

Private juridical persons as persons having duties under the Act on Contract Register

Abstract

The aim of this thesis is to provide a comprehensive analysis of the rights and obligations arising from Act No. 340/2015 Coll., on the Contract Register, for private juridical persons, focusing mainly on the interpretative problematic provisions of the Act on the Contract Register which are applicable to private juridical persons. The thesis is also focused on provisions that are not yet sufficiently interpreted by any reference literature or by the case law but are absolutely crucial in terms of their impact on rights and obligations of private juridical persons.

This thesis is divided into eight chapters. The main topics of the thesis are the possibilities and conditions of application of selected exceptions from the publication obligation, the information not published in the respective contracts and the consequences of not publishing a contract subject to publication in the contract register, including ways to solve situations caused by cancellation of the contract from the beginning.

The first chapter is due to the compactness of the thesis devoted to brief analysis of the characteristics of the mandatory published documents in the contract register, including the mandatory forms of the documents, with special focus on private contracts, as it is done throughout the whole thesis. In the second chapter, the author defines the conditions under which a particular person will be considered a subject according to the provision of Section 2 paragraph 1 letter n) of the Act on the Contract Register, thus this person will be subject to the obligations arising from the Act on the Contract Register, respectively an entity which by its type causes the obligation to publish contracts concluded by it. Within the second chapter a considerable space is devoted to the problems of subsidiaries in relation to “obligated entities”.

The third chapter contains one of the main topics of the thesis as it focuses on the possibilities and conditions of application of the exceptions contained in Section 3 paragraph 2 letter h) and r) of the Act on the Contract Register, which are subject to somewhat problematic provisions of Section 2 paragraph 1 letter n) of the Act on the Contract Register, in which are used, respectively in the exception under the letter r), vague legal terms, which make those exceptions interpretationally problematic and ambiguous.

Chapter Four deals with information contained in mandatorily published contracts that are either not provided under these contracts, or the law permits their anonymization under certain conditions. The following chapter responds to the connection between the Act on the Contract Register and the Public Procurement Act, to which reference is made in the commented legislation and which pursues nearly the same purpose as the Act on the Contract Register.

Chapter six and seven again contain one of the main topics of this thesis due to their focus on the key issue, which, in the author's opinion, has not yet been adequately interpreted neither by a reference literature nor by methodological instructions issued by the Ministry of the Interior of the Czech Republic. These chapters deal with the issue of consequences of non-observance of the obligation to properly publish a contract in the contract register.

The last chapter provides a brief overview of the consequences of the issued Act on the Contract Register expressed in the form of current statistics containing, for example, the value of contracts concluded so far, the number of valid and invalid contracts etc.

Key words: Act on the Contract Register, juridical person, exemptions from the obligation to publish the contract, cancellation of the contract from the beginning