The obligation to submit a declaration of having the status of a large enterprise

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We would like to remind you of the obligation to submit a declaration of having the status of a large enterprise. According to the amendment to the Act on preventing excessive delays in commercial transactions, every large enterprise who is a party to a commercial transaction **is obliged to submit a declaration of having the status of a large enterprise to the other party.**

What entity has a status of a large enterprise?

According to Annex I to Commission Regulation (EU) No. 651/2014 of 17 June 2014, large companies are corporations with **at least 250 employees or with less than 250 employees but with a turnover of more than EUR 50 million** and a **balance sheet total of more than EUR 43 million**.

However, it should be remembered that according to the above mentioned annex to Commission Regulation (EU) No 651/2014, to which the act on preventing excessive delays in commercial transactions refers, an important criterion for the definition of a large enterprise is not only data relating directly to the parties to the transaction concluded, but also data of **related and partner enterprises**. In related companies, entities may have, among other things, a majority of votes, the right to appoint or dismiss the majority of members and can exercise a dominant influence over another company on the basis of a concluded agreement. In partner enterprises, however, shareholders hold 25%-50% of the capital or voting rights in another enterprise. In this case, it is also important to determine whether partner enterprises operate in an adjacent market.

Therefore, when determining the status of a large enterprise, one should analyse relations with related and partner entities. In practice, according to the guidelines mentioned above, independent small companies being part of large corporate groups can be given the status of large enterprises.

How to submit a declaration?

The declaration shall be submitted in the form in which the commercial transaction is concluded, **at the latest at the time of of the conclusion of the transaction.**

What contracts require submitting a declaration of having the status of a large enterprise?

The obligation in question refers exclusively to a **commercial transaction**, i.e. a contract having as its object a supply of goods or provision of a service for consideration, where parties enter into it in connection with the activity they carry out.

Who is obliged to submit a declaration?

According to the Act, the following entities are obliged to submit a declaration:

1. entrepreneurs (within the meaning of the Act of 6 March 2018 – Entrepreneurs' Law (Journal of Laws of 2019, items 1292 and 1495 and of 2020, item 424);
2. entities engaged in agricultural production activities in the field of agricultural crops and animal husbandry, horticulture, vegetable growing, forestry and inland fishing;
3. entities in the public finance sector in the meaning of public finance regulations;
4. freelancers;
5. branches and representative offices of foreign enterprises;
6. enterprises coming from a Member State of the European Union, a Member State of the European Free Trade Association (EFTA) – Parties to the Agreement on the European Economic Area or Switzerland.

This obligation applies also to contracts that are concluded by HR departments (e.g. the contracts concerning medical services, language courses, etc.).

What are the consequences of failing to fulfil this obligation?

Failure to meet such an obligation is an offence punishable by a **fine of up to PLN 5 000**.

If you have any further questions or require additional information, please contact your business relationship person or use the enquiry form on the **getsix®** website.

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