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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
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**Competition and Corruption in Public Procurement – Note by Romania**

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## *Romania*

### **1. Public procurement between competition risks and integrity risks**

1. Public procurement remains one of the areas where the interaction between competition risks and integrity risks becomes most visible. In Romania, public procurement represents a significant share of public expenditure and has historically been exposed to vulnerabilities arising both from collusive conduct among bidders and from corruption affecting procurement officials or decision-making processes. Experience shows that these two phenomena are often interconnected: corruption may facilitate collusion by reducing transparency or by shaping tender conditions in favour of selected operators, while collusive arrangements may rely on corrupt practices to avoid scrutiny or ensure predictability.

2. Romania's legal and institutional framework addresses these risks through a combination of competition law, public procurement legislation, criminal law provisions concerning corruption and abuse of office, and co-operation mechanisms between enforcement authorities.

### **2. Competition law perspective: collusion in procurement markets**

3. From a competition perspective, bid rigging constitutes a serious infringement under Competition Law no. 21/1996 and may lead to administrative fines of up to 10% of the undertaking's turnover. Romanian competition law explicitly prohibits concerted participation with rigged bids in auctions or other forms of competitive tendering. Public procurement legislation, aligned with EU directives, is based on principles of transparency, equal treatment, non-discrimination, proportionality and efficient use of public funds. In parallel, criminal legislation and anti-corruption legislation sanction bribery, abuse of office, trading in influence, use of confidential information and other conduct capable of distorting procurement procedures.

4. The Romanian Competition Council has developed significant enforcement experience in procurement-related cartel investigations, particularly in sectors characterised by concentrated markets, repeated interactions and strategic public expenditure. Romanian practice suggests that procurement markets involving energy infrastructure, healthcare products, IT equipment or technically specialised services may be especially vulnerable to collusive arrangements.

5. In several investigations, collusion took the form of bid rotation, market sharing, coordinated bidding strategies or the exchange of commercially sensitive information prior to submission of tenders. Some investigations also revealed the role of facilitators or contracting authority representatives in reducing uncertainty for cartel participants.

6. At the same time, competition enforcement alone does not always fully capture the complexity of procurement-related conduct, particularly in cases involving interaction between collusion and integrity-related concerns.

### 3. Criminal law and anti-corruption perspective: procurement distortions beyond bribery

7. Procurement distortions frequently occur before the publication of tender notices, during the preparation and design phase of procurement procedures. In a number of cases examined by prosecutors and courts, procurement officials provided selected operators with access to non-public information concerning future procurements, budgetary details or technical requirements before publication of procurement notices.

8. Judicial practice has also revealed situations where procurement documentation and technical specifications were effectively prepared together with favoured economic operators. In some instances, company representatives contributed directly to drafting needs assessments or technical specifications that later became part of the tender documentation. Such practices may significantly reduce uncertainty for preferred bidders while excluding rival operators unable to satisfy artificially tailored requirements.

9. Romanian practice also suggests that procurement corruption frequently takes forms that are less visible than direct bribery. Distortions may arise through informal influence over procurement design, restrictive qualification criteria, selective disclosure of information, unjustified urgency procedures or fragmentation of contracts in ways that reduce transparency and competition.

10. From a criminal-law perspective, Romanian practice distinguishes between vertical arrangements involving public officials and economic operators, and horizontal co-ordination among bidders. In practice, however, the two may overlap, particularly where procurement officials facilitate predictability for colluding undertakings or where confidential information contributes to the implementation of collusive arrangements.

11. Romanian criminal enforcement relies on a combination of legal instruments to address such conduct, including corruption offences, abuse of office, unlawful disclosure of confidential information, trading in influence and offences relating to the distortion of public tenders. However, the absence of a dedicated criminal offence specifically targeting procurement collusion continues to create practical difficulties in particularly complex cases involving both collusion and corruption-related conduct.

12. This fragmented framework may create enforcement gaps, especially where the same conduct simultaneously raises issues of corruption, abuse of office and anticompetitive co-ordination. Certain procurement distortions remain difficult to capture through traditional criminal-law categories, particularly where the conduct does not involve direct financial transfers or explicit agreements but rather informal influence over procurement design and information asymmetries.

### 4. Interaction between competition enforcement and criminal enforcement

13. Romanian experience shows that procurement-related cases increasingly require interaction between competition authorities, prosecutors, procurement oversight bodies and other control institutions.

14. The Romanian Competition Council has sanctioned multiple bid-rigging cartels in sectors such as healthcare, energy and IT procurement. Several investigations in the natural gas sector revealed coordinated bidding practices in tenders organised by state-owned companies, including bid rotation schemes, market allocation arrangements and exchanges of commercially sensitive information.

15. Some investigations also illustrated the role that contracting authority representatives or facilitators may play in reducing uncertainty for cartel participants. In

the TRANSGAZ investigations, for example, evidence originating from criminal proceedings contributed to identifying coordinated conduct among bidders and the involvement of employees of the contracting authority in facilitating collusive arrangements.

16. At the same time, co-operation between competition and criminal enforcement authorities raises important procedural questions. Competition enforcement and criminal enforcement pursue different objectives and operate under different procedural standards. The use of evidence obtained in criminal investigations, including wiretaps or documents gathered during criminal proceedings, in competition investigations requires careful attention to procedural safeguards, confidentiality obligations and rights of defence.

## 5. Convergence between collusion and corruption risks

17. Romanian experience increasingly suggests that collusion and corruption in procurement should not be analysed in isolation. Many of the conditions facilitating bid rigging also facilitate corruption-related conduct: concentrated markets, repeated interactions between suppliers and procurement officials, technically complex procurements, broad administrative discretion and weak oversight mechanisms.

18. Similarly, many red flags overlap. Tailored specifications, unjustified qualification requirements or leaks of confidential information may simultaneously favour a preferred bidder and reduce competitive pressure. In some situations, collusive schemes rely on corrupt conduct to ensure predictability and reduce the risk of detection, while corruption itself may create the conditions necessary for stable cartel arrangements.

19. The Romanian experience also shows that distinguishing between poor administrative practice, corruption and anticompetitive conduct is not always straightforward in practice. This is particularly true at local level, where contracting authorities may have limited administrative capacity and insufficient expertise regarding competition risks.

## 6. Institutional co-operation and remaining challenges

20. Romanian authorities have increasingly focused on prevention, institutional co-operation and practical guidance for contracting authorities.

21. Operational co-operation between competition authorities and criminal enforcement bodies nevertheless remains at a relatively early stage of development, despite increased institutional interaction in recent years. Although information exchanges and institutional contacts have increased, only a limited number of cases have resulted in genuinely coordinated or parallel enforcement outcomes.

22. In this context, recent efforts have focused on advocacy and institutional dialogue aimed at strengthening practical co-operation. In February 2026, within an OECD project funded by the European Commission through the Technical Support Instrument, the OECD and the RCC organised a dedicated workshop bringing together prosecutors, procurement oversight bodies, auditors, financial investigators and competition officials to discuss the detection and reporting of bid rigging. The discussions highlighted recurring practical difficulties, including uncertainty in distinguishing between administrative irregularities, corruption indicators and competition infringements, limited familiarity with bid-rigging red flags, and the need for earlier notifications and clearer operational guidance between institutions. The workshop also reflected a broader recognition that procurement-related

collusion is often first identified by authorities other than the competition authority, particularly during audits, anti-fraud checks or criminal investigations.

23. While practical and procedural challenges remain, recent initiatives have contributed to better communication between competition, procurement and criminal enforcement bodies and to a greater awareness of procurement-related competition risks.