

PUBLIC  
LAW

## NOVELTIES CONCERNING PUBLIC PROCUREMENT

Decree-Law no. 72-A/2010, of June 18th, setting forth provisions regarding the carrying out of the 2010 budget bill, introduced two novelties concerning public procurement.

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*During the financial year of  
2010 new public procurement  
rules are applicable.*

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On the one hand, this Decree-Law created the possibility to incur certain public expenses, during the financial year of 2010, by resorting to negotiated procedures or direct awards, consulting at least three entities, within the EC thresholds. Among these expenses are:

- Certain expenses incurred with the purchase and leasing of IT, communication and video conference goods and services, by the Interior Ministry and the Ministry of Justice;
- Expenses incurred with the purchase of goods and services, including those of IT, carried out under agreements within the framework of cooperation policy, outside of the said agreements' signatory States but for their benefit;
- Expenses incurred with the purchase or lease, under any regime, the installation or set up of IT goods and services, intended for the management of the State Treasury and the financial control of the general government, the improvement, development or adaptation of the information systems for support of the tax authorities and which involve confidential data or which are intended to assure the fight against fraud and tax evasion and the collection and control of tax revenues.
- Expenses incurred with the purchase of goods and services incurred by the Institute for Mobility and Land Transport (*Instituto da Mobilidade e dos Transportes Terrestres, I. P.*) aimed at the implementation of the electronic plate device.

On the other hand, this Decree-Law enlarged the scope of application of the urgent public tender procedure. The Public Procurement Code (PPC) allows the urgent

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*Possibility to incur certain public expenses by resorting to negotiated procedures or direct awards.*

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public tender procedure for cases of urgency in entering into a contract for the lease or purchase of services which are of frequent use to the contracting authorities, provided that the value of the contract is lower than € 193,000.00 or, should the contracting authority be the State, lower than € 125,000.00, and, in any case, provided that the awarding criteria is that of the lowest price.

In this respect, the novelty brought by this Decree-Law lies in the possibility of also resorting to the said procedure for the entering into contracts for works, provided the following requirements are fulfilled:

- The project must be co-financed by Community funds
- The value of contract must be lower than € 4,845,000.00;
- The criterion for award must be that of the lowest price.

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*Scope of application of the urgent public tender procedure is enlarged.*

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In this regard, notice should be taken that articles 88 to 91 of the PPC, concerning the requirement for a guarantee, apply to the urgent open tender procedure adopted under the aforementioned extension.

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