

## Contract invalidity clause to be dropped from Registry of Contracts; Coalition Parties urged to comment on bill limitations

- The Coalition Council will meet on Wednesday 25 March to discuss a new version of the Bill on the Registry of Contracts with several significant amendments it asked the Ministry of the Interior to draft, on 9 March.
- The most problematic of these amendments would mean abandoning the core principle, publicly upheld by members of parliament before the elections, namely the sanction of invalidity of an unpublished contract.
- We have provided the Coalition Parties with a list of proposed limitations to the bill so they can either publicly support or disapprove of the various “improvements” and do not shift the blame on one another.
- Presented below is a list of changes we have learned about, and Reconstruction of the State’s position on the conclusions from the last meeting of the Coalition Council.

At this stage the Coalition Parties have presented new proposals envisaging significant amendments to the bill, although they had an opportunity to do so in the period from January to September 2014, when they collectively instructed the Ministry of the Interior to outline a comprehensive draft amendment. *“If the Coalition Parties wish to shed suspicion of intentionally protracting the debate on the longest-undiscussed bill in the history of the incumbent Chamber of Deputies, they must be at least prepared to defend their action in public, before their electorates,”* says Jiří Boudal, Reconstruction of the State’s spokesman on this particular legislation.

Therefore, Reconstruction of the State will **publish information on Monday** on which parties have initiated various proposals. (This outline, compiled on the basis of information obtained from all the Coalition Parties has been forwarded to all parties to allow time for comments and suggestions.)

### Points to be discussed by the Coalition and the position of Reconstruction of the State:

- 1) **Proposal for replacing the invalidity sanction by a fine amounting to 25 percent of the value of the contract for a transitional period extending to up to two years**

Reconstruction of the State is resolutely against this proposition. While in the original draft version, it is the contract parties which would make each other to publish the contract, since they wish the contract to be deemed valid (for example, the management of a town hall or government ministry can change at any time), the amendment would probably shift responsibility and sanctions for the non-publication of the contract burden solely to the public-service contract party and unduly tax public budgets. Moreover, it would be necessary to set up an inspection authority to identify an unpublished contract (which is hardly feasible technically), and subsequently mete out and enforce a fine. Such an authority would be dissolved within two years’ time. This would either incur unnecessary costs to the national budget or (which is more probable) render such authority underfunded and only seemingly functional. Also, importantly, such legislation would actually affect

the next government, which could hardly be considered the fulfilment of election promises to the Coalition Parties' voters.

If this move is really designed to ease the penalization of contracting parties for the duration of their learning to publish contracts, it will be fully sufficient to ensure the full functionality of the Registry of Contracts six months before the law comes into force. It would be also acceptable if there were the duty, in the first six months of the law's applicability, to publish contracts without facing sanctions. There is no reason to temporarily replace the invalidity sanction with a fine, and if this is approved by the Coalition, it could not be possibly perceived as anything lesser than an obstruction, which would delay or complicate the drafting and endorsement of the bill.

### **2) Proposal for setting a CZK 50,000 financial limit**

This is not recommended by Reconstruction of the State. The imposition of a financial limit ushers in many practical complications: for instance the road would be paved to the purposeful division of contracts, necessitating expert evaluation of payless contracts, and many contracts would make room for doubts if they are below the limit, when for example the sum to be realized unexpectedly exceeds the contracted value of CZK 49,000, or its implementation becomes recurrent, etc. Therefore the proposed amendment would expose the contracting parties to legal insecurity.

### **3) Proposal for publishing State contracts concluded before the law comes into force, without invalidity sanction**

If this proposal is not to be perceived as an obstruction, it must not be enforced now as a *sine qua non* at the coalition talks. Reconstruction of the State recommends that it be presented as a draft amendment subject to separate discussion and voting.

**For additional information please contact:**

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## **About Reconstruction of the State**

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The anti-corruption project, Reconstruction of the State was launched in March 2013 with the aim to promote nine key legislations for responsible politics. The commitment to promote the legislation was confirmed in writing before the elections by more than 160 current members of parliament, including the leaders of the main political parties. **Members of the Platform:** Oživení, Frank Bold, Otakar Motejl Fund, Centre of Applied Economics (zIndex), Open Society, Brnění, Pražské fórum, Zaostřeno, Green Circle (Zelený kruh), Anticorruption Endowment (NFPK), Inventura demokracie, Glopolis, Good Governance, Naši politici.cz, Iuridicum Remedium, ProAlt, Kohovolit.eu and PragueWatch. The Platform receives financial support from scores of small donors, companies and foundations, the list of whom can be found on our website

Reconstruction of the State enjoys long-term support from the Otakar Motejl Fund. [www.motejl.cz](http://www.motejl.cz)

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