

Entering into a public contract

Abstract

The topic of this thesis is entering into a public contract while this issue remains highly topical particularly with regard to the new complex legislation on public procurement, which brought a relatively significant change into this legal area. The main objective of this thesis is to provide a comprehensive interpretation of a process which results in a public contract as well as to analyse the admissibility of a modification of this legal act.

This thesis is divided into three parts. First part is particularly concentrated on the sources of a public procurement legal framework. National and European legislation is analysed in this part, together with a minor attention to the international public law. Furthermore, the fundamental principles of a public procurement are subject to rather detailed research as they have significant impact on the entire contracting process. Due to a non-negligible shift in the terminology the basic terms of a public procurement are shortly explained in the end of the first part.

In the second part which is crucial for this thesis the actual process of concluding a public contract is described. This process comprises two main stages. Therefore the second part is focused on both pre-contracting and contracting process together with its difficulties. Concerning the pre-contracting process this thesis is mainly concentrated on the issue of tender terms and conditions jointly with the legal nature of an offer and the extent to which it is binding. With regard to the contracting process the second part of this thesis is further aimed on the contractual obligation, culpa in contrahendo and the procedure of concluding a public contract between a contracting authority and the selected supplier itself. Furthermore, this part consists of an analysis focused on the issue of publication of the concluded public contract.

The very last part of this thesis deals with the issue of modifying a public contract and its admissibility. The third part analyses related case law issued by Court of Justice of the European Union which provides a legal basis for the national legislation of the member states and subsequently it interprets the substantial and non-substantial modifications in the light of the Czech national legislation.

Keywords

Public procurement, public contract, modification of a public contract.