



## **Business support 24/7 during coronavirus pandemic**

### Public procurement law

There is no longer any doubt that SARS-CoV-2 (COVID-19 or coronavirus) is affecting and will affect all areas of our lives. It is also clear that public entities should therefore have exceptional measures at their disposal, also in the area of public procurement. Such instruments are provided for in the so-called Special Act of 2 March 2020. Importantly, they only concern the award of contracts; the Act does not apply to contract performance.

First and foremost, Article 6 of the Special Act excludes from the PPL contracts for the supply of the goods and services needed to combat COVID-19. Admittedly, it is added that these are situations where there is a high probability of the rapid and uncontrolled spread of the disease or where the protection of health so requires, but these prerequisites can be deemed to be (unfortunately) automatically met in the current situation.

This provision therefore does not cover construction works, although these may also prove necessary in a coronavirus combating situation, particularly adaptation works. The basis here may be a single source procedure, particularly due to the indispensable need to carry them out.

The Special Act also provides for changes in other regulations. In the context of procurement, Article 46c, introduced to the Act on Preventing and Combating Infections and Infectious Diseases in Humans of 5 December 2008, is of key importance. It excludes from the PPL contracts for supplies, services and works awarded in connection with preventing or combating an epidemic in an area where an epidemic state of emergency or epidemic has been declared. These may be introduced by the voivod if they concern the area of a voivodship or the Minister of Health if they cover a wider area.

In addition, the Prime Minister's power to issue instructions by way of an administrative decision obliging businesses to carry out certain tasks to combat COVID-19 may be important in the current situation. These instructions do not require justification. They should be accompanied by contracts, but if they are not concluded, the conditions for carrying out these tasks, including remuneration, are set out in a decision that is immediately enforceable.

Undoubtedly, these are non-standard solutions whose implementation will require mutual respect and understanding for the current situation. It can also be assumed that they may undergo further changes, which we will keep you informed of regularly.

## We are at your disposal



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