

The Quantification of Damages caused by breach of the European Union Competition Law and Private Enforcement of its Compensation

Abstract

Effective competition is key issue for achieving the economic prosperity of the internal market, improving the quality of production and maximizing employment. On the contrary restriction of the competition can lead to inefficient allocation of resources, loss of economic welfare and damages to both competitors and consumers.

Achieving and maintaining of the effective competition is therefore one of the main objectives of the European Union. This can be achieved through means of public and private enforcement. While public enforcement has, in particular, punitive and deterring function, private enforcement has, in particular, compensatory function. Despite these differences both categories complement each other. That is why this thesis deals with the relationship between private and public enforcement.

On 26 November 2014, the European Union adopted Directive 2014/104/EU, which partially harmonises private enforcement in relation to the right to compensation for damages caused by a breach of competition law.

The aim of this work is to analyze the positives and negatives of this harmonization. The dissertation also deals with the comparison of two reference transpositional national measurements, namely Act No. 262/2017 on compensation in the field of competition in the Czech Republic and Act No. 23/2018 on the right to compensation for damages caused by breach of competition law in the Portuguese Republic.

As to the quantification of damages, economic and econometric proves are often used in the field of competition law. Given that the Directive 2014/104/EU enacts the duty of the member states to ensure the quantification of damages by estimation in the case of unreasonably difficult determination, the dissertation deals with the analysis and comparison of the basic methods of quantification of damages caused by the breach of the competition law.

For the efficiency of the private enforcement is also important the regulation of the collective actions. That is, why the author of this dissertation analyzes also the legal regulation of this issue both on the level of the European Union and on the level of some member states, in this case of the Czech Republic and Portuguese Republic.

Key words

competition, damages, compensation