

Veřejná obchodní soutěž

Public tender

Summary

The purpose of my thesis is to analyse public tender, which represents the best way how the potential contractor could conclude to an optimal agreement. The reason why I choose this particular topic is my aim to increase the knowledge about public tender because its usage in business transaction is very rare. My thesis focuses on its law adjustment in Commercial Code. However, the Code devotes its law adjustment relatively few provisions (Sections 281 – 288), public tender is the complicated institute of the law and therefore it is necessary to analyse it closer. The thesis does not set up the goal to find new ideas, but rather critically reviewed the regulation and the legal position of public tender in the Czech law order.

The thesis is composed of three chapters; each of them deals with different aspects of public tender.

Chapter one deals with trade agreements, because public tender is the specific form of agreement formation. This chapter mentions the distinction between the adjustment in Commercial and Civil Code.

Chapter Two examines public tender. It focuses on each relevant part, in which public tender appears. It contains individual statutory provisions about public tender. As well, it deals with the basic problems which public tender may cause. The solution of problems is specified in opinions and arguments of various authors, including the court cases.

The third part describes the status of public tender in Czech law. Then, there are also analysed two other institutes, which are related to the public tender in some way. The first of those areas are public contracts, which represents a special form of public tender. The second one is public competition, governed by Civil Code. In that case, despite carrying the similar title, it is absolutely different institute.

Conclusions are drawn in the last chapter where I try to assess pros and cons of regularisation of public tender. At the same time, where it is possible, I try to provide some solutions of the raised issues.