

Public procurement in the fields of defence and security after adoption of the Act on awarding public procurement and comparison with the previous legislation

Abstract

This thesis is focused on the analysis of the legal regulation related to public procurement in the fields of defence and security. Major part of this thesis is devoted to specific rules for the public procurement of defence and security contracts. However, a significant amount of space is also devoted to selected provisions, which are not listed in Book Ninth of the Act no. 134/2016 Coll. on Public Procurement, and yet they are significantly related to the issue of defence and security. For a comprehensive and sufficiently detailed analysis of the relevant legal area this work draws not only from the personal experience of the author of this thesis with the topic, but also from doctrinal literature, but also from case law of the Office for the Protection of Competition, the Regional Court in Brno, the Supreme Administrative Court and also from selected decisions of European case law.

Since the issue of public procurement in the fields of defence and security has undergone significant changes in relevance with the adoption of Act no. 134/2016 Coll. on Public Procurement, this thesis contains in the relevant chapters a comparison of the previous legislation with the current one. Also, this thesis contains a comparison of the national legislation with the adaptation contained in relevant European directives on public procurement, upon which the Act 137/2006 Coll., on Public Procurement, is directly based. At the same time, the success of the transposition of the current European directives on public procurement and the Directive No. 2009/81/EC of 13 July 2009, on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC into the Act No. 134/2016 Coll., On Public Procurement, is critically evaluated.

After the introduction, this thesis deals in the following chapters with the analysis of entities involved in public procurement in the fields of defence and security. Further, the essential concepts that are intertwined with the whole thesis, such as the military material and sensitive material, are analyzed. In the fifth chapter discusses some other provisions that are

related to defence and security, although these are not listed directly in Part Ninth of the Act no. 134/2016 Coll. on Public Procurement.

The core of this thesis is constituted in the sixth to ninth chapters, which contain a detailed analysis of the specific rules applicable to public procurement procedures in the fields of defence and security.

In the final chapter, the author of this thesis attempted to summarize the basic theses, which he achieved through this work. However, partial conclusions can be found in other chapters. Since, as is well known, the devil is in the detail, the general statements made in the final chapter of this thesis must be confronted with the individual chapters, which explain the rules relating to the award of public contracts in the fields of defence or security in more detail.