

Implementation of Competition in the EU based on ECJ Decision No. 161 of 28.1.1986, Pronuptia de Paris vs. Schillgalis

Assoc. Prof. Dr. PhD (Uni Graz) Endri Papajorgji
Dean of the Faculty of Law of Tirana Business University

MSc Greta Alikaj
Ministry of Tourism and Environment

Abstract

Article 3 of Regulation No 1/2003, within the framework of the Treaty's competition rules, regulates the parallel application of the internal and European cartel rules within the general area of competition, such as the agreements and established conduct of enterprises "which reduce trade between states". If the competition authorities of the member states and their courts apply the national rules in the context of judicial proceedings with interstate elements, then at the same time they must apply Articles 101 and 102 of the TFEU. It is therefore worth noting that the prohibition of cartel based on Article 101 TFEU has priority as a right of the Union against the national law of the Member States. The application of national law does not lead to the prohibition of agreements which do not qualify as restrictive of competition under Article 101 of the TFEU or the exemptions of Article 101 paragraph 3 of TFEU. The field of application of EU competition rules is mainly covered by the material scope of the Lisbon Treaty. Exceptional areas for sectors that are state-level competence are not covered by the Treaty. A restrictive exemption exists in the area of agriculture under Article 42 TFEU, especially for agreements, which are necessary and are an important part of market rules or which lead to the implementation of the purposes of Article 39 of the TFEU. Article 102 TFEU is applicable in the field of non-limiting agriculture. Competition rules apply mainly to the field of transport. The modalities for the implementation of transport rules within the area of transport are regulated in particular through a series of secondary rules (the so-called Union secondary law: the Regulation and the Directive).

Keywords: ECJ Decision, Competition Law, EU.

Full Text: [PDF](#)



This work is licensed under [Creative Commons Attribution 3.0 License](#).

Academic Journal of Business, Administration, Law and Social Sciences ISSN 2410-3918 (print)
ISSN 2410-8693 (online)

Copyright © IIPCCCL-International Institute for Private, Commercial and Competition law