

Abstract

The subject matter of this thesis is the analysis of the Czech pre-WW2 legislation on unfair competition as laid out by the Act on Protection against Unfair Competition 111/1927 Sb. and the vast body of work concerning its interpretation and application as contained in both doctrinal works and especially the case law of the Czechoslovak Supreme Court. The thesis then attempts to thoroughly compare these to the relevant contemporary Czech case law and theoretical works. To achieve this goal, after a thorough preliminary analysis and selection of the relevant sources (especially applicable case law), the thesis lays out the most crucial legal questions and areas of interest in which the current legal doctrine and case law have been influenced by the pre-war era. The thesis contains thorough analysis of provisions containing vague legal terms, such as „good morals of competition“, „business relations“ or „average consumer“ and attempts to put these into the context of legislation, legal doctrine and case law of the first Czechoslovak Republic. Considerable attention is also paid to the relationship between industrial property law and the law on unfair competition.

The focus has been put on providing an analysis of the foundations that had shaped the legal thinking of the first Czechoslovak Republic in terms of unfair competition and to evaluate in which ways and means they have been altered and shifted before reaching their current form. Another goal also is also the attempt to assess the ways in which these foundations and conclusions of the pre-war era can potentially serve as an inspiration to the contemporary legal practice and case law.

The thesis is divided into an introduction, four parts and a conclusion. After a brief general introduction and an outline of the goals and systematic framework of the thesis, the first part contains an analysis of the three essential attributes for the fulfilment of the general clause of unfair competition in the context of pre-war jurisprudence and case law.

The second part is dedicated to two vague legal terms related predominantly to unfair competition in the form of creating a likelihood of confusion and a related term of designations or goods „typical“ for a particular enterprise. The closely related criterion of the „average consumer“ and how it pertains to the current European context, is also discussed in great detail.

The third part then discusses the relationship between industrial property law and the law on unfair competition as viewed during the first Czechoslovak Republic and its ramifications for the present day (in particular, trademark law and corporate name law are discussed at length).

In the extensive fourth part, the legal means of protection against unfair competition as laid out in the Czech private law are put under scrutiny. A great amount of attention is paid in particular to claims to refrain from competing unfairly. As the law against unfair competition is predominantly judge made, the thesis offers in these subject matters not only a plain description and doctrinal definitions, but also *de sententia ferenda* contemplations.

In the concluding chapter, the thesis evaluates whether the pre-war Czechoslovak legal framework, doctrine, practice and case law pertaining to unfair competition has anything (and if so, then what) to offer to both the current and future Czech legal environment. Then in closing remarks, its high degree of relevance for the present day is appraised.