

Summary

The selectivity criterion is one of the defining elements of State aid within the meaning of Article 107(1) TFEU. The selectivity criterion is considered to be the most important and the most problematic in its application in the assessment of Member States' measures at the same time.

The aim of this work is to analyze the development of ECJ's case-law and the Commission's decisional practice related to the selectivity criterion and by means of their analysis to point out the disputableness and lack of clarity of the selectivity criterion and to critically assess the unpredictability and questionable character of certain judgments of the ECJ.

The first chapter deals with an introduction to the issue of State aid, subsumes it under the system of competition and describes the defining elements of State aid.

The second chapter analyzes one of the two features, into which the selectivity criterion divides, referred to as an advantage. It describes both the broad concept of advantage and also a way how to identify an advantage. It also addresses the exceptions and specific regimes to which the provisions on State aid in principle do not apply.

The third chapter considers general issues relating to the second feature of the selectivity criterion, which is selectivity (in the strict sense). It also pays attention to the fundamental issue of State aid law – the distinction between selective measures and general measures.

The fourth chapter analyzes one of the two categories of the notion of selectivity – the geographic selectivity. First it explains the concept of geographic selectivity and then analyzes significant judgments of the ECJ in order to ascertain what is the actual state of affairs in the area of the case-law.

The fifth and final chapter deals with the second category – the material selectivity, which is the most controversial and the least clear. At the beginning it describes the broad concept of selectivity and its criticism then it discusses the ways of determination that a particular national measure is materially selective. This chapter proves the disputableness, ambiguity and legal uncertainty in this area on the analysis of ECJ's case-law.