

SERBIA: REGULATORY

NEW LAW ON PUBLIC PROCUREMENT

On 29 December 2012, the Serbian Parliament adopted a new [Law on Public Procurement](#) ("Law").

Procurement of real estate is no longer exempted from the application of the law, while new exceptions to the application of the procurement legislation are introduced, pertaining to procurement of notarial services and procurement of goods and services required for safe production of banknotes, identification documents and excise stamps, services of money transport and protection of money transport.

The Law introduces competitive dialogue as a new type of procurement procedure. In this procedure, the contracting authority conducts a dialogue with candidates admitted to the procedure, with the aim of developing one or more suitable alternatives on the basis of which the candidates are subsequently invited to tender. Among the novel provisions are those regulating "dynamic purchasing" and "framework agreement" procedures and e-procurement.

With the aim of bringing down the cost of procurement, the Law envisages centralization concerning the procurement of certain goods (office and computer equipment, cleaning products, general small inventory, food, vehicles, fuel, etc.) and services (maintenance and repair services, some types of transportation services, telecoms services, etc.).

Another important novelty is that the contracting authority has the obligation to publish (excluding confidential items) not only a contract notice but also the tender documents on the Public Procurement Portal and its website. With respect to confidential parts, the contracting authority must specify the manner and the conditions under which interested parties may be granted access.

The Serbian National Commission for the Protection of Rights, the state body to which an interested party may submit a complaint related to the alleged infringements of the public procurement procedure, has been granted new powers: to request disclosures, perform dawn raids at the premises of the contracting authority, impose procedural fines, annul public procurement contracts in the presence of certain prescribed breaches and conduct misdemeanor proceedings in the first instance against the contracting authority or the infringing bidder.

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An important trait of the Law is that it addresses the interplay between public procurement and competition rules more directly than the previous legislation. In this respect, each bidder is now obliged to produce a statement certifying that its bid is being submitted independently and without collusion with other bidders or interested parties. If it suspects such statement to be false, the contracting authority is obliged to notify the Commission for Protection of Competition (the "CPC") of its suspicion. The contracting authority must also notify the CPC if the supplier hires a subcontractor which was not named in the bid. Finally, the Law widens the authority of the CPC established by the [Law on Protection of Competition](#), vesting it with a new power to ban any party from participating in the public procurement procedure for a period of up to two years if it establishes that the party committed an infringement of competition laws in the course of a public procurement process.

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