

Abstract

This thesis ‘Selected institutions of public procurement in the light of new legislation’ describes the new legislation in the Czech Republic regulating the public procurement process, introduced by the new Public Procurement Act (Act No. 134/2016 Coll., on the Public Procurement Process, as amended – the “**PPA**”) and its implementing regulation, and compares it to the previous legislation under Act No. 137/2006 Coll., on Public Procurement, as amended. The PPA came into force as of October 1, 2016 and has thus been in effect for a period of less than one year. As such, the PPA is considered a relatively new regulation which is still being explored, and which above all requires new case law to provide much-needed interpretation of some provisions which remain unclear or ambiguous.

The PPA regulates the procurement process and establishes the rights and obligations of contracting authorities in the Czech Republic and of bidders and contractors, in accordance with the new EU directives. This thesis describes the principal differences and new types of tendering procedures (such as the ‘innovative partnership’ or the ‘light regime’) and legal institutions (such as the ‘preliminary market consultations’), new grounds for exclusion from tendering procedures, and new qualification requirements introduced by the PPA.

This thesis also provides some practical guidance for contracting authorities as well as bidders, and identifies those sub-sets of case law and decisions under previous public procurement law which remain applicable and relevant also in relation to the PPA.

The first chapter of this thesis provides a brief overview of the previous legislation regulating the public procurement process. The second chapter describes the legislative and transposition process as well as the systematics of the PPA. The fourth chapter identifies new definitions used by the PPA and the fifth chapter analyses the new principles that are relevant for the proper use and application of the PPA in practice.

Chapters Six through Nine focus on the tendering regime, new tendering procedures and new legal institutions, and offer an analysis of the provisions regulating above-threshold public

contracts. These chapters reflect how the rules have changed in comparison to the previous regulation, and identify what relevant case has remained applicable in relation to the new PPA. The last chapter describes new measures aimed at increasing the transparency of the public procurement procedure and assesses their relevance.

Last but not least, this thesis draws attention to certain inaccuracies and problematic passages which are revealed when applying the new legislation in practice, and attempts the interpretation of certain ambiguities.