



NEWS REGARDING THE ORGANISATION AND FUNCTIONING OF THE ROMANIAN COMPETITION COUNCIL

On December 4, 2019, the Order of the President of the Romanian Competition Council no. 985/2019 (“**Order no. 985/2019**”) on the implementation of the regulation regarding the organization and functioning of the Romanian Competition Council (“**RCC**”) was published in the Official Gazette no. 976. Order no. 985/2019 introduces several structural and functional changes within the RCC, which should be born in mind by the practitioners in the field during their future interactions.

1. Amendments regarding the organizational chart

Order no. 985/2019 provides a series of amendments in the organizational chart of the RCC, as follows:

- (i) the establishment of the Department of Analysis and Supervision of the Competition Environment, directly reporting to the General Manager;
- (ii) the Department of Auctions is replaced with the Unit for Auctions (established within the Cartel Division);
- (iii) the Department of Railway Supervision is replaced with the Division of Supervision in the Railway Sector;
- (iv) the Board of Chief - Economist is replaced with the Unit of Chief - Economist;
- (v) the Logistics Division is established along with the Public Procurement Division (both within the Administrative Department);
- (vi) the Division of Supervision in the Railway Sector and the Division of Supervision in the Maritime Sector are established within the Department of Transports’ Supervision, which ensures the necessary technical body for the activity of the Railway Supervision National Council and Maritime Supervision Council.

2. Amendments regarding attributions and duties

2.1. New attributions for the personnel

The President of the RCC handles organizational and personnel issues regarding the Department of Transports' Supervision, in consultation with the President of Railway Supervision National Council and the President of Maritime Supervision Council. The President of the RCC is also entitled to temporarily exercise the mandate of the Railway Supervision National Council's President until the appointment of a new president, as well as when there is an impossibility for the President of the Railway Supervision National Council to exercise his mandate.

Moreover, considering the fact that the Emergency Ordinance no. 57/2019 regarding the Administrative Code repealed Law no. 188/1999 regarding public officials, the President of the RCC exercises at present his disciplinary powers in relation to this law in particular, besides the provisions of the Labor Code.

The General Director approves documents, as well as relevant draft orders of the President of RCC and the draft decisions, which are prepared within and related to the departments and the units coordinated by the same.

In relation to the subordinate staff, the General Director carries out objective activity assessments, according to the performance criteria established for accomplishing the objectives of the coordinated activity branch.

The President's Cabinet encompasses two new attributions, namely the coordination of work groups in view of accomplishing the tasks assigned by the President of the RCC and also participating in meetings/debates, upon request of the President of the RCC and within the limits of the entrusted mandate.

2.2. Amended/new duties for the departments and divisions

Order no. 985/2019 provides amendments as well as new duties for a number of departments and divisions within the RCC, as follows.

- (i) The Department of Consumer Goods, the Department of Services and the Department of Industry and Energy collaborate with the Division of Plenary Assistance with regard to the draft orders' draw up and the draft decisions of the RCC issued in the handled cases.
- (ii) The Department of Analysis and Supervision of the Competition Environment is taking over several duties from the Department of Consumer Goods, the Department of Services and the Department of Industry and Energy, amongst which: developing knowledge of the market, in order to detect conducts which might be prone to limit or deter the companies from entering the national market or

to limit/deter the Romanian companies from entering the European market, analyzing and identifying the barriers which are prone to distort competition and trigger the above-mentioned effects, carrying out investigations regarding a particular economic area or a type of agreement between sectors, communication of the RCC's decisions for subsequent enforcement and monitoring their effective implementation, analyzing the complaints filed according to the article 41 of Law no. 21/1996 regarding competition and the notices regarding alleged anti-competitive practices, in order to draft proposals for identifying barriers for entering the market; investigating the potential restrictions according to the article 8 of the Law no. 21/1996 regarding competition.

- (iii) Besides the general duties of the Cartel Division (within which it is established), the Unit of Auctions (former Department of Auctions) has also the following specific duties: analyzing the requests of the contracting authorities issued according to the article 167, paragraph (6) of Law no. 98/2016 regarding public procurement, in order to draft appropriate proposals and drafting proposals for issuing approvals and opinions for draft legal acts, draft public policy documents regarding the public procurement sector, which may impact competition, along with the possibility of amending the same.
- (iv) The Division of Institutional Development (established within the Department of Research) has the several new duties, namely: preparing a strategy for the institutional development of the RCC, co-ordination of the activities of defining the working processes and the management of know-how, collaborating with the directors of the departments, divisions and boards of the RCC, in order to define the human resources management processes, and the planning of the same, recruitment and selection, professional integration, professional education and career development.
- (v) The duties of the Department of Transports' Supervision, such as the implementation of the general strategy established by the RCC, the Railway Supervision National Council, the Maritime Supervision Council, the supervision of the achievement of all the objectives established in the annual action plan and the follow-up of task accomplishment of the subordinated divisions.
- (vi) The duties of the Department of Supervision in the Railway Sector, which include: implementation of the strategy established by the Railway Supervision National Council, the activity in the railway sector, carrying out market studies, reports, notices and analyses in the sector, communication of the Railway Supervision National Council's decisions for subsequent enforcement, as well as of the records of offences and applied sanctions, with subsequent follow up regarding the implementation.

- (vii) The Department of Plenary Assistance has a new function, namely collaborating with the Department of Consumer Goods, Department of Services, Department of Industry and Energy, Cartel Division in order to prepare draft orders and decisions of the RCC.

While the majority of the amendments have entered into force on their publication date (December 4, 2019), several provisions (including the ones referring to the amended organizational chart, the duties of the Department of Analysis and Supervision of the Competition Environment) have entered into force on January 1, 2020.



Magda Grigore

Senior Associate

magda.grigore@mprpartners.com



Andreea Bădiceanu

Associate

andreea.badiceanu@mprpartners.com