

Abstract

The purpose of the thesis is to answer the question whether the new legal rules set forth by the Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union and its transposition into Act. No. 262/2017 Coll., on Damages in the Field of Competition, as amended, is able to provide for more effective private enforcement of competition law by all injured parties compared to present.

The thesis is composed of eight chapters, except from the introduction and the conclusion, each of them analyzes the current regulation of private enforcement of competition law, evaluates it and proposes the possible solutions for securing the rights of injured parties. The second chapter describes the main differences and relationship between public and private enforcement of competition law. Since the competition law cases often includes the international element, the third chapter deals with the questions of international jurisdiction and applicable law and its importance for facilitating claims for damages by injured parties. The fourth chapter examines the scope of application of the above mentioned regulations. The fifth chapter is the crucial chapter; it analyzes the basic conditions for successful claim for damages, namely the breach of duty, the existence of damage and causal link between them. It also highlights the obstacles faced by injured parties, in particular, from the lower levels of distribution chain such as obstacles to determining damages, the issue of the joint and several liability of tortfeasors and difficulties in proving the causal link. Finally, it deals with the issue of passing-on and its importance for the successful private enforcement of competition law. Since the typical problem which is faced by the injured parties is the lack of evidence, the sixth chapter examines the conditions for the access to the evidence in the possession of the competition authority. The last issue connected to private enforcement of competition law is the non-existence of the binding concept of collective redress of competition law. The seventh chapter evaluates the two basic concepts of collective redress and its suitability for the consumer claims. The thesis is concluded by the conclusion pointing on the persistent deficiencies of private enforcement which is being tackled by indirect purchasers.