

**ACT**

no. ....Coll.

**on special terms of applicability for certain contracts, their disclosure, and the Register of Contracts (The Act on the Register of Contracts)**

The Parliament has adopted the following Act of the Czech Republic:

§ 1

**Subject Matter**

The Act herein regulates special terms of applicability for certain contracts, their disclosure by means of a register of contracts, and the Register of Contracts itself.

§ 2

**Documents to be Disclosed**

(1) The Register of Contracts serves for the mandatory disclosure of the contents of any private contract, as well as any contract on the provision of subsidies or repayable financial assistance, which contains one of the following as a contractual party:

- a) The Czech Republic,
- b) Any Czech territorial self-governed unit, including any city borough or city district of a statutory city whose administration is divided into boroughs or districts, and any district of the Capital City Prague,
- c) Any state-funded organization,
- d) Any state fund,
- e) Any public research institution or public institution of higher education,
- f) Any voluntary association of municipalities,
- g) The Regional Council of any NUTS II Cohesion Region,
- h) Any public-benefit organization set up by a self-governed territorial unit,
- i) Any institute chartered by the State or a self-governed territorial unit,
- j) Any charitable Trust chartered by the State or a self-governed territorial unit,
- k) Any state enterprise or national enterprise,
- l) Any health insurance company,
- m) Czech Radio or Czech Television, or
- n) Any legal entity in which the State or a self-governed territorial unit, either as such or in conjunction with other self-governed territorial units, holds a majority stake, including any stake achieved through another legal entity,

(2) Par. 1 shall not apply to any legal entity founded outside the Czech legal system and operating predominantly outside the territory of the Czech Republic.

§ 3

**Exemptions from the Disclosure Requirement**

(1) The Register of Contracts shall not be used to disclose information that cannot be provided via a procedure under the rules regulating the free access to information.

(2) The requirement for disclosure via the Register of Contracts shall not apply to any

- a) Contract ensuing from legal proceedings with a natural person who is acting outside the framework of their business; this does not apply to the transfer of ownership rights mentioned in § 2 par. 1 on material real estate,
- b) Technical artwork, instruction manual, drawings, project documentation, model, method of unit price calculation, pattern or calculation,
- c) Contract concerning the activities of intelligence services and the General Inspectorate of the Security Corps or contract concerning the activities of bodies participating in criminal proceedings with the aim of preventing, identifying or detecting criminal activities, or prosecuting a crime or providing for the security or defence of the Czech Republic,
- d) Contract executed predominantly outside the territory of the Czech Republic,
- e) Standard-form contract whose party is a legal person as per § 2 par. 1 letters e), k), l) or n), except for contracts in accordance with an award procedure under the Public Procurement Act,
- f) Contract, order or invoice concerning the activities of the State bodies, their members, and State organization structures listed under § 8 par. 3 of Act no. 218/2000 Coll., on budgetary rules and amendments to certain associated laws (the budgetary rules) and the activities of the managers of their chapters,
- g) Contract made at a commodity exchange, on a regulated market or the European regulated market, at an auction or in another similar manner involving a special modality of transition or transfer of an owner's rights,
- h) Contract wherein at least one party is a joint stock company whose equities have been accepted for trading on a regulated market or the European regulated market, in the case where this is a joint stock company with a majority stake held by either the State or a self-governed territorial unit, either as such or in conjunction with other self-governed territorial units, including any stake achieved through another legal entity,
- i) Contract wherein the value of its object is equal to or smaller than CZK 50,000 before value added tax,
- j) Contract with an author or performing artist in connection with a copyrighted work or artistic performance,
- k) Contract on the provision of and remuneration for healthcare services paid from a public health insurance fund or contract on the purchase of medicines containing vaccination agents for regular vaccination as per the antigen composition of vaccination substances established by the Ministry of Health in accordance with public health protection law, disclosed under the public health insurance act,
- l) Contract wherein at least one party is a municipality without expanded administrative powers, a public-benefit organization established by that municipality, or a legal entity with a majority stake held by that municipality, alone or in conjunction with other such municipalities.

§ 4

**The Register of Contracts**

(1) The Register of Contracts shall be established as a public-administration information system that serves for the purpose of disclosing contracts under this Act.

(2) The Register of Contracts shall be administered by the Ministry of the Interior.

(3) The Register of Contracts shall be made accessible in a manner enabling remote access free of charge.

(4) The Register's administrator shall not be responsible for the correctness of the contracts and contract metadata disclosed by means of the Register of Contracts.

§ 5

**The Method of Disclosure**

(1) Disclosure of a contract by means of the Register of Contracts shall mean the act of inserting an electronic image of the contract's textual content in an open, machine-readable format, including metadata, in accordance with par. 5, into the Register of Contracts.

(2) A person listed in § 2 par. 1 or a party to the contract shall submit the contract to the Register's Administrator for publication in the Register of Contracts without unreasonable delay, and always within 30 days of the contract's signing. The Administrator shall disclose the contract through the Register of Contracts immediately upon its delivery; the disclosure of the contract through the Register of Contracts shall as a rule be performed automatically.

(3) The contract shall be submitted to the Register's Administrator, using an electronic form, into a data mailbox established by the Administrator for this purpose. The Administrator shall provide this electronic form at the public administration portal.

(4) If a contract is disclosed by means of the Register of Contracts, the Register's Administrator shall confirm receipt via a document submitted to the data mailbox from which the contract was delivered to him for publication; this confirmation is as a rule performed automatically. The Administrator's receipt shall include the contract's metadata in accordance with par. 5, and he shall mark the receipt with his authenticated digital stamp and relevant time stamp.

(5) A contract not disclosed in accordance with par. 1 or whose metadata do not include

- a) An identification of the contract's parties,
- b) A delineation of the subject of the contract,
- c) The price and, if not stated in the contract, the value of the subject of the contract, if it can be determined,
- d) The date of signing,

Shall not be deemed as disclosed through the Register of Contracts.

(6) An exemption from disclosure through the Register of Contracts may apply to the metadata stated in par. 5 letters a) or c) if they form a part of a trade secret of a person stated in § 2 par. 1 letters e), k), l) or n), including those cases where only the simultaneous publishing of multiple such pieces of information together would form the trade secret.

(7) The person stated in § 2 par. 1 or a party to the contract may correct the disclosed contract or its metadata after publication; in doing so they must proceed in accordance with par. 2-4. The original contract or metadata shall be retained in the Register of Contracts.

(8) If information is to be exempted from disclosure using the procedure under § 3 par. 1 or § 5 par. 6, it must be rendered unreadable within the electronic image of the text's content by the party that submitted the contract for disclosure through the Register of Contracts.

## § 6

### **The Legal Consequences of Disclosure**

(1) Any contract that must be disclosed through the Register of Contracts shall take effect on the date of disclosure at the earliest.

(2) A contract shall take effect without regard to its disclosure in the Register of Contracts if it was closed for the purpose of averting or alleviating damage immediately associated with an emergency situation that threatens human lives, health and property, or the environment.

## § 7

### **Cancellation of a Contract**

(1) Unless a contract that takes effect on its disclosure date at the earliest was published in the Register of Contracts within three months of its signing date, it shall be deemed void from its inception.

(2) Par. 1 shall not be invoked if only a part of the contract has not been disclosed through the Register of Contracts, or its metadata was erroneously exempted from disclosure on the basis of protecting a trade secret in a procedure under § 5 par. 6,

- a) If the person indicated by § 2 par. 1 or another contractual party makes a correction in accordance with § 5 par. 7, within 30 days of the date when they become aware that the disclosure is in conflict with the present law, provided they assumed in good faith that the opposite is true, or
- b) If the person indicated by § 2 par. 1 or another contractual party discloses the unpublished part of the contract or the respective metadata via the Register of Contracts as an erratum in accordance with § 5 par. 7 within 30 days of accepting the delivery of a decision made by a supervising authority or court, on the basis of which the undisclosed part of the contract or the relevant metadata must be provided in accordance with the rules regulating the free access to information.

(3) Metadata other than those in par. 2 may be corrected solely within three months of the date of signing of the contract to which the metadata relate; this does not apply to the correction of typographical or calculation errors.

## § 8

### **Shared and Transitional Provisions**

(1) This Act shall be applied without prejudice to the law which is deemed decisive under international private law.

(2) Any contract that is required to be disclosed via the Register of Contracts must be closed in writing.

(3) If a contract that is required to be disclosed through the Register of Contracts was signed before the date on which this Act went into effect, and an agreement that amends, alters, replaces or repudiates such a contract is signed after that date, the agreement shall be disclosed through the Register of Contracts together with the original contract.

(4) If a contract that is to be disclosed via the Register of Contracts is disclosed in compliance with the public procurement act, the duty for it to be disclosed shall be deemed honoured; a similar process applies to information that should be disclosed in the form of metadata under the present Act.

(5) If, in accordance with the present Act, a contract is disclosed that should be made public in accordance with another act, or the information it contains should be disclosed in accordance with another act, then the disclosure requirement shall be deemed honoured; a similar process applies to information disclosed in the form of metadata in accordance with the present Act. For the purposes of the first sentence of this paragraph, “another act” shall mean

- a) The act on territorial budgeting rules, in the case of a contract to be disclosed under § 10d thereof,
- b) The act in support of research, experimental development and innovation in the case where information on a contract is to be publicly accessible by means of an information system for research, development and innovation,
- c) The concession act in the case where a contract is to be accessible in the register of concession contracts,
- d) The collective bargaining act, in the case of a higher-degree collective agreement that is to be made accessible by the Ministry of Labour and Social Affairs on its website; this does not, however, eliminate the duty of inserting such a collective agreement into the Collection of Laws.

(6) The fulfilment of the duties ensuing from the present Act shall not be subjected to supervision and inspection performed under the legislation concerning self-governed territorial units.

## § 9

### **Final Provision**

The provisions of § 6 and 7 shall be used for the first time for contracts made on 1 July 2017.

## § 10

### **Effectiveness**

The present Act takes effect on 1 July 2016, except for § 6 and 7, which take effect on 1 July 2017.