



ROMÂNIA CONSILIUL CONCURENȚEI



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The Competition Council has concluded the sector inquiry on road and highway construction market

Following the sector inquiry on the road and highway construction market, the Competition Council recommends to the contracting authorities to avoid concluding addenda to the initial contracts.

The Competition Council found that there are situations in which by signing the addendum, the auction winner directly negotiates with the contracting authority a new value of the work. This value could be higher than the one initially offered by its competitors.

Thus, in the period June 2010 - June 2011, for 96 contracts of road construction and services works there were concluded 203 addenda, out of which 23 were modified in terms of value.

Out of 23 contracts with modified value, for 8 contracts the initial value increased with approx. 50%, for other 8 contracts it increased from 10% - 30%, and for two contracts it increased with more than 50% out of initial value.

This situation is not just a characteristic of the Romanian market: according to a report of the European Court of Accounts on infrastructure works undertaken with EU funds in Germany, Greece, Poland and Spain in the period 2000-2013, the cost of 46% of the audited projects increased with more than 20% during the execution of the work.

The analysis made by the Competition Council indicates that road construction market is a low concentrated market where 640 companies are active on.

Associations between undertakings to participate in the auction, as well as the presence of an undertaking in two or more associations to participate in tenders taking place at the same time are common and represent the characteristics of this market. Although legal under the law on public

procurement, in terms of competition it creates doubts concerning the exchange of sensitive information among participants and limits the possibility of the parties to compete each other or with third parties as independent undertakings.

In order to ensure an effective competition within an auction, the Competition Council considers necessary to limit the interaction between competitors and avoid simultaneous organization of auctions with the same subject (as in case of 6 auctions afferent to the six sectors organized by the Bucharest General Council to award streets asphaltting contract).

On the other hand, involvement of undertakings in more road construction contracts at the same time, without having the necessary resources, could lead to market malfunctioning by delays in execution of works and implicitly by increasing their costs.

The sector inquiry shows that the deadlines for execution of works in Romania were exceeded in most sections of the highway with more than 12 months. According to the report of the European Court of Accounts, the infrastructure projects undertaken in the countries included in the analysis has registered delays of an average of 9 months, which represents 41% of the time originally planned.

After processing the data and information provided by CNADNR, in Romania, the average price of a km of highway built in the lowlands is 23.34 million lei / km and that of a km of highway built into the hill is of 20.87 million / km, both above the standard cost.

The analysis found a significant variation in the average price per kilometer of highway. For example, in the lowland area, in Romania, prices varied between Euro 2,68 million (Fetesti-Cernavoda) and Euro 11.61 million (Pitesti bypass) in Bulgaria between Euro 2 million (section Tracia - Nova Zagora – Yambol) and 2.8 million (Hemus - Sofia and Yana) and in Poland between Euro 4.6 million (Zgorzelec - Krzyżowa) and Euro 12.4 million (Zgorzelec - Krzyżowa).

It could be underlined that in Romania the average price for a kilometer of highway built in the same form of relief is the highest (45.86%) compared to Poland (36.42%) and Bulgaria (14.22%). Compared to Bulgaria, in Romania the average price/ km of highway built in the lowland area is about 3 times higher.

During 2007 - 2011, the average profit achieved in the sector was of 7% and 8% for Romanian constructors and 4% for foreign ones.

The Competition Council sector inquiry noted that although it is mandatory, publishing the estimated value of contracts for road construction could influence / affect the price fixing. Their

knowledge may lead to the development of financial offers that do not reflect the real costs and economic performance of the undertakings and tend to align it to the estimated values.

In case of companies that are owned by local authorities, the Competition Council will work together with the Ministry of Regional Development and Public Administration to analyze from the perspective of competition and state aid rules how these companies are entrusted public contracts.

In the context of dividing CNADNR and setting up two new national companies, the Competition Council recommended to the initiator of normative act to clearly define the activities of general economic interest from those of commercial nature as well as the sources of funding for the two categories of activities.

Within the sector inquiry on the road and motorways construction market, the Competition Council requested information from companies in the sector and from public road network administrators.

Further to the answers received, there were opened four investigations on possible anti-competitive agreement cartel type (extraction / processing and marketing of mineral aggregate quarry, participation with rigged bids in auctions organized by Craiova DRDP, market share between several companies active on road construction market under Brasov DRDP and Timisoara DRDP administration that are currently in progress.

The report is launched for public debate for 30 days and can be found on Competition Council's website at <http://www.consiliulconcurentei.ro/uploads/docs/items/id8693/raport.pdf>

The opinions and viewpoints of interested parties could be sent by e-mail drumuri@consiliulconcurentei.ro or by post to the following address: Competition Council, Piața Presei Libere, no 1, Building D1, sector 1, Bucharest, Postal Code 013701, Post Office 33.

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