

E-COMMERCE REGULATIONS AND DIGITAL SIGNATURE

CURRENT SITUATION

In May 2009, the Parliament enacted two significant pieces of legislation regulating e-commerce: the Law on E-Commerce and the Electronic Document Law. Therefore, the process of regulating e-commerce, started in 2004, by the adoption of the Electronic Signature Law, has finally been concluded. All of the said acts are pioneering projects setting up the first ever legal framework for doing e-commerce in Serbia.

POSITIVE DEVELOPMENTS

Adoption of these laws is a major development in its own right. Namely, this is the first time that electronic contracting has been given legal validity in Serbian jurisdiction. The same goes for all other electronic documents. Previously, all of the said documents had little or no legal effect in Serbia, particularly before a court of law.

Furthermore, the new laws introduce some of the best practice and solutions developed by UNCITRAL and other notable legal institutions and jurisdictions. This is especially true in regards of the rules for electronic contracting; sending and receiving of an offer to contract and the respective response; the moment of contracting; spam liability etc.

Therefore, now it is legally possible, in Serbia, to shop online, sign an e-contract, issue an e-invoice and execute most business transactions electronically. In this regard, e-commerce regulation has been fully encompassed.

REMAINING ISSUES

For e-commerce to really come to life, it is essential that the newly envisaged rules are fully applied and enforced. In this respect, we await with anticipation the first court rulings regarding the legal validity of e-documents, e-contracts and all plausible accompanying issues deriving from these relationships.

On the other hand, Serbia still lacks the necessary infrastructure for effective e-commerce processing and trade margins are still significantly higher in comparison to those in the region or the EU. Only by further liberalisation and progress of the e-commerce market, further developments might be expected.

FIC RECOMMENDATIONS

- Adoption, as soon as possible, of the envisaged secondary legislation that is required for full implementation of the new laws;
- Organizing in-depth trainings of relevant state authorities and the judiciary in order to secure proper enforcement;
- Organizing public campaigns, endorsed by the Government, targeted at general public awareness of e-commerce legislation and promoting legal security and public trust;
- Full liberalisation of the e-commerce market, and promotion of the new laws inside the business community;
- Encouraging the increase in number of processing centres in Serbia.