

# Abstract

## Doctrine of essential facilities under Czech and European law

„Essential facilities doctrine” is a term used to describe a set of rules concerned with a dominant undertaking refusing to supply a crucial resource, over which it holds an exclusive control, to its competitors who need the resource to remain in business. This thesis focuses on the doctrine’s applications in the context of an abuse of a dominant position, but the role the doctrine plays in regulation of network industries is mentioned as well.

The main goal of the thesis is to define conditions under which the owner of the crucial resource – described as “an essential facility” in the thesis – abuses his dominant position by refusing to supply a competitor who is willing to pay a reasonable price for such access. The method primarily used to achieve the goal is a careful analysis of primary legal sources accompanied by studies of the relevant literature. The opinions and conclusions expressed in the afore-mentioned sources are critically evaluated by the thesis’s author who presents his own opinions and tries to justify them by legal arguments.

Chapter One explains some specific terms used in the text. Chapter Two describes a conflict between two core principles that have to be evaluated when the rules of mandatory access are defined or applied – the conflict between private property rights and the protection of the economic competition. Chapter Three presents the origins and developments of the doctrine in the United States until a recent Supreme Court case which stopped short of rejecting it. Chapter Four concentrates on the doctrine in the European Union. After discussing the case law of European institutions, this chapter introduces the essential facilities doctrine as it currently stands in the European Union. The remainder of the chapter discusses individual features and principles of the doctrine – with some of the discussions being relevant to the Czech law as well. Chapter Five is subdivided into three parts and provides an outline of the doctrine in the Czech Republic, with Part One devoted to the doctrine’s treatment in the Czech Competition Act, Part Two outlining sector-specific regulation of access to essential facilities and Part Three discussing relevant case law.

The thesis should provide a self-contained overview of the doctrine in Czech and Community legal systems, including some of the issues the author considers controversial, such as the definition of the relevant market of a vertically integrated producer and the link between the doctrine and a discriminatory conduct.