

## NEWSFLASH

# Law on Register of Partners of the Public Sector

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Dear clients,

on 1st February 2017 the Law Nr. 315/2016 Coll. on Register of Partners of the Public Sector came into effect (further only as the „Law“). This law could have an impact on your business transactions with the public sector. Below we will explain to whom this law applies (the Partner) and how the registration process can be taken care of.

### Partner

Each private Person shall be registered in the Register of Partners of the Public Sector (further only as the „Register“), if planning to draw finances from the state, regional or community budgets, from European funds and from state aid exceeding the sum 100.000,-EUR in a single draw or aggregate 250.000,-EUR in a calendar year, to receive financial considerations from the public authorities, to collect their debts or to take part in the public procurement exceeding financial limits hereof.

Further, health insurance companies, health care providers, possessors of mining licenses, developers of geological operations, producers and distributors of electric energy and gas, providers of gas pipelines, compressional tanks, devices for distribution of liquid hydrocarbons and oil pipelines, a person authorized with management of the toll collection shall be registered in the Register mandatory.

With registering the registered person becomes a partner of the public sector (further only the „Partner“). The duty to register in the Register applies under certain circumstances on the persons who directly or indirectly deliver goods/services to Partners. So it could also apply to your sub-contractors!

Without registration in the Register none public authority concludes any contract allowing to draw any means from the public resources exceeding financial limits hereof which applies also on the conclusion of the contract with the winner of the public procurement. If the public authority finds out that the receiver of the means from the public resources fails to be registered in the Register, it interrupts the fulfillment of the obligations from the contract and it has also the right to withdraw from the contract.

### Registration

The Register is administrated by the County Court Zilina. Only the authorized person, who may be an auditor, a tax adviser, an attorney-at-law, a notary or a bank is entitled to register the Partner in the Register. In other words: the partner cannot perform this by himself and will need to seek external support for this.

Subjects registered on 31st January 2017 in the Register of the Ultimate Beneficial Owners administrated by the Office for Public

Procurement are considered to be Partners till 31st July 2017. These subject shall re-register after this date in the new Register, as well.

The Partner shall identify the ultimate beneficial owner by registering in the Register, i.e. the natural person who in fact governs or controls the Partner or to whose benefit the Partner executes its activity or business, and identify a public servant in ownership or managing structure of the Partner. If the Partner acts as an issuer of the securities registered on regulated markets or in case of its controlling person, the top management is registered as the ultimate beneficial owner on condition, none person controlling more than 25% of the partners exists.

The registration is made for indefinite period of time. During the duration of the registration in the Register each change of the recorded data shall be registered. The Partner and the authorized person are responsible for the accuracy of the registered data in Register.

The authorized person is obliged to verify the ultimate beneficial owner of the Partner

- by each change in the person of the ultimate beneficial owner,
- always to 31st December of the calendar year,
- in connection with the conclusion of the contract relating the public resources, with change of such a contract and fulfilment of such a contract, if value exceeds in aggregate 1.000.000,-EUR within 30 days; this does not apply, if the ultimate beneficial owner has been identified in last 6 months.

## Sanctions

If the courts finds out that the data on ultimate beneficial owner or the public servants do not correspond to facts or are registered by a depended authorized person, imposes the penalty:

- to the Partner in the amount of the economic benefit; if the economic benefit is difficult to estimate, the penalty amounts 10.000,-EUR – 1.000.000,-EUR,
- to the statutory body of Partner in the amount of 10.000,-EUR – 100.000,-EUR,
- to the ultimate beneficial owner up to the amount of 10.000,-EUR, if the ultimate beneficial owner has not reported to the Partner and to the authorized person becoming the ultimate beneficial owner in time,
- to the authorized person who has not acted independently in the amount of 10.000,-EUR – 100.000,-EUR.

The authorized person guarantees the payment of the penalty by the statutory body of the Partner.

Imposition of the penalty results into deregistration of the Partner from the Register and ban of statutory body to act as a statutory body in any company for 3 years.

We would be pleased to help you with determination if you are obliged to register as a partner of the public sector. After mutual agreement we will be pleased to register your company in the register of the partners of the public sector and to act as your authorized person.

*The information contained in this document is only of a general and informative character. Should you have any more detailed questions about changes relating to the topic, please do not hesitate and contact our partner Branislav Kovac, [branislav.kovac@vgd.eu](mailto:branislav.kovac@vgd.eu)*

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beyond partnership

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