

Abstract

The core of diploma thesis lies in analysis of public procurement procedure of which defining features in all the world public procurement systems are elimination of competition and constraints to the transparency, which opens up the scope especially for disguised breaches of law, discrimination of suppliers and corruption - negotiated procedure without notice. Existence of negotiated procedure without notice is not overseen in the Czech legal environment. Frequency of its use currently amounts to significant 20 per cent of all awarded contracts. This procurement procedure has been traditionally justified in all procurement systems by specific circumstances, which from its nature either eliminate competition, or there is another public interest, which outweigh free competition. Thus balancing of such interests tends to be the major problem when assessing permission to use this non-transparent procedure. Negotiated procedure without notice has already occurred in the Czech law in the first legal act, which governed public procurement. The respective groundbreaker was the Act No. 199/1994 Coll., which was inspired by the UNCITRAL Model law on public procurement. After the accession to the European Union, the Czech Republic was forced to reflect common procurement framework and to implement provisions of which aim is not as much protection of public resources from corrupt practices but rather endeavor to create internal market with public procurement contracts with aim to increase prosperity of European society. It can be submitted that the actual different reason for regulating public procurement at EU level interferes in the interpretation of grounds on which negotiated procedure without notice can be used. Thus the first part of the diploma thesis focuses on theoretical conceptions of public procurement in EU and its impacts to the law of public procurement. The more detailed analysis of the grounds of negotiated procedure without notice with account taken to future development of individual grounds with respect to adoption of new public procurement directives will be submitted in the part two.