

What and how can the preliminary dispute resolution be used for?

If the relevant economic operator thinks during the public procurement procedure that the tenderer has acted unlawfully vis-à-vis it, then the first thing that comes to its mind is to initiate a so-called preliminary dispute resolution. This way, it may indicate its problem fast to the contracting authority that is obliged to examine the case with the greatest care. The requesting party must pay attention to the golden rules regarding applications for public procurement, and to meet the deadline and formal requirements. **In respect of the deadline, three (3) workdays apply in most cases after it has learnt of the infringement.** It is an exception when the relevant economic operator considers the tender unlawful (for example because the technical requirements or eligibility criteria are unreasonably over-specified), because **preliminary dispute resolution may normally be initiated until the 10th day before the expiry of the deadline for the submission of tenders.** It is an interesting thing that **the Public Procurement Act gives an opportunity for the chamber or advocacy groups related to the object of public procurement to use this legal institution.** If these neutral bodies criticise the call for tender, the relevant economic operator can avoid direct confrontation with the contracting authority.

Which formal rules must be paid attention to? In the application, the official act or the part of the document considered illegal must be specified and remarked with supporting relevant data, facts as well as documents and specific proposal, if possible. The application must be sent to the contracting authority by way of facsimile message or electronic means.

One of the most special rules for preliminary dispute resolution is that the contracting authority is entitled to request the tenderers to submit supplementary documents and to request information or explanation even if it is otherwise no longer possible under the rules of the procedure.

The contracting authority quickly receives a response to its request. The contracting authority notifies the requesting party, all tenderers and candidates within seven (7) workdays after the receipt of the request in case of supplementary documents, request for information and



explanation; if they are not needed, it will notify them within three (3) workdays of its exact answer.

It is an essential information that regarding any action taken or any document created following the opening of the tender, the contracting authority may not enter into the agreement until the expiry of a ten-day period after the date of sending its response from the submission of its request, if the standstill period would otherwise expire until that date.

The legislator ensures through the legal institution of preliminary dispute resolution in a fast and effective way that the Parties settle their damage claims in a timely manner arisen in connection with the public procurement procedure without applying to the Public Procurement Authority.