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MONITORING MOLDOVA'S PUBLIC PROCUREMENT

Newsletter no. 10 (February 2024)

CONTENTS

2 | EVENT

At the initiative of IDIS Viitorul, the National Platform for Public Procurement was launched in the Republic of Moldova

5 | COOPERATION

Authorities and contracting entities agreed to cooperate with IDIS Viitorul in the framework of the National Platform for Public Procurement

9 | COALITION OF MONITORS

The Public Procurement Monitoring Coalition held its third working meeting

12 | INVESTIGATION

Concerted bids on a railway procurement

16 | ANALYSIS

Certificates of conformity and quality required in sectoral procurement procedures

21 | GOOD PRACTICE

“European” light in Old Negurenii, connected after community consultation

23 | EUROPEAN VILLAGE

Vișnioanca village, closer to Europe

EDITORIAL

HADY FINK:

TAKING STOCK - INCREASING THE INTEGRITY OF PUBLIC PROCUREMENT

Our project aims to increase the integrity of public procurement in Moldova. Efforts to bring about such systemic improvements are a marathon, not a sprint – or actually maybe even closer to an “Iron Man” competition: they require high levels of energy and perseverance over the long haul, and in different disciplines. In the last quarter of calendar year 2023, we have entered the final third of our 58-months implementation period (September 2020 – June 2025). As important components have been started recently, it is a good time to take stock of where we stand.



The project is divided into incremental phases that build on each other: the Inception phase was completed in 2021 with the publication of a Baseline Study on Public Procurement in Moldova. In the subsequent Training phase, a curriculum was developed, and 34 CSOs and investigative journalists were trained over three months in 2022 to strengthen their capacity to monitor public procurement. The current Monitoring phase has seen 13 grants provided to ten CSOs and investigative journalists who conduct monitoring activities. The first batch of eight grants was concluded in 2023, while the second batch of five more grants is ongoing, with expected completion in mid-2024. The total number of monitored CAs was 71. The cumulative estimated financial worth of the monitored procedures was 93,339,581 USD.

CONTINUED ON PAGE 25 >>>>

AT THE INITIATIVE OF IDIS VIITORUL, THE NATIONAL PLATFORM FOR PUBLIC PROCUREMENT WAS LAUNCHED IN THE REPUBLIC OF MOLDOVA

» [The Institute for Development and Social Initiatives \(IDIS\) "Viitorul"](#), in collaboration with [Partnership for Transparency \(PTF\)](#), launched on Tuesday, December 19, 2023, the National Platform for Public Procurement (NPPP), within the project [Increasing the Integrity of Public Procurement](#).



The NPPP will be a national discussion forum, a permanent communication and dialogue mechanism for all actors in the public procurement sector - policy, control, and regulatory authorities, contracting authorities/entities, and economic operators. Alongside IDIS, three other civil society organizations delegated by the Public Procurement Monitoring Coalition are part of the NPPP.

The mission of the NPPP is to improve the efficiency, transparency, and integrity of the national public procurement system by addressing problems in the system, identifying solutions and proposing them as recommendations to be incorporated into policy by decision-makers. NPPP members represent authorities and organizations with an interest in the functioning and sustainability of the national public procurement system.

At meetings to be held quarterly, NPPP members will address priority topics, adopt common positions on procurement issues and challenges, make recommendations and contribute to policy development and implementation of solutions to overcome challenges.

DIANA ENACHI, procurement monitoring coordinator at IDIS "Viitorul": *"The ultimate goal of the work of this platform is to find solutions by thinking of new policies to solve problems in the public procurement sector. Not necessarily for every problem and at every meeting will we find simple, clear solutions that can be easily implemented, but this communication, and the fact that we are all gathered around the same table, is a step forward to remedy those difficulties in the monitoring progress identified by us as members of civil society,"* said Diana Enachi.

LIUBOMIR CHIRIAC, Executive Director of IDIS "Viitorul" said that the public procurement sector represents about 10% of the Gross Domestic Product (GDP) of the Republic of Moldova and 20-25% of the National Public Budget.

"It is a very important sector for the development of the country. Efficient public procurement leads to the solution of many challenges, which refer to financial discipline, the modernization of public administration, the opening of new jobs, the fight against corruption, increasing citizens' trust in the state, etc.", said Liubomir Chiriac.



HADY FINK, Project Director at Partnership for Transparency (PTF), said that the project is a valuable one, especially because of the results already achieved and the partnership with IDIS "Viitorul".

"Thank you to the US Government for this support. We at PTF are using this moment to make this change... We want this project to not go unnoticed. We are glad that there is this interest from the authorities. With the help of civil society, we hope to improve this sector, contributing to an agenda that will bring more transparency and integrity to public procurement in Moldova and really improve the system," said Hady Fink.

LILIA RADUL, a senior consultant in the Public Procurement Directorate of the Ministry of

Finance, said her institution is always open to working with civil society.

"Many times we meet for discussions, round tables, etc. We have also signed a memorandum with IDIS "Viitorul". We continue to count on the support of civil society, on your courage and ambition to identify problems, gaps, and illegalities in this area, which is very important for the country. Public procurement is about public money", said Lilia Radul.



According to **SERGIU LAZARENCU**, member of the Moldovan Parliament, member of the Committee on Economy, Budget and Finance, once the negotiations for Moldova's accession to the European Union (EU) are launched, the country will be eligible to access funds, which will have to be absorbed quickly, qualitatively and in compliance with the legal framework.

"Parliament will give all the necessary support to develop a public procurement system capable of providing value for money in the use of public funds and will certainly be receptive and support all good proposals that will come from this platform", said Sergiu Lazarencu.

JULIE LIMOGES, Head of the Economic Unit, Embassy of the United States of America, said that the US is always open to supporting initiatives focused on such important activities.

“Transparent public procurement is an essential component of a transparent government. This provides assurance that public funds will be absorbed quickly and the benefits will be in the best interests of citizens. The value of public procurement works towards the welfare of citizens. It also contributes to economic development. As the Republic of Moldova moves along the road to EU membership, it will need to ensure that the public procurement system complies with European practical and theoretical standards. We support the Republic of Moldova in strengthening public procurement and building a more prosperous society,” said Julie Limoges.

In turn, **CAROLINA UNGUREANU**, deputy director, project manager at IDIS “Viitorul”, said that the main objective of the platform is to come up with recommendations to improve the public procurement system, and the ultimate goal is to have efficiency in the use of public money and strengthen the capacities of all actors involved in this process.

“We are glad that the work we do every day at IDIS “Viitorul” in the field of public procurement is reflected in tangible results. The fact that you, members of this platform, are here today means that you want discussions and cooperation, that there is a need to meet at the same table, altogether, to address problems, to see perspectives, even if they sometimes differ, but to find that consensus”, said Carolina Ungureanu.

In the second part of the event, the first working session of the NPPP took place. Discussions focused on legal, procedural and technical issues and challenges in the field of public works procurement. The members of the NPPP outlined the problems and came up with solutions and recommendations to overcome them. The secretariat of the NPPP is IDIS “Viitorul”, which collected the problems identified and the recommendations formulated to overcome them. These will be brought to the attention of the institutions with the necessary powers to study and implement them.



AUTHORITIES AND CONTRACTING ENTITIES AGREED TO COOPERATE WITH IDIS VIITORUL IN THE FRAMEWORK OF THE NATIONAL PLATFORM FOR PUBLIC PROCUREMENT



» Several authorities and contracting entities were invited, and all accepted, to cooperate with the Institute for Development and Social Initiatives (IDIS Viitorul) in the framework of the National Platform for Public Procurement (NPPP), which aims to promote the reform of the public procurement system in the Republic of Moldova.

Among the members of the NPPP are the Ministry of Finance, the Economy, Budget and Finance Committee of the Parliament, the Public Procurement Agency, the National Agency for Solving Complaints, the Centre for Centralised Public Procurement in Health, the Chamber of Commerce and Industry, the Court of Accounts, the National Bank, the State Road Administration, Chisinau City Hall, Balti City Hall, Cahul City Hall, the National Anti-Corruption Centre, S.A. Termoelectrica, and S.A. Apă Canal-Chișinău.

Alongside IDIS, three other civil society organisations delegated by the Public Procurement Coalition of Monitors are also members of the NPPP: Association for Efficient and Accountable Governance - AGER; Public Association „Local Invest” and Transparency International Moldova. They were selected at the [third meeting](#) of the Public Procurement Monitoring Coalition, which took place on 13 December 2023.

The NPPP is created within the project [Increasing the Integrity of Public Procurement](#), implemented by [IDIS Viitorul](#), together with the American organization [Partnership for Transparency](#) (PTF). Previously, IDIS Viitorul signed a Cooperation Agreement with the [Ministry of Finance](#) and the [National Agency for Solving Complaints](#) to better carry out the NPPP activity.

The governing rules of the NPPP were sent to all members for consultation and subsequently approved. The National Public Procurement Platform (NPPP) was launched on Tuesday, December 19, 2023.

SUB-GRANTEES OF THE INCREASING THE INTEGRITY OF PUBLIC PROCUREMENT PROJECT HAD A MEETING WITH THE PROJECT DIRECTOR OF PTF

» [The Institute for Development and Social Initiatives \(IDIS\) Viitorul](#) on Thursday, December 21 held a mentoring session with the sub-grantees of the [Increasing the Integrity of Public Procurement](#) project, in the presence of Hady Fink, Project Director of the [Partnership for Transparency - PTF](#) from the USA, who was visiting the Republic of Moldova.



During the meeting, eight organizations of the first round of the sub-grantee program presented the results and impacts of the implemented projects. At the same time, five organizations implementing projects under the second round of the sub-grants program reported on the results of the first three months of public procurement monitoring.

The mentoring session also aimed to assess the status of the recommendations addressed to the monitored authorities and decision-makers as a result of the implementation of the first round projects, the reactions of the contracting authorities to the recommendations made, and the extent to which the procurement process has been improved.

HADY FINK: “For us, the results of the projects are very important, but we are also interested in what happens after you have implemented the projects, which is sustainability. For us, immediate actions are important, but also the long-term results of your activities. We want to see what changes have occurred, whether some monitoring authorities have taken or are taking into

account your recommendations. If some are more reluctant, we need to know this so that we can analyze the current situation and know how to move forward.”

CAROLINA UNGUREANU, project manager, deputy director of IDIS Viitorul: “This meeting is important for us from several points of view. To see how other civil society organizations work and what tools they use when monitoring certain entities or contracting authorities. It is an exchange of experience and the lessons that some organizations have presented can be taken back. Some of the topics covered by monitoring organizations may be the subject of future journalistic investigations”.

CONTACT CENTRE CAHUL monitored, in the first round of sub-grants, some public procurement carried out by Cahul City Hall and Cahul District Council. Mihail Cucureanu, project coordinator at the Centre, admitted that he did not have much knowledge in the field of monitoring initially, but in the framework of the project he participated in trainings, where he was trained by specialists in the field. “As part of the project we formed

a monitoring group. We were able to hire a highly experienced technical officer, who taught us what to look out for when monitoring how the works are going. At each monitoring stage we tried to make proposals, which were included as recommendations to the authorities, and we had more openness from Cahul City Hall than from the Cahul RC,” said Mihail Cucereanu.

THE PUBLIC ASSOCIATION LOCALINVEST

from Riscani district, in the first round of grants, monitored the purchases carried out by the Riscani District Council and the Riscani District Hospital. Alexandru Crigan, president of the association, said that during the monitoring procedures a number of deviations from legal norms were detected. *“With the completion of the project, our work on these monitored procurements was not completed. We made recommendations at the end of the monitoring stages, and along the way we continued to receive replies to letters we sent during the project and to which we did not receive a timely response. We had high expectations from the state institutions, in particular the control bodies, to react more promptly. We received answers to the recommendations, but they were quite evasive”,* said Alexandru Crigan.

THE PUBLIC ASSOCIATION PROSPECT, from the city of Cimislia, monitored, also in the first round, the public procurement of road repairs carried out by the authorities of the city and district. Andrei Bargan, director of the association, said that it was the first time in the history of local government activity that an organization was included in the working group on public procurement. *“They received us coldly at first, but we managed to collaborate. Doing follow-ups at all stages, we noticed that they had a specialist who was good at project documentation, but with planning they were worse. They were planning more based on political factors. They were choosing where to repair certain*

roads and who to do roads for. We sent all our recommendations and comments to the local administration to adjust the project, because it is not good to plan one thing and do another,” said Andrei Bargan.

THE MEDIA PROJECT “WITH SENSE”, recipient of the first round of grants, produced five journalistic investigations and five explainer stories to inform the public about how they can access information on public procurement. Liuba Shevciuc, the project manager, said that the investigations checked several contracts with the participation of several economic agents, low-value purchases, high-value purchases, purchases that were made many years ago and were not completed. *“The problem we faced was that some public institutions did not provide us with the requested information. Usually, journalists’ work ends when we publish an investigation,”* said Liuba Shevciuc.



Organizations implementing projects in the second round of sub-grants started work in September this year. They reported the difficulties they encountered during this project implementation period.

THE ASSOCIATION FOR EFFICIENT AND ACCOUNTABLE GOVERNANCE (AGER), was awarded grants in both sub-grant rounds to monitor sectoral public procurement. During the implementation of the first

round, amendments were made to the law on sectoral public procurement. And to see the impact of these, it also applied for the second round. Olga Diaconu, project coordinator at AGER, highlighted the results of the first round of project implementation. *“The activities carried out from April to July 2022 included: monitoring procurement in the energy, water, transport and postal services sectors; organizing a round table with stakeholders to discuss the main issues related to the interpretation and application of the provisions of Law 74/2020; drafting and publishing articles; drafting a public policy note; and drafting a monitoring report”*, said **Olga Diaconu**.

THE NON-PROFIT ASSOCIATION PARENTS IN SOLIDARITY was also a beneficiary in both rounds of sub-grants. Valeriu Ciorba, monitor of the association, spoke about the activities planned in the implementation of the project in the second round. *“We are keeping an eye on education in Chisinau municipality. We are monitoring the education directorates of the City Hall, namely how they report on the conduct of low-value public procurement through the Mtender system, a mandatory process since July 1 this year”*, said **Valeriu Ciorba**.

THE PUBLIC ASSOCIATION INDEPENDENT PRESS ASSOCIATION, has been implementing the project Strengthening integrity in public procurement through media contribution since September. Ion Mazur, head of the Advocacy, Campaigns and Publications Department of the association, pointed out that selected procurement procedures within the national programs European Village and European Village Express from 2023-2024 are being monitored. *“We aimed not only to reveal certain shortcomings, violations of public procurement processes, but also to promote good practices, to show that there are local authorities that carry out the processes correctly and to be an example for*

other authorities and in this way improve the procurement process,” said **Ion Mazur**.

THE ASSOCIATION FOR HUMAN RIGHTS LEX 21 from Balti municipality is also participating in both rounds of sub-grants. Valeria Ciolac, coordinator of anti-corruption programs in the association, mentioned the planned activities and achievements in the second round. *“We chose to monitor transparency of public procurement in the social assistance sector because with the war and the refugee crisis, the sector has received large funds in the form of humanitarian aid, and where there are more funds there is a greater need for monitoring. In addition to the municipal authorities of Balti, all current procurement procedures carried out by the Social Welfare Directorates of Edinet, Soroca, Briceni, Donduşeni, Drochia, Făleşti, Floreşti, Glodeni, Ocnîţa, Râşcani, Sângerei and the Ministry of Labor and Social Protection are analyzed”*, said **Valeria Ciolac**.

TRANSPARENCY INTERNATIONAL-MOLDOVA in the second round of sub-grants is monitoring public procurement in the Chisinau City Hall, Architecture, Urban Planning and Land Relations Department and the Self-Sanitation Agency. Lilia Zaharia, executive director of TI-Moldova, said that there are a lot of procurement procedures carried out by municipal enterprises and the Chisinau City Hall, but the procedures were selected that concern areas with vulnerability factors and increased risks of corruption, or procurement that concern controversial and problematic issues. *“Colleagues have identified that there were many promotional advertising materials purchased by the Auto-Sanitation and Architecture Directorate and we want to see the reasons why a lot of money has to be spent to promote the services provided by the Directorate. We looked gradually from 2020 to 2023 and there is an increase in these purchases of services”*, said **Lilia Zaharia**.



THE PUBLIC PROCUREMENT MONITORING COALITION HELD ITS THIRD WORKING MEETING

» At the third meeting of the [Coalition for Monitoring Public Procurement](#) on December 13, the [Open Spending EU Coalition](#) related their experience on a systemic approach to transparency in public spending. Another topic addressed was the shortcomings identified by the Association for Efficient and Accountable Governance (AGER) in the monitoring process for health procurements carried out by the Center for Centralized Public Procurement in Healthcare (CAPCS).

The [Coalition for Monitoring Public Procurement](#) was created at the initiative of [the Institute for Development and Social Initiatives \(IDIS\) Viitorul](#), within the project [Increasing the Integrity of Public Procurement in Moldova](#), implemented in partnership with [Partnership for Transparency](#). The coalition aims to support public procurement reforms in the Republic of Moldova. More than 20 civil society organizations, investigative journalists, experts and independent monitors from the Republic of Moldova are members of the Coalition.

CAROLINA UNGUREANU, the project coordinator and vice director at IDIS Viitorul, said at the beginning of the meeting that it is important for the members of the Public Procurement Monitoring Coalition to know the good practices of other organizations that monitor public procurement.

“It is important for us as members of civil society to have additional tools and knowledge about how public procurement should be monitored and how public

money is spent. It is important for us to know exactly the most appropriate ways, so that we can then have qualitative monitoring and come up with recommendations to improve the public procurement system, for contracting authorities, but also for decision makers, who are responsible for public procurement policies.”



In attendance at the meeting was **GINA S. LENTINE**, Program Officer, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Office of Global Programs, said that civil society in Moldova has always had a role to play in strengthening democracy, in promoting open and constructive discussions with the government, and in helping to hold the government accountable for failures, regardless of who is in power.

“You really have a very important job in advancing efforts in this direction. I am delighted to hear about your efforts and the solutions that you are proposing. After all the work that you are doing, I have seen that you have been able to make progress, like in increasing the integrity of public authorities at the national level. We see that they have started to respond to some of your recommendations. They are not simply taking them into consideration, but are actually actively working with you

to address some of these important issues that you have identified. We are very proud to be able to support these efforts of yours in this important work aimed at advancing anti-corruption efforts here in the Republic of Moldova at this vital time for the country, for its growing democracy.”

KRZYSIEK IZDEBSKI, co-leader of the Open Spending EU Coalition, gave an online presentation of the Open Spending EU Coalition. According to the co-leader, the Coalition brings together academics, experts and specialists working in different EU Member States for the transparency of public procurement spending and EU funds. At the same time, the legislation and regulations of the public procurement systems of EU member countries were analyzed and it was found that there are many laws and many regulations, but the important thing is that there is transparency in the spending of EU funds.



Krzysiek Izdebski also said that while there are differences in European countries' procurement legislation, they are trying to influence the legal provisions to make the right changes. In the coming years, says the Coalition co-leader, members will also focus on monitoring countries at the pre-accession stage of EU membership, as there are different transparency rules for different funds managed by the EU and

the aim is to support countries in the pre-accession process.

Another of the Coalition's activities, says Krzysiek Izdebski, is to ensure that all public procurement and spending is public. This means that member states are required to publish public procurement data in real time.

"In recent years we have focused on bringing more transparency to the recovery and resilience funds that have been distributed by the EU in the pandemic. We found that there was no provision for transparency in the regulation behind these funds, nor in Member States' regulations. There was no obligation to publish data on actual expenditure. "From the very beginning it was a problem to understand where this money went".



OLGA DIACONU, Project Coordinator at the Association for Efficient and Accountable Governance (AGER), presented the shortcomings identified by AGER in the monitoring process of centralized procurements in health carried out by CAPCS. Double standards were found in the procurement of medicines and major problems were identified in the procurement of ambulances. Diaconu said that in the Republic of Moldova there are medicines and medical devices of poor

quality because the government always chooses the lowest-priced offers.

"This is the criterion most often used in public procurement in Moldova, including in the procurement of medicines. We pay a lot of money, but the quality is not always the best. In some cases, medicines that are authorized in Moldova are accepted, in other cases medicines unauthorized in countries with high quality standards are purchased. There are also situations where medicines are accepted that have been authorized only in the country of origin of the medicine. There are exceptions in the legislation that allow authorities to juggle. In some cases, they buy authorized medicines, in other cases - unauthorized".

Discussing ambulance procurement, Diaconu said that this year there were two procurements for ambulances, worth €5 million (~\$5,493,750), in two lots. The procurement specified four by four ambulances because it is difficult to reach some villages with a four by two type vehicles. However, most of the ambulances offered in the two lots were four by two types. In both lots a Romanian company would have been the favored awardee because the company is owned by a state dignitary.

At the meeting, three civil society organizations were assigned to be part of the National Platform for Public Procurement: AGER, Public Association Local Invest, and Transparency International Moldova.

So far, the [Coalition for Monitoring Public Procurement](#) has held two meetings, where several topical issues in the field of public procurement were discussed including: the national program on development of public procurements system for the years 2023-2026, transparency and reporting of low-value procurements, and procurement rigging, among other topics.



Foto: Cfm.md

CONCERTED BIDS ON A RAILWAY PROCUREMENT

» The Railway of Moldova has initiated a procurement procedure for diagnostic services for carriages with three lots. For these lots, two economic operators with one and the same partner and beneficiary - the Russian citizen Bitiutskii Nikita - submitted tenders. They are *Centrul pentru testare nondistructivă* (English: Center for Non-Destructive Testing Ltd) and „*Экспертный Центр вагоностроения*” (English: Expert Center for Carriage Manufacturing) OOO.

Lotul		Numărul lotului		
Lot №1 Servicii de diagnosticare a vagoanelor marfare		d770da58-fb92-401c-b40c-3e570ee0e9a		
Oferantul	Oferta finală	Declarație pe proprie răspundere	Documentele OE	Statutul și decizia Grupului de lucru
CENTRUL PENTRU TESTARE NONDISTRUCTIVĂ IDNO Codul: MD-IDNO-101800023430	4 075 000.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 05.09.2023 / 08.09
Экспертный Центр вагоностроения IDNO Codul: MD-IDNO-7820304070	4 821 256.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 05.09.2023 / 08.10
CVARTAL CAPITAL IDNO Codul: MD-IDNO-10218000234957	5 200 000.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 05.09.2023 / 08.11
Lotul		Numărul lotului		
Lot №2 Servicii de diagnosticare a vagoanelor de pasageri		d0129d4a-35cd-4ee3-b053-4f6214078cd		
Oferantul	Oferta finală	Declarație pe proprie răspundere	Documentele OE	Statutul și decizia Grupului de lucru
CVARTAL CAPITAL IDNO Codul: MD-IDNO-10218000234957	215 000.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 22.09.2023 / 11.32
CENTRUL PENTRU TESTARE NONDISTRUCTIVĂ IDNO Codul: MD-IDNO-101800023430	217 000.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 22.09.2023 / 11.33
Экспертный Центр вагоностроения IDNO Codul: MD-IDNO-7820304070	232 852.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 22.09.2023 / 11.34
Lotul		Numărul lotului		
Lot №3 Servicii de diagnosticare a boghiurilor (1435 mm) pentru transportarea vagoanelor de pasageri		71d59e05-8054-4e9b-b1ae-7c440ca30eea		
Oferantul	Oferta finală	Declarație pe proprie răspundere	Documentele OE	Statutul și decizia Grupului de lucru
CVARTAL CAPITAL IDNO Codul: MD-IDNO-10218000234957	216 500.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 22.09.2023 / 11.42
CENTRUL PENTRU TESTARE NONDISTRUCTIVĂ IDNO Codul: MD-IDNO-101800023430	217 000.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		Refuzat 22.09.2023 / 12.05
Экспертный Центр вагоностроения IDNO Codul: MD-IDNO-7820304070	232 200.00 MDL achiziție fără TVA	MTender ESPD Declarație pe proprie răspundere		În așteptare 04.09.2023 / 15.51

Russian Federation, Bitiutskii Nikita is the sole partner and administrator of Expert Center for Carriage Manufacturing OOO:

Сведения об участниках / учредителях юридического лица		
29	ГРН и дата внесения в ЕГРЮЛ сведений о данном лице	6167847562767 06.05.2016
Выписка из ЕГРЮЛ 16.08.2023 11:20		
ОГРН 1057811991632		
30	Фамилия Имя Отчество	БИТЮЦКИЙ НИКИТА АЛЕКСАНДРОВИЧ
31	ИНН	782031864484
32	ГРН и дата внесения в ЕГРЮЛ записи, содержащей указанные сведения	2217803711178 20.10.2021
33	Пол	мужской
34	ГРН и дата внесения в ЕГРЮЛ записи, содержащей указанные сведения	2217803711178 20.10.2021
35	Гражданство	гражданин Российской Федерации
36	Номинальная стоимость доли (в рублях)	10000
37	Размер доли (в процентах)	100
38	ГРН и дата внесения в ЕГРЮЛ записи, содержащей указанные сведения	2217803711178 20.10.2021

According to the extract submitted from the Single State Register of Legal Entities of the

At the same time, according to the State Register of Legal Entities of the Republic of Moldova, „Center for Non-destructive Testing” Ltd. is owned by the same Bitiutskii Nikita:

Date de bază	
IDNO/Cod Fiscal:	1018600023430
Denumire:	Societatea cu Răspundere Limitată CENTRUL PENTRU TESTARE NONDISTRUCTIVĂ
Data înregistrării:	16.05.2018
Forma juridică:	Societate cu răspundere limitată
Lichidată:	Nu
Adresa juridică:	mun. Chişinău, sec. Centru, str. Alexandru cel Bun, 7, ap.(of.) 414
Conducători:	MAEV PETR (Administrator)
Fondatori:	
Nume	Cota parte (%)
BITIUTSKII NIKITA	100,00

For Lot 1, the winning bid was declared „Centre for Non-Destructive Testing” Ltd., and another economic operator filed a complaint with the National Agency for Solving Complaints (ANSC), where it objected to the submission of concerted bids. The representative of the Association for Efficient and Accountable Governance (AGER) attended the meeting to examine this objection.

The AGER team considers it unacceptable that affiliated companies participate in the same public procurement procedures. It is obvious that this causes rigging of the procurement procedure, and in this way circumvents the principle that each economic operator submit only one tender. Protecting this principle allows many competitive advantages to be gained.

However, at the moment we note that there is no effective mechanism to combat this phenomenon, both in the context of procurements regulated by Law No. 131/2015 and in the case of utility procurements, such as this one, regulated by Law No. 74/2020.

AGER has referred similar cases to the Competition Council, but the authority refuses to find anti-competitive agreements, citing Article 5 para. (4) of the Competition Law no. 183/2012, which states that: „Agreements concluded

between dependent undertakings do not qualify as anti-competitive agreements”.

The option in the case of purchases covered by Law No 131/2015 remained the inclusion of such economic operators on the Prohibited List. Article 14 paragraph 4) of the Regulation on how to draw up the Prohibition List, provides as grounds for which an economic operator may be included in the List, the fact that: *„there is evidence presented by the contracting authority or the control body, which demonstrates that economic operators have participated in the procurement procedure with rigged bids, have participated as members of the group of dependent enterprises in the same public procurement procedure with several bids or have created unfair competition between participants”.* The Competition Council referred AGER’s complaints to the Public Procurement Agency, which is the contracting authority responsible for including economic operators on the Prohibited List. However, the Agency did not include the economic operators concerned in the list. The Authority argued that if the Competition Council did not find an infringement of the Competition Act or the existence of a group of dependent undertakings, there was no basis for inclusion on the *Prohibited List*:

multe oferte sau au creat o concurență neloială între participanți.” În același timp, în scrisoarea

nr. AAP-02/81-731 din 28.04.2023, Consiliul Concurenței a menționat că acțiunile descrise în plângere nu cad sub incidența art. 5 al Legii concurenței, iar prin scrisoarea AAP-02/106-1046 din 03.07.2023 Consiliul Concurenței a informat că în conformitate cu art. 46 al Legii nr. 183/2012, Consiliul Concurenței emite decizii, dispoziții, prescripții și hotărâri, iar referitor la situația în cauză nu a adoptat vreun act administrativ de constatare a încălcării Legii concurenței și nici un act de constatare a faptului că SA „Drumuri-Bălți”, SA „Drumuri-Briceni”, SRL „Magistrala-Nord” fac parte dintr-un grup de întreprinderi dependente.

În așa fel, nu s-a constatat existența unui act adoptat de un organ competent privind constatarea de acțiuni ce s-ar încadra în cele menționate la pct. 14 subpct. 4) al Regulamentului.

This decision of the Agency is open to criticism and clearly contravenes Article 14 paragraph 4) of the Regulation on the drawing up of the Prohibited List. Paragraph 14 of the Regulation does not even impose as a requirement for placement on the list a finding of a violation of the Competition Act, which has, as its consequence, a prohibition from

participating in public procurement for three years. Therefore, para. 14 para. (4) of the said Regulation refers to other situations, namely when dependent undertakings submit bids in the same procurement procedures, and their dependence can also be ascertained by the Public Procurement Agency, since the Competition Council does not have the power to ascertain the dependence of undertakings, if this does not constitute an infringement of the Competition Act.

We hope, however, that in the future the Agency will correctly apply Art. 14 para. 4) of the Regulation on how to draw up the Prohibited List and will thoroughly examine the cases related to the inclusion in the Prohibited List of dependent enterprises submitting concerted bids in public procurement.

However, in the case analyzed above, the Regulation on how to draw up the Prohibition List is not applicable because it only refers to Law no.131/2015 on public procurement.

Therefore, at the moment, there is no legal basis for rejecting the bids of ,Centre for Non-Destructive Testing Ltd. and Expert Center for Carriage Manufacturing OOO, although it is certain that they submitted concerted bids.

AGER, together with IDIS Viitorul, came up with a number of proposals to the Ministry of Finance in relation to the amendment of Law no. 74/2020. In this context, they also indicated the need for economic operators who submit false documents, conclude anti-competitive agreements and/or do not execute contracts in the framework of sectoral procurement to be included in the ban list. The Ministry of Finance rejected this amendment on the grounds that:

„Not accepted.

*In the framework of the project
„Consultancy services to support*

the elaboration of the National Programme for the Development of Public Procurement in Moldova and the related Action Plan”, financed by the World Bank, one of the problems identified by the experts and requiring intervention at the regulatory level is the Prohibition List of Economic Operators (art. 25 of Law no. 74/2020). Thus, until the removal (revision) of the given provisions, national regulations will be in contradiction with the principles set by the TFEU and the procurement legislation at European level. Ensuring the contracting authority/entity the proper fulfilment of the obligations undertaken by the economic operators, as well as making them accountable for the performance of the obligations undertaken is carried out on the basis of the contractual clauses on the application of penalties, etc.”

However, the Ministry of Finance's arguments do not fully reflect the view of the SIGMA experts who, in the draft report to be presented on October 24, 2023, did not necessarily argue that the Prohibited List is a problem, but that the grounds for exclusion in the EU directives have not been properly transposed and leave room for excessively broad application of the exclusion criteria: „Furthermore, the list of banned economic operators overlaps with other grounds for exclusion and may generate an automatic exclusion effect for some economic operators, which is generally prohibited by EU law. Some exclusion grounds foreseen in the EU Directives, such as those referring to situations in which „the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract” or has been „guilty of serious misrepresentation in supplying the information” have not been properly transposed into national legislation

and therefore allow excessively broad application of the exclusion criteria.”

Therefore, according to the Ministry of Finance's view, until the shortcomings in the Prohibited List regulation are remedied, economic operators will not be included in the List for violations related to sectoral procurement (in fact, not even in the case of low-value purchases). However, it is not clear when these shortcomings will be remedied, and whether once they have been remedied, amendments will also be made to Law No. 74/2020 immediately, or whether it will again take years for more amendments to accumulate. In any case, for the time being, the problem highlighted in this article remains unresolved and we do not know if and when it will be resolved.

In the case under consideration, as expected, ANSC by [Decision No 03D-712-23 of 18.10.2023](#) rejected the appeal, indicating that there was no act of a competent body to establish the conclusion of an anti-competitive agreement. ANSC added: *„However, taking into account that until the Agency has taken its decision, the contracting entity is not entitled to conclude the contract, with regard to possible actions by these companies through withdrawal or any other possible behaviour that may appear to be motivated by the aim of forcing the contracting entity to designate the winning bid with the highest value submitted by the group, it is incumbent on the entity to refer the matter to the competent body and not to allow distortion of competition/termination of the procedure through collusive practices.”*

In this paragraph, the ANSC has noted the main danger of such situations, namely that a single beneficiary uses two or more economic operators, which it controls to submit bids, one higher, one lower. Thus, if the bid with the lower of the two prices proposed by the associated bidders is also the lowest in the tender, and if a competitor's bid follows it, then that bid wins the procurement contract. If, however, there is no competitor between the bids, then the

first economic operator may refuse to sign the contract, even with the loss of the bid guarantee, and then win a larger sum of money by signing the contract with the second economic operator, which offered a higher price. This would be a classic case of procurement rigging, and [AGER's team has also detected such a case and informed the Competition Council about it](#).

Another possibility for rigging tenders through concerted bidding is: if two bids with similar prices are submitted, the likelihood of challenge can be reduced, or the next bidder will have to object to the compliance/admissibility of at least two bids and not just one, as would have been the case if only one bid was submitted. If errors are made in one bid and it is disqualified, the second bid can win, or the likelihood of errors being made in two bids is lower than in one bid. There are other possible benefits for bad faith economic operators, but we will not refer to them in order to avoid them being taken over by malicious economic operators.

The aim of those who submit rigged bids is to obtain various benefits, which, however, affect the interests of the contracting authorities in obtaining a contract with a lower value. We consider it appropriate that the given problem should be properly remedied: on the one hand, by amending the legislation so that the regulation on how to be included in the Prohibited List is also applicable to sectoral procurement, and on the other hand, the Public Procurement Agency should apply it properly and investigate such cases on its own, and where associated bidders are found, to note this with their subsequent inclusion in the Prohibited List. We also believe that the ANSC should also directly apply the grounds for inclusion on the Prohibited List, in order to exclude those economic operators who meet those grounds. In this regard, it is necessary to include such a possibility in Article 19 of Law No. 131/2015 on public procurement.

Source: [Association for Efficient and Accountable Governance AGER](#)

CERTIFICATES OF CONFORMITY AND QUALITY REQUIRED IN SECTORAL PROCUREMENT PROCEDURES

» Certificates of conformity and quality are a typical issue in setting qualification and selection requirements in sectoral procurement.

While contracting authorities whose procurements are regulated by Law No. 131/2015 have more experience in applying a transparent procurement mechanism, and often through their own mistakes have come to understand the difference between these acts and require them properly, in the case of contracting entities carrying out procurements under Law No. 74/2020 on procurement in the energy, water, transport and postal services sectors, there is still a multitude of procurements where problems arise due to the misunderstanding of these certificates. The same problem persists among economic operators specializing in economic activities related to the utilities sectors.

In this article we will analyse a few such cases and clarify the certificates in question.

First of all, the difference between these two acts is that the quality certificate is issued for a specific good, for example for car brand X with VIN (vehicle identification number) 1234239237 which is unique. This certificate confirms that the car meets the quality level set by the manufacturer. The manufacturer therefore decides what the quality level of its products is. If it is a manufacturer with a reputation for its quality goods, for example Mercedes-Benz, then such a certificate will be worth more. Potential buyers know that the Mercedes-Benz factory confirms the quality of the car produced. If it is a manufacturer less famous for quality and more famous for defects (we will not name names here so as not to denigrate), then the quality certificate issued by it will be worth less. Potential buyers do not even have high expectations of quality from the manufacturer.

Essentially, the quality certificate only confirms the manufacturer's commitment or promise

that the good is „of good quality”. However, what we include in the definition of ‚quality’ is not necessarily the same as what the manufacturer includes. In the absence of detailed regulations, a quality certificate can be issued for almost any good. In other words, when the contracting entity requests a quality certificate, it must specify exactly what it means by the term „quality”. For example, in the case of a car, the contracting entity may indicate that the manufacturer (or possibly the distributor, if he so agrees) must confirm in the quality certificate that „the normal service life of the car is 25 years; the maximum total cost of repairing faults which may occur in the first 10 years is 30 thousand lei (~6494 USD); the normal service life of the engine is 1,000,000 km; etc.”). As a result, all the quality requirements that the contracting entity requires can be required to be included in the quality certificate. In this way, in the event of a defect, even after 15 years, it is not the tenderer (who in the meantime may no longer exist) who can be held liable, but the

manufacturer directly or, in the worst case, the local distributor (who, in the case of Mercedes-Benz, may have changed in the meantime).

The Certificate of Conformity in turn is a document issued by an entity other than the manufacturer. It meets the following conditions: it has a certification body, which is an independent institution; it has a laboratory or contracts with laboratories and directly verifies goods of a particular manufacturer's model. Finally, it determines whether or not the goods comply with certain national/international technical standards.

Article 2 of the Law No. 235/2011 on accreditation and conformity assessment activities regulates the notion of „certificate of conformity”: „a document attesting that a duly identified product has undergone conformity assessment procedures and that, at the time of assessment, the product conforms to the applicable specified requirements”.

And Article 73 para. (3) of the Law No. 74/2020 states: „(1) If the contracting entity requires the submission of certificates, issued by independent bodies, attesting that the economic operator complies with certain quality assurance standards, it must refer to quality assurance systems based on the relevant European standards series, certified by bodies complying with the European standards series on certification, or to relevant international standards issued by accredited bodies.”

One example is the European emission standards for cars. In the Republic of Moldova they are not applicable, but contracting entities that care about the environment could apply them without any impediment ([ANSC Decision No. 03D-747-21 of 29.10.2021](#)). The highest standard is EURO-6. For light petrol cars, it requires that per 1 km driven, the car must emit substances in quantities less than or equal to: CO₂ - 1 g, HC - 0.1g, NMHC - 0.068 g, NO_x - 60

mg. The manufacturer who wishes to do so must apply to a certification body for a EURO-6 certificate of conformity. The certification body comes to the manufacturer's plant, randomly selects a few cars (depending on the rules of the certification body) and tests them, either in its own laboratory or in a subcontracted one. Specialized devices are installed at the laboratory to measure the amount of pollutants in the exhaust gases and indicate them in the test results. Depending on these results, the certification body issues or refuses to issue a EURO-6 certificate of conformity. The same scheme applies to other conformity standards, which exist internationally for almost every type of product.

Note, these tests cost a lot of money, i.e., manufacturers who undertake to carry them out have to increase the price of their products to compensate for the costs incurred on certification. That is why there is also a price difference between certified and non-certified products. This does not necessarily mean a difference in quality, however, if a product is properly certified it is much more likely to be of higher quality than a non-certified one. The lack of certification may be for the simple reason that the manufacturer knows that his good will not pass certification, and therefore does not subject it to this procedure, and then turns to consumers who focus on price rather than quality.

Another important aspect is that compliance standards differ from one country to another. In the EU there are EN certificates, in the former Soviet Union GOST certificates are used, in the Republic of Moldova - SM, internationally - ISO. Consequently, when a requirement to meet a conformity standard is imposed, the contracting entity must also indicate the expression „or equivalent” so as not to restrict competition. The expression given refers to other standards, but which confirm the same or higher technical parameters of the basic standard required. For example, while the

EURO-6 standard sets certain requirements for exhaust pollutants in the EU, similar standards exist in other countries: in the US - Tier 2 or Tier 3, which is even stricter than EURO-6; in Mexico - EPA 10; in Brazil - Proconve L7; in China - China 6a or China 6b, which is already stricter than EURO-6. Manufacturers usually only certify products to national standards, but it would be too costly to certify them to the standards in each market. At the same time, countries are trying to adopt similar quality regulations so as not to jeopardize international trade.

However, even in the absence of the words „or equivalent”, the contracting authority is obliged under Article 73(2)(a) to ensure that the contract is awarded in accordance with the contract. (2) of Law 74/2020 to accept certifications equivalent to the one requested:

„(2) In accordance with the principle of mutual recognition, the contracting entity is obliged to accept equivalent certificates issued by bodies established in the Member States of the European Union. If the economic operator does not hold a quality certificate as requested by the contracting entity, the latter is obliged to accept any other certifications, presented by the economic operator concerned, insofar as they confirm that an adequate level of quality is ensured.”

Although the rule given refers to quality certificates, it is to be applied by analogy to certificates of conformity. A reverse approach would contravene the principle of non-discrimination in sectoral procurement.

In practice, contracting entities confuse these acts and often do not formulate the qualification requirements of these acts correctly.

For example, for a purchase of concrete poles, Moldelectrica required the presentation

of both the certificate of conformity and the quality certificate for the poles, without specifying the standards and technical requirements to be confirmed by these certificates. This created confusion among bidders, who proposed goods with different levels of conformity and quality, and a complaint was filed with the National Agency for the Settlement of Disputes (ANSC):

În partea criticilor contestatorului ce țin de certificatul de conformitate prezentat de către „Venador-Prim” SRL, analizând documentația de atribuire publicată de către autoritatea contractantă în cadrul procedurii de achiziție publică din litigiu, Agenția constată ca la pct. 20 subpct. 6 din anunțul de participare, este solicitată prezentarea obligatorie a „Certificat de conformitate a produselor oferitate. Copie, confirmată prin aplicarea semnăturii electronice”, iar la pct. 20 subpct. 7 al aceluiași document autoritatea contractantă a solicitat ca cerință obligatorie „Certificat de calitate. Copie, confirmată prin aplicarea semnăturii electronice”.

Prin urmare, reieșind din cerința entității contractante „Certificat de conformitate a produselor oferitate”, și în lipsa indicării exprese a metodelor de încercare și a standardului de referință în documentația de atribuire, Agenția va aprecia ca neîntemeiate pretențiile contestatorului prin care susține că „ICȘP „IMACOMPROIECT” SRL, nu a fost acreditată cu dreptul de a efectua încercări prin metode mecanice pentru elementele din beton și beton armat, și urmează a concluziona că laboratorul acestei companii nu dispune de utilajul necesar pentru a efectua toate încercările de laborator necesare și a confirma pe deplin calitatea produsului, iar certificatul prezentat este unul incomplet și nu confirmă integral calitatea produsului”. Astfel, în cazul din speță „Venador-Prim” SRL a prezentat nemijlocit documentele confirmative, entitatea contractantă având posibilitatea să se asigure cu privire la îndeplinirea cerinței de către ofertant, pe de altă parte, contestatorul nu a argumentat/demonstrat că efectuarea încercărilor prin metoda statică pentru care este acreditat ICȘP „IMACOMPROIECT” nu ar fi suficientă pentru probarea calității și conformității stâlpilor ofertați de către „Venador-Prim” SRL, or conform certificatului de conformitate nr. OCpr-018 11A 1680-23 din 21.04.2023 acesta din urmă atestă îndeplinirea tuturor prevederilor privind evaluarea și verificarea constanței performanței specifice în anexa ZA a standardului SM EN 13369:2018 pentru care ICȘP „IMACOMPROIECT” este acreditat corespunzător.

[Decision No 03D-530-23 of 10.08.2023](#)

The same error was committed by BĂLȚI-GAZ SRL, in procurement procedure no. MD-1676529376370, for the purchase of cast iron couplings and adapters, where it requested a certificate, without specifying what kind of certificate and to which standards it refers:

Nr. d/o	Descrierea criteriului/cerinței	Mod de demonstrare a îndeplinirii criteriului/cerinței:	Nivelul minim/Obligativitatea
6	Asigurarea standardelor calității:	Documente și certificate emise de organisme independente, prin care se atestă faptul respectării anumitor standarde de asigurare a calității	Obligatoriu

As a result, the contracting entity decided that letters of recommendation and diplomas from public authorities would satisfy the requirement. Following an appeal, the ANSC found this approach to be wrong. However, the public authorities indicated are not independent

certification bodies and even if a certain standard was not required, the tenderers had to confirm that they met at least one relevant quality standard:

Or, Agenția remarcă faptul că prin „certIFICATE echivalente” se subînțelege un certificat care are aceeași valoare, produce aceleași efecte, în speță, ar confirma respectarea cerințelor stabilite în standardul de asigurare a calității, iar diplomele/recomandările prezentate nu conțin referințe cu privire la standarde internaționale sau naționale.

Prin urmare, Agenția constată că operatorul economic contestator nu a prezentat documente și certificate emise de organisme independente, prin care se atestă faptul respectării anumitor standarde de asigurare a calității așa cum a solicitat entitatea contractantă, or prezentarea diplomelor de onoare/merit sau recomandări din partea beneficiarilor nu presupune îndeplinirea cerinței solicitate. La caz, de asemenea, Agenția

[Decision No 03D-301-23 Date: 19.05.2023](#)

In another procedure organised by Chișinău-gaz” SRL for the purchase of paints and varnishes (MD-1680587072511), the contracting entity committed the same error by indicating that bidders must submit a certificate of conformity, without specifying the conformity requirements/standards to be met. The successful tenderer submitted a certificate issued in Turkey. The tenderer indicated that this certificate of conformity was not recognized in the territory of the Republic of Moldova. However, Art. 31 para. (1), (2), (3) and (4) of Law No. 235/2011 provides:

„(1) Certificates of conformity or test reports issued by notified conformity assessment bodies accredited by national accreditation bodies signatory to the Multilateral Recognition Agreement with the European Cooperation for Accreditation, issued for products imported from the Member States of the European Union, translated into Romanian and confirmed by the importer’s signature, are recognized.”

(2) Certificates of conformity or test reports issued by foreign conformity assessment bodies shall be recognized on the basis of bilateral agreements on mutual recognition of conformity assessment activities. Recognition of certificates of conformity

shall be effected by the issue of a new certificate of conformity by certification bodies accredited by the National Accreditation Centre.

(3) For the recognition of the certificate of conformity referred to in paragraph 1, the following shall apply (2), the applicant shall submit to the certification body accredited in the Republic of Moldova for the same field an application, the original or a copy, authenticated by the issuing organization, of the certificate of conformity of the country of origin of the product, as well as the original or a copy, authenticated by the issuing organization, of the test report on the tests carried out for the purpose of certification.

(4) The certification body referred to in paragraph 1 shall (3) shall carry out the identification (origin; organoleptic properties, where applicable; legality, quantity and marking) of the products and inform the applicant of the decision to issue the national certificate of conformity. In the case of a negative decision, the clear reasons for the refusal to recognize the certificate of conformity issued by a foreign conformity assessment body shall be given in writing.”

Based on these provisions, if for placing on the market of the Republic of Moldova the appropriate certification of a good is required, then its certifications shall be subject to a recognition procedure (except when issued in Moldova or the EU). If the contracting authority wishes to require such recognition of certification even where national legislation does not require such certification, then this shall be expressly stated in the contract notice.

ANSC rejected the claim of the complainant because the notice of participation included no

requirement and the economic operators must ensure that they comply with legislation when placing goods on the market:

În acest sens, nu pot fi reținute argumentele contestatorului susținute atât în textul contestației, cât și în cadrul ședinței deschise pentru examinarea contestației precum că " [...] „Varox Comerț” S.R.L. a prezentat un certificat de conformitate cu standard turcesc, care trezește dubii, deoarece Turcia nu este stat membru al Uniunii Europene, iar certificatul prezentat nu confirmă omologarea tehnică europeană așa cum prevede Legea nr. 74 din 21 mai 2020 "privind achizițiile în sectoarele energiei, apei, transporturilor și serviciilor poștale". Astfel, considerăm că prin certificatul prezentat nu a fost asigurate standardele calității, condiție obligatorie solicitată de către unitatea

17

contractantă.", întrucât având în vedere cerința entității contractante, nu se poate constata implicit că certificatul de conformitate prezentat de către SRL "Varox Comerț", pe de o parte, nu se raportează la sistemele de asigurare a calității, bazate pe seriile de standarde europene relevante, certificate de organisme conforme cu seriile de standarde europene privind certificarea, respectiv că nu ar asigura un nivel corespunzător al calității, iar pe de altă parte, că acesta nu ar acoperi cerința entității contractante, astfel cum a fost formulată de către entitatea contractantă în anunțul de participare.

Totodată, având în vedere că entitatea contractantă nu a solicitat prin documentația de atribuire corespunderea bunurilor anumitor standarde, iar contestatorul nu a adus probe în vederea demonstrării imposibilității plasării pe piață de către SRL „Varox Comerț” a bunurilor oferite, pretenția dată, odată ce nu a fost probată corespunzător, rămâne la nivel de presupunere, fapt ce impune respingerea acesteia. Cu toate acestea, Agenția menționează că la plasarea pe piață a diferitor bunuri, operatorii economici urmează să țină cont și să se asigure că respectă legislația relevantă a Republicii Moldova.

[ANSC Decision No. 03D-355-23 of 13.06.2023](#)

In another procurement procedure, for the purchase of steel pipes organised by S.A. „Termoelectrica”, the tender notice required the submission of a certificate of conformity or quality, or a test report, but without specifying any specific standard, which again created confusion among economic operators, subsequently to the challenge:

Prin urmare, reieșind din interpretarea cerinței din anunțul de participare „Certificatul de calitate/Certificatul de conformitate/Raport de încercări (sau actul ce confirmă calitatea bunurilor propuse la licitație)”, având în vedere că acestea au fost separate prin bară, Agenția conchide că prezentarea oricărui din documentele nominalizate este suficient pentru a demonstra îndeplinirea cerinței entității contractante, respectiv exclude necesitatea prezentării cumulative a actelor respective. La caz, având în vedere că operatorul economic „Mirzaghitov & Co” SRL a prezentat certificatele de conformitate, inclusiv certificate de calitate pentru partidele anterioare, se constată că pretențiile contestatorului sunt neîntemeiate în considerarea cerinței prenotate.

Astfel, având în vedere cele constatate, Agenția va respinge contestația depusă de către „Metalica Zuev” SRL, în măsura în care pe de o parte, pretenția contestatorului precum că, la oferta operatorului economic declarat câștigător s-ar atesta „lipsa unor certificate relevante” se întemeiază pe propria interpretare subiectivă a cerințelor documentației de atribuire, fapt ce nu poate fi imputat nici entității contractante și nici ofertantului declarat câștigător, or în documentația de atribuire nu s-a indicat prezentarea obligatorie doar a certificatelor de calitate, iar pe de altă parte certificatele de calitate pentru bunurile oferite pot fi prezentate la livrarea propriu zisă a bunurilor ce fac obiectul procedurii.

[ANSC Decision No. 03D-255-23 of 02.05.2023](#)

The species analysed are summarised in the following table:

Nr. și data Deciziei ANSC	Nr. procedurii de achiziție	Obiectul achiziției	Denumirea Entității contractante	Denumirea contestatorului	Cerințele de calificare privind certificatele	Concluziile ANSC
Nr. 03D-530-2 3 din 10.08.2022	MD-168389 1253676	Stâlpi din beton armat în asortiment	I.S. „Molddelectrica”	„ARMO-B ETON” SRL	„Certificat de conformitate a produselor oferitate.” „Certificat de calitate”	Autoritatea contractantă nu a indicat expres metoda de încercare sau standardul de referință la care să se referă certificatul de conformitate. Respectiv, nu pot fi ridicate obiecții cu privire la un anumit certificat de conformitate prezentat.
Nr. 03D-301-2 3 din 19.05.2023	MD-167817 1986072	Servicii de investigație și de siguranță	„BĂLȚI-G AZ” SRL	„Premium Security Group” SRL	Documente și certificate emise de organisme independente, prin care se atestă aptul respectării anumitor standarde de asigurare a calității	Chiar dacă nu s-a specificat standardul de conformitate aplicabil, doar scrisori de recomandare și diplome din partea unor autorități publice nu pot servi drept certificate de conformitate și respectiv, nu pot confirma îndeplinirea cerinței date.
Nr. 03D-301-2 3 din 13.06.2023	MD-168058 7072511	Achiziționarea vopselei și a lacurilor (repetat)	„Chishinugaz” SRL	„Manticora” SRL	Asigurarea standardelor calității: Declarație, referitor perioada de garanție a bunurilor - termen minim 12 de luni; Certificate de conformitate, pentru vopsea obligatoriu	Pe de-o parte, autoritatea contractantă nu face referință la un anumit standard de conformitate pentru a putea spune dacă cel prezentat de ofertant întrunește sau nu anumite cerințe tehnice. Pe de altă parte, chiar dacă respectivul certificat urmează a fi supus unei proceduri de recunoaștere, acest fapt urmează a fi respectat la etapa de executare a contractului, dacă acest lucru este cerut de legislație. În lipsa unei cerințe în acest sens în documentația de atribuire, nu poate fi cerută recunoașterea lui în Moldova.
Nr. 03D-255-2 3 din 02.05.2023	MD-167645 3884151	Achiziționarea țevilor de oțel pentru anul 2023 (repetat)	„Metalica Zuev” SRL	„Metalica Zuev” SRL	Certificatul de calitate/Certificatul de conformitate/Raport de încercări (sau actul ce confirmă calitatea bunurilor propuse la licitație)	Având în vedere că acestea au fost separate prin bară, Agenția conchide că prezentarea oricărui din documentele nominalizate este suficient pentru a demonstra îndeplinirea cerinței entității contractante, respectiv, exclude necesitatea prezentării cumulative a actelor respective.

In conclusion, these cases examined by the ANSC, as well as dozens of other procedures analyzed, reveal a formalistic approach on the part of contracting entities to setting qualification requirements, which concern conformity and/or quality certificates. Often, this requirement is imposed purely formally, without proper analysis of the effect it should have on the qualification of tenderers and the goods procured. Although these certificates are a very important document that can ensure a certain level of quality of the goods procured, contracting entities neglect to carry out a proper technical analysis of the given issue before launching the procurement. The term „conformity to quality standards” is very broad, and many existing standards are morally outdated and no longer ensure a quality appropriate to contemporary development. It is therefore the duty of contracting entities to study well the market for the goods they wish to purchase and to establish those standards of conformity or quality which best ensure the needs of the entity. And including requirements to submit certificates of conformity without reference to the relevant standards only misleads bidders and increases the likelihood of challenging procurement results.

Source: [Association for Efficient and Accountable Governance AGER](#)



“EUROPEAN” LIGHT IN OLD NEGURENII, CONNECTED AFTER COMMUNITY CONSULTATION

➤ More than two thousand inhabitants of four villages in the commune of Negurenii Vechi, Ungheni district can now safely walk on the roads of the locality in the evening or early morning. In the village, work to modernize the street lighting system, carried out under the national program European Village Express, has been completed. About 140 energy-efficient streetlamps have been installed. The village mayor says the problem has been solved thanks to effective communication between residents and local public authorities.

The need to install a functional street lighting system in the villages of Coșeni, Țîghira and Zăzulenii Vechi, which are part of the commune of Negurenii Vechi, has been talked about for a long time. In all four villages there were street lamps and a stray light bulb, which, especially

in bad weather, was either switched off or barely blinked. A street lighting project started earlier in the commune did not cover all the villages. But the town hall could not solve the problem with resources from the local budget alone. After the government announced the

start of the European Village Express program, which aims to modernize rural infrastructure, people in the four villages insisted that public consultations be held in each village to jointly identify the most pressing need. After consultations, it was decided: street lighting.

YOU CAN'T ASK THE AUTHORITIES WITHOUT GETTING INVOLVED

Tatiana Carauș lives near the Family Doctors' Centre in Old Zăzulenii and says that, being an area with heavy traffic, the installation of street lighting was essential: „It was difficult before. I'm a social worker and wandering around the villages at night, without lights in the slums, it's difficult. It's good that more people spoke at the meetings about the need for street lighting.” She says the people of Old Negurenii have been very insistent and have asked for the problem to be solved. „We have already wanted light in the locality for several years. We actively participated in those meetings, because you can't ask the authorities to do something permanently without getting involved”, concludes Tatiana Carauș.

MORE LIGHT AROUND SCHOOL TOO

Lack of street lighting was also a problem around the school. Victor Cojocarui lives in the village of Negurenii Vechi, right next to the gymnasium. He says that in winter, when they stay at school for extra activities, children and teachers are afraid to walk in the dark: „It was really something to think about. Now, thank God, it's light for the students too. It's safer for children to walk home unaccompanied.” He also took part in the public consultations on the subject.

COMMUNITY INVOLVEMENT IN SETTING PRIORITIES

„With money from the local budget you don't have the possibility to carry out such important projects, because in the area we have few economic agents to contribute substantially to

the local budget. We organized meetings, people discussed themselves what are the urgencies for the locality and we came to the conclusion that the street lighting is the one that needs to be urgently modernized”, says Mayor Galina Uscatu.



Foto: Unghiul.com

The locality won the project in the framework of the European Village Express program with a value of over 147 thousand lei (~31820 USD). With this amount the street lighting was extended over a length of about 11 kilometres in all four villages of the commune, with 137 energy efficient lighting fixtures being installed. Galina Uscatu said that five economic operators took part in the public tender announced by the town hall in August this year, and the offer with the lowest price was chosen. She believes that it would be good for people to be involved at all levels of planning and decision-making, including those related to the management of public money. „Organizing public debates on local issues allows people to decide on part of the public budget, directly involving the community in setting priorities and managing financial resources efficiently,” concludes the mayor.

Source: [Independent Press Association](#)

VIȘNIOVCA VILLAGE, CLOSER TO EUROPE



» Students of the Paraskiewa Wiszniowska Gymnasium in the village of Vișniovca, Cantemir district, will enjoy the warmth of the institution in winter, and the school administration will have lower heating bills. For several years, citizens and local public authorities (LPAs) have been opting for energy efficiency and reducing energy consumption and CO2 emissions. For more than five years, the locality has been a signatory to the Covenant of Mayors on Climate and Energy - a European movement involving local and regional authorities that are voluntarily committed to increasing energy efficiency and using renewable energy sources. The gymnasium is currently undergoing thermal insulation, which is part of the European Village Program.

It was a Friday afternoon and a thick layer of snow had settled on the road. Not a single human breath could be seen in the courtyards of the village of Vișniovca. On the way to school, a few workers were in the gymnasium courtyard, unloading building materials from a truck. From

the school's facade, we could tell that the educational institution was in the process of an exterior renovation. For several months now, the local gymnasium has been undergoing thermal insulation work. Once all the heating panels are installed, the pupils will benefit from good

conditions and they will be warm, because the school will be totally energy efficient.

INVOLVING STUDENTS IN COMMUNITY LIFE HELPS THEM DEVELOP THEIR SOCIAL AND LEADERSHIP SKILLS

Before submitting the project of heating the gymnasium to the European Village Program, the local authorities implemented several initiatives to inform citizens about the benefits of rational use of energy resources, with local students being actively involved. **Octavian Curzac**, a ninth-grader, says that he and his classmates went from door to door and talked to people, advising them on how to use energy resources more rationally. „We participated in trainings with several students, and then we went and talked in the village about how important it is to participate actively to have a more modern village,” Octavian says.

Her colleague **Melissa Rotaru** believes that such citizen engagement initiatives should be promoted as best practice so that other educational institutions can be inspired. „In order to talk to people about getting involved in such environmental, energy efficiency projects, you have to show them examples. Initially, we participated in a training organized in the town of Cantemir, where the wastewater treatment plant was modernized. That’s what we students from Vişnirovca did,” she said.

Tatiana Saviţchi, the headmistress of the institution, says that involving students in consultation on community issues brings many benefits for both the children and the community as a whole. „This involvement not only helps students develop social and leadership skills, but also contributes to creating a stronger and more united community,” she said.

THE VILLAGE OF VIŞNIOVCA, SIGNATORY TO THE COVENANT OF MAYORS ON CLIMATE AND ENERGY

The mayor of **Olga Pac**, a former geography

teacher, says it is a priority for the village of Vişnirovca to reduce CO2 emissions by at least 30% by 2030, as required by the [Covenant of Mayors on Climate and Energy](#).



Foto: Calm.md

The village of Vişnirovca became a signatory to the Convention a few years ago and since then the village has been promoting projects to use renewable energy sources for energy production, both for public institutions and domestic users. The mayor said that the school currently has a gas-fired central heating system, and once the building is insulated she is sure that the bill figures will go down during the cold season.

The company Galicus Ltd. is responsible for the thermal rehabilitation of the Paraskiewa Wiszniowska Gymnasium. According to the public tender, three economic operators participated in the tender. According to the portal Achizitii.md, the [offer proposed](#) by the company is about 3.7 million lei (~800918 USD), and the works are planned to be completed in 2024.

Source: [Independent Press Association](#)

HADY FINK: TAKING STOCK - INCREASING THE INTEGRITY OF PUBLIC PROCUREMENT


««« BEGINNING ON PAGE 1

The development of tools under the project supports and guides CSOs in conducting such monitoring – particularly the [Monitoring Public Procurement Guide: A tool for Civil Society](#), and a website, to be launched in Q2 of 2024. All of these activities have been highly successful – noting that their implementation is largely within the control of the project team.

An additional key component is the building and fostering of an “infrastructure of CSO monitoring” in Moldova. Its main activities include establishing a [Coalition of Monitors](#) and a multi stakeholders’ group as a cooperation platform and permanent communication mechanism: the [National Platform for Public Procurement \(NPPP\)](#). Both activities were initiated in the second half of 2023. Under the guidance and mentoring of the project team, a Coalition was formed consisting of 30 CSO monitors, including but not limited to sub-grantees of the overall project. Three meetings have been conducted, on [29 June](#), [29 September](#), and [13 December](#). Based on a [Memorandum of Understanding](#) between the Ministry of Finance and IDIS “Viitorul”, the project team has conducted bilateral consultations with 14 key stakeholders from all sectors and developed terms of reference as well as a strategy. Based on this preparation, a very successful [launch event was for the NPPP](#) took place on 19 December. All major stakeholders, including representatives of the Coalition of Monitors, were present. It was very encouraging to see a launch session and a following inaugural meeting of the platform that were both characterized

by a positive spirit, indicating participants’ willingness to cooperate and jointly elaborate recommendations for improving the country’s public procurement system. Likewise, the successful meeting sessions of the Coalition of Monitors, the willingness to work together and learn from each other, are very positive developments. This is particularly encouraging, as these activities are mostly outside the project team’s sphere of control, but instead depend on the contribution of other actors and their willingness to work together.

In summary, we are very pleased with the results accomplished thus far. Over the remaining 18 months of the project, we plan on supporting and strengthening these positive initial achievements through additional activities that will build on and reinforce the current momentum. Hopefully, this will result in the implementation of recommendations resulting from our project work to improve the system of public procurement. And, almost more importantly, we hope it is enough to strengthen and perpetuate this infrastructure to make it sustainable, lasting well beyond the project duration of June 2025.

 **Taking stock at present, the project team considers that on a solid basis built over the first phases, we are off to a splendid start of this challenging key component – but far from the finish line.**