



NEWSFLASH

New price adjustment possibilities in public procurement law - short deadlines!

On the 31st of August 2021, the Government Ordinance no. 15/2021 (“**GO**”) was published in Romania. It entered into force three calendar days later.

The GO came as a reaction to the significant price increases for construction materials; it regulates the adjustment of contract prices under public construction contracts.

Scope of Application

The GO allows the adjustment of prices in case of contracts which:

- were concluded prior to the entry into force of Laws 98/2016 and 99/2016;
- were concluded after the entry into force of Laws 98/2016 and 99/2016 (regardless of their duration), provided that they do not contain any price review clauses;
- were concluded in accordance with Emergency Ordinance 114/2011 (regardless of their duration), provided that neither the contracts themselves nor the initial procurement documents contain price review clauses;
- are concluded for a duration of more than 6 months on the basis of procurement documents drafted after the entry into force of the GO;
- are concluded on the basis of assignment documents which were already in place at the time of the entry into force of the GO;
- are already active at the time the GO enters into force (regardless of their duration), provided that the contracts themselves or the initial procurement documents, despite containing price review clauses, stipulate certain deadlines or conditions for these clauses. Double price adjustments shall however be avoided.

The scope of application is subject to further limitations, depending on the project’s source of funding.

Calculation of the Price Adjustment

The adjustment of the contract price occurs through the application of an adjustment coefficient to the costs for construction materials, which were used as a basis for the initial contract price. As this

method takes into consideration not only increases, but also decreases, even a reduction of the contract price is possible.

The adjustment applies exclusively for costs which arise upon the entry into force of the GO and later. The GO contains a detailed description of the calculation method for the price adjustment.

Procedure

The application of the price adjustment introduced by the GO requires a substantiated **request, filed by the contractor** within

15 days as of the entry into force of the GO.

If the request is filed on time, the contractual price adjustment must be agreed upon by the parties within 30 days as of the entry into force of the GO.

For further questions, please do not hesitate to contact us.

Kind regards,

The STALFORT Legal. Tax. Audit. - Team

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro