauses.(2) The provisions of this Emergency Ordinance shall also apply to procedures already in progress on the date of entry into force of this Emergency Ordinance, where the tender documentation or the documents relating to direct procurement price revision or indexation clauses have been provided for, based on the inflation rate or other indices, including the adjustment clause provided for in [Government Ordinance No. 15/2021](#), approved with amendments and additions by [Law No. 281/2021](#).(3) In applying the provisions [of paragraph \(1\)](#), where the award procedures are at a stage prior to the deadline for the submission of tenders, the contracting authorities/entities are obliged to take the necessary steps to amend the tender documentation to include the adjustment clause established in accordance with this Emergency Ordinance, and where the award procedures are at a stage subsequent to the submission of tenders, following the completion of the procedures or direct awards, contracts shall be concluded in accordance with the tender documentation or the documents relating to the direct awards, and subsequently the provisions [of Article 4](#) shall apply, with the exception of the time limits set out in [Article 4\(1\)](#) and [\(3\)](#). The request for the application of the provisions of this Emergency Ordinance shall be submitted by the contractor within 15 days of the conclusion of the contract, but no later than the date of issue of the order to commence performance of the contract, on pain of forfeiture [as provided for in Article 4\(5\)](#), and the addendum shall be concluded within 10 days of the submission of the request. (4) In applying the provisions [of paragraph \(2\)](#), following the completion of the procedures, public procurement contracts, sectoral procurement contracts, concession contracts and framework agreements shall be concluded in accordance with the tender documentation or the documents relating to direct procurement, and, during the term of the contracts/framework agreements, should the application of the review clauses in the contracts result in a price adjustment lower than that resulting from the application of the provisions of this Emergency Ordinance, the parties shall apply the provisions [of paragraphs \(8\) to \(10\)](#).(5) The provisions of this Emergency Ordinance shall also apply to procedures already in progress on the date of entry into force of this Emergency Ordinance, where the tender documentation or the documents relating to direct procurement contain price revision clauses, but which are intended to apply after a certain period has elapsed from the date of conclusion of the contracts or framework agreements and/or upon fulfilment of certain conditions for their application, as the case may be, for the period between the date of conclusion of the contracts or framework agreements and the date on which the period commences from which the price revision clause applies and/or the conditions are met, as the case may be.(6) Notwithstanding the provisions [of Article 1\(4\)\(b\), \(5\)\(a\), \(6\) and \(7\)](#), the provisions of this Emergency Ordinance shall also apply to ongoing public procurement contracts, sectoral contracts, concession contracts and framework agreements for works, products or design services relating to transport infrastructure of national interest, regardless of the duration of their execution, supply or provision, in which, and in the initial tender documentation or the documents relating to direct awards, price revision clauses have been provided for, but for which the contracts stipulate that such clauses shall apply only after a certain period has elapsed from the date of their conclusion and/or upon the fulfilment of certain conditions for their application, where applicable, for the period between the date of entry into force of this Emergency Ordinance and the date on which the period commencing from which the price revision clause applies and/or the conditions are met expires, as the case may be, exclusively for the remaining part to be performed/supplied/provided as at the date of entry into force of this Emergency Ordinance.(7) In order to eliminate double adjustments to amounts, as a result of the application of the provisions [of paragraph \(6\)](#), where the revision clauses in contracts also relate to amounts paid prior to their application, the adjustment of the price of the public procurement contract, sectoral contract, concession contract or framework agreement for works/products/services relating to the design of transport infrastructure of national interest, by applying the review clause in the contract, shall be made taking into account the additional sums paid as a result of the application [of paragraph \(6\)](#); the contracting parties shall reconcile the additional amounts determined as a result of the application of the provisions of this Emergency Ordinance with the additional amounts resulting from the application of the contract's revision clause.(8) From the date [of entry into force of this Emergency Ordinance](#), by [way of derogation from the provisions of Article 1\(4\)\(b\), \(5\)\(a\), \(6\) and \(7\), the adjustment determined in accordance with this Emergency Ordinance shall also apply to public procurement contracts, sectoral contracts, concession contracts and agreements. \(6\) and \(7\)](#), the adjustment established in accordance with this Emergency Ordinance shall also apply to ongoing public procurement contracts/sectoral contracts/concession contracts/framework agreements for works/products/services relating to the design of transport infrastructure of national interest, regardless of the duration of their execution/supply/provision, which contain price revision or update clauses, other than those provided [for in Article 1\(8\)](#), based on the inflation rate or other indices, the application of which results, on the date of entry into force of this Emergency Ordinance, exclusively for the remaining part of the contract to be performed, to a price adjustment value lower than that resulting from the application of the provisions of this Emergency Ordinance, for the price difference up to the value of the adjustment established as a result of the application of this Emergency Ordinance.(9) In order to eliminate double surcharges resulting from the application of the provisions [of paragraph \(8\)](#), the price adjustment of the public procurement contract, sectoral contract, concession contract or framework agreement for works, products or services relating to the design of transport infrastructure of national interest, in accordance with the provisions of

this Emergency Ordinance, shall be made taking into account the additional amounts resulting from the application of the clause in the contract; the contracting parties shall proceed to reconcile the additional amounts determined as a result of the application of the provisions of this Emergency Ordinance with the additional amounts resulting from the application of the revision clause in the contract.(10) In the event that, during the course of

public procurement contracts/sectoral contracts/concession contracts/framework agreements for works/products/services relating to the design of transport infrastructure of national interest, as provided for in [paragraph \(8\)](#), if the price increase resulting from the adjustment determined in accordance with the provisions of this Emergency Ordinance is less than the price increase resulting from the application of the contract's revision clause, the contract's revision clause shall apply exclusively for the period in question.(11) The provisions of [paragraphs \(6\)](#) and [\(8\)](#) shall be applied in accordance with the provisions of [Article 4](#).

Article 8 Amendments to public procurement contracts/sectoral contracts/concession contracts/framework agreements resulting from the application of this Emergency Ordinance shall be treated in the same way as the situations provided for in [Article 221\(1\)\(e\)](#) in conjunction with [Article 221\(7\) of Law No. 98/2016](#), as subsequently amended and supplemented, in [Article 240\(2\)](#) in conjunction with [paragraph \(3\) of Law No. 99/2016](#), as subsequently amended and supplemented, and to [Article 106 of Law No. 100/2016](#), as subsequently amended and supplemented, as applicable. + Article 222(1) Any amendment to a public procurement contract or framework agreement during its term of validity, other than in the cases and under the conditions provided for in Article 221, shall be effected by organising a new award procedure, in accordance with the provisions of this Act.(2) In the event of non-compliance with the provisions of paragraph (1), the contracting authority shall be entitled to unilaterally terminate the original public procurement contract. (3) The contracting authority shall include the right of unilateral termination provided for in paragraph (2) in the contractual terms set out in the tender documentation. + [Article 222^1\(1\)](#) Contracting authorities shall publish in the relevant section of the SEAP all amendments to public procurement contracts or framework agreements, so as to indicate the duration and final price upon their completion or termination.(2) The methodological rules for the implementation of this Act shall lay down the conditions for the publication of the contractual amendments referred to in paragraph (1). (on 13 July 2020, Section 2 of Chapter V was supplemented by [Point 24, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020](#), published in the OFFICIAL GAZETTE No. 614 of 13 July 2020) + [Article 222^2\(1\)](#) During the performance of the framework agreement/contract, the price may be adjusted by revision if certain market conditions have arisen, as a result of which an increase or decrease in the price indices for the constituent elements of the tender has been observed, the effect of which is reflected in an increase or decrease in the costs on which the price was based

the framework agreement/contract. (2) In order to comply with the principle of transparency, the possibility of price adjustment must be specified both in the tender documentation and in the framework agreement/contract to be concluded, by means of specific clauses to that effect.(3) The contracting authority shall specify, both in the tender documentation and in the public procurement contract/framework agreement, the specific method of price adjustment, the indices to be used, and the source of information regarding their trends, such as statistical bulletins or commodity exchange quotations. (4) Repealed. (On 24 May 2024, Paragraph (4) of Article 222^2, Section 2, Chapter V was repealed by [Point 7. , Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (5) In any event, the price of the framework agreement/contract may be adjusted only to the extent strictly necessary to cover the costs on which the price of the framework agreement/contract was based.(6) The method of adjustment must not, under any circumstances, lead to a change in the outcome of the award procedure by cancelling or reducing the competitive advantage on the basis of which the relevant contractor was declared the successful tenderer following the completion of that procedure, except in the case provided for in paragraph (5). (7) Repealed. (On 24 May 2024, Paragraph (7) of Article 222^2, Section 2, Chapter V was repealed by [Point 7. , Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (8) The contracting authority is entitled to include price adjustment/revision clauses, in accordance with the provisions of paragraph (3), for service or supply contracts running for a period of up to 24 months and for works contracts running for a period of no more than 6 months. (as at 24 May 2024, Paragraph

[\(8\), Article 222^2, Section 2, Chapter V was amended by Point 8. , Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (9) The contracting authority is obliged to include price adjustment/revision clauses, in accordance with the provisions of paragraph (3), for service or supply contracts running for a period exceeding 24 months and for works contracts running for a period exceeding 6 months.(10) During the term of the contract, payments shall be made exclusively on the basis of the contractor's own prices set out in its initial tender, whether fixed or adjusted, as provided for in the initial procurement documents and in the contract.(11) Repealed. (On 24 May 2024, Paragraph (11) of Article 222^2, Section 2, Chapter V was repealed by [Point 9. , Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (12) Repealed. (On 24 May 2024, Paragraph (12) of Article 222^2, Section 2, Chapter V was repealed by [Point 9. , Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (13) Repealed. (On 24 May 2024, Paragraph (13), Article 222^2, Section 2

, Chapter V was repealed by [Point 9, Article I of EMERGENCY ORDINANCE No. 52 of 23 May 2024](#), published in the OFFICIAL GAZETTE No. 483 of 24 May 2024) (on 10 September 2022, Section 2 of Chapter V was supplemented by [Point 21, Article I of Act No. 208 of 11 July 2022](#), published in the Official Gazette No. 697 of 12 July 2022) + Chapter VI Specific cases of termination of the public procurement contract

+ [Article 223\(1\)](#) Without prejudice to the provisions of ordinary law concerning the termination of contracts or the contracting authority's right to seek a declaration of the absolute nullity of a public procurement contract in

accordance with the provisions of ordinary law, the contracting authority shall be entitled to unilaterally terminate a public procurement contract during its term in any of the following circumstances:(a) the contractor was, at the time of

the contract was awarded, in one of the situations that would have led to its exclusion from the award procedure under Articles 164–167; ... b) the contract should not have been awarded to that contractor, given a serious breach of obligations arising from the relevant European legislation, which has been established by a decision of the Court of Justice of the European Union; ... c) [the contractor or its subcontractors no longer comply with the obligations set out in Article 51\(1\). \(On 17 November 2024, Paragraph \(1\) of Article 223, Chapter VI was supplemented by Point](#)

[2, Article VIII of Law No. 283 of 13 November 2024, published in the Official Gazette No. 1139 of 14 November 2024\)](#) ... (2) The contracting authority shall include the right of unilateral termination provided for in paragraph (1) in the contractual terms and conditions set out in the tender documentation. + Chapter VII Offences and Penalties + Article 224(1) The following acts constitute offences, unless they were committed under circumstances such that they are considered, under criminal law, to be criminal offences: [\(a\) failure to implement the decision of the National Council for the Settlement of Appeals after the date on which it becomes final; \(on 4 June 2018, subparagraph \(a\) of paragraph](#)

[\(1\), Article 224, Chapter VII was amended by Point 28, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) ... (b) any breach of the provisions of this Act or of the regulatory acts issued in implementation thereof, resulting in a breach of the provisions of Article 2; ... c) the award of a public procurement contract or framework agreement, or the organisation of a design contest, without the prior publication of an invitation to participate in a competitive tendering procedure, in cases where such publication is mandatory under the provisions of Article 111(1)(a) and Article 144; ... d) breach of the provisions of Article 11(2); ... (e) breach of the rules on the drafting of technical specifications laid down in Article 155(6); ... (f) breach of the rules on publicity and transparency laid down in Article 111(1)(b) and Articles 142–150; ... g) the use of qualification and selection criteria other than those laid down in Article 163, or award criteria other than those laid down in Article 187(3); ... [g¹\) breach of the provisions laid down in Article 187\(4¹\) and](#)

[\(8\); \(on 16 April 2022, paragraph \(1\) of Article 224, Chapter VII was supplemented by Point 5, Article I of Law No. 86 of 12 April 2022, published in the Official Gazette No. 366 of 13 April 2022\)](#) ... (h) the incorrect application, during the qualification/selection and/or evaluation process, of the qualification and selection criteria, the award criterion or the evaluation factors; ... [\(i\) failure to provide ANAP with information relating to the award or amendment of public procurement contracts or framework agreements, for the purpose of enabling it to carry out its functions; \(on 22 December 2017, subparagraph \(i\) of paragraph \(1\) of Article 224, Chapter VII was amended by Point 40, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) ... j) breach of the provisions of Article 207(1); ... k) the cancellation of a procurement procedure in cases other than those provided for in Articles 212 and 213, or the creation of artificial circumstances for the cancellation of the procurement procedure; ... [l\) breach of the provisions of Article 214 and Article 215\(1\) and \(2\). \(On 13 July 2020, subparagraph \(l\) of paragraph \(1\) of Article 224, Chapter VII, was amended by Point 25, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) ... m) breach of the provisions of Article 218(1) and (3). [\(On 10 September 2022, Paragraph \(1\) of Article 224, Chapter VII was supplemented by Point 22, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#) ... (2) The offences referred to in paragraph (1) shall be punishable by a fine of between 5,000 lei and 30,000 lei.

+ Article 225 Repealed. [\(On 22 December 2017, Article 225 of Chapter VII was repealed by Point 41, Article I of EMERGENCY ORDINANCE No. 107 of 20 December 2017, published in the OFFICIAL GAZETTE No. 1022 of 22 December 2017\)](#) + Article 226(1) The establishment of administrative offences and the imposition of penalties shall be carried out ex post by persons authorised for this purpose by the Romanian Court of Auditors. [\(on 4 June 2018, Paragraph \(1\) of Article 226, Chapter VII, was amended by Point 29, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018\)](#) (2) The right to impose an administrative fine shall lapse 36 months after the date on which the offence was committed. + Article 227(1) [The administrative penalty shall be imposed on the contracting authority, which shall order measures to be taken against the person or persons involved in the public procurement process that was the subject of the administrative offence, only if the courts find that they have committed or failed to commit, with culpability, amounting to gross negligence, of any act or omission in connection with the exercise, in accordance with the law, of their respective duties. \(On 10 September 2022, Paragraph \(1\) of Article 227, Chapter VII, was amended by Point 23, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#)

(2) The commission of an administrative offence does not necessarily entail the causing of damage. (3) The assessment of damage must take into account the circumstances of the administrative offence and be substantiated. + Article 228 [In the case of the administrative offences provided for in Article 224, the provisions of Government Ordinance No. 2/2001 on the legal regime governing administrative offences, approved with amendments and additions by Law No. 180/2002, as subsequently amended and supplemented, shall apply. \(On 10 September 2022, Article 228 of Chapter VII was amended by Point 24, Article I of Law No. 208 of 11 July 2022, published in the Official Gazette No. 697 of 12 July 2022\)](#) + Chapter VIII Transitional and Final Provisions + Article 229(1) In any situation where a contracting authority intends to carry out a project by awarding a long-term contract covering either the execution of works and the operation of the result of those works, or the

provision, management and operation of services, the contracting authority is obliged to draw up a feasibility study demonstrating the necessity and appropriateness of carrying out the project in this manner.(2) The provisions of paragraph (1) shall also apply where the long-term project involves the establishment of a company whose shareholders are the economic operator, on the one hand, and the contracting authority or the contracting entity, on the other hand. (3) Repealed. (On 4 June 2018, paragraph (3) of Article 229, Chapter VIII was

[repealed by Point 30, Article I of EMERGENCY ORDINANCE No. 45 of 24 May 2018, published in the OFFICIAL GAZETTE No. 459 of 4 June 2018](#)) + Article 230(1) Through the supporting study referred to in Article 229(1), the contracting authority is required to assess whether the award of the contract involves the transfer of a significant part of the operational risk to the economic operator, as defined in the law on works concessions and service concessions.(2) Where, as a result of the analysis provided for in paragraph (1), the contracting authority finds that a significant part of the operational risk will not be transferred to the economic operator, the contract in question shall be deemed to be a public procurement contract. + Article 231 Unless otherwise provided for in this Act, the provisions of ordinary law shall apply. + Article 232(1) The national public procurement system comprises regulatory, advisory and operational support functions, ex-ante control, ex-post control, monitoring, supervision, the detection of conflicts of interest, the combating of rigged tenders and other functions aimed at ensuring compliance with the principles set out in Article 2(2).(2) The methodological rules for the implementation of this Law shall set out in detail the specific obligations and responsibilities of contracting authorities in relation to the performance of these functions. + Article 233 ANAP shall draw up methodological rules for the implementation of this Law, which it shall submit to the Government for adoption within 30 days of the date of publication in the Official Gazette of Romania, Part I. + Article 234(1) In order to carry out the tasks set out in the National Strategy on Public Procurement and in this Act, the staff of the Romanian Court of Auditors shall be increased by 250 posts.(2) The Ministry of Public Finance is authorised to include the financial implications resulting from the application of paragraph (1) in the budget of the Romanian Court of Auditors for the year 2016. + [Article 234¹\(1\)](#) [During the procurement processes for contracts under infrastructure projects financed from European funds, contracting authorities may employ experts on a fixed-term basis, under individual employment contracts, outside the organisational structure approved in accordance with the law, up to a maximum of 30 per cent of the number of members of the evaluation committee, in order to ensure the smooth running of such processes, in accordance with the provisions of Government Decision No. 325/2018 approving the Framework Regulation on establishing the conditions for creating posts outside the organisational chart and the criteria for determining the percentage of salary increase for work carried out on projects funded by non-repayable European funds.](#)(2) [Experts employed in accordance with paragraph \(1\) must hold a qualification as public procurement experts or may be persons with relevant qualifications and experience in the field covered by the procurement. \(On 13 July 2020, Chapter VIII was supplemented by Point 27, Article I of EMERGENCY ORDINANCE No. 114 of 9 July 2020, published in the OFFICIAL GAZETTE No. 614 of 13 July 2020\)](#) + Article 235(1) For trans-European transport infrastructure projects located on the Core and Comprehensive transport networks (TEN-T), as defined by the provisions of Article 9(1) and Article 38 of Regulation (EU) No. 1,315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU, as well as access roads and bypasses for urban areas, the procedure for certifying the economic and financial standing, as well as the technical and professional capacity, of economic operators participating in public procurement procedures shall be regulated by a Government Decision, on the initiative of the Ministry of Transport, within 90 days of the entry into force of this Act.(2) The procedure for replacing subcontractors/specialist staff nominated to perform the contract/members of the consortium during the contract implementation period shall be regulated in a separate chapter of the methodological rules for the application of this Act.(3) For the purposes of the provisions of paragraph (1), the procedure for certifying the economic and financial standing and the technical and professional capacity of economic operators refers to the regulation of a certification system intended for public procurement procedures relating to trans-European transport infrastructure projects, with a view to ensuring that economic operators meet the qualification and selection criteria.(4) [A Government Decision shall lay down the general and specific contractual conditions for certain categories of public procurement contracts relating to investment projects financed from public funds. \(On 5 May 2017, Paragraph \(4\) of Article 235, Chapter VIII, was amended by Point 2, SOLE ARTICLE, of Law No 80 of 27 April 2017, published in the Official Gazette No 313 of 2 May 2017\)](#) + Article 236(1) This Law applies to award procedures initiated after the date of its entry into force. (2) Award procedures already in progress on the date of entry into force of this Law shall be governed by the law in force at the time the award procedure was initiated.(3) This Law applies to public procurement contracts/framework agreements concluded after the date of its entry into force.(4) Public procurement contracts/framework agreements concluded before the date of entry into force of this Act shall be subject to the provisions of the law in force at the time they were concluded in all matters relating to their conclusion, amendment, interpretation, effects, performance and termination. + [Article 237 Government Emergency Ordinance No. 13/2015](#) on the establishment, organisation and functioning of the National Agency for Public Procurement, published in the Official Gazette of Romania, Part I, No. 362 of 26 May 2015, approved by [Law No. 244/2015](#), is amended as follows:In Article 5, after paragraph (6), a new paragraph, paragraph (6¹), is inserted, with the following wording:(6¹) The number of civil servants within each regional structure of the ANAP referred to in paragraph (6) shall be at least 30, of whom at least 2 shall carry out their duties in the county capitals of the counties assigned to each regional structure. + Article 238 On the date of entry into force of this Act, the following shall be repealed: a) [Government Emergency Ordinance No. 34/2006](#) on the award of public procurement contracts, public works concession contracts and service concession contracts, published in the Official Gazette of Romania, Part I, No. 418 of 15 May 2006, approved with amendments and additions by [Law No. 337/2006](#), as subsequently amended and supplemented; ... b) any other conflicting provisions contained in

[13/2015](#) on the establishment, organisation and functioning of the National Agency for Public Procurement, published in the Official Gazette of Romania, Part I, No. 362 of 26 May 2015, approved by [Law No. 244/2015](#), is amended as follows:In Article 5, after paragraph (6), a new paragraph, paragraph (6¹), is inserted, with the following wording:(6¹) The number of civil servants within each regional structure of the ANAP referred to in paragraph (6) shall be at least 30, of whom at least 2 shall carry out their duties in the county capitals of the counties assigned to each regional structure. + Article 238 On the date of entry into force of this Act, the following shall be repealed: a) [Government Emergency Ordinance No. 34/2006](#) on the award of public procurement contracts, public works concession contracts and service concession contracts, published in the Official Gazette of Romania, Part I, No. 418 of 15 May 2006, approved with amendments and additions by [Law No. 337/2006](#), as subsequently amended and supplemented; ... b) any other conflicting provisions contained in

any other legislative acts. ... + Article

239 Annexes Nos. 1 and 2 form an integral part of this Act. + Article 240(1) This Act shall enter into force 3 days after the date of its publication in the Official Gazette of Romania, Part I.(2) Notwithstanding the provisions of paragraph (1), the provisions of Article 199(2) shall enter into force on 18 October 2018.*[This Act transposes Articles 3, 5, 7–21, 23, 24, 27, 29–36, Article 38, Articles 40–43, Article 45, Article 47, Article 49, Article 50, Article 52, Article 53, Article 55, Article 57, Article 58, Article 63, Articles 65–67, Article 70, Articles 72–74, Article 76, Article 78, Article 81, Article 82 and Article 84 of Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC, published in the Official Journal of the European Union \(OJEU\), Series L, No 94 of 28 March 2014, and, in part, Article 1\(1\) and \(2\), Article 2\(1\)\(1\), \(4\) to \(24\), Article 4, Article 6\(3\), Article 22 \(1\), first and fifth subparagraphs, paragraph \(2\), paragraph \(3\), paragraph \(5\), Article 23\(1\), first subparagraph, Article 26\(1\)–\(4\), paragraph \(5\), first subparagraph, paragraph \(6\), Article 28\(1\)–\(6\), Article 37\(1\), first and second subparagraphs, paragraphs \(2\)–\(4\), Article 39\(1\), paragraph \(2\), first subparagraph, Article 44\(1\), paragraph \(2\), Article 46\(1\)–\(3\), Article 48\(1\), Article 51\(1\) first paragraph, \(2\) second paragraph, Article 54\(1\) first paragraph, \(2\), Article 56\(1\)–\(3\), Article 59\(1\)–\(6\), Article 60\(1\), \(2\) \(first and second subparagraphs\), \(3\), \(4\), Article 61 \(1\), \(2\), Article 62\(1\), \(2\), Article 64\(1\), \(3\)–\(5\), first subparagraph, para. \(7\), Article 68, para. \(1\), para. \(2\), para. \(3\), first subparagraph, Article 69, para. \(1\)–\(4\), Article 71\(1\)–\(4\), paragraph \(5\), first, second and third subparagraphs, Article 75\(1\), \(2\), \(4\), Article 77\(1\)–\(5\), Article 79\(1\), \(2\), \(3\), first subparagraph, Article 80\(1\), Article 83\(1\), \(2\), \(4\)–\(6\), Article 85\(3\), Article 86, Article 90\(1\)–\(5\), Article 91, first paragraph, of Directive 2014/24/EU, published in the Official Journal of the European Union \(OJEU\), Series L, No 94 of 28 March 2014, as well as Article 9 of Directive \(EU\) 2022/2.041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union, published in the Official Journal of the European Union \(OJEU\), Series L, No 275 of 25 October 2022. \(On 17 November 2024, the reference to the transposition of certain directives was amended by \[Point 3, Article VIII of Law No. 283 of 13 November 2024, published in the Official Gazette No. 1139 of 14 November 2024\]\(#\)\) This Act was adopted by the Romanian Parliament in accordance with the provisions of \[Article 75\]\(#\) and \[Article 76\\(2\\) of the Constitution of Romania, as republished\]\(#\). Note ...](#)

We reproduce the provisions [of Articles VI–VIII of EMERGENCY ORDINANCE No. 107 of 20 December 2017](#), published in the Official Gazette No. 1022 of 22 December 2017:

“Article VI

(1) Procurement procedures already in progress on the date of entry into force of this Emergency Ordinance shall remain subject to the legislation in force at the time of their commencement.

(2) An ongoing award procedure means any procedure for which a contract notice or, where applicable, a simplified contract notice, was published by the date of entry into force of this Emergency Ordinance.

Article VII

Appeals, legal proceedings and applications pending before the National Council for the Settlement of Appeals or, where applicable, before the courts on the date of entry into force of this Emergency Ordinance shall continue to be heard under the conditions and in accordance with the procedure laid down by the law in force on the date on which they were commenced.

Article VIII

(1) The adjustment or revision of the price of public or sectoral procurement contracts concluded prior to the entry into force of [Law No. 98/2016](#) on public procurement, as subsequently amended and supplemented, or [Law No. 99/2016](#) on sectoral procurement, shall be carried out in accordance with the legal provisions in force at the time of such adjustment or revision.

(2) Subsequent contracts concluded after the entry into force of this Emergency Ordinance, during the term of the framework agreement, shall be governed by the law in force at the date of their conclusion.” Note ...

The provisions [of Articles VII–VIII of EMERGENCY ORDINANCE No. 45 of 24 May 2018](#), published in the OFFICIAL GAZETTE No. 459 of 4 June 2018, are reproduced below:

Article VII

(1) Procurement procedures in progress on the date of entry into force of this Emergency Ordinance shall remain subject to the legislation in force on the date of their initiation.

(2) An ongoing award procedure means any procedure for which a contract notice or, where applicable, a simplified contract notice, was published by the date of entry into force of this Emergency Ordinance.

Article VIII

Appeals, legal proceedings and applications pending before the National Council for the Settlement of Appeals or, where applicable, before the courts on the date of entry into force of this Emergency Ordinance shall continue to be heard under the conditions and in accordance with the procedure laid down by the law in force on the date on which they were commenced. [Articles VIII–XI of EMERGENCY ORDINANCE No. 114 of 9 July 2020](#), published in the OFFICIAL GAZETTE No. 614 of 13 July 2020, provide as follows: Article VIII(1) Award procedures in progress on the date of entry into force of this Emergency Ordinance shall remain subject to the legislation in force on the date on which they were initiated.(2) An ongoing award procedure means any procedure for which a contract notice, a simplified contract notice, an invitation to tender or, where applicable, a concession notice had been issued by the date of entry into force of this Emergency Ordinance.(3) Appeals, legal proceedings and applications pending before the National Council for the Settlement of Appeals or, where applicable, the courts on the date of entry into force of this Emergency Ordinance shall continue to be heard in accordance with the procedure

as provided for by the legislation in force on the date on which they were initiated. (4) The time limit for lodging appeals shall be governed by the law in force at the time the appeal was lodged through administrative-judicial or judicial channels. (5) The operator of the Electronic Public Procurement System (SEAP) is obliged to take the necessary measures to adapt the electronic system with a view to implementing the measures required as a result of the provisions of this Emergency Ordinance within 30 working days of the date on which this Emergency Ordinance comes into force. Article IX(1) Within 120 days of the entry into force of this Emergency Ordinance, the Romanian Digitalisation Authority shall ensure the operationalisation and use of the IT mechanism for simplified procedures, as provided for in [Article I\(1\)](#) and [Article II\(1\)](#), as well as the operationalisation of the section dedicated to the publication of contractual amendments, as provided for in [Article I\(23\)](#) and [Article II\(23\)](#). (2) Within 120 days of the entry into force of this Emergency Ordinance, the Romanian Digitalisation Authority shall ensure that the digitised ex ante control is made operational, so that this control can be carried out in full, at all stages, by electronic means. Article X Within 90 days of the entry into force of this Emergency Ordinance, upon the proposal of the Ministry of Transport, Infrastructure and Communications, a Government Decision shall approve the mechanism for the creation and use of the database of machinery and equipment available to economic operators carrying out activities in the field of infrastructure projects, with a view to their participation in public procurement procedures. Article XI(1) Within 30 days of the date of entry into force of this Emergency Ordinance, by Government Decision, the number of posts for the courts shall be increased by 25 court clerk posts, with 15 posts allocated to the Bucharest Court of Appeal and 10 posts to the Bucharest Tribunal. These posts shall be allocated exclusively to the panels specialising in public procurement which adjudicate on applications corresponding to the types of proceedings provided for by [Law No. 101/2016](#) on remedies and appeals in relation to the award of public procurement contracts, sectoral contracts and works and services concession contracts, as well as for the organisation and operation of the National Council for the Settlement of Appeals, as subsequently amended and supplemented, in particular those concerning European funds. (2) Where, on the date of entry into force of the Government decision referred to in paragraph (1), no funds are provided for in the budget of the chief authorising officer to finance the relevant posts, such posts shall be financed from the Budget Reserve Fund at the Government's disposal, until the date of the first budget amendment. (3) The Ministry of Public Finance is authorised to introduce into the State budget the amendments resulting from the application of the provisions of paragraph (1).

See also the provisions of [Articles IX and X of EMERGENCY ORDINANCE No. 26 of 18 March 2022](#), published in the OFFICIAL GAZETTE No. 272 of 21 March 2022, as amended by [Article VI of EMERGENCY ORDINANCE No. 171 of 8 December 2022](#), published in the Official Gazette No. 1193 of 12 December 2022, which provide:

Article IX(1) For transport infrastructure projects of national interest, for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#) on public finances, as subsequently amended and supplemented, and for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006 on community public utility services](#), as republished, as subsequently amended and supplemented, and for infrastructure projects of public interest defined in accordance with the law, the funding for which is provided from non-repayable external funds, by way of derogation from [Article 6\(2\) of Law No. 50/1991](#) on the authorisation of construction works, as republished, with subsequent amendments and additions, the authorities competent to issue town planning certificates are obliged to issue such certificates within 15 calendar days of the date on which the beneficiary of the works submits the notification requesting their issue. (2) For transport infrastructure projects of national interest, for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#), as subsequently amended and supplemented, and for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006](#), as republished, as subsequently amended and supplemented, and for infrastructure projects of public interest defined in accordance with the law and financed from non-repayable external funds, the entities issuing the opinions/agreements required by the planning certificate, including those relating to the relocation of utilities, with the exception of the competent environmental protection authorities, are obliged to issue such opinions within 10 calendar days of the date on which the beneficiary of the works submits the notification requesting their issue. (2^1) For transport infrastructure projects of national interest, for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#), as subsequently amended and supplemented, and for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006](#), as republished, as subsequently amended and supplemented, and for infrastructure projects of public interest, as defined by law, financed from non-repayable external funds, the planning certificates and approvals/agreements requested through the town planning certificate, issued at the feasibility study stage, shall remain valid, provided that no new circumstances arise or the conditions on which their issue was based do not change, until the completion of the works for which they were issued, or until the final acceptance report is drawn up. (2^2) For implementation contracts concluded under the terms of [Article IV of Government Emergency Ordinance No. 109/2022](#) on certain measures for water and wastewater infrastructure projects financed from European funds and amending certain legislative acts, as subsequently amended, the town planning certificates and the approvals/agreements required by the town planning certificate, issued at the feasibility study stage on behalf of the regional water and wastewater operators, shall remain valid, provided that

new circumstances arise or the conditions on which their issue was based are not altered, until the completion of the relevant works for which they were issued, or until the relevant final acceptance report is drawn up.(3) For transport infrastructure projects of national interest, and for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#), as subsequently amended and supplemented, for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006](#), as [republished](#), as subsequently amended and supplemented, and for infrastructure projects of public interest, as defined by law, the funding for which is provided from non-repayable external funds, by way of derogation from [Article 7\(1\) of Law No. 50/1991](#) on the authorisation of construction works, as [republished](#), with subsequent amendments and additions, the authorities competent to issue the building permit are obliged to issue the permit within 15 calendar days of the date on which the beneficiary of the works submits the notification of their completion.(4) For transport infrastructure projects of national interest, for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#), as subsequently amended and supplemented, and for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006](#), as [republished](#), as subsequently amended and supplemented, and for infrastructure projects of public interest, the funding for which is provided from non-repayable external funds, the competent environmental protection authority is obliged to issue the regulatory act within a maximum of 30 working days from the date on which the public consultation provided for in [Article 19 of Annex No. 5 to Law No. 292/2018](#) on the environmental impact assessment of certain public and private projects was completed.(5) For transport infrastructure projects of national interest, for investment projects whose value falls within the thresholds set out in [Article 42\(1\)\(a\) of Law No. 500/2002](#), as subsequently amended and supplemented, as well as for infrastructure projects implemented by regional operators, as defined in [Article 2\(h\) of Law No. 51/2006](#), as [republished](#), as subsequently amended and supplemented, and for infrastructure projects of public interest, as defined by law, the funding for which is provided from non-repayable external funds, the planning certificate shall require only those approvals/consents strictly relating to the type of works necessary for the implementation of the infrastructure project; it is prohibited to request approvals/consents that have no technical or legal basis in relation to the scope of the project. The infrastructure projects referred to in [paragraph \(1\)](#) are exempt from the payment of any fees or charges required under town planning certificates and established by decisions of local or county councils. (6) It constitutes an administrative offence to fail to issue town planning certificates within the time limit set out in [paragraph \(1\)](#), as well as the requirement, through the town planning certificate, of opinions or approvals that have no technical or legal basis in relation to the scope of the project; such acts shall be punishable by a fine in the amount provided for in [Article 63¹\(d\) of Law No. 350/2001](#) on spatial planning and town planning, as subsequently amended and supplemented. The State Construction Inspectorate shall establish the administrative offences and impose the penalties in accordance with this paragraph. (7) Within the time limit set out in [paragraph \(2\)](#), the bodies responsible for issuing the approvals requested in the town planning certificate shall issue, on a one-off basis, conditional approvals, duly substantiated from a technical and economic point of view, as appropriate. Such conditions shall not impose any technical solutions other than those set out in the approval in principle granted at the feasibility study stage, in accordance with [Government Decision No. 907/2016](#) on the stages of preparation and the framework content of the technical and economic documentation relating to investment objectives/projects financed from public funds, as subsequently amended and supplemented, and shall exclude the internal approval procedures of the issuing entities.(8) In the situation provided for in [paragraph \(7\)](#), the beneficiary of the works referred to in [paragraph \(2\)](#) shall submit to the entities issuing the opinions requested through the town planning certificate the clarifications, additions or amendments, as appropriate, regarding the conditions imposed, within 30 days of the date of issue of the conditional opinion. Once the beneficiary of the works has submitted the clarifications, additions or amendments, the authorities responsible for issuing the approvals requested through the town planning certificate are obliged to issue the approval within 5 days of the beneficiary's submission of the clarifications, additions or amendments, as appropriate, regarding the conditions imposed.(9) Where the competent authorities responsible for issuing the approvals requested through the planning certificate fail to issue the approvals within the time limits set out in [paragraph \(2\)](#) or [\(7\)](#), the documentation submitted by the beneficiary of the works shall be deemed to be complete.(10) In the cases provided for in [paragraph \(9\)](#), the authorities responsible for issuing the approvals requested through the planning certificate are obliged to issue the approvals within 5 calendar days of the expiry of the time limits set out in [paragraphs \(2\)](#) and [\(7\)](#).(11) For the projects referred to in [paragraph \(2\)](#) whose funding is provided from non-repayable external funds, where the approvals are not issued in accordance with [paragraph \(10\)](#), they shall be deemed to have been granted, and the project beneficiaries are obliged to commence the works following the issue of the building permit.(12) The provisions of [paragraphs \(2\)](#) and [\(7\)](#)—
[\(11\)](#) shall apply mutatis mutandis to utilities identified in addition to those provided for in the agreement/letter of intent issued, at the feasibility study stage, by the competent authorities responsible for issuing the agreements/letters of intent requested in the town planning certificate.(13) Where, following an analysis of the documentation submitted to the competent authorities for the issue of the building permit, it is found that the documentation is incomplete, requires technical clarification or amendments, this shall be notified, on a single occasion, in writing, to the beneficiary of the works referred to in [paragraph \(3\)](#), within 5 working days of the date of submission of the notification of their issue by the beneficiary of the works, specifying all the elements

necessary for its completion or amendment, within the time limit set out in [paragraph \(3\)](#).(14) Where the authorities competent to issue the building permit fail to issue the building permits within the time limit set out [in paragraph \(3\)](#), the documentation submitted by the beneficiary of the works shall be deemed to be complete.

(15) In the case provided [for in paragraph \(14\)](#), the authorities

competent to issue the building permit shall be obliged to issue the building permits within 5 calendar days of the expiry of the time limit set out in [paragraph \(3\)](#). (16) In accordance with the provisions of [Government Emergency Ordinance No. 27/2003](#) on the tacit approval procedure, approved with amendments and additions by [Law No. 486/2003](#), as subsequently amended and supplemented, building permits for which the Ministry of Transport and Infrastructure is responsible shall be deemed to have been granted if they have not been issued within the time limit set out in [paragraph \(15\)](#). In the event of tacit approval of the building permit, the Ministry of Transport and Infrastructure is obliged to issue the official document within 5 working days of the date of tacit approval. (17) For transport infrastructure projects of national interest, where building permits are not issued, under the conditions set out in [paragraph \(15\)](#), by the competent authorities other than the Ministry of Transport and Infrastructure, the building permit shall be issued by the Ministry of Transport and Infrastructure, under the conditions laid down in this Article.

Article X(1) The provisions of [Government Ordinance No. 2/2001](#) on the legal regime governing administrative offences, approved with amendments and additions by [Law No. 180/2002](#), as subsequently amended and supplemented, shall apply to the administrative offences provided for in this Emergency Ordinance. (2) Notwithstanding the provisions of [Article 4\(2\) of Government Ordinance No. 2/2001](#), approved with amendments and additions by [Law No. 180/2002](#), as subsequently amended and supplemented, the provisions of [Article IX\(6\)](#) shall enter into force 10 days after the date of publication of this Emergency Ordinance in the Official Gazette of Romania, Part I.

Signed: THE PRESIDENT OF THE CHAMBER OF DEPUTIES, FLORIN IORDACHE
THE PRESIDENT OF THE SENATE

CĂLIN-CONSTANTIN-ANTON POPESCU-TĂRICEANU Bucharest, 19 May 2016. No. 98. + Annex No. 1

NACE Rev. 1*1)					
SECTION F			CONSTRUCTION		CPV code
Division	Group	Class	Description	Notes	
45			Construction	This division includes: - the construction of new buildings and works, restoration and routine repairs	45000000
	45.1		Site preparation		45100000
		45.11	Demolition of buildings; earthworks	This class includes: - the demolition of buildings and other structures; - site clearance; - earthworks: excavation, backfilling, levelling of construction sites, trench digging, rock removal, demolition by blasting, etc.; - preparation of sites for mining operations; - soil removal and other works relating to the development and preparation of land and mining sites. This class also includes: - drainage of construction sites; - drainage of agricultural and forestry land.	45110000
		45.12	Drilling and boring works	This class includes: - exploratory drilling, reconnaissance drilling and core sampling for construction, as well as for geophysical, geological or other similar surveys. This class excludes: - drilling of wells for the extraction of crude oil or natural gas, see 11.20; - drilling of water wells, see 45.25; - digging of wells, see 45.25; - exploration for crude oil and natural gas deposits, as well as geophysical, geological and seismic surveys, see 74.20.	45120000
	45.2		Complete or partial construction works; works		45200000

			civil engineering		
		45.21	General building construction and civil engineering works	This class includes: - the construction of all types of buildings and civil engineering works; - bridges, including those supporting suspended roads, viaducts, tunnels and underpasses; - pipelines, communication lines and power lines for long-distance transmission; - pipelines, communication lines and power lines for urban networks; - related urban development works; - the assembly and installation of prefabricated structures on building sites. This class excludes: - services relating to the extraction of crude oil and natural gas; see 11.20; - the construction of fully prefabricated structures made of materials other than concrete, manufactured by the unit carrying out the works; see divisions 20, 26 and 28; - construction works, other than those for buildings, for stadiums, swimming pools, sports halls, tennis courts, golf courses and other sports facilities, see 45.23; - building installation works, see 45.3; - finishing works, see 45.4; - architectural and engineering activities, see 74.20; - construction project management, see 74.20.	45210000 with the exception of: 45213316 45220000 45231000 45232000

Note ...

*1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1).

NACE Rev. 1*1)					CPV code
SECTION F			CONSTRUCTION		
Division	Group	Class	Description	Notes	
		45.22	Erection of roof structures and roofing	This class includes: - erection of roof structures; - installation of roofs; - waterproofing works.	45261000
		45.23	Construction of motorways, roads, aerodromes and sports facilities	This class includes: - the construction of motorways, roads, other vehicular and pedestrian routes; - the construction of railways; - the construction of runways; - construction works, other than those for buildings, for stadiums, swimming pools, sports halls, tennis courts, golf courses and other sports facilities; - the painting of road surfaces and car parks. This class does not include: - preliminary earthworks; see 45.11.	45212212 and DA03 45230000 with the exception of: 45231000 45232000 45234115
		45.24	Hydraulic engineering works	This class includes the construction of: - waterways, ports, river works, marinas, locks, etc.; - dams and dykes; - dredging; - underwater works.	45240000
		45.25	Other construction works involving specialised works	This class includes: - specialised construction activities which are common to several types of works and which require specialised skills or equipment; - the construction of foundations, including the installation of piles; - drilling and construction of water wells, and the digging of wells; - the erection of metal structural elements not manufactured by the unit carrying out the works; - bending of steel structures; - bricklaying or stonework;	45250000 45262000

				- the erection and dismantling of own or hired scaffolding and work platforms; - the construction of chimneys and industrial furnaces. This class excludes: - the hire of scaffolding without erection and dismantling; see 71.32.	
	45.3		Installation works		45300000
		45.31	Electrical installation works	This class includes: - the installation, in buildings or other construction projects, of the following: - electrical cables and connections; - telecommunications systems; - electrical heating installations; - antennas for residential buildings; - fire alarm systems; - burglar alarm systems; - lifts and escalators; - lightning conductors, etc.	45213316 45310000 with the exception of: 45316000
		45.32	Insulation works	This class includes: - the installation, in buildings or other construction projects, of thermal, acoustic or anti-vibration insulation. This class excludes: - waterproofing works; see 45.22.	45320000
		45.33	Installations	This class includes: - the installation, in buildings or other construction projects, of the following items: - plumbing fixtures and equipment; - gas distribution equipment; - heating, ventilation, refrigeration or air-conditioning equipment and ductwork; - sprinkler fire-extinguishing systems. This class excludes: - the installation of electric heating systems; see 45.31.	45330000

Note ...

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		45.34	Other installation works	This class includes: - the installation of lighting and signalling systems for roads, railways, airports and ports; - the installation, in buildings or other construction projects, of installations and equipment not classified elsewhere.	45234115 45316000 45340000
	45.4		Finishing works		45400000
		45.41	Plastering	This class includes: - the application, in buildings or other construction projects, of plaster and stucco for interior and exterior structural or decorative purposes, including associated facing materials.	45410000
		45.42	Joinery and carpentry	This class includes: - the installation of doors, windows, door and window frames, fitted kitchens, staircases, kitchen equipment shops and similar fittings, made of wood or other materials,	45420000

				which are not manufactured by the unit carrying out the work; - interior fittings, such as ceilings, wooden panelling, movable partitions, etc. This class excludes: - the laying of parquet or other wooden flooring; see 45.43.	
		45.43	Flooring and wall covering	This class includes: - the installation, in buildings or other construction projects, of the following items: - ceramic, concrete or stone tiles for walls or floors; - parquet and other wooden flooring, carpets and linoleum; - including those made of rubber or plastic; - floor or wall coverings made of terrazzo, marble, granite or slate; - wallpaper.	45430000
		45.44	Painting and glazing	This class includes: - interior and exterior painting of buildings; - painting of civil engineering structures; - fitting of glass, mirrors, etc. This class excludes: - installation of windows; see 45.42.	45440000
		45.45	Other finishing works	This class includes: - the installation of private swimming pools; - the cleaning of the external walls of buildings using steam, sandblasting or other similar methods; - other building completion and finishing works not classified elsewhere. This class excludes: - cleaning the interior walls of buildings and other structures; see 74.70.	45212212 and DA04 45450000
	45.5		Rental of construction or demolition equipment with operator		45500000
		45.50	Hiring of construction or demolition equipment with operator	This class excludes: - the hire of construction or demolition machinery and equipment without an operator; see 71.32.	45500000

Note ...

*1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1). + Annex No 2

CPV code	Description
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 [Domestic domestic staff]; 79624000-4 [Provision of nursing staff] and 79625000-1 [Provision of medical staff] from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5; 98500000-8 [Private households with employed staff] and 98513000-2 to 98514000-9 [Labour services for private households, Agency staff services for private households, Office staff services for private households, Temporary staff services for private households, Home help services and Domestic services]	Health, social and related services
85321000-5 and 85322000-2, 75000000-6 [Public administration, defence and	Social administration services,

social insurance services], 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 Education and vocational training services to 80660000-8; from 92000000-1 to 92700000-8 79950000-8 [Exhibition, fair and congress organisation services], 79951000-5 [Seminar organisation services], 79952000-2 [Event services], 79952100-3 [Cultural event organisation services], 79953000-9 [Festival organisation services], 79954000-6 [Party organisation services], 79955000-3 [Fashion show organisation services], 79956000-0 [Organisation of fairs and exhibitions]	education, health and cultural services
75300000-9	Compulsory social security services*1)
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Compensation services
98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3	Other community, social and personal services, including services provided by trade unions, political organisations, youth organisations and miscellaneous services provided by voluntary organisations
98131000-0	Religious services
from 55100000-1 to 55410000-7; from 55521000-8 to 55521200-0 [55521000-8 home catering services, 55521100-9 Home meal delivery services, 55521200-0 Meal delivery services] 5552000-1 Catering services, 55522000-5 Catering services for transport companies, 55523000-2 Catering services for other organisations or institutions, 55524000-9 Catering services for schools 55510000-8 Canteen services, 55511000-5 Canteen and other café services for a restricted clientele, 55512000-2 Canteen management services, 55523100-3 Restaurant services for schools	Hotel and restaurant services
from 79100000-5 to 79140000-7; 75231100-5;	Legal services, in so far as they are not excluded under Article 29(3)
from 75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	Other administrative and government services
from 75200000-8 to 75231000-4;	Community services
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 794300000-7; 98113100-9	Services relating to prisons, public security and rescue, in so far as they are not excluded under Article 29(1)(h)
from 79700000-1 to 79721000-4 [Investigation and security services, Security services, Alarm monitoring services, Security guard services, Surveillance services, Tracing services, Fugitive tracing services, Patrol services, Identification badge issue services, Investigation services and Services by private detectives] 79722000-1 [Handwriting analysis services], 79723000-8 [Analysis services]	Investigation and safety

Waste analysis services]	
98900000-2 [Services provided by extraterritorial organisations and bodies] and 98910000-5 [Services specific to international organisations and bodies]	International services
64000000-6 [Postal and telecommunications services], 64100000-7 [Postal and courier services], 64110000-0 [Postal services], 64111000-7 [Postal services for the distribution of newspapers and periodicals], 64112000-4 [Postal services for the distribution of correspondence], 64113000-1 [Postal services for the distribution of parcels], 64114000-8 [Post office counter services], 64115000-5 [Postbox hire], 64116000-2 [Unclaimed post services], 64122000-7 [Courier and internal office mail services]	Postal services
50116510-9 [Tyre-retreading services], 71550000-8 [Ironmongery services]	Miscellaneous services

Note ...

*1) These services are not covered by this Act where they are organised as non-economic services of general interest.----