

Comparative advertising as an act of unfair competition

Abstract

In this thesis I deal with the act of comparative advertising in Czech law. The aim is to analyse the line between permitted and non-permitted comparative advertising in the context of contemporary doctrine, case law and in the light of the principles of EU-conforming interpretation.

The thesis is systematically divided into an introduction, four parts, which are further divided into chapters and subchapters, and a conclusion.

After the introduction, the first part is devoted to a brief overview of the historical development that led to the adoption of the harmonising legislation on comparative advertising at the EU level, which was an incentive for the Czech Republic to approve comparative advertising within the Czech legal order.

The second part is devoted to relevant aspects of the general clause of unfair competition law that are relevant to the scope of the regulation of comparative advertising and its interpretation, in particular the aspect of conduct in economic relations.

The third part, which is pivotal to the thesis, is divided into three chapters. The first chapter deals with the definition of comparative advertising and the categorisation of different types of comparative advertising. The second chapter analyses the individual conditions of permitted comparative advertising. The third chapter examines the significance of the clause contained in the regulation of the act of comparative advertising - 'as far as the comparison is concerned' - which is an important guide to the conclusion on the permissibility of a particular comparative advertisement.

The fourth part highlights important differences between the Czech legislation and the EU legislation on comparative advertising, which could potentially affect the interpretation of comparative advertising contrary to the intentions of the European legislator.

In the conclusion, relying on the analysis conducted, it is then deduced where the line of permitted comparative advertising is drawn.

Key words

comparative advertising, unfair competition, EU harmonisation