

National History Museum of Romania  
MNIR  
Calea Victoriei no.12  
Sector 3, Bucharest, 030026  
Tel:0040 021 3158207 Fax: 0040 021 3113356  
E-mail: [direct@mnir.ro](mailto:direct@mnir.ro) Web:<http://www.mnir.ro>

ROMANIAN ORDER OF ARCHITECTS  
ENTRY NO.1299  
DATE 22.07.2016

NCSC  
NATIONAL COUNCIL FOR SOLVING COMPLAINTS  
DATE JULY 22,2016  
ENTRY NO.22470

***Translation from Romanian***

NATIONAL HISTORY MUSEUM OF  
ROMANIA  
No.5500/22.07.2016  
Registry

**TO**

National Council for Solving Complaints

Romanian Order of Architects – organizer of the contest

Romair Consulting SRL – KEI Development SA

SC Structural Engineering and Technology SRL

The National History Museum of Romania, as Promoter, given the complaints lodged with the NCSC by Romair Consulting SRL – KEI Development SA and SC Structural Engineering and Technology SRL, decides to suspend the award procedure – CONTEST OF SOLUTIONS "NEW MNIR" until the complaints are solved by NCSC.

We forward to the National Council for Solving Complaints the contest file.

**OPINION**

On the complaints lodged

Reply to the Notice submitted by **Romair Consulting SRL-KEI Development SA**, letter registered under no.5200/12.07.2016 with the National History Museum of Romania.

According to point.**1.5.6** of the Contest Regulation, "*(...) The jury shall establish the work methodology by mutual agreement; (...)*"

As specified in the Report of the jury, each member of the jury has examined each of the 37 projects according to the award criteria. Each project has been discussed in plenary session. The jury has decided to award points, from 1 to 100, to each project, representing the percentages specified in the award documentation. The jury has the prerogative to publish the final results, which represent the joint opinion of the jurors.

The report of the jury contains the qualitative assessment of the project submitted by SC KEI DEVELOPMENT SA, project with the contest number 74. This project has been awarded 25 points.

According to the Supporting Note on the Award Criterion, sent and accepted by ANAP (National Agency for Public Procurement) at the time of approval of the contest documentation:

*ON THE SPECIFIC NATURE OF THE ARCHITECTURE CONTEST AS PUBLIC PROCUREMENT PROCEDURE:*

1. *The contest of architecture solutions is a specific procedure for the procurement of architecture and design services, through the selection of a project by a jury on a specific competitive basis. (...)*

*ON THE SPECIFIC NATURE OF THE PRODUCT PROCURED ACCORDING TO THIS PROCEDURE:*

1. *The product (the best architecture solution and the design team as service provider) thus procured has a specific nature, given by the artistic means used to attain the goal. This specific nature results from the fact that architecture is the art of solving aesthetically the practical requirements, interior and urban (functional and technical), presented in the design theme (the Specifications), of combining and spatially giving them an artistic form. All of them intertwine and define the architectural quality, which is a highly complex value.*
2. *An architecture object must comply with the functional and resilience requirements of the building, but these do not offer a universally valid answer. The architectural quality results precisely from the way in which the designer manages to construe these obligations/constraints and to arrange them in artistic spaces/forms, which can become representative for the object itself and for the city.*

***For this reason, the selection may not take into account only mathematically quantifiable, objectively measurable data, as in the case of procurement of provision of services or of exclusively technical projects. The artistic dimension implies specific assessment criteria, which are synergistically included in the overall assessment of the solution. The expert jury makes an overall assessment with a view to selecting the best solution, with the highest artistic quality in the case concerned, given the objective conditions of the theme/documentation (Specifications).***

We also specify the provisions of the Regulation:

***3.15.1*** *The jury's decision on the assessment of the projects may not be challenged and may not be subjected to legal proceedings.*

The explanations and the assessment of its own project and of the successful projects, submitted by the competitor with number 74 are not admissible and may not be the subject of a complaint.

National History Museum of Romania  
MNIR  
Calea Victoriei no.12  
Sector 3, Bucharest, 030026  
Tel:0040 021 3158207 Fax: 0040 021 3113356  
E-mail: [direct@mnir.ro](mailto:direct@mnir.ro) Web:<http://www.mnir.ro>

*3.14.1. The results shall be brought to the attention of all participants and of the public by the Promoter and the Organiser, through the Internet page of the contest, on the website <http://oar.squarespace.com/concurs~noul-mnir/>(Section Contests) on the date specified in the contest schedule).*

On Friday, July 1, 2016, at 12:00 pm, the National History Museum of Romania has held a press conference with a view to announcing the winners of the international contest of solutions "New MNIR." The conference has been broadcasted on television.

The official results: the name of the successful competitors, the report of the jury and table of correlation between the registration number, the contest number and the alphanumeric symbol have been posted on the website of the contest on July 2, 2016, according to the Contest Regulation.

***8.1. The contest regulation is integral part of the contest documentation and can be downloaded from the website <<http://oar.squarespace.com/concurs-noul-mnir/>> (Section Contests). By participating in this Contest, the competitors agree to comply with this Regulation. Any amendments to this Regulation shall be communicated to the competitors.***

By participating in this contest, the competitor has agreed to comply with this Regulation.

Following the completion of the assessment by the jury and the signing of the Report of the Jury by all members of the jury, the contest secretariat has opened the envelopes marked "confidential" containing the mandatory documents for participating in the Contest of solutions "New spatial and design concept for the National History Museum of Romania in Bucharest". According to point **2.2.3** of the Contest Regulation, *The content of the envelope marked "confidential" shall be checked by the secretariat of the contest only after the signing of the report of the jury and the lifting of anonymity (...)*

According to the "Participation Form Legal Person" (hereby attached), filled in by Romair Consulting SRL – KEI Development SA, signed, stamped and enclosed in the envelope marked "confidential", **Mr. Sorin Clesiu – Museum curator** is a member of the authors' team of the project identified by the contest number 74. This issue has been brought to the attention of the Organizer by the Promoter at the time of receipt of the letter no.5200/12.07.2016.

**Mr. Sorin Clesiu** has been employed by the National History Museum of Romania during the period 30.06.2005 – 11.09.2015 and has taken part in the development of the Contest Theme, being a member of the *Commission for the development of the New Museum's theme*. We hereby attach the Decision no.124 of 02.06.2015, certifying the membership of Mr. Sorin Clesiu in the team for the development of the Contest Theme. The contest Theme has been handed over by the Organizer to the Promoter on 19.08.2015, hereby attached the Handover Report no.5814/19.08.2015, date on which Mr. Clesiu was an employee of the Promoter and a member in the team for the development of the contest Theme.

According to **point 2.1.4** of the Contest Regulation,

National History Museum of Romania  
MNIR  
Calea Victoriei no.12  
Sector 3, Bucharest, 030026  
Tel:0040 021 3158207 Fax: 0040 021 3113356  
E-mail: [direct@mnir.ro](mailto:direct@mnir.ro) Web:<http://www.mnir.ro>

*The following persons **are not allowed** to take part in the contest: (...)*

- *The members of the team for the development of the theme and of the regulation, including the expert consultants (...)*

The project no.74 is not eligible to participate in the contest, as it has been found following the check of the envelopes marked "confidential" and the correlation of the information received from the Promoter and it is not allowed to lodge complaints concerning the contest procedure.

Reply to the Complaint lodged by Mr. Barbu Vlad, Architect, legal representative of **SC STRUCTURAL ENGINEERING AND TECHNOLOGY SRL**, complaint registered under no 1233/12.07.2016 with the Romanian Order of Architects, Organizer of the Contest, and under no.5196/12.07.2016 with the National History Museum of Romania, Promoter of the Contest.

The subject of the complaint is

a – Mainly the fact that somebody other than the "Members of the Jury WHO ARE THE ONLY ARBITERS THROUGHOUT ALL STAGES AND UP TO THE AWARD OF THE FINAL PRIZE" has decided to disqualify us thus violating the Article "DISPUTES" of the ANNEX to the Standard Rules for Organizing Competitions in Architecture and Town Planning, adopted by UNESCO."

On each contest, the Standard Rules for Organizing Competitions in Architecture and Town Planning, adopted by UNESCO/UIA are supplemented by the Regulation of that contest. The **Regulation of the contest of Solutions "New MNIR" have been approved by the UIA Commission for International Competitions and by the National Agency for Public Procurement (ANAP).**

The Contest "New spatial and design concept for the National History Museum of Romania in Bucharest" is a contest of solutions organized as an independent procedure according to Art.30 letter a) of the G.E.O. (Government Emergency Ordinance) no.34/2006 on the award of public procurement contracts, of public works concessions and of services concessions, as subsequently amended and supplemented, and later on, on the basis of Art.122 letter h) of the same legal document, the contract for the provisions of design services shall be awarded to the winner of the contest, following a negotiation procedure with the prior publication of a contract notice.

According to G.E.O. no.34/2006, all projects which entered the procurement procedure must lodge the tender security according to the terms of the Regulation of the Procedure published on SEAP.

According to the contest Regulation:

**2.3.2** *The irregularities found, before the assessment made by the jury, by the secretariat for the receipt of the projects and which trigger automatically the rejection of a project are:*

- *Exceeding the deadline set out in the procedure schedule – date and time – for the direct handover to the secretariat or for the submission by courier of the project or the submission to other address than the one specified in the contract notice and the regulation, found by the secretariat at the receipt of the project;*
- *Absence of the valid document concerning the tender security to the amount, form and validity period requested in this contest regulation, found by the secretariat at the receipt of the contest.*
- *The separate handover or the affixing on the outer edge of the packaging/tube of the envelopemarked "confidential", found by the secretariat at the receipt of the project.*

**2.3.3** *The secretariat of the contest shall draw up a minute recording how the conditions laid down in Art.2.3.2 have been complied with. **The projects which do not comply with the conditions shall be rejected unopened**, and the authors shall be notified by the secretariat on the rejection of the project within 24 hours.*

The project registered under no.25 has not been selected to take part in the contest and has not been assessed by the jury, because it did not comply with the conditions laid down in point 2.3.2 para.2 of the regulation. As mentioned above, the failure to comply with the conditions triggers the AUTOMATIC rejection of that project from the competition.

Only the projects selected to take part in the contest are opened and subjected to the anonymization procedure and to the formal check of the Technical Commission (Art.2.3.3). The Technical Commission receives from the Secretariat for the Receipt (composed of a representative of the Organizer and representatives of the Purchases Department of the Promoter) a minute recording the number of projects handed over and the number of projects which have met the conditions laid down in point 2.3.2 of the Regulation up to the date the Technical Commission starts to conduct its works.

The projects rejected on the basis of point 2.3.2 shall not take part in the contest and shall not be brought to the attention of the jury, according to the regulation. The Technical Commission submits to the jury a report on the projects which **took part** in the competition and which have been subjected to the formal check and the anonymization procedure.

b - In the alternative, that:

- We have not received notices from the Contracting Authority/Promoter, namely MNIR, after the Establishment of the Technical Commission and the opening of the tenders,

National History Museum of Romania  
MNIR  
Calea Victoriei no.12  
Sector 3, Bucharest, 030026  
Tel:0040 021 3158207 Fax: 0040 021 3113356  
E-mail: [direct@mnir.ro](mailto:direct@mnir.ro) Web:<http://www.mnir.ro>

although, according to Art.2.3.3 of the Contest Regulation, the Secretariat of the Contest, probably the Secretariat for the Receipt, had to notify us of the rejection of the project within 24 hours. We have not received any answer from the Secretariat of the contest, which was ensured by the ORGANIZER, namely the ROMANIAN ORDER OF ARCHITECTS.

The Secretariat for Receipt (composed of a representative of the Organizer and representatives of the Purchases Department of the Promoter) has informed you on the rejection of your project within 24 hours of the date of rejection.

The date of formal rejection is deemed to be the date on which the Technical Commission starts to conduct its works (13.06.2016) and the Chairman of the Technical Commission accepts the Minute drawn up by the Secretariat for the Receipt (Letter no.4344/14.06.2016).

The letter has been sent by the Purchases Department of the Promoter, because the issue concerned the lodging of the tender security, and the Promoter was the only one able to check if the money has been credited to the account of the institution. The Secretariat for the receipt represents both institutions.

Since the handover of the project (31.05, 15:18 pm, according to the Table Receipt Projects) until the Technical Commission started to conduct its works (13.06.2016, 10:00 am), the competitor had enough time to remedy the situation of the security which has not been paid due to the technical mistake of the latter. (The same Sole Identification Number has been specified in respect of both the sender and the recipient).

The secretariat for receipt could have informed the competitor before the Technical Commission started to conduct its works only if it have opened the package with drawings and the envelope marked "confidential" (in order to find out the contact data of the competitor). This action is prohibited by the Regulation and represents a violation of the Anonymization procedure, as long as the competitor is still taking part in the competition.

The opening of the envelope and the notification of the competitor (according to the regulation, within 24 hours of the removal from the competition) has been possible only after the signing by the Chairman of the Technical Commission of the Handover Report drawn up by the Secretariat for the Receipt and after the official removal of the competitor from the contest. According to the contest Regulation and to the G.E.O. no.34/2006, the projects which do not prove the lodging of the tender security are not selected to take part in the contest.

- The Secretariat of the jury has not informed the jury on the situation which called into question our participation. It results from the report of the jury and from the Correlation Table that the Report of the Technical Commission does not contain information on our case, although, according to Art.2.3.5 and 3.9.3 of the Contest Regulation, it is mandatory to do so.

We hereby present points 2.3.5 and 3.9.3 of the Contest Regulation:

*2.3.5. The technical commission shall draw up a report recording how the formal requirements for submitting the projects and the conditions for participating in the contest have been met, and must submit it to the jury before the latter starts the judging.*

*3.9.3. For the purpose of checking the content of the projects received and registered, the Organizer shall appoint a technical commission, composed of at least 3 architects and a representative appointed by the Promoter. The chairman of the technical commission shall take part in the meetings of the jury without having the right to vote. The number of members of the technical commission may be supplemented by two members, if the number of projects received exceeds 100. The technical commission shall check the projects and shall forward the jury its findings and observations for the purpose of facilitating the decision making by the latter.*

According to the contest regulation, the projects rejected under point **2.3.2** shall not be selected to take part in the contest, shall not be subjected to the procedure of the Technical Commission and shall not be brought to the attention of the jury. The Technical Commission submits to the jury a report on the **projects selected to take part in the competition** and which have been subjected to the formal check and to the anonymization procedure. The project registered under no.25 has not been subjected to the Technical Commission procedure and has not received a contest number because it has been automatically rejected by the Secretariat for the Receipt for failure to comply with the conditions laid down in point **2.3.2** of the Regulation.

- The Secretariat for the receipt has not notified us of our technical problem concerning the lodging of the security according to Art.1.6.2, 1.6.3 and has not informed us and the Technical Commission, according to Art.2.3.3 of the Contest Regulation, that, however, the money had been sent but had been rejected which is different from not being sent.

We hereby present points 1.6.2 and 1.6.3 of the Contest Regulation:

*1.6.2 The Secretariat has the following duties:*

- Ensures the registration of the competitors;*
- Records the written questions of the competitors and sends them to the promoter and to the professional and technical adviser of the contest;*
- Publishes on the website of the contest the documents "Questions and Answers" of the two rounds, according to the contest schedule;*
- Offers support to the competitors in downloading the documentation, providing technical assistance in writing, by e-mail at: [concursuri@oar.org.ro](mailto:concursuri@oar.org.ro)*
- Ensures the communication and makes public the results of the jury's assessment.*

National History Museum of Romania  
MNIR  
Calea Victoriei no.12  
Sector 3, Bucharest, 030026  
Tel:0040 021 3158207 Fax: 0040 021 3113356  
E-mail: [direct@mnir.ro](mailto:direct@mnir.ro) Web:<http://www.mnir.ro>

*1.6.3. The Secretariat for the receipt has duties related to the receipt, registration of the receipt and the management of the projects participating in the contest.*

It is not the task of the Secretariat for the receipt to inform the competitors on the failure to comply with the conditions for participating in the contest, during the procedure, as the Contest is a anonymised procedure, and the Secretariat may only open the envelopes and inform the competitors only when the latter are no longer part of the contest procedure.

The procedure for the receipt of the projects has ended on 13.06.2016, according to the contest schedule, date on which the Technical Commission started its works (13.06.2016, 10:00 am). The competitor has been notified within 24 hours with the letter no.4344/14.06.2016.

National History Museum of Romania  
General Manager  
Ernest Oberlander Târnoveanu  
*Illegible signature*  
Official stamp National History Museum of Romania