

GOVERNMENT DECISION
on approving the Regulation of organization and functioning of the
National Council for Solving Complaints.

Issued by the Government of Romania

Published in: The Official Gazette of Romania No. 553 of June 27th, 2006

For the purpose of art. 108 of the republished Romanian Constitution and of art. 291, paragraph (1) of the Government Emergency Ordinance no. 34/2006 regarding the award of the public procurement contracts, public works concession contracts and services concession contracts, approved with amendments and supplements by the Law no. 337/2006,

The **Government of Romania** enacts the present decision:

Sole Article

The Regulation of the organization and functioning of the National Council for Solving Complaints, stipulated in the Annex that is an integral part of the present decision, is hereby approved.

PRIME MINISTER
CALIN POPESCU TARICEANU

Countersigns:

The Head of the Prime Minister Office
Aleodor Marian Frâncu

The President of the
National Authority for Regulating
and Monitoring Public Procurement
Alexandru Cojocaru

p. Minister of European Integration
Adrian Ciocănea
Secretary of State

p. Minister of Public Finances
Doina-Elena Dascălu
Secretary of State

Annex 1

Regulation

of organization and functioning of the National Council for Solving Complaints

Chapter I

General Provisions

Art. 1

- (1) The National Council for Solving Complaints functions as an administrative-jurisdictional body along the National Authority for Regulating and Monitoring Public Procurement, having the following competencies:
 - a) rendering decisions for the complaints submitted during an awarding procedure, before closing the contract;
 - b) pronouncing whether the procedure and operations conducted by the contracting authority in the award of a public procurement contract are legal or not;
 - c) issuing opinions regarding the litigation submitted to the Court, if the Court so requests, in conformity with the provisions of art. 287, paragraph(4) of the Government Emergency Ordinance no. 34/2006 regarding the award of the public procurement contracts, public works concession contracts and services concession contracts;
- (2) The National Council for Solving Complaints has the obligation to defend and to carry out the rights and legitimate interests meant for rendering decisions about, without privileges or discriminations.

Art. 2

- (1) The competencies of the National Council for Solving Complaints are accomplished by obeying the principles of independency and stability in the functions of its members, of transparency and impartiality in rendering decisions as well as the principles of legality, celerity, contradictorily and of the right to being protected, according to law.
- (2) In conducting its activity, the National Council for Solving Complaints establishes relations and cooperates with its corresponding institutions from the EU Member States or with similar international bodies.

Art. 3

The headquarters of the National Council for Solving Complaints are located in Bucharest.

Chapter 2

The organization of the National Council for Solving Complaints

Art 4.

The maximum number of job positions for the National Council for Solving Complaints is 37, out of which 21 job positions are assigned to the members of the Council, denominated counselors for solving public procurement complaints and 16 job positions are assigned for the technical-administrative personnel.

Art. 5

- (1) The organizational structure of the National Council for Solving Complaints is stipulated in annex no. 1.
- (2) Within the organizational structure of the National Council for Solving Complaints, by order of the president, may be organized also other services, offices or bureaus.
- (3) The personnel structure and the number of employees, for each service, office or bureau, are established according to law, by order of the president of the National Council for Solving Complaints.
- (4) The individual attributions of the members and of the technical-administrative personnel are established by job description sheet.

Art. 6

- (1) The management of the National Council for Solving Complaints is ensured by a president elected by secret vote with a simple majority, by the 21 members of the National Council for Solving Complaints.
- (2) The president is elected for a period of 3 years and his mandate may be renewed one more time only.

Art. 7

- (1) In a five days term from their appointment, the members of the National Council for Solving Complaints have the obligation to elect a president out of the counsels for solving public procurement complaints who expressed their will to run for candidacy.
- (2) The applications are submitted in a maximum term of 48 hours from the appointment of the members of the National Council for Solving Complaints, to a commission constituted for this purpose, formed of 3 persons, elected based on the decreasing order of the grades obtained at the admission contest for the National Council for Solving Complaints.
- (3) To the extent that out of the members appointed according to par. (2) one or more of them express the intention to run for president of National Council for Solving Complaints, the commission will include the following classified.
- (4) The voting procedure is organized in a 24 hours term after the period for candidature submission expires.

- (5) The members of the National Council for Solving Complaints may contest the election procedure of the president in a 24 hours term from the validation of the vote. The contestations are solved in a maximum term of 24 hours after the term for submitting the contestations expires, by the commission for the organization of the president election procedure of the National Council for Solving Complaints.
- (6) The election procedure for the president of the National Council for Solving Complaints is recorded in an official report signed by the commission members, and which has the quality of document for the president's election.
- (7) In the event when one of the terms stipulated at par. (1), (2), (4) and (5) ends on a non-working day, it will be accordingly extended.

Art. 8

- (1) The president of the National Council for Solving Complaints may be revoked before his mandate expires at the written and motivated request of the members' majority for non-fulfilling or for defectively fulfilling his attributions according to law.
- (2) After acknowledging the request, the College of the National Council for Solving Complaints urgently convokes its members in the plenum and act, by means of an official report signed by them, on the revoking measure.
- (3) The revoking measure may be contested in a 5 days term from the acknowledgment, to the competent Court.
- (4) The revoking from president function does not lead to the loss of the member of the National Council for Solving Complaints function.
- (5) In the case the president function's vacancy, in a maximum term of 7 days it is disposed the election of a new president.

Art. 9

- (1) Until December 31st, 2006, the National Council for Solving Complaints functions without legal personality and its president represents it in its relations which do not involve patrimonial rapports with the other national or international public institutions or authorities.
- (2) Starting with January 1st, 2007, the National Council for Solving Complaints acquires legal personality and its president engages its patrimony in relations with third parties by his signature, having the quality of tertiary credit ordinator.
- (3) In the situation when the president of the National Council for Solving Complaints cannot fulfill his attributions during a period of time larger than 3 days, he has the obligation to delegate by order his attribution to one of the National Council for Solving Complaints members.

Art. 10

- (1) For the purpose of an efficient activity organization, the President of the National Council for Solving Complaints has the following managerial attributions:
- a) after obtaining legal personality, he approves the Regulation for organization and functioning of the National Council for Solving Complaints;
 - b) takes measures for organizing and well functioning of the National Council for Solving Complaints;
 - c) forwards to the prime minister, after obtaining legal personality, the proposals of appointing the members of the National Council for Solving Complaints for the candidates declared accepted at the contest for filling in the vacant job positions of solving complaints counselor’;
 - d) ensures and verifies the compliance of the members of the National Council for Solving Complaints as well as of the technical-administrative personnel with the legal provisions and with the regulations;
 - e) ensures and is responsible with the aleatory allocation of the complaints to the solving complaints counselors;
 - f) assigns the members of the National Council for Solving Complaints that are to fulfill also other attributions than the ones of solving complaints, according to law;
 - g) is responsible for the organization of continuous professional training activity;
 - h) convokes the National Council for Solving Complaints or informs the disciplinary Commission whenever the case;
 - i) appoints the technical-administrative personnel, approves delegation, detachment, disposes promotions and applies sanctions for this category of personnel according to law;
 - j) takes measures so that the National Council for Solving Complaints personnel complies with all the rights and obligations established by the legal provisions in force and by the internal regulations;
 - k) is responsible with the way the archive is organized;
 - l) appoints the counselor on duty, establishing his place, his attributions and the schedule of his activities;
 - m) presents and sustains in front of the Parliament the annual activity report which he transmits for information purpose to the Prime Minister’s Chancellery
 - n) coordinates the redacting and editing activity of the National Council for Solving Complaints Official Bulletin
 - o) ensures the development of a database containing the litigations on which the National Council for Solving Complaints was noticed so that these can be solved

- p) collaborates with the National Authority for Regulating and Monitoring Public Procurement for the purpose of promoting some public procurement optimal policies
- (2) When exercising his attributions, the president of the National Council for Solving Complaints enacts orders.
 - (3) Fulfilling the managerial attributions mentioned at par. (1) does not lead to diminishing the tasks which result from being a member of the National Council for Solving Complaints.

Art. 11

- (1) The National Council for Solving Complaints College has 3 members which are elected by vote with a simple majority by all the Council members from among the counselors for solving public procurement complaints which have expressed their intention to run for such a position.
- (2) The election procedure of the National Council for Solving Complaints College is conducted in compliance with the procedure for president of the National Council for Solving Complaints election, stipulated at art. 7.
- (3) The National Council for Solving Complaints College is elected for a period of 2 years, the number of mandates not being limited.
- (4) At the National Council for Solving Complaints College meetings, other institutions' representatives may participate, which are established by Government Decision, according to the conditions stipulated at art. 263, par. (3) of the Emergency Ordinance no. 34/2006.

Art. 12

- (1) The members of the National Council for Solving Complaints College may be revoked before their mandate expires by written and motivated request of the majority of the members of the National Council for Solving Complaints, according to the conditions stipulated at art.8.
- (2) In case of vacancy of the function of National Council for Solving Complaints College member, a new member must be elected within 15 days.

Art. 13

The National Council for Solving Complaints has the following attributions:

- a) ensures the performing of the evaluation of the members of the National Council for Solving Complaints, according to art. 263, par. (2) from the Emergency Ordinance no. 34/2006;
- b) elaborates and proposes for approval to the president, after obtaining legal personality , the Regulation for organization and functioning of the National Council for Solving Complaints;

- c) elaborates and proposes for approval to the National Council for Solving Complaints, reunited in plenum, the ethical Code applicable to its personnel;
- d) analyses the activity conducted by the National Council for Solving Complaints and draws the annual activity report, which it forwards to the president, in view of its approval by the members reunited in plenum;
- e) proposes to the president measures for supplementing or reducing the job positions;
- f) formulates points of view for the public procurement normative acts projects, at the request of the National Authority for Regulating and Monitoring Public Procurement;
- g) proposes to the president the structure of the solving complaints panels at the beginning of each calendar year, trying as far as possible to ensure their continuity;
- h) proposes to the president changing the members of the solving complaints panels, in the cases when, according to law, such a thing is imposed;
- i) solves the requests of the members of the National Council for Solving Complaints and submits them for approval to the president;
- j) approves the budget project of the National Council for Solving Complaints

Art. 14

The technical administrative personnel of the National Council for Solving Complaints functions within the following departments:

- a) Registry, archive and library service
- b) Economical-administrative service which includes also the Information and public relation office

Art. 15

The Registry, archive and library service has the following attributions:

- a) draws up and fills in the general register of files, the alphabetical list, the solving complaints meetings book and any other special registers;
- b) receives and records the documents of informing the National Council for Solving Complaints, the files from other courts, as well as the rest of the correspondence;
- c) keeps the record of the notification documents as well as of their circulation within the National Council for Solving Complaints;
- d) archives the solved files;
- e) draws up the summons and all the others procedure documents disposed by the members of the National Council for Solving Complaints
- f) fills in the bordereau and submits the correspondence regarding the solving complaints activity to be sent;
- g) types the decisions of the solving complaints panels or any other work allocated by the president of the National Council for Solving Complaints
- h) communicates the decisions of the solving complaints panels in the term stipulated by law;

- i) ensures keeping in good conditions the files and registers;
- j) forwards to the appeal court the files in which a complaint was formulated;
- k) keeps a record of the legislation, jurisprudence and doctrine;
- l) keeps the record of the library and administrates it;
- m) periodically informs the economical-administrative service on the necessary books and other publications;
- n) periodically informs the members of the National Council for Solving Complaints regarding the normative acts in the field, published in the Official Gazette of Romania, Part I;
- o) ensures the access of the parties to the files that are in the process of being solved;

Art. 16

- (1) The Economical-Administrative Service has the following attributions:
- a) is responsible with the supply of the materials necessary for the National Council for Solving Complaints in order to conduct its activity;
 - b) ensures, after obtaining legal personality , the administration of the material and money resources of the National Council for Solving Complaints;
 - c) verifies how the rules regarding the public access inside the National Council for Solving Complaints are obeyed;
 - d) draws up the administrative correspondence of the National Council for Solving Complaints
 - e) fulfills the measures for ensuring the protection of the National Council for Solving Complaints headquarters, the protection of the goods, the protection against fires and labor protection;
 - f) keeps in touch with the National Authority for Regulating and Monitoring Public Procurement, in view of ensuring the logistic support by the here mentioned;
 - g) fulfills any other administrative duty disposed by the president of the National Council for Solving Complaints;
 - h) ensures the substantiation and the elaboration of the National Council for Solving Complaints budget project, the budget project for 2007 is forwarded to the National Authority for Regulating and Monitoring Public Procurement to be included in the budget project of the Chancellery of the Prime Minister, in a distinct way;
 - i) draws up, after obtaining legal personality , the financial-accounting and operative reports according to law;
 - j) recommends the manner of spending the available funds;
 - k) analyses the petitions recorded and makes suggestions to the president of the National Council for Solving Complaints for solving them
 - l) makes notes in the petition register, recording the requests and the answers regarding the access to public information;

- m) organizes the professional training and perfecting activity for the members of the National Council for Solving Complaints and for the technical-administrative personnel;
 - n) organizes, after obtaining legal personality , the legal procedures on recruitment, employment, appointment, promotion, transfer, detachment, delegation, or removal from function of the members of the National Council for Solving Complaints and of the technical-administrative personnel;
 - o) substantiates and draws up the decisions for establishing the salary rights of the members of the National Council for Solving Complaints and of the technical-administrative personnel, and submits them for approval to the president;
 - p) coordinates the activity of supplementing, updating and recording of the job position records within the National Council for Solving Complaints;
 - q) coordinates the activity of supplementing, updating and recording of the wealth and interests statements for the members of the National Council for Solving Complaints, according to law;
 - r) builds up and administrates the professional files of the members of the National Council for Solving Complaints;
- (2) The information and public relations office within the Economic-administrative service has the following attributions:
- a) ensures the fulfillment of the obligation to supply public information regarding the solving complaints activity, by displaying them in visible places at the headquarters of the National Council for Solving Complaints or by publishing them on the website of the National Council for Solving Complaints;
 - b) identifies the news in the mass-media which have an impact on the activity of the National Council for Solving Complaints, verifies their trueness and ensures the correct information of the public opinion;
 - c) draws up press communicates and participates to press conferences supplying public information and in view of a correct and complete information;
 - d) supports the members of the National Council for Solving Complaints in exercising their right of reply;
 - e) ensures the relations of the National Council for Solving Complaints with the mass-media in view of guaranteeing the transparency of the conducted activity, according to law;
 - f) organizes and administrates the webpage of the National Council for Solving Complaints;
 - g) draws up the National Council for Solving Complaints Official Bulletin;
 - h) any other attribution established to be the duty of the management office of the National Council for Solving Complaints;

Art. 17

The management of the organizational structures of the National Council for Solving Complaints is ensured, by case, by the directors of services, bureaus or offices who organize, coordinate, guide and are responsible with the activity of the department they lead.

Chapter 3

The statute of the members of the National Council for Solving Complaints

Art. 18

- (1) The members of the National Council for Solving Complaints are appointed for their function by the prime minister's decision, based on they passing the contest organized in compliance with the provisions of Law no. 188/1999 regarding the statute of the public servants, republished, with the subsequent amendments and supplements, as well as with the provisions of the Government Decision no. 1.209/2003 regarding the organization and the development of the public servants' career, with the subsequent amendments.
- (2) Until obtaining legal personality, the contest is organized by the National Authority for Regulating and Monitoring Public Procurement. After obtaining legal personality, the contest is organized by the National Council for Solving Complaints.

Art. 19

- (1) The persons who fulfill the general conditions stipulated by Law 188/1999, republished, with the subsequent amendments and supplements as well as the specific conditions stipulated by art. 261, par. (2) of the Emergency Ordinance no. 34/2006, may participate to the contest for the public function of counselor for solving public procurement complaints.
- (2) The experience in the public procurement field may be demonstrated by presenting some documents out of which it may result performing the following activities:
 - a) regularly organizing certain public procurement procedures;
 - b) regularly drawing up certain documentations for elaborating and presenting the offer;
 - c) regularly participating to evaluation of tender, as a member of the evaluation committee;
 - d) solving certain complaints regarding the awarding procedures of certain public procurement complaints;
- (3) When applying the provisions of par. (2), the conclusive documents are considered, without limiting to these, the job record out of which it results the public procurement/competition attributions, the orders of appointment in the evaluating or the solving complaints commissions, the diplomas obtained following graduation of some public procurement/competition courses.

Art. 20

- (1) The members of the contest commission, as well as the ones of the solving complaints commission must fulfill the same conditions as the ones stipulated for the application of the candidates to the contest.
- (2) The number of the members of each commission is 5, one of each is appointed president.

Art. 21

- (1) The admission contest consists of two stages, a written test, with a theoretical and practical character and an oral test which is an interview.
- (2) The contest theme is established from the legislation which applies in the public procurement field and its related fields.
- (3) At least 5 alternative subjects are elaborated for the written test.
- (4) The practical part of the written test consists in solving o complaint.
- (5) The interview aims to determine the motivation, the communication abilities, the skills and the professional experience of the candidates, the questions and the answers of the candidates being recorded in the interview sheet, which is signed at the end of the interview by the members of the evaluation commission, the candidate and the secretary of the contest commission.
- (6) The weight of the contest stages is the following: 80% the written test, out of which 50% is represented by the theoretical part and 30% by the practical part, and 20% the oral test.

Art. 22

In order to be admitted for the interview, the candidates must obtain at the written test at least 70 points.

Art. 23

The members of the National Council for Solving Complaints have the following duties:

- a) to solve within the deadline the assigned complaints, making proof of impartiality and objectivity;
- b) to ensure through the activity they conduct the compliance with the law in force, as well as the independency of the National Council for Solving Complaints;
- c) to inform the president of the National Council for Solving Complaints and the other authorized institutions on any encroachment in the solving complaints activity by certain natural or legal persons or on a group of interests which may affect their independence or impartiality or which may create suspicions regarding these;
- d) to participate at the solving complaints meetings and to respect the secret of the deliberations;

- e) to continuously perfect their professional skills, according to their specialization requirements;
- f) make proof of professional competency, calm, politeness and impartiality towards the persons they officially enter in contact with;
- g) to ensure the security and the confidentiality of the files in the period during which these are submitted to be solved;
- h) to fulfill, within their competency limits, other attributions than the ones concerning the solving complaints activity, which are established by the president of the National Council for Solving Complaints;
- i) to comply with the norms of the deontological code of the public servants by Law 188/1999, republished, with the subsequent amendments and supplements, as well as the decisions of the National Council for Solving Complaints College and of the Disciplinary Commission.

Art. 24

- (1) The members of the National Council for Solving Complaints have the obligation to abstain from any activity related to solving a complaint, in the cases when a conflict of interests is suspected to have occurred, as it is defined by art. 264, par. (3) of the Emergency Ordinance no. 34/2006.
- (2) The teaching, scientific research or literary-artistic creation activities may be conducted only outside the working schedule.

Art. 25

The members of the National Council for Solving Complaints annually benefit of a paid leave, as well as of other leaves, according to Law 188/1999, republished, with the subsequent amendments and supplements.

Art. 26

- (1) The members of the National Council for Solving Complaints have the obligation to solve the complaints with celerity before any other obligation.
- (2) The panel for solving a complaint is independent, the rendered decisions being based on a strict application of and compliance with the law in force.
- (3) The panel for solving a complaint may be held responsible for the rendered decision, in the following cases:
 - a) does not take into consideration the relevant documents attached to the case file;
 - b) bad faith or favoring solving of the complaint are proven;
 - c) misinterprets according to the relevant legal provisions attached to the case file.
- (4) The acknowledgement of the existence of one of the situations stipulated at par. (3) is made by the Disciplinary Commission and, as the case may be, by other authorized bodies according to law.

Art. 27

- (1) The members of the National Council for Solving Complaints have the obligation of a continuous professional training.
- (2) The continuous professional training must take into account the dynamics of the legislative process and mainly consists of gaining additional knowledge on public procurement and related fields laws, on the jurisprudence of the Courts and of the jurisprudence of the European Commission Court in the field.
- (3) The responsibility of the continuous professional training is of the president of the National Council for Solving Complaints, as the leader of the institution, as well as of each member, by individual training.

Art. 28

- (1) The members of the National Council for Solving Complaints and the technical-administrative personnel have the obligation to annually participate at continuous professional training programs organized by specialized professional training institutions within the country or from abroad, at least 15 days a year.
- (2) In addition to the professional training activities, within the National Council for Solving Complaints, activities consisting in debates and consultancies regarding the rendered decisions are organized on a monthly basis, in view of a unitary applicability of the law.

Art. 29

- (1) For the purpose of verifying the professional competency and performance criteria, the members of the National Council for Solving Complaints are submitted to an evaluation regarding the activity efficiency and quality, the integrity, the graduation of some specialization and continuous professional training courses and, by case, regarding the manner of fulfilling the managerial attributions.
- (2) The evaluation stipulated at par. (1) is made in compliance with the Regulation for verifying the fulfillment of the professional competency and performance criteria of the members of the National Council for Solving Complaints stipulated in annex 2.

Art. 30

- (1) The disciplinary infringements and the sanctions applicable to the members of the National Council for Solving Complaints are the ones stipulated by art. 188/1999, republished, with the subsequent amendments and supplements.
- (2) The acknowledgement of the disciplinary infringements of the members of the National Council for Solving Complaints is made in compliance with the provisions of Government Decision no. 1.210/2003 regarding the organization and functioning of

the disciplinary commissions and of the parity commissions within the public authorities and institutions.

- (3) The members of the Disciplinary commission cannot be members of the National Council for Solving Complaints College.

Art. 31

- (1) The members of the National Council for Solving Complaints may be suspended from their function according to the provisions of Law 188/1999, republished, with the subsequent amendments and supplements.
- (2) Ceasing the working rapport of the members of the National Council for Solving Complaints takes place according to the provisions of Law 188/1999, republished, with the subsequent amendments and supplements.

Chapter 4

The statute of the technical-administrative personnel of the National Council for Solving Complaints

Art. 32

- (1) The technical-administrative personnel of the National Council for Solving Complaints is constituted of personnel hired based on an individual contract of employment, in compliance with the provisions of the law in force.
- (2) The employment, the modification or the cease of the working rapport of the technical-administrative personnel is made by order of the National Council for Solving Complaints president, according to law.
- (3) The specific rights and obligations of the technical-administrative personnel are established by the individual contract of employment, according to law.

Art. 33

Any person who fulfills the following conditions may fill in a contractual job position within the National Council for Solving Complaints:

- a) has full capacity of exercise and is at least 18 years old;
- b) has background studies corresponding to the job position;
- c) fulfills the work experience requirements established for filling the job position;
- d) has a health condition corresponding the respective job position, attested through a medical certificate;
- e) does not have penal antecedents;
- f) has past the employment contest;

Art. 34

The contractual personnel within the National Council for Solving Complaints is annually submitted to a verification regarding the fulfillment of the professional competency and performance criteria established by the job record, according to law.

Art. 35

- (1) The technical-administrative personnel disciplinary answers for the breach of the work duties.
- (2) The following may be considered as disciplinary breaches:
 - a) non-complying with the professional secret or with the confidentiality of the works which have such a characteristic;
 - b) actions which harm professional probity and dignity;
 - c) systematically delaying the works processing;
 - d) non-motivated absences from the workplace;
 - e) non-obeying the working schedule;
 - f) the refusal to fulfill the work duties;
 - g) conducting during the working schedule other activities than professional ones;

Art. 36

Until obtaining legal personality, the contest for technical-administrative personnel employment is organized by the National Authority for Regulating and Monitoring Public Procurement, according to the Regulation on the organization of the contest for appointing the technical-administrative personnel of the National Council for Solving Complaints, stipulated in annex 3. After obtaining legal personality, the contest shall be organized by the National Council for Solving Complaints.

Chapter 4

The manner of drawing up the recordings of the activity conducted by the National Council for Solving Complaints

Art. 37

In compliance with its object of activity, the National Council for Solving Complaints draws up and keeps the following registers:

- a) The general complaints register: in this register are recorded, in order of their entrance, all the received complaints, with the columns established for this purpose. All the requests subsequently submitted or the correspondence related to the file shall be registered under the same name;
- b) The informative register: in this register shall be mentioned, for each recorded file in numerical order, the file outgoing date from the archive and the person to whom it was submitted, the file re-incoming date into the archive, the number,

- the decision date and the solution in brief, the date of sending the file to the competent court, and the file comeback date, its connecting or its attachment;
- c) The register of the archive's terms: in this register are recorded all the solved files per solving terms, registering also the number and date of their recording;
 - d) The alphabetical list: in this register are mentioned the names, surnames or, by case, the denominations of the parties from the file, including the ones previously recorded in the solving procedure, as well as the file number;
 - e) The register of recording the decisions' drawing up: in this register are recorded in a numerical order all the rendered decisions, the file number and the name of the member of the National Council for Solving Complaints who has drawn up the decision;
 - f) The register for recording the remedies at law: in this register are recorded, in the order of the complaint date submission, the denomination of the party which has submitted the complaint, the file number, the declaration date of the remedy at law and the date the file was forwarded to the Constitutional Court;
 - g) The register for recording the courts practices: in this register are recorded all the files arrived at the Appeal Court and the rendered solutions in the remedy at law;
 - h) The incoming-outgoing register of the correspondence.

Art. 38

The recordings in the existing registers within the National Council for Solving Complaints are usually kept in an electronic format.

Art. 39

The electronic recordings are also kept on paper support, by periodically printing the recordings and archiving them in distinct files.

Chapter 6

The relation with the National Authority for Regulating and Monitoring Public Procurement

Art. 40

- (1) The National Authority for Regulating and Monitoring Public Procurement ensures the logistic support for a good conducting of the National Council for Solving Complaints activity.
- (2) The functional relations between the National Authority for Regulating and Monitoring Public Procurement and the National Council for Solving Complaints shall make the object of a protocol signed between the presidents of the two institutions.

Art. 41

Until entering into force of some contrary provisions:

- a) the current and capital expenses of the National Council for Solving Complaints are ensure through the budget of the National Authority for Regulating and Monitoring Public Procurement;
- b) the accounting registers and the human resources recordings for the personnel of the National Council for Solving Complaints shall be performed by the economical-administrative directorate within the National Authority for Regulating and Monitoring Public Procurement

Art. 42

- (1) At the written request of the National Council for Solving Complaints president, the National Authority for Regulating and Monitoring Public Procurement has the obligation to ensure, within the limits of the available funds, the necessary resources for a good conducting of the National Council for Solving Complaints activity.
- (2) The administration responsibility of the resources stipulated at par. (1) is of the president of the National Council for Solving Complaints.

Chapter 7

Final provisions

Art. 43

The National Council for Solving Complaints uses its own auto park of transport means endowed with 2 cars, by supplementing the number of cars at the National Authority for Regulating and Monitoring Public Procurement disposal.

Art. 44

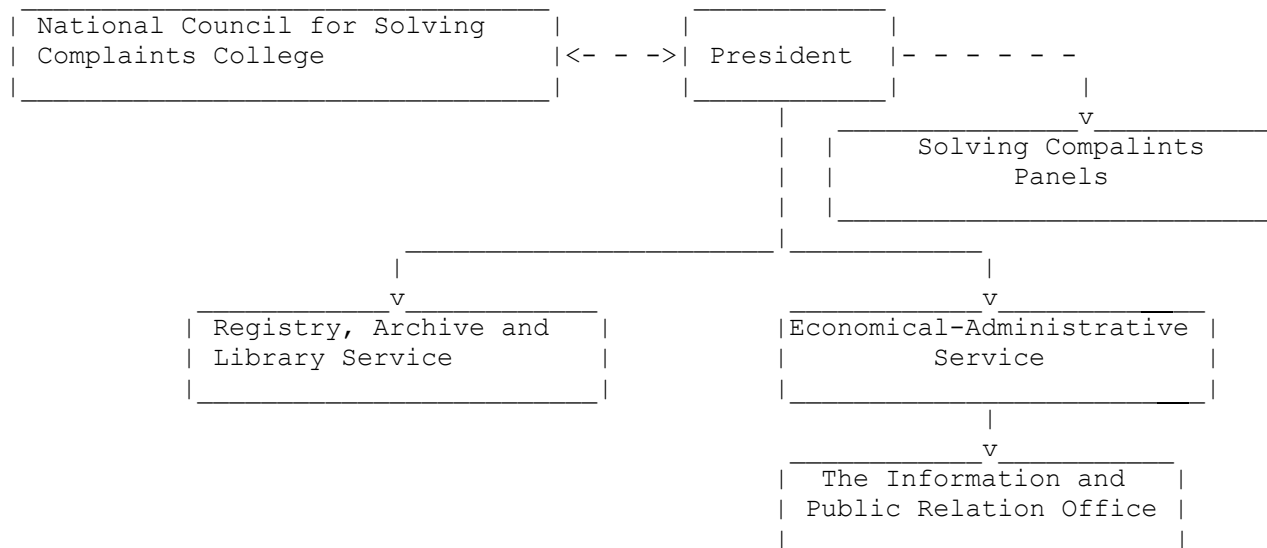
- (1) The National Authority for Regulating and Monitoring Public Procurement shall take the necessary measures for making the National Council for Solving Complaints operational in a 3 days term from the entering into force of the present decision.
- (2) The first admission contest in the National Council for Solving Complaints shall be organized according to the provisions of the Government Emergency Ordinance no. 1/2006 regarding some measures for strengthening the administrative capacity of Romania for entering the European Union.

Art. 45

Annex no. 1-3 are an integral part of the present regulation.

ANNEX 1 To the Regulation

STRUCTURA ORGANIZATORICĂ a Consiliului Național de Soluționare a Contestațiilor



ANNEX 2 To the Regulation

REGULATION

For verifying the fulfillment of the performance and professional competency criteria by the members of the National Council for Solving Complaints

Art. 1

- (1) In order to verify the fulfillment of the performance and professional competency criteria, the members of the National Council for Solving Complaints are annually submitted to an evaluation regarding their efficiency, activity quality, integrity and obligation of continuous professional training and, by case, to an evaluation regarding the manner of fulfilling certain managerial attributions.
- (2) The applicable evaluation criteria are the ones stipulated in the job record, according to the present regulation.

Art. 2

- (1) The evaluation of the members of the National Council for Solving Complaints takes place each year in January and aims the period between 1st of January and 31st of December of the past year.
- (2) By exception, the evaluation of the members of the National Council for Solving Complaints may be performed also during the year, in the situation when the job relations of the person who is evaluated cease, are suspended or are being modified, according to law; in this case, the person in the matter shall be evaluated for all the period until the cease, suspension or modification of its job relation.

Art. 3

- (1) If, during one year, the president of the National Council for Solving Complaints or the members of the National Council for Solving Complaints College renounce or are revoked from their function, their evaluation shall be performed in an exceptional manner, keeping in mind the specific of the activity performed until that time.
- (2) The evaluation stipulated at par (1) is performed within 15 days as from the revoking from function date or from the date when the transfer or resignation request was submitted.

Art 4

The evaluation of the members of the National Council for Solving Complaints is performed as follows:

- a) 3 groups are made up, each formed of 7 members of the National Council for Solving Complaints. Within each of the 3 groups one member of the National Council for Solving Complaints College can be found which also coordinates the group in the matter;
- b) Each of the constituted groups performs the evaluation of a group, so that none of the group shall evaluate itself;
- c) Each member of a group performs an individual evaluation of the members of the other group, according to the evaluation criteria stipulated in the Sheet for establishing the professional performance criteria taken into account for the annual evaluation of the activity of the National Council for Solving Complaints members, annexed to the present regulation;
- d) Each member evaluation is the result of the arithmetical average between the individual evaluation performed by the members of the evaluating group;
- e) In the case of the National Council for Solving Complaints president and of the members of the National Council for Solving Complaints College, the specific criteria stipulated in the Sheet for establishing the professional performance criteria, mentioned at let. c, are also taken into account in the evaluation.

Art. 5

The evaluators have in view during the evaluation procedure to verify the criteria stipulated into the sheet for establishing the professional performance criteria and may use any work performed during the period taken into account, as well as the professional file of the evaluated person.

Art. 6

The evaluation procedure stands in filling in the evaluation report by the evaluators and the evaluated person countersigning the final evaluation report.

Art. 7

In view of filling in the evaluation report, the evaluators:

- a) grade the professional performance criteria according to their importance;
- b) establish the final evaluation mark of the individual professional performance;
- c) record the evaluation's final result into the evaluation sheet and the results of the evaluated person, the objective difficulties the person has encountered during the evaluation period and any other notes they consider necessary.

Art. 8

- (1) For the members of the National Council for Solving Complaints, the criteria mentioned into the sheet for establishing the professional performance criteria have the following weight:
 - a) for the criteria stipulated at pt. 1 of the sheet, their weight in the final mark is 25%; to the extent to which, out of reasons independent of the evaluated person's will, the training or perfecting programs could not be attended during the evaluated period, only the criteria mentioned at pt. 2 of the sheet shall be taken into account;
 - b) for the criteria stipulated at pt. 2 of the sheet, their weight in the final mark is 75% as follows: the objectives mentioned at let. A of the sheet have a weight of 60% out of the weight given to the criteria at pt. 2 and the criteria stipulated at let. B of the sheet have a weight of 40% out of the weight given to the criteria at pt. 2 so that: the criteria stipulated at let. a) weigh 20%, the criteria stipulated at let. b) weigh 15% and the criteria stipulated at let. c) weigh 5%.
- (2) For the president of the National Council for Solving Complaints or for the members of the National Council for Solving Complaints College, the criteria stipulated into the sheet have the following weight:
 - a) for the criteria stipulated at pt. 1 of the sheet, their weight in the final mark is 10%; to the extent to which, out of reasons independent of the evaluated person's will, the training or perfecting programs could not be attended during the evaluated period, the weight stipulated at this point shall be taken into consideration at the weight given for the criteria mentioned at pt. 3 of the sheet;

- b) for the criteria stipulated at pt. 2 of the sheet, their weight in the final mark is 75% as follows: the objectives mentioned at let. A of the sheet have a weight of 60% out of the weight given to the criteria at pt. 2 and the criteria stipulated at let. B of the sheet have a weight of 40% out of the weight given to the criteria at pt. 2 so that: the criteria stipulated at let. a) weigh 20%, the criteria stipulated at let. b) weigh 15% and the criteria stipulated at let. c) weigh 5%;
- c) for the criteria stipulated at pt. 3 of the sheet, their weight shall be 30% out of the final mark.

Art. 9

The report for the professional activity evaluation is drawn up separately, for each of the evaluated persons and by each of the members of the evaluation group.

Art. 10

By the evaluation report of a person's professional activity, drawn up by the evaluators, one of the marks stipulated by Law 188/1999, republished, with its subsequent amendments and supplements, may be given.

Art. 11

- (1) Grading the performance criteria is done by following the following steps:
 - a) each performance criteria is graded from 1 to 5, according to the weight given to each criterion;
 - b) the individual weight is established for each performance criterion so that the total sum of the weights shall be 100%;
 - c) the mark given for fulfilling the performance criteria is obtained by adding the marks given for fulfilling each criterion, taking into account the weight given to each criterion.
- (2) The meaning of the marks stipulated at par. (1) are: mark 1 – minimum level and mark 5 – maximum level.

Art. 14

- (1) The solving complaints counselor who has received at the evaluation the mark “unsatisfactory” shall be removed from his function by decision of the prime-minister, his working relations ceasing according to law.
- (2) The counselor for solving public procurement complaints has received at the evaluation the mark “satisfactory” is compelled to attend the specialized training courses pointed out by the president of the National Council for Solving Complaints.

Art. 15

- (1) The evolution of the evaluated person is recorded into a sheet from his professional file which is drawn up and kept by the Economical-administrative service.
- (2) The data from the professional file are confidential, according to law.
- (3) Each person has access to his own professional file and may be given copies of the documents from the file.

ANNEX 3 to the regulation

REGULATION

On the organization of the contest for appointing the technical-administrative personnel of the National Council for Solving Complaints

Art. 1

- (1) The employment of the technical-administrative personnel of the National Council for Solving Complaints is made base on a contest and on professional competency.
- (2) Any person who fulfills the conditions stipulated at art. 33 of the Regulation for the organization and functioning of the National Council for Solving Complaints may fill in a contractual job position within the National Council for Solving Complaints.

Art. 2

- (1) The date, place and manner of the contest development, the theme, bibliography, number of job positions for the contest and the deadline for submitting the application files are published at least in one national daily paper, at the headquarters of the organizing institution and on the webpage of the institution which organizes the contest.
- (2) Publishing the ad stipulated at par (1) is done at least 15 days before the day of the contest.

Art. 3

- (1) The application files are submitted at the secretariat of the organizing institution with minimum 5 days before the day of the contest.
- (2) For applying for the contest, the candidates shall submit:
 - a) standard request
 - b) copy of the identity card/document
 - c) a legalized copy of the documents that proof the studies performed
 - d) the criminal record
 - e) a curriculum vitae
 - f) a copy of the workbook

Art. 4

- (1) The contest commission and the solving complaints commission are appointed by order of the president of the organizing institution, being formed of 3 members.
- (2) The contest commission is appointed before the publication of the job contest ad and has the following attributions:
 - a) elaborates the contest theme
 - b) verifies the files of the candidates who applied for the contest
 - c) elaborates the contest subjects and the grading system
 - d) grades the papers according to the grading system
 - e) establishes the admitted and the rejected candidates

Art. 5

- (1) The members of the contest commission elaborate at least 3 alternatives of subjects for the written test.
- (2) The time destined to complete the written test is two hours from the moment the subjects are communicated.

Art. 6

- (1) The contest stands into one written/practical stage and an interview, which are graded with grades from 1 to 10 by each member of the evaluation commission. The weight of the two stages in the final grade is equal.
- (2) In order to be declared admitted, the candidates must obtain for each stage at least the 7 grade.
- (3) For equal grades, the evaluation commission shall establish the admitted candidate according to the personal data in the recommendations, level of studies and past professional experience.
- (4) The result of the contest is recorded in an official report signed by all the evaluation commission members and is listed at the headquarters of the contest organizing institution.

Art. 7

- (1) In a 3 days term from the results display, the unhappy candidates may submit a complaint.
- (2) The contestations are analyzed by the solving complaints commission and the answer shall be communicated to the claimant in maximum 5 days.
- (3) The decision of the solving complaints commission may be contested at the competent contentious-administrative institution.
- (4) After the confirmation of the contest results the admitted candidates shall be communicated.

Art. 8

The admitted candidates are compelled to present themselves to be hired in a maximum 15 days term from the communication. In case of non-presentation in due time, the job position shall be declared vacant.

Art. 9

- (1) The hired persons shall make the object of a trial period of 30 calendar days. If at the end of the trial period the hired person has proven itself appropriate, the employment shall be final starting with the day of the trial period start.
- (2) The final statute is given based on the grading of the National Council for Solving Complaints president.
- (3) If, after the expiration of the trial period the hired person does not correspond to the tasks assigned to it, it shall be relocated on a job position corresponding to her professional training or competency or, by case, the contract of employment shall be cancelled, according to law.