KOSTA LEGAL

Mandatory Anti-Corruption and Competition Reviews: New Procedure for Large Investment and PPP Projects

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On 8 May 2026, a joint resolution of the Anti-Corruption Agency and the Competition Promotion and Consumer Protection Committee, registered by the Ministry of Justice under No. 3833, entered into force. It approved the Instruction on the procedure for conducting anti-corruption examinations of large investment projects and assessing their impact on the competitive environment (the "**Instruction**").

The Instruction implements Cabinet Resolution No. 44, which introduced the review requirement in February 2026 and was covered in our earlier legal highlight. It now prescribes the filing package, responsible reviewers, statutory timelines, risk-scoring methodology and the consequences of positive and negative conclusions.

PROJECTS COVERED

The Instruction applies to projects that (i) involve financial resources of at least the equivalent of USD 50 million, (ii) are of economic and social significance and concern the creation, expansion or modernisation of facilities, services or other infrastructure, and (iii) fall within one of the following categories:

- projects financed from the State Budget or state targeted funds;
- projects implemented on a public-private partnership basis; or
- projects involving foreign investment and participation by international financial institutions, where state guarantees, benefits or other forms of state support are contemplated.

A project that has not undergone the required examination and assessment may not be approved or moved to the next implementation stage.

WHO CONDUCTS THE REVIEWS AND WHEN

The anti-corruption examination is organised and conducted by the internal anti-corruption control unit of the relevant state body or organisation. The competition assessment is conducted by the internal control unit and/or, where an anti-monopoly compliance system has been introduced, the responsible anti-monopoly compliance officer. The Anti-Corruption Agency and the Competition Committee are the authorised regulatory bodies under the Instruction.

The anti-corruption examination is mandatory at three points:

- **Project initiation:** while the concept, feasibility study, project appraisal document or other substantiating documents are prepared, and before a financing decision or, for a PPP, execution of the PPP agreement.
- **Procurement or award:** during competitive selection of suppliers, contractors, investors or project partners.
- **Implementation:** where material changes are made to project terms, supplemental agreements are executed, or contract performance is monitored for the purpose of detecting and preventing corruption.

The competition assessment is conducted simultaneously with, or after, the anti-corruption examination. The Instruction does not define what constitutes a "material change".

PROCEDURE AND TIMETABLE

The project initiator - defined as the state body or organisation preparing the project - submits the project concept, feasibility study, project appraisal document, draft agreement, partner-selection materials and other available project information. For the anti-corruption examination, the filing also includes a preliminarily completed corruption-risk checklist. The competition checklist is completed by the reviewer during the assessment.

The reviewer has two business days to check completeness and suitability and may request additional available materials. Incomplete or unsuitable submissions are returned with a list of deficiencies. Once accepted, the materials are registered and the statutory review period begins:

- 15 business days for the anti-corruption examination;
- 15 business days for the competition assessment, extendable with justification to 20 business days due to project complexity or the volume of materials; and
- 10 business days for mandatory collegial consideration of the conclusions by the state body or organisation authorised to approve or finance the project.

If both reviews run in parallel, the process may therefore take up to 27 business days from submission through collegial consideration, or 32 business days if the competition assessment is extended. These periods exclude time required to cure deficiencies, provide additional information or implement recommendations. The timetable may be materially longer if the competition assessment follows the anti-corruption examination.

ASSESSMENT FOCUS AND AVAILABLE REMEDIES

The complete statutory checklists are set out in the annexes to the Instruction[1]. In practical terms, the reviews focus on the following matters:

- Anti-corruption: transparency of project preparation and award; objective selection criteria; conflicts of interest; unjustified discretion; unnecessary restrictions and barriers; monitoring and public reporting; contractual liability; and gaps or ambiguity in project documentation.
- Competition: the relevant market and its participants; market-entry conditions and special rights; state intervention and support; effects on adjacent markets and consumers; and compliance with competition legislation.

The anti-corruption conclusion may recommend amendments to project or tender documentation, removal or justification of subjective requirements, enhanced conflict-of-interest controls, use of independent experts or public participation, contractual anti-corruption undertakings and termination rights, and additional audit or monitoring mechanisms. High-risk projects may also require an independent monitor, anti-corruption audits or continuous monitoring.

Competition recommendations may include dividing procurement into lots, conducting an open competitive procedure, refusing or shortening exclusive rights, providing third-party access and conducting additional tenders. The assessment specifically examines whether the project is designed for a particular contractor, creates artificial licensing or certification barriers, grants justified and transparent state support, and could adversely affect prices, quality or consumer choice. Indications of a breach of competition legislation must be referred to the Competition Committee.

[1] *The relevant checklist forms are available from Kosta Legal upon request.*

RISK CLASSIFICATION AND CONSEQUENCES

Each checklist converts identified factors into a formal risk category. The thresholds are intentionally low, particularly for competition risk:

Review	No risk	Low risk	Medium risk	High risk
Anti-corruption	0 factors	1-4 factors	5-9 factors	10+ factors
Competition	0 factors	1 factor	2-3 factors	4+ factors

A high-risk classification results in a negative conclusion. Low- or medium-risk projects generally receive a positive conclusion with recommendations, but the reviewer may still issue a negative conclusion depending on the seriousness of an individual factor and the ability to monitor implementation. A negative conclusion prevents approval until the deficiencies are remedied and the project undergoes repeated examination and/or assessment.

APPROVAL, IMPLEMENTATION AND ENFORCEMENT

The conclusions and checklists must be considered at a collegial meeting before the project is approved, financing is confirmed or the relevant agreement is executed. The decision must record how the findings were addressed and incorporate any pre-implementation conditions or ongoing restrictions. The conclusions remain part of the project record, and the initiator must prepare a corrective action plan jointly with the authorised bodies for approval by the initiator's head.

If new corruption or competition risks arise during implementation or further review, the authorised bodies may require an extraordinary repeat examination or assessment, issue mandatory instructions and, in serious cases, initiate suspension of project implementation or financing, including proposing termination of the relevant PPP agreement. All participants in project implementation must cooperate, provide requested information, facilitate reviews and comply with issued instructions.

PRACTICAL IMPLICATIONS

- **Build the review into the project programme.** Public partners and other initiators should treat the process as an approval and signing workstream, not a final compliance check. Review-ready concept, feasibility, tender and contractual documents should be available sufficiently early.
- **Test the project before filing.** Particular attention should be given to the justification of state support and exclusive rights, objective tender criteria, conflicts safeguards, anti-corruption contractual protections, monitoring arrangements and any provisions that confer broad discretion.
- **Allocate private-side support obligations.** Private initiators, bidders and project companies do not appear to have a direct filing obligation, but may need to provide information and assist the public partner. Transaction documents and timetables should allocate responsibility for responding to findings and implementing required amendments.
- **Plan for post-signing review.** Amendment, waiver and monitoring processes should identify when a change may trigger renewed review and should account for the possibility of mandatory corrective instructions or disruption to implementation and financing.

ISSUES REQUIRING IMPLEMENTATION GUIDANCE

The Instruction leaves several points unresolved:

- Status of recommendations. The project initiator must implement competition recommendations before approval, financing or contract execution. Yet the decision-making body may reject individual recommendations with written reasons, unless they reflect mandatory legal requirements. The extent to which non-statutory recommendations are binding is therefore unclear.
- Privately initiated PPPs. The Instruction defines the project initiator as the state body or organisation preparing the project and does not regulate the procedural role of a private initiator. In practice, the potential public partner is likely to coordinate the filing, but this is not expressly stated.
- Material changes. The term is undefined, creating uncertainty for contract amendments, waivers, refinancing-related changes and changes to state support.
- Existing projects. There are no express transitional rules. Because review is required during implementation and when supplemental agreements are concluded, the Instruction may affect ongoing projects, particularly where their terms are materially amended.

CONCLUSION

The Instruction turns the review introduced by Cabinet Resolution No. 44 into a structured approval process with potentially significant consequences for project design, procurement, state support and contract execution. Early coordination with the relevant public partner and internal review units should reduce the risk of delay or late-stage restructuring.

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