Abstract

Unsolicited advertising in Czech and German law

This thesis, entitled “Unsolicited advertising in Czech and German law”, comprehensively analyses the issue of unsolicited advertising in the legal system of the Czech Republic and the Federal Republic of Germany. Unsolicited advertising represents a certain interference with the personal or commercial sphere of its addressee or third parties, and in the context of the development of modern means of communication appears increasingly and in various forms. Even though advertising in general is a reflection of freedom to conduct a business and freedom of expression, its legal regulation is needed, especially in case advertisement is undesired and harassing. The text of this thesis is systematically divided into four consecutive parts.

The first part constitutes an initial reflection on the need and reason for a legal regulation of unsolicited advertising.

The second part is divided into four chapters and provides the basis for regulation of unsolicited advertising and an outline of its current form. The first chapter deals with the historical background of regulation of unsolicited advertising. The second chapter places unsolicited advertising into a wider legal framework of constitutional law. In the following third chapter the issue of unsolicited advertising is presented in the context of primary European law, and in particular secondary European law. The final chapter of this section, a considerable attention has been given to an overview of the applicable legal regulation of unsolicited advertising in Czech and German legal order, allowing the reader to gain an orientation in the issue.

The fourth part is divided into six chapters and analyses unsolicited advertising according to individual conceptual characters of unsolicited advertising across the legal order and not separately according to single legal regulation. The first chapter defines what the individual laws mean by advertising or by possibly related terms. The second chapter handles the indication of undesirability and its expression in individual legal regulations. In the third chapter selected methods of dissemination or expression of unsolicited advertising are discussed. The fourth and fifth chapters state reasons that advertisement, which may be otherwise considered unsolicited, make legal, such as the consent of addressee and the existence
of a prior customer relationship. The sixth chapter deals with the so called anonymous advertising as a special type of unsolicited advertising.

The fourth part focuses on the possibilities of sanctioning unsolicited advertising. It is divided into two chapters dealing with means of protection provided by private and public law.

In conclusion, the author brings assessment of the valid regulation of unsolicited advertising in Czech and German law, possible positives and deficiencies, and for the Czech legal order also possible direction of legal regulation de lege ferenda.