

На основу члана 112. став 1. тачка 2. Устава Републике Србије, доносим

УКАЗ

о проглашењу Закона о потврђивању Оквирног споразума између Републике Србије и Европске комисије о правилима за спровођење финансијске помоћи Европске уније Републици Србији у оквиру инструмента за претприступну помоћ (ИПА II)

Проглашава се Закон о потврђивању Оквирног споразума између Републике Србије и Европске комисије о правилима за спровођење финансијске помоћи Европске уније Републици Србији у оквиру инструмента за претприступну помоћ (ИПА II), који је донела Народна скупштина Републике Србије на Дванаестој седници Другог редовног заседања у 2014. години, 29. децембра 2014. године.

ПР број 148

У Београду, 29. децембра 2014. године

Председник Републике,

Томислав Николић, с.р.

ЗАКОН

о потврђивању Оквирног споразума између Републике Србије и Европске комисије о правилима за спровођење финансијске помоћи Европске уније Републици Србији у оквиру инструмента за претприступну помоћ (ИПА II)

"Службени гласник РС - Међународни уговори", број 19 од 29. децембра 2014.

Члан 1.

Потврђује се Оквирни споразум између Републике Србије и Европске комисије о правилима за спровођење финансијске помоћи Европске уније Републици Србији у оквиру инструмента за претприступну помоћ (ИПА II), сачињен 23. децембра 2014. године у Београду у оригиналу на енглеском језику.

Члан 2.

down in this article while keeping these procedures as simple, reasonable and time efficient as possible.

Article 28 Rules on taxes, customs duties and other fiscal charges

(1) Except where otherwise provided for in a Sectoral Agreement or a Financing Agreement, taxes, customs and import duties and levies and/or charges having equivalent effect are not eligible under IPA II. This rule shall also apply to co-financing provided by the IPA II beneficiary and recipients of IPA II assistance.

(2) The following provisions shall apply:

(a) All imports by Union contractors shall be allowed to enter the Republic of Serbia without being subject to customs or import duties, Value Added Tax (VAT), excise duties and other special consumption taxes or to any other similar tax, duties or charges having equivalent effect. Such exemption shall only be applied to imports in connection with the goods supplied and/or services rendered and/or works executed by the Union contractors under a Union contract. The Republic of Serbia shall ensure that the imports concerned will be released from the point of entry for delivery to the Union contractors as required by the provisions of the contract and for immediate use as required for the normal implementation of the contract, without any delays or disputes over the settlement of the above mentioned duties, taxes or charges;

(b) Union contractors shall be exempted from VAT for any service rendered and/or goods supplied and/or works executed under the Union contract. Goods supplied or services rendered or works executed by a contractor to the Union contractor shall also be exempted from VAT in so far that they are connected with the objectives and activities under the Union contract;

(c) The exemption provided for in paragraph (b) shall in principle be put into effect through ex-ante exemption. Where this is not technically and/or practically feasible, it shall be put into effect through refund/offsetting.

Where ex-ante exemption applies, the Union contractor or the contractor supplying goods and/or rendering services and/or executing works for a Union contractor, shall issue an invoice exclusive of VAT for which the IPA II beneficiary shall ensure that an effective mechanism and procedures for VAT ex-ante exemption has been put in place beforehand.

Where the refund procedure applies, Union contractors and contractors of Union contractors shall be able to obtain a VAT refund directly from the tax administration upon submission of a written request to the tax administration accompanied by the necessary documentation required under the Republic of Serbia law for the refund of VAT.

The Union contractor and contractors of Union contractors shall be entitled to offset or deduct any input VAT paid in connection with the goods supplied and/or services rendered and/or works executed under IPA II assistance which are exempted from VAT, as provided in this Agreement, against any VAT collected by them for any of their ordinary business transactions outside IPA II.

The tax administration shall complete any request for exemption, tax refund, and offsetting within a maximum of 30 calendar days without any cost other than minimum and reasonable administrative fees;

(d) Profit or income arising from Union contracts shall be taxable in the Republic of Serbia in accordance with the national/local tax system. However, natural and legal persons, including expatriate staff and RTAs, resident or established in the Member States of the European Union or other countries eligible under IPA II other than the IPA II beneficiary, executing Union contracts shall be exempted from profit or income tax in the Republic of Serbia, including withholding and provisional or temporary taxes.

A Union grant to a grant beneficiary shall not be construed as a profit or income to that grant beneficiary. Where a profit is generated from a grant contract, the Commission shall be entitled to recover the percentage of the profit in accordance with the terms of the underlying contract. The remaining profit may be taxable according to the national/local tax system;

(e) Expenditures of the Union contractors shall be relieved from special consumption taxes or excise duties or from any other taxes or charges having equivalent effect for the expenditure in connection with the goods supplied and/or services rendered and/or works executed by that Union contractor under the Union contract;

(f) Those benefiting from actions and/or contracts and/or activities carried out under IPA II shall be exempted from "Inheritance and Transfer Tax" or any other taxes or charges having equivalent effect resulting from goods and/or rights and/or constructed facilities and/or funds transferred to them without consideration in any way under IPA II;

(g) Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, carrying out tasks defined in service and/or works and/or grant contracts and/or twinning contracts or covenants, shall be exempted from customs duties, import duties, taxes and levies and/or taxes having equivalent effect and/or deterrent excessive collateral requirements, the said personal and household effects being re-exported or disposed of in the state, in accordance with the regulations in force in the Republic of Serbia after termination of the contract;

(h) Union contracts, contracts signed by Union contractors as well as partners in a consortium or joint venture or co-beneficiaries and affiliated entities in grants shall not be subject to stamp or registration duties, or to any other charge having equivalent effect in the Republic of Serbia. This exemption shall also apply to transactions (including assignment of rights) and documents related to payments made to the Union contractor, including contracts concluded between grant/loan beneficiaries (including their partners, affiliated entities or sub-grant/loan beneficiaries) and their contractors (including their staff or contracted experts), and contracts concluded for incidental and provisional expenditure under service contracts and works contracts respectively;

(i) For the purposes of this Agreement, the term „*Union contractor*” shall be construed as natural and legal persons, rendering services and/or supplying goods and/or executing works

under a Union contract. The term „Union contractor” shall also refer to grant/loan beneficiaries (including partners, affiliated entities and sub-grant/loan beneficiaries as well as twinning contractors), partners in a consortium or joint venture, contractors and RTAs under twinning contracts as well as contractors under the Technical assistance and Information exchange instrument (TAIEX);

(j) The term „*Union contract*” means any contract or grant contract, including sub-grant/loan contracts and delegation agreements under indirect management, through which an activity is financed under IPA II, including the co-financing by the IPA II beneficiary or recipients of IPA II assistance and which is signed by the European Commission or the IPA II beneficiary or a grant beneficiary. The term „Union contract” shall also cover provisions of assistance under TAIEX and participation in Union programmes including grants received under Union programmes and co-financing of such grants;

(k) The following charges shall also be exempted for Union contractors implementing a Union contract:

(i) special communication tax;

(ii) motor vehicle taxes;

(iii) special charges applied by regional or local authorities or special boards in the context of contract execution not proportional with the cost involved in their execution or of having equivalent effect of taxes.

(3) Whenever necessary, the IPA II beneficiary shall adopt or amend the secondary legislation and/or enabling acts necessary to enforce the tax provisions in this Agreement immediately upon its entering into force.

(4) The rules and procedures referred to in this Article shall also apply to any similar tax, duty, levy or charges having equivalent effect, which may be instituted after the date of entry into force of this Agreement in addition to, or in replacement of existing ones.

(5) In case of conflict between the provisions in this Article and the national legislation of the IPA II beneficiary, the provisions of this Agreement shall prevail. In the event of accession to the Union, the IPA II beneficiary will continue to apply the provisions in articles 27 and 28 except where these are incompatible with its obligations under the relevant Union acquis.

SECTION V RULES ON FINANCIAL MANAGEMENT OF IPA II ASSISTANCE

TITLE I GENERAL PROVISIONS

Article 29 Eligibility of expenditure