

## Tax & Legal Weekly Alert

13 - 17 June 2016

### In this issue:

#### **The Methodological Norms for the application of the new laws on public procurement and on procurement in the water, energy, transport and postal services sectors (sectorial procurement) were enacted**

The Methodological Norms establish the details for the application of the legal provisions on the award of public procurement and sectorial procurement contracts, regulated by the new procurement laws enacted on 26 May 2016: Law no. 98/2016 on public procurement and Law no. 99/2016 on sectorial procurement.



## The Methodological Norms for application of the new laws on the award of public procurement and sectorial procurement agreements were enacted

The Methodological Norms, which are part of the new legal framework on public procurement and sectorial procurement, were published in the Official Gazette no. 422 and 423 on 6 June 2016, being approved through:

- Government Decision no. 394/2016 for the approval of the Methodological *norms of application of the legal provisions regarding the attribution of the sectorial agreement/ framework agreement of Law no. 99/2016 on sectorial agreement*;
- Government Decision no. 395/2016 for the approval of the Methodological *norms of application of the legal provisions regarding the attribution of the public procurement agreements/ framework agreement of Law no. 98/2016 on public procurement*.

Through the approval of the Methodological Norms, the laws on public procurement and sectorial procurement become fully applicable, as the norms establish the necessary details regarding the organization and performance of the awarding procedures, as well as for the performance of the contracts.

### Briefly, the Methodological Norms:

- Provide details on the organisation and performance of the procedures applicable for the award of public procurement and sectorial procurement agreements, including the simplified procedures, completing thus the legal provisions of the main laws;
- Provide details for the application of the awarding criteria, establishing clearly the differences between “*the lowest price*” and “*the lowest cost*”, “*the best quality-price ratio*” and “*the best quality-cost ratio*” criteria;
- Offer information on the modality of performing the preliminary market consultations, prior to the start of an awarding procedure;
- Complete the framework laws by providing supplementary information on the verification and evaluation process, as well as on the candidates’ qualification and selection criteria;
- Present the notification procedure of the regulatory authority, EU Commission or Competition Council, in particular cases in which the contracting entity has an exclusive or special right or when the activity is directly exposed to competition on a market that does not have restricted access;
- Establish the subcontracting conditions within the agreements/ framework agreements.

The legal framework on public procurement and concession of works and services shall be fully completed by the approval of the Methodological Norms of application of *Law no. 101/2016 on the concession of works and services*, which shall be adopted by the Government in the near future.

**For further questions regarding the aspects mentioned in this alert, please contact us.**

**Georgiana Singurel**  
Associate Partner  
+40 21 207 52 86  
[gsingurel@reff-associates.ro](mailto:gsingurel@reff-associates.ro)

**Alexandru Lascu**  
Senior Associate  
+40 21 207 52 46  
[alascu@reff-associates.ro](mailto:alascu@reff-associates.ro)

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, any of its member firms or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/ro/about](http://www.deloitte.com/ro/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region approximately 225,000 professionals, all committed to making an impact that matters.

Reff & Associates SCA is a law firm member of Bucharest Bar, independent in accordance with the Bar rules and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.