

## procurement - draft laws published in November and December 2016

**Draft law for amending Law no. 98/2016 on public procurement** has been filed in the Senate on 8 November 2016 and covers the introduction of new articles in Law no. 98/2016.

The draft law envisages provisions of Law no. 98/2016 on public procurement regarding the fact that the contracting authority requires the bidder to state in the bid the contract sections which they intend to subcontract and the identification data of proposed subcontractors and can also make direct payments, corresponding to the sections of the contract fulfilled by subcontractors proposed in the bid, if they request, for services, products or works supplied to the contractor.

In order to protect suppliers and subcontractors who do not express this option upon contracting, the draft law intends to introduce the fact that upon handing over the work, the contractor is required to provide proof of payment to subcontractors and suppliers, and if the contractor does not fulfill this obligation, the contracting authority will have to pay directly to subcontractors and suppliers, whether or not they requested direct payment.

Also, the draft law emphasizes that the need to protect suppliers and subcontractors extends also in the context of termination of the contract from the contractor's fault. Therefore, it proposes the introduction of a provision according to which, under termination of the contract for fault of the contractor, the contracting authority must carry out payment for work performed by a subcontractor, directly to them, and delivery of products to settle within the maximum amount stipulated in the contract, directly to suppliers.

For additional details on this material, please do not hesitate to contact us.

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