

Summary

Title of thesis: Awarding public contracts in the light of judgements of the European Court of Justice

Legislation on public procurement in the Czech Republic must be interpreted in the light of EU legislation and judgments of the European Court of Justice (ECJ) that are not generally binding but play a vital role in influencing the lawmaking, interpretation and filling in gaps in the current procurement law. Position of the ECJ is indispensable in this regard.

This thesis aims to analyze some of the judgments of the ECJ relating to the selected institutes of public procurement. The aim is not to create a complete review of all judgements falling on concrete institute of public procurement but rather better to understand the conclusions of the ECJ. Therefore more attention is paid to the analysis and detailed description of the factual state of selected cases. This thesis is processed with respect to legal status at 17 June 2010.

Chapters 1 to 3 contain a brief overview of the legislation on public procurement in the EU and the Czech Republic. Their job is not to give a complete overview of this legislation, but only introduce the reader to the extent that he needs for this issue.

Chapter 4 is a special section of this thesis and its sub-chapters deal with selected institutes of public procurement. The introduction chapter is devoted to the role of the ECJ in this area.

Subchapters 4.2.1 and 4.2.2 deal with the impact of the Lisbon treaty on strengthening the role of inter-communal cooperation and environmental aspects in EU primary law. In particular case *ECJ C-480/06 "Stadtreinigung Hamburg"* is interesting in view of co-operation between local authorities.

Subchapter 4.3.1 and 4.3.2 follow with an interesting case of violation of the principle of non-discrimination and analysis of the conditions to be met by the so-called "body governed by public law" as it is needed for the definition of the contracting authority.

Subchapter 4.3.3 addresses the recent development in ECJ case law regarding changes in public procurement contracts. It is surprising that such breakthrough as the case *ECJ C-454/06 Pressetext* and *ECJ C-91/08 Wall AG* has come so late.

Subchapter 4.3.4 deals with the distinction between public contracts and concessions, which is an essential prerequisite for the application of adequate legislation and proper conduct of the tender.

The ECJ ruling, which defines the boundaries within which the contracting authority is entitled to cancel the tender procedure, is analyzed in the Subchapter 4.3.5.

The last Subchapter 4.3.6 of this special section is devoted to the position of suppliers, who submitted a joint bid and are members of a consortium without legal personality, in the objections review procedure and in the review of practices of the contracting authority.