

ABSTRACT

Striking a balance between a contracting authority's discretion in spending public funds and an economic operator's need for transparency and legal certainty is a persistent challenge in public procurement, especially when dealing with parallel framework agreements.

Procurement from parallel framework agreements involves simultaneous purchasing from multiple framework agreements covering the same or overlapping subject matter. Directive 2014/24/EU neither explicitly permits nor prohibits this practice. The CJEU has not addressed this topic either. As a result, parallel framework agreements represent a gap in EU public procurement law, granting contracting authorities significant discretion in choosing between these agreements. Due to the absence of regulatory oversight, decisions regarding procurement from parallel framework agreements lack transparency for economic operators. This lack of transparency can lead to unequal treatment of economic operators and risk resulting in prevention, distortion or restriction of competition.

This thesis examines, discusses, and clarifies the compatibility of procurement from parallel framework agreements with the EU public procurement law and principles. It analyses the conditions under which contracting authorities can benefit from simultaneous access to parallel framework agreements while adhering to the principles of transparency and equal treatment. Further, it identifies and critically appraises legal barriers potentially limiting procurement from parallel framework agreements, which may arise from the protection of legitimate expectations, the principle of competition specific to framework agreements and elements of contract law relevant to framework agreements.

Through a doctrinal examination of EU rules and practices governing parallel framework agreements, supplemented by empirical findings, this thesis highlights shortcomings in the current EU public procurement law on framework agreements. It contributes to the existing literature by addressing the relationship between framework agreements and public contracts, recognising the competition principle specific to framework agreements, and exploring the potential for claims related to violations of legitimate expectations within these agreements. Ultimately, this thesis offers a comprehensive analysis of parallel framework agreements within the context of EU public procurement law and provides insights for improving the current EU public procurement law on framework agreements.

Keywords: public procurement, EU law, framework agreements, parallel procurements, discretion, transparency, equal treatment, competition, objective criteria