**New procedural rules for the public procurement disputes**

On January 21, 2022, Law on Making Amendments and Supplements to the Law on Procurement (the Law) was adopted, which, among other amendments, envisages a new procedure for the dispute settlement in the field of procurement. According to the said amendments, from June 1, 2022, the courts have exclusive jurisdiction to examine public procurement disputes. The possibility to apply to "the person reviewing the complaints related to procurement" (alternative dispute resolution mechanism) is no longer available. According to the law, each interested person shall have the right to appeal against the actions (inaction) and the decisions of the Contracting Authority, the evaluation commission, in the manner prescribed by the RA Civil Procedure Code.

Before the time limit for submission of bids, everyone will have the right to appeal the following in the manner prescribed by the RA Civil Procedure Code:

1. Description of the subject of procurement

2. Prequalification notice, or

3. Requirements of the invitation.

Since the procurement relations are not administrative, and the civil legislation entirely regulates them, the damages caused by the action or inaction of the Contracting Authority or the evaluation commission will be compensated under the general procedure established by the RA Civil Code.

As for the time limit for the statute of limitations, then it should be noted that the time limit for the statute of limitations for appealing the Contracting authority’s, the evaluation commission’s actions (inaction) and decisions have been set the period of inaction provided by the Law on Procurement, *i.e.*, at least ten calendar days, except for disputes related to the appeals against decisions on inclusion in the list of persons not eligible to participate in procurement procedures and disputes associated with the unilateral termination of a contract, in the cases of which the time limit for statute of limitations for the claim is set at thirty calendar days.

The special adversary proceeding defined by Chapter 27.2 entitled “Procurement Disputes” is added to the list of cases examined with special adversary proceedings by the Law "On Making Amendments and Supplements to the Civil Procedure Code of the RA" adopted on January 1, 2022. The RA Civil Procedure Code amendments will come into force on June 1 of this year, together with the abovementioned amendments to the procurement legislation.

For the examination of new procurement dispute cases included in the Code, several features have been established, which include the jurisdiction of the examination of the cases, the special time limits and procedure of the examination, the procedure for judicial notification, the procedure for submitting evidence and the distribution of the obligation of proof.

Thus, the amendments provide for an exclusive jurisdiction over procurement disputes in the Court of First Instance of the city of Yerevan, which examines and resolves disputes related to the appeal of the actions (inaction) and decisions of the Contracting authority and the evaluation commission defined by the Law.

As we have mentioned, special, short time limits have been set for the examination of this proceeding, for the submission of procedural documents and completion of specific procedural actions, in particular, disputes related to procurement are being examined and resolved within thirty days after the acceptance of the statement of claim for proceedings (decision to adjudicate), and this period may be extended once for up to ten calendar days.

Short time limits have also been set for submitting procedural documents and for deciding on them. The issue of accepting the statement of claim for proceedings is resolved within three days after its filing. At the same time the Court renders a decision to demand from the respondent all the evidence in possession of the latter in connection with the given procurement process, which is subject to execution by the respondent within five days after receiving the decision. The respondent may file a response to the statement of claim within the same period.

In contrast to the cases on the standard cases, where electronic notifications are an option only and in practice are not very heavily used, in the in the statement of claim under cases related to procurement, the plaintiff is obliged to indicate the Email addresses of the persons participating in the case and their representatives and during the whole examination of the case, the court sends them the court subpoenas, the decision on accepting the statement of claim for proceedings, the judicial act resolving the case on merits, which the authorized body immediately publishes on the following website: [www.procurement.am](http://www.procurement.am).

It should be noted that the appeal of the actions (inaction) and decisions (except for the decisions provided for in Part 2 of Article 6 of the Law of the Republic of Armenia on Procurement) of the Contracting Authority and the evaluation commission automatically suspends the procurement process, from the date of publication of the decision on accepting the statement of claim for proceedings to the day of the entry into force of the final judicial act made by the court of first instance based on the results of the examination of the dispute, however, exceptions have been envisaged in cases where the procurement process needs to be continued out of public or defence and national security interests; in such cases, based on the written motion of the heads of the bodies defined in Article 2, Part 1 of the Law of the Republic of Armenia on Procurement, and of the head of its executive body in case of a legal person, the Court renders a decision to cancel the suspension of the procurement process, which is again sent and published in the above-mentioned manner.

As a rule, a written procedure for the examination of this type of dispute with special adversary proceedings has been established. The court may render a decision on the examination of the case in the court session on its own initiative, together with a decision on accepting the statement of claim for proceedings, as well as through the motion of the party before the expiry of the time limit established for filing a response to the statement of claim.

In the Chapter regulating Procurement Disputes, the legislature has established special rules for the distribution of the burden of proof in such cases, which are imperative and cannot be changed in any way, by imposing on the respondent the obligation to prove the circumstances underlying decisions and disputed actions (inaction), as well as the fact of compliance of performing these actions (inaction) and decision-making with the procedure established by the Law, other legal acts, who, as a general rule, is obliged to present the evidence within the above-mentioned time limits.

Referring to the judicial acts related to the procurement disputes, it should be noted that the final judicial act on procurement disputes enters into force upon its publication. This judicial act is immediately sent to the Email address of the authorized body, which immediately publishes the final part of the court decision or other final judicial act on the following website [www.procurement.am](http://www.procurement.am).