

### Amendment to the Act on Public Procurement

The 10th amendment to the Act No. 134/2016 Coll., on Public Procurement (hereinafter referred to as the "Public Procurement Act") is currently being discussed in the Czech Parliament. The text of the amendment has been already approved by the Chamber of Deputies as the lower chamber of the Parliament of the Czech Republic. The review by the Senate and the signature of the President are expected to follow soon.

Despite being already amended for 9 times, the discussed draft represents the first complex change to the Public Procurement Act. Its main purpose is to eliminate the shortcomings of the transposition of EU procurement directives, which were pointed out by the European Commission. Large number of the introduced changes aims to simplify both processes: submitting a bid by suppliers as well as managing the procedure by public contractors and to reduce the administrative burden connected therewith. Furthermore, some provisions aim to mitigate the disproportionate strictness of some rules and clarify interpretive ambiguities.

A long-standing issue in the field of public procurement has been the purchase of shares in a business corporation (such as a stake in a limited liability company or the purchase of shares in a joint-stock company) by a contracting authority. The current wording of the Public Procurement Act could be interpreted (and this view was also supported by the Supreme Administrative Court in a decision published under file no. 9 As 139/2020-125) as requiring the acquisition of such participation to be subject to a tendering procedure according to the Public Procurement Act, in case other legal conditions were met (such as an anticipated value of the transaction exceeding 2 million Czech crowns).

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The amendment to the Public Procurement Act ensures that the aforementioned acquisition of a share in commercial corporations will not constitute a performance that contracting authorities must obtain via tender under the rules of public procurement. Thus, another exception from mandatory procurement will be enshrined in the Public Procurement Act. This step eliminates a significant legal uncertainty that contracting authorities in the Czech Republic had to deal with in recent years.

We assume that the amendment will enter into force this summer.



## Practice Area News

**Data-boxes for Individuals.** Since January 2023, the Ministry of Interior of the Czech Republic has been opening a so-called "Data Box" for each individual older than 18 years and residing in the Czech Republic. A "Data Box" is a secure electronic mailbox system used in the Czech Republic for communication between individuals, businesses, and government authorities. The aim of the "Data Boxes" is to improve efficiency and security in communication.

**Ministry of Interior Introduced the New Gazette of Public Procurement.** At the beginning of April 2023, the Ministry of Interior launched a new tool administering the official gazette of public procurement in the Czech Republic (the so called "Věstník veřejných zakázek"). This tool aims to provide information about public tenders and other procurement opportunities to businesses and individuals interested in doing business with public entities. Read more [HERE](#).

**The President Selects Constitutional Court Judges.** The President of the Czech Republic, former Army General Petr Pavel, is in the process of selecting Constitutional Court judges. This year, the term of 7 out of 15 judges will come to its end. The term of office is 10 years. The President appoints Constitutional Court judges with the consent of the Senate, the upper chamber of the Parliament of the Czech Republic.

**Registration of "Hemp Church" Being Rejected by the Court.** The Supreme Administrative Court rejected the registration of the so-called Hemp Church. In the ruling, the Court listed criteria which are essential for every religious belief, such as it should deal with fundamental questions or the religious belief should represent a coherent view of the world. Although it stated that not all the criteria must be fulfilled, it should at least fulfill some of them, which the Hemp Church did not.

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