Czech Republic: New developments in contract registration

The brand new Contract Register Act¹ came into effect on 1 July 2016 (the "Act"). After 1 July 2016, contracts concluded with certain subjects, such as the state (the Czech Republic), state fund, etc., need to be published in the register of contracts (the "Register"). If a contract is not published in the Register within three months of its conclusion, it is considered invalid from the outset (as if the contract was never concluded).

Entrepreneurs should therefore pay attention to the ownership structure of their business partners from that date onwards.

This article summarises the purpose and scope of the Act and explains the main practical aspects of its application.

Purpose and scope

The purpose of the Act is to strengthen the transparency of the management of public funds and to set out clear rules for the publication of contracts in which the state and other public subjects are a party.

Section 2 of the Act² sets out the whole list of subjects concerned (the "Subject"). Private law contracts³ and grant or repayable financial assistance contracts exceeding CZK 50,000, in which the Subject is a party, have to be published in the Register. It must be noted that the Act also applies to contracts governed other than by Czech law.

The Register is a public information system serving for the publication of contracts according to the Act accessible at https://smlouvy.gov.cz/. The Register is administered by the Ministry of the Interior.

Method of publication

Either contractual party can enter the contract in the Register via the electronic form by submitting it to the Data Box of the Ministry of the Interior. The contract does not need to be scanned, but the latest Word version should be used for this purpose.

The identification of the contractual parties, the subject matter of the contract, the date of the contract and the price or value of the performance of the contract (so-called metadata) need to be published together with the contract, otherwise it shall be deemed not published in accordance with the Act.

Information that cannot be provided according to the laws regarding free access to information will not be published in the Register. In addition, certain contracts and documentation, such as contracts concluded with physical persons outside their business activity, project documentation, drawings or contracts regarding the

¹ Act No. 340/2015 Coll., on special conditions for the effectiveness of some contracts, the publication of these contracts and the register of contracts.
³ E.g. lease contract, supply contract, service contract, purchase contract, loan contract, etc.
intelligence services or associated with ensuring the security of the Czech Republic, will not be published in the Register. The list of exemptions is set out in Section 3 of the Act. The identification of the contractual parties or the price or value of the performance of the contract does not need to be published if this information is considered a business secret (section 5 (6) of the Act).

The contract to be published according to the Act comes into effect first on the day of its publication in the Register. The administrator confirms the registration of the contract by sending confirmation to the Data Box of the sender.

With respect to the non-effectiveness of the contract as a sanction for its non-publication in the Register, it should be mentioned that this will first apply to contracts concluded after 1 July 2017. As a result, contracts concluded between 1 July 2016 and 30 June 2017 should be published in the Register, but there is no sanction for non-publication.

Summary

Contracts concluded with certain subjects after 1 July 2016 need to be published in the Register. If a contract is not published in the Register within three months of its conclusion, the contract is considered invalid from the outset. This Act should serve as a significant instrument in strengthening the transparency of the management of public funds and in setting out clear rules for the publication of contracts in which the state and other public subjects are a party.