

Public Authority as a Disturber of Competitive Environment and EU Competition Law

Abstract

This thesis focuses on the role of EU Member States within the European Union and the role of public administration bodies in the Czech Republic and the Slovak Republic as disruptors of the competitive environment. Given that the legal frameworks of all selected jurisdictions in the field of competition law are primarily aimed at regulating the conduct of the undertakings, the thesis in contrary focuses on the question of how Member States, acting as regulators, may interfere with competition rules and disrupt related legal provisions.

The thesis examines, within the boundaries of European law, the relationship between the principle of sincere cooperation under Article 4(3) TFEU and Articles 101 and 102 TFEU. It explores how this principle influences the actions of Member States in exercising their regulatory powers and how state measures may come into conflict with these Articles. Furthermore, it analyses how Member States, through legislative or administrative actions, may breach Article 106(1) TFEU by granting special or exclusive rights to certain undertakings.

The thesis includes a comparative analysis of the legal frameworks of the European Union, the Czech Republic, and the Slovak Republic. It investigates how each legal system addresses issues related to the disruption of the competitive environment by public authorities, the legal mechanisms they employ to maintain an undisturbed market environment by the public sector, and the differences in their approach to applying competition law with respect to regulatory measures by the state across jurisdictions.

The central question addressed by this thesis is who and in what manner can come into conflict with competition law in the jurisdictions under comparison, and what measures taken by public authorities can be considered anticompetitive. The thesis focuses on an analysis of relevant case law and the decision-making practices of competition authorities, with particular emphasis on rulings by the Court of Justice of the European Union, the Czech Office for the Protection of Competition, and the Slovak Antimonopoly Office.