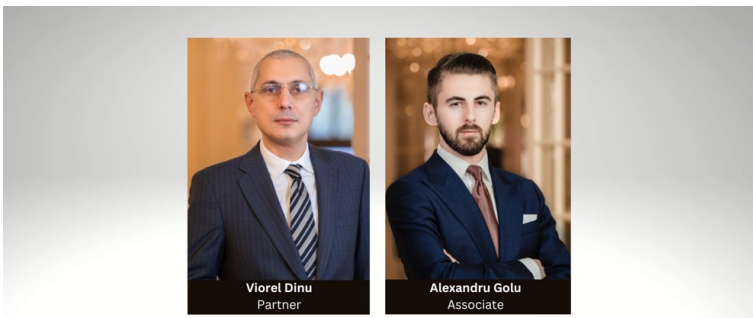


BONDOC ȘI ASOCIAȚII obtains an important clarification from the High Court of Cassation and Justice regarding the jurisdiction to settle disputes in connection with the conclusion by private beneficiaries who are not under the obligation to apply public procurement procedures of contracts financed from funds allocated to the National Recovery and Resilience Program – NRRP



On 10 December 2024, the High Court of Cassation and Justice held that **BONDOC & ASOCIAȚII** is the administrative disputes court that has jurisdiction for solving a dispute over the annulment of a decision issued by a private company, further to the performance of a specific procedure for the award of a contract for the supply of products financed with external funds allocated under the NRRP.

Pursuant to this decision, the High Court has clarified the issue regarding the jurisdiction of the courts for disputes arising from procurement procedures for the award of contracts financed with NRRP funds, procedures based on the regulatory provisions of GEO no. 124/2021 on the establishment of the institutional and financial framework for the management of European funds allocated to Romania through the Recovery and Resilience Mechanism, but which do not contain express provisions on the jurisdiction of the courts for disputes arising from the award of contracts so financed or disputes arising from contracts concluded under this legal regime by private beneficiaries who are not bound by the obligation to apply the legal public procurement provisions.

As part of the conflict of jurisdiction, an issue was raised about whether the acts and operations carried out by private beneficiaries according to mandatory and regulated procedures (Methodological Guide issued by the Ministry of European Investments and Projects and subsequently, Order No. 372/2024 of the same Ministry) are to be challenged in civil courts for disputes with professionals or in administrative disputes courts.

In support of the second opinion, held by the High Court of Cassation and Justice, several legal bases were invoked concerning the regulated nature of the procurement procedures for the award of contracts for the supply of products, provision of services, execution of works financed from external funds allocated under NRRP, the mandatory application by private beneficiaries of the principles of public procurement legislation in these procedures, the obvious public interest in the manner in which public funds allocated under the NRRP are used, the administrative nature of agreements financed from NRRP funds.

"The decision of the High Court is particularly important for all categories of entities involved in the use of funds allocated under the NRRP, establishing the jurisdiction of the administrative disputes courts for disputes arising from the use of such funds, even if the parties are private beneficiaries of the funding that do not apply Law no. 98/2016 or Law 99/2016, as the case may be, but other procurement procedures but which are still carried out under a public law regime" - said **Dinu Nicolae Viorel**, coordinating Partner of the litigation practice of Bondoc și Asociații.

The team that handled this case on behalf of Bondoc și Asociații was composed of attorney at law **Dinu Nicolae**

Viorel, Partner and attorney at law **Alexandru Golu**, Associate in the Litigation department.