

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY ROMANIA**

ARTICLE 9, PARAGRAPH 1 UNCAC

PUBLIC PROCUREMENT

ROMANIA (THIRTEENTH MEETING)

As regards the *existence of measures to regulate issues affecting public procurement integrity*, such as: the obligation of a declaration of interest for certain procurements, procedures for the selection of the staff concerned and training obligations, it was established at national level *The integrated information system for the prevention and identification of potential conflicts of interest in the procedure for awarding public procurement contracts*, initiated through the electronic public procurement system, so that they are removed without affecting those procedures.

The prevention system operates on the basis of the data entered in the integrity forms, registered in SEAP, during the procedures for the award of public procurement contracts.

The integrity form drawn up within the mechanism for preventing conflict of interest is part of the documentation for the award of public procurement contracts and includes 3 sections, as follows: Section I – Data on the procurement procedure, the decision-making factor, the evaluation committee, the consultants and the co-opted experts; Section II - Data on bidders/candidates; Section III - Measures to remove the potential conflict of interest, ordered as a result of an integrity warning.

Contracting authorities/entities have the obligation to ensure the completion and updating of the integrity form, from the publication in SEAP of the awarding documentation, throughout the procedure and up to the publication of the notice of award of public procurement contracts. The integrity form is accessible, in electronic format, to the contracting authorities/entities and is filled in SEAP.

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY ROMANIA

ARTICLE 9 UNCAC

PUBLIC PROCUREMENT

ROMANIA (SEVENTH MEETING)

The Romanian Government approved the National anticorruption strategy (NAS) for the period 2012-2015 through the Decision no. 215/2012, the document including the Inventory of anticorruption preventive measures and evaluation indicators, as well as the National action plan to implement the National anticorruption strategy.

NAS is based on an independent analysis of the efficiency of the previous strategic documents (2005-2010) and it is the result of a comprehensive public consultation. The document has a holistic and multidisciplinary nature and it is addressed to all public institutions representing the executive, legislative and judiciary powers, local public authorities, business environment and civil society, being a real anticorruption agenda assumed at the level of all the Romanian public institutions.

Among the strategy's defining elements, there are:

- **Change of approach - preventing corruption** (Any new anticorruption case constitutes a failure of the institutions' management to prevent incidents of integrity in the broadest sense of the word),
- **Accent on implementation** (NAS provides the ensuring the stability of the institutional and legislative anticorruption framework. No new anticorruption normative acts are necessary. The existing legislative framework suffices. The accent must be put on observing the integrity standards and effective implementation of the measures in force),
- **Enhancing integrity and transparency in important areas or sectors:** judiciary, financing political parties and electoral campaigns, Parliament, public procurement, business environment, local public administration,
- **Confiscating illicit assets** (The combating component emphasizes the confiscation of the proceeds of crime and the illicitly acquired assets, especially through regulating the extended confiscation and through a better inter-institutional cooperation in the area of capitalization of confiscated assets),
- **Promoting Good Governance** (The strategy reflects Romania's commitments towards the values of the Open Government Partnership. Romania adhered to the Partnership's declaration, assuming as major priorities: increasing the availability of public open data made available by public authorities, improving the online services, increasing the public integrity, efficient management of public funds, creating a safe community and enhancing the corporate accountability),
- **New instruments** (NAS introduces for the first time, at national level, a mechanism to self-assess the implementation of the anticorruption legislation. Thus, through the inventory of preventive measures, the mandatory standards are identified and evaluated periodically. In addition, the methodology to evaluate corruption risks, successfully tested by the General Anticorruption Directorate is disseminated to the public institutions),

- **Novelties of the monitoring system** (A mechanism of assessment thematic missions at the level of public institutions was introduced; it also entailed carrying out assessment visits at the public institutions by expert teams made of representatives of the five cooperation platforms (including civil society). In addition, NAS provided a periodical evaluation of the efficiency of the institutional reaction and of the measures adopted by the leading boards of the public institutions on the risks and vulnerabilities identified on the basis of the case law of the main anticorruption institutions, as well as of the other institution having control attributions. Within this mechanism, within three months since an integrity incident, the respective institution was asked to present the adopted measures for addressing the aspects which favoured the commission of that deed).

The strategy encompassed, in addition to the national action plan, an inventory of the anticorruption preventive measures and the associated assessment indicators that aimed at achieving a periodical (biannual) assessment of the application and efficiency of anticorruption measures at the level of each public institution/ authority. The self-assessment included measures as assets declarations, compliance with the rules on gifts, the management of conflicts of interests, incompatibilities, ethical and deontological codes, **transparency in decision-making process, access to information of public interest**, administration of public funds, public procurement, random distribution of cases or of tasks, personnel selection and promoting procedures, etc.

The self-assessment was backed by a mechanism consisting of specific assessment missions by joint teams, made of experts from various public institutions or NGOs. Such type of evaluation focused also on the concrete modality of the application of the preventive measures mentioned above. This mechanism took over the best practices in this field at GRECO, UN and OECD level.

To assist institutions in implementing the strategy, NAS Technical Secretariat, set up in the Ministry of Justice, developed a web-portal, which includes relevant information and best practices identified. This portal was available beginning in April 2013 by any interested person. The portal contains biannual self-evaluation reports of anticorruption prevention measures (including access to public information and transparency in decision making) and progress reports.

To standardize the collection of information process, the NAS Portal had a special application dedicated to the application of this mechanism. Starting in June 2013, each public institution entered the required data directly in the application. The information entered was communicated directly to the server managed by the MoJ.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. Romania has participated since 2011. Countries participating in OGP follow a process for consultation during development of their OGP action plan and during implementation. The consultation process on the national action plan includes a wide range of civil society organizations (CSOs), most of which are members of the Open Data Coalition.

In addition, in the past 5 months, the Ministry for Public Consultation and Civil Dialogue (MCPDC) set up a series of measures in accordance with its mission: create a coherent framework for public participation in the decision making process and grow the level of transparency and access to public information in the Romanian administration. These fields are important components of open governance, and playing a key role in **strengthening the rule of law** by increasing the level of transparency in the public administration, the predictability of the governmental decision and the level of involvement of the civil society in the decisional processes.

The second objective of the National Anticorruption Strategy 2012-2015 was to increase the transparency of the public institutions and one of the measures where MCPDC is coordinating its efforts together with the Ministry of Justice is ensuring a high compliance level with the provisions of the Law of Access to Public Information (Law no. 544/2001) and the Law of decisional transparency (Law no. 52/2003).

Through the Order of the Minister of National Education (OMNE) no. 5144/26.09.2013, the Anticorruption Strategy in Education was approved, as part of the National Anticorruption Strategy. Through OMNE no. 4562/2013 the National Commission for preventing corruption in education (CNPACE) was established, having met the references of implementing and monitoring the National Anticorruption Strategy.

Through OMNE no. 5113/2014, the Methodology on corruption risk management in the Ministry of National Education and the subordinated/coordinated institutions whose activities concern school education was approved, which led to the adoption of a number of control and/or prevention measures, at the level of all structures, in order to maintain an acceptable level of the probability of risks emergence. The methodology on corruption risk management has been developed as a result of the collaboration between the Unit of Public Policies and Strategies from the Ministry of Education and the General Directorate of Anti-Corruption from the Ministry of Interior.

It was piloted during 2013-2014 by the Giurgiu County School Inspectorate and 3 schools from Giurgiu County. These four structures identified 35 risks of corruption and drafted 75 measures for preventing/mitigating corruption. This methodology will be implemented throughout the school education system.

Recently, four national laws transposing public procurement European Directives were adopted by the Romanian Parliament and will enter into force after being promulgated by the President of Romania and published in the Official Gazette of Romania.

In addition, three normative acts containing the Rules of Application for the new public procurement laws will be adopted within 30 days as from the moment the new laws enter into force. Therefore, below, we will refer to the new public procurement legislation soon entering into force, in providing information related to the guidance note and not to the legislation that is currently in force, as it will very soon be repealed.

<p>In relation to integrity in public procurement and management of public finances (article 9), Romania adopted the following measures:</p>
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- *In what concerns the public procurement process transparency ensured by using ICT:*

The new public procurement legislation package provides the obligation of all contracting authorities to conduct all public procurement award procedures using electronic means. In other words, the entire procurement process will be conducted online and will be available for the public, except for the personal data information or confidential information, protected by an intellectual property right or by the commercial secret, according to the law.

In order to comply with this obligation, when conducting procurement award procedures online, contracting authorities have to use a dedicated public procurement electronic platform - SEAP (www.e-licitatie.ro). The platform is run by the Agency for the Digital Agenda of Romania, according to specific public procurement and information technology legal provisions.

On this dedicated platform, all contracting authorities will publish the tender documentations and all other related documents (prior information notices, contract notices, data-sheets, tender books etc.) and all economic operators will submit their tenders (DUAЕ, technical proposal and financial proposal). The tender evaluation process will also be conducted in SEAP.

Moreover, all communications related to the public procurement process (requests for clarifications, answers, prior notifications and so on) will be carried out using electronic means, in SEAP, and also all resulted documents (evaluation reports, award reports, award notices, contracts, contract amendments) will be published on the same public procurement platform.

Furthermore, the new national public procurement legislation provides the obligation for the contracting authorities to take all necessary measures in order to prevent, identify and remedy any conflict of interest situation. In this respect, when conducting a procurement procedure, the contracting authorities will publish in SEAP the names and identification data of the decision making persons within the authority and the names and identification data of tenderers/candidates/sub-contractor participating to the procedure.

All electronic pages, actions and documents generated for, submitted for or related to a certain public procurement procedure (notices, tender documentations, tenders, clarifications, complaints, contracts and contract amendments) are gathered in that procedure's public procurement file.

Therefore, the public procurement files of all awarded procedures will be available to the public in SEAP, regardless if the procedure is finalised or not, so that anyone interested, when identifying a potential corruption situation, may notify the authorities.

In what concerns public reporting related to the proper functioning of the public procurement system, ANAP uses the electronic system for public procurement (SEAP) in order to monitor all relevant indicators and issues various monitoring reports.

According to the main public policy related to the public procurement field, represented by the Public Procurement National Strategy approved by Government Decision no. 901/2015, at least each trimester, all relevant monitoring reports are published on ANAP's website, in order to be accessible to anyone interested.