

Abstract

Blacklist of unfair business practices used against consumers

This thesis focuses on the blacklist of unfair commercial practices, which is a designation for an exhaustive list of specific unfair practices which a consumer may face in business relations with a seller and which are prohibited due to their unfair nature. This list forms Annexes 1 and 2 to the Act No. 634/1992 Coll., on Consumer Protection and an Annex I to the Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market.

The thesis begins by outlining the European regulation of consumer protection prior to the adoption of this Directive, from the origin of an idea to create a blacklist through its realization in a form of an Annex to the Directive to its implementation into national law in the member states.

The blacklist is an integral part of the process of assessing unfairness of commercial practices. It is the first step of the whole process. For that reason, in the second part of the thesis, the reader is guided through the process of assessing whether a commercial practice is unfair and therefore prohibited and the main subjects of the commercial transactions are defined – the consumer and the seller.

The following third and main part of the work is an analysis of selected provisions and a characteristic of their features. Twelve misleading and three aggressive unfair commercial practices are introduced. In particular, they are practices which have already been addressed by the Court of Justice of the European Union, by courts at the national level, or by national supervisory authorities.

The last, fourth part of the thesis is devoted to evaluation of the concept of the blacklist, with respect mainly to the objectives for which it was originally created. Several weaknesses of the blacklist are pointed out and their possible solutions are outlined. The benefits of the blacklist are highlighted as well. Finally, measures which could contribute to increasing the effectiveness of this instrument and in turn help the consumers protection are proposed.

Key words: blacklist, unfair commercial practice, consumer