

**SRBIJA: UKINUTA PREDNOST ZA DOMAĆE
PONUĐAČE I DOBRA U POSTUPCIMA JAVNIH
NABAVKI**

Istekom roka od 5 godina od dana stupanja na snagu Sporazuma o stabilizaciji i pridruživanju između evropskih zajednica i njihovih država članica, sa jedne strane, i Republike Srbije sa druge strane (u daljem tekstu: „SSP“) 01. septembra 2018. godine ukinuta je prednost za domaće ponuđače i dobra u postupcima javnih nabavki.

U načelu, prednost data domaćim ponuđačima u odnosu na ponuđače svih drugih država u postupcima javnih nabavki dobara i usluga, kao i način njene primene definisani su u članu 86. st. 1-4 Zakona o javnim nabavkama (u daljem tekstu: „Zakon“), pri čemu je stavom 11. istog člana predviđeno da će se prednost data domaćim ponuđačima u postupcima javnih nabavki u kojima učestvuju ponuđači iz država potpisnica SSP-a primenjivati shodno odredbama SSP-a.

S tim u vezi, članom 76. SSP-a, koji se odnosi na javne nabavke, predviđeno je da će nakon stupanja na snagu SSP-a, Srbija svaku prednost datu domaćim preduzećima izraženu u ceni postepeno smanjivati u skladu sa dinamikom, određenom u istom članu, te da će prednost biti potpuno ukinuta najkasnije do isteka pete godine od stupanja na snagu SSP-a.

SSP je stupio na snagu 01. septembra 2013. godine na osnovu objave Ministarstva spoljnih poslova Republike Srbije od dana 05. avgusta 2013. godine. Shodno tome poslednji rok za ukidanje prednosti date domaćim ponuđačima bio 01. septembar 2018. godine.

S druge strane, domaći ponuđači će prednost koja im je data članom 86. st. 1-4. Zakona i dalje moći da ostvaruju u postupcima javnih nabavki u kojima učestvuju ponuđači iz zemalja koje nisu članice Evropske unije.

Međutim, treba imati na umu i da se shodno članu 86. stav 10. Zakona, u postupcima javnih nabavki u kojima učestvuju i ponuđači iz država potpisnica Sporazuma o slobodnoj trgovini u centralnoj Evropi (CEFTA 2006) domaćim ponuđačima ne daje nikakva prednost.

**SERBIA: ABOLISHMENT OF THE ADVANTAGE
FOR DOMESTIC BIDDERS AND GOODS IN
PUBLIC PROCUREMENT PROCEDURES**

Upon the expiry of the 5 years period from the date of entry into force of the Stabilization and Association Agreement between the European Communities and their Member States, on one side, and the Republic of Serbia, on the other side (hereinafter: the „SAA“) from 01 September 2018 the advantage for domestic bidders and goods in public procurement procedures in Serbia has been abolished.

In principle, advantage given to domestic bidders in comparison to bidders from all other countries, in public procurement procedures for goods and services, as well as the manner of its application were defined in the Article 86 paragraphs 1 through 4 of the Law on Public Procurements (hereinafter: the „Law“), whereby paragraph 11 of the same Article prescribes that in public procurement procedures that involve bidders from signatory states of the SAA preferences given to domestic bidders will be applied in accordance with the provisions of the SAA.

In this regard, Article 76 of the SAA, related to public procurements, prescribes that upon the entry into force of the SAA, Serbia shall gradually reduce any existing preference given to domestic bidders in accordance with the dynamics specified in the same Article and thus that the preferences will be completely abolished no later than the end of the fifth year following the entry into force of the SAA.

The SAA entered into force on 01 September 2013 on the basis of the publication of the Ministry of Foreign Affairs of the Republic of Serbia dated 05 August 2013. Accordingly, the latest deadline for abolishment of the advantage given to the domestic bidders was 01 September 2018.

On the other hand, preferences given to domestic bidders by Article 86 paragraphs 1 through 4 of the Law will still be applicable in the public procurement procedures that involve bidders from non-EU countries.

However, it should be borne in mind that according to Article 86 paragraph 10 of the Law, in public procurement procedures that involve bidders from signatory states of the Central Europe Free Trade Agreement (CEFTA 2006) no advantage shall be given to domestic bidders.

Za više informacija o ovome kontaktirati /
For more information about this please contact:

Aleksandra Stojanović
Associate – Dokleštic Repic & Gajin
aleksandra.stojanovic@dokleštic.law
T. +381.11.414.33.60

Miloš Pandžić
Partner – Dokleštic Repic & Gajin
milos.pandzic@dokleštic.law
T. +381.11.414.33.60