

The Czech Republic Significant Market Power Act fundamentally redesigned



As of 1 January 2023, a significant amendment to the Act on Significant Market Power takes effect.

An entity with significant market power will now be defined as a buyer of agricultural or food products whose annual turnover:

- a) exceeds € 2 million and who falls within the defined turnover bands into a higher band than its supplier (e.g. a buyer with an annual turnover exceeding € 2 million vis-à-vis a supplier with an annual turnover under € 2 million, or a buyer with an annual turnover exceeding € 10 million vis-à-vis a supplier with an annual turnover under € 10 million), or
- b) generated on the territory of the Czech Republic exceeds CZK 5 billion, provided that the market power of its business partner is not relevant in this case.

If one of these criteria is met by your group (regardless of whether food or agricultural products make up only a small part of your product range), please pay close attention to the following message.

Even in the face of opposition from the professional public, the amendment passed through the legislative process in a much stricter form than required by the European directive it was supposed to implement.

Obligations that previously applied to about eight food retail chains will now apply to a multiply wider range of persons, primarily for the following reasons:

- I. the newly introduced threshold of € 2 million is substantially lower than the original threshold of CZK 5 billion,
- II. the turnover threshold is now calculated on any turnover (and not on turnover specifically related to food purchases, as was previously the case),
- III. the new regulation affects not only food buyers but also buyers of agricultural products (e.g. semi-finished food or ingredients),
- IV. the new regulation affects not only the end buyers (level above consumers), as it was in the application practice to date, but also all buyers upstream in the supply and offtake chain.

The turnover of the whole group is relevant for these purposes.

Entities with significant market power are not only restricted under severe penalties, what contractual terms they can agree with a supplier, buyer, processor or distributor, but also in the way they deal with these business partners.

Our law firm has extensive experience with the application of the Significant Market Power Act and the necessary adjustments to supplier-buyer contractual documentation.

We will be happy to answer any questions you may have.



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