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MONITORING MOLDOVA'S PUBLIC PROCUREMENT

Newsletter no. 7 (February 2023)

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EDITORIAL

PUBLIC PROCUREMENT IN INFRASTRUCTURE IS CONSIDERED THE LEAST TRANSPARENT



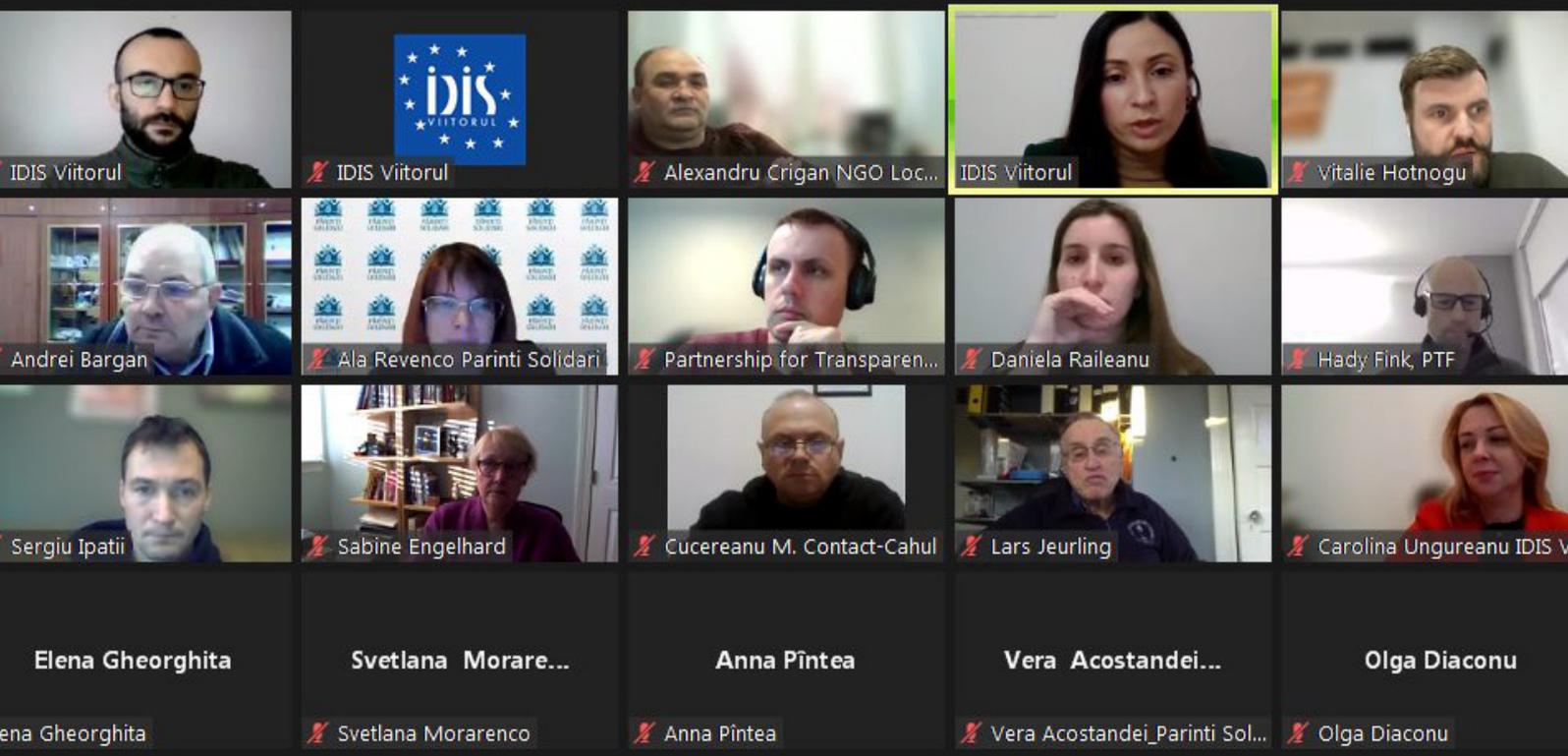
Andrei BARGAN,
Director of the Public Association Prospect

The Monitoring public procurement for 2022 in Cimișlia District project, implemented between April and December 2022, aimed to strengthen the integrity of public procurement in Cimișlia District through civil society actors as monitors. We focused on the area of local road construction and repair. We chose this type of infrastructure procurement because it is vulnerable to fraud and corruption and is considered the least transparent.

The impact of the monitoring will be assessed next year, but we can already say that the citizens of Cimișlia District are

better informed about local public procurement. I hope that in the villages of Cimișlia District sidewalks will no longer be constructed with utility poles running down the center, and that contractors will comply with contract specifications instead of performing in whatever way they find convenient.





CIVIL SOCIETY ORGANIZATIONS CONTINUE TO MONITOR THE INTEGRITY OF PUBLIC PROCUREMENT IN MOLDOVA AND HOLD STAKEHOLDERS ACCOUNTABLE

» Articles, explanatory videos, journalistic investigations, TV shows, infographics, and public events are some of the outputs of the civil society organizations awarded grants to monitor public procurement under the [Increasing the Integrity of Public Procurement](#) project, which is implemented by the [Institute for Development and Social Initiatives \(IDIS\) Viitorul](#) in collaboration with [Partnership for Transparency](#). On November 30 and December 1, 2022, civil society representatives and the project team met online to discuss their experiences and share the results and impact of their projects during the preceding three months of implementation.

[Localinvest](#), [Prospect](#), [Media-Guard](#) (in partnership with [Ziarul de Gardă](#)), [LEX XXI](#), [Centrul Contact Cahul](#) (in partnership with Cahul 2030), [Association for Efficient and Responsible Governance](#), [Părinți Solidari](#), and the media project [Cu Sens](#) are the civil society organizations that currently benefit from grants totaling over \$185,000 to undertake public procurement monitoring. The primary goal of the

program is to make recommendations to relevant authorities to improve the integrity and efficiency of public procurement to support the appropriate use of public budgets and the capacity for good governance.

"For us, it is important that civil society representatives and journalists in Moldova monitor the procurement process and provide

recommendations for improving communication with authorities and strengthening the integrity of public procurement," said Carolina Ungureanu, Deputy Director of [IDIS Viitorul](#) and Manager of the Increasing the Integrity of Public Procurement project.

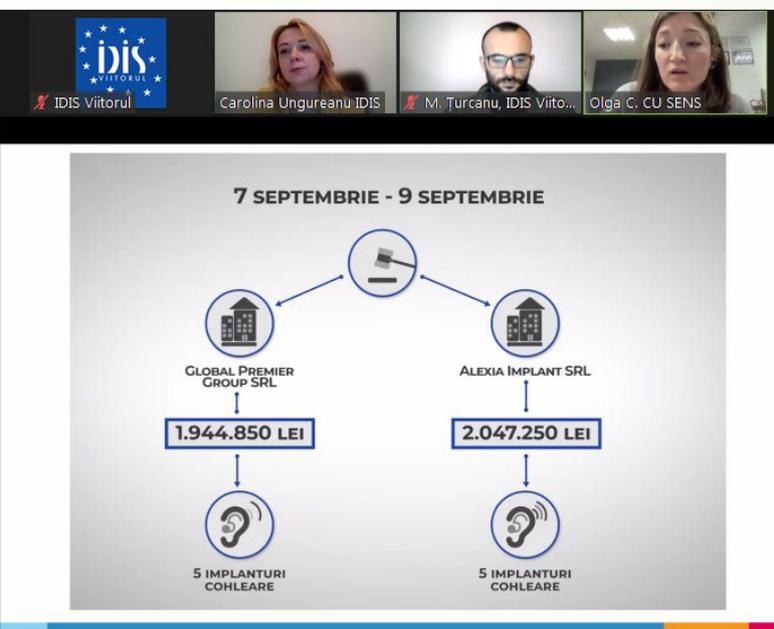
Project Director, Hady Fink of PTF, said "The results of these monitoring projects can potentially have a meaningful impact on the transparency and fairness of public procurement through recommendations for authorities that will contribute to the improvement of the public procurement system and legislation."

can learn why the procurement procedure for hearing implants is delayed, [who can challenge public tenders](#) and how, and [how public tenders](#) can be accessed. "Our main goal is to track public money and motivate authorities to be more accountable for the way they manage public resources. We have open databases and tools in Moldova that can be used for this purpose. We follow red flags and analyze purchases involving large amounts of money, including urgent or health-related purchases, because they involve very large amounts of money," stressed journalist Olga Ceaglei.

In addition, 15 young people from different parts of Moldova learned how to promote transparency in public procurement, understand the procurement system, identify corruption risks, check data, and communicate these issues, as well as how to write articles in the field during the [public procurement in the eyes of young people](#) summer camp organized by [Media-Guard](#) in August 2022. Media-Guard has published two investigations, completed the documentation of a third investigation, published two video explanations ([How we check the purchases of state-owned enterprises](#) and [The companies of a district councilor from Călărași subscribed to the public budget](#)), and will soon publish three more. "State-owned enterprises do not publish procurement information, so we have focused on monitoring procurement by state-owned enterprises linked to state dignitaries who win contracts and investigate where there are potential conflicts of interest. In mid-December, we will have the final event, presenting the results and conclusions of our project," said Mariana Colun.

The organizations, selected through a competitive process, receive financial support between \$17,000 and \$25,000, as well as assistance and advice from experts in procurement monitoring. Grant recipients implement projects that monitor procurement carried out by municipalities and district councils, publicly owned enterprises, and other state entities. The results of the monitoring are reflected in journalistic articles, infographics, analytical materials, public discussions, and training events.

From the [Why don't I hear?](#) investigation by the journalists of the media project [Cu Sens](#), we



From materials produced recently by the [Association for Efficient and Responsible Governance](#) (AGER), more about sectoral public procurement can be learned, such as [the low-value purchase of 22,000 bottles of drinking water by Apă – Canal Chișinău](#) and why the [Regia Transport Electric Municipal Enterprise concluded a procurement contract while an](#)

[appeal was pending and other cases related to the application of Law no. 74/2020](#). "Some of the problems identified are the lack of standard documentation in sectoral procurement or the lack of a banned list and not including these types of procurement in the MTender system. We organized a roundtable discussion during which we talked about the problems faced by contracting entities in the process of sectoral procurement, but also formulated recommendations for streamlining the legal framework," stressed Olga Diaconu, AGER project coordinator.

[Părinți Solidari](#) is monitoring public procurement conducted by the [Ministry of Education, Culture, and Research](#) and nine other subsidiary institutions of the Ministry. In recent months, the organization has followed 14 procurement procedures carried out by seven institutions, monitored how information is published on the Ministry of Education's website (e.g. procurement plans and their evaluation), published [two infographics](#), and streamed on [Facebook Live](#) about public procurement undertaken by the Ministry of Education, Culture, and Research. "The Ministry of Education continues to be non-transparent, because it does not monitor how its institutions use public money," said Director Ala Revenco.

The Association for Human Rights LEX XXI from Bălți municipality recently produced two analyses, one of which was [City Hall of Bălți municipality vs. Tehnologica Construct LLC: what interests hide the procurement procedure for capital repair of the road part of Independenței street, Bălți municipality?](#); two infographics; and a [public dialogue](#) on the energy crisis in the annual procurement plan in the municipality of Bălți. "Some of the recommendations we have submitted are related to the notification of the contractor about breaches of the contract, the imposition of penalties, and the request to include the operator in the ban list," said Daniela Răileanu of LEX XXI.

Several [press reports, articles](#), and broadcasts, as well as public seminars on public procurement in the Cimișlia District have been prepared by the public association [Prospect](#). For the first time through the project, the working group on public procurement established by the local District Council included civil society representatives from Prospect.



Vă rugăm să enumerați rezultatele cantitative și calitative atinse în această perioadă

- ▷ Elaborarea și publicarea a 6 articole prin care am informat publicul despre mai multe ilegalități în achizițiile sectoriale.
- ▷ Monitorizarea a peste 50 de achiziții sectoriale care ne-au permis să evaluăm sistemul achizițiilor sectoriale în Moldova și să identificăm lacunele existente.
- ▷ Analiza a peste 30 de decizii a ANSC pe marginea achizițiilor sectoriale, fapt ce ne-a ajutat să înțelegem problemele legislative în reglementarea achizițiilor sectoriale
- ▷ Organizarea unei mese rotunde cu entitățile contractante, ANSC, Ministerul Finanțelor, Curtea de Conturi unde s-au discutat provocările legate de achizițiile sectoriale. Factorii de decizie au obținut un feedback cu privire la problemele entităților contractante în implementarea Legii nr. 74/2020

Sabine Engelhard, PTF Senior Advisor and Legal and Regulatory Expert, asked how the authorities were persuaded to let them join the procurement working group. Andrei Bargan, Director of Prospect, said "I think they were simply surprised at first and tried to justify their reluctance by saying that the working group proceedings are confidential. However, we agreed to sign a confidentiality agreement and told them that we were monitoring procurement on a project basis in accordance with the law. When they understood our intention, eventually, they accepted the situation. In general, people do not know what the working group's role is, what it does, and how they can get involved."

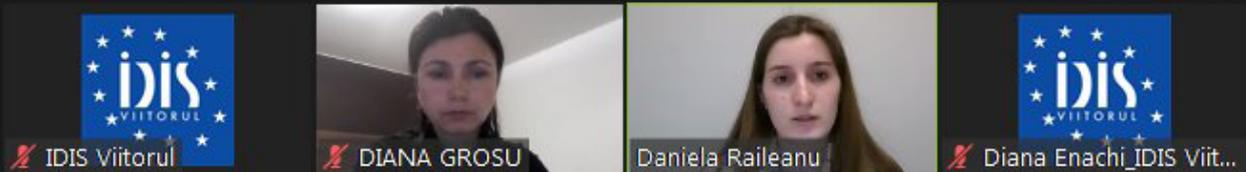
"The association is an excellent example of an open, solution-oriented, cooperative, and constructive organization in dialogue with the authorities. These elements are also the key to success," noted Sabine Engelhard. She

was interested to find out whether contracting authorities are sanctioned for non-compliance with public procurement legislation and what dangers are concealed in very small and unreasonably large contracts. In the same context, Lars Jeurling, PTF Senior Project Advisor, asked the participating organizations what the most suitable tools for monitoring public procurement in Moldova are and how effective the MTender system is.

Public procurements conducted by the District Council and the District Hospital of Rîșcani, especially the execution of contracts, are monitored by [Localinvest](#). In the final quarter of 2022, the total value of procurements monitored by the association was approximately 24 million lei (\$1,253,000). A product of this project was the report [Repair as usual, only without sockets](#) that describes a procurement where only after the completion of repair works,

the Rîșcani District Council realized that the electricity system had not been installed.

In Cahul District, public procurement is monitored by [citizens and local media with the support of the Contact-Cahul Center](#). Six public procurement procedures were monitored, a working group on procurement monitoring was created, and eight articles were published in the local press, such as [When will the access road to Alexanderfeld village, Cahul District be repaired?](#) and [Two health centers in Cahul district will be repaired by the company that built the ATLANT Stadium](#). "In recent months, we have made a number of field visits together with members of the working group and we also hired a technical expert to help us understand what is happening in procurement of construction works. Another objective of our project is to raise public awareness of the need to get involved in the public procurement monitoring process," said the association's Director Mihai Cucereanu.



Care sunt recomandările ca urmare a monitorizării achizițiilor publice?

Ce se va întâmpla cu rezultatele obținute după monitorizare?

- ▷ Publicarea rezultatelor pe pagina Asociației;
- ▷ Elaborarea infograficelor;
- ▷ Elaborarea unui reportaj;
- ▷ Înaintarea recomandărilor AC;

Recomandări:

- 1) să notifice operatorul cu privire la abaterile admise în executarea contractului;
- 2) să suspende executarea obligației corelative (plata);
- 3) să ceară plata de despăgubiri pentru prejudiciul suferit; aplicarea penalităților conform contractului;
- 4) să rețină garanția de bună execuție;
- 5) să rezilieze contractul;

Ca să solicite la AAP includerea operatorului în Lista de interdicții

OPINION OF THE EUROPEAN COMMISSION: REPUBLIC OF MOLDOVA "AT A BEGINNER'S LEVEL" IN PUBLIC PROCUREMENT

» According to [the European Commission's Analytical Report on the alignment of the Republic of Moldova with the *acquis communautaire*](#) published on February 2, the Republic of Moldova is at a beginner's level in 12 areas, including public procurement.

The report assesses the situation and progress made by our country in 33 areas, including public procurement. The report, which presents the European Commission's opinion on the Republic of Moldova's application for membership of the European Union, complements [the first part of the Commission's Opinion](#) from June 17, 2022.

According to the Analytical Report, our country is at a beginner's level in 12 areas: public procurement, financial control, free movement of workers, company law, financial services, taxation, social policy and employment, environment and climate change, agriculture and rural development, fisheries, regional policy and coordination of structural instruments, and financial and budgetary provisions. The report reflects the situation as it stood in June 2022, and progress thereafter will be reflected in the report on EU enlargement policy, to be published in autumn 2023.

We note that the Government has a backlog of several actions needed to improve the public procurement sector, which were planned in the [Government Action Plan for 2021 - 2022](#), namely:



- 1** DEVELOPING AND IMPLEMENTING THE MECHANISM FOR CERTIFICATION of public procurement specialists to train, assess and qualify at least 100 specialists.
- 2** ELABORATION AND APPROVAL OF THE NATIONAL PROGRAMME for the Development of the Public Procurement System.
- 3** FULL DEVELOPMENT of the MTender e-procurement system.
- 4** DEVELOPMENT OF THE REGULATORY FRAMEWORK in the field of public procurement to ensure the implementation of Law No. 131/2015 on public procurement and Law No. 74/2020 on procurement in the energy, water, transportation and postal services sectors in line with the commitments undertaken by the Republic of Moldova under the Moldova-EU Association Agreement and the World Trade Organization Agreement on Government Procurement (GPA).

Author: Diana Enachi, Public Procurement Monitoring Coordinator, IDIS Viitorul

VALUE FOR MONEY - THE OBJECTIVE OF THE NATIONAL PROCUREMENT DEVELOPMENT PROGRAM

» The development of an efficient public procurement system capable of providing value for money in the use of public funds is the overall objective of the drafting of the National Procurement Development Program for 2023 to 2026, the [concept of which](#) has been submitted for public consultation by the [Ministry of Finance](#).

of the procurement cycle, developing and strengthening the capacity of procurement staff, and ensuring performance at all stages of the procurement cycle.

Public procurement accounts for a significant share of GDP and public spending in Moldova. According to [data](#) from the [Public Procurement Agency](#), in 2022, the value of public procurement reached a record figure of 13.6 billion lei (~\$747,527,818) with a share in GDP of 4.47 percent. This data only reflects procurements governed by Law 131/2015 that are conducted through the MTender system. In addition, public authorities procure goods, services, and works through low-value contracts that are not carried out electronically and are not included in the official procurement statistics, the value of which is estimated at around nine billion lei (~\$480,553,597) according to the [Court of Accounts](#). Based on these data and estimates, the share of public procurement in GDP is around nine to ten percent, which is comparable to the shares of public procurement in many EU countries. Thus, public procurement is important for solving many public policy challenges (e.g. economic growth and job creation and modernization of public administration).

The process for the approval of the National Procurement System Development Program will be ensured in a participatory manner, involving stakeholders at the level of Ministries, other public authorities, and civil society. The Ministry of Finance will undertake a public consultation of the Program concept in order to inform and receive recommendations from all stakeholders and subsequently set up the working group responsible for establishing it.

Source: www.particip.gov.md



The aim of the National Procurement System Development Program for 2023 to 2026 is to establish the lines of action to develop a high-performance public procurement system capable of providing value for money in the use of public funds.

The program is meant to ensure a systemic approach based on a well-defined logical framework for intervention in the development of the public procurement system. The program will develop some elements of the system also recommended by the [OECD Public Procurement Recommendation](#). The focus will be on maximizing the efficiency of the procurement system, ensuring transparency during all stages

CIVIL SOCIETY WARNS OF THE RISKS OF THE DRAFT LAW ON RAISING THE MINIMUM ACQUISITION THRESHOLD IN PUBLIC PROCUREMENT LAW



» The minimum acquisition threshold for low-value public procurement contracts has been increased by 50%. Parliament voted on this change in the second reading on [amendments to the Public Procurement Law](#), which was not subject to public consultation and discussion with stakeholders, including civil society.

Thus, the minimum acquisition thresholds for public procurement, which will be carried out through transparent procedures with publication in the electronic system, have been increased by 50%. According to the authors, the conditions underlying the preparation and adoption of the draft law consist in adjusting the threshold levels for low-value public procurement contracts, as a result of the

impact of inflation over the last period. Another argument put forward by the authors of the draft is the need to streamline the work of contracting authorities, which should focus on the efficient use of public money and meeting real needs, rather than on bureaucratic procedures and paperwork, even for a very small purchase. However, the vulnerability of procurement to the risks of fraud and corruption has not been taken into account.

According to the legislation in force, low-value public procurement is carried out by the contracting authorities on the basis of the annual procurement plan or for emergency reasons due to unplanned needs or unforeseeable events. The reasons of urgency shall be justified by concrete arguments and established by the working group in minutes. Public procurement contracts whose estimated value, excluding VAT, does not exceed the above-mentioned thresholds are governed by the Regulation on Low-Value Public Procure-

ment, approved by the Government. Increasing the thresholds from which Law No 131/2015 applies will remove a significant part of procurement from the scope of Law No 131/2015. Thus, the new thresholds will stipulate that, in the case of contracts for the procurement of goods and services, up to 300,000 lei (~\$16,018) excluding VAT, and construction, up to 375,000 lei (~\$20,023) excluding VAT, Law No 131/2015 with all its guarantees, in particular the possibility to challenge the award determination and the results of the procurement at the [National Agency for the Settlement of Disputes](#) (ANSC), will no longer be applicable. In the case of procurement contracts for social and other specific services listed in Annex No 2, the threshold will be 600,000 lei (~\$32.036) excluding VAT.

The authors of the new law do not advocate for a 50% increase in the thresholds for conducting purchases under Law 131/2015 and through the electronic system. However, the annual inflation rate reached its peak in October 2022 at 34.62%, according to NBM data. Since November, the annual inflation rate has been decreasing and the annual inflation rate in December 2022 was 30.24%. According to the latest forecasts of the NBM, the average annual inflation rate will be 16% in 2023.

A significant part of public procurement will end up not being regulated by the Public Procurement Act. The vast majority of procurements carried out by contracting authorities with small budgets, such as Local Public Authorities (of which there are around 890 in Moldova), fall within these limits. This creates a loophole which allows contracting authorities to conduct most of their procurements via direct contracting outside the legal framework of Law 131/2015, and therefore with minimal transparency and accountability. These changes will significantly increase the share of public money spent through low-value procurement procedures and by central public authorities. By looking at the Court of Accounts' rulings, we see that for some ministries over 50% of the money spent on low-value procurements is spent on larger contracts that have been split up. Raising the thresholds encourages splitting of large contracts and

will inevitably lead to more money being spent on low-value procurements. Although, according to the new Small Procurement Regulation, data on directly awarded contracts are to be published quarterly in the electronic system, it is nevertheless noted that the MTender system does not currently have the technical functionality to do so.

Raising the minimum acquisition threshold may also diminish the positive effects of centralizing public procurement, for example in the health sector. Healthcare institutions, which have the possibility to spend larger amounts of money through low-value (especially direct) purchases, may choose to carry out many more purchases independently, possibly from pharmacies on the premises of healthcare institutions, reducing the share of financial resources managed by the Centre for Centralized Public Procurement in Health ([CAPCS](#)). In this way, more money will be spent non-transparently, without ensuring competition, which will also lead to higher purchase prices. But Law 131/2015 was passed for this very purpose - to set high standards of efficiency, transparency and fairness in public procurement.

In this context, AGER, IDIS Viitorul and Initiativa Pozitiva have drafted and submitted to the Parliament an Opinion on the Draft Law for the modification of Article 2 of the Law no.131/2015 on public procurement No. 464 of December 13, 2022 and the Draft Law for the modification of the Law no.131/2015 on public procurement (art.83), No. 202 of August 24, 2021.



Read the full Opinion here: [Opinion of AGER, IDIS Viitorul and Initiativa Pozitiva on the draft amendments to Law No 131/2015](#)

Despite the concerns discussed above, at the plenary session of the Parliament on February 2, 2023, the [Parliament voted on the draft in its second and final reading](#).

Signatories:
AGER, IDIS Viitorul and Initiativa Pozitiva



image: Freepik.com

PĂRINȚI SOLIDARI'S EVALUATION OF THE FINANCIAL TRANSPARENCY OF THE MOLDOVAN MINISTRY OF EDUCATION AND RESEARCH

» The budgets of public institutions should be of interest to citizens who pay taxes. However, the budgets of state institutions are perceived as abstract even though taxpayers have a right to know how they are managed. Unfortunately, state institutions are not very transparency about public procurement or budgets. [Părinți Solidari \(Parents in Solidarity\) noted this through its monitoring of the Ministry of Education and Research \(MER\) and its sub-institutions.](#) The evaluation was conducted by Părinți Solidari from April 2022 to February 2023 with financial supported of IDIS Viitorul and PTF as part of the Increasing the Integrity of Public Procurement in Moldova project.

Părinți Solidari, an organization defending the interests of children and their right to quality education, detailed the purpose of the project, the initiatives undertaken, and the results regarding MER's transparency process. The evaluation project was initially in response to multiple violations of the MER with regard to budget transparency and public procurement processes.

"We constantly monitor and analyze how public money is spent in the education system. We have observed substantial violations and shortcomings in terms of budget transparency and public procurement. As the situation was not improving, we decided to focus on analyzing and systematizing the

problems detected," said Ala Revenco, Executive Director of Părinți Solidari.

When discussing the importance of public procurement for society, Părinți Solidari pointed out that public money is funded by people paying taxes. Unfortunately, there is a low level of public interest in how the money is spent and this creates an environment conducive to corruption and misuse of public funds.

According to Vera Acostandei, Project Coordinator at Părinți Solidari, *"The public budgets, which are made up of citizens' contributions, are often viewed as abstract, belonging only to the institutions that manage them and not as a public resource for society as a whole. As a result, there is temptation to use the money for personal interests. Due to the complex process of public procurement, the origin and use of finances are not well understood by most citizens and some procurement officials."*

In order to achieve its goal, Părinți Solidari has set out three objectives.

 *"We monitor the Ministry's procurement and financial transparency and inform society about the field and involve them in the process. We are also carrying out an advocacy campaign to improve MER's budget transparency and procurement processes,"* said Vera Acostandei.

Several actions have already been taken to inform society about the MER's public procurement processes. These include several [infographics](#), a video guide on how to access information on MER procurements, and additional articles on Părinți Solidari's monitoring. The association also produced a live broadcast with parents, experts, and MER representatives. According to Ala Revenco, the materials addressed a plethora of topics such as the purchase of textbooks, MER expenditures, and levels of transparency in procurement procedures.

A [PRESS RELEASE](#) PUBLISHED ON THE PĂRINȚI SOLIDARI FACEBOOK PAGE DETAILS MORE OF THE TOPICS.

When asked about the main shortcomings of MER's public procurement identified in its transparency analysis, Părinți Solidari mentioned the absence of procurement plans on the Ministry of Education and Research website, the cancellation of three out of the five textbook procurement procedures launched in the last four years, and the favoring of certain companies in procurement procedures. It also noted that the Court of Accounts had identified several violations admitted by the MER in the procurement of various goods and services.

WHERE ARE THE MAIN EXPENDITURES OF THE MINISTRY OF EDUCATION AND RESEARCH DIRECTED?

According to Părinți Solidari, the main expenditures of MER in 2022 were for the purchase of educational services for the training of specialists, school textbooks, and the reconstruction and modernization of centers of excellence. For parents, the procurement of textbooks should be of major interest, because current execution has led to the purchase of non-compliant or poor-quality goods and services, directly affecting students and their parents.

In the context of these realities, the association argues that a joint societal effort is needed to make improvements. Thanks to the Access to Information Act, everyone has the right to access information of public interest and that includes public procurement. Interested persons can monitor how public money is spent by any authority such as a ministry or a local educational institution. The maximum time limit which the authority is obliged to respond to a request for information is 15 working days or three calendar weeks.

Score: 6 out of 10



#monitorizăm_achizițiile_MEC



When asked how transparent the Ministry of Education and Research is in terms of the distribution and transparency of managing financial resources and information, Părinți Solidari gave a rating of six out of ten points. The association also explained why.

- 1 In recent years, MER has benefited from impressive support from development partners, including in terms of technical equipment and digitization. This should have an impact on the quality of the information published.
- 2 MER has sufficient staff and directorates responsible for ensuring transparency and correct and efficient implementation of the allocated budgets.
- 3 At present, the information published on the Ministry of Education and Research website is not user-friendly for citizens looking for answers about topics such as the planned budget. Additionally, there is incomplete and inaccurate information posted.

HOW DO WE ENSURE THE SUSTAINABILITY OF THE PROJECT?

"This project is intended to be a catalyst for positive change in the field of public procurement. With successful implementation and agreement of all involved parties, there will be a number of benefits for direct and indirect beneficiaries. Furthermore, the Ministry of Education and Research will increase its credibility in the eyes of the general public by being open to collaboration with civil society and accepting positive suggestions. Subsequently, access to public information provided by the above-mentioned institution will be improved.

By raising public awareness of public procurement monitoring and involving parents in writing articles, we will have informed, interested, and active parents in the field of public procurement within public educational institutions. Henceforth, parents will have the capacity to monitor public procurement procedures, collectively contributing to their transparency. That is why we invite as many interested people as possible to join us and get involved in this complex but very interesting process," says Părinți Solidari.

Source: www.diez.md

ANDREI BARGAN: "PROSPECT ASSOCIATION IS THE ONLY PUBLIC ASSOCIATION REPRESENTED AT THE MEETINGS OF THE WORKING GROUP ON PUBLIC PROCUREMENT IN CIMIȘLIA DISTRICT"

» Effective procurement is a key element of good governance. Civil society has a fundamental role to play in monitoring public procurement and ensuring transparency in the award and execution of public contracts, helping to strengthen good governance, and building bridges between society and government at all levels.

The Prospect Association believes in the role of civil society and is one of eight civil society organizations in Moldova that have received grants totaling \$200,000. The organizations were selected on the basis of a competitive process in the grant competition launched by the Increasing the Integrity of Public Procurement in Moldova project, which is implemented by IDIS Viitorul in collaboration with Partnership for Transparency. **ANDREI BARGAN, the Director of the Prospect Association,** was interviewed by Ana-Maria Veverita, IDIS Viitorul's Program Coordinator and Communications Officer.



foto: Simion Ciocina/DW

Ana-Maria Veverita: Please tell us a bit about the Prospect Association and the activities you undertake.

Andrei Bargan: The Prospect Association was founded on February 27, 1999 on the initiative of local media workers from the city of Cimișlia. In October 1999, the association launched the Informing Citizens about the Execution of Local Budgets project financed by the [Soros Foundation Moldova](#). Since then, it has been active in audiovisual information production and broadcasts on the respect of human rights, winning 3rd Prize for the most successful action for the promotion and defense of human rights in 2006. It has coordinated projects financed by [UNDP](#), [USAID](#), [Freedom House](#), and the EU in various areas such as freedom of expression, anti-corruption actions, citizen involvement, etc. and has been a partner of local NGOs in a variety of projects.

The mission of the Prospect Association is to develop social activism and the spirit of initiative of citizens, inform the population about their economic and social rights, and

involve them in the work of the local public administration. The objectives of the association are to distribute information on the participation of citizens in local decision-making, support the implementation of social programs of the local public administration, and inform citizens about the respect of their social rights and the use of public money.

Ana-Maria Veverița: What experience does the association have in public procurement? Why is the field of procurement of interest to the association?

Andrei Bargan: From February to June 2021, the Prospect Association was a partner in the [Increasing Civil Society Capacities at the Local Level for Monitoring Local Public Administrations](#) project implemented by the [Romanian Center for European Policies](#). The experience gained kindled our interest in the efficient use of public money. We were following articles and reports in the media about deviations from the legislation in public procurement. We saw that tenders for larger purchases were electronic and we could remotely find out a lot of information, analyze it, and give citizens more information on how their money, public money, is spent.

Ana-Maria Veverița: What was your motivation for applying for a grant for civil society organizations in the field of public procurement monitoring?

Andrei Bargan: I knew about IDIS Viitorul activities before, as the institute's experts also participated in public debates organized by local television. In March 2022, when IDIS launched a call for proposals for projects in the field of public procurement, a local civil society colleague suggested we participate in the grant competition. I had never heard of anyone from civil society monitoring public procurement in Cimișlia District. So I thought, why not be the first? We already had experience of working in anti-corruption monitoring at the local level.

So, we applied and were selected after a competitive process from the implementing organizations, IDIS Viitorul and PTF.

Achizițiile publice în vizorul societății civile din Cimișlia

participanții dege Neșușii defnitori ale sistemului de achiziții publice: actorii sistemului și responsabilitățile lor, cadrul legal și normativ secular.

Experta AO „Prospect”, Olga Zlati

Participanții au menționat importanța Societății civile locale în monitorizarea achizițiilor publice ale APL, rolul societății civile în procesul de derulare a procedurilor de achiziții publice.

Natalia Răileanu, președinte AO „PRO Cimișlia”

Un interes deosebit a trezit sesiunea privind Integritatea achizițiilor publice la nivel local. Studiul de caz: experiența proiectului „Monitorizarea achizițiilor publice în raionul Cimișlia”. Astăzi s-a vorbit dege situația construcției trotuarului adiacent drumului Albina - Fetița în luna iulie 2022, când montorii AO Prospect au sesizat Autoritatea Contractantă - CR Cimișlia - despre abaterile de la caietul de sarcini, când antreprenorul construia trotuarul cu o lățime de 1,2 m în loc de 1,5 metri. Pădă la urmă s-a decis să construască trotuarul mai îngust, dar mai lung, pentru că stâlpii de electricitate nimeriseră pe trotuar. A fost o eroare de proiectare. În prezent, AO Prospect monitorizează implementarea achizițiilor publice în raionul Cimișlia pe 9 obiecte - în special, construcții de drumuri de nivel raional.

Situația la obiectul - L554 Albina - Fetița - R3 (Pavarea trotuarului adiacent drumului)

Mass media îi revine un rol deosebit de important în monitorizarea achizițiilor publice. Televiziunea locală, Radio, ziarele, Rețelele Sociale - sîns sînt făcînd cît mai transparent procesul de achiziție, sîns reflecte etapele de organizare a achizițiilor publice, folosirea eficientă a banilor publici.

AO Prospect Cimișlia sîns desfășura în luna noiembrie 2022 un seminar privind organizarea și desfășurarea achizițiilor publice cu participarea agenților economici, reprezentanșii APL, membrii Grupului de lucru pentru achiziții publice a raionului Cimișlia.

Victoria Strălușcu, expertă AO PROSPECT.

„Donașii de reprezentanșii ai ONG-urilor și mass media din raionul Cimișlia sîns inițiat în monitorizarea achizițiilor publice la nivel local în cadrul unui seminar de instruire, organizat de AO PROSPECT din orașul Cimișlia la gîștăntă luni septembrie 2022 cu tematica „Achizițiile publice în vizorul societății civile”. Evenimentul a avut loc în cadrul proiectului „Monitorizarea achizițiilor publice în raionul Cimișlia”, implementat de Asociația Obștească „Prospect”, în calitate de beneficiar de sub-grant a proiectului „Consolidarea integrității în achizițiile publice”. Proiectul este implementat de către Institutul pentru Dezvoltare și Inițiativă Sociale (IDIS) „Viitorul”, în parteneriat cu Fondul de Parteneriat pentru Transparenșă (SZA). Proiectul urmărește susținerarea reformelor în domeniul achizițiilor publice în Moldova, care vor spori transparenșă și corectitudinea achizițiilor publice prin abilitarea cetățenilor de a responsabiliza instituțiile relevante.

„Ficare din noi trebuie să cunoaștem cum se utilizează banii publici. Trebuie să cunoaștem procedura achizițiilor publice. Sîns ne implicăm ca societate civilă în monitorizarea achizițiilor publice la nivel local. Seminarul de astăzi, în acest context, ne este foarte util!”

Vasile Sidon, ONG Dezvoltare prin implicare

„Am aștă multe informații utile astăzi. Nu cunoșțeam cum din perspectiva societății civile se poate de participat la procesul de achiziții publice. Mă bucur, cî autoritățile publice din raionul Cimișlia, sîns deschise, transparente. Ficare cetățean poate monitoriza procesul de achiziții publice”.

Expertă AO Prospect, Olga Zlati, a informat

Logo-uri: IDIS, PROSPECT, SZA, CR Cimișlia

Ana-Maria Veverița: Tell us a bit about the Monitoring of Public Procurement in Cimișlia District project, namely its purpose, period, beneficiaries, and expected results.

Andrei Bargan: The Monitoring of Public Procurement in Cimișlia District project, implemented between April and December 2022, aimed to strengthen the integrity of public procurement in Cimișlia District through local civil society monitoring. We focused on the area of local road construction and repair. We chose this type of infrastructure procurement, because it is vulnerable to illegalities and considered the least transparent. We focused on high-value contracts; in total there were purchases of over 10 million lei (≈\$533,948). We monitored seven local road repair projects (Gradiște-Coștangalia, Batîr-Ciuflești, Albina-Fetița, Hîrtop-Mereni, Mihailovca-Stația Cimișlia, Topal, and Sagaidac-Suric) and two infrastructure projects in Cimișlia District, capital repair of the roof of the Cimișlia District Hospital and development of the land adjacent to the Museum of History, Ethnography, and Art in the city of Cimișlia.

The project began in April 2022 and we monitored procurement for nine months. We drew the attention of local procurement experts and asked the Cimișlia District Council

to include us in the District Working Group on Public Procurement. At first, they were a bit reserved toward us and they did not allow us to take pictures or film, but then they became more cooperative and we ended up attending all the meetings. Thus far, Prospect Association is the only public association represented at the meetings of the Working Group on Public Procurement in Cimișlia District.



We had meetings with mayors and residents where roads were repaired and we ran a campaign to inform citizens about public procurement. There were also social media posts, articles and materials published on the website www.mediaticv.md, coverage on local TV and radio stations, and a newspaper article on the conduct of public procurement. We also developed and disseminated a leaflet [Red Flags in Public Procurement in Cimișlia District in 2022](#) representing a summary of the monitoring by our association.

Ana-Maria Veverița: What project objectives have been met? What were the most achievable and tangible results?

Andrei Bargan: I noticed that some deviations in public procurement were made due to ignorance of the law. We conducted two workshops on public procurement and 51 representatives of local public administration, businesses, local NGOs, and local media

participated. Some mayors have invited us to do similar trainings in their town halls in the future.

On the basis of the monitoring, we produced and distributed 200 leaflets about vulnerabilities and red flags in the procurement process.

Poor planning and deviations from specifications were found. As a result of the monitoring, we found that for L-554 Albina Fetița R-3 (paving adjacent to the road), the company, LLC Provladina Construct, violated the provisions of the specifications. According to the specifications, the sidewalks should be 190 m long by 1.5 m wide. However, the field checks carried out by the Prospect Association team indicated the sidewalks were in fact 250 m long by 1.2 m wide. The reason for the change was that a 1.5 m wide sidewalk would be in contact with the existing utility poles.

The budget did not provide funding for the relocation of the poles, so the Prospect Association proposed that the [Cimișlia District Council](#) adjust the works to the revised specifications or make official changes to the project and specifications. In the end, the project was modified and the sidewalks were built narrower (1.23 m), but longer (250 m), and this case was covered in the local media.

Another red flag was that the Annual Procurement Plan of Cimișlia District for 2022 initially provided for procurement of items that did not fall under the District's authority (e.g. roads or bridges that are managed by the municipalities). In the end, they were excluded from the Procurement Plan.

Similarly, we found that monitoring reports are prepared and published on the contracting authority's [website](#), but they are of a formal nature and do not contain information on the stage of execution of contractual obligations, causes of non-execution, complaints received and sanctions applied, or information pertaining to the quality of contract execution.

Young people were also involved in preventing and exposing misconduct in public procurement at the local level. The students of the Ion Creangă Theoretical High School in Cimișlia put on a play, simulating a meeting of

the local council at which the money from the budget was divided according to group and personal interests, with conflicts of interest being documented. Some scenes were inspired by real local procurement cases. As a result, it raised awareness and encouraged citizens to be more involved in the decision-making process.

Personally, the Monitoring of Public Procurement in Cimișlia District project helped me to learn more about public procurement. I have also made some supporters and critics. I believe that such monitoring should be done over a longer period of time to track the trends of changes and impacts.

Ana-Maria Veverița: What impact has the project had on the public procurement situation in the Cimișlia District and what has changed at the level of local public authorities and other actors involved in the public procurement process?

Andrei Bargan: The impact of the monitoring will be assessed in the next year, but we can already say that the citizens of Cimișlia District are better informed about local public procurement. I hope that construction will no longer be planned so that utility poles are in the middle of sidewalks and that the companies will respect the specifications and not hastily change the work.

Ana-Maria Veverița: What are your recommendations to the authorities regarding public procurement?

Andrei Bargan: I would recommend more careful planning of public procurement. Procurement procedures should start earlier, at the beginning of the year and not in September, as the quality of road construction suffers in the winter. I would also recommend that representatives of the District Council check the construction plans and geometric plans on the ground; sometimes the designs are done at the offices in Chisinau and are not adjusted

as needed in the field. Lastly, the councilors of Cimișlia District should check whether the projects proposed in the Procurement Plan are under the control of the District Council.



Ana-Maria Veverița: What would you recommend to other civil society organizations planning or monitoring local public procurement?

Andrei Bargan: They should study the [Guide for Monitoring Public Procurement: A Tool for Civil Society](#), developed by IDIS Viitorul, because it is quite helpful. Also, I would recommend requesting in writing the inclusion of NGO representatives and citizen volunteers in the composition of the local procurement working group and then present the results of the procurement monitoring at the local council meeting.

Ana-Maria Veverița: How do you see public procurement in Cimișlia District in the next two or three years?

Andrei Bargan: I hope that in 2023 there will be more people and local NGOs represented in the working groups for public procurement in public institutions in Cimișlia District. In the next two or three years, I hope that we will not have any deviations from the legislation in the public procurement process.

Ana-Maria Veverița: Thank you for the interview!



SECTOR PROCUREMENT ASSESSED BY THE ASSOCIATION FOR EFFICIENT AND ACCOUNTABLE GOVERNMENT IN A SERIES OF PUBLICATIONS

» From June to December 2022, the [Association for Efficient and Accountable Governance](#) (AGER) monitored procurement procedures carried out in accordance with the provisions of [Law 74/2020 on Procurement in the Energy, Water, Transportation, and Postal Services Sectors](#). This was undertaken by AGER, as a sub-grantee of the [Increasing the Integrity of Public Procurement in Moldova](#) project.

The main findings and conclusions observed during the monitoring work were presented in the [Sector Procurement Monitoring Report](#) released in January 2023. The report contains a number of legislative and regulatory suggestions and recommendations aimed at improving the procurement system in the Republic of Moldova.

The report was prepared as a result of the analysis of approximately 100 procurement procedures car-

ried out under Law 74/2020. The data on awarded contracts, public procurement bulletins, [MTender](#) Public Portal and decisions issued by the [National Agency for the Settlement of Disputes](#) (ANSC) are available on the website of the [Public Procurement Agency](#). AGER representatives requested information, participated as civil society representatives in the working groups of contracting entities for certain tender procedures, and attended public meetings to examine complaints to the ANSC.

Lastly, on October 31, 2022, AGER organized a roundtable with representatives from civil society and contracting entities such as the Ministry of Finance, ANSC, and the Court of Accounts at which challenges faced by the parties involved in these processes and possible solutions were discussed. The report contains a summary of the problems and errors identified, along with recommendations to make the public procurement

process more efficient in terms of the necessary legislative changes and the concrete steps to be taken by key actors in the field.

Procurement in the utilities sector was regulated for the first time in the Republic of Moldova by Law 74, adopted on May 21, 2020, which entered into force one year later. This law transposes Directive 2014/25/EU of the European Parliament and Council of February 26, 2014 on procurement by entities operating in the water, energy, transportation, and postal services sectors. The rationale for regulating procurement in these sectors is to ensure transparency and competition and compliance with applicable environmental, social, and labor obligations. These principles stem from Article 28 of Law 74/2020 and are rooted in the principles of the Treaty on the Functioning of the EU and the provisions on the free movement of goods and services, the right of establishment, and the freedom to provide services, in particular. The financial means used to carry out purchases in the aforementioned sectors are not always from the state budget. However, ensuring competition and transparency in these purchases is relevant for the following reasons:



Some of the contracting entities were not governed by any administrative procurement regulations, while other contracting entities carried out procurement on the basis of regulations specialized to their field of activity

- THE STRATEGIC IMPORTANCE of the sectors concerned;
- THE STATUS OF CONTRACTING ENTITIES such as public authorities, public enterprises, or legal entities, operating on the basis of special or exclusive rights granted by a competent authority under the law; and
- THE SOURCE OF FUNDING (even when the financial resources are not from the state budget, they are obtained from entrepreneurial activity carried out on the basis of special or exclusive rights granted by a competent authority under the law).

Following the adoption of the law three years ago, the regulation of procurement in the energy, water, transportation, and postal services sectors

is still rudimentary. Following monitoring of sectoral procurement, the AGER team found that some of the contracting entities lack qualified staff to effectively carry out procurement. This is mainly due to the fact that the contracting entities were exempt from the application of Article 5 of Law 131/2015. Some of the contracting entities were not governed by any administrative procurement regulations, while other contracting entities carried out procurement on the basis of regulations specialized to their field of activity, which differed substantially from Law 74/2020. Simultaneously, trainings on the application of the provisions of Law 74/2020 conducted by the Public Procurement Agency were superficial and few contracting entities participated. There was no further training, nor responsible authority, to explain how to apply Law 74/2020. In other words, each contracting entity had applied sections of Law 74/2020 in line with their own interests. This led to inconsistency in sectoral procurement and a lack of predictability and legal stability.

There is also a lack of secondary legislation needed to carry out sectoral procurement. This problem further deepens the lack of clarity and inconsistencies in the application of Law 74/2020. In the absence of standard forms and clear regulations that could be provided in secondary legislation, contracting entities adopt their own approaches to the issues. This leads to legal chaos when there is disputed clarity on the legality of the contracting entities' actions.

In order to improve the sectoral procurement system, the AGER team proposed the following recommendations to be implemented as soon as possible:

- ADOPT the secondary legal regulatory framework applicable to sector procurement;
- ESTABLISH an authority responsible for sector procurement;

- TRAIN the staff of contracting entities on sector procurement; and
- ESTABLISH the obligation to conduct sector procurement through the State register of public procurements and reduce the timeframe for carrying out sector procurement.



AGER published a guide on the application of Law 74/2020. While intended for contracting entities and economic operators interested in participating in sectoral procurement, the guide can also serve as a reference for civil society monitoring of sectoral procurement. The purpose of the guide is to familiarize readers with the provisions of Law 74/2020, namely when and how it should be applied. As Law 74/2020 was passed and entered into force after Law 131/2015 on public procurement, many people continue to refer to the former for sectoral procurement or apply it erroneously.

The activities implemented by AGER were undertaken in the framework of the Monitoring of Sectoral Procurement in the Republic of Moldova initiative as a sub-grant beneficiary of the Increasing the Integrity of Public Procurement in Moldova project. The project is implemented by IDIS Viitorul in collaboration with Partnership for Transparency (PTF). The project aims to support public procurement reforms in Moldova that will increase transparency in public procurement by empowering citizens to hold relevant institutions accountable.



CHALLENGES FOR JOURNALISTS AND ACTIVISTS IN DOCUMENTING PUBLIC PROCUREMENT STORIES DISCUSSED WITH AUTHORITIES

» Investigative journalists discussed the challenges of documenting stories on public procurement at an event organized by the [Media-Guard](#) Association and attended by representatives of several government institutions. The lack of information about procurement by state-owned enterprises and the lack of comprehensive information on the purpose of solicitations were among the main topics discussed. The event also presented the results of the [Strengthening Public Procurement Monitoring Capacity for Journalists and Activists](#) project, carried out by the Media-Guard Association.

At a conference held on January 19, 2023, attended by Victor Spînu, MP, Public Finance Control Committee, Sergiu Căinăreanu, Head of the Public Procurement Directorate of the Ministry of Finance, Natalia Postolache from the Public Procurement Agency, Mihai Furnica from the [Electronic Government Agency](#), as well as several investigative journalists from Ziarul de Gardă, civic activists and students, reporters complained about the lack of transparency in the field of procurement carried out by state-owned enterprises, as well as the reduced possibilities of monitoring the execution of procurement contracts.

The event also saw the presentation of the results of the [Strengthening Public Procurement Monitoring Capacity for Journalists and Activists](#) project, which was carried out by the Media-Guard Association over eight months, during which time we published three journalistic investigations, which can be read [here](#), [here](#) and [here](#), organized two communication sessions with the participation of the competent authorities in the field of access to information of public interest, organized a [summer camp](#) during which experts in procurement, transparency, access to information and journalists trained 15 young people in the field of public procurement.

Young people learned how public procurement is organized and what information they can find on www.tender.gov.md, www.mtender.gov.md and www.ansc.md. They also learned about the legal framework of the public procurement system, how to identify issues in the procurement system that would affect the most vulnerable, how to document the assets of civil servants, useful databases which can be used to check the basis of problematic award decisions, the risks of corruption in public procurement, how to formulate requests for information to obtain files on public procurement, political clientelism and its effects, and how they can monitor issues of concern at the local level.

The journalists then mentored the participants for several months, and the young people organized communication sessions on public procurement monitoring in their communities - at university, high school or youth centres, or documented and wrote journalistic articles on problematic public procurements. One of those [articles](#) discussed a sole-source contract awarded to a company in which the son of the mayor of Hincesti is a partner. Another [article](#) discusses a company, founded by a PAS MP, that has been paid millions of lei for road repairs. A participant analyzed the list of debarred contractors and discovered that some companies on the list [are still winning procurement awards](#). She [also](#) looked at what public institutions buy in times of crisis and wrote about a District councilor who was involved in making award decisions that directed contracts to companies that he owns. All these articles can be read [here](#).

The event was hosted by USM's Center for Film, Media, Gaming and New Media Production and Technology, Mediacor.

This material is produced in the framework of the Strengthening Public Procurement Monitoring Capacity for Journalists and Activists project, carried out by the Public Association Media-Guard as a sub-grantee of the Increasing the Integrity of Public Procurement project.

Source: www.mediaguard.ngo



800,000 LEI FOR REPAIRS AT RÎȘCANI DISTRICT HOSPITAL - AFTER THE WORK WAS COMPLETED, THE SOCKETS WERE MISSING



» It was a textbook repair job, only without the plugs, bulbs, and switches. A few months ago, the Rîșcani District Council allocated over 800,000 lei (≈\$42,715) for the repair of the pharmacy and laboratory of the Rîșcani District Hospital. It was only after the work was completed that they realized their blunder and signed another contract to install the electricity system. When asked why this had happened, the District President and hospital management declined to answer.

The money allocated was used to change the heating system, the water and sewage system, windows, and doors.

ALEXANDRU CRIGAN,
Director of Localinvest said:

"If we look officially, the contractor fulfilled everything indicated in the specifications. However, as a result of monitoring, we found that the electrical system was completely missing. Now, another contract will be drawn

up, with another contractor or the same one, but with a different procedure, which will provide for the installation of the electrical system. Then, the existing walls need to be broken and freshly repaired, so that the cable can be pulled."

According to the public association that monitored the spending of public money in a project implemented by Promo Lex, with its own money, the business, which carried out the

repair work, installed a shower system that was not included in the specifications. This raised questions.

ALEXANDRU CRIGAN,
Director of Localinvest:

"If we talk about the sanitary block, the situation was a bit different. The specifications stipulated the repair was the installation of a toilet, but when we undertook monitoring, we found that the contractor also installed a shower room. The contractor said he did not claim any money; he did it as a gift."



Although he admits that the specifications for the execution of the works were drawn up by his subordinates, Vasile Secrieru, President of the [Rîșcani District Council](#), said that the responsibility for contracting the services lies with the administration of the District Hospital.

VASILE SECRIERU,
President of the Rîșcani District Council:

"The tender procedure and the procurement contract were signed by the director of the District Hospital. As for the contribution of the Rîșcani District Council, there was a planned financial contribution, plus the methodological support of the specialist working in the District President's Office, a specialist in public procurement. However, what about the specifications? The construction section of the council worked together and contributed."

The director of the hospital, Nicolae Ursu, said he was disturbed by the accusations against him, but said that the medical institution had already signed a contract with an economic agent who would carry out the work of installing the electricity system.

NICOLAE URSU,
Director of Rîșcani District Hospital said:

"We signed a contract that deals specifically with the electrical works. The contract is for 160 thousand lei (~\$8,543) and the entire electrical system will be renovated. The contract is concluded and we have agreed with the economic agent that this will be prioritized."

As for the shower that was installed with the contractor's money, the hospital director said the initiative belonged to the economic agent.

NICOLAE URSU,
Director of Rîșcani District Hospital:

"During the course of the project, the workers said that building a shower would be good and the contractor, on his own initiative, said that he could construct it. The money allocated for the project is public and, of course, we have no money ourselves and it was not foreseen in the budget. This is the contractor's business."

ANDREI CUPRINSCHII,
an entrepreneur said:

"As a goodwill gesture, we made a shower for the pharmacy workers. We consulted with the head of the pharmacy; I proposed an idea to make a shower and he agreed. It looks like a gift from the economic agent, yes, like that."

From 2021 to 2022, the economic agent that carried out these repair works concluded contracts with the Rîșcani District Council worth at least 3.3 million lei (~\$160,184).

THERMAL INSULATION OF THE FACADE OF KINDERGARTEN NO. 1 IN CAHUL. A FIRM FROM COMRAT BECAME THE WINNER OF THE TENDER AFTER CONTESTING THE INITIAL RESULTS

» In May 2022, [Cahul City Hall](#) announced an open tender, with an estimated value of about 3,351 thousand lei (\$178,926) excluding VAT for the purchase of the works "Construction of the roof and thermal insulation of the facades of the blocks at the Kindergarten No. 1 Ghiocel, C. Negruzzi Street No. 133, Cahul (stage II - thermal insulation of facades)".

The [Contact Centre - Cahul](#) analysed the [procurement procedure](#), the solicitation, as well as the offers submitted to the local contracting authority. The contract is for "construction of the roof and thermal insulation of the facades of the blocks at the Kindergarten No. 1 Ghiocel, C. Negruzzi Street No. 133, Cahul (stage II - thermal insulation of facades)."

WHAT THE SOLICITATION STIPULATES

According to the solicitation published by the City Hall of Cahul, the period of performance of the contract would be a maximum of 6 months, and contractors would have to submit a bank guarantee for the offer at 1% of the offer value. The minimum turnover required by the contracting authority is 3.5 million lei (~\$186,881) with a maximum of 6.6 million lei (~\$352,405).

At the same time, a requirement included in the specifications was "confirmation of the visit of the kindergarten", which would be issued by the officials of the Cahul City Hall.

Awards are to be made on a best value basis. To determine the best value, the contracting authority had established 4 evaluation factors: (1) Value



of the offer (80%), (2) Similar contracts experience with a minimum value of 2 million lei (~\$106,789) (10%), (3) ISO certification (5%), and (4) that the contractor can guarantee performance of the works for a minimum of 24 months (5%).

It should be noted that ISO certification is not a requirement, i.e. does not factor into a responsibility determination. Instead, contractors who hold ISO certification are automatically given five additional points during evaluation. Counting ISO certification among the evaluation criteria, rather than as part of a responsibility determination, allows contractors who do not hold ISO certification to still compete, and, if their offer is competitive enough, to win.

WHAT THE WORK INVOLVES

According to the specifications, the tasks under the contract are divided into 3 general categories: Facades, Carpentry and Walls. The work on the facade involves the removal of plaster on an area of 640 m², surface roughening and plastering of 2 cm thickness on an area of 400 m², external thermal insulation of the walls of the building with mineral wool slabs of 10 cm thickness, density of 145kg/m³ on an area of 2044 m²,

Construcția acoperișului și termoizolarea fațadelor blocurilor la Grădinița de copii nr. 1 "Ghiocel", str. C. Negruzzi nr. 133, mun. Cahul (etapa II – termoizolarea fațadelor)



manual application of quartz Gleta sandstone and external plastering of 2-3 mm with TINC mixture on a total area of 2160 m².

It also included the cladding of the walls with ceramic-granite tiles on an area of 94 m², as well as the repair and cladding with ceramic-granite tiles of the steps in the institution. The carpentry work involves the replacement of the windows and doors made of plastic sheeting with a surface area of 14.3 m² and 24 m² respectively, and the manufacture and installation of a metal door. Work on the wall involves pouring 10 cm thick concrete floors over a total area of 585 m².

WHO PARTICIPATED IN THE COMPETITION?

Two companies participated in the competition: Lifestar - Com LLC with a bid of 2,762 852,20 MDL (≈\$147,522) excluding VAT, and VIZOL-STUDIO LLC with a bid of 3,183,273,86 MDL (≈\$169,970) excluding VAT. According to the initial decision of the working group on procurement of the City Hall of Cahul, the contract was awarded to Lifestar - Com, which proposed a bid about 421,000 MDL (≈\$22,479) less than VIZOL-STUDIO.

VIZOL-STUDIO challenged the award decision according to the procedure at the National

Agency for Dispute Resolution. According to the appeal, VIZOL-STUDIO argued that Lifestar's bid did not comply with the requirements, namely:

- 1** Contrary to the provisions of Article 64 of the Standard Documentation for public works procurement (approved by Order of the Ministry of Finance No 69/2021), Lifestar-Com did not attach the power of attorney to the offer.
- 2** The offer's technical proposal did not correspond to the requirements in the solicitation. When the offer was submitted, the schedule of work was not presented.
- 3** The offer was not in compliance concerning the calculation of the salary of construction workers, which, according to the data of the National Bureau of Statistics for the fourth quarter of 2021, where the gross salary is 8,775.00 lei (≈\$469)/169 hours, results in 51.92 lei (\$2.77)/hour.

At the same time, VIZOL-STUDIO challenged the responsibility determination of Lifestar. VIZOL-STUDIO argued that Lifestar did not comply with item 16.17 in the solicitation, which required contractors to submit confirmation that they visited the kindergarten. The confirmation will be issued by office 315 for the contractors who will perform the tasks

listed in the solicitation. In its protest VIZOL-Studio sought the cancellation of the award decision and that Cahul City Hall be required to re-evaluate the tenders submitted in the competition.

Regarding the main arguments brought on appeal, the City Hall of Cahul found that the power of attorney attached and that Lifestar-Com submitted the schedule for the execution of the works on July 1, following a request from the contracting authority.

The reply from Cahul City Hall noted that the secretary of the working group stated during the meeting on the evaluation of offers that Lifestar-Com LLC did not visit the worksite, nor did it request a copy of the technical documentation during the period leading up to the deadline for submission of offers. Although such confirmation was not issued to Lifestar-Com, the working group considered this to be a "minor deviation" from the solicitation.

After considering the requests and arguments from both sides, the Agency ordered:

- 1 THE ADMISSION OF APPEAL 02/620/22** of August 15, 2022 filed by VIZOL-STUDIO challenging the results of public procurement procedure MD-1652257711346 of June 1, 2022, regarding the purchase "construction of the roof and thermal insulation of the facades of the blocks at the Kindergarten no. 1, Ghiocel, C. Negruzzi street no. 133, Cahul (stage II - thermal insulation of facades)", initiated by Cahul City Hall;
- 2 THE ANNULMENT OF AWARD DECISION** 21056285 of August 8, 2022 made pursuant to this contract as well as all acts occurring post-award;
- 3 THAT THE CITY HALL OF CAHUL MUNICIPALITY REEVALUATE THE OFFERS** within 10 days from receipt of this decision, and re-evaluate Lifestar Com's offer, taking into account the findings in this decision;

- 4 THAT THE CITY HALL OF CAHUL MUNICIPALITY REPORT TO the National Agency for the Settlement of Complaints on their implementation within 3 days from the date of adoption of the remedial measures ordered by this decision.**

Thus, according to decision No. 03D-568-22, the contract was awarded to VIZOL-STUDIO LLC on September 12, 2022.



Denumire	SOCIETATEA CU RĂSPUNDERE LIMITATĂ VIZOL-STUDIO			
Forma organizatorico-juridică	Societate cu răspundere limitată	Statutul	✓ Activă	
Data înregistrării	01-02-2001	Lista conducătorilor	ZAHARIA IGOR.	
Adresa	UTA Găgăuzia, Comrat, str. Muraviov str-cla. 3		Lista fondatorilor	ZAHARIA IGOR (100.0%)
Cod fiscal/IDNO	1005611000031			

WINNING COMPANY PROFILE

According to [IDNO.md](https://idno.md) data, VIZOL-STUDIO LLC was founded by Igor Zaharia and has its legal address in Comrat.

The company was registered in 2001 and has a wide range of activities such as advertising services, retail trade in clothing, textiles, footwear, leather goods, and construction-related activities.

According to tender.gov.md, the company in 2022 has registered seven procurement contracts with a total value of about 10 million lei (~\$533,948). Of these seven contracts, five were performed in the Cahul District, and three of which were with the City Hall of the municipality of Cahul.

Source: www.ziuadeazi.md