

Summary (en)

Stepan Svoboda - Liberalization of postal services under the European and Czech law

This dissertation is an updated analysis of the current liberalisation processes in the European Union and in the Czech Republic. It consists of 9 parts. In the introductory parts the author describes the role of the application of the article 106 TFEU in conjunction with the article 14. He shows that the application of the article 106 constitutes the primary authorisation for the liberalisation (not only) postal services. Furthermore he analyses the basic requirements for the application of the article 106(1) and its exception as provided for in the article 106(2) TFEU. In the chapter 2 the author is focused on the general scheme of the liberalisation process and its risks arising from the behaviour of the incumbent as well as the new entrants on the postal market. The introductory framework is completed by the economic analysis of the behaviour of the postal monopoly and its (in) efficiencies compared to the structure of the competitive markets.

In the main part of the thesis the author is dealing with the analysis of the services of general interest, general economic interest and the universal services in which the basic concept of the gradual liberalisation of the network industries must be seen. By means of the analysis of the obligation to provide the universal services in the liberalised telecommunication, electricity and gas sectors the author shows the contents, function a legal framework of the postal universal service and its regulation both in the European law and in the Czech postal law. Furthermore, the legal regulation and market position of the Czech Post s.e. (Česká pošta, s.p.) is also analysed whereby the author stressed that on some postal relevant market the Czech incumbent might hold a dominant position whereas on some other the entrants have already taken over the leading position on such markets.

The chapter 6 is dealing in a more detailed way with the concept of the postal universal service. By means of the characteristics of the first and second European postal directive it is analysed which of the postal services constitute the universal postal service and which of the postal services can be reserved by the EU member states for the public postal monopoly. Some forms of the (il) legal extension of the postal monopoly by the member state and the incumbent are also analysed as well as the risky behaviour of the new entrants seeking for the elimination of the postal monopoly. The following chapter describes in a detailed way the development of the case law of the European Court of Justice and the Court of First Instance regarding the relation of the European law towards the state monopolies in general as well as towards the postal sector.

Furthermore the author analyses and assesses the current Czech postal law in the light of the European postal legal framework, in particular the degree of the liberalisation of the Czech postal services compared to the European framework as well as the law of other

selected member states. In the following relating chapter a detailed analysis of the future postal law as provided for in the third postal directive of 2008 is provided. Among many problems arising in connection with the full opening of the postal market (in 2010, 2012, respectively) the author focuses on the detailed analysis of two major problems: regulating and financing of the postal universal services and the access to the public postal network by the new entrants. The conclusion and summary of the major findings conclude this dissertation.