

## Analysis report of procurement standards and procurement praxis in Romania

### Introduction

In Romania the first important steps with respect to public procurement sector started in 2006 with:

- Transposition the EU Directive 2004/18/CE on the coordination of procedures for the award of public works contracts, public supply and
- Transposition the EU Directive 2004/17/CE on the contracts and public service contracts and coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sector,

through adoption the EMERGENCY ORDINANCE No. 34/2006 concerning the awarding of public contracts, public works concession contracts and services concession contracts.

Due to EU initiative, the Romanian Action Plan for Green Public Procurement was published in 2008 and covers 2008-2013. The document establishes specific targets for products and services categories which may be procured by public institutions, according to EU legislation. The main covered categories are: cleaning, buildings, lighting, food, furniture, IT, paper and buses.

The green initiatives are usual developed by environmental NGOs.

And usual green criteria are not present within bidding documents.

In Romania the main institution with Public Procurement is the National Authority for Regulating and Monitoring of Public Procurement (ANRMAP).

### Current national procurement legislation

- Emergency Ordinance no. 34/2006 concerning the awarding of public contracts, public works concession contracts and services concession contracts (as approved with amendments by Law no. 337/2006, with subsequent amendments, whereby the adjustments required by the new European provisions to be provided and the regulatory framework for public procurement to be further improved).
- Government Decision no. 925/2006 (updated) for approving of the application norms of the Government's Emergency Ordinance no. 34/2006 (updated) regarding the award of public procurement contracts works concession contracts and services concession contracts
- Government Decision no. 1660/2006 for approving of the application norms of the provisions referring to the award of procurement contracts by electronic means from the Government's Emergency Ordinance no. 34/2006
- Order no. 122/2009 for amending the Regulation regarding monitoring the way of awarding of public procurement contracts, public works concession contracts and services concession contracts, approved by the Order of President of National Authority for Regulating and Monitoring of Public Procurement no. 107/2009
- Order of President of National Authority for Regulating and Monitoring of Public Procurement no. 107/2009 for approval the Regulation regarding monitoring the way of awarding of public procurement contracts, public works concession contracts and services concession contracts
- Decision No 834 of 22 July 2009 amending and completing the Government Decision No 925/2006 for the approval of the rules of implementation of the provisions regarding the award of public procurement contracts of the Government Emergency Ordinance No 34/2006

regarding the award of the public procurement contracts, public works concession contracts and services concession contracts

- Emergency Ordinance 76/2010 amending and supplementing Government Emergency Ordinance no. 34/2006 concerning the award of public procurement contracts, public works concession contracts and services concession contracts
- Law no. 278/2010 regarding approval the Emergency Ordinance 76/2010 amending and supplementing Government Emergency Ordinance no. 34/2006 concerning the award of public procurement contracts, public works concession contracts and services concession contracts
- Order no. 314 / 2010 with respect to implementation the certificate for attending the auction with independent tender
- Law no. 279 /2011 amending and completing the Government's Emergency Ordinance no. 34/2006 regarding the award of public procurement contracts works concession contracts and services concession contracts
- Order no. 509/2011 of President of National Authority for Regulating and Monitoring of Public Procurement with respect to establish the qualification and selection criteria
- Decision no. 801/2011 amending and completing the Government's Decision no. 525/2007 with respect to the organization and operating of National Authority for Regulating and Monitoring of Public Procurement
- Order no. 302/2011, of President of National Authority for Regulating and Monitoring of Public Procurement with respect to approval the templates for Minutes of meetings for opening the tenders and the Procedure's Report, referring to the award of public procurement contracts works concession contracts and services concession contracts
- Order no. 313/2011, of President of National Authority for Regulating and Monitoring of Public Procurement with respect to certain provisions' interpretation referring to the award of public procurement contracts, works concession contracts and services concession contracts
- Government's Emergency Ordinance no. 40 / 2011 regarding promotion of clean vehicles
- Order no. 509/2011 of President of National Authority for Regulating and Monitoring of Public Procurement, with respect to formulating criteria for qualification and selection
- Order no. 136/2012 of President of National Authority for Regulating and Monitoring of Public Procurement, with respect to notification for the procurement contracts
- Decision no. 219/2012 amending art. 93 from Government Decision no. 925/2006 for approving of the application norms of the Government's Emergency Ordinance no. 34/2006 regarding the award of public procurement contracts works concession contracts and services concession contracts

## Current national / regional practice

Tenders for public procurement are:

- Open auction – any interested company has the right to submit its application
- Restricted tender – any company is entitled to submit its application but only selected applicants may submit the tender
- The competitive dialogue – the contracting authority have a dialogue with admitted candidates in order to identify one or more solutions for its problems, followed by final tender's submission
- Negotiation – contracting authority develops consultations with one or more from selected candidates and negotiates contractual clauses including price. Negotiations may be with or without a public announcement for invitation to tender.
- Ask for tender

The contracting authority is entitled to announce a competition in order to find the best solutions.

The contracting authority is entitled to procure directly products, services or work when the value for that procurement is under equivalent in lei of 15000 Euros (without VAT) based on a supporting document.

European Project "Buy Smart+".

Visit [www.buy-smart.info](http://www.buy-smart.info) for more information.

Any contracting authority is entitled to use the procurement procedures using electronic proposal submission service (SEAP).

Private procurers must comply with the same rules as public ones when the funds arise from public or special European funds.

## Recognised barriers

- Most of Parliament's outputs with respect to environment aspects have been only Government's initiatives among which 30% are only EU Directives' transposition
- The EU Directives' transposition is on average 1.5 years delayed ( pre-infringement procedures)
- 25% from Environment Commission from Deputies' Chamber voted against environment experts' opinion

Source: [www.votulverde.ro](http://www.votulverde.ro) period covered 2010-2011

### Conclusion:

- Environment issues are not always supported due to unknown reasons.
- Lack of enough communication inside and outside political groups
- Lack of enough communication and collaboration between government institutions: National Authority for Regulating and Monitoring of Public Procurement (ANRMAP), National Authority for Energy Regulation (ANRE), local authorities
- Lack of knowledge regarding possible existing green criteria in order to be included within bidding documents
- Bidding documents usual not include criteria as : energy efficiency, reduced environment impact but include the cheapest price
- Bidding documents usual not include requests for certain energy labels, eco labels, other labels
- Energy labelling (even the legislation is in force) is not always obeyed according with the EU regulations. Penalties are symbolically.

## Opportunities

- The new energy efficiency EU Directive with a closer monitoring
- Projects like "support activities", dissemination, communication, training
- Strong links between government institution due to special measures

## Relevant sources of information

- [www.achizitiiverzi.ro](http://www.achizitiiverzi.ro)
- [www.achizitiiecologice.ro](http://www.achizitiiecologice.ro)
- [www.topten.info.ro](http://www.topten.info.ro)
- [www.votulverde.ro](http://www.votulverde.ro)
- [www.anrmap.ro](http://www.anrmap.ro)
- [www.anre.ro](http://www.anre.ro)
- [www.mmediu.ro](http://www.mmediu.ro)
- [www.anfp.gov.ro](http://www.anfp.gov.ro)
- [http://mmediu.ro/protectia\\_mediului/eticheta\\_ecologica/eticheta\\_ecologica.htm](http://mmediu.ro/protectia_mediului/eticheta_ecologica/eticheta_ecologica.htm)
- <http://www.newenergylabel.com/ro/background>