LAW ON ELECTRONIC COMMERCE


National Assembly of the Republic of Serbia at the Sixth session of the First regular session in 2009, on May 29 2009 adopted the Law on electronic commerce (hereinafter: the "Law"). The Law came into force on June 10 2009, which is the first time that the matter of electronic trading is regulated.

The Law regulates the conditions and manner of providing services from informational society. Service of the informational society is service which is provided at a distance for a fee through electronic equipment for data processing and their storing on personal request of service users and especially the sale of goods and services via the Internet, offering data and advertising via the Internet, electronic search engines and to enable searching of data and services transmitted by electronic network.

The service provider with headquarters in the Republic of Serbia is obliged to operate and provide services in accordance with the laws and regulations of the Republic of Serbia and must be registered in the Company Register in accordance with the provisions of the law which is governing the registration of business entities.

One of the most important novelties is the possibility of concluding contracts in electronic form. Contract in electronic form is a contract concluded between legal entities and natural persons as well as sent, received, terminated, canceled, and which is accessed and displayed electronically using electronic resources, based on the rules of contract law.

Contracts that can’t be concluded in electronic form are contracts which govern the transfer of ownership on real estate or other rights, contracts in the field of inheritance law, contracts that regulate property relations between spouses, contracts on the disposal of property to persons deprived of legal capacity, contracts on gift and other contracts to which the Law expressly requires the use of handwritten signatures.
The Law introduces the notion of qualified electronic signatures, which in relation to data in electronic form has the same effect and probative force as the handwriting signature or the handwriting signature and seal, in relation to data in paper form. In order to be credible to the personal signature, qualified electronic signature must fulfill the requirements set by the Law, relating to the manner of formation of qualified electronic signatures by the certification bodies and the conditions for conducting certification and records. In Serbia, there are two registered certification bodies for certification of qualified electronic signatures – PTT "Serbia" (Postal-Telegraph-Telephone) and the Serbian Chamber of Commerce. Registration of certification bodies for issuing qualified electronic signature for signing electronic documents represents a condition for the validity and probative force of qualified electronic signatures in legal affairs and one of the basic preconditions for further development of electronic treatment, both in the public and private sector.

Supervision of the implementation of this Law is in the competence of the ministry for trade and services or ministry for telecommunication and information society.

The Law also introduces a time stamp. Time stamp is issued by a registered legal entity, which has a system for forming a time stamp. It represents official time that is associated to electronic document or group of electronic documents, that confirms the contents of electronic documents at the time, or the content of each document in that group. The issuer of the time stamp forms it on request of the parties.

The state can indeed significantly affect the wider use of information and communication technologies. This would encourage the private sector to create solutions that facilitate business, which is the main motive for the wider application of e-business.