

Title of the project:
Antitrust damage: its scope and quantification.
Only apparent harmonization?

The objective of the project is to examine whether the solutions provided for in the Directive 2014/104/EU (on actions for damages for infringements of the competition law) are capable and/or sufficient to guarantee an equivalent protection to victims (undertakings, consumers) of those infringements throughout the European Union. To achieve harmonization in this respect (and also to increase the efficiency of private enforcement of antitrust rules) can be very difficult, because of (sometimes significant) differences, which in the legal orders of Member States occur in those issues.

The research will consist in the analysis of relevant EU and Polish regulations, as well as of the provisions in force in selected other countries (mainly – but not only – the EU Member States). It is about the functional comparative law methodology. The elements of the economic analysis of law will also be applied in the project – specifically for the evaluation of the effectiveness (social benefits) that are associated with the achievement of (possibly highest level) of harmonization. This method will also be used to assess legal (including evidentiary) conditions that are applicable for the purposes of correct quantification of antitrust harm.

Antitrust damages, i.e. damages resulting from the restriction of competition (infringement of competition law) lead/may lead to high social costs, like in particular: price increase (of 25%-40%), supply reduction, hampering of innovation. Public enforcement of competition law (i.e. by national antitrust authorities or by the European Commission) admittedly deter (or limit) those infringements (and thus infliction of damages); it however does not fulfill compensatory function (for the victim of the infringements), which is the task (objective) of private enforcement of antitrust rules (which this project is focused on). It follows that the research topic is significant not only from the legal, but also social and economic perspective. This the reason of choosing it as the subject of study in this project.