

Specifics regarding methods of interpretation of the EU law and process of EU directives transposition

Abstract

This thesis is dedicated to the problematics regarding specifics of the European Union law interpretation methods. While majority of publications dealing with law interpretation adopts the perspective of judges and courts, and thus deals with the interpretations they render, this study adopts the viewpoint of a Czech legislator, who is facing a challenging task of transposing directives into the Czech legal order. In order for the transposition to be conducted properly, a thorough interpretation of the respective directive must precede. There is six standard and non-standard methods of interpretation at the legislator's disposal, including linguistic, logical, systematic, historical, theological and comparative one. Do these methods, however, prove to be fully applicable in case of the interpretation of the EU directives? Possibly, what would be the EU law norms interpretation specifics?

This study represents an analysis of the given topic from the perspective of a legal theory and is structured into three main sections. The first section provides a brief definition of the legal interpretation as such and presents an overview of both historical and contemporary approaches towards the interpretation of law. The link between law interpretation and law-making will also be considered, focusing particularly on the process of a directive transposition.

The second section introduces the six fundamental methods of interpretation in more depth. Each method is analysed, and its specifics, emerging from its use on the EU law level, is pinpointed. Since the interpretative methods are fairly general, each of them is complemented by a specific legal argument(s). The third pillar of this work is a case study exploring the problematics regarding distribution of pharmaceuticals within the EU member states. In the centre of such explorations stands the Directive 2001/83/ES of the European Parliament and of the Council on the Community code relating to medicinal products for human use and its specific directive provisions, which must be examined by means of the interpretative methods whereby it can be found out whether the respective legal provisions have actually been interpreted correctly by a Czech legislator, and thus whether it has been transposed properly into the Czech legal order.

In addition, an overview of the historical evolution of the approach adopted by the Court of Justice of the European Union can be found in the study and when forming the individual specifics of the EU law interpretation, the relevant case law of the court is also taken into account.

interpretation, EU law, transposition