

Abstract

Protection of a supplier against conduct of the contracting agency in public tenders

The aim of this thesis is to analyze the legal instruments by which suppliers can defend against unlawful practises of contracting entity. The reason of choosing this theme is my deep interest in this sphere.

Ever year, more than eight thousand tenders are announced in the Czech Republic. There are more than fifteen thousand contracting authorities. The public sector expends more than 600 billion Czech crowns on public procurement every year. The acting of subjects involved in the procurement proces is often unlawful. It is therefore necessary to set the legal framework of competition for public contracts so that it will be ensured prevention the unlawful procedures of subjects affecting the procurement process and ensure the most efficient spending of public funds.

This thesis consists of four chapters. The first concerns the most important principles associated with public procurement. There are also examples of practical reflection of these principles to various statutory provisions.

The second chapter is devoted to the juridical institut of objections to acts of the contracting authorities.

Chapter three is focused on the public procurement supervision held by the Office for the Protection of Competition. The legal frame of the public procurement review procedure is shaped by a specific type of administrativ legal procedure which is set in The Act on Public Procurement with subsidiary use of the general administrativ law institutes set in The Administrative Act. The special legal procedure has a special definition of the parties to an action, special terms for the initiation of the proceedings, etc. In this thesis I have tried to analyze the administrativ proceedings conducted by the Office for the Protection of Competition with the stress on its specialities in relation to the general administrative proceedings. I have tried to emphasize some of the controversial issues of the legal frame and try to form my own approach. Also a new and revolutionary legal institute of ineffectiveness of public contract is mentioned.

The last chapter briefly illustrates possibility to require a review of decisions of The Office for the Protection of Competition before administrative courts.

The emphasis is also on the decision-making practice of The Office for the Protection of Competition, the European Court of Justice and the administrative courts.