



public procurement - legal changes published in November 2022

Emergency Government Ordinance no. 136/2022 on the amendment of certain normative acts was published in the Official Gazette, Part 1, no. 975 of October 6, 2022, in force from the same date.

By G.E.O no. 136/2022 Article 154 para. (4) of Law no. 98/2016 on public procurement and Article 164 para. (4) of Law no. 99/2016 on sectoral procurement, concerning the tender guarantee and the performance bond are amended.

Hence, the new provisions limit the right of economic operators to provide a tender guarantee or, where appropriate, a performance bond, by means of letters of guarantee issued by non-banking financial institutions in Romania or in another country, **only to procedures for the acquisition of works whose estimated value is less than or equal to Lei 40,000,000, excluding VAT and to procedures for the acquisition of products or services whose estimated value is less than or equal to Lei 7,000,000, excluding VAT**, compared to the previous regulation which did not impose a material limit on the procedures for the acquisition of works, products or services, as the case may be, in cases where the guarantees were provided by letters of guarantee issued by non-banking financial institutions in Romania or another State.

The new provisions relating to the tender guarantee and to the performance bond shall apply to award procedures initiated after the date of entry into force of this Emergency Ordinance, **"initiated award procedure"** meaning any procedure for which a contract notice, a concession notice, a simplified contract notice or, as the case may be, an invitation to tender has been issued prior to the date of entry into force of G.E.O no. 136/2022.