

The Enforcement of EU Competition Law and Its Compliance with the Right to Fair Trial – the Abstract:

The EU is a community based on common values among which the prime role is played by fundamental rights. One of the most important rights which serves also as a vehicle for the protection of other rights is the right to fair trial. That is valid also for the specific field of EU competition law. The European Commission issues in competition proceedings sanctions which are of criminal nature. Such sanction must be either imposed or at least reviewed by an independent court or tribunal with a full jurisdiction. This is a doctrine developed by the ECtHR in Strasbourg under art. 6 of the Convention and it has been well established in its case law for decades. Since the Commission itself is not an independent court or tribunal, its decisions must be reviewed by the ECJ which must exercise the full jurisdiction over the decisions in question. In the past the ECJ was criticised that it did not possess or exercise the full jurisdiction by which it failed to safeguard the standard of fair trial. Although the ECJ accepted the line of case law on criminal nature of Commission's decisions, at times it was indeed rather hesitant to review fully the parts of the decision where the Commission assessed the factual circumstances and decided on the matter of existence of the infringement of relevant competition rules. This thesis shows the development of the case law from the very deferential approach of the ECJ in cases like *Consten Grundig* and *Remia* to more comprehensive review in recent years in the cases like *KME* or *Chalkor*. Although the ECJ never doubted that it fulfils the standards of art. 6 of the Convention and later art. 47 of the Charter, the analysis of the case law shows that the standard of review exercised by the ECJ did change in time substantially and the ECJ showed some creativity in interpreting the Treaties to create a path for the required full review of Commission's decisions in competition cases.