

PRAVNA VRELA PRAVA TRŽIŠNOG NATJECANJA EU

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Pravna vrela prava tržišnog natjecanja EU



■ PRIMARNA

- Ugovor o funkcioniranju EU (UFEU)
 - ČLANAK 101 (ZABRANJENI SPORAZUMI)
 - ČLANAK 102 (ZLOUPRABA VLADAJUĆEG POLOŽAJA)

■ SEKUNDARNA

- UREDBA 1/ 2003 (UREDBA VIJEĆA br.1/2003 od 16. prosinca 2002. o provedbi pravila o tržišnom natjecanju utvrđenim u člancima 81. (101) i 82. (102) Ugovora o osnivanju Europske zajednice
- UREDBA 139/04 O KONTROLI KONCENTRACIJA IZMEĐU PODUZETNIKA

■ DRUGA RELEVANTNA SEKUNDARNA PRAVNA VRELA

- Uredba o načinu određivanja mjerodavnog tržišta
- Uredba o načinu i kriterijima određivanja upravnokaznenih mjera



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Zabranjeni sporazumi – Članak 101 UFEU



- Article 101
- (ex Article 81 TEC)
- 1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:
 - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - (b) limit or control production, markets, technical development, or investment;
 - (c) share markets or sources of supply;
 - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- 2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.
- 3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
 - - any agreement or category of agreements between undertakings,
 - - any decision or category of decisions by associations of undertakings,
 - - any concerted practice or category of concerted practices,
- which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
 - (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
 - (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.



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Analiza članka 101



- Što je zabranjeno?
- Kako se tumači pojam „sporazumi“?
- Koji su sporazumi zabranjeni i kada su zabranjeni?
- Koje pojavne oblike zabranjenih sporazuma navodi članak 101?
- Koja je pravna posljedica takvih (zabranjenih sporazuma) sporazuma?
- Kada se zabranjeni sporazumi unatoč općem pravilu o zabrani moгу smatrati dopuštenim?
- Tko mora utvrditi je li neki sporazum zabranjen ili dopušten? Sami poduzetnici ili Komisija EU?



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Zabranjeni sporazumi



Opće pravilo o zabrani (članak 101)

Od općeg pravila o zabrani izuzeti su sporazumi na koje se mogu primjeniti ili pravila o

- **Pojedinačna izuzeća** ili **Pravila o skupnom izuzeću sporazuma** (postoje za određene kategorije sporazuma)
- **De minimis pravilo – sporazumi male vrijednosti**



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Statistika Komisije EU u pogledu zabranjenih sporazuma



- Najveći prekršitelji
- Najveće kazne
- Primjeri povreda



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