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Abstract of the doctoral dissertation
"Legal remedies in European Union public procurement law".

The main objective of this thesis is to establish what legal remedies have been established in the European Union law system for public procurement and what legal protection is granted in this system to a contractor participating in a public procurement procedure. This approach allows identification of an EU standard of protection, with which the law and practice in the Member States should be in line and whereby every participant in the public procurement market (contractor, contracting authority) as well as all legal protection authorities in the Union, regardless of their country of origin, equally benefit from the same standard of legal protection.

Chapter I presents the essence of public procurement as an economic tool of the state in the broadest sense of the term, serving not only public tasks but also social, environmental or innovative goals. Public procurement is an element of the internal market of the EU, so the norms and principles governing this vast legal area apply, the most important of which are non-discrimination, transparency and proportionality. A global perspective is also valuable for the reflections in the submitted dissertation, as public procurement has developed not only in Europe, but also worldwide, first as a transparent tool for reconstruction projects in countries destroyed by the Second World War, often with external funding. This involved the need for procedures to reduce the risk of corruption. Today, this latter function is constantly being performed and is not losing its importance. From this point of view, reference to public international law is also relevant, in particular the Government Procurement Agreement (GPA) and the UNCITRAL Model Law on Public Procurement.

Chapter II presents the general construction of legal protection in EU public procurement law. It is worth noting that this construction is of an exceptional nature, as it is very rare for EU law to introduce procedural rules for proceedings before a court or other legal protection authority in secondary legislation. This is usually the domain of the Member States, which, due to the principle of procedural autonomy, decide themselves on the organisation of the judiciary. However, as the remedies adopted at EU level are not complete, in addition to these principles they require reference to other principles of law, including the right to obtain a judicial determination. This is stipulated in Article 19(1) TEU and Article 47 CFR, including the conditions for effective protection of fundamental rights in the EU. The obligations of courts

and other legal protection bodies are not unaffected by such a construction of legal protection, which is the final point of consideration in Chapter II.

While the subject of Chapter II are the most important principles of EU public procurement law, i.e. those relating to the public procurement procedure (and therefore analysed from the point of view of their application by the contracting authority), Chapter III deals with those legal principles which have a direct impact on proceedings before the courts and other legal protection authorities. As it turns out, not all of them, and not to their full extent, are included in secondary legislation. This has its consequences, which are dealt with in the next Chapter of the dissertation.

The subject of Chapter IV are those elements of the legal remedies set out in secondary legislation which can be considered as the most relevant. The criterion for assessment is the way in which they are formulated, as it appears that some elements are defined too vaguely or even missing, resulting in an unacceptable limitation of the contractor's legal protection. This assessment is possible on the basis of the dogmatic method, the analysis of the CJEU case law, the opinions of the Advocates General, the body of doctrine and the documents of the EU institutions.

Of key importance is the fact that remedies in public procurement operate within the EU system of protection of individual rights. The contractor enjoys the rights granted to the individual under the provisions of Article 19 TEU and Article 47 CFR, which is raised in CJEU jurisprudence as an argument for broadening the scope and raising the standard of remedies set out in the Remedies Directives. Importantly, in proceedings before a legal protection body at the appeal stage, which is conducted by an authority other than a court, the contractor may require the level of judicial review in its entirety, with all the requirements of independence, autonomy, adjudication of the case based on the law.

In the dissertation presented here, reference is made in a number of places to the practical conflict between the principles of procedural autonomy and effective legal protection. The positions of doctrine and case law cited confirm that the principle of procedural autonomy of the Member States is increasingly giving way to the principle of effectiveness in order to raise the standard of protection for contractors.

The case law and doctrinal position cited in the dissertation confirm that the problems related to the functioning of national remedies in public procurement law are many, and it is worth taking into account that numerous possible situations have not yet been assessed by the CJEU at all. From this point of view, it should be noted that some of the problems that arose

after the introduction of the first Remedies Directives and that were criticised in the judgments of the CJEU have been solved by EU law or national law. Often, a change in the interpretation of already existing rules or a change in practice in a Member State, as indicated by the CJEU, was also sufficient. Therefore, the EU standards on legal protection presented in this thesis will also be applicable to other legal problems, in other factual situations. Nevertheless, as it has been confirmed before, national courts and other legal protection authorities, which are obliged to directly apply the principles stemming, inter alia, from Article 19 TEU and Article 47 CFR, are crucial for the legal protection of contractors.

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