

Resumé

Problems associated with awarding of public procurement by sector contracting entities

The topic of this Dissertation is presentation of certain problems associated with awarding of public procurement by sector contracting entities. To begin with, basic issues of tenders and public procurement procedures are presented in a legal framework, referring not only to the Laws of the Czech Republic but also to the Laws of the European Union. This part includes definitions of basic terms, especially the public procurement concept and principles of applicable legislation. A short historical context concerning development of the legal norm after 1989 is provided. In the actual text, appropriate attention is paid to differentiation of public contracting entities with an emphasis on the content and development of the term “sector contracting entity”. The definition of sector contracting entities is a key term of this Dissertation. The process of awarding of public procurement by a sector contracting entity is subject to numerous legal exemptions, as well as some specific law regulations. These exemptions and law regulations are described and thoroughly analysed in the Dissertation. In relevant cases, a comparison between the existing laws and legislation amendments enacted as of April 1, 2012 is made, completed with examples of previous jurisprudence and case law by the Office for the Protection of Competition.

The core part of the Dissertation deals with mistakes and intentional shortcomings by the contracting entity, which may arise during the tender process. Specific situations coming from the practical experience of both contracting entities and prospective bidders competing for public procurement are described in the Dissertation in a detailed analysis, including a list of potential impacts on contracting entities as well as bidders. Attention is paid also to current jurisdiction and decision making practices of the Office for Protection of Competition.

Another important part of the text is the section describing the competence of the Office for Protection of Competition in connection with mistakes and shortcomings arising during the solicitation and tender procedures. Besides this, the Dissertation describes activities of this central administration body and the penalties imposed by this Office with regard to administrative irregularities on the part of contracting entities. In

connection with this topic, explanation is provided for potential criminal responsibility of both contracting entities and bidders involved in public procurement, for legal entities as well as individuals. Criminal penalties relating to these issues are presented as well.

The final part of this Dissertation provides for an evaluation of applicable legislature concerning the awarding of public procurement in the Russian Federation. A comparison is made with the Czech legal system and conclusions are derived with regard to potential inspiration possibilities from various foreign institutions in view of a future amendment to the Czech legal norm governing this area.

Keywords:

Public procurement, sector contracting entity