

Resumé

The aim of the thesis „Comparative advertising – the development of its regulation in Czech law” is to analyze the development of comparative advertising in the Czech legislation, to make a comparison with the EU legislation and to examine development trends in comparative advertising.

The thesis is divided into four key parts. First part discusses general issues of comparative advertising, ways of comparison in advertising, understanding of comparative advertising in the past and general regulation of advertising.

Second part of the thesis analyses development trends in the Czech regulation of comparative advertising. This part analyzes two key phases – understanding of comparative advertising before and after accepting the amendment of the Commercial Code (1st January 2001) that introduced explicit regulation of comparative advertising. The thesis evaluates compatibility of conditions of permeability in the Commercial Code to the ones in the EU directive, assesses strictness of the conditions and examines the relationship of comparative advertising to other explicitly regulated types of the unfair competition in the Commercial Code. In relation to the requirement of the single regulation of the comparative advertising in the EU it is possible to evaluate the regulation in the Commercial Code – almost word-for-word translation – as positive. In the current regulation in the Commercial Code the provision of comparative advertising partially overlaps provisions about denigration and parasiting on the reputation. The conditions required in the comparative advertising should be adequate so that they do not disallow such advertising completely. In this view the „champagne” and the „perfume” clauses may be seen as too strict.

Third part of the thesis comments on the developments of comparative advertising in the EU and its impact on the Czech regulation, analyses the effect of EU directives on the changes in the Czech regulation and highlights differences in both regulations.

Fourth part of the thesis is focused on decision-making practice of the European Court of Justice and Czech courts in the questions of comparative advertising. Continual cross-references to specific cases are used on several relevant places throughout the whole thesis. The thesis mentions also some of the judgments of the German Bundesgerichtshof. Since Czech jurisdiction to comparative advertising after 2001 is rather poor, it was not possible to make a proper comparison of the trends in Czech and European Court of Justice decision-making practice.

The Czech regulation of comparative advertising *de lege ferenda* is evaluated in the conclusion.