

Abstract

Legal Penalty for Unfair Competition

Unfair competition law has quite a long tradition in the Czech Republic. After the recodification of private law, the basis of the legal regulation of unfair competition is contained in the Civil Code, which is a fundamental code of the general civil law. Other legal remedies are based in the Civil Procedure Code. In the last decades some elements of the public law also infiltrated the system of legal penalties for unfair competition.

The aim of this diploma thesis is to introduce the system of legal penalties for unfair competition in the Czech Republic. The main emphasis is put on the private law regulation, i.e. the regulation contained in the Civil Code and the Civil Procedure Code. The text of this thesis focuses on the comparison of the particular remedies under the Civil Code with the remedies that used to be anchored in the Commercial Code as well as on the alterations put on the unfair competition law in connection with enacting the new Civil Code.

The thesis is divided into four chapters. Chapter One first of all briefly introduces unfair competition law and sets it in the context of international law and European law. Additionally, the meaning of the general clause of unfair competition and its relationship with the special statutory clauses of unfair competition is mentioned.

Chapter Two is concerned with the entities that have a right to sue or that can be sued in the unfair competition disputes. Gradually the terms ‘competitor’, ‘customer’, ‘legal entities that are entitled to defend the legal interests of competitors and customers’, ‘infringer’ and ‘aiding person’ are defined.

Chapter Three is the core part of this thesis and deals with the private law regulation of penalty for unfair competition. Subchapter One introduces the particular claims that the prospective plaintiffs can use under the Civil Code. The following claims based in the Civil Code, sec. 2988 are presented: the claim to refrain from unfair competition practices, the claim to remove the consequences of unfair competition practices, the claim for damages, the claim for reasonable satisfaction and finally the claim to reimburse the unjust enrichment. The issue of limitation of actions is briefly mentioned. Subchapter One concludes with a brief overview of the supplementary remedies that are furthermore embodied in the Civil Code. Subchapter Two is concerned with the legal remedies under the Civil Procedure Code, namely with the

preliminary ruling and the publication of judgement. The third and final Subchapter focuses on certain particular features of the unfair competition proceedings.

Finally, Chapter Four gives a concise explanation of public law regulation of penalty for unfair competition, i.e. of some remedies that are embodied in the rules of administrative and criminal law.