COUNTRY REPORT
ROMANIA
LEGAL ASSISTANCE ON THE APPLICATION OF PUBLIC PROCUREMENT RULES IN THE WASTE SECTOR
This report is elaborated as part of the study performed in connection to Specific Contract SC01/15 under the Framework Service Contract MARKT/2013/130/C3/SE/FC. The report contains an assessment of the study question in relation to Romania.
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Executive Summary

Municipal solid waste generated in Romania amounted to 5 million tonnes in 2013, out of which, 4.3 million tonnes was treated in a formal management system. This accounts for 85% of municipal waste generated in Romania. The other 15% was not captured in the formal waste management system due to a lower coverage of municipal solid waste collection in rural areas (national average coverage of approximately 79% in 2013). The conventional method of treating waste, i.e. landfilling, remains highly predominant in the waste management system (69% in 2013).

Waste management services are regulated by a set of primary and secondary laws including the Law no. 101/2006 on sanitation of localities, as republished, as well as the Law no. 51/2006 on public utilities services. The main responsibility for waste management services rests, at national level, with the National Regulatory Authority for Municipal Services and, at regional and local level, with administrative territorial units (in particular county councils and departments within mayor’s offices).

Two main modalities of management of the waste sector are present in Romania: (a) direct management (by the public bodies); (b) delegated management (by economic operators through concession contracts or contracts awarded through procurement procedures). According to the data collected, the latter mode of management, i.e. delegated management is predominant.

Over the past 4 years, a trend towards services being managed increasingly by private companies could be identified. At the same time, while waste management services appear to be provided in a high proportion by private operators, in terms of ownership, there has been an increase over the period 2010-2012 of entirely publicly-owned companies. This could be an indication that the public sector is increasingly organising the public provision of services in separate legal entities which are controlled by the public sector. In addition, another trend that has caught momentum in the past few years is the organisation of waste services by way of horizontal cooperation through Inter-Community Associations (IDAs), which entails the aggregation of the provision of services for a larger number of communities/population.

There is no clear evidence for changes in fees for or cost of municipal solid waste services following the change in ownership structure of providers but there is some evidence indicating a decrease in fees of municipal solid waste services following the aggregation of provision of services through IDAs. Evidence for repercussions on the infrastructure due to re-municipalisation has not been identified. In general, investments in the past 5 years have been made to upgrade the infrastructure in line with the EU requirements and the investments have relied heavily on EU Funds (amounting to approximately 1,311 million EUR), in particular from the Sectoral Operational Programme. The investments were focused on all phases of the waste management

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chain, including building of sorting and transfer stations, transport and collection investments, and investments in the upgrading or building of landfills.

The Romanian waste market remains fairly local and although instances of provision of services on the Romanian market by non-domestic operators have been identified, the openness of the market remains fairly low. Evidence that the proximity principle might lead to the closure of the market has not been identified. In Romania, access to the tendering process for SGEI (including waste services) is restricted to operators who have acquired the required license ("permit") that allows operators to participate in an unlimited number of award procedures for a time period of maximum 5 years. The permit is a mechanism for quality and pricing control. Stakeholders perceive it as one of the main obstacles for providers to enter the market.

In terms of irregularities and anti-competitive behaviour, national investigations conducted by the authorities have led to the identification of cases of anti-competitive behaviour, in particular related to the length of the contracts concluded by the authorities. In addition to this, public procurement litigation is primarily related to compliance with the special rules for contract award provided by the Local Public Utilities Law no. 51/2006 or to the award criteria and the assessment thereof conducted by the contracting authority. In this regard, several procedures that were concluded through the use of the negotiated procedure without publication of the award of waste services in alleged emergency situations under the law, have been successfully challenged in court and annulled.
1. Main characteristics of the Municipal Waste management sector in Romania

1.1 Organisation of the Municipal Waste Management system in Romania

The following sections present the organisation of the municipal waste management system in Romania.

1.1.1 The production and treatment of waste in Romania

In Romania, approximately 260 million tonnes of waste was produced in 2013, which includes municipal, industrial and hazardous waste. The total amount of waste produced at national level fluctuated considerably over time, decreasing below 200 million tonnes of waste in 2008 in connection to the economic crisis. Municipal solid waste (MSW) accounts for only approximately 2% (i.e. 5 million tonnes) of the total waste amounts generated in Romania. The largest share of waste is generated through mining and quarrying, which in 2012 accounted for 223 million tons (i.e. approximately 85% of the total waste generated in Romania).

From 2005 to 2013, the overall amount of municipal solid waste has decreased by a factor of almost 38%, as illustrated in Figure 1. In 2013, Romania generated approximately 254 kg of waste per capita which is substantively lower than the amounts of waste produced before the economic crisis in 2008 (over 300 kg per capita in 2005). Recent studies also appear to indicate that a "decoupling" of economic growth from production of waste can be noted, in particular after the economic crisis in 2008.

Set in the European context, Romania is amongst the EU Member States with the lowest amounts of municipal solid waste generated per inhabitant.

Eurostat data on municipal solid waste generated and treated indicate that waste generation has not been matched by an equal amount of waste being treated over time. In fact, since 2005 to 2009, on average, 22% of the municipal solid waste generated has not been treated. This figure has decreased in the period 2010-2013, during which time, on average, only 13% of waste generated has not been treated.

The waste treatment methods utilised at national level are, generally, not consistent with the waste management hierarchy stipulated in Article 3 and 4 of the Waste Framework Directive, as most of the municipal solid waste generated at national level continues to be landfilled. As can be observed from Figure 1, although the proportion of landfilled waste has decreased over time, landfilling still remains the most utilised method for treatment of waste. Eurostat data suggests that landfilling has declined from 80% to 69% in the period 2010 to 2013, being substituted by other forms of

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treatment, including composting and digestion, material recycling and, to a lesser extent, incineration (including energy recovery).

Figure 1: Municipal solid waste from 2005-2013 (absolute values,‘000 tonnes)

Source: Eurostat, Waste statistics

Since 2010, recycling has also caught a slow momentum in Romania, and a 10% increase in the recycling rate was registered between from 2009 to 2010 (i.e. from 1.1% to 12.8%). The recycling rate has continued to increase until 2012 (up to 14.8%), but subsequently it has experienced a decline to 13.2% in 2013.9

Figure 2: Treatment of municipal solid waste from 2005-2013 (%)

Source: Eurostat, Waste statistics

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The lower formal treatment rate of municipal solid waste generated, as explained above, could be related to the fact that the degree of national coverage of population with waste services remains still relatively low, in particular when compared with other EU Member States. As can be seen from Figure 3, the degree of national coverage of population with waste services was at 79% in 2013, having increased by 30% since 2003. In addition to this, the national reports from the official environmental bodies indicate that much of the waste is disposed of "informally" (e.g. through unauthorised landfills)\(^1\).

**Figure 3: Degree of national coverage of waste services from 2003-2013 (in percentage)**

![Figure 3](image)

Source: INSS Romania\(^1\)

Coverage of population with waste services also varies from urban to rural areas, with urban areas being much better connected to the system of provision of waste services than rural ones. A recent report published by the National Regulatory Authority for Municipal Services (A.N.R.S.C) shows intensification over time of the involvement of the public authorities efforts to provide waste services to population in rural areas. According to the report, the rate of coverage of rural areas with waste management services has increased from 62.1% in 2011 to 81% in 2014 (see also Table 1).

**Table 1: Coverage waste services urban and rural areas, 2014**\(^1\)

<table>
<thead>
<tr>
<th>Services of public interest provided and organised at the level of UATs</th>
<th>Number of municipalities where waste services are organised and provided</th>
<th>Proportion in the Administrative Territorial Units (UATs) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste services</td>
<td>Urban</td>
<td>Rural</td>
</tr>
<tr>
<td></td>
<td>320</td>
<td>2.321</td>
</tr>
</tbody>
</table>

*According to statistical data, the number of municipalities and cities in Romania in 2014 was of 320, and the number of UATs in rural areas is 2.860.

\(^{10}\)ANPM, Annual Report concerning the environment : [http://apmmss.anpm.ro/raport-de-mediu](http://apmmss.anpm.ro/raport-de-mediu).


\(^{12}\)Note that there are certain discrepancies between the figures on coverage with waste services reported by A.N.R.S.C and the National Institute for Statistics (INSEE).
1.2 National legislation in Municipal Waste Management sector

The following section presents the core national legislation regulating the municipal waste management sector and the key specificities related to the legal provisions.

1.2.1 National legislation and institutional framework

Waste management is based on the general principles and rules stipulated in Law no. 211/2011 on waste management which transposed the Waste Framework Directive. At national level, waste management is coordinated by the Ministry of Environment, Waters and Forestry whilst at local level the Ministry exercises its powers through the territorial subordinated agencies, namely the Agencies for Environmental Protection, coordinated by the National Agency for Environmental Protection. The powers of the Ministry and of the Agencies include mostly regulation and supervision of waste management, as well as registration and collection of information and data.

The Ministry of Environment, Waters and Forestry prepares the Waste Management National Strategy, as well as the Waste Management National Plan and is also primarily involved in the drafting of legislation concerning waste management. Even if other authorities draft pieces of related legislation, the advice of the Ministry has to be obtained prior to the start of the formal approval process. Further to its overall supervision and control powers, the Ministry reports on a yearly basis to the Romanian Government on the status of waste management and its compliance with applicable European and national regulations on waste management. Regional Waste Management Plans are drafted by the Regional Agencies for Environmental Protection, in cooperation with the local authorities of the counties of each region, and further approved by the Ministry. The County Waste Management Plans are drafted by the county local authorities, in cooperation with the County Agencies for Environmental Protection, and approved by the county councils, with the advice of the County Agencies for Environmental Protection.

Environmental permits for waste management activities are issued by the County Agencies for Environmental Protection for all operators providing municipal waste services.

Under the aegis of the national, regional and county waste management plans, at the level of local communities the widest powers and corresponding responsibilities related

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14 The territory of Romania is divided into 41 administrative-territorial units (T.A.U) named counties (corresponding to NUTS-3 level), plus the capital city (Bucharest). Within counties, cities and communes are also administrative-territorial units. Some cities complying with specific urbanism criteria are qualified counties (i.e. "municipi" in RO), whilst a commune may comprise several villages. The law allows the division of cities in administrative sub-divisions, but currently only Bucharest is divided in six sectors. There is no subordination amongst counties, cities and communes; each of them enjoys local autonomy, as a constitutional principle. The counties, the cities (irrespective of their qualification as municipalities) and the communes also enjoy legal personality. Accordingly, only administrative-territorial units, as legal persons, have local budgets. A notable exception are the sectors of the Municipality of Bucharest, each sector having its own local budget, despite the fact that they are only administrative sub-divisions and lack legal personality. The explanation for the legal recognition of the budgets of the sectors, separate from the budget of the Municipality of Bucharest, is that the sectors have their own local authorities, both executive (the mayor) and deliberative (the local council), with the mayor and the local councillors being directly elected for a four-year renewable mandate as for all administrative-territorial units (counties, cities, communes).
15 For the purpose of accessing EU funds and achieving other development and statistical purposes, Romania is divided into 8 development regions, corresponding to NUTS-2 division, not having legal personality or public authorities.
to waste management are entrusted to local public authorities or intercommunity development associations.

The legal framework for the waste services managed by local authorities or intercommunity development associations comprises a special regulation, namely the **Law no. 101/2006 on sanitation of localities**, as republished, as well as the general provisions applicable to services of general interest (SGEI) entrusted to local authorities, i.e. the **Law no. 51/2006 on public utilities services**. Law no. 101/2006 on sanitation of localities encompasses specific provisions applicable to the organisation and performance of local waste management services, whereas more general rules, including rules concerning the contract award procedures for waste management services, are provided by the Law no. 51/2006 on the public utilities services, as republished.

Each municipality may organise itself the waste management service or may cooperate for this purpose with other neighbouring municipalities. Such cooperation takes the form of Inter-community Development Associations (IDAs), organised as non-profit associations, in accordance with the **Law no. 215/2001 on Local Public Administration**, as republished and further amended.

Under the financing guidelines for EU funds directed to landfills, IDAs were created at the county level for the specific purpose of procuring and managing such landfills. All municipalities in a given county became members of such IDAs.

A special place in this institutional design is reserved to the regulatory authority for most SGEI, including waste management services, namely the **National Authority for the Regulation of Public Utility Services (ANRSC)**. According to the powers conferred by Law 51/2006, ANRSC's responsibilities include inter alia developing and approving the framework service regulations and monitoring compliance with the legislation applicable to the services; granting, amending, suspending or revoking licenses and authorisations for service operators; and developing and approving the tender book for the award of delegated management contracts, and also licenses the service operators. The regulator also approves the framework methodology for the determination of tariffs and special taxes that may be collected for waste management services and issues prior advices on the compliance thereto of tariffs or special taxes proposed by operators (more information on the role of ANRSC is provided in section 1.3.1 of this report). Based on the **Waste Services Framework Regulation** issued by ANRSC, each municipality has to adopt its own Waste Services Regulation, stipulating the rights and obligations of service operators of any kind, including prevailing levels of service. The Municipal Waste Service Regulations cannot include

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18 If several municipalities incorporate an IDA for the exclusive purpose of ensuring the waste management service to its members, it will act on the basis of the mandate granted by each member municipality. Such mandate shall be granted in detail for general categories of decisions but a special mandate shall be needed prior to each major decision, such as award or amendment of delegated management contracts.
21 Ibid.
terms that establish a more relaxed regime as compared to that set out in the Framework Waste Service Regulation.

Municipalities have two options for organising waste services, as stipulated in Law no. 51/2006 on Local Public Utilities: (a) direct management of such services, whereby they are provided by internal departments of the municipality, or by (b) delegated management, when the services are entrusted to licensed operators by means of contracts for delegated management of waste services. The direct management of waste services may be entrusted to units without legal personality organised within the municipality or to institutional units with legal personality subordinated to the municipality, none of them having an economic nature or being organised in the form of a commercial company. By exception, regies autonomes controlled by municipalities are allowed by law to continue to operate waste services through direct management as long as they are involved in investment projects financed from EU funds or from loans, up to the end of such projects. For direct management of services no contract is put in place, as the entity is entrusted with the operation of the service by way of administrative act, i.e. decision of the deliberative body (local council). Further to such administrative decision, the service is operated in accordance with the provisions of the prevailing local service regulation approved by the local council. All local operators are subjected to licensing by ANRSC.

Delegated management is entrusted by contract to licensed operators. Currently, Law no. 51/2006 on Local Public Utilities provides that such contracts may be either concession or public-private partnership (PPP) contracts (as further explained in section 1.5). Both concession contracts and PPP contracts encompass private investments for outsourcing the services by the contracting authority. Further to a draft law amending such provisions, currently under debate in Romanian Parliament, the legal text shall be most probably adapted to the EU relevant regulations (namely Directive 2014/23/EU on concessions), to state that such contracts are either public services contracts or concession contracts (as further explained in section 1.5). Delegated management covers also in-house contracts granted to operators incorporated by municipalities or by IDAs.

Contractual PPPs in Romania (e.g. concession contracts) were generally regulated through EGO no. 34/2006, whereas institutional PPPs, which imply the joint participation of the public and private providers in an entity with a mixed capital (e.g. commercial entity) was fully neglected by the legal basis in the period 2006-2010.

Depending on the option made for organising waste services, the municipalities may either collect special taxes that are further used for paying for the services, or allow the service operator to collect tariffs under service contracts entered with users. The municipality may apply special taxes to inhabitants that choose not to enter service contracts with the operators entrusted with the waste collection service.

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23 This option applies in respect to any SGEI managed by local authorities (water and sewerage, central heating, public transportation, public lighting etc.), according to Law no. 51/2006 of the public utilities services, Article 22(2).
24 Commercial entities whose capital is held by public administration bodies or local authorities carrying out an economic activity of national/local interest.
25 Law no. 51/2006 of the public utilities services, Article 28(3).
26 Law no. 51/2006 of the public utilities services, Article 29(7).
1.2.2 Contract award procedures

Currently, the Law no. 51/2006 on Local Public Utilities provides for a special contract award procedure, distinct from the public procurement procedures foreseen in the Emergency Government Ordinance no. 34/2006 encompassing the general rules transposing the Public Procurement Directives 2004/17/EC and 2004/18/EC. A possible explanation for this situation, that continued to be in place for 9 years, may be the fact that the Law no. 51/2006 on Local Public Utilities was adopted shortly prior to the Emergency Government Ordinance no. 34/2006 transposing the procurement directives, as well as the fact that all delegated management contracts were deemed by this law to be concession contracts. Emergency Government Ordinance no. 34/2006 was repealed by the new laws on public procurement, namely Law no. 98/2016 on public procurement (transposing Directive 2014/24/EU) and Law no. 100/2016 on works and services concessions (transposing Directive 2014/23/EU), but no further amendments were yet made to the award procedures for SGEI provided by Law no. 51/2006 on Local Public Utilities.

Given that the Public Procurement Directive 2004/18/EC was not applicable to service concessions, the Law no. 51/2006 on Local Public Utilities could provide for specific award procedures applicable to concessions of public utility services, provided that certain criteria on concessions were fulfilled under EU law. Moreover, the EGO no. 34/2006 regulated not only the award of works concessions, but also of services concessions. Interpretation of the two above-mentioned laws could allow for an exception for award of contracts by Law no. 51/2006 that was not contrary to the Directive 2004/17/EC. In this regard, the case law of the national review board (i.e. National Council for Solving Complaints) stated that the award procedures regulated by the Law no. 51/2006 on Local Public Utilities are to be supplemented by the general application rules on award of concession contracts comprised in the EGO no. 34/2006. Through an amendment made in 2008, the application of both the Law no. 51/2006 and the EGO no. 34/2006 to the award procedures for the delegated management contract was explicitly provided in Article 14(3) of the Law no. 101/2006 on municipal waste service.

The issue of the legal qualification as concessions of delegated management contracts entered by municipalities in respect of public utility services (including waste services), irrespective of the distribution of the operating risk, has not been raised in the national jurisprudence until now. The legislation transposing the 2014 directives does not address this issue other than by generally stating the criteria of the operating risk for identifying a concession contract. The special award procedure for delegated management contracts provided by Law no. 51/2006 on Local Public Utilities was not yet abrogated. Therefore, this latter law should be amended. A clear delimitation

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27 Emergency Ordinance no. 34/2006 as further amended: http://www.anrmap.ro/ro/web/public/legislatie. Furthermore, as of the date of this report, the legislation transposing the 2014 Concessions, Public Sector and Utilities Directives is under debate in Parliament but has not been adopted yet.


29 The Local Public Utilities Law no. 51/2006 was published in the Official Monitor on March 21, 2006, but entered into force one year later, whilst the EGO no. 34/2006 entered into force on June 30, 2006.

30 At the time of enactment of Law no. 51/2006 on Local Public Utilities (March 2006), public-private partnership contracts were regulated as work concessions under Government ordinance no. 16/2002, whilst public assets and services concessions were covered by Law no. 219/1998. Both GO 16/2002 on public-private partnership contracts and Law no. 219/1998 on concessions were repealed by Emergency Government Ordinance no. 34/2006 on public procurement and concession contracts.
between public services contracts and service concession contracts in case of SGEI could be made by making clear that the type of contract award procedure should be determined by applying the operating risk test to the delegated management contract that is envisaged.

The contract award procedure for delegated management of waste services regulated by the Law no. 51/2006 on Local Public Utilities\(^{32}\), provided that at least three offers are submitted and three bidders are meeting the eligibility criteria. If these two conditions are not met, the contracting authority has to annul the procedure and organise a new tender within 60 days subject to the same conditions (at least three eligible bids). If the contract cannot be awarded further to this second call, a direct negotiated procedure with prior publication may be opened only with the bidders that submitted offers within the first two open tender stages\(^{34}\). The details of the award procedure are regulated by a framework procedure issued by ANRSC and approved by the Government\(^{35}\).

Law no. 51/2006 on Local Public Utilities also regulates\(^{36}\) the direct award of delegated management contracts to in-house companies (i.e. local operators controlled by the awarding municipality or regional operators controlled by the municipalities associated in an IDA).

### 1.3 Supervision and control of public service obligations

In Romania, the adequate supervision and control of the waste management services is ensured by a number of institutions, namely:

- National Regulatory Authority for Municipal Services (A.N.R.S.C);
- National Environmental Guard of Romania (GNM);
- National Environmental Protection Agency (ANMP);
- Ministry of Environment, Waters and Foresters;
- National Agency for Public Procurement (ANAP);
- National Council for Solving Complaints (CNSC);
- Romanian Competition Council.

#### 1.3.1 National Regulatory Authority for Municipal Services (ANRSC)

As presented above, the National Regulatory Authority for Municipal Services (ANRSC) has the oversight and control of the waste management services, including the quality and prices or tariffs of services at national level, together with local

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\(^{31}\) By Law no. 224/2008, Point 14.

\(^{32}\) Law no. 51/2006 on Local Public Utilities, Article 29, paragraphs 8-12.

\(^{33}\) Article 29(8) of Law no. 51/2006 states: „The procedures for the award of delegated management contracts for public utilities are: a) open tender – a procedure whereby any licensed operator has the right to submit a bid; b) direct negotiation – a procedure by which the administrative-territorial units or, as the case may be, the intercommunity development associations having as object of activity public utilities, in the name and on behalf of member administrative-territorial units, are negotiating the contractual terms, including the fee, with one or more licensed operators that are interested.” (unofficial translation – S.G.).

\(^{34}\) Article 29(9) of Law no. 51/2006 states: „The delegator has the obligation to award the delegated management contract by using the open tender procedure. The tender procedure may be finalised only if further to the publication of the award notice at least 3 bids were submitted and at least 3 bidders are complying with the eligibility criteria. If, further to the publication of the notice, there were not submitted at least 3 offers or the eligibility criteria were not met by at least 3 bidders, the delegator is obliged to cancel the procedure and to organise a new tender within maximum 60 days from the date of annulment of the procedure.” Furthermore, paragraph 10 of the same Article 29 states that „the direct negotiation procedure is applied only if after the repeat of the tender according to paragraph (9) it was not possible to decide a winner. Only bidders which submitted bids within the tender procedures organised and conducted according to paragraph (9) are allowed to participate at the direct negotiation procedure.” (unofficial translation – S.G.).

\(^{35}\) Currently, Government Decision no. 717/2008 for the approval of Framework Procedure on the organisation, performance and award of delegated management contracts for local public utilities as well as of the Framework Agreement for the delegated management contracts for local public utilities.
administration authorities or inter-community development associations at local and regional level.

In terms of prices, as per the national legislation, ANRSC develops methodologies of calculation for the establishment, adjustment and modification of prices and tariffs for waste services\textsuperscript{37} and monitors the operators and the local public administration authorities’ implementation of, and compliance with the system of prices and tariffs in force.\textsuperscript{38} Within this framework, local public authorities establish tariffs for the waste management services, taking into consideration aspects such as the operational expenditure, capital expenditure and other resources necessary for the development and modernisation of the waste services. The tariffs are adjusted or modified by local public authorities, on the basis of the accounting forms (i.e. “fiches for substantiation”) made by the operators. These are developed in consonance with the methodology concerning the establishment, adjustment or modification of tariffs developed by ANRSC\textsuperscript{39}. Thus, tariffs are strictly regulated and are not subject to negotiation between operators and users.

In terms of quality, the responsibility at national level to ensure the high quality of waste management services and universal access falls in the remit of responsibilities of ANRSC. In the Framework Regulation for waste services, ANRSC established and elaborated a set of performance indicators to measure performance of the waste management services in terms of quality. The performance indicators established by ANRSC encompass inter alia:

a. the continuity of services from a qualitative and quantitative perspective,
b. coverage of all users within the remit of responsibility of the local authority
c. continuously adapting to the needs of users of services
d. implementation of systems of management of quality, of the environment and of the health and the security at work\textsuperscript{40}.

Within the framework of performance indicators established by ANRSC, the local councils and the IDAs establish and approve the local performance indicators. The performance indicators are stipulated in the local framework regulations developed by the local councils and are embedded in the terms of reference for procurement procedures or in the decision to delegate management of waste services.

According to the national legislation, ANRSC is the institution that supervises and monitors the development of procedures for the delegation of municipal services. A.N.R.S.C verifies the compatibility of the administrative measures taken by the public authorities concerning the organisation of the waste management services. A.N.R.S.C notifies the Competition Council\textsuperscript{41} concerning acts that may infringe the Competition Law.

\textsuperscript{36} Law no. 51/2006 on Local Public Utilities, Article 30.
\textsuperscript{37} Law no. 51/2006 on Local Public Utilities, Article 20 (d).
\textsuperscript{38} Law no. 51/2006 on Local Public Utilities, Article 20 (k).
\textsuperscript{39} Methodological norm for the establishment, adjustment and modification of tariffs for activities specific to waste management services 09.07.2007, in force from 06.08.2007.
\textsuperscript{40} Order no. 82 of 9 March 2015 approving the Framework Regulation of local waste services, Official Gazette no. 195 of 24 March 2015, Article 124.
\textsuperscript{41} According to Article 20 (1), o), p) Law no. 51/2006 of municipal services for public utility, republished.
At regional level, ANRSC has 7 territorial agencies (for each of the main regions) which develop monitoring activities related to the waste services market. The 7 regions are presented in the map below.

**Figure 4: Overview of regions and territorial agencies - Romania**

In fulfilling its obligations, ANRSC also collaborates with the Ministry for Regional Development and Public Administration, the Ministry of the Environment and Climate Change, the Ministry of Transport, the Competition Council and other institutions.

**Licenses for service providers**

According to Law no. 51/2006, SGEI providers\(^{42}\), including operators for the collection, transport and treatment of waste, cannot provide services in Romania unless they are in possession of a license emitted by ANRSC. The license is a technical and judicial document through which the quality of service operator is recognised and which allows the domestic and foreign operators to participate in procurement procedures for the provision of waste services on the Romanian market. All operators (domestic or non-domestic) are subject to licensing and cannot participate in tendering procedures for the provision of services unless they hold the license or an equivalent document granted by a recognised authority from another Member State. The license grants operators the right to participate in an unlimited number of award procedures for delegated contracts for the provision of waste services for a time period of maximum 5 years.\(^{43}\)

In order to obtain a license, each operator needs to comply with certain norms related to the technical and economic and financial capacity of the operator to provide services. In order to obtain a license the operators are also required to pay a fee for the processing of the application.

According to the latest data from 2016, the number of licensed operators in Romania in the field of waste services was 249 (see table below).

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\(^{42}\) This includes water and waste water service providers, energy providers, public lighting, local public transport.

\(^{43}\) Law no. 51/2006 on Local Public Utilities, Article 38.
Table 2: Valid licenses for waste services (as of 08.02.2016)

<table>
<thead>
<tr>
<th>Public service for which a license has been requested</th>
<th>Number of licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration of waste landfills and the installations for the elimination of MW and similar waste</td>
<td>17</td>
</tr>
<tr>
<td>Administration of waste landfills and the installations for the elimination of MW and similar waste + Separate collection and transport of MW and similar waste</td>
<td>2</td>
</tr>
<tr>
<td>Separate collection and transport of MW and similar waste</td>
<td>206</td>
</tr>
<tr>
<td>Collection and transport of MW, including toxic and dangerous waste, except waste under a special regime</td>
<td>24</td>
</tr>
<tr>
<td>Total</td>
<td>249</td>
</tr>
</tbody>
</table>

Source: ANRSC, Valid Licenses as of 08.02.2016

Holding a license is mandatory for all service providers, notwithstanding the type of management (delegated or direct) and it limits the activities that a provider can provide on the market. Thus, the license is an additional mechanism to ensure an adequate quality and price for waste services in Romania. However, depending on how the mechanism is employed in practice, the license can also lead to situations where it will close the market, e.g. against foreign bidders – particularly since the provider has to obtain the license in advance of their participation in a tender (see also chapter 3).

1.3.2 National Environmental Institutions and Agencies

The National Environmental Guard of Romania (GNM) and the National Environmental Protection Agency (ANMP) assume responsibility for ensuring that waste management is performed in conformity with the norms concerning environmental protection. The institutions act under the aegis of the Ministry of Environment, Waters and Foresters.

1.3.3 National Agency for Public Procurement (ANAP)

The National Agency for Public Procurement (ANAP) has responsibility for ensuring that the legislation on procurement is respected by the contacting authorities and operators in the municipal waste sector. ANAP has de jure the following attributions:

- Elaborates policies and legislation in the field of public procurement in conformity with the European legislation and ensures a uniform interpretation of the provisions;
- Provides advice to contracting authorities in the process of award of contracts through public procurement, concession of works and services;
- Monitors the system of procurement in Romania;
- Verifies, on a selective basis, the procedural aspects related to the award procedures which fall under the public procurement law. This entails that ANAP will verify the procurement documentation, including tender specifications, and the conformity of the procurement procedure with the applicable legal provisions;
- Evaluates the conformity of procurement documentation;
- Elaborates and publishes standard documents, guides, manuals for procurement procedures;
According to the interview conducted with a representative of ANAP, the institution verifies award procedures for waste services contracts only if they are awarded on the basis of Emergency Government Ordinance no. 34/200645. In such cases, ex ante and during the procedure evaluation is performed by ANAP, whereas ex post control is ensured by ANRSC.

However, in cases of direct award, the procedures are not verified by ANAP. Such procedures are verified by ANRSC or the Romanian Court of Accounts.

1.3.4 National Council for Solving Complaints (CNSC)

Through its specialized chambers, the Council for Solving Complaints is the competent authority to resolve the complaints lodged within the awarding procedure, before the contract is concluded. In performing its responsibilities, the Council issues Decisions. The Council was established on the basis of the provisions of the Government Emergency Ordinance no. 34 from 19 April 2006, regarding the award of public procurement contracts, public works concession contracts and services concession contracts.

1.3.5 Romanian Competition Council

The Romanian Competition Council ensures the proper functioning of the sector from the point of view of ensuring free competition on the market for waste management services. ANRSC is bound to notify the Competition Council with regard to infringements of competition and transparency.

The afore-mentioned authorities do not have exclusive control over the waste management sector, as their control applies to a number of different sectors.

1.4 Share of public, private or mixed service providers

The following section presents an overview of the organisation of the sector and the share of the sector that is managed by public, private, respectively mixed service providers.

1.4.1 Types of management of waste services

As stipulated in Law no. 51/2006, the management of SGEI is organised either through direct or delegated management. The type of management of SGEI, including waste services, is established through decisions taken by the administrative-territorial units.

Recently, a sectorial investigation of the waste management sector was developed by the Romanian Competition Council46 that assessed the modalities of management of waste services in all administrative subdivisions (“municipiu”47) of Romania. The analysis was performed in 2012 and covered all administrative subdivisions of Romania. The assessment highlighted that the waste management services at the level of

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44 See: http://www.anrsc.ro/activitate/licente-si-autorizatii/.
46 The investigation of the Competition Council is not publically available. Information and findings of the investigation into the waste management sector in Romania have been transmitted by Competition Council representatives during the interview conducted and in written as a follow-up to the interview.
47 “Municipiu” – the English equivalent translation is city and technically the concept is defined in Romanian public administration classifications as a settlement with more than 15,000 inhabitants which are highly urbanised.
administrative subdivisions "municipii" of Romania is done through two main modalities:

- **Direct management** - According to the sectorial investigation at the level of all administrative subdivisions ("municipii"), direct management was utilised only in 10.9% of the analysed cases (see Figure 5). Direct management was done either directly through departments without legal personality of the administrative apparatus of the mayor, or in some cases of the county councils; through public services at local or county level without legal personality, organised in the subordination of the local or county councils; or through public services at local or county level with legal personality, formed or organised through the decision of the authorities of the administrative territorial units. Such legal persons are also public institutions, not companies, subordinated to the local public authorities. Where regies autonomes (economic units, other than companies, completely dependent on public authorities) entrusted with waste services already existed, they are allowed to continue their activity.

- **Delegated management** - According to the analysis performed by the Competition Council, delegated management was utilised in 89.1% of administrative sub-divisions ("municipii") in Romania for various activities that are encompassed by waste management (see Figure 5). In the case of delegated management, the study identified a prevalence of the development of procurement procedures rather than direct award. Direct award was used, as allowed by law under the rules for „in-house” contracting, for contracts entered with operators fully owned by and controlled entirely by the awarding administrative-territorial units or IDAs. At the level of the analysed "municipii", economic operators were awarded concessions through competitive procedures, in particular through open tenders.

The analysis indicates that the economic operators that were awarded contracts through procurement procedures had a share of the market of approximately 53.7%, whereas providers that benefited from direct award of the contract amounted to approximately 46.3% (see Figure 6).

Figure 5: Proportion of delegated and direct management

Source: Competition Council, Sectorial investigation on the waste management market in Romania, data provided in written by representatives of the Romanian Competition Council

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48 The executive authorities, on behalf of the administrative territorial units that they represent, assume and exercise their competences and responsibilities concerning the provision of waste management services.

49 The executive authorities of the administrative territorial units, or in some cases the Inter-community Development Associations (IDAs) award to one or more operators all or a part of the competences and responsibilities of the public authorities concerning the provision of waste management services, on the grounds of a contract for services.

50 Law no. 51/2006 on local public utilities, Article 31.
Estimates are based on: 320 localities in urban areas * 89% = 384 delegated contracts in urban areas

**Figure 6: Proportion of contracts directly awarded and awarded through procurement procedures**

<table>
<thead>
<tr>
<th></th>
<th>Procurement procedures / Direct negotiation</th>
<th>Direct award</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>0%</strong></td>
<td>54%</td>
<td>46%</td>
</tr>
<tr>
<td><strong>10%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>20%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>30%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>40%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>50%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>60%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>70%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>80%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>90%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>100%</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Competition Council, Sectorial investigation on the waste management market in Romania, data provided in written by representatives of the Romanian Competition Council

Estimates are based on: 284 contracts * 54% = 153 contracts attributed after being subject to competition

### 1.4.2 Types of service providers

Solid waste management services in Romania may be carried out by municipalities, private operators, or public private partnerships. Local authorities are legally mandated to organize waste collection and transportation, which can be carried out by a single sanitary company in small towns, or several companies in larger cities. In most rural areas, however, service delivery is mostly inadequate unless near an urban centre.

An analysis performed by the Competition Council indicates a predominant presence of operators with private capital on the market, which some interviewed stakeholders have assessed as constituting a prerequisite for ensuring competition on the market.\(^{51}\)

Data for 2010-2012 suggests that over the past few years, there has been an increase in the number of commercial operators (companies)\(^ {52}\) involved in the sector, from 156 to 185 (2010 to 2012) and a tendency towards a decrease in the management of waste services directly by public authorities (from 80 public services/departments in 2011 to 45 in 2012) (see Figure 7). The figures appear to indicate an increased reliance of public bodies on economic operators to ensure the provision of waste services through delegated management, and reinforce the findings of the investigation conducted by the Competition Council presented in the section above.

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\(^{51}\) Interview with the Romanian Competition Council.

\(^{52}\) The ANRSC Reports do not provide a clear indication of what is counted as “commercial operator”. However, it can be assumed that by commercial operator here it is meant any entity organised under private law notwithstanding the ownership of the entity.
Figure 7: Waste management structure (2010-2012)

Source: A.N.R.S.C (2010-2012), Annual Activity Reports

From the point of view of ownership however, data for the same period indicates an increasing trend in what regards the involvement of the public sector in the provision of waste services. As can be observed from Figure 8, the proportion of operators with public capital is comparatively higher than the one of operators with private capital in 2012. Additionally, an increase in the number and proportion of mixed operators can be observed, as the number of mixed operators has increased from 9 to 13 in 3 years (see Figure 8).

Figure 8: Commercial operators in the waste management system per ownership (2010-2012)

Source: A.N.R.S.C (2010-2012), Annual Activity Reports

The figures above indicate that the public sector is increasingly organising the public provision of services in separate legal entities - organised as private law companies, but fully controlled by the public sector (and thus exempt from tender requirements further to the (expanded) in-house EU case law). This could also (at least partially) explain the very high number of direct awards.

Romania is divided in 7 national development regions and the data per region indicates that there are certain differences in the manner in which the structure of the waste
management systems is split between companies, public services and regies autonomes.

**Figure 9: Number of waste management services providers, per category and per development region (2010-2012)**

![Figure 9: Number of waste management services providers, per category and per development region (2010-2012)](image)

Source: A.N.R.S.C (2010-2012), Annual Activity Reports[^53]
* NDR – National Development Region

Additionally, Figure 10 below delineates the structure of commercial providers per year, type and development region. Variations from one year to another can be observed, with the NDR 7 – Centre and NDR 1 – North East Moldova having the highest number of commercial operators with public capital. An interesting case is NDR 4 – South West Oltenia, where a substantive increase of the number of public operators was registered from 2011, increasing from none to 10 operators.

[^53]: The 7 National Development Regions are: RDN 1 – North East Moldova, RDN 2 – South East, RDN 3 – South Muntenia, RDN 4 – South West Oltenia, RDN 5 – West, RDN 6 – North West, RDN 7 – Centre.
In 2016, according to data provided by A.R.M.D, out of the total number of 41 counties in Romania and the administrative sub-divisions of Bucharest, 7 counties had public provision of services, 27 private, and 13 mixed. However, there are also certain differences in the manner in which the sector is organised. For example, in the case of the county of Bacau (situated in the North-East region) the provision of services is done by private providers, whereas in the localities and communes, services are provided by mixed providers.

**Figure 11: Public, private, mixed provision of services in Romanian counties**

Source: A.R.M.D Interview

*The figures include the 41 counties and the 6 administrative sub-divisions (sectors) of Bucharest

### 1.5 Use of public service contracts and concession service contracts

Prior to the enactment of the new laws transposing the 2014 public procurement Directives, mainly Law no. 98/2016 on public procurement and Law no. 100/2016 on works and services concessions, no legally expressed distinction between delegated management contracts qualified and consequently awarded as public service contracts and those qualified and awarded as concession contracts was in place. The only choice provided by the Local Public Utilities Law no. 51/2006 is between awarding

54 The 7 National Development Regions are: RDN 1 – North East Moldova, RDN 2 – South East, RDN 3 – South Muntenia, RDN 4 – South West Oltenia, RDN 5 – West, RDN 6 – North West, RDN 67 – Centre.

55 Interview with A.R.M.D.

56 Both published in the Official Monitor as of May 23, 2016.

57 Not expressly abrogated although Article 117 (c) of Law no. 100/2016 on works and services concessions is generally stating that all contrary provisions are abrogated.
**delegated management contracts** as **service concession contracts** according to its provisions or as **public-private partnership contracts** according to the Law no. 178/2010 on public-private partnership, as further amended. It has to be noted that this option between concession and public-private partnership, although provided by law, was not operational prior to 2010, when the current PPP Law was enacted, as the PPP law in force upon the enactment of the Local Public Utilities Law was abrogated even before this latter law entered into force, and it is also made redundant by the abrogation of the PPP Law by Law no. 100/2016 on works and services concessions.

This means that in the last 9 years since the entry into force of the Local Public Utilities Law no. 51/2006 all delegated management contracts were awarded mostly as concession contracts, except for those cases when they may have been awarded as institutionalised PPPs, between 2010 and 2016. However, this award as concession contracts, under the specific award procedures regulated by the Local Public Utilities Law no. 51/2006, is the result of a legal contract qualification by default and provides no information as to the actual nature of such contracts, in the absence of any assessment of the operational risk they might involve. Further to the entry into force of Law no. 98/2016 on public procurement and Law no. 100/2016 on works and services concessions, the assessment of the waste service contracts and their further qualification as either public service contract or service concession contract shall trigger the use of the relevant award procedure, thus putting an end to the current ambiguity.

Under the Law no. 101/2006 on Municipal Waste Service, the municipalities have an option between: (i) granting the operator the right to collect tariffs under service contracts entered with users and (ii) collecting special municipal taxes for waste management that will be further used for paying the operator, based on monthly invoices issued by the latter. In any of the cases, the operator may not undertake operating risks, as the contract may provide for compensation by the municipality of all costs. Especially when the operator is not entering service contracts with users but invoices the municipality, which undertakes a general payment obligation, not necessary correlated with the collection of special municipal taxes for waste management, the contract is most likely to be qualified as a public service contract. Moreover, both Article 43(2)(d) of the Local Public utilities Law and Article 25(a) of the Municipal Waste Service Law no. 101/2006 state as a principle for the financing of the expenditure related to the municipal waste management service the full recovery by the service operator of its operating and investment costs. The Municipal Waste Service Law lists the sources for such recovery, namely tariffs, special taxes or subsidies from the local budget.

According to information retrieved from the TED database regarding waste management public procurement, between 2010 and 2015 almost 82% of procedures to award waste management contracts for services were open procedures, as presented in the following table.

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58 The current law on public-private partnership (no. 178/2010, as further amended) regulates only an institutionalised form of PPP. All contractual forms of PPP in the field of public utility services are to be subjected to the Local Public Utilities Law no. 51/2006.

59 Law no. 178/2010 on public-private partnership was repealed by the new law transposing the 2014/23/EU Concessions Directive, i.e. Law no. 100/2016 on works and services concessions.

60 Article 24(1) of the Waste Service Law no. 101/2006.

In addition to open procedures, 16% of the total number of procurement procedures published on TED were awarded as a result of a negotiated procedure without a call for competition, whereas 1 procedure was a result of the negotiated procedure. All negotiated procedures without a call for competition were developed under Article 31 of Directive 2004/18/EC. The justification provided by the contracting authorities in almost all cases was that an "emergency situation intervened as a result of events that could not have been foreseen by the contracting authority". The contract notices published on TED do not provide further explanations concerning the use of the negotiated procedure.

In one case where a negotiated procedure without a call for competition was utilised, the justification provided was that "all the offers received through the open procedure, restricted procedure and through competitive dialogue were found unacceptable. In the negotiated phase, only the offers that were found to have respected the quality criteria were taken into consideration". The contract had a value of approximately 720,000 EUR and involved the concession of a waste landfill for a period of 14 years.

According to information provided by ARMD, in the cases of delegated management of the services, the delegation to the private sector in the 42 Romanian counties and the 6 sectors of the Municipality of Bucharest has been done either through:

- Open procedure – service contract awarded on the basis of a public procurement procedure
- Open procedure – delegation of the management of component activities of the management of waste services, i.e.: (a) separate collection and transport of municipal solid waste and similar waste, (b) collection and transport of waste coming from households, (c) operation and maintenance of the sanitary landfill, (d) operation and maintenance of the sorting station, (e) operation and maintenance of the compost / mechanical-biological treatment plant, (f) management and operation of the transfer stations, etc.
- Direct negotiation of the activities mentioned above in cases where the 2 procedures mentioned above did not yield adequate results (on the basis of the law for public procurement)

According to data provided by ARMD, in cases where the delegation was made to a mix provider, the open procedure was applied, as in the case of private operators. An

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### Table 3: Distribution of procedures by type of procedure in Romania (Jan 2010 – Dec 2015)

<table>
<thead>
<tr>
<th></th>
<th>Services</th>
<th>Works</th>
<th>Supplies</th>
<th>Total</th>
<th>Percentage on the total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open procedure</td>
<td>75</td>
<td>2</td>
<td>-</td>
<td>78</td>
<td>82,1%</td>
</tr>
<tr>
<td>Negotiated without a call for competition</td>
<td>16</td>
<td>-</td>
<td>-</td>
<td>16</td>
<td>16,8%</td>
</tr>
<tr>
<td>Negotiated procedure</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1,1%</td>
</tr>
<tr>
<td>Total</td>
<td>92</td>
<td>2</td>
<td>-</td>
<td>95</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: TED (2015)

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overview of the procedures used for delegating the management of waste services to different types of providers is presented below.

Table 4: Distribution of procedures by type of procedure and type of provider awarded the contract (2016)

<table>
<thead>
<tr>
<th>Procedure type</th>
<th>Private</th>
<th>Public</th>
<th>Mixed</th>
<th>Total</th>
<th>Percentage of the total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open*</td>
<td>21</td>
<td>2</td>
<td>8</td>
<td>31</td>
<td>65 %</td>
</tr>
<tr>
<td>Direct award</td>
<td>5</td>
<td>3</td>
<td>8</td>
<td>17</td>
<td>2 %</td>
</tr>
<tr>
<td>Direct award/ PPP</td>
<td>1</td>
<td></td>
<td>8</td>
<td>0,2</td>
<td>0,2 %</td>
</tr>
<tr>
<td>Open*/ PPP</td>
<td>3</td>
<td></td>
<td>4</td>
<td>0,8</td>
<td>0,8 %</td>
</tr>
<tr>
<td>Open**</td>
<td>3</td>
<td>1</td>
<td></td>
<td>3</td>
<td>0,6 %</td>
</tr>
<tr>
<td>Total</td>
<td>47</td>
<td>10</td>
<td>3</td>
<td>100</td>
<td>100 %</td>
</tr>
</tbody>
</table>

*Open procedure: delegated management through concession of the service

**Open procedure: service contract through public procurement

Source: ARMD, Data as of 16-03-2016

2. Recent development in public and private sector participation in the sector

2.1 Trends regarding privatisations or municipalisation in the municipal solid waste sector

During the 1990s, the municipal waste sector underwent a rapid privatisation process, as a consequence of financial difficulties of waste management authorities to cope with increasing costs and the growing volume of waste to be collected and treated. In this context, delegated management of the sector has caught momentum and continued over time and constitutes nowadays the main management mode of waste services in Romania as presented in the sections above, whereby private companies are awarded contracts or concessions for the management of waste services for a determined period of time.

The data collected and presented in section 1, indicates a trend towards services being managed increasingly by private companies, as presented in Figure 7. At the same time, the proportion of services managed directly by public authorities through their internal departments has been substantively decreasing over the period 2010-2012 by a factor of almost 50%. The proportion of services managed by private companies has increased by 14% over the period 2010-2012.

However, interestingly enough, the data collected from the reports of ANRSC also indicates that while the system appears to be managed in a high proportion by private operators, in terms of ownership, there has been an increase over the period 2010-2012 in companies in which the capital is publically owned. In contrast, the share of commercial operators in which the capital is privately owned has slightly decreased over the period 2010-2012 as can be seen in Figure 8. As presented above, the data collected indicates that the public sector is increasingly organising the public provision of services in separate legal entities - organised as private law companies, but fully controlled by the public sector (and thus exempt from tender requirements further to the (expanded) in-house EU case law).
Another predominant trend that has been registered in Romania in the past few years in the waste management sector is the aggregation of the provision of services under Inter-community Development Associations (IDA). The IDAs are normally composed of several administrative-territorial units and county councils and responsible for setting up and administering integrated systems for the management of waste services. Generally, the IDAs delegate to private providers the delivery of services in the framework of integrated systems through contracts concluded. Overall, a number of 32 integrated systems for the management of waste services have been set up in the different counties of Romania. In some cases (e.g. the Integrated System for Waste Management from Bistrita), the procurement procedures have already been completed and the projects have commenced their implementation, whereas in other cases, the procurement procedures will be developed over the course of 2016 and the implementation of the project will be fully functional in the following years.  

2.2 Results of switch between public and private provision of municipal solid waste services

The following sections present the results of the data collection in connection to the impact of changes in the management of the municipal waste management sector.

2.2.1 Fees/prices towards the consumer

The data collection did not retrieve an overall picture of the trends registered at national level in the fees and prices towards consumers for cases where the sector is managed by the public versus the private actors. However, data at county levels in various parts of Romania could be identified and an analysis is presented in the following.

The sector investigation performed by the Competition Council concerning the waste management sector indicates that the tariffs in the case of direct management (through internal departments\(^{64}\)) were lower than those existent in the case of delegated management (realised through economic operators). According to the investigation performed, in the case of re-municipalisation of services delegated to an in-house provider, contracting authorities tend not to require the fee that in-house operators need to pay, which can lead to a reduction of tariffs paid by consumers.\(^{65}\)

In what concerns the implementation of integrated systems of waste management, the data collected indicates that the implementation of these systems is likely to lead to a tariff reduction. The systems are heavily controlled by public entities but services are provided by either private or public operators. However, the tariff reduction can also be a result of economies of scale and not necessarily a consequence of the management of the system by the public or the private sectors. Interviews conducted and data collected through desk research provide a strong indication that a decrease in prices will be expected as a result of integrated waste management systems. The table below presents the evolution of tariffs over time taking into consideration the implementation of the integrated system of waste management from 2017 in the case of the "Integrated System for Waste Management in Cluj".

\(^{63}\) Interview with representative of the Inter-Community Development Association Eco-Metropolitan Cluj.

\(^{64}\) The departments ("compartimente funcţionale") without juridical personality, organised in the structure of the specialised administrative apparatus of the mayor, or in some cases, of the county councils, the local or county services of interest without juridical personality, organised in the subordination of the local or county councils.
Table 5: Evolution of tariffs over time – Cluj County (Region North-West)

<table>
<thead>
<tr>
<th>Year</th>
<th>Tariff in RON/ton, excluding VAT</th>
<th>Tariff in RON/person/month (population), including VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tarif în lei/t, fără TVA</td>
<td>Tariff for population % of the revenue of a household</td>
</tr>
<tr>
<td>2009</td>
<td>201.61</td>
<td>1.97%</td>
</tr>
<tr>
<td>2010</td>
<td>201.61</td>
<td>1.95%</td>
</tr>
<tr>
<td>2011</td>
<td>201.61</td>
<td>1.93%</td>
</tr>
<tr>
<td>2012</td>
<td>201.61</td>
<td>1.90%</td>
</tr>
<tr>
<td>2013</td>
<td>201.61</td>
<td>1.84%</td>
</tr>
<tr>
<td>2014</td>
<td>205.10</td>
<td>1.80%</td>
</tr>
<tr>
<td>2015</td>
<td>214.55</td>
<td>1.80%</td>
</tr>
<tr>
<td>2016</td>
<td>223.19</td>
<td>1.80%</td>
</tr>
<tr>
<td>2017</td>
<td>232.09</td>
<td>1.80%</td>
</tr>
<tr>
<td>2018</td>
<td>240.51</td>
<td>1.80%</td>
</tr>
<tr>
<td>2019</td>
<td>249.05</td>
<td>1.80%</td>
</tr>
<tr>
<td>2020</td>
<td>258.32</td>
<td>1.80%</td>
</tr>
<tr>
<td>2025</td>
<td>301.94</td>
<td>1.80%</td>
</tr>
<tr>
<td>2030</td>
<td>333.86</td>
<td>1.71%</td>
</tr>
</tbody>
</table>

Source: Interview with the Inter-municipal Development Association, Eco-Metropolitan Cluj

In the case of another county in Romania, Hunedoara (Region Centre), a recent report indicates that the household tariffs for management of municipal waste amount on average to around 1.8% of income in low income households. The average operational costs for integrated municipal waste management systems per county were estimated by the report at approximately 70 EUR/tonne (see Table 6, Figure 12). Of these, approximately 52% are connected to collection services while the rest accounts for sorting, transfer, landfilling and mechanical-biological treatment. The cash flow is as follows, the collecting operator receives the full tariff paid by the households. The operator, thereafter, pays all downstream treatment processes.

Table 6: Management cost per tonne breakdown

<table>
<thead>
<tr>
<th></th>
<th>%</th>
<th>EUR/tonne</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collection</td>
<td>51,92 %</td>
<td>33,6</td>
</tr>
<tr>
<td>Sorting</td>
<td>13,80 %</td>
<td>8,9</td>
</tr>
<tr>
<td>Transfer</td>
<td>4,25 %</td>
<td>2,8</td>
</tr>
<tr>
<td>Deposit</td>
<td>17,72 %</td>
<td>11,5</td>
</tr>
<tr>
<td>Mechanical and biological treatment</td>
<td>12,01 %</td>
<td>7,8</td>
</tr>
<tr>
<td>Monitoring of old landfills</td>
<td>0,30 %</td>
<td>0,2</td>
</tr>
<tr>
<td>Total tariff</td>
<td>100 %</td>
<td>66,0</td>
</tr>
</tbody>
</table>

Source: Hunedoara County Council (2011), Opportunity study for the delegation of operation of the integrated management system for waste in Hunedoara County

65 Interview with the Competition Council.
Additionally, the study forecasted that the implementation of the integrated waste management system will lead to a decrease over time for both rural and urban areas as presented in the figure below.

**Figure 12: Percentage of household income dedicated for waste services**

![Percentage of household income for waste services](image)

Source: Hunedoara County Council (2011), Opportunity study for the delegation of operation of the integrated management system for waste in Hunedoara County

In the case of the Bistrita County, the Inter-municipal Development Association has already implemented the system of integrated management of waste and a concession contract has been concluded with an association of operators to provide waste management services including the collection, transport and treatment/disposal of waste in Bistrita County. Data collected indicates that the delegation of the waste services through a concession contract to the association of operators has led to a decrease in the tariffs charged.  

### 2.2.2 Costs for the contracting authority

The research conducted did not identify any studies that would provide an indication of the effects that changes in the management of the waste sector had on the costs incurred by the contracting authorities.

According to Eurostat data, government expenditure on waste management has experienced a slow increase over time, as shown by Figure 13. However, the data for government expenditure has been collected only since 2011, which does not allow for the identification of any trends over time.

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2.2.3 Repercussions on the infrastructure

The data collection has not retrieved any indication of an impact of different modalities of the management of the waste sector on the infrastructure.

A study conducted on the sector indicates that in 2006, a notice was published in the Official Journal of the European Union concerning a tender for an energy plant from waste facility in the Constanta region. In 2006, the Ministry of Finance also issued two tenders for technical assistance in the procurement process for two waste PPP projects:

- In Argeş County, concerning the closure of landfills in Câmpulung, Mioveni and Topoloveni
- In Bacau County in relation to the closure of existing lawful landfills and 55 unlawful landfills and the construction of a new landfill, construction of a sorting and composting facility for waste collection in the municipality and villages.\(^{67}\)

Currently, several on-going waste management projects are developed for the implementation of an Integrated Waste Management System in various counties in Romania. The main financing source for the projects is the Environment Sectoral Operational Programme. Many of the county integrated systems involve investments in infrastructure, including the closing or rehabilitation of existent landfills, the construction of state-of-the art collection centres, landfills and storage facilities.

2.3 Pattern of investments

The data collection did not retrieve concrete figures on differences between the investment patterns of public and private operators in Romania. However, the interviewed representatives of the regulatory institutions, as well as representatives of the service providers indicated that the integrated systems for waste management are leading to new investments and the revival of the waste services in Romania. One

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\(^{67}\) CMS (2013), Waste Management in Central and Eastern Europe, 2020 Obligations, A sector under severe challenge.
interviewee indicated that in the case of one integrated system for waste management, the contractors will be obliged to invest in collection platforms and equipment, including state-of-the-art equipment (e.g. bins with a chip which transmits information to the IAD on the type and quantity of waste collected).  

According to the interviewed representatives, investments in the sector are generally determined by various factors, which encompass:

- **The regulatory requirements**: new legislation is an essential triggering factor for investments. In this sense, the EU requirements to phase out illegal landfills have led to investments being made in the sanitary landfills and other methods of treatment of waste.
- **The need to increase the quality of the services**: this includes the need to take into consideration the number of waste fractions that are imposed by the European and national legislation on environmental protection;
- **The necessity to provide services at a reasonable tariff/price** for the waste management services consumers.

In recent years, at national level, efforts have been made to create integrated systems of waste management at regional and county level, in parallel with the phasing out of landfills that were not functioning in conformity with legal provisions. Thus, the main investments in the sector were connected to the creation of integrated systems of waste management and with the phasing out, restoring or building of landfills. According to some interviewed stakeholders, the tendency in the past few years is to rely on EU funding mechanisms in order to ensure the investments.

According to a report developed by the World Bank in 2011, the total estimated costs of meeting EU norms for waste management in Romania were of approximately 1.8 billion EUR (estimated by the Government). This meant approximately 25-30 million EUR required per county to bring all landfills into compliance and upgrade waste management operations. However, according to the World Bank report, estimates were incomplete, as additional large investments were envisaged to be required to rehabilitate historically polluted sites.

For the purpose of establishing integrated systems of waste management, investments have been supported by the European funds, in particular Sectoral Operational Programme, Priority Axis 2 "Development of integrated waste management systems and rehabilitation of historically contaminated sites", through which measures for proper collection, sorting, transport, treatment and depositing of waste were financed. A.N.R.S.C is part of the working group formed for the development of projects for framework contracts for delegation of the activities related to the management of the waste sector, financed through the programmes POS-Environment.

Investments in integrated systems of waste management vary across regions as presented in the figures below. In general, the Northern regions and West managed to attract more EU funds to invest in the development of integrated waste management systems.

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68 Interview with representative of the Intercommunity development Association Eco-Metropolitan Cluj.
69 Interview with A.R.M.D, Interview with Inter-community Development Association Eco-Metropolitan Cluj.
70 World Bank (2011), Solid Waste Management in Bulgaria, Croatia, Poland and Romania, A cross-country analysis of sector challenges towards EU harmonization.
In general, investments in the sector are focused on all phases of the waste management chain, including building of sorting and transfer stations, transport and collection investments, and investments in the upgrading or building of landfills.

3. The degree of openness of the market for municipal solid waste services

3.1 Openness of the market towards non-domestic companies

The Romanian market for waste management remains fairly local and the presence of non-domestic companies is limited although there are instances in which non-domestic operators provide waste management services. According to the data collected, the level of transparency of the market has increased in recent years although further efforts should be made to ensure the accessibility of all providers to the market opportunities.

3.1.1 Transparency of the market

Public opportunities below thresholds are generally published on the national governmental procurement portal [www.e-licitatie.ro], being available to both local or national operators, as well as non-domestic operators.\(^{72}\)

According to Government data form 2013, 13.3% of Romania’s GDP\(^{73}\) was advertised via the government procurement portal, however, figures specifically related to waste

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\(^{72}\) Interview with representatives of national procurement institutions.

services were not available. The national procurement database is managed by the National Agency for the Digital Agenda of Romania, whom is operating the Electronic System for Public Procurement (SEAP) [http://www.seap.ro/]. In addition to this, in some cases, although less often the opportunities are published on the EU Tenders Electronic Daily (TED) database of the contracting authority’s website. The interviews conducted with representatives of the public sector and the data collected from TED on the amount of contract notices published indicate a low rate of publication of opportunities on TED. However, this can be due to the fact that many of the contract notices for services of waste management do not exceed the value threshold and are, therefore, not required to be published on TED.

A key issue affecting the transparency of the market is related to the lack of an interface on the public procurement database for the publication of contract award notices for PPP. Additionally, there is no centralised database of projects PPP that have been developed in Romania or that are to be developed through PPPs. Some steps to remedy this situation have been taken since 2013 in view of establishing a centralised database concerning PPPs.

### 3.1.2 Participation of non-domestic operators

Available data indicates that only a few major foreign companies provide waste management services on the Romanian market, i.e. FCC Group (A.S.A. Abfall Service AG - through ASA Servicii Ecologice) (ES), Remondis (DE), Saubermacher (AT)\(^ {74}\), Brantner (AT).

According to the conducted research, the most established foreign companies on the Romanian waste market are FCC (through ASA Servicii Ecologice) and Brantner Romania Holding, although data on their market share could not be identified. Brantner Romania Holding has been operating on the Romanian market since 2004 and has acquired a number of Romanian companies providing waste services in a number of counties and its activities include waste disposal, the processing of recyclables, the production of compost and operating the landfill site in Drobeta Turnu Severin.

Desk research has not retrieved a clear overview of the participation of non-domestic operators on the Romanian market of waste services. However, according to representatives of the industry\(^ {75}\), the level of openness of the market is fair and allows for the participation of non-domestic operators in procurement procedures. This was reinforced by Romanian regulatory institutions that confirmed participation and fair competition on the market for waste services.\(^ {76}\)

According to a recent investigation conducted by the Competition Council, it was reported that contractors were treated equally and non-domestic operators bid for tenders and were even awarded contracts for service provisions.

At national level, data provided by the Romanian Association for Waste Management indicates several instances where contracts were awarded to foreign operators as presented in the table below. For example, data provided at the level of the municipality of Constanta indicates that there are two non-domestic operators that

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\(^{74}\) Hall, David and Nguyen, Anh (2012), Waste Management in Europe: Companies, structure and employment.

\(^{75}\) Interview with ARMD.

\(^{76}\) Interview with Competition Council.
have been awarded concession contacts, as presented below. It should be noted that one of the concession contracts has a long duration period, i.e. 49 years, and is being under revision presently.

**Figure 15: Overview of non-domestic operators in Constanta County**

<table>
<thead>
<tr>
<th>Operator</th>
<th>Country</th>
<th>Delegation mode</th>
<th>Contract type</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>GBI SERVEIS SAU Lloret de Mar</td>
<td>Spain</td>
<td>Public Procurement</td>
<td>Concession Contract</td>
<td>49 years – revised presently</td>
</tr>
<tr>
<td>SC GREENDAYS SRL Baia Mare, in association with SC Greendays Valorizacao Dos Residuos Proteccao Do Ambiente Sa</td>
<td>Portugal</td>
<td>Public Procurement</td>
<td>Concession contract</td>
<td>5 years</td>
</tr>
</tbody>
</table>

Source: Interview with Competition Council

The services provided by the operators encompass collection and transport of municipal waste, sorting of waste, composting of biodegradable fraction, closure of landfills, setting up of a sanitary landfill etc.

### 3.2 Intra-regional openness of the market

#### 3.2.1 Proximity principle in the national legislation

The proximity principle is expressly provided by the Waste Management Law no. 211/2011, transposing the Framework waste Directive. Article 24 of the law refers to both autonomy and proximity principles and states in para. (3) that the treatment and disposal of waste has to take place in the closest adequate installations. Furthermore, Article 25 of the same law states that the local Agencies for Environmental protection and the local public authorities have to consider the principle of proximity when drafting the local strategies for waste management as well as when approving the investment related thereto, in all cases without prejudice to the national waste management strategy and plan.

Such general provisions are not detailed further in the specific legislation applicable to municipal waste management, and neither the Local Public Utilities Law no. 51/2006 nor the Municipal Waste Service Law no. 101/2006 make any reference to this principle.

According to the interviews conducted with representatives of the industry association, the proximity principle is generally not taken into consideration when developing the technical specifications. It was highlighted during the interviews, that this can have negative consequences on the efficiency of waste management. For example, the interviewees provided an example where a contract for the provision of services in a municipality was awarded to an operator that did not have local facilities for waste sorting and landfills. Due to this, the operator transports the waste to the sorting centre in Bucharest, which is located 170 km away from the site of the waste production. The operator transports the waste to the sorting centre in Bucharest despite there being an authorised sorting station in the proximity of the locality. Additionally, non-recoverable waste is transported and landfilled either in Bucharest or in another location, despite there being a sanitary landfill in the locality. This created the situation whereby the sanitary landfill that has been set up in the locality has not
received any waste for more than half a year as the waste has been diverted to other landfills.\textsuperscript{77}

### 3.2.2 Assessment of the degree of openness of the market and obstacles to competition

In 2008, the Romanian Competition Council conducted a sector investigation into the contracts for the delegation of waste management by the municipalities of all six districts of Bucharest. The investigation was aimed at identifying potential distortions of competition rules induced by the district councils through the investigated service delegation contracts, with a focus on the duration of these contracts. Following this investigation, the Competition Council issued in 2009 a decision\textsuperscript{78}, which stated that all six sector municipalities acted in an anti-competitive manner when establishing the duration of the delegated management contracts and identified three types of anti-competitive behaviour. Some municipalities extended the contract with the existing operator after the expiry of the initial contract duration without organizing any tender procedure. According to the National Public Procurement Authority that also investigated the cases, the delegation of the contract had not been done legally as the public procurement legislation required the organisation of new tendering procedures and did not allow for the extension of the expiring contract. Thus, the delegation had been done without following the public procurement legislation. Other municipalities delegated the public service following a tender, but the contract was entered into for 25 years without properly identifying the investment to be performed by the operator.\textsuperscript{79}

In the cases where the contract was extended after the expiry of its initial duration, the Competition Council required municipalities to organize competitive procedures for the award of new service delegation contracts. In such cases, for the initial contracts no competition had taken place due to the lack of any prior competitive public procurement procedure. The role of the Competition Council in restoring the legality was made possible by the fact that the procurement authorities (i.e. the national authority supervising public procurement by both \textit{ex ante} and \textit{ex post} reviews – the National Public Procurement Agency) cannot not intervene in procedures falling outside the scope of the Romanian legislation transposing the procurement directives, i.e. in cases of contracts awarded on the basis of Law No. 51/2006. As explained above, the award procedure for delegated management contracts is regulated separately from the main public procurement regulations (EGO no. 34/2006).

In addition to this, the data collected through the interviews, indicates that one of the main obstacles to the openness of the market is the legal requirement to obtain licenses emitted by ANRSC in order to participate in tender procedures for services constitute. This constitutes a barrier to entering the market in particular affecting non-domestic providers.\textsuperscript{80}

### 3.3 Export and import of Municipal Solid Waste

Romania's exports and exports of waste are relatively low, although a significant increase has been registered over time, as can be seen from the table below.

\begin{itemize}
  \item \textsuperscript{77} Interview with ARMD.
  \item \textsuperscript{79} Yet, in other cases, a procedure was organized for the delegation of the service for 25 years without any specific investment obligation included in the tender documents (but the procedure was not completed and no contract was entered into prior to the publication of the decision of the Competition Council).
  \item \textsuperscript{80} Interviews with ARMD, Competition Council.
\end{itemize}
Table 7: Exports and Imports of waste in Romania

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exports</td>
<td>3.871</td>
<td>2.115</td>
<td>6.970</td>
<td>14.433</td>
</tr>
<tr>
<td>Imports</td>
<td>6.830</td>
<td>28.611</td>
<td>7.572</td>
<td></td>
</tr>
</tbody>
</table>

Source: Eurostat, 2016

4. Cases of irregularities

4.1.1 Legal review procedures regarding the award of delegated management contracts for waste services – Procedural issues

Legal review of the award procedures of delegated management contracts for waste services is particularly controversial as it requires the identification of the applicable legal review procedure as well as of the competent legal review authority. This procedural uncertainty is generated by the incomplete and unclear reference to legal review in both specific regulations applicable to the award of delegated management of waste services, i.e. Local Public Utilities Law no. 51/2006 and Municipal Waste Services Law no. 101/2006.

Further to an amendment added in 2008, the Local Public Utilities Law no. 51/2006 explicitly provides in Article 51(3) that all disputes between municipalities or IDAs and the service operators concerning the award, execution, performance, amendment or termination of delegated management contracts as well as those concerning indemnification claims arising therefrom, are to be submitted to legal review divisions of county tribunals.

Consequently, in case of legal review of waste management contracts there is the possibility to introduce a request for legal review either by following the regular procedures before ordinary courts or by following the special review procedure regulated by EGO no. 34/2006 transposing Directive 2007/66/EC. The special legal review procedure applicable for public procurement procedures (including works and services concessions) is centred on a special review board, having an administrative-jurisdictional nature, the National Council for Solving Complaints (NCSC). Claims against the contract award procedures regulated by the Public Procurement Ordinance may be brought either before NCSC or before courts. The NCSC decisions may be appealed before courts.

The jurisprudence of both NCSC and the courts recognises that the public procurement review shall only apply where no specific derogatory provisions are included in the Municipal Waste Services Law and the Local Public Utilities Law, in this order.

4.1.2 Irregularities concerning award procedures

As a consequence of the relatively competitive market for waste services, direct awards have not generated relevant jurisprudence. Most challenges are directed against competitive procedures and are mainly based on either compliance with the special rules for contract award provided by the Local Public Utilities Law no. 51/2006 or on the qualification criteria and the assessment thereof conducted by the contracting authority.

A special recurrent issue that has been brought before judicial review instances (both the NCSC, where it retained its competence, and judicial review division of courts) refers to the use of the negotiated procedure without publication for the award of waste service contracts in alleged emergency situations. Usually, such situations qualified as “emergency” were related to the expiry of the term of the current/previous delegated
management contracts. The intention of the municipalities when using this procedure was to enter a contract for a limited duration, usually up to the closing of a full open award procedure.

Several of these negotiated procedures were successfully challenged, with both NCSC and the court rejecting the qualification of the situation as being an “emergency” and thus denying the fulfilment of conditions required for the use of such procedure. Consequently, the procedure was annulled. Several decisions refer to the fact that the National Public Procurement Authority has also fined municipalities for the use of this procedure in breach of the Public Procurement Ordinance, such fines being upheld by the courts when judging challenges thereto. In at least one case the court has decided to maintain the contract in force, despite its irregular award, as a measure to ensure protection of public interest.

The interplay between the rules concerning contract award procedures in the Local Public Utilities Law no. 51/2006 and in the Public Procurement Ordinance no. 34/2006 has generated challenges related to the fulfilment of conditions for a valid award procedure.

According to the Local Public Utilities Law, if there are not at least three offers and three compliant bidders, the open procedure has to be annulled and reiterated within 60 days. If the two conditions are not met at this second stage, a negotiated procedure may be followed with the participation of only those bidders that submitted an offer in any of the two prior stages. In several cases, the contracting authorities have disqualified all bidders or almost all (keeping one or two valid offers) in the first stage and moved to the next open procedure. This decision was usually challenged, as the reasons for invalidating offers were deemed to be excessive as compared to the award documentation. Moreover, in these challenges it was pointed out that this approach might affect competition, as especially in high value contracts all players in the market are attending the open tender procedure and thus may gain access in the first stage to the financial offers of their competitors. Both the NCSC (when retaining such cases) and courts have judged such challenges by primarily referring to the two formal conditions required by law for the validity of the procedure, and have validated the award procedures only if the legal conditions were met, i.e. at least three bids were submitted and at least three bidders complied with the eligibility criteria.

In addition to this, as highlighted in section 3.2.2, a sector specific investigation conducted by the Romanian Competition Council concerning the contracts for the delegation of waste management by the municipalities of all six districts in Bucharest identified that all six sector municipalities acted in an anti-competitive manner, giving rise to irregularities concerning the award procedures. The Competition Council issued a decision in 2009 based on the investigation, which indicated that some municipalities extended the contract after the expiry of the initial contract without tender procedures.

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1 SOURCES
MAIN LAWS AND REGULATIONS

This list shows the main legislation covering the sector included in the present study:


LITERATURE AND DOCUMENTS

This list includes literature on the sector and study questions included in the study

ANRSC, Licenses and Authorisations overview, See: http://www.anrsc.ro/activitate/licente-si-autorizatii/ [Available only in Romanian]

ANRSC, Annual Activity Report 2010, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]

ANRSC, Annual Activity Report 2011, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]

ANRSC, Annual Activity Report 2012, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]

ANRSC, Annual Activity Report 2013, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]

ANRSC, Annual Activity Report 2014, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]

ANRSC, Annual Activity Report 2015, See: http://www.anrsc.ro/activitate/raportul-de-activitate/ [Available only in Romanian]


Legal Assistance on the Application of Public Procurement Rules in the Waste Sector


European Commission, Internal Market Scoreboard, See:

Eurostat, Waste statistics [ten00106],
http://ec.europa.eu/eurostat/web/environment/waste/main-tables


Integrated system for management of waste Bistrita, See: http://ecobn.ro/?page_id=18

Methodological norm for the establishment, adjustment and modification of tariffs for activities specific to waste management services 09.07.2007, in force from 06.08.2007

National Statistics Institute, Metadata [04_9]:

Sectoral Operational Programme, POSDRU Environment, See:
http://www.posmediu.ro/axaprioritara2

Vassilis, J.I et al. (2015), Municipal Solid Waste Generation and Economic Growth Analysis for the years 2000-2013 in Romania, Bulgaria, Slovenia and Greece

World Bank (2011), Solid Waste Management in Bulgaria, Croatia, Poland and Romania, A cross-country analysis of sector challenges towards EU harmonization

**INTERVIEWS**

<table>
<thead>
<tr>
<th>Name of organization</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Romanian Association of Waste Management – Romania (ARMD)</td>
<td></td>
</tr>
<tr>
<td>Competition Council – Romania</td>
<td></td>
</tr>
<tr>
<td>Association for inter-community development – Eco-Metropolitan Cluj</td>
<td></td>
</tr>
<tr>
<td>Ministry of the Environment*</td>
<td></td>
</tr>
<tr>
<td>National Environmental Protection Agency – Romania (ANPM)*</td>
<td></td>
</tr>
<tr>
<td>National Agency for Public Procurement</td>
<td></td>
</tr>
<tr>
<td>National Regulatory Authority for Municipal Services</td>
<td></td>
</tr>
<tr>
<td>Service provider (public)</td>
<td></td>
</tr>
</tbody>
</table>

*Also provided written responses*
2 SUPPORTING INFORMATION

The table below presents an overview of all counties, with types and names of operators and procedures used for the award of contracts in the waste sector in Romania. Non-domestic operators are marked in bold.
<table>
<thead>
<tr>
<th>County</th>
<th>Name of the POSDRU Project (if applicable)</th>
<th>Collection Service provider</th>
<th>Landfill / Treatment service provider</th>
<th>Procedure</th>
<th>Type of economic agent</th>
<th>Year of delegation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arad</td>
<td>Integrated system for management of solid waste in Arad county</td>
<td>County Council Arad ● POLARIS/FCC ROMANIA</td>
<td>● ASA SERVICII ECOLOGICE (PPP)</td>
<td>OPEN*/PPP</td>
<td>PRIVATE</td>
<td>2004</td>
</tr>
<tr>
<td>Arges</td>
<td>Integrated system for management of solid waste in Arges county</td>
<td>County Council Argeș ● FINANCIAR URBAN, ● SALUBRIS SA SLATINA ● SALUBRITATE 2000 PITESTI ● KEVIEP ● ECO BIHOR</td>
<td>● GIREXIM UNIVERSAL PITESTI</td>
<td>OPEN*</td>
<td>PRIVATE +PUBLIC</td>
<td>2012</td>
</tr>
<tr>
<td>Bacau</td>
<td>Integrated system for management of solid waste in Bacau county</td>
<td>County Council Bacău ● SOMA (in Bacau municipality), ● ROMPREST (in Bacau county), ● DDD SERV BUHUSI</td>
<td>● Adjudication</td>
<td>OPEN*</td>
<td>PRIVATE (municipality Bacau)+ MIXT (county level)</td>
<td>2005/2016</td>
</tr>
<tr>
<td>Bihor</td>
<td>Integrated system for management of solid waste in Bihor county</td>
<td>County Council Bihor ● RER ORADEA/ECO BIHOR (landfill)</td>
<td>● ECO BIHOR (PPP)</td>
<td>OPEN*/PPP</td>
<td>MIXT/ PRIVATE</td>
<td>2008</td>
</tr>
<tr>
<td>Location</td>
<td>Integrated system for management of solid waste</td>
<td>County Council</td>
<td>Managing Company</td>
<td>Contract Type</td>
<td>Status</td>
<td>Date</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------------------------------</td>
<td>----------------</td>
<td>------------------</td>
<td>--------------</td>
<td>--------</td>
<td>------</td>
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<tr>
<td>Bistrita Nasaud</td>
<td>Integrated system for management of solid waste in Bistrita Nasaud county</td>
<td>County Council Bistriţa-Năsăud</td>
<td>VITALIA SERVICII PENTRU MEDIU</td>
<td>VITALIA TRATArea DESEURILOR</td>
<td>OPEN*</td>
<td>PRIVATE</td>
</tr>
<tr>
<td>Botosani</td>
<td>Integrated system for management of solid waste in Botosani county</td>
<td>County Council Botoşani</td>
<td>URBAN SERV / adjudication</td>
<td>Adjudication</td>
<td>OPEN*</td>
<td>PUBLIC</td>
</tr>
<tr>
<td>Brasov</td>
<td>Integrated system for management of solid waste in Brasov county</td>
<td>County Council Braşov</td>
<td>URBAN, COMPREST, FIN ECO</td>
<td>FIN-ECO(PPP)</td>
<td>OPEN*/PPP</td>
<td>PRIVATE</td>
</tr>
<tr>
<td>Braila</td>
<td>Integrated system for management of solid waste in Brăila county</td>
<td>County Council Brăila</td>
<td>BRAICATA, RER BRAILA, ECO BRAILA</td>
<td>TRACON (PPP)</td>
<td>Delegation contract</td>
<td>PRIVAT + MIXT</td>
</tr>
<tr>
<td>Buzau</td>
<td>Integrated system for management of solid waste in Buzău</td>
<td>County Council Buzău</td>
<td>RER BUZAU</td>
<td>RER BUZAU</td>
<td>OPEN*</td>
<td>MIXT ( PRIMARIE +PRIVAT)</td>
</tr>
<tr>
<td>Cluj</td>
<td>Integrated system for management of solid waste in Cluj</td>
<td>County Council Cluj</td>
<td>ROSAL, BRANTNER (Austria)</td>
<td>RADP landfill CJ</td>
<td>OPEN*</td>
<td>PRIVATE</td>
</tr>
<tr>
<td>County</td>
<td>Integrated system for management of solid waste</td>
<td>County Council</td>
<td>Company</td>
<td>Tender Type</td>
<td>Contractant Type</td>
<td>Year</td>
</tr>
<tr>
<td>----------</td>
<td>--------------------------------------------------</td>
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<td>------------------</td>
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<tr>
<td>Constanta</td>
<td>Integrated system for management of solid waste in Constanța</td>
<td>Constanța</td>
<td>POLARIS, IRIDEX</td>
<td>TRACON (PPP), IRIDEX (PPP), TORTOMAN (POS MEDIU)</td>
<td>OPEN*</td>
<td>PRIVATE</td>
</tr>
<tr>
<td>Covasna</td>
<td>Integrated system for management of solid waste in Covasna</td>
<td>Covasna</td>
<td>TEGA</td>
<td>POS MEDIU</td>
<td>DIRECT AWARD***</td>
<td>PUBLIC</td>
</tr>
<tr>
<td>Calarasi</td>
<td>Integrated system for management of solid waste in Călărași</td>
<td>Călărași</td>
<td>URBAN</td>
<td>Procurement in process</td>
<td>OPEN*</td>
<td>PRIVATE</td>
</tr>
<tr>
<td>Dolj</td>
<td>Integrated system for management of solid waste in Dolj</td>
<td>Dolj</td>
<td>SALUBRITATE CRAIOVA/ECO SUD</td>
<td>ECO SUD (PPP)</td>
<td>DIRECT AWARD*** / PPP</td>
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*Open procedure: delegation of management through concession of the services
**Open procedure: service contract awarded through public procurement
***Direct award

Source: Interview with ARMD, written response