

**SELECTIVE PROCUREMENT OR HOW THE DIRECTORATE FOR CAPITAL
CONSTRUCTIONS OF THE CHISINAU TOWN HALL RESTRICTING THE ACCESS OF
THE CIVIL SOCIETY TO MEETINGS OF THE PUBLIC PROCUREMENT WORKING
GROUP**

The procurement system is a weak sport of the entire governance system. This system can only function in accordance with the integrity standards or against them. For this reason, for better governing on the public authorities of any level, it is strongly recommended that these authorities practice openness, transparency, and inclusion, providing civil society with opportunities to watch over the use public money. The legislation of the Republic of Moldova assigns an important role to civil society organizations' participation in the monitoring, observation, and supervision of the public procurement process. The only trouble is that we find a great gap between what is written the law and the manner in which these provisions are observed. And we are talking once again about the negative record of the Chisinau City Hall.

We are hereby informing the public opinion that on 14 August 2019 we have contacted the Capital Constructions Department of Chisinau City Hall, the Public Procurement Section, to request information on the application for participation in the Working Group for the Public Procurement no. 17 / 02.700 (<http://etender.gov.md/proceduricard?pid=21113469>). We mention that we have selected this procedure in an absolutely random manner and that the question we have addressed to the Head of the Public Procurement Section of the above-mentioned department was limited to where the application must be submitted with all the attached documents, which were already all completed according to the legal provisions. A representative of the Public Procurement Section responded kindly told us that we should forward the request together with the other documents by email.

This is what we did. The IDIS representatives sent to the Public Procurement Section of the Capital Constructions Department of the Chisinau City Hall the standard application, together with all the documents stipulated in the legislation (point 6 of the Regulation on the Work of the Working Group, adopted by the Government Decision no. 667 of 27.05.2016). Respectively, to request we have attached the following documents: a legal mandate confirming the quality of delegate of IDIS Viitorul and the relevant information from the State Register of Non-Commercial Organizations. There followed a long period of waiting for a response from the employees of the Public Procurement Department, who contacted us neither by email, nor by phone until Friday, August 18, when there were only 2 working days left until the opening of the bids scheduled for the August 22.

Attempts by IDIS representatives to find out information on the fate of the request submitted to the Public Procurement Section or to reach out to any officer in that Department have failed, so we could not get any details on our request neither on Friday, nor Monday, nor on any other day when we could have been secured by our legal participation in the opening of the bids submitted for the auction. Surprisingly, our requests addressed via to e-mail was only answered one day after the opening of the bids, ie on August 23, when we were informed that

"On August 17, 2017, IDIS Viitorul was sent via the postal service the letter no. 04-07/696, on the proper preparation of the necessary documents to be submitted in order to include your representative in the working group"

It follows that the public authority asks us to send a request by e-mail, then the response to that request should be sent by registered letter (!) received only on August 30 (!). But the paradoxes of the Chisinau City Hall bureaucracy are not just about the slowness and opacity of its procedure. In addition to receiving a reply more than a week after the opening of the bids, the Public Procurement Section announces that it

"does not consider it possible to include in the working group an IDIS "Viitorul" representative because the filed documents are not properly drafted and the requirements stipulated in p. 5 of GD no.

667 are not fulfilled, respectively the legal requirements are not observed. For this, it is necessary to present the original and the authenticated copy accordingly to all documents."

From a legal standpoint, the answer of the municipal directorates of Capital Construction is an aberration. First of all, we are talking about provisions that do not exist in the above- mentioned Government Decision! Paragraph 5 of GD no. 667 referred to by the Authority provides that *"the contracting authority shall include representatives of civil society in the working group if a written application has been submitted two days before the deadline for the submission of tenders, but these representatives cannot account for more than a third of the group's total. The representatives of the civil society included in the working group shall have the right to vote or the right to separate opinion, which shall be expressed in the deliberations of the respective group."*

In the refusal to accept us as observatories of the procurement process, the public entity invokes provisions that are not in the law, namely the need to present the original acts as well as legally authenticated copies of them. Given such conditions, there should be no surprise that in the absence of vigilant eyes of civil society, procurement contracts generate problems that the CNA and the Anticorruption Prosecutor's Office deal with for months? Should it be surprising that surveys attest the lowest level of confidence in the application of the law specifically in the Chisinau City Hall !? And do you think City Hall employees do not understand how much are they harming themselves using formal and informal ambiguities to keep the civil society organizations away from the public money management system?

We want to communicate to all responsible authorities that such gestures do not represent standards of local democracy in any European state. A city hall that maintains decision-making positions employees who advocate against decision-making transparency, fraudulently invoking non-existent legal provisions that create artificial barriers to participation against prestigious civil society organizations, cannot be said to represent a "European capital" nor does it deserve the respect of the city's inhabitants.

In order to illustrate the history of this reprehensible act, we attach the answer of the Department for Capital Construction of the Chisinau City Hall. We attach it also to warn the interim mayor of the city, Nistor Grozavu, of the damage to the reputation of the City Hall that this kind of attitude generates. As a popular saying goes, in the house of the one who hanged himself one should speak of the rope! And yet, learning requires repetition. We mention that IDIS Viitorul will continue to monitor public procurement, which we consider to be an extremely vulnerable point in respecting the principles of rule of law and concerning the integrity of local and central government in the Republic of Moldova. For further information on this topic, you can contact us by phone at (022) 22 18 44 or by emailing: diane.ranga@gmail.com.

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