

Civil Law Consequences of a Successful Private Enforcement Challenge of a State Aid Measure

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Outline

- I. Practice of Hungarian Courts
- II. Theoretical Questions

Possible scenarios for civil claims

1. State v Beneficiary
2. Competitor v Beneficiary
3. Competitor v State
4. Consumers v Beneficiary

State v Beneficiary

- State as prodigal son – admits the mistake – how can it get the aid back?
 - claim for nullity of the contract - against the law of Art 107 TFEU
 - if the contract is invalid, the parties must deal with each other as if there had been no contract

Competitor v Beneficiary

- nullity of the contract between the State and the Beneficiary – competitor has legal interest
- damage claim
 - who caused the damage?
 - what is the damage of the competitor, or the exact amount of it?

Competitor v State

- damage claim on Member State liability doctrine
 - difficulties:
 - lack of national regulation on State liability
 - reluctance of national courts using this doctrine

Consumers v Beneficiary

- The consequences of a state aid differ from cartel cases
- Do the consumers have any damages?
- or legal interest?

Conclusions

- importance of harmonization of private enforcement
 - good starting point Directive 2014/104/EU
 - fundamental questions have to be answered on EU level
- lack of political will?

Thank you for your attention!

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