Reply:

Article 245 of the PPL/2019 it is envisaged that on the day of this Law’s effectuation the PPL/2015 and by-laws passed pursuant to that Law shall become defunct.

The provision of Article 239 of the PPL/2019 it is envisaged that public procurement procedures initiated before the day of effectuation of this Law shall be concluded under the regulations that they were initiated under. In keeping with the above provision of the PPL /2019, only the provisions of the PPL/2015 regulating public procurement procedures, including the provisions regulating the procedures for protection of rights in public procurement procedures, shall be applicable as of 1 July 2020, only in cases of public procurement procedures initiated under the provisions of that Law.

As the need for contract amendments may emerge as late as during its execution, i.e., after completion of the public procurement procedure, clearly the questions related to the amendments to the awarded contract are subject to the provisions of the PPL/2015, especially given that the execution of a public procurement contract, including its amendments, cannot be considered part of public procurement procedure. To corroborate this, Article 1 Paragraph 1 of the PPL/2019 defines public procurement procedure as a procedure conducted by contracting authorities or other entities in cases envisaged by this Law, in order to conclude a contract on public procurement of goods, services or works, framework agreement, as well as to conduct a design competition.

So, a public procurement contract concluded after a public procurement procedure conducted in accordance with PPL/2015, after 1 July 2020, i.e., in the beginning of the PPL/2019 implementation, shall be amended in accordance with contractual obligations and provisions of the PPL/2019.

Bearing in mind all the above, from the day of the PPL/2019 implementation, amendments to public procurement contracts shall be made in accordance with Articles 154 – 162 of the PPL/2019, irrespective of whether they were concluded upon a public procurement procedure conducted under this Law or under the PPL/2015.

With this regard, we indicate that the Articles 154-162 of the PPL/2019 regulate contract execution and amendments differently than the PPL/2015. Namely, unlike PPL/2015 envisaging the contracting authority’s decision in case of contract amendments, the PPL/2019 provisions stipulate that, in case of amendments to public procurement contract in keeping with Articles 157 and 158 of the PPL/2019, the contracting authority shall send a notice on the amendments to the Public Procurement Portal for publication no later than ten days after amending the contract, in accordance with Article 155 of the same Law. Thus, after 1 July 2020, contracting authorities are obliged to publish contract amendments notices only if the amendments are made with regards to additional goods, services or works, in the way prescribed by Article 157 of the PPL/2019 and in case of amendments made due to unpredictable circumstances, in the way prescribed by Article 158 of the PPL/2019.

In case of contract amendments pursuant to provisions of Articles 156, 159, 160 and 161 of the PPL/2019, contracting authority shall not publish a contract amendment notice on the Public Procurement Portal.

NB: The Public Procurement Portal, the operations of which are harmonized with the new legal provisions, enables publication of notices on contract amendments under Article 155 of the PPL/2019 and on public procurement contracts concluded after public procurement procedures conducted in keeping with provisions of the PPL/2015.