

Abstract

Awarding a public contract pursuant to Act No 134/2016 Coll., on public procurement, is aimed at creating a specific obligatory relationship between a contracting authority and a selected contractor, essentially on the basis of a previous tender procedure, unless the law specifies otherwise in the given case. The tender procedure is a special arrangement for the pre-contracting and contracting process, which takes place in a binding, legally defined procedure differing from an ordinary private-law contract, even though it is also a private-law procedure according to the predominant doctrinal and case law opinion. The topic of this diploma thesis is an analysis of the specifics of the contract process leading to the conclusion of a public contract, in order to draw attention to its similarities and also to the differences when compared to general private-law contracting. The thesis is divided into three parts, the first of which, primarily deals with the Act No 134/2016 Coll., on public procurement, its classification in systemic law, its relation to the EU public procurement regulation, the nature of tender procedure (specifically open procedure) and the public contract. The key chapter is then dedicated to the award of a public contract, followed by the last section on changes to already concluded contracts. The analysis is based on Czech and European Union legislation (particularly Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC) and is included in the context of the decision-making practice of the Office for the Protection of Competition and the case law of the Czech courts and the Court of Justice of the European Union (particularly Judgment of the Court of 19 June 2008; *pressetext Nachrichtenagentur GmbH v Republik Österreich (Bund), APA-OTS Originaltext-Service GmbH and APA Austria Presse Agentur registrierte Genossenschaft mit beschränkter Haftung*).