What a Foreign Construction Merchant Should Know Before Starting Construction Works in Latvia

A number of significant public and private infrastructure and construction projects are currently being implemented and planned in Latvia, therefore issues related to the commencement of operations by foreign construction merchants in the Latvian construction market are becoming increasingly relevant. Before starting construction works, it is essential to become familiar with the requirements laid down in Latvian laws and regulations and to assess in a timely manner the legal and practical issues related to the commencement of commercial activity.

Although the freedom to provide services is ensured within the European Union, the construction sector in each Member State remains subject to its national legal framework. Therefore, when planning to carry out construction works in Latvia, a foreign construction merchant must comply with the requirements set out in Latvian laws and regulations. These relate not only to the merchant's registration and right to provide construction services, but also to the recognition of the professional qualifications of foreign construction specialists, classification requirements, posting of workers, and tax obligations.

Registration in the Register of Construction Merchants

One of the first issues that a foreign construction merchant must resolve before starting construction works in Latvia is registration in the Register of Construction Merchants. This is not merely a formal requirement, but a precondition for the right to provide construction services in the territory of Latvia.

Under the Construction Law, construction services in Latvia may be provided only by a merchant registered in the Register of Construction Merchants. Accordingly, entering into a construction contract alone is not sufficient, the merchant must complete registration before commencing the works.

Furthermore, providing construction services without registration in the Register of Construction Merchants may result in administrative liability, for which a fine of up to EUR 5,000 may be imposed.

Rights of Foreign Construction Specialists to Work in Latvia

If construction works are intended to involve construction specialists qualified abroad, it must be taken into account that a professional qualification obtained abroad does not in itself yet confer the right to carry out professional activities in Latvia.

For example, in order for a construction specialist qualified abroad to be able to manage construction works or perform other regulated professional activities in Latvia, the competent Latvian institution assesses that person's professional qualification, professional experience, and submitted documents. Depending on the type of activity envisaged, a temporary permit to provide professional services or recognition of professional qualifications for permanent professional activity in Latvia may be required.

At the same time, it should be noted that additional requirements may be laid down in certain specialisations. For example, in the fields of electric power engineering and energy construction, carrying out certain works may require an appropriate electrical safety group, the obtaining of which may require additional training and a knowledge test, even if the specialist is already entitled in another country to perform equivalent work.

After completion of the relevant procedures, information on the construction specialist is included in the Register of Construction Specialists, and the construction specialist acquires the right to carry out professional activities in Latvia in the relevant certification field and scope of activity.

Classification in Publicly Funded Projects

If a foreign construction merchant intends to tender for construction works financed wholly or partly from the funds of a public-law legal person, European Union policy instruments, or other foreign financial assistance, it must obtain an assessment, that is, a qualification class, which signifies the evaluation of the construction merchant (construction undertaking) and is divided into five different levels, from the first to the fifth class. This class is determined by the Construction Information System (BIS), which evaluates the company's experience, employees, and financial indicators. The highest rating, indicating extensive experience and strong indicators, is the 1st class for construction merchants.

Foreign construction merchants are subject to a one-off classification, and the issued classification document is valid for one year.

Posting of Workers to Latvia

If a foreign construction merchant posts its employees to Latvia to carry out construction works, the provisions of the Labour Law on the posting of workers must be observed.

Section 14 of the Labour Law sets out the general framework for the posting of workers, whereas Section 14.1 of the Labour Law provides that if an employer from another Member State of the European Union or a state of the European Economic Area posts an employee to work in Latvia, the posted employee must be ensured the working conditions and employment terms laid down in Latvian laws and regulations, regardless of the law applicable to the employment contract.

In addition, before posting employees, the employer must provide the relevant information to the State Labour Inspectorate.

Choice of Business Form and Tax Aspects

Before commencing operations in the Latvian market, it is essential for a foreign construction merchant to assess in which legal form the commercial activity will be carried out, because the applicable taxes, their amount, and the tax administration procedure depend on this choice. Different legal and tax consequences may arise where operations are carried out through a branch, a capital company incorporated in Latvia, for example a limited liability company, or another business model.

It should also be borne in mind that, in the cases specified in Section 14, Paragraph eight of the law On Taxes and Duties, a permanent establishment of a foreign merchant may arise in Latvia. In the construction sector, this may be related, for example, to the use of a construction site, the carrying out of construction works or related supervision activities, as well as the provision of services in the territory of Latvia for more than 30 days within any six-month period.

If a permanent establishment of a foreign merchant is created, it must be registered with the State Revenue Service, and the merchant becomes obliged to comply with the requirements of Latvian tax laws and regulations, including maintaining appropriate accounting records for the application of corporate income tax.

At the same time, the application of value added tax must also be assessed, because in certain cases a special VAT treatment applies to construction services.

In summary, it should be emphasised that commencing the operations of a foreign construction merchant in Latvia means more than merely entering into a construction contract and being practically ready to perform the works. In order for a project to be implemented lawfully and without delay, it is important from the outset to ensure compliance with Latvian regulatory requirements, starting with registration in the Register of Construction Merchants and arranging the permits of construction specialists, through to the assessment of classification, posting of workers, and tax aspects.

If you are planning to start construction works in Latvia or are considering entering the Latvian construction market, the NJORD team can provide comprehensive legal and tax support by helping to identify the applicable regulatory framework in a timely manner, assess project risks, and structure operations in Latvia in line with the needs of the specific transaction and business model.

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