

# **Modification of a Public Contract**

## **Abstract**

The objective of this diploma thesis is to comprehensively analyze the regulations pertaining to modifications of a public contract, i.e. the obligation of the public contract according to the Public Procurement Act No. 134/2016 Coll. and according to European law, as well as to place it into the wider context of contract law according to Act No. 89/2012 Coll., The Civil Code. Furthermore, the aim of the thesis is to point out certain issues with the interpretation of the current legislation, as well as its shortcomings which have an effect on its applicability.

The thesis is divided into five chapters. In the first chapter, general private law terminology is introduced — the obligation and the contract — which is then placed into the context of public procurement in the second chapter. The third chapter covers the main subject of this thesis, i.e. it outlines the purpose, history, context and structure of the current legislation and also presents the problem of placing the legislation of public contract modification into general civil legislation, all while respecting the autonomy originating from European law, which unavoidably creates conflicts which the author points out.

In the fourth chapter, individual rules for determining substantial and non-substantial modification of the content of the obligation are analyzed. Their applicability in case of the necessity of prolonging the duration of the contract is demonstrated in the special part. Using this example the author presents the shortcomings of the currently applicable regulations which can be overcome by interpretation only with difficulty, if at all. In the fifth chapter the author briefly engages with laws governing the modification of the subject of the obligation - both on the part of the awarding authority as well as the supplier, although the issue of changing the supplier due to legal succession will not be addressed due to the breadth of the subject matter.

In the final part of the thesis the findings are evaluated and the question of whether the current legislation is practically applicable is answered. The author also outlines his suggestions *de lege ferenda* and positively evaluates the governmental proposal for the amendment of the law of public procurement, which is referred to in other parts of the text.