Jean Monnet South and East European Competition Law Center of Excellence –

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SITUATION ANALYSIS

FINAL REPORT

Defining challenges and obstacles to competition law enforcement in South and East European countries

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1. Introduction

1.1. Project overview and Project goals

Competition law is one of the main pillars and one of the main drivers of EU integration. It is one of the main tools that drives innovation and long term economic growth of the EU. Only consistent enforcement of EU competition rules will boost employment and vibrant economic activity. Therefore, harmonized application of competition rules is important, not only for EU Member States but also for candidate countries, as well as for those countries who are having strong economic links with EU and/ or are aspiring membership in the EU.

However, while in all EU Member States there is a constant focus on the Competition law enforcement and teaching, this is not the case for the EU candidate countries and EU partner countries. Competition law teaching and enforcement in EU candidate countries and other partner countries is quite uneven. Data on Competition law teaching and enforcement are incomplete, partial and/ or non- existent. There is no doubt that there is a serious gap with regard to Competition Law enforcement and Competition Law teaching between EU Member States, EU candidate countries and other partner countries.

Therefore the purpose of Jean Monnet Center of Excellence Project titled Competition Law (Jean Monnet COE in Competition Law - 101047803 - GAP-101047803) which is funded by the EU is to bring together prominent Competition law academics and Competition law experts from totally eight (8) countries, two EU Member state countries (Croatia and Italy), three EU candidate countries (Serbia, North Macedonia and Albania) and three EU partner countries (Bosnia and Herzegovina, Moldova and Tajikistan) who will joined under the Project **organize and coordinate their resources, lead research activities** and **promote innovative contributions to the study of the Competition law** topics relevant for EU integration and EU economic interests. The different experiences of Project partners with the Europeanization in area of Competition law harmonization could also be shared by common cross-national activities.

Desired outcome and ultimate Project's goal is to support, strengthen and increase the Competition law enforcement and Competition law teaching in the EU candidate countries and EU partner countries.

1.2. Situation analysis report: Objectives and Structure of the Report

Situation analysis report is a result of joint work and joint efforts of Competition law experts from eight, mostly south and east European countries, notably, Albania, Bosnia and Herzegovina, Croatia, Italy, Moldova, North Macedonia, Serbia and Tajikistan.

It contains accurate and comprehensive information regarding Competition law enforcement and Competition law teaching in above listed countries.

It was prepared with the purpose to get, up to date and detailed information on the current situation regarding Competition law enforcement and Competition law teaching in Project partner countries. It is intended to be used as a platform for further research and analysis. It also may serve as a key document for the identification of main weaknesses and problems that exist in Competition law enforcement in Project partner countries and platform for proposing activities, policies and possible solutions for better implementation of competition law in non-EU member states.

This Report is divided in two parts, each dealing with different sets of questions.

First part of the Report is dedicated to issues regarding the Competition law enforcement in the Project partner countries. The first part is further divided in three parts. In the first part (Part A) there is a set of questions in relation to legal framework and main types of Competition law infringements. Second part (Part B) contains questions about powers and duties of national Competition authority. Third part is dedicated to judicial review in Competition cases and landmark competition cases before national courts in Project partner countries.

Second part of the Report deals with the Competition Law teaching in the Project partner countries. In the second part there are six questions that provide information on the content of Competition law courses, academic level at which Competition law courses are thought, learning outcomes, etc.

2. Part I: Report on the Competition Law enforcement in project partner countries

2.1. Introduction

Effective enforcement mechanisms are essential in order to make EU policies work. When it comes to Competition law, harmonized enforcement should ensure that the EU competition rules are applied in all EU member States in a consistent manner and that the EU policies are implemented by taking into account a key EU competition law goals.

Effective Competition law enforcement is dependent on many factors, such as, but not limited to, the general model adopted to enforce competition rules, the independence and accountability of the competition agency, the scope of the enforcement powers of competition authorities[1], effective judicial control of competition authorities decisions, clearly defined enforcement priorities, etc.

In line with that, the purpose of conducted research provided in this Report is to get a closer insight into the:

1/general model of Competition law regulations in Project partner countries,

2/powers and the degree of independence that a competition authority enjoys, and

3/ the model of judicial control of competition decisions.

National Reports are provided by alphabetic order as follows:

1. Albania,
2. Bosnia and Herzegovina,
3. Croatia,
4. Italy,
5. Moldova,
6. North Macedonia,
7. Serbia,
8. Tajikistan.

At the end of Report main findings and recommendations will be provided.

[1] Buccirossi, P., Ciari., L., Western Balkans and the Design of Effective Competition Law: The Role of Economic, Institutional and Cultural Characteristics, in Competition Authorities in South Eastern Europe Building Institutions in Emerging Markets, ed. Begovic, B., Popovic, D., SpringerOpen, 2018, p.9, (available at: https://link.springer.com/content/pdf/10.1007/978-3-319-76644-7.pdf).

2.1.1. Albania

Report prepared by Dr. Petrina Broka, Lecturer at the Civil Law Department, Faculty of Law, University of Tirana

PART A- LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

Competition protection is regulated by the law no. 9121 "On competition protection" (LPC) which was approved in 2003 and is still in force. The approval of this current law on competition coincided with the start of the official negotiations for the Association and Stabilization Agreement, between the EU and Albania. This law is generally in line with the EU standards and practices. A very important step forward was the establishing of an independent authority in charge with the implementation of this law, the Albanian Competition Authority. The object of this law is to protect free and effective competition as it serves to the public interest.

The first law related to the protection of competition was the law "On Competition", no. 8044, approved in 7-th of December 1995. This law provided for the establishment of the first public structure on protection of competition, the Directorate of Economic Competition as part of the Ministry of Trade and Tourism. Also, a Competition Commission was established. It had 5 members, appointed from the Minister in charge for trade.

The implementation of this law in practice was difficult and despite the endeavors of the competent institutions, and only limited progress was achieved. In the framework of EU integration of Albania, it was recommended that the establishment of an independent institution would have insured a better protection of free and effective competition. Therefore, there was a pressing need for the reform of the Albanian competition law. This, especially after the adoption of the Constitution in 1998, which sanctioned that the economy of Albania is based in the market economy and the freedom of economic activity.

2. ***Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.***

The main types of Competition law infringements are anticompetitive agreements (art. 4 of LPC), and abuses of dominant position (art. 9 of LPC). The Competition authority is also in charge for merger control (chapter 3 of LPC).

Anticompetitive agreements that are not exempted are null and void (art. 4, para. 2, LPC). The Albanian Competition Commission imposes fines of up to 10 percent of the annual turnover of each company or association of companies in the previous financial year.

As regards mergers, if the undertakings do not notify a concentration pursuant to Articles 10 and 12 of LPC, may be fined with up to one percent of the annual turnover of the company that has the duty to notify. But if the parties put into effect a concentration which results in competition restriction in the market or which has been prohibited from the Commission a fine of up to ten percent of the annual turnover of the company that has the duty to notify, will be imposed.

3. ***Do you have leniency regulation? Provide short information on the leniency program in your country (if any).***

Albania has firstly introduced a leniency regulation in 2010, while the current regulation has been adopted in 2015. Based on this regulation, the undertakings involved in prohibited agreements have full or partial immunity from fines, which would otherwise have been imposed on a participant in a prohibited agreement, in exchange for the voluntary disclosure of information regarding that prohibited agreement and cooperation with the Competition Authority to detect prohibited agreements/cartels and punish the participants in those cartels.

In order to qualify for fine leniency, the undertaking:

a) must end its involvement in the alleged cartel following its application save to the extent that its continued involvement would be reasonably necessary to preserve the integrity of the Authority's inspections.

b) cooperate fully and on a continuous basis with the Competition Authority from the time of its application until the conclusion of the case.

c) prior to making a fine leniency application it must not have destroyed evidence which falls within the scope of the application; or disclosed, directly or indirectly, the fact or any of the content of the application except to other competition authorities.

No leniency application has been made so far in our best knowledge based on public sources.

4. ***Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).***

Under Albanian competition law there is not yet a settlement procedure like that provided by EU Commission Regulation (EC) No. 622/2008 of 30 June 2008.

5. ***Are there any specific rules on private enforcement of Competition law?***

In Albania there are specific rules on private enforcement of Competition Law. They are provided in article 65-68 of LPC.

On 26.06.2019 a guideline „On damages caused and actions undertaken for infringements of the provisions of Law no. 9121, dated 28.07.2003 "On Competition Protection", was approved approximating in this way the Albanian legislation with the Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 "On certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union". (32014L0104).

6. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

No legal reform or amendments are foreseen in the core competition law. However, the Albanian Competition Authority is continuously working to improve and bring the competition legislation in line with the Acquis Communautaire and therefore changes and amendments of secondary legislation are to be expected. This process is in line with the National Plan for the European Integration 2022-2024. For 2022 the Guidance on restrictions of competition "by object" for the purpose of defining which agreements may benefit from the De Minimis Notice has been foreseen to be transposed.

7. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

In Albania there are no specific characteristics of the legal framework dealing with competition law that are worth mentioning for the purpose of this study. The system aims to be in line with the European one, based on the obligations set in the Stabilization and Association Agreement.

PART B - ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?***

In Albania there is a dedicated Competition Authority (Autoriteti i Konkurrencës) in charge for enforcement of the Competition law. The Authority is an independent public entity in the performance of its tasks (art.18 of LPC). The Albanian Competition Authority is financed from the general state budged, all income from fines and fees is transferred to the state budged.

The Albanian Competition Authority is structured in two parts:

- The Competition Commission which is the decision-making body.
- The Secretariat which is the executive and investigative body.

Duties and competences of the Commission based on article 24 of LPC are: a) To outline the national competition policy; b) To approve the regulation related to the internal functioning of the Authority; c) To supervise the work of the Secretariat in the application of the provisions of LPC; d) To take decisions on the basis of LPC; dh) To issue regulation and guidelines necessary for the implementation LPC; e) To submit an annual report of the Authority to the Parliament within the first three months of the consequent year; ë) To give opinions upon Parliament's Commission request on issues related to the competition and the legislation regarding this field; f) To give evaluations and recommendations to central and local administration and other public institutions, trade associations, labor unions, consumer associations, commercial and industrial chambers on issues related with competition; g) To represent the Authority, within and abroad the country, in relationships with other and homologue institutions. "h) to set the priorities of investigations and the related deadlines."

The Commission, by decision, may impose on undertakings or associations of undertakings fines:

-not exceeding one percent of their aggregate turnover in the preceding business year, for not serious infringements (art. 73 of LPC).

-not exceeding tenpercent of their aggregate turnover in the previous financial year, for serious infringements (art. 74 of LPC).

Periodic penalties may be imposed as well as foreseen in the LPC.

According to article 28 of LPC, for the supervision of the application of the provisions of this Law, the Secretariat shall: a) monitor and analyze the conditions on the market to the extent necessary for the development of free and effective competition; b) conduct investigations in compliance with the procedures of Code of Administrative Procedures, this Law and other legislation in force; c) compile and submit investigation reports to the Commission for decision-taking; 15 ç) ensure publishing the decisions taken, by-laws issued according to this Law, and also the annual report of the Authority; d) follow and supervise the implementation of the decisions taken by the Commission.

Down raids (inspections) are conducted based on the articles 35-37 of the LPC. A Competition Commission authorization is needed to inspect the business premises while a court authorization is needed to inspect private premises.

2. ***Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?***

The head of the competition commission is selected from the parliament after being firstly selected as a member.

The competition authority legally is an independent body. The law foresees certain conditions about the conflict of interest apart from general legal provisions for such conflict. However, it would be better that its members were not selected by a simple majority from the parliament.

The legal framework, activities and decisions of the Competition Authority are published in the official website of the authority http://caa.gov.al/. Decisions are also published in the Decisions Bulletin. They are published in full, but parts that contain private data or business sensitive information are omitted.

Generally, the competition law enforcement is sufficiently transparent and predictable. Based on the Stabilization and Association Agreement, the interpretation of the Albanian Competition law should be made in line with the EU Competition acquis and other interpreting instruments of the EU law such as decisions of EU courts.

3. ***Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?***

An annual report and priorities for the upcoming year are submitted to the Parliament and are available on the website http://caa.gov.al/. Public procurement is made based on the Albanian procurement law and is done electronically via a dedicated portal of the Albanian government where all economic operators have access to view the offers and make bids. (http://app.gov.al/e-prokurim/).

4. ***Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable through the years?***

Generally, the structure of the annual reports provides enough information and data that can be compared over the years.

5. ***What are the competition advocacy activities taken in your country by competition authority?***

Among the most relevant ones one may mention the following: communication to the public, meetings with business representatives, projects intended for schools, reports and opinions on competition law, parliamentary hearings etc.

6. ***What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?***

Regulated sectors, natural monopolies and markets with small number of players, bid rigging are the main competition concerns for the Albanian Competition authority.

Enforcement priorities are set on a yearly basis and are stipulated in the annual report. The Parliament on its resolution on the work of the Albanian Competition Authority may also request for setting priorities or investigations to be carried out in certain sectors.

7. ***Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating, and processing individual cases?***

Deadlines for resolving cases are set on a case-by-case basis in the decisions for the opening of an investigation by the Commission. They may be postponed if necessary.

PART C- JUDICIAL REVIEW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

The decisions of Competition Commission are reviewed in first instance by the Administrative Court of First Instance in Tirana, on appellate level from the Administrative Court of Appeal and then at the High Court.

The court has unlimited judicial review as they can review both merits and procedure.

2. ***Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago, please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.***

The authority has already issued several important decisions in prohibited agreements, abuse of dominance, mergers and has granted individual exemptions. One of the most important cases is considered the abuse of joint dominance in the mobile telecoms sector from AMC and Vodafone where the largest fine to date was imposed.

The Albanian Competition Authority has imposed a fine on 4 distributors of new cars and original spare parts for Volkswagen, Hyundai and Mitsubishi, for rigging a number of bids for the public procurement of new cars by several public bodies in Albania, including the Competition Authority itself. The Albanian government is one of the largest purchasers of new cars in the country since most of the cars sold in Albania are used.

A Merger in the telecoms market between the second and third mobile network operators (3 to 2 merger) was authorized from the commission with the merger of One and Albtelecom where Albtelecom is also the incumbent operator of fixed line telephony.

3. ***What are in your opinion the main challenges for more effective Competition law enforcement?***

Some of the main challenges for the effective enforcement of the law are:

- enforcement of the competition commission decisions on fines.
- lack of private enforcement.
- there is still lack of knowledge from the courts about the competition law.
- advocacy of competition should be more effective to make businesses and the

public more aware about the competition law provisions.

- economic analysis should be used more effectively and widely in the decisions of the court.
- specific features of small economies should be taken in account.

To assure the independence of the commission, based in the Albanian experience with other independent bodies, a different formula for the election of the members should be considered i.e., Introduction of non-executive members, political balancing between opposition and majority parties, etc.

2.1.2. Bosnia and Herzegovina

Report prepared by Kanita Imamovic Cizmic, Associate Professor, Faculty of Law, Sarajevo, Bosnia and Herzegovina

PART A - LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

Bosnia and Herzegovina, as a country in transition and development with a small open market, introduces a modern regulatory framework for the protection of competition through the Law on Competition-2001. Until 2001, competition law and policy did not exist at the state level, but only certain institutes of competition law and policy were regulated in isolation and unsystematically within only a few provisions of the entity Trade Laws. These first steps towards creating a modern regulatory framework for market competition are the result of foreign pressure expressed through the development of a project entitled „Single Economic Space in BiH". However, the 2001 Law on Competition had a number of limitations: the constitutional division of competencies between the state and the entities, the low level of integration of Bosnia and Herzegovina's economic space, underdeveloped institutions, locating competition and consumer protection at the entity level in the same body - the Office for Competition and Consumer Protection, very scarce substantive-legal regulation of monopolistic activity, including a new institute - concentration control, and the complete absence of sanctions for anti-competitive acts. This law is considered a failed attempt to transfer European Union competition rights to the system of Bosnia and Herzegovina.

These restrictions have created the need for a new competition law that will be in line with European Union competition law. Pursuant to Article IV, paragraph 4a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at its session of the House of Peoples, held on June 29, 2005, and at the session of the House of Representatives, held on June 29, 2005, adopted the Law on Competition ("Official Gazette of BiH'', No. 48/05, 76/07 and 80/09) . It was the first official legal act that followed the practice and solutions of modern European legislation - the legal heritage of the European Union, adopted in order to fulfill obligations on the path to European integration. The Competition Law is largely compatible with the rules and regulations of the European Union in the field of market competition.

2. ***Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.***

According to the Law on Competition ("Official Gazette of BiH'', No. 48/05, 76/07 and 80/09), domestic legislation framework recognizes three types of prohibited conduct: prohibited agreements, abuse of a dominant position and prohibited concentrations.

Prohibited agreements are regulated by Article 4 in such a way that:

(1) All agreements, contracts, single provision of agreements or contracts, concerted practices, explicit and tacit agreements between the undertakings shall be prohibited, as well as decisions and other acts of undertakings (hereinafter: agreements) the object or effect of which is to prevent, restrict or distort competition on the relevant market and in particular those related to:

a) direct or indirect fixing of purchase and selling prices or any other trading conditions;

b) limit and control of production, market, technical development or investment;

c) distribution of markets or sources of supply;

d) application of different conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage;

e) conclusion of agreements that force the other party to accept additional obligations which by their nature or according to commercial practice have no connection with the subject matter of such agreements.

(2) Agreements prohibited pursuant to paragraph (1) of this Article shall be void.

(3) Agreements referred to in paragraph (1) of this Article shall not be prohibited if they contribute to improvement of the production or distribution of goods and/or services within Bosnia and Herzegovina or promotion of technical and economic progress, while allowing consumers a fair share of the resulting benefit and which:

a) impose only those restrictions necessary to achieve these objectives and

b) shall not enable the exclusion of competition in the substantial part of the products or services.

Abuse of a Dominant position is regulated in Article 10 which prescribes:

(1) Any abuse of a dominant position by one or more undertakings on the relevant market shall be prohibited.

(2) The abuse of a dominant position in particular consist in:

a) directly or indirectly imposing unfair purchase or selling prices or other trading conditions which restrict competition;

b) limiting production, markets or technical development to the prejudice of consumers;

c) applying dissimilar conditions to equivalent or similar transactions with other parties, thereby placing them at a competitive disadvantage;

d) making 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 contract.

For the purpose of Law of Competition concentrations are considered as:

a) joining or merger of or independent undertakings or parts of undertakings;

b) the acquisition of control or decisive influence of one or more undertakings on another undertaking, or more

undertakings or a part of another undertaking, or the parts of another undertakings, in particular by:

1) acquisition of the majority of stocks or share of the nominal capital by means of purchase; or

2) acquisition of the majority of voting rights; or

3) any other way, pursuant to the provisions of the laws which regulate the establishment of companies and their management;

c) a long-term joint venture by two or more independent undertakings, acting as an independent undertaking.

(2) Acquisition of control within the meaning of paragraph (1) of this Article shall be constituted by rights, contracts or any other means by which one or more undertakings, either solely or jointly, taking into consideration all legal and factual circumstances are enabled to exercise decisive influence over one or more undertakings.

(3) A concentration within the meaning paragraph (1) of this Article, shall not be deemed to arise when:

a) banks or other financial institutions or insurance companies, the normal activities of which include temporary acquisitions of stocks or shares with a view to reselling them within 12

months, provided that ownership of the shares was not exercised in the manner that affects competitive behavior of the undertaking, thus it does not undertake the measures which distort, restrict or prohibit competition. The Competition Council may on the party's request, extend the deadline if the undertaking can show that the transaction was not reasonably possible within the deadline set;

b) the control over an undertaking is acquired by an office-holder performing liquidation or insolvency procedure in accordance with laws on bankruptcy and liquidation;

c) a joint venture is aimed to coordinate market activities between two or more undertakings which remain independent, whereby this joint venture shall be appraised pursuant to the Article 4 of this Law.

Article 13 regulated Prohibited Concentrations. There shall be prohibited the concentrations of undertakings that significantly impede effective competition in the whole territory of Bosnia and Herzegovina or its substantial part, and particularly such creating a new dominant position or strengthening an existing one.

The Law of Competition provides fines for Severe Infringements of the Law and for other violations.

Article 48 regulates the Severe Infringements of the Law and provides that they will be punished:

(1) An undertakings or a natural person, shall be fined up to 10 % of value of its total annual turnover earned in the financial year preceding the year when the infringement was committed, if it:

a) concludes a prohibited agreement or participates in any other way in an agreement that prevents, restricts or distorts the competition within the meaning of Law of Competition;

b) abuses a dominant position as regulated in Law;

c) participates in the prohibited concentration of undertakings,

d) fails to comply with the decisions of the Competition Council (Competition Council shall in particular issue decisions which: assess the compliance of the agreement with the provisions of Law; determine the exemption of the agreement, determine the abuse of a dominant position; declare permissibility of the concentration; impose interim measures; determine particular measures to restore efficient competition in cases of prohibited concentrations

(2) In addition to the decisions referred to in paragraph (1) of this Article, the Competition Council issues other decisions, conclusions and other acts pursuant to the provisions of this Law. ;

e) implements a concentration without prior decision on concentration within the meaning of Article 18 paragraph (9) of this Law.

(2) The Competition Council may impose fines on the responsible persons of the undertaking referred to in paragraph 1 of this Article in the amount of BAM 15.000 to BAM 50.000.

Article 49 regulated Fines for Other Infringements of The Competition Law in such a way that The Competition Council may impose fines on the undertakings not exceeding 1% of total turnover in the preceding business year, if it:

a) fails to act under the request within the meaning The Competition Law delivering incorrect or misleading information or not providing necessary information within the deadline set;

b) fails to notify the intended concentration within the meaning The Competition Law,

c) submits incorrect or misleading information in the process of concentration appraisal,

d) fails to act in accordance with the decision or conclusion of the Competition Council

or in accordance with order of the competent court.

The Competition Council may impose fines on the responsible persons of the undertaking referred in the amount from BAM 5.000 to BAM 15.000.

3. ***Do you have leniency regulation? Provide short information on the leniency program in your country (if any).***

Pursuant to Article 25 paragraph (1) item a) and Article 54 paragraph (4) of the Act on Competition (Official Gazette of BH, No 48/05), the Council of Competition, in its 22nd session, held on 24 January 2006 has adopted the REGULATION ON THE PROCEDURE FOR GRANTING IMMUNITY FROM FINES (LENIENCY POLICY). This decision regulates the procedure immunity from fines and the procedure for reduction of punishment.

4. ***Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).***

The institution of settlement is not regulated in the competition law of Bosnia and Herzegovina.

5. ***Are there any specific rules on private enforcement of Competition law?***

In the competition law of Bosnia and Herzegovina, there are no special rules that regulate compensation for damages caused by violation of the competition law. Therefore, there are no special rules on private enforcement of Competition law.

6. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

The President of the Competition Council is on 06.08. 2020. adopted the Decision on the appointment of the Working Group for the preparation of draft Amendments to the Law on Competition. There is no information on the website of the Council of Competition about the stage in which the aforementioned act is being drafted.

7. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

The existing law on competition in Bosnia and Herzegovina offers a specific solution regarding the method of appointing the Council of Competition and the way in which the Council of Competition makes decisions in specific cases.

PART B- ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?***

The Competition Council is an independent authority which shall ensure consistent application of this Law on the whole territory of Bosnia and Herzegovina and it has the exclusive power in deciding on the presence of prohibited competition activities on the market. The Competition Council has a status of legal person with its seat in Sarajevo. The funds for the enforcement of powers and implementation of activities of the Competition Council shall be provided from the Budget of Institutions of Bosnia and Herzegovina.

In the performance of its activities in accordance with this Law and other regulations governing the competition policy in Bosnia and Herzegovina, the Competition Council shall have the powers

to: a) issue regulations pursuant to the provisions of this Law and other regulations for its enforcement; b) prescribe definitions and calculation methods for specific activities i.e. banking, insurance, etc.; c) prescribe and provide interpretation of general and specific definitions of the competition terms, as well as calculation methods for the key competition terms; d) decide on claims for the initiation of proceedings and conduct the proceedings; e) issue administrative acts to finalize a proceeding before the Competition Council; f) provide opinions and recommendations on any aspect of competition, either ex officio or at the request of the state authorities, undertakings or associations; g) issue internal acts on the internal organization of the Competition Council, except for the Rule -book on the internal organization and systematization which shall be issued with the approval of the Council of Ministers of Bosnia and Herzegovina; h) initiate amendments to the Law on Competition; i) propose to the Council of Ministers of Bosnia and Herzegovina the Decision on the amount of administrative taxes relating to the procedural actions before the Competition Council.

In relation to the draft versions and the proposals of the laws and other regulations in the areas which affect competition and which shall be submitted by the proponents, the Competition Council shall provide opinion on their compliance with this Law. For enforcement of this Law and other regulations on competition, the Competition Council may establish expert and advisory bodies to assist in the decision-making process.

The Competition Council shall cooperate with international and national organizations and institutions in the area of competition, based on which it may provide and request all the data and information related to factual and legal issues including confidential data. In relation to the exchange of confidential data, legitimate business interests of the undertakings concerned must be protected in accordance with the regulations.

The Competition Council shall submit to the Council of Ministers of Bosnia and Herzegovina the annual report of performance for its approval. The Competition Council shall publish the annual report in public.

The Council of Competition conducts a procedure to determine whether there has been a violation of the law and imposes fines for violation of the law. The injured party to the proceedings may lodge an administrative dispute before the Court of Bosnia and Herzegovina.

Investigative powers are regulated by Article 35 which ensures that during the proceedings, on the request of the Competition Council or the officer, parties and other legal and natural persons are obliged to:

a) provide all the required information in the form of written motions or oral statements and submit necessary data and documents for inspection, regardless of the type of the media;

b) enable direct access to all business premises, movable and immovable property, business books, databases and other documents, and in doing so they shall not be prevented by any business, state or technical secrets;

c) submit all the necessary data and information to other persons that may contribute to solving and explaining certain issues on prevention, limitation or distortion of competition;

d) enable other necessary actions with the aim of establishing all the relevant facts in the proceedings.

Where there is a reasonable doubt that any of the parties to the proceeding or other persons hold in their possession documents or other instruments relevant for establishing substantive facts in the proceedings, the competent court shall be requested to issue a written warrant for the search of an apartment or premises and other persons as well as the seizure of items and documents in possession of the parties or other persons.

2. ***Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?***

According to the mentioned article of the Competition Law, the appointment of the members of the Council of Competition is carried out as follows:

a) Three members are appointed by the Council of Ministers of Bosnia and Herzegovina, one from each of the three constituent peoples;

b) Two members are appointed by the Government of the Federation of Bosnia and Herzegovina;

c) One member is appointed by the Government of the Republika Srpska.

The Council of Ministers of Bosnia and Herzegovina, at the proposal of the Council of Competition, appoints each year a president from among the members of the council for a period of one year, without the right to re-election during the term of office of a member of the Council of Competition.

According to Article 24 of the Competition Law, the Council of Competition may make valid decisions if at least five members of the council are present at the session, and decisions are made by a majority vote of the members present, provided that at least one member from the constituent peoples votes for each decision. A member of the council may not abstain from voting. The obligation that "at least one member of the order from the constituent peoples" must vote for the decision is a major anomaly because in practice there may be a situation that no decision can be made in a particular case, which is considered to have given tacit consent to the applicant e.g. to the company that filed the request to determine that it was not abusing its dominant position. Namely, according to Article 11 paragraph (2) of the Law on Competition, if the Council of Competition has not issued a decision within the period referred to in Article 41 paragraph (1) item c), it is considered that the concluded agreement or conduct of the business entity does not abuse the dominant position. This can have unforeseeable consequences for

competition on the BiH market because if two members of the two constituent peoples vote "for" and two members of the third constituent people vote "against", the decision cannot be made, which can be treated as a veto. The specificity of the Competition Act also refers to Article 41, which regulates the duration of the procedure. The procedure for determining the violation of rights should not be limited in time, although it is prescribed by law when it comes to prohibited agreements, determining certain exemptions, abuse of a dominant position and determining the assessment of concentration.

Decisions of the Competition Council shall be delivered to the parties to the proceedings and shall be published in the “Official Gazettes of Bosnia and Herzegovina”, in the official gazettes of the Entities and Brčko District of Bosnia and Herzegovina. The decisions shall contain the names of the parties to the proceedings and the main content of the decision, including the penalties imposed. The Competition Council shall take into account legitimate interests of undertakings regarding protection of their business secrets.

When talking about the transparency of the application of competition law, it should be pointed out that the Law guarantees public hearings in the proceedings carried out by the Council of Competition, as well as that the Council of Competition publishes its decisions on its website.

The issue of political influence on the work of the Competition Council is indicated by the fact that some members were high-ranking officials of the leading political parties in Bosnia and Herzegovina before their appointment.

3. ***Are the working plans, annual reports, budgets, financial plans, and public procurements of the national competition authority publicly available on the website of the authority?***

On the website of the Council of Competition there is information about working plans, annual reports, budgets, financial plans.

4. ***Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?***

In terms of content and form, work plans and work reports are designed so that the work of the Council of Competition can be monitored from year to year.

5. ***What are the competition advocacy activities taken in your country by competition authority?***

One of the most significant activities of the Competition Council is the so-called Market Competition Promotion Program "Competition Advocacy". The program was started in 2005 with the aim of promoting market competition as one of the aspects of business activities in the market of Bosnia and Herzegovina.

According to the draft of the work report Council of Competition carried out the promotion of market competition in 2021, with the aim of ensuring the correct application of legislation and raising awareness and the level of knowledge, as well as informing the professional and general public about the priorities in the work of the Council of Competition, which it achieved mainly through constant information to the public and regular publication of announcements for the public and by giving interviews to domestic and foreign media. Thus, in 2021, a total of 16 press releases were published in connection with the decisions made at the meetings of the Council of Competition, as well as a series of announcements on international cooperation and promotion of market competition, as well as held online workshops and conferences in areas relevant to the law and policy of market competition.

In 2021, the Council of Competition continued the established bilateral/multilateral cooperation with organizations and institutions in the field of competition, namely with institutions such as EC DG Comp, ICN, OECD, FTC, etc. In this regard, members of the Council of Competition participated at online seminars and conferences organized by these institutions as follows:

- Online seminar on competition, Balkan Initiative's webinar on "Recent Trends in Competition Law Enforcement in the Balkans", November 2021, organized by the Turkish Competition Authority;

- UNCTAD online conference on Antitrust for 2020, December 2021;

- Concurrence webinars on the topic of global competition issues throughout 2021;

- Global Forum on Competition, December 2021 organized by the OECD;

- Webinar Competition Policy for an Inclusive and Resilient Economy, December 2021 organized by CUTS International, as part of which the then President of the Competition Council Dr. sci. Amir Karalić presented an expert paper on the topic: "Impacts of Changes within the Telecommunications Sector on Competition Policy in Bosnia and Herzegovina".

6. ***What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?***

According to the data from the annual work reports, the Council of Competition mostly dealt with the issue of concentrations.

7. *Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?*

The Law of Competition, Art. 41 regulates the procedure and duration as follows Duration of the Proceedings as follows:

Upon adoption of conclusion on initiation of proceedings, the Competition Council shall make a final decision within: a) six months for determination of the prohibited agreements referred to in Article 4 of this Law; b) three months for determination of the individual exemption referred to in Article 5 of this Law; c) four months for determination of abuse of dominant position referred to in Article 11 of this Law; d) three months for determination of the appraisal of concentration referred to in Article 18 of this Law. The Competition Council may extend the deadline for issuing the final decision up to three months when it finds it necessary to perform additional expertise and analyses in order to define the factual state and assess the evidence, or where delicate economic fields or markets are concerned, on which the Competition Council is obliged to inform the parties to the proceedings in written.

With regard to the material, technical and human capacities of the Council of Competition, I believe that the deadlines for solving certain cases prescribed in Article 41 are extremely short and that this may affect the quality of the work of the Council of Competition.

PART C – JUDICIAL REVEIW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

A decision of the Competition Council is final. The injured party to the proceedings may lodge an administrative dispute before the Court of Bosnia and Herzegovina, within 30 days from the date of receipt or publication of such decision.

The Court is not limited in reviewing the decisions of the Competition Council.

2. Please think of at least a couple of significant cases which occurred in your jurisdiction. They *do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's* practice. If you don't have cases, can you address the reasons why there are no cases?

In support of the claim that the provision of Art. 24 The Law on Competition represents a bad legal solution that can affect the quality of the work and decision-making of the Competition Council, the case of the concentration of companies Agrokor d.d. Zagreb and Mercator d.d. Ljubljana from 2014 can be cited. Namely, the Council of Competition issued a request for initiation of the procedure and carried out the procedure, but the final decision could not be made. Namely, during the consideration and voting on the Proposed Resolution, the legal conditions provided for in Article 24, paragraph 2 of the Law, which prescribes that the decisions of the Council of Competition are made by the majority of votes of the members present, with the fact that at least one member from among the constituent people must vote for each decision people. Namely, 1 (..) members of the Council of Competition voted for the proposal, while (..) members were against. It follows from the above that the Council of Competition could not make a final decision.

Article 41, paragraph (1) point d) of the Law stipulates that after reaching a conclusion on the initiation of the procedure, the Council of Competition must issue a final decision within three months for determining the concentration assessment from Article 18 of the Law. If the Council of Competition does not issue a final decision within the time limit referred to in paragraph (1) of Article 41, in cases where it judges that it is for the determination of the factual situation and the evaluation of the evidence, it is necessary to carry out additional expertise or analyses, or when it comes to sensitive economic branches or markets, the deadline for making a final decision can be extended by up to three months, of which the parties in the procedure must be notified in writing.

Furthermore, Article 18, paragraph (7) of the Law prescribes that if the Council of Competition does not issue a decision within the period referred to in Article 41, the concentration is considered to be permitted. At the special request of a business entity, the Council of Competition, in accordance with Article 19 of the Decision on the manner of submitting an application and the criteria for assessing concentrations of business entities, issues a decision on the permissibility of a concentration. The applicant submitted a special Request for Decision to the Competition Council on May 20, 2014. Acting on the Applicant's request for a decision, and bearing in mind the above, the Council of Competition concluded that the deadline for making a final decision in the sense of Article 41 of the Law has passed, and in accordance with Article 19 of the Decision on the method of submitting an application and criteria for the assessment of the concentration of economic entities, made a decision on the permissibility of the concentration in question.

3. *What are in your opinion the main challenges for more effective Competition law enforcement?*

In order for the Council of Competition to be more efficient in its work, it is necessary to:

1. to amend the legal framework in terms of eliminating the above-mentioned shortcomings and adapting to the conditions of the digital economy,

2. to improve the material, financial and human capacities of the Competition

2.1.3.Croatia

Report prepared by Dubravka Aksamovic, Full Professor, Faculty of Law Osijek, Croatia

PART A- LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

In the area of competition in the Republic of Croatia is regulated by the Competition Act, OG 79/09, that entered into force on 1 October 2010, the Act on the Amendments to the Competition Act, OG 80/13, that entered into force on 1 July 2013, and the Act on the Amendments to the Competition Act, OG 41/21, that entered into force on 24 April 2021, and 11 ancillary provisions (regulations) necessary for their implementation.

These regulations, adopted by the Government of the Republic of Croatia upon the proposal of the Croatian Competition Agency (CCA), are as follows:

Regulation on the definition of relevant market (OG 9/2011),

Regulation on block exemption granted to certain categories of vertical agreements (OG 37/2011),

Regulation on block exemption granted to certain categories of horizontal agreements (OG 72/2011),

Regulation on block exemption granted to certain categories of technology transfer agreements (OG 9/2011),

Regulation on block exemption granted to agreements on distribution and servicing of motor vehicles (OG 37/2011),

Regulation on block exemption granted to agreements in the transport sector (OG 78/2011),

Regulation on agreements of minor importance (OG 9/2011),

Regulation on notification and assessment of concentrations (OG 38/2011),

Regulation on the method of setting fines (OG 129/2010 and 23/2015),

Regulation on immunity from fines and reduction of fines (OG 129/2010 and 96/17)

Regulation on block exemption granted to insurance agreements (OG 78/2011) – by virtue of entry into force of the Act on the Amendments to the Competition Act the Regulation on block exemption granted to insurance agreements (OG 78/11) will be revoked on 24 April 2021 subject to transitory provisions thereof.

The first Competition Act was adopted on July 6th 1995. This Act was twice amended (OG 52/97. and 89/98). It was replaced in 2003 by new Competition Act (OG 122/2003). Third Competition Act was adopted in 2009 and entered into force on 1 October 2010.

The Croatian Competition Law has been strongly influenced by EU Law. By signing Stabilization and Association Agreement in 2001 Croatia took over the obligation to harmonize its laws with the EU law. One of the most challenging and the important areas of harmonization were Competition law rules.

As of 1 July 2013, when Croatia joined the European Union, and the Amendments to the Competition Act, OG 80/13 entered into force, the parallel competence of the CCA in the area of antitrust has consisted of application of both the national competition rules and the EU competition rules contained in Articles 101 (dealing with prohibited agreements between undertakings) and 102 (dealing with abuse of a dominant position by an undertaking or association of undertakings) of the Treaty on the Functioning of the European Union OG C 326, 26.10.2012, where the practices of those undertakings produce effects on trade between the Republic of Croatia and the EU Member States.

Up to today, Croatian Competition law rules are fully harmonized with the EU Competition law.

2. Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.

Croatian Competition Act regulated following types of Competition law infringements:

1/Anti-competitive agreements between businesses that prevent, restrict or distort competition and affect trade in Croatia or outside its territory, if such practices take effect Croatia.

Cartels, which are considered to be the most serious form of an anti-competitive agreement (Article 8 of the CA). They are agreements between businesses – competing undertakings not to compete with each other.

2/Abuse of a dominant market position (Article 12 of the CA).

A dominant position in a market essentially means that a business is generally able to behave independently of competitive pressures, such as other competitors, in that market. Conduct which may be considered an abuse by a business in a dominant position includes: charging excessively high prices, limiting production, refusing to supply an existing long standing customer without good reason, charging different prices to different customers where there is no difference in what is being supplied, making a contract conditional on factors that have nothing to do with the subject of the contract.

3/ Concentrations (Article 15 of the CA).

Under the CA concentrations occur in case of change of control between previously independent undertakings. Concentration are generally not prohibited but mergers above a certain financial threshold must be notified to the CCA for assessment.

For each of above mentioned infringements, CA prescribes fines up to 10 % of the total turnover of the undertaking realized worldwide in the last year for which financial statements have been completed. (Article 61 of the CA).

1. ***Do you have leniency regulation? Provide short information on the leniency program in your country (if any).***

Croatia has Leniency regulation since 2010. Since 2012 Leniency program is regulated by Regulation on immunity from fines and reduction of fines (OG 129/2010 and 96/17).

Croatian leniency program is to a large extent based on the corresponding EU rules such as the Commission Notice on Immunity from fines and reduction of fines in cartel cases and ECN Leniency Model Program. Croatian leniency program envisages both immunity from fines and reduction in fines. Main provision from the Competition Act states that in relation to disclosing the most severe infringements of the provisions of Competition Act and Article 101 TFEU, the CCA may grant immunity from fine to a cartel member who first comes forward and informs the CCA on the existence of a cartel and supplies evidence which will enable the CCA to initiate the proceeding in connection with the alleged cartel, or to the first cartel member who submits information and evidence which will enable the CCA to find the infringement of this Act in connection with the alleged cartel in the previously initiated proceedings where the CCA had no sufficient evidence to adopt a decision, i.e. to detect the existence of a cartel. Furthermore, undertakings disclosing their participation in a cartel that do not meet the conditions for immunity may be eligible to benefit from a reduction of the fine, if they provide the CCA with

evidence which represents significant added value with respect to the evidence already in the possession of the CCA and which substantially contribute to the closure of the proceeding concerned.

2. ***Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).***

Croatia introduced the settlement procedure by the amendments of the CA in April 2021. This newly introduced legal tool provides for the possibility that the undertakings against which the competition authority is already conducting the proceedings admit their responsibility for the infringement and give up their right to submit the claim against the final decision of the competition authority before the court. In return, the other party to the settlement – competition authority, reduces the fine usually by 10 % (or more) of the total amount of the fine that would otherwise be imposed on the party concerned without the settlement submission.

3. ***Are there any specific rules on private enforcement of Competition law?***

Act on Actions for Damages for infringement of Competition Law was introduced in Croatian legislation in July 2017. This Act applies enables any person who suffered damages from any competition law infringement, to request a claim to a full compensation of damage.

4. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

Last Competition law reform in Croatia took place in 2021 when Croatia transposed the ECN+ Directive. At the moment of writing this Report there is no indications that in the near future CA will be amended.

5. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

No.

PART B - ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?***

In Croatia, Competition Law Agency (CCA) is main authority responsible for the Competition law enforcement. The CCA was established by the Decision of the Croatian Parliament of 20 September 1995 and became operative in early 1997.

The CCA as a national competition authority – a general regulatory authority in charge of competition in all markets within the scope and powers defined by the Competition Act, OG 79/09, the Act on the Amendments to the Competition Act, OG 80/13, the Act on the Amendments to the Competition Act, OG 41/21 and other ancillary provisions – regulations – necessary for its implementation.

The Agency is a stand-alone and independent legal person with public authority which, as a general, national regulatory authority in charge of competition in all markets, performs the activities within its scope and powers regulated by this Act and Articles 101 and/or 102 TFEU, the Council Regulation (EC) No 1/2003 and the Council Regulation (EC) No 139/2004. For the performance of its activities the Agency is responsible to the Croatian Parliament. The Agency submits to the Croatian Parliament the Annual Report on the Work of the Croatian Competition Agency not later than on 30 July of the current year.
CCA has broad powers to enforce Competition act and to protect free market competition. Powers of the CCA are prescribes by the Competition Act. CCA is entitled to impose fines in line with the Competition Act and the Regulation on the method of setting fines, as well as to do the surprise inspection (down raids). Prior to the conduct of a surprise inspection of the business premises, land and means of transport, the Agency shall make a request to the High Administrative Court of the Republic of Croatia to issue a warrant authorizing the Agency to conduct a surprise inspection of the business premises, land and means of transport, to examine all documents, records and objects found there, and to seal any business premises or records and to temporarily seize objects, particularly if it can be reasonably suspected that the evidence necessary for the infringement proceeding relating to distortion of competition within the meaning of Article 8 or 13 of this Act or Article 101 or 102 TFEU is being kept on these premises or in possession of a certain person and there is a reasonable suspicion that it may be destroyed or concealed.

2. ***Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?***

The president of the CCA is appointed and relieved from duty by the Croatian Parliament on the proposal of the Government of the Republic of Croatia. In the procedure for the appointment of

the president of the CCA, the Government of the Republic of Croatia shall make a public call for the proposals for the candidates for the president of the Competition Council and its members.

Article 26 of the CCA prescribes that the Competition Council and the expert team of the Agency exercise their powers stipulated under this Act independently of any political or other influence and receiving no instructions from the Government of the Republic of Croatia or any public or private authority in carrying out of its tasks and powers, without prejudice to the power of the Government of the Republic of Croatia to, where necessary, adopt any general policy rules not associated with the sector inquires or the procedures carried out by or falling within the powers of the CCA.

The CA also prescribes that any form of influence on the work of the Agency which could impede its independence and autonomy shall be prohibited.

There is no evidences that support the assumption that the CCA's decision are brought under the political pressure.

CCA decisions are published in OG of the Republic of Croatia as well as on the CCA official web site and a publicly available. Competition law enforcement is transparent and predictable.

3. ***Are the working plans, annual reports, budgets, financial plans, and public procurements of the national competition authority publicly available on the website of the authority?***

The work of the CCA is public. Each year CCA publishes Annual Report on the work which is approved by the Croatian Parliament. The Annual Report on the Work of the Croatian Competition Agency in particular contains the data on assignments and relieves from duty of the president and the members of the Council, the allocated financial resources and changes in the budget allocated compared with the previous years.

4. ***Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?***

Yes. Annual reports with all information are available at: https://www.aztn.hr/godisnja-izvjesca/.

Also, summary of reports are available in English: https://www.aztn.hr/en/annual-reports/).

5. ***What are the competition advocacy activities taken in your country by competition authority?***

One of the most important tasks of the CCA is to advocate competition culture and identify the barriers contained in the existing and new laws that impede free and fair competition among undertakings in the market.

It is the objective of the CCA to promote the understanding of competition rules within all the three branches of the government— executive, law-making and judicial. To that end, the CCA participates in the revisions of the non-compliant rules and informs the public administration and the wider public about competition concerns.

Furthermore, with regard to that Article 25(3) of the CA expressly provides that the Agency can issue expert opinions assessing the compliance of the existing laws and other legal acts with this Act, opinions promoting competition culture and enhancing advocacy and raising awareness of competition law and policy and give opinions and comments relating to the development of the comparative practice and case law in the area of competition law and policy to the authorities referred to under paragraph (1) hereof.

6. ***What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?***

CA should mostly be focused on cartels, prohibited agreements and abuse of dominant position. Conducted analysis showed that most detected infringements relate to prohibited agreements and cartels, while there is to small number of infringements related to abuse of dominant position. Moreover, some aspects of CA decisions should be more elaborated especially those relating to evidences**.**

With regard to enforcement priorities, in theory, CA is equally dedicated to detecting and prosecuting all Competition law infringements, but in reality large number of infringements especially, bid rigging or abuses most probably remain undetected.

7. ***Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?***

It is hard to provide an answer to this question. Whether the deadlines are realistic depends on the case, number of involved undertakings, duration of investigation etc. Since there has not been public complains by any party in the proceedings regarding deadlines, we may conclude that deadlines are realistic and acceptable.

PART C- JUDICIAL REVIEW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

In Croatia there is a judicial control of competition decisions. The first instance court is the High Administrative Court of the Republic of Croatia. Procedure before the HAC is administrative procedure. The HAC is entitled to conduct unlimited review. However, since the plaintiff may not present new facts in evidence before the HAC (it may only propose new evidence relating to the facts which had been presented in evidence during the proceeding) in reality the HAC will in most cases conducts limited judicial review of CCA decisions.

Judicial review is regulated by the article 67 of the CA which prescribes that against the decision of the Agency no appeal is allowed but one can take action against the decision of the Agency by filing a complaint for an administrative dispute at the High Administrative Court of the Republic of Croatia within 30 days from the receipt of the decision. The claim shall be decided over by a panel of three judges with respect to the following points:

1. misapplication or erroneous application of substantive provisions of competition law;

2. manifest errors in application of procedural provisions;

3. incorrect or incomplete facts of the case;

4. inappropriate fine and other issues contained in the decision of the Agency

The second instance court is The Supreme Court of the Republic of Croatia. Appeal against the HAC can be lodged only on points of law.

Cases relating the claims for damages are decided before the competent commercial courts.

2. ***Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases?***

Several cases in Croatia can be considered as "landmark" cases. All those cases were decided have been overruled several times and returned to the CCA for

1. "Presečki" case (In this case CCA imposed fine in the amount of HRK 1,031 million to several bus operators accusing them for entering in a Cooperation Agreements by which they agreed on joint scheduled bus transport services in Međimurje County. The agreements concerned contained restrictions of competition by object in the provision of scheduled bus transportation services in Međimurje County, such as the provisions on market sharing, the

provisions on joint arrangements and registration of new bus transportation routes in Međimurje County, etc. This case had judicial epilogue and was decided (See more details : https://www.aztn.hr/en/high-administrative-court-rejects-the-claims-against-the-cca-infringement-decision-in-scheduled-bus-transport-case-cca-v-presecki-grupa-d-o-o-rudi-express-d-o-o-jambrosic-tours-and-autobusni-prij/)

2. "Zaštitari" case (In this case CCA fined personal protection companies accusing them for cartel activity. CCA found that on 23 October 2013 these undertakings participated in a meeting held on the premises of the undertaking Tectus where they agreed on the minimum price of the personal protection security services, and thereby participated in a prohibited agreement – cartel – by directly fixing the prices in the period from 23 October 2013 to 17 January 2014. (See more: https://www.aztn.hr/en/two-cartel-decisions-by-the-cca/).

3. "Marinas" cartel case (In this case the CCA established that the representatives of the marinas who participated in the meeting of the Council of the Croatian Association of Nautical Tourism (Croatian Marina Association) under the aegis of the Croatian Chamber of the Economy in October 2012 in Biograd na moru exchanged information relating to future pricing policies for berthing services. Concretely, the participants in the meeting announced that in 2013 they would not raise prices of their services whereas these who "would raise prices, would do so merely by the percentage of inflation in the Republic of Croatia". (See more: https://www.aztn.hr/en/two-cartel-decisions-by-the-cca/).

4. "Ortodonti" case (prohibited agreement) (In this case the CCA fined the Croatian Orthodontists Society for concluding prohibited agreement by setting the minimal prices for orthodontists services. Based on the appeal of claimant the High Administrative Court of the Republic of Croatia challenged in its ruling the very concept of a cartel as defined under the Competition Act and by EU acquis in the area of competition. Case was decided by the Supreme court in favor of the CCA. (See more: https://www.aztn.hr/en/infringement-decision-of-the-cca-in-the-orthodontists-cartel-case-upheld-by-the-supreme-court/).

5. Agrokor/ Mercator (conditionally approved concentration) (This is one of the most complex merger case in Croatia involving two large retail companies in Croatia. See more: https://www.aztn.hr/en/agrokor-mercator-merger-conditionally-approved/).

6. HT/OPTIMA TELEKOM (conditionally approved concentration) (This is rather atypical decision in which concentration was approved for a limited period of time, initially on 4 year period which was later prolonged. Concentration ceased in 2021. See more: https://www.aztn.hr/en/htoptima-conditionally-approved-concentration-ceases-10-july-2021/)

3. What are in your opinion the main challenges for more effective Competition law enforcement?

There are several challenges that should be addressed in future:

1. Research analysis showed that fines imposed by CCA are significantly lower than fines imposed by competition authorities in comparable countries (Slovak Republic, Serbia, and Slovenia). This brings into question effectiveness of the competition law enforcement.

2. Competition law enforcement should focus more bid –rigging and on some sectors such as constructing sector, energy sector and other highly profitable sectors. Competition law enforcement in those sectors in Croatia is almost non-existent.

3. CCA's decisions should be supported as much as possible by direct evidence

4. Current concept of judicial review should be reformed. Parties to the proceeding should have right to bring new evidences before the HAC and to file a claim personally to the Supreme Court of the Republic of Croatia.

2.1.4. Italy

Report is prepared by Emiliano Marchisio, associate professor, Giustino Fortunato University, Benevento

PART A - LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

In Italy the existing legal framework is made by EU discipline in force (Artt. 101 ff. TFEU etc.) and l. 10 October 1990, n. 287, which was the first Competition Act enacted and is still in force – as modified and amended. The Italian law was drafted in compliance with existing European legislation (at that time: the Treaty of Rome and the EEC system) and, pursuant to art. 1, co. 4, l. 287/1990 is interpreted pursuant to the principles of the EU system on competition. Other pieces of legislation are also relevant to Italian Competition Law – e.g.: d. Lgs. 19 January 2017, n. 3, on private enforcement of Competition Law.

2. Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.

The main types of Competition law infringements are anticompetitive agreements (art. 2 l. 287/1990), abuses of dominant position (art. 3 l. 287/1990) and mergers restrictive of competition (art. 6 l. 287/1990).

Anticompetitive agreements are null and void (art. 2, co. 3, l. 287/1990).

As regards both anticompetitive agreements and abuses of dominant position, after their detection the Competition Authority (i) sets the deadline for the elimination of the infringement or, if the infringement has already ceased, prohibits its repetition (art. 15, co. 1, l. 287/1990) (ii) may impose the adoption of any behavioral or structural remedy proportionate to the infringement committed and necessary to effectively stop the infringement itself (art. 15, co. 1, l. 287/1990) and (iii) taking into account the gravity and duration of the infringement, applies a pecuniary administrative sanction up to 10 percent of the turnover achieved in each company or association of companies in the last financial year closed prior to the notification of the warning (art. 15, co. 1 bis, l. 287/1990).

As regards mergers, if the undertakings carry out a concentration which is restrictive of competition under art. 18, co. 1 and 6 of l. 298/1990 or, if the concentration has already been completed, they fail to comply with the measures necessary to restore conditions of effective competition imposed by the Authority under art. 18, co. 3, of l. 287/1990, the Authority imposes administrative pecuniary sanctions not lower than one percent and not more than ten percent of the turnover of the business activities subject to the concentration (art. 19, co. 1, l. 287/1990). If the undertakings have not communicated the merger in advance under art. 16, co. 1, of l. 287/1990, Authority imposes administrative pecuniary sanctions up to one percent of the turnover of the year preceding that one in which the contestation is made. Moreover, any sanctions that may be applicable on the basis of the provisions of art. 19, co. 1, l. 298/1990, just examined, is also applied (art. 19, co. 2, l. 287/1990).

3. ***Do you have leniency regulation? Provide short information on the leniency program in your country (if any).***

In Italy there is leniency regulation.

In general, to be eligible for leniency for participation in secret cartels, the applicant must meet some conditions (15 quater l. 287/1990): (a) terminating its participation in the alleged secret cartel at the latest immediately after submitting the application related to a leniency program, except to the extent, in the opinion of the Authority, is reasonably necessary to preserve the

integrity of its investigation; (b) cooperate genuinely, fully, on an ongoing basis and promptly with the Authority from the moment in which it submits the application until the Authority has closed the investigation (examples provided by the law); (c) during the period in which he plans to submit an application for favorable treatment to the Authority, he must not: (1) have destroyed, falsified or concealed relevant evidence relating to the alleged secret cartel; or (2) have revealed their intention to submit the application or have disclosed any part of its content, with the exception of other competition authorities of the European Union and third countries.

Immunity from sanctions (art. 15 bis l. 287/1990) is granted only if the applicant: (a) meets the conditions set out in article 15 quater of l. 287/1990; (b) discloses his participation in a secret cartel; and (c) first provides evidence that (1) allow the Authority to carry out a targeted inspection regarding the secret cartel, provided that the Authority is not yet in possession of sufficient evidence to decide to carry out this inspection or has not already carried out this inspection; or, (2) in the opinion of the Authority, they are sufficient for the Authority to establish an infringement that falls within the scope of the leniency program, provided that the Authority does not yet have sufficient evidence to establish such infringement and that no company has been granted immunity pursuant to number 1), in relation to this secret cartel.

Reduction of sanctions (art. 15 ter l. 287/1990) is granted only if the applicant: (a) meets the conditions set out in article 15 quater of l. 287/1990; (b) discloses his participation in a secret cartel; and (c) provides evidence of the alleged secret cartel that constitutes significant added value in order to prove an infringement that falls under the leniency program with respect to the evidence already in the Authority's possession at the time of submitting the application.

Procedural details are provided in artt. 15 quinquies-17 septies l. 287/1990.

The discipline of detail is provided in a specific “Communication on the non-imposition and reduction of sanctions pursuant to Article 15 of the Law of 10 October 1990, no. 287“, issued by the Authority.

4. ***Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).***

Under Italian competition law there is no settlement procedure similar to that provided by Commission Regulation (EC) No. 622/2008 of 30 June 2008.

5. ***Are there any specific rules on private enforcement of Competition law?***

In Italy there are specific rules on private enforcement of Competition law. They are provided in d. lgs. 19 January 2017, which implements in Italy Directive 2014/104/UE.

They include a specific discipline with respect to:

a. orders of presentation (art. 3), including presentation of evidence contained in the file of a competition authority (art. 4);

b. relevance of decisions of a competition authority within proceedings for damages (art. 7) – in particular: the violation of competition law is considered definitively ascertained, against the author, when it is established by a decision of the competition and market authority not subject to appeal anymore or upheld by a judicial decision become final;

c. rules on the applicable limitation period (art. 8);

d. limitation of the joint liability of SME (art. 9);

e. damages (artt. 10-13) and quantification thereof (art. 14);

f. ADR (artt. 15-16).

6. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

To my knowledge, no Competition law reform is taking place in Italy nor are any planned reforms taking place in near future (in next six months).

7. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

As regards relevant issues, in Italy there are no specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study. The system mirrors the European one (the only relevant exception in this respect appears to be the existence, in Italy, of mechanisms of single exemption from the prohibition of restrictive agreements and the actual absence of block exemptions, reference being made in this respect to EU block exemptions) and the interpretation of Italian competition law "is carried out on the basis of the principles of the legal system of the European [Union] on the subject of competition law".

PART B - ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the***

competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?

In Italy there is a competition authority in charge for Competition law enforcement: it is the Autorità Garante per la Concorrenza e del Mercato (art. 10, co. 1, l. 287/1990).

It is a body independent from Government and more in general the executive power (art. 10, co. 2, l. 287/1990).

Under the current rule it is financed through an amount initially (i.e.: in 2013) equal to 0.008% of the turnover resulting from the latest financial statements approved by the joint-stock companies, with total revenues exceeding 50 million euros; the Authority may change this percentage which may not exceed 0.05% in any case. (art. 10, co. 7 ter, l. 287/1990).

As far as it is relevant here, the powers of the competition authority are that of investigation (art. 12 l. 287/1990), decision on antitrust violations, authorization of mergers (art. 6 l. 287/1990), issue of precautionary measures (art. 14 bis l. 287/1990), issue of warnings and fines (art. 15 l. 287/1990).

The Authority has the power to do surprise inspections (down raids), since, in carrying out inspections (in general: art.14, co. 2 quater and 2 quinquies, l. 287/1990), the Authority may avail itself of the collaboration of the military personnel of the Financial Police, which, "pursuant to article 54, paragraph 4, of the law of 6 February 1996, n. 52, act with the powers and faculties provided for by the decrees of the President of the Republic October 26, 1972, n. 633, and 29 September 1973, n. 600, and other tax provisions, as well as the collaboration of other state bodies" (art. 14, co. 2 septies, l. 287/1990) that provide them.

2. ***Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?***

The head of the Competition authority is appointed, along with the other four members, by the Presidents of the Chamber of Deputies and of the Senate.

The competition authority is independent, in its operation, from political and other kind of influence. All decisions of the competition authority are published in the Bulletin and on the website www.agcm.it. Competition law enforcement is transparent and predictable – as it can be application of the law.

3. ***Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?***

They are all available on the website www.agcm.it, within the relevant sections.

4. ***Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?***

Yes, it is.

5. ***What are the competition advocacy activities taken in your country by competition authority?***

Among the most relevant ones one may mention the following: communication to the general public, projects intended for schools, reports and opinions on competition law (they commonly represent the basis for enactment of the yearly law on competition), parliamentary hearings.

6. ***What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?***

I believe that in this period competition authorities should deal, with special attention, with how competition law should interact with environmental protection, IPRs (especially patents and copyright), digital markets and public welfare (especially as regards essential services).

Enforcement priorities, if any, are defined and made public by the Authority.

7. ***Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?***

I believe they are for both parties: the Authority and defending parties.

PART C- JUDICIAL REVIEW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

In Italy there is a specific judicial review of competition decisions issued by the Authority.

Such review is dealt with by the sole TAR Lazio, Roma (the administrative regional tribunal of Rome, in the Lazio region), is entrusted with exclusive functional competence for the whole Italian territory. Appeal against its decisions is brought before the Consiglio di Stato (the administrative national court of second instance).

The review of appeal judges "involves the direct verification of the facts underlying the of the contested decision and also extends to technical aspects that do not present an objective margin of questionability, the examination of which is necessary to judge the legitimacy of the decision itself" (art. 7, co. 1, d. lgs. 3/2017).

Therefore: if an aspect involves an objective margin of questionability (this is called "technical discretion", that arises whenever the Public Administration, in the exercise of a restricted power, must resort to rules of a specialist nature to ascertain or evaluate facts), judges cannot contest the decision as far as it content is concerned, "since this would result in the exercise by the [...] judge of a substitute power forced to superimpose his own evaluation on that of the administration", but can control "technical evaluations" with reference to their "reasonableness, logic, consistency" (Cass., SS.UU., 20 January 2014, n.1013).

All the other issues, including sanctions (Cons. Stato, Sez.VI, 15 July 2019, n.4990), are subject to full jurisdictional control and the administrative courts may even take evidence during the administrative proceeding under the general procedural rules.

2. ***Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.***

Case A529 (FBA AMAZON). Decision n. 29925 of 30 November 2021. The Italian Authority imposed a fine of over 1 billion euros (1,128,596,156.33) on the companies Amazon Europe Core S.à.r.l., Amazon Services Europe S.à r.l., Amazon EU S.à r.l., Amazon Italia Services S.r.l. and Amazon Italia Logistica S.r.l. for violation of art. 102 TFEU. Amazon was found to hold a position of absolute dominance in the Italian marketplace brokerage services market, which has allowed it to favour its own logistics service, called Fulfillment by Amazon, so-called "FBA", among the sellers active on Amazon.it to the detriment of competing operators in this market and to

strengthen its dominant position. According to the Authority, the companies have linked to the use of the Fulfillment by Amazon service access to a set of essential benefits (among which the Prime label) to obtain visibility and better sales prospects on Amazon.it. These conducts have thus increased the gap between the power of Amazon and that of the competition also in the e-commerce order delivery business. Furthermore, as a result of the abuse, competing marketplaces have also been damaged: due to the cost of duplicating warehouses, sellers who adopt Amazon logistics are discouraged from offering their products on other online platforms. In order to immediately restore competitive conditions in the relevant markets, the Authority has imposed behavioral measures on Amazon that will be subjected to the scrutiny of a monitoring trustee. The case appears much relevant because of the economic dimension of parties, the magnitude of the fine, its connection with digital markets and logistics.

Case A529 (GOOGLE/COMPATIBILITÀ APP ENEL X ITALIA CON SISTEMA ANDROID AUTO). Decision n. 29645 of 27 April 2021. The Authority ordered Google to make the Enel X app (Enel being the incumbent Italian producer and provider of electricity) available on Android Auto, in order to allow customers to find services related to the charging of electric vehicles. The Authority has also imposed a fine of over 100 million euros (102,084,433.91) on the companies Alphabet Inc., Google LLC and Google Italy S.r.l. for violation of art. 102 TFEU. This decision was built on the finding that through the Android operating system and the Google Play app store, Google holds a dominant position that allows it to control the access of app developers to end users. In particular, Google was found not to have allowed the interoperability of the JuicePass app, that allows a wide range of functional services for charging electric vehicles, with Android Auto. Google has favored its own Google Maps app, instead, that can be used on Android Auto and allows functional services for charging electric vehicles, currently limited to the search for charging stations and navigation but which in the future may include other features, for example booking and payment. The case appears much relevant because of the economic dimension of parties, the magnitude of the fine, its connection with digital markets and reference made to the use of “clean” energy and to the transition to more sustainable mobility from an environmental point of view.

3. *What are in your opinion the main challenges for more effective Competition law enforcement?*

In my opinion, among the main challenges for more effective Competition law enforcement one may mention: private enforcement and incentives to damaged consumers to promote a collective action; the relation between Competition law enforcement and economic crisis (esp. after the COVID-19 pandemic); how enforcement of Competition law should be balanced with other goals of constitutional relevance (social concerns, environmental protection etc.).

2.1.5. Moldova

Report prepared by Alexandr Svetlicinii, Associate Professor, Program Coordinator of Master of Law in International Business Law, Faculty of Law, University of Macau, China

PART A - LEGISLATION

1. Please specify the existing legal framework for the Competition law in your country (if any). When is the first the Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).

The first competition law in the Republic of Moldova was passed in 1992 in the form of the Law on limitation of monopolistic activity and development of competition. It reflected the realities of the transitional period when the previously state-run economy under the USSR was being privatized and de-monopolized. The 1992 law prohibited the anti-competitive agreements, abuses of dominant position and included a merger control regime enforced by the Ministry of Economy.

The second competition law in Moldova was adopted in 2000. It established the National Agency for Protection of Competition (NAPC). Although the law has been influenced by the EU legislation, it has also maintained several specific features, which were characteristic to the state-run and state-regulated economy from which Moldova was continuously transitioned. For example, the 2000 provided for the ex ante designation of the dominant companies, which could be then subjected to the abuse of dominance investigations.

In 2008–2010, the EU-funded project "Support for the Implementation of Agreements between the Republic of Moldova and the European Union" resulted in the review of the Moldovan competition law and its enforcement mechanism under the EU standards in the field. The experts noted that the 2000 Competition Act placed an undue emphasis on the market dominance and recommended amendments in that regard.

The third and current competition law in Moldova was adopted on 11 July 2012 and entered into force on 14 September 2012. It is substantially aligned with the EU standards and best practices and the preamble specifies: "This law transposes the provisions of Articles 101–106 of the Treaty on the Functioning of the European Union, the provisions of the Regulation (EC) No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, and, partially, the provisions of the Regulation (EC) No. 139/2004 on the control of

concentrations between undertakings". The Competition Act is structured as follows: Chapter I General provisions; Chapter II Anti-Competitive practices; Chapter III Unfair competition; Chapter IV Economic concentrations; Chapter V Determination of relevant market; Chapter VI Competition Council; Chapter VII Preliminary examination, investigation and decision making; Chapter VIII Liability for violations of competition law; Chapter IX Final and transitory provisions.

2. ***Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.***

The Competition Act prohibits anti-competitive agreements including the decisions of associations of undertakings and concerted practices, which have as their object or effect prevention, restriction or distortion of competition. In particular, the following types of agreements are considered as anti-competitive: (1) direct or indirect fixing of purchase or sale prices or other trading conditions; (2) limitation or control of production, marketing, technical development or investments; (3) division of markets or sources of supply; (4) bid rigging; (5) limiting or preventing market access by other undertakings, as well as agreements not to buy or sell to certain undertakings without reasonable justification; (6) application, in relations with trading partners, of unequal conditions for equivalent benefits, thus placing them at a competitive disadvantage; (7) conditioning the conclusion of contracts on the acceptance by the trading partners of additional services which, by their nature or in accordance with commercial usages, are not related to the subject of these contracts. The law also distinguishes hard core cartels (horizontal anti-competitive agreements), which have as their object: (1) fixing the sale prices of the products to third parties; (2) limitation of production or sales; (3) dividing markets or customers; (4) bid rigging.

The basic amount of the fine for participation in anti-competitive agreements is established depending on the gravity of the infringement: up to 1% of annual turnover for vertical agreements with limited anti-competitive effect; 1%-2% of annual turnover for vertical and horizontal anti-competitive agreements; 2%-4% for hard core cartels. The basic amount is then adjusted on the basis of the duration of the infringement and the existence of aggravating or mitigating circumstances.

The Competition Act prohibits abuses of dominant position, in particular the following: (1) imposing, directly or indirectly, unfair sale or purchase prices or other unfair trading conditions; (2) limitation of production, marketing or technological development to the disadvantage of consumers; (3) applying unequal conditions to equivalent benefits in relations with trading partners, thus placing them at a competitive disadvantage; (4) conditioning the conclusion of contracts on the acceptance by the trading partners of additional services which, by their nature or according to commercial customs, are not related to the subject of these contracts; (5)

applying excessive prices or predatory prices in order to eliminate competitors; (6) unjustified refusal to deal with certain undertakings; (7) terminating a contractual relationship previously established on the relevant market for the sole reason that the partner refuses to submit to unjustified commercial conditions.

The basic amount of the fine for the abuses of dominance is fixed within the range of 1%-2% of the annual turnover. In cases where an abuse of dominance produces significant anti-competitive effects, the basic amount of fine is fixed within the range of 2%-4% of the annual turnover. The basic amount is then adjusted on the basis of the duration of the infringement and the existence of aggravating or mitigating circumstances.

The Competition Act prohibits the following acts of unfair competition: (1) discrediting competitors; (2) instigating the termination of the contract with a competitor; (3) illegal acquisition and/or use of the competitor's trade secret: (4) diversion of the competitor's clientele: (5) creating confusion with the competitor or its products/services. The acts of unfair competition are sanctioned by a fine of up to 0.5% of the annual turnover.

3. *Do you have leniency regulation?*

The Competition Act provides for two types of immunity from fines. The type A immunity is applied in cases where the leniency applicant is the first to supply the competition authority with the information sufficient for the opening of an investigation. The type B immunity is applied in cases where the leniency applicant is the first to supply the competition authority with the information sufficient to find an infringement of the Competition Act, provided no other applicants have been granted type A immunity.

The undertakings can also benefit from the reduction of the fine, provided they have acknowledged their participation in the anti-competitive agreement and supply the competition authority with the evidence with a significant added value. The competition authority determines the amount of reduction in the following manner: (1) for the first applicant - a reduction between 30% and 50%; (2) for the second applicant - a reduction between 20% and 30%; (3) for the other applicants - a maximum of 20% reduction.

4. *Do you have regulation on the settlement procedure?*

There is no settlement procedure.

5. *Are there any specific rules on private enforcement of Competition law?*

In relation to the anti-competitive agreements and abuses of dominant position, the Competition Act provides for a follow-on private enforcement, whereby the persons affected by the anti-competitive infringement can launch a civil lawsuit within one year from the date when the infringement decision issued by the competition authority becomes final. In cases of unfair competition, the Competition Act allows the affected persons to lodge independent civil lawsuits within three years from the date when the act of unfair competition was committed.

6. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

At the time of this report, there is no ongoing competition law reforms in Moldova. To the best knowledge of the author, none are expected in the near future.

7. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

The Competition Act specifically prohibits actions and inactions of the public authorities that prevent, restrict of distort competition. These can include among others: (1) limiting the rights of undertakings to purchase or sale; (2) establishing discriminatory conditions or granting privileges to undertakings, unless provided for by law; (3) establishing prohibitions or restrictions for the activity of undertakings, unless provided for by law; (4) forcing, directly or indirectly, undertakings to associate or concentrate in any form. In cases where public authorities violate the above mentioned prohibition, the competition authority is authorized to issue a decision ordering the respective public authority to correct its actions/decisions. In the past, the competition authority has addressed such orders to the municipal administration organizing public tenders and allocating commercial premises to the undertakings, the State Chancery and the Ministry of Finance in relation to the state-owned enterprises under their control, etc.

PART B - ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?***

The Competition Council (CC) is an autonomous public authority, which ensures the enforcement and compliance with the legislation in the field of competition, state aid and advertising, as well as in the field of unfair commercial practices between undertakings in the supply of agricultural and food products. The CC has its own budget, which is financed from the State budget approved by the Parliament on the annual basis. The Parliament also approves the maximum number of personnel based on the reasoned proposal of the President of the CC. The amounts representing fines, administrative fees and penalties collected by the CC are directed to the State budget.

Pursuant to the Competition Act, the CC has the following powers: (1) to promote competition culture; (2) to elaborate the normative acts necessary for the implementation of legislation in the field of competition, state aid and advertising; (3) to comment on the draft legislative and normative acts that may have anti-competitive effects; (4) to notifies the competent public authorities regarding the incompatibility of legislative and normative acts with the legislation in the field of competition, state aid and advertising; (5) to investigate anti-competitive practices, unfair competition and other violations of competition, state aid and advertising legislation; (6) to establish violations of the legislation in the field of competition, state aid and advertising, impose interim measures in order to stop these violations, impose corrective measures and apply sanctions; (7) to adopt decisions in cases of economic concentrations; (8) to authorize, monitor and report state aid. The CC is authorized to conduct unannounced inspections (dawn raids).

2. ***Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?***

The decisions of the CC are adopted by a collective of five members including the President of the CC. All members of the CC are appointed for a term of five years (renewable once) by the Parliament upon the proposal of the Speaker of the Parliament. The membership of the CC is incompatible with the exercise of any other remunerated, professional or consulting activity, including the management or administration of public or private enterprises, with the exception of teaching and scientific activity. The members of the CC cannot be appointed experts or arbitrators neither by the parties nor by the court or by any other institution. The members of the CC cannot maintain membership in political parties or political movements.

The Competition Act provides enumerates the reasons for which the membership of the CC can be revoked by the Parliament: (1) violated the provisions of the Competition Act, a fact established by the court, or was convicted by a final and irrevocable court decision for committing a crime; (2) cannot perform his/her duties due to physical or mental incapacity, confirmed by a medical commission; (3) was absent from three or more consecutive meetings of the CC without

reason; (4) issued/adopted an administrative act, taken or participated in the taking of a decision without resolving the real conflict of interest in compliance with the provisions of the legislation on conflict of interest; (5) did not submit the declaration of assets and personal interests; (6) was ordered by the court, through an irrevocable decision, the confiscation of unjustified assets; (7) improper execution or non-execution of professional duties; (8) it is found, as a result of the parliamentary control carried out in accordance with the law, a defective activity. The above provisions are aimed to ensure the independence of the CC members in exercising their professional duties under the law. The decisions of the CC are published in the Official Gazette (Monitorul official al Republicii Moldova - https://monitorul.gov.md/). In addition, the CC publishes its decision on its official website (https://www.competition.md/), which increases the transparency and predictability of the competition law enforcement.

3. Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?

The CC makes its working plans, annual reports, budgets, and financial plans, public procurements available on its official website (https://www.competition.md/).

4. Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable throughout the years?

Every year, until June 1, the CC presents its annual report to the Parliament, which is also published on its official website (https://www.competition.md/). The annual reports have the following structure, which makes them comparable throughout the years: (1) the annual financial report and, if applicable, the audit report; (2) information about the activities of the CC in carrying out the duties established by the Competition Act and by the legislation in the field of state aid and advertising; (3) information about the priority areas for the activity of the CC in the following year; (4) other information determined by the CC.

5. What are the competition advocacy activities taken in your country by competition authority?

The competition advocacy appears among the priorities of the CC, which is required by law to promote the development of competition culture. For example, in 2021 the CC has reportedly

organized more than 100 advocacy activities with participation of civil society, business community, mass media, and higher education institutions. These included public lectures, seminars, trainings, information sessions, roundtables, consultations, mass media appearances and interviews, promotional videos, etc.

6. ***What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?***

The CC routinely defines its enforcement priorities in the annual reports. For example, for 2022 the CC has pledged to direct its efforts towards monitoring the competitive situation on the markets of socially important products such as food processing, marketing and processing of cereals and oil crops, import, processing and marketing of meat and meat products, the sale of construction materials, etc.

At the same time, the enforcement activities of the CC are constantly shaped by the complaints and the resulting investigations. For example, in 2021, the CC has evaluated 23 merger notifications and 25 state aid notifications. At the same time, it has completed 19 cases of the alleged anti-competitive infringements where the infringement was established in 10 cases.

The limited resources of the CC are also used for the law enforcement in the fields other than prosecution of cartels, bid rigging, or abuses of dominant position. In that regard, the CC has identified the following challenges for its enforcement activities: (1) lack of qualified staff, manifested by the low degree occupancy of vacant positions, which is due to the salary levels inconsistent with the complexity of the duties and competencies required by the activity to be carried out; (2) lack of technical equipment and obsolete computer technology; (3) unsatisfactory working conditions in the new premises new of the CC; (4) the uncertainties generated by the discussion concerning possible merging the CC with the energy regulatory authority.

7. ***Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?***

The Competition Act does not establish fixed deadlines for investigating anti-competitive infringements. Usually for the investigations concerning anti-competitive agreements it would take about 1-2 years for the CC to conclude an investigation, while the abuse of dominance cases are normally decided within one year. The actual duration of the investigation appears reasonable given the limited resources of the CC and the need to comply with various procedural requirements including the parties' due process rights.

PART C- JUDICIAL REVIEW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

The Competition Act provides for judicial review of the decisions issued by the CC where the competition authority imposes a fine or periodical penalty for the substantive or procedural infringement of the competition rules. According to the general rules of administrative procedure, the decisions of the CC can be challenged before the district court, which has territorial jurisdiction over the area where the headquarters of the CC are located (in case of the CC, it is Chişinău District Court, branch Râșcani). The second instance court will be the Chişinău Court of Appeals with the Supreme Court of Justice acting as the final instance. The courts are authorized to change the amounts fixed by the CC or to annul the CC's decision in cases where it lacks reasoning or is adopted with procedural irregularities.

2. ***Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.***

In 2018, the Supreme Court of Justice has considered an appeal against a decision of the CC establishing an abuse of dominant position on the market for lease of commercial premises in the Chişinău International Airport. In that case the CC found that Avia Invest, a concessionaire company entrusted with the operations and modernization of the country's only international airport, has abused its dominant position by refusing to conclude a lease agreement with the ground handling company MGH Ground Handling. In order to have the necessary flexibility in carrying out modernization works in the airport, Avia Invest has developed a practice of concluding lease contracts for the periods no longer than 12 months. Prior to the expiration of the current lease agreement, MGH Ground Handling requested Avia Invest to conclude a 36-month lease contract with a half-year prior notice concerning termination. When Avia Invest refused this request, MGH Ground Handling complained to the CC. The competition authority The CC found that Avia Invest abused its dominance by refusing to extend the lease contract with MGH, which placed the latter at a competitive disadvantage vis-a-vis competing ground services operator. The Supreme Court of Justice has acknowledged the practice of concluding all lease contracts for one-year periods and considered that MGH unreasonably insisted on the extension

of the contractual period for 36-month term, refusing to accept a one-year term. The high court concluded that the CC failed to consider economic justifications for the lease terms offered by Avia Invest and quashed the infringement decision. The case of Avia Invest represents an instance of judicial review where the court has engaged in its own assessment of commercial practices that would provide an economic justification for the alleged refusal to deal.

In 2018, the CC has concluded an investigation into the alleged exploitative abuse of dominant position on the part of the licensed electricity distributor who refused to connect a customer to its network. Under the terms of the license issued by the national energy regulator, the electricity company has undertaken public service obligations to supply electricity ay regulated tariffs to the customers located on a certain designated territory. During its investigation the CC noted that the national energy regulatory authority has already initiated administrative offense procedures against the electricity company because the refusal to connect was qualified as violation of the terms of the license. Referring to the referred to Article 4 of the Protocol No 7 to the European Convention on Human Rights and Fundamental Freedoms, the CC relied on the ne bis in idem principle by analogy and decided to close the investigation without an infringement decision. The case is notable because it represents the CC's approach towards enforcement of competition law in the regulated markets, where in the past the competition authority has intervened in times of inaction or a different approach taken by the energy regulator.

In 2017, the Supreme Court of Justice has ruled on the legality of the CC's decision concerning abuse of dominance in the supply of medicines to the public healthcare institutions. The CC's investigation concluded that after winning public procurements bids to supply medicines to the public healthcare institutions, several suppliers have not honored their commitments and failed to deliver the agreed quantities of the medicines. Since the CC has found no evidence of any force majeure events that would justify the failure to supply, it has found that the specified undertakings have abused their dominant position on the respective markets. The Chişinău Court of Appeals has found the following flaws in the CC's reasoning: (1) the CC erred in defining the relevant market separately for each public procurement procedure; (2) there have been no complaints on the part of the healthcare institutions about the alleged refusal to supply; (3) the CC failed to determine the existence of the anti-competitive effects that such refusal to deal would produce. The CC disagreed with the court's ruling and appealed it before the Supreme Court of Justice. The high court aligned with the CC on the issue of market definition and dominance because in the context of the public procurement procedure, the winning bidder became an exclusive supplier of a particular healthcare institution and it was not possible to turn to another supplier without organizing a new public tender. In relation to the existence of the

abuse in the firm of refusal to supply, the court noted that the national equivalent of Article 102 TFEU does not preclude the competition authority from intervening in the exploitative abuse cases, so the existence of the anti-competitive effects was not relevant in the present case. The medicines suppliers case presents an example of the diverging interpretation of the basic competition law concepts by the courts, which makes the guidance from the nation's highest case particularly welcome.

3. *What are in your opinion the main challenges for more effective Competition law enforcement?*

The competition law enforcement in the Republic of Moldova is affected by various factors and the scope of the present report does not allow elaborating on each of them. The following issues in the author's opinion have especially profound impact on the effectiveness of competition law enforcement.

First, the competition legislation has been substantially aligned with the EU standards in this field, which allows the stakeholders to benefit from the extensive EU experience in applying competition law to various commercial practices. The competition authority has benefitted from various EU-funded and EU-supported projects and programs, which enhanced the professional capacities of the CC personnel and aided the competition authority in its advocacy activities.

Second, despite a well-developed legislative basis and substantial investigative and sanctioning powers, the CC still lacks qualified personnel and technical resources necessary for the effective conduct of the investigation. The lack of qualified personnel and the high frequency of personnel changes is due to the low salary/benefits and limited prospects for promotion. The lack of technical resources does not permit the CC to effectively engage in the investigations that would require extensive data collection/processing/analysis. On the other hand, the private enforcement of competition law is virtually inexistent as the undertakings and their legal counsel lack experience in this domain.

Third, while the competition authority has accumulated substantial experience in interpreting and applying competition rules, this cannot be said in relation to the business community or the courts. Furthermore, the limited costs of lodging an administrative lawsuit result in a situation where the CC has to spend significant amount of resources on litigation to defend the legality of its decisions. On the other hand, the routine judicial review of the CC decisions have strengthened the competition authority's legal reasoning and strict adherence to the procedural standards in its investigations and sanctioning practices.

2.1.6. North Macedonia

Report prepared by Darko Spasevski, PhD, Full Professor at the Faculty of Law, University "St. Cyril and Methodius" in Skopje

PART A - LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first the Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

In 2010 Macedonian Parliament enacted the Law on Protection of Competition (Official Gazette of the Republic of Macedonia no. 145/10, 136/11, 41/14, 53/16 and 83/18). Since 2010, the Law on Protection of Competition is amended in 2011, 2014, 2016 and 2018. The Law on Protection of Competition from 2010 (with the amendments) is harmonized with thee competition law on the European Union, and replaced the previous Law on the Protection of Competition which was enacted in 2005.

2. ***Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.***

The Law on the Protection of Competition regulates 3 areas in which the principle of free competition may be violated:

i) prohibited agreements, decisions and concerted practices

ii) concentrations and

iii) abuse of a dominant position.

These legal institutes are harmonized with the competition law on the European Union.

When it comes to the prohibited agreements, decisions and concerted practices, Article 7 of the Law on the Protection of Competition is in line with Article 101 of the TFEU. Articles 8 and 9 of the Law on the Protection of Competition additionally list types of contracts that will not be considered prohibited on the basis of Article 7 - contracts of minor importance and categories of

contracts subject to group exemption. Article 10 of the Law on the Protection of Competition defines what will be considered a dominant position on the market, while Article 11 of the Law on the Protection of Competition provides for the prohibition of abuse of a dominant position, and provides for a general definition of cases that will be classified as abuses of a dominant market position. Article 11 of the Law on the Protection of Competition is identical to Article 102 of the TFEU. According to Macedonian law, any direct or indirect fixation of the purchase or sale price or some other trading conditions is a cartel. Further, any activity that restricts or controls production, market, technical development or investment, any activity that means market sharing or sources of supply is a cartel. In addition, any conduct which implies the application of different conditions for the same or similar legal matters with other trading partners, which puts them in a less favorable competitive position or any activity which conditioned the conclusion of the contracts by accepting from the other contracting parties additional obligations, which after their nature or in accordance with commercial customs are not related to the subject of the contract. All these behaviors present cartels activities and are prohibited within the meaning of Article 7 of the Law on the Protection of Competition. Any agreement, decision, or individual provision of the agreements, which are guaranteed in this sense, do not produce legal effect, i.e., are null and void.

The concentrations are regulated in Articles 12-25 of the Law on the Protection of Competition. In contrast to prohibited agreements, decisions and concerted actions and the abuse of a dominant position, concentrations are more comprehensively regulated, and hence the law provides for the conditions and the obligation to report a concentration, the evaluation of the concentration, as well as the complete procedure in terms of reporting concentrations.

When it comes to the sanctions, the most important are the provisions of articles 59 to 66 of the Law on Protection of Competition. According to Article 59 (1) of the Law on Protection of Competition, the Commission for misdemeanor matters shall impose a fine to the undertaking, i.e. association of undertakings by means of a decision in the amount of up to 10% of the value of the total annual turnovers earned in the last business year, calculated in absolute and nominal amount for which the undertaking or association of undertakings has compiled an annual account if it:

1) concludes a prohibited agreement or otherwise participates in a agreement, decision or concerted practices leading to distortion of competition within the meaning of Article 7 of the Law on the Protection of Competition;

2) abuses the dominant position within the meaning of Article 11 of the Law on the Protection of Competition

3) fails to act pursuant to the decision of the Commission for Protection of Competition referred to in Article 51 of the Law on the Protection of Competition and

4) fails to act pursuant to the decision of the Commission for Protection of Competition referred to in Article 52 of the Law on Protection of Competition.

In Article 60 (1) of the Law on Protection of Competition is stipulated that the Commission for misdemeanor matters shall impose, by means of a decision, to the participants in the concentration that have an obligation for notification referred to in Article 15 of the Law on the Protection of Competition a fine in the amount of up to 10% of the value of their total annual turnover calculated in absolute and nominal amount in line with Article 16 of the Law on the Protection of Competition if they:

1) fail to file a notification of the concentration in accordance with Article 15 of the Law on the Protection of Competition;

2) implement the concentration contrary to Article 18 paragraph (1) of the Law on the Protection of Competition;

3) fail to act pursuant to the decision adopted in line with Article 18 paragraph (3), Article 19 paragraph (3), Article 20 paragraph (1) item 3), Article 21 paragraph (2) item 3), Article 22 paragraph (2) and Article 23 paragraph (1) of the Law on the Protection of Competition, and

4) implement a concentration which has been determined by means of a decision adopted in line with Article 20 paragraph (1), item 4) and Article 21 paragraph (2) item 2) of the Law on the Protection of Competition that is not compliant with the provisions of the Law on the Protection of Competition.

Article 61 (1) of the Law on Protection of Competition, prescribes that the Commission for misdemeanor matters shall, by means of a decision, impose a fine to the undertaking, i.e. association of undertakings in the amount of up to 1% of the value of the total annual turnover calculated in absolute and nominal amount earned in the last business year for which the undertaking or association of undertakings has compiled an annual account if:

1) it fails to act pursuant to the procedural order of the Commission for Protection of Competition or the Commission for misdemeanor matters as to the submission of data in the determined deadline, within the meaning of Articles 40, 48 and 49 of the Law on the Protection of Competition;

2) it submits false, incomplete or misleading data to the Commission on Protection of Competition or the Commission for misdemeanor matters, within the meaning of Articles 40, 48 and 49 of the Law on the Protection of Competition;

3) it fails to act pursuant to the procedural order referred to in Articles 41 and 50 of the Law on the Protection of Competition;

4) it fails to provide unhindered access to any business premises, land or means of transport of a certain undertaking, within the meaning of Article 41 paragraph (1) item 1) and Article 50 paragraph (1) item 1) of the Law on the Protection of Competition;

5) it fails to provide unhindered examination of books or other documentation, within the meaning of Article 41 paragraph (1) item 2) and Article 50 paragraph (1) item 2) of the Law on the Protection of Competition;

6) it fails to provide unhindered taking or keeping of objects, books, other documentation in any form, copies or extracts from books or other documentation, within the meaning of Article 41 paragraph (1) items 3), 4) and 5) and Article 50 paragraph (1) items 3), 4) and 5) of the Law on the Protection of Competition;

7) it fails to provide unhindered sealing within the meaning of Article 41 paragraph (1) item 6) of the Law on the Protection of Competition and Article 50 paragraph (1) item 6) of the Law on the Protection of Competition;

8) it unseals the sealings performed in accordance with Article 41 paragraph (1) item 6) of the Law on the Protection of Competition and Article 50 paragraph (1) item 6) of the Law on the Protection of Competition;

9) an authorized person or another employee refuses to provide explanation regarding certain facts or circumstances within the meaning of Article 41 paragraph (1) items 7) and 8) of the Law on the Protection of Competition and Article 50 paragraph (1) items 7) and 8) of the Law on the Protection of Competition;

10) an authorized person or another employee provides false, incomplete or misleading data to the Commission on Protection of Competition or the Commission for misdemeanor matters within the meaning of Article 41 paragraph (1) items 7) and 8) of the Law on the Protection of Competition and Article 50 paragraph (1) items 7) and 8) of the Law on the Protection of Competition and

11) it fails to provide unhindered performance of other actions within the meaning of Article 41 paragraph (1) item 9) of the Law on the Protection of Competition and Article 50 paragraph (1) item 9) of the Law on the Protection of Competition.

According to Article 61 (1) of the Law on Protection of Competition when the misdemeanor was committed by an association of undertakings, and refers to the activities of its members, the fine shall not exceed the amount of 1% for procedural misdemeanors calculated in absolute and nominal amount, i.e. 10% for more serious misdemeanors from the sum of the aggregate annual turnover calculated in absolute and nominal amount of each member of the association acting on the relevant market.

Article 64 (1) of the Law on Protection of Competition is prescribing the rules for determination of the fine. Namely, when determining the fine, account shall be taken of: 1) the seriousness of the misdemeanor; 2) the duration of the misdemeanor, and 3) the extent of distortion of competition and the effects caused by the misdemeanor.

3. *Do you have leniency regulation? Provide short information on the leniency program in your country (if any).*

Article 65 of the Law on Protection of Competition explicitly provides for the concept of exemption or reduction of the fine (leniency). More precisely, in Article 64 of the Law on Protection of Competition, in the part titled as "fine assessment", the Commission for deciding on misdemeanors within the Commission for protection of competition treats leniency as a mitigating circumstance in the assessment of the fine. Additionally, the essential concept of the leniency program is contained in Article 65 of the Law on Protection of Competition. The Leniency program refers only to detection and suppression of cartels, and not in any other forms of distortion of competition. In Article 7 of the Law on Protection of Competition, the legislator explicitly stated what a cartel is, and in what forms it occurs. Compared to defining a cartel in other relevant legal sources, difference are not encountered.

According to the legal wording of Article 65 of the Law on the Protection of Competition, in order to detect cartels that constitute violations of Article 59 paragraph (1) item 1) of the Law on Protection of Competition, the Commission for deciding on a misdemeanor at the request of a company that has recognized its participation in a cartel will determine full exemption from fine , which as a rule should have been pronounced to that company if the same:

1) first submit evidence that enables the Commission for deciding on a misdemeanor to initiate a misdemeanor procedure or

2) first submit evidence that enables the Commission for deciding on a misdemeanor to complete the already initiated misdemeanor procedure with a decision that determines the existence of a misdemeanor, if without such evidence the existence of the misdemeanor could not be determined.

Article 65 from Law on Protection of Competition lay down the conditions that must be fulfilled for “leniency”. The Law on Protection of Competition also envisages the concept of reduction from fines, and the conditions that must be accomplished to apply for it. In this regard, if the company that has admitted its participation in a cartel which is a misdemeanor under Article 59 paragraph (1) item 1) of the Law on Protection of Competition, does not meet the conditions for full exemption from the fine from paragraph (1) of the Law on Protection of Competition, the fine A rule that should have been imposed on him may be reduced if he submits to the CDM

relevant evidence of decisive importance for making a decision that determines the existence of a misdemeanor.

The immunity, that is, the reduction of the fine referred to in paragraphs (1) and (2) of the article 65, shall apply if the undertaking requesting immunity, that is, reduction of the fine cumulatively meets the following requirements:

1) terminates its participation in the cartel immediately after the submission of the request for immunity from a fine;

2) cooperates with the Misdemeanor Commission fully, on a continuous basis, and submits the necessary data in the shortest possible time period;

3) does not notify the other participants in the cartel about the submission of the request for immunity from a fine;

4) prior to the submission of the request for immunity from a fine, does not disclose the existence or content of the request, except to bodies responsible for sanctioning the cartel outside the Republic of Macedonia, and

5) does not destroy, conceal or falsify relevant evidence used to establish facts being of importance for making a decision by the Misdemeanor Commission.

The Misdemeanor Commission shall not grant full immunity from a fine to the undertaking referred to in paragraph (1) of this Article which throughout the duration of the cartel has taken measures by which it has forced the other undertakings to participate or remain therein, but may determine reduction of the fine if such undertaking meets the requirements referred to in paragraph (3) of this Article.

The Government of the Republic of North Macedonia, on the proposal of the Commission for Protection of Competition, shall prescribe in more detail the conditions and the procedure under which the Commission for deciding on misdemeanors decides on exemption or reduction of the fine. In this regard, the Decree on closer conditions for exemption or reduction of the fine and the procedure under which the CDM decides is applied.

4. ***Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).***

Law on Protection of Competition, does not regulate the settlement procedure similar to that provided by Commission Regulation (EC) No. 622/2008 of 30 June 2008.

5. ***Are there any specific rules on private enforcement of Competition law?***

There are no specific rules on private enforcement of Competition law within the Law on Protection of Competition. According to Article 58 of the Law on Protection of Competition, if any action constituting a misdemeanor in accordance with the provisions of the Law on the Protection of Competition causes damage, the damaged party may seek indemnification in accordance with a Law. This means that the Law on Protection of Competition includes by exception general clause about the possibility to mitigate for damages. This means that the damaged party may seek indemnification in accordance with the Law on Obligations. The Law on Obligations, does not contain specific provisions for damages in competition law disputes. Also, the Law on Civil Procedure does not contain rules that are regulating simplified procedures according to which can be acted in the frame of the victims of mass harm. The collective redress mechanisms in the form of class action, is not included in the Law on Civil Procedure too.

6. ***Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).***

Based on the publicly available data on the National legislation portal, as well the data of the official internet page of the Commission on Protection of Competition, there aren't notices for any legislation reform.

7. ***Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?***

There aren't any specific concepts or mechanisms typical for the North Macedonia.

PART B - ENFORCEMENT

1. ***Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?***

Article 6 of the Law on Protection of Competition provides that the competent supervisory authority is the Commission for the Protection of Competition. The Law on Protection of Competition defines the status, position, organizational structure, competence of the

Commission for the Protection of Competition, as well as the type of proceedings that take place before the Commission.

According to Article 26 (1) of the Law on Protection of Competition, the Commission on Protection of Competition shall be an independent state authority with a status of a legal person. In addition, the Commission on Protection of Competition shall consist of a President, four members and a team of supporting staff. Plus, in para. 3 of the Article 26 of the Law on Protection of Competition is stated that the Commission on Protection of Competition shall be independent in its operations and in making the decisions within the scope of its competencies determined by the Law on the Protection of Competition.

The budget necessary for the operation of the Commission on Protection of Competition shall be provided from the Budget of the Republic of North Macedonia.

Article 26 (6) of the Law on Protection of Competition prescribes that the Commission on Protection of Competition shall be accountable for its work to the Parliament of the Republic of North Macedonia and shall submit an annual report for its activities no later than by March 31st.

According to Article 28 (1) of the Law on Protection of Competition, the Commission on Protection of Competition shall control the application of the provisions of the Law on Protection of Competition, the Law on State Aid and the by-laws. Also the Commission on Protection of Competition shall monitor and analyze the conditions on the market to the extent necessary for the development of free and efficient competition, conduct administrative and misdemeanor procedures and adopts decisions in administrative and misdemeanor procedures in accordance with the provisions of the Law on the Protection of Competition and the Law on State Aid. Furthermore, the Commission on Protection of Competition is the competent misdemeanor body about misdemeanors determined with the provisions of the Law on Protection of Competition. In addition as it is prescribed in Article 28 (3) of the Law on Protection of Competition, the Commission on Protection of Competition shall determine rules and measures for the protection of competition and measures for the establishment of effective competition. In addition, the Commission on Protection of Competition shall provide opinion upon draft laws and other acts that regulate issues pertaining to the economic activity and which may influence the competition on the market, and it shall submit it in writing to the competent body. Plus, Article 28 (5) of the Law on Protection of Competition prescribes that upon a request by the Parliament, the Government of the Republic of North Macedonia, other state authorities, undertakings, or ex officio, the Commission on Protection of Competition shall provide expert opinions on issues in the area of competition policy, protection of competition on the market and granting state aid.

Based on Article 28 (7) of the Law on Protection of Competition the Commission for Protection of Competition shall perform tasks of international co-operation related to the implementation

of international obligations of the Republic of North Macedonia transferred within the competences of the Commission on Protection of Competition, participate in the implementation competences. Furthermore, the Commission for Protection of Competition shall co-operate with other state authorities and bodies regarding issues related to the protection of competition. The Commission for Protection of Competition and the state authorities and bodies are obliged to exchange data and information necessary for performing their competences, whose extent of exchange of information is limited to data and information appropriate and proportionate to the purposes of the exchange.

According to Article 48 (1) of the Law on Protection of Competition, if there are circumstances pointing to the possibility for distortion of competition, the Commission on Protection of Competition may conduct an investigation in a certain sector of the economy or a certain type of agreement in different sectors of the economy. During the investigation, the Commission on Protection of Competition may request the undertakings by means of a procedural order to submit data in relation with their economic-financial condition, their business relations, data on their statutes and decisions, the number and identity of the persons affected by such decisions and other data relevant to the investigation. No appeal or legal action on instituting an administrative dispute shall be allowed against the procedural order.

According to Article 50 (1) of the Law on Protection of Competition, while exercising the authorizations determined in of the Law on Protection of Competition, the Commission on Protection of Competition may, by means of a procedural order, order a certain undertaking to:

1) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with unhindered access to any business premises, land or means of transport of the undertaking;

2) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with the possibility for unhindered examination of the books and other documentation irrelevant of the medium where these are stored;

3) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with the possibility to take or keep in any form copies or extracts from those books or documentation;

4) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with the possibility to temporarily take and keep the books or other documentation for the period necessary for copying them if they cannot be copied on the spot. The authorized persons of the Commission on Protection of Competition shall issue a written confirmation which shall describe the taken books and other documentation and shall indicate where they have been found;

5) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with the possibility of temporarily taking and keeping objects, books or other documentation for the period necessary for determining the relevant facts and evidence arising from such objects, books and documentation, however not for longer than the effective termination of the procedure in question. The authorized persons of the Commission shall issue a written confirmation which shall describe the taken objects, books and other documentation and shall indicate where they have been found;

6) provide the authorized persons of the Commission for Protection of Competition and the persons accompanying them with the possibility to seal the business premises and books or other documentation for the period and to the extent necessary for the examination, but not longer than seven days;

7) provide an authorized person or other employee in the undertaking to provide explanation for the facts or documents;

8) provide an authorized person or other employee in the undertaking to submit a written explanation regarding the facts or documents within a determined deadline; and

9) provide the authorized persons of the Commission on Protection of Competition and the persons accompanying them with unhindered performance of other actions.

Based on Article 51 (1) of the Law on Protection of Competition , in case of urgency, when there is risk of serious and irreparable damage to the competition, the Commission on Protection of Competition may, ex officio by means of a decision, and based on its initial information (prima facie) as to the existence of a misdemeanor, order interim measures to un undertaking that, by it's conduct, may cause serious and irreparable damage to the competition.

2. *Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?*

Article 27 of the Law on Protection of Competition, regulates the appointment and dismissal of the President and Members of the Commission on Protection of the Competition. According to Article 27 (1) of the Law on Protection of Competition, the President and members of the Commission on Protection of Competition shall be appointed and dismissed by the Parliament of the Republic of North Macedonia, acting upon a proposal by the Commission for appointment and dismissal matters of the Parliament of the Republic of North Macedonia, for a period of five

years with the right to reappointment. Furthermore the very same article in para. 2 prescribes that when appointing and dismissing the members of the Commission on Protection of Competition, the Parliament of the Republic of North Macedonia should take into account the adequate and proportional representation of members of all communities. Article 27 (4) the Law on Protection of Competition says that the President and two members of the Commission on Protection of Competition shall be professionally engaged in the Commission's work. Furthermore, according to Article 27 (5) of the Law on Protection of Competition the President of the Commission on Protection of Competition shall represent, present and manage the work of the Commission on Protection of Competition. Para. 6 of the Article 27 of the Law on Protection of Competition prescribes the conditions for election of the members of the Commission on Protection of Competition. Namely, this provision requires i) university education – Faculty of Law or Economics, ii) working experience of over 5 (five) years in his/her area of specialty and having special knowledge in the field of competition, trade law, management and finances. The President or one of the Commission members who are professionally engaged in the Commission's work must be a Bachelor in Law who has passed the bar exam with at least five years working experience in legal matter following the passing of the bar exam.

Regarding the independence of the authority, Article 27 (7) of the Law on Protection of Competition, says that for the duration of their term of office, the President and the members of the Commission on Protection of Competition may not be members of the Parliament of the Republic of North Macedonia, members of the Government of the Republic of North Macedonia, persons performing duties in bodies of the political parties, members of management bodies of an undertaking or members of any other form of association of legal and natural persons that might lead to a conflict of interest. In addition, para. 8, of Article 27 of the Law on Protection of Competition, requires that the President and members may not decide on undertakings where they, their spouses, or family members of direct lineage up to the 1st degree are shareholders or members of the managing bodies within the undertakings that are parties in a procedure conducted in line with the provisions of the Law on Protection of Competition.

Article 28 (8) of the Law on Protection of Competition provides that the Commission Protection of Competition shall regulate the issues pertaining to the manner of operation and organization by means of a statute and other general acts.

Regarding the adopting of the decisions of the Commission, Article 28 (10) of the Law on Protection of Competition provides that the decisions of the Commission on Protection of Competition shall be adopted by the President and four members of the Commission on Protection of Competition at a session with a majority vote of the total number of members. A member of the Commission on Protection of Competition may not abstain from voting.

When it comes to publication of the decisions of the Commission, Article 67 of the Law on Protection of Competition is important to be mentioned. Namely, according to Article 67 (1) of the Law on Protection of Competition the decisions of the Commission on Protection of Competition and of the Commission for misdemeanor matters referred to in Article 19 paragraph (1) item 2), Article 19 paragraph (3), Article 20 paragraph (1) item 1), 2), 3) and 4), Article 21 paragraph (1), Article 22 paragraph (1), Article 23 paragraph (1), Article 45, Article 51 paragraph (1) and Article 52 paragraph (1) of the Law on the Protection of Competition shall be published in the "Official Gazette of the Republic of North Macedonia". The decisions of the Commission for Protection of Competition and the Commission for misdemeanor matters and the judgments, i.e. decisions of the court shall be published on the website of the Commission for Protection of Competition. Furthermore, Article 67 (3) of the Law on Protection of Competition, says that the published text of the decision must contain the names of the parties in the procedure and the basic contents of the decision. At the same time, according to Article 67 (4) of the Law on Protection of Competition, the notifications of the concentrations shall be also posted on the website of the Commission on Protection of Competition by stating the names of the participants, seat, basic business activities of the participants and the form of the concentration, whereas all interested parties are invited to deliver their comments, opinions and remarks regarding the concerned concentration within the deadline stipulated in the notification. Article 67(5) of the Law on Protection of Competition regulates the publication of confidential information and trade secrets. Namely, according to this provisions, all data regarded as business or professional secrets, within the meaning of Article 57 of the Law on the Protection of Competition, shall not be published.

3. *Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?*

According to Article 29 of the Law on Protection of Competition, the expert, normative legal, administrative, administrative-supervisory, financial, and accounting, as the supporting staff of the Commission shall: 1) collect data, check and analyze the collected data of individual cases ,2) prepare draft by-laws stipulated in the provisions the Law on Protection of Competition and the Law on State Aid; 3) prepare draft opinions upon draft laws and other acts that regulate issues pertaining to the economic activity and which may influence the competition on the market; 4) prepare draft expert opinions regarding matters from the field of competition policy, protection of competition on the market and granting state aid; 5) collect data and information from the undertakings which are relevant for research and determining the market conditions, irrespective of the specific procedures conducted before the Commission on Protection of Competition prepare a draft annual report on the activities of the Commission on Protection of Competition, and perform other activities on request of the Commission for Protection of

Competition and the Commission for misdemeanor matters related to the enforcement of the provisions of the Law on the Protection of Competition and the Law on State Aid. The Commission on Protection of Competition has Secretary General.

According to the Freedom of Information Act, Article 10 (1) the holder of the information is obliged to inform the public about: 1) the basic data for contact with the holder of the information, namely: name, address, telephone number, fax number, e-mail address and the address of the website; 2) the method of submitting a request for access to information; 3) regulations relating to the competence of the holder of information; 4) draft programs, programs, strategies, views, opinions, studies and other similar documents that refer to the competence of the holder of information; 5) all calls in the procedure for public procurement and tender documentation established by law: 6) data on his competences established by law; 7) the organization and costs of operations, as well as for the provision of services to citizens in the administrative procedure and for their activities; 8) Issuance of information bulletins and other forms of information; 9) the website for the publication of decisions, acts and measures that affect the life and work of citizens and 10) other information arising from the competence and work of the holder of information. Every holder of information is obliged to provide free access to the information previously mentioned.

All of the documents and data, for which the Commission on Protection of the Competition is required to make them publicly available can be found on the official internet page of the Commission.

- Decisions of the Commission (http://kzk.gov.mk/category/odluki-vo-upravna-postapka/

http://kzk.gov.mk/category/odluki-vo-prekrshochna-postapka/
http://kzk.gov.mk/category/odluki-na-sudovite/)

- Notifications for concentrations (http://kzk.gov.mk/category/izvestuvanja-za-koncentracii/)

- Annual reports (http://kzk.gov.mk/category/godishni-izveshtai/)

- Public procurements (http://kzk.gov.mk/category/javni-nabavki/godishni-planovi/)

4. *Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?*

The obligation for the Commission on Protection of Competition to prepare annual reports is determined in Article 26 of the Law on Protection of Competition. The annual report includes description of all annual activities of the Commission on Protection of Competition.

5. *What are the competition advocacy activities taken in your country by competition authority?*

Based on the available data on the official internet page of the Commission on Protection of competition, the Commission is establishing international cooperation with foreign competition authorities such as for example competition authorities from Greece, Monte Negro, and Romania etc. The Commission also is participating at the organization of the European day of Competition. The official internet page of the Commission does not contain any additional information about the advocacy activists of the Commission.

6. *What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?*

Main priority of the Commission on Protection of Competition should be detecting and prosecution of cartels.

7. *Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?*

According to Article 30 (1) of the Law on Protection of Competition, the misdemeanor procedure is conducted and the misdemeanor sanction is imposed by the Commission for misdemeanor matters. The Commission for misdemeanor matters is comprise of the President and two members of the Commission on Protection of Competition who are professionally engaged in the Commission for Protection of Competition. Regarding the procedure, the Commission for misdemeanor matters, while conducting the misdemeanor procedure, shall appropriately apply the provisions of the Law on General Administrative Procedure, except if it is not otherwise stipulated by the Law on Misdemeanors and the Law on the Protection of Competition.

Based on Article 32 (1) of the Law on Protection of Competition, the misdemeanor procedure before the Commission for misdemeanor matters shall be initiated ex officio, at the request of the Secretary General of the Commission or at the request of a natural or legal person having a legitimate interest in determining the existence of a misdemeanor.

The Commission for misdemeanor matters shall in any case initiate a procedure if it finds that significant distortion of competition may occur.

According to the Article 31 (6) of the Law on Protection of Competition, the person against whom a procedure has been initiated has the right to submit an answer within 8 days as of the day of receiving the procedural order for the initiation of a procedure. As an exception, at the request of the person against whom the procedure has been initiated, the deadline may be extended for up to 15 days if there are justified reasons thereof.

As the most important provision, regarding the duration of the procedure is Article 32 (7) of the Law on Protection of Competition, which says that the misdemeanor procedure initiated before the Commission for misdemeanor matters shall not be urgent. This means that when the time is considered, the procedure is undertaken within the regular deadlines, not the shortened deadlines, applicable for urgent procedure.

PART C- JUDICIAL REVIEW

1. ***Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).***

According to the Article 53 (1) of the Law on Protection of Competition, the decisions of the Commission on Protection of Competition issued in an administrative procedure are final. A legal action on instituting an administrative dispute before the competent court may be brought against such decisions of the Commission on Protection of Competition. The legal action on instituting an administrative dispute shall be brought within 30 days as of the day of receiving the decision and it shall not defer the enforcement of the decision.

2. ***Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.***

In the case of the Commission on Protection of Competition against ZEGIN limited liability company registered in Skopje, which is part of the pharmaceutical industry, with Decisions of the Administrative Court of North Macedonia, no. 3147/2007, the court found that the purchase of shares by ZEGIN limited liability company in the chain of "Gradska Apteka" registered in Skopje, is contrary to the Law on Protection of Competition.

The Supreme Court of North Macedonia with decision no. 249/2010 found that in the case of the appeal of the decision of the Administrative court against T-Mobile Macedonia, the appeal was

groundless. At the same time the Supreme Court confirmed the decision of the Administrative court. Administrative court found that the Commission on Protection of Competition was right when imposing fine for T-Mobile Macedonia. The Commission on Protection of Competition imposed fine against T-Mobile Macedonia because the Commission determined that T-Mobile Macedonia is charging for services that were not agreed and accepted by the consumers.

3. ***What are in your opinion the main challenges for more effective Competition law enforcement?***

Main challenges for the legislation regulating the Competition law in North Macedonia should be regulating the private enforcement and the settlement procedures.

2.1.7. Serbia

Report prepared by Maja Dobrić, Independent Advisor, Commission for Protection of Competition, Republic of Serbia, Tatjana Jovanić, Full Professor, Faculty of Law, University of Belgrade, Serbia

PART A- LEGISLATION

1. ***Please specify the existing legal framework for the Competition law in your country (if any). When is the first the Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).***

The existing competition law framework in Serbia consists of the Law on Protection of Competition (hereinafter: LPC) from 2009 and amended 2013, several general regulations and three block exemption regulations, all of which are modelled on relevant EU legislation. The general procedural framework of the Serbian competition authority is based on administrative procedure, therefore the Law on General Administrative Procedure is also applicable to procedural aspects of competition enforcement, if nothing specific provided in the LPC itself.

Serbia's competition legislation has been heavily influenced by legislation of the European Union. Serbia has, in a substantial amount, implemented the legal framework of the EU when it comes to competition rules, in the LPC. Even though articles 101 TFEU and 102 TFEU have almost identical counterparts in the LPC (articles 10 and 16 LPC, respectively with article 9 as a general

provision on competition infringements), there are two significant differences when it comes to restrictive agreements: 1) the possibility of individual exemption of a restrictive agreement before the Commission for Protection of Competition and 2) the lack of self-assessment, i.e. automatic application of the equivalent of article 101(3) (Art. 11 LPC). When it comes to merger control, the LPC covers this matter as well and the adopted model is based on the EUMR.

In 2008, Serbia signed the Stabilization and Association Agreement (SAA) with the EU, which has been in force since September 1, 2013. Pursuant to the SAA, Serbia shall endeavor to ensure that its existing laws and future legislation will be gradually made compatible with the Community acquis. When it comes to competition enforcement, the SAA provides that any practices falling within the concepts of restrictive agreements (all Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition) or abuse of dominance (abuse by one or more undertakings of a dominant position in the territories of the Community or Serbia as a whole or in a substantial part thereof), shall be assessed on the basis of criteria arising from the application of the competition rules applicable in the Community, in particular from Articles 81, 82, 86 and 87 of the EC Treaty and interpretative instruments adopted by the Community institutions, insofar as they may affect trade between the Community and Serbia.

History of antitrust legislation in Serbia predates the current legislation by several decades. In 1996, Yugoslavia enacted the Antimonopoly Law ("Official Gazette of the FRY", No. 29/96 and "Official Gazette of the RS", No. 85/2005 - other law), which was replaced by the Law on Protection of Competition ("Official Gazette of RS", No. 79/2005). The 2005 Law is more in line with EU legislation and it established the Commission for Protection of Competition as an independent authority.

Prior to 1996, there were provisions in various trade laws related to the subject of protection of competition, but a more systematic organization of provisions was made by the Antimonopoly Law.

2. Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.

The LPC provides two main groups of competition infringements – restrictive agreements (Art. 10 and 11, 12, 13 and 14 LPC) and abuse of dominance (Art. 15 and 16 LPC), modelled on the EU framework of art.101 and 102 TFEU. Individual infringements of competition are not defined in the LPC, but merely referred to as examples, in a similar way to those in Art. 101 and 102 TFEU.

However, the transposition of these articles is somewhat imperfect and if a precise linguistical interpretation is made, they can potentially lead to different outcomes.

Before determining individual forms of competition infringements, the LPC gives a general provision in Art. 9 stating that competition infringement include acts or actions of undertakings that as their purpose or effect have or may have a significant restriction, distortion, or prevention of competition. This seems to combine the "object or effect" part of Art. 101 TFEU and wording of Art. 102 TFEU related to actual abuse or conduct which is potentially abusive.

Restrictive agreements are defined in Art. 10 LPC as agreements between undertakings which as their object or effect have a significant restriction, distortion, or prevention of competition in the territory of the Republic of Serbia. This type of competition infringement includes contracts, certain contractual provisions, express or tacit agreements, concerted practices, as well as decisions of undertakings associations. This is followed by the four forms of restriction listed in Art. 101 TFEU.

Restrictive agreements are prohibited and void, except in cases of exemption from the prohibition pursuant to the LPC. The criteria for exemption of agreements is determined in Arts. 11, 12, 13 and 14 of the LPC. In 2016, the Commission has issued an opinion clarifying that where an agreement falls outside the scopes of Arts. 13 and 14 and is not exempted under Art. 12 LPC, if proceedings are initiated, showing that the conditions of Art.11 LPC are met is not a viable defence. Therefore, there is no self-assessment within the meaning of Art.101(3) possible in Serbia and parties to a restrictive agreement which has not been exempted bear this risk.

The general framework for exemption from prohibition are set in Art. 11 LPC, modelled on Art. 101(3) TFEU. Restrictive agreements may be exempted from the prohibition if they contribute to the improvement of production and trade, or incite technical or economic progress, while providing consumers with a fair share of benefits, provided that they do not impose restrictions on undertakings that are not necessary for achieving objectives of the agreement, that is, do not exclude competition in the relevant market or in its substantial part. These conditions have to be fulfilled in cases of individual exemption from prohibition (Art. 12 LPC) and exemption from prohibition according to categories of agreements (i.e. block exemptions, Art. 13 LPC).

According to Art.12, individual exemption is possible upon the request of parties to the restrictive agreement, provided the conditions of Art.11 are met, whereas the applicant for individual exemption bears the burden of proof that these conditions are met. Upon application, individual exemption may be granted for up to eight years. There is a specific regulation providing further guidance and the information that needs to be provided in individual exemption proceedings.

Block exemption is possible under Art. 13 LPC and there are three block exemption regulations in total (two related to horizontal agreements – on R&D and Specialization and one related to

vertical agreements), all dating from 2010. The block exemption regulations related to technology transfer agreements, spare parts for motor vehicles, insurance and transport services were never transposed from the EU into Serbian legislation. In order for agreements to satisfy the conditions for block exemption, conditions of Art.11 and the specific rules for each type of agreement have to be met. It is also worth noting that the threshold for vertical agreements is lower in Serbia than it is under EU legislation – 25% market share instead of the EU standard of 30%.

Finally, the LPC provides for automatic exemption or agreements of minor importance (as an equivalent of the EU De Minimis notice) in Art.14 LPC. Agreements of minor importance are agreements between undertakings whose total market share in the relevant market of products and services on the territory of the Republic of Serbia, do not exceed 10% of market share for horizontal agreements or 15% of market share for vertical agreements. In case the agreement has characteristics of both horizontal and vertical agreements, or where is difficult to determine whether the agreement is vertical or horizontal, the threshold is 10%. In addition, there is a specific cumulative threshold of 30% of market share, if the agreements concluded between various participants have a similar impact on the market, and if the individual market share of each participant does not exceed 5% threshold in each individual market where the effects of the agreement are manifested.

The De Minimis rule also states that agreements of minor importance are allowed, unless the purpose of the horizontal agreement is price setting or limitation of production or sales, or division of sourcing market, as well as if the purpose of the vertical agreements is price setting, or division of market. This has been used by the Commission as one of the indications whether the restriction is “by object”, however this list is not exhaustive.

When it comes to dominance and abuse of dominance, prior to the legislative changes of 2013, the 2009 LPC contained a legal presumption that if an undertaking has 40% market share or over, it was presumed to be dominant, whereas the Commission had to bear the burden of proof of dominance if the market share was lower. Under the current legal framework, a dominant position is held by an undertaking which can substantially independently operate in relation to actual or potential competitors, customers, suppliers or consumers, due to its market power in the relevant market. Market power is established based on a number of factors. Two or more legally independent undertakings may have a dominant position if they are economically linked in such a way that in the relevant market they jointly perform or act as one participant (collective dominance). The burden of proof that an undertaking holds a dominant position lies on the Commission.

Abuse of dominance is prohibited and abuse is defined in Art. 16 LPC, in a similar way as Art. 102 TFEU.

Measures for protection of competition are specified in Art. 68 LPC. Monetary fine in the amount of 10% of the total annual revenue is invoked in the following situations: 1) the abuse of a dominant position in the relevant market; 2) conclusion or implementation of a restrictive agreement; 3) failure to perform or implement measures to eliminate the infringement of competition, or failure to implement a measure of deconcentration; 4) concentration is conduced contrary to the obligation to interrupt the implementation of concentration until the decision of the Commission is published, or the approval for implementation of concentration is not issued in concentration proceedings. Competition protection specifies structural and behavioral measures, which are also imposed for undeclared concentrations, and not only infringements of competition by restrictive agreements and the abuse of a dominant position. The wording of the LPC signifies that the penalty is not optional, so the Commission does not have the option of imposing only a behavioral measure or a structural measure.

3. Do you have leniency regulation? Provide short information on the leniency program in your country (if any).

Leniency is regulated in Article 69 LPC, titled "Relief from measure for protection of competition". The rules for Leniency are further clarified in the Regulation on the Conditions for Relief from Commitment Payment from Measure for Protection of Competition.

In addition, the Leniency program is also clarified by the Guidelines for implementation of Article 69 of the Law on Protection of Competition and Regulation on the conditions for relief from commitment payment from measure for protection of competition.

Under the existing Leniency regime, full immunity is available for the first applicant, provided all other conditions for leniency are met, while a reduction of fines is available for subsequent applicants, as well as applicants that fail to meet the criteria for full leniency. Full leniency is available only for applicants before the opening of an investigation, and partial leniency is available both before opening an investigation and after opening an investigation, provided the other conditions are met.

Under the current Leniency framework, the applicant can be relieved from measure for protection of competition in form of obligation to pay a monetary sum, if it:

1) is first to notify on agreement on which the Commission for Protection of Competition had no prior knowledge about existence of restrictive agreement or sufficient evidence to initiate proceedings;

2) provides all available evidence on restrictive agreement and/or indicate to the Commission on location or person holding those evidence;

3) did not force or encourage other undertakings to conclude or implement the restrictive agreement;

4) is not initiator or organizer of restrictive agreement.

5) signs the statement by which it is committing in good faith, to fully and continuously cooperate with the Commission, pending the validity of decision imposing measure for protection of competition (cooperation includes immediate response to every request for submission of additional evidence or information within provided deadlines, providing access and full cooperation of all present and former employees who dispose the information/evidence relating to restrictive agreement, refraining from destroying or hiding information/evidence of the restrictive agreement, keeping as classified all information provided to the Commission);

6) without delay ceases further participation in restrictive agreement, unless by request and approval of the Commission that is in the interest of further conduct of proceeding and gathering evidence.

Materials on the Leniency program are available in English and Serbian on the official website of the Commission. The Compliance program guidelines also provide links to the relevant leniency framework.

4. Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).

There is no possibility of settlement in Serbia, as this is a legal vacancy at the moment. The LPC does not provide this possibility and there is no formal guidance, however, in cases where hard-core restrictive agreements have been found and the company under investigation gives a full confession, the level of the measures (fines) has been calculated having this extenuating circumstance in mind.

5. Are there any specific rules on private enforcement of Competition law?

Private enforcement is possible as a follow-on claim (private damage claims), while there is no possibility for stand-alone claims as competition enforcement is entrusted to the Commission alone. The Law on Protection of Competition ("Official Gazette of the RS", no. 51/2009 and 95/2013) provides the option for damages claims in Article 73.

Private enforcement is possible as a follow-on claim for damages (i) caused by acts and practices which constitute competition infringement in terms of the Law and (ii) which are determined by the decision of the Commission. In order to file action for private damages, these conditions have to be met cumulatively.

When it comes to the procedural side, there are no specialized courts for competition damages. Private claims can be filed to any competent court and the competence of the courts is determined by the subject matter and the amount of the dispute. The seat of the competent

court is determined by any one of the following criteria: (1) the location where the defendant has headquarters (if there are several defendants with different locations of headquarters, any location can be used for establishing the seat of the competent court), (2) the location where acts that caused the damage were performed or (3) the location where damages have occurred.

The competent court could be the commercial court if the damages occurred in business-to-business relations or the regular courts if the damaged party are consumers. In the second category, disputes in the amount of 40.000 EUR or more are decided by the Higher courts, while disputes below this amount are heard by the Basic courts.

The plaintiff bears the evidentiary burden prescribed by general civil law when it comes to damages: damaging conduct, damage, and causation. In the claim itself, the plaintiff has to quantify the damages and state their amount clearly in the initial claim (this can impact the competence of the court to hear the claim). There is no assumption of occurrence of damage when a competition infringement is determined. There is no specific role of the Commission in damages calculation.

6. Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).

In 2017, the new Law on General Administrative Procedure came into force in Serbia and specific administrative procedures, such as the one the Commission conducts, have to be amended and aligned to the Law on General Administrative Procedure during 2018.

However, in 2022, Serbia is still in the process of amending and redrafting the current LPC and there has been no official draft law or legislative proposal, although there was a working group established in 2017. At the moment, the legislative procedure is ongoing and the amendments and fine tuning of the changes are in progress, but they are highly unlikely to happen in near future (in next six months).

7. Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?

In addition to the slight discrepancies due to the transposition of Art. 101 and 102 TFEU into Serbian legislation, there are several specific characteristics worth mentioning: individual exemptions, collective dominance and abuse of collective dominance, incrimination of restrictive agreements and experience with bid-rigging.

When it comes to individual exemptions, there is no legal obligation for undertakings to request individual exemption of a restrictive agreement if it is not exempted under one of the options

provided by the LPC (block exemptions or de minimis). In 2016, the Commission has issued an opinion clarifying that where an agreement falls outside the scopes of Arts. 13 and 14 and is not exempted under Art. 12, if proceedings are initiated, showing that the conditions of Art.11 are met is not a viable defence. Therefore, there is no self-assessment within the meaning of Art.101(3) possible in Serbia and parties to a restrictive agreement which has not been exempted bear this risk.

Serbia is one of several jurisdictions that has specific rules on collective dominance and abuse of collective dominance. While forms of collective abuse of dominance are the same as individual abuse, there is an explicit provision on what constitutes collective dominance. Pursuant to Art. 15 LPC, two or more legally independent undertakings may have a dominant position if they are economically linked in such a way that in the relevant market they jointly perform or act as one participant (collective dominance). This was introduced in the legislative changes of 2013. Prior to this, the Commission had a case related to partial abuse of collective dominance, where two of four companies providing cross-border money transfer services were fined for abuse of collective dominance through agreements with banks. These agreements provided for exclusivity and/or loyalty to the service, which meant that banks could not provide competing services, under threat of penalties. The Commission found that these provisions created a barrier for entrance of competitors. The dominant position was held by four entities, present on two different levels (two banks providing services directly and two intermediaries and representatives, concluding agreements with the other banks). The abusive practices were found in agreements of the two intermediaries and representatives. Cases of collective dominance are rare in the EU and cases of partial abuse are even harder to find.

Incrimination of restrictive agreements has existed since the 1st March 2018, and concluding a restrictive agreement is a criminal offence. The new article 229 of the Criminal Act, titled "Conclusion of a restrictive agreement" states as follows: (1) Who in an undertaking concludes a restrictive agreement that is not exempted from restriction within the meaning of the law regulating competition protection, and where such agreements fix prices, limit output or sales, or share markets, shall be punished by prison from six months to five years and a monetary fine; (2) The perpetrator from point (1) of this article that fulfils the conditions for relief from the commitment of payment of the monetary amount of the measure for protection of competition within the meaning of the law regulating competition protection, can be acquitted from punishment. This is unusual because incrimination of restrictive agreements is not limited to cartels i.e. horizontal agreements, but seem to encompass vertical agreements as well.

Bid rigging has been one of the key focuses of the Commission in the past decade and is considered one of the most severe forms of competition infringements. Approximately one in five of the Commission's infringement decisions relates to public procurement, as well as almost a third of competition-related court decisions. This kind of infringement has also been the first

successful leniency application in Serbia and the primary focus of the majority of formal and informal complaints received by the Commission over the sixteen years of the authority's existence. The most recent decision related to bid-rigging is based on an innovative theory of harm related to consortia bidding, where the Commission found that companies could have filed individual bids in smaller groups instead of the entire consortia of six companies bidding as a whole, thus eliminating competition in the bidding process.

PART B - ENFORCEMENT

1. *Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?*

Komisija za zaštitu konkurencije (Commission for Protection of Competition) is the sole authority in charge of competition enforcement in Serbia. It is both the investigative and decision-making authority, although different organizational parts within the Commission are in charge of investigation (the Technical Service) and the decision-making part (the President and the Council). Prior to changes in banking legislation in 2015, the National Bank of Serbia (the banking regulator) had competences to enforce competition law in the banking sector, which was removed from the law under the reasoning that there is no need to have additional regulation regarding competition in the banking sector.

The Commission is an independent and autonomous organization that performs public competencies in accordance with the LPC. It has the status of a legal entity and is accountable for its work to the National Assembly. In accordance with the LPC, the Commission submits its annual report to the National Assembly by the end of February of the current year for the preceding year. The governing bodies of the Commission for Protection of Competition (the President and the Council) are elected by the National Assembly of the Republic of Serbia for a renewable term of 5 years in a public contest, at the proposal of the Committee of the National Assembly in charge of trade matters (Art. 23 of the Law).

In accordance with Article 31, the Commission is financed from revenues that the Commission generates from its activities, particularly from fees (in particular, merger filing fees and fees for individual exemptions of restrictive agreements), donations (not made by undertakings), revenues from the sale of Commission's publications and other sources in accordance with the Law. The fees are determined by the Tariff, enacted by the Commission with the approval of the Government. For example, merger filing fees are set in the amount of 0.03% of joint total annual

income of all concentration participants generated in the preceding financial year, and no more than the amount of the RSD equivalent of EUR 25,000.00 calculated at the National Bank of Serbia's middle exchange rate on the day of payment.

In the field of competition protection the core competences of the Commission are the following: Antitrust (agreements and abuse of dominance); Mergers and acquisitions; Advocacy to other public bodies; Market studies; State aid; International cooperation. Detailed competences of the Commission are specified in Art. 21. LPC. In addition to enforcing LPC by deciding on the rights and obligations of undertakings and imposition of administrative measures, the Commission issues instructions and implementation guidelines, and participates in preparation of regulations in the field of protection of competition and proposes to the Government passing of regulations for implementation of the LPC. The Commission is also entitled to give opinions to competent authorities on draft legislation and rules which are in force, if they have an impact on market competition.

Article 53 LPC is the legal basis for unannounced inspections. Namely, if there is a reasonable doubt that there is a risk of removing or altering evidence in possession of a party or a third person, a dawn raid may be ordered. However, in case that such an inspection should be conducted at a home or other private premises which has similar or connected purpose, when the owner or the holder of premises opposes to it, the President of the CPC shall request a court order. The LPC also provides the option of police assistance.

The first dawn raids in Serbia were conducted in 2015, in three cases, and until 2020 a total of 18 dawn raids has been reached. In 2019, the Commission has published a Notice on Rights and Obligations of the Parties during Dawn Raids. As the Commission stressed out „This notice is for information only and is aimed at providing basic information to the parties to the proceedings on the competences of the Commission for Protection of Competition to carry out dawn raids, their rights and obligations during the course of a dawn raid and potential penalties in the case of interference with the course of inspections. This document is without prejudice to any formal interpretation of the provisions of the Law on Protection of Competition, and does not constitute a legal act. The parties to the proceedings are instructed to address their legal counsellors or procuration holders with respect to their rights and obligations in the proceedings conducted before the Commission“. This notice specifies: the powers of authorised persons of the Commission; obligation of the party to the proceedings to cooperate with authorized persons of the Commission; rights of the party to the proceedings; presence of attorneys; and penalties for preventing and controlling authority to effect inspections.

2. Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the

competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?

According to Art. 23 LPC, the bodies of the Commission (the President and the Council) are elected by the National Assembly of the Republic of Serbia for a renewable term of 5 years in a public contest, at the proposal of the Committee of the National Assembly in charge of trade matters. The President of the Commission and Council members are elected among distinguished experts in the field of law and economics with at least ten years of relevant professional experience, who have achieved significant and recognized work or practice in the relevant field, particularly in the areas of protection of competition and the European Law, and who enjoy reputation of being objective and impartial persons. The LPC provides rules for the composition of the Council and states that the Council, including the President, must include experts from both relevant fields (law and economics), with at least two representatives.

The public contest is announced by the President of the National Assembly, at the latest three months before the expiry of the mandate of the relevant officials or termination of their functions (discharge by the National Assembly, retirement or similar). The contest is published in the Official Gazette of the Republic of Serbia, as well as on the webpage of the National Assembly and contains the conditions for election stipulated in Article 23 LPC.

Although the National Assembly appoints the members of the Council and the Commission submits an annual report to the National Assembly, there is no formal authority of the Government to interfere in the regular administration of cases and the ongoing investigations. The independence of the Commission is established by Law and is further guaranteed by the independence when it comes to funding (the Commission is not funded from the state budget).

The decisions of the Commission are published on the official website, as well as the annual reports of the Commission. The decisions establishing competition infringements, as well as the decision on the institution of procedure ex officio, are published in the "Official Gazette of the Republic of Serbia" and on the web site of the Commission.

When it comes to the transparency and predictability of the decisions of the Commission, the case law is slowly developing and taking shape. In addition, under the new Law on Administrative Procedure, each public authority is obliged to take account of previous decisions in same or similar cases when deciding in administrative proceedings, which should increase both the transparency and predictability of the decision making process.

3. Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?

Annual reports, budgets, financial plans and public procurements are available on the official website of the Commission for Protection of Competition, except for working plans. There is no official planning or agenda made in advance.

4. Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?

The structure has remained largely the same and similar data is collected for each report. However, the way statistics are counted has changed over the years, so data is available, but not all of the data is comparable from year to year.

The structure of the Annual reports has been largely the same since the establishing of the Commission, with certain parts emphasised more or less in certain years. The reports contain the following information: a brief overview (statements like the mission and vision of the Commission), institutional and administrative capacity of the Commission, financing of the Commission and the financial report, followed by the report of the competition cases, which is the central part of the reports. The reports also contain information on the opinions the Commission has issued, advocacy activities, activities in relation to EU institutions, international and domestic cooperation.

When it comes to case reports, the annual reports contain information on competition infringements (both completed and ongoing), individual exemptions of restrictive agreements, sector inquiries and information on the judicial review in competition cases. Reports also include a list of the mergers cleared in each year and reports on phase 2 mergers. Each report has a statistics sheet by the end of the report, although the internal way data is gathered may vary from year to year (for example, in multi-party proceedings, some years count partial case closures i.e. against some of the parties to the proceedings as a separate decision, while other years count them in relation to the outcome of an entire case – one initiation decision correlates to one final decision on the outcome).

The periodical reports on the activities of the Commission are published several times a year and contain information on the organization of the Commission, the competences and responsibilities of the Commission, the financial spending, public procurements, as well as information on information of public interest maintained by the Commission. This report also contains a list of all the names of all case handlers of the Commission – persons authorized to conduct administrative proceedings within the Commission.

5. What are the competition advocacy activities taken in your country by competition authority?

Advocacy activities of the Commission encompass a wide range of non-enforcement activities, from general actions to raise awareness of competition enforcement, to individual proposals on legislative change to policy makers. For its participation in the ICN and World Bank Competition Advocacy Contest, the Commission has won two honorable mentions. The Commission is active in raising awareness of competition rules, through promotional materials, videos, public statements and opinions. As a way of reaching the business community in Serbia, the Commission has an active LinkedIn page and a weekly newsletter, reporting on news from the competition world in Serbian.

Competition law isn't a general and mandatory subject in law schools and there is limited exposure to competition rules even for lawyers. This is why competition compliance in Serbia is a topic that isn't explored a lot. There is a significant lack of awareness of competition rules and the do's and don't-s of competition law. The experience of the Commission has shown that a lot of companies infringe competition rules because they are unaware of the provisions.

In order to tackle this issue, the Commission recently published Guidelines on drafting Compliance programs – available on the Commission website in English as well. This is a step by step guide to draft compliance programs and provides an overview of the key indicators how to detect and prevent infringements. In addition, the Commission has drafted and published a model compliance program to help undertakings draft and implement these programs.

When it comes to advocacy activities in the legislative process, the Commission can participate by providing opinions (even if they are not binding) on provisions of draft laws that could tilt the playing field (for example in the legislative changes to the public utilities framework), with the aim of ensuring competitive neutrality. In this case, the Commission argued that the Law on Public utilities should foresee the option where particular services which can be potentially independently conducted as utility services, be clearly marked as services with a commercial character which may be offered under equal conditions to all interested parties fulfilling envisaged conditions, and not solely to a single undertaking. The Commission also emphasized that conditions and criteria must be defined so not to limit market access to the current and potential undertakings, nor to impose unjust conditions.

6. What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?

There is no priority when it comes to case selection, nor prioritization of ongoing cases. Once there is a reasonable assumption of the existence of a competition infringement (Art 35 LPC), proceedings can be initiated ex officio.

The priority of the cases once the investigation is open is determined in each individual case, depending on all of the circumstances, e.g. the duration of the proceedings, the availability of evidence, the need to gather additional information.

There are no internal guidelines, or publicly available statements on case prioritization. Each case is assessed on its own merits and prioritized in relation to the workload of a particular case handler. Each case is processed and depending on the efficiency of the investigation, unofficial priorities are made.

7. Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?

The only deadlines made in the LPC are for mergers and individual exemptions. In merger clearance proceedings, there are deadlines for both phase 1 and phase 2 mergers and there is a legal presumption that mergers are cleared if the Commission makes no decision and does not open phase 2 proceedings within one month of completed filings.

There is no presumption when it comes to individual exemption of restrictive agreements and duration of proceedings cam vary depending on the complexity of each individual case. The LPC provides a deadline of 60 days, but in complex cases, it can be longer.

There are no deadlines when it comes to competition infringement proceedings. Investigations of restrictive agreements and abuse of dominance have no completion deadline apart from the provisions in the LPC on statute of limitation for imposition of fines. The duration and prioritization of cases is largely influenced by their complexity.

Simplifying phase 1 mergers could help shorten the deadlines, but this would need legislative changes (for example introducing non-opposition decisions instead of clearance).

PART C – JUDICIAL REVIEW

1. Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).

Articles 71 and 72 LPC address judicial review of decisions of the Commission and judicial proceedings. Against the final decision of the Commission, a claim may be submitted before the Administrative court within 30 days from the date of service of the decision to the party, and submitting of a claim does not stay the enforcement of the decision. At the request of the claimant, the Commission may delay the execution of decision until the validity of judicial decision, if the execution of decision would cause irreparable damage to the prosecutor, and especially if it would probably lead to the bankruptcy or termination of business operations of the prosecutor.

Judicial proceedings review the lawfulness of decision of the Commission on the basis of the Law on General Administrative procedure, unless LPC stipulates otherwise. The legality of the monetary amount of the imposed monetary fine is to be examined in relation to the conditions for that decision envisaged by competition legislation (LCP and bylaws). If the court declares the unlawfulness only in relation to the monetary amount of the imposed measure, the ruling shall, as per usual practice, overturn the disputed decision in that part, under the conditions envisaged by the law governing administrative procedures. The LCP has specified the deadlines for submission of claims to the Commission for counter statement, as well as deadlines on the extraordinary legal remedy, which is the competence of the Supreme Court.

2. Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.

The Administrative Court, in charge of judicial review of the Commission decisions ha delivered several interesting judgements in administrative dispute proceedings. Although the court has slowly started venturing into the subject matter of the cases instead of focusing merely on the procedural issues, there are several decisions related to restrictive agreements worth noting.

Reviewing the sportswear RPM decision of the Commission, the Administrative court unequivocally confirmed that „object" and „effect" are alternative concepts and that in cases of competition infringements „by object", there is no need to show effect. The court has also established that the existence of intent is irrelevant when it comes to infringements „by object."

For instance, regarding enforcement of the Commission measures in the field of concentrations, the Supreme Court of Cassation has taken the position that the right to file a lawsuit in the administrative proceedings is accepted only by those undertakings whose competitive position in the market has been directly violated by the disputed act, through significant restriction, distortion or prevention of competition.

The most recent interesting decision of the court relates to a cartel agreement and the standard that the court accepted is the same one upheld in the EU relatively recently. In April 2021, the Administrative court confirmed that the implementation of agreement or lack of adherence to an agreement is of no consequence. The fact that the participant in the agreement met and exchanged information on future pricing is sufficient for the Commission to find the existence of a restrictive agreement in the case at hand.

3. What are in your opinion the main challenges for more effective Competition law enforcement?

Lack of awareness of competition rules on the side of undertakings and the Administrative court. These have started to improve in recent times. Lack of the compliance culture. Like in all transition economies, institution building is a challenge, as well as the effectiveness of judicial reviews.

2.1.8. Tajikistan

Report prepared by Saidqosim Mukhtorov, Senior lecturer at World Economy department, Institute of Economy and Trade of Tajik State University of Commerce, Khujand, Tajikistan

PART A - LEGISLATION

1. Please specify the existing legal framework for the Competition law in your country (if any). When is the first the Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).

The first legal framework for Competition law in Tajikistan, "the Law on competition and restriction of monopolistic activity in commodity markets" pass into law on November 29, 2000. "Law on natural monopolies" on December 13, 1997. The new "Law on natural monopolies" came into effect on February 22, 2007.

Revision and the following "Law on competition and restriction of monopolistic activity in commodity markets" was adopted on July 28, 2006, and in power until May 30, 2017, before the new "Law on the protection of competition" came into effect.

The current "Law on the protection of competition" includes 32 articles, 20 pages long.

The legislation of Tajikistan is not influenced by European Union. Officially there is no information, document, or partnership stating the influence, study case, or practices of the mentioned legislation. Before the upper-mentioned legislations of Tajikistan, there was a regional bilateral and multilateral cooperation framework of the CIS countries for the Competition law, which Tajikistan was part of it. This cooperation was set by the Agreement on Implementation of the Coordinated Antimonopoly Policy on December 23, 1993, in Ashgabad (the new edition of the Agreement was signed on January 25, 2000, in Moscow). One of the recent areas of discussion among the CIS Competition Authorities was the introduction of competition into public utilities. Decisions of each meeting of the Interstate Council are registered in the Protocol of the Meeting and are enforced on the "goodwill" of each member competition authority. Each competition authority nominates two representatives, usually the head and deputy head of the authority, to represent the authority in the Interstate Council. This applies to all the CIS countries.

According to the Bakhadur Khabibov "Law on Curtailing of Monopolistic Activity and Development of Competition", which was adopted in 1993 by Tajikistan as part of CIS, this law was essentially modeled after Russia's then competition law and was adopted through the CIS Inter-Parliamentary Committee process. Therefore, we can assume the origin of the following competition law and acts from CIS countries, particularly, Russia. The following laws and acts were adapted, accordingly to the needs, policies, and economic background.

Apparently, the new laws and amendments were done after the establishment of State Anti-monopoly authority under the Government of the Republic of Tajikistan on January 11, 2001. The agency is responsible for developing anti-monopoly policies and supporting competition and business.

2. Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.

The main types of Competition law infringements are (Article 5, Law on Protection of Competition of Tajikistan):

a. anticompetitive agreements of economic entities;

b. coordinated anti-competitive actions of economic entities;

c. abuse of economic entities with a dominant position.

Anti-competitive agreements and concerted actions of economic entities include:

- anti-competitive agreements and concerted actions of economic entities competing with each other or being potential competitors in the same commodity market (horizontal transactions - cartel);

- anti-competitive agreements and concerted actions of economic entities that do not compete with each other, one of which is a buyer of goods or a likely buyer of goods, and the other provides goods or is a likely supplier or likely seller of goods (vertical agreements). (Article 6, Law on Protection of Competition)

b. The conclusion of contracts, other transactions, agreements, or the implementation of concerted actions by economic entities operating on the market of one product (interchangeable goods) are recognized as a cartel and are prohibited if they lead or can lead to the following results:

- formation (maintaining) of prices (tariffs), discounts, allowances (surcharges), margins, costs, profits, or other actions;

- increase, decrease, or maintenance of prices at auctions and tenders;

- joint entry into the market, exit from the market, division of the market on a territorial basis, in terms of sales or purchases, in terms of the range of goods sold, or in terms of sellers or buyers (customers);

- restriction of the right to enter the market or eliminate other economic entities from it as sellers of certain goods or buyers (customers);

- restriction in the use of information or deprivation of economic entities of information about the state of the market;

- refusal to conclude contracts with certain sellers or buyers (customers);

- imposing on the parties the terms of the contract that are not beneficial for them and are not related to the subject of the contract (unreasonable demands for the transfer of financial resources, other property, property rights, consent to conclude a contract, only if provisions are made in it relating to goods in which the parties to the contract do not other actions are also interested);

- setting different prices (tariffs), which are unreasonable for buyers of the same product from an economic, technical, and another point of view;

- reduction or termination of production of goods for which there is a demand or orders in the presence of a break-even possibility of their production;

- a creation of conditions for membership (participation) in professional and other associations that lead or may lead to the prevention, restriction, or elimination of competition. (Article 7, Law on Protection of Competition)

c. Actions (inaction) of an economic entity (group of persons) that result or may result in the prevention, restriction, elimination of competition and (or) infringement of the interests of other economic entities (group of persons), including:

- withdrawal of goods from circulation, the purpose and result of which is the creation or maintenance of a shortage in the market, or an increase in prices;

- imposing on the parties the terms of the contract that are not beneficial for them or that are not related to the subject of the contract (unreasonable demands for the transfer of financial resources, other property, property rights, labor, consent to conclude a contract only if provisions are made in it relating to goods in which the parties to the contract, including the consumer, are not interested and other requirements);

- introduction of discriminatory conditions into the contract that put the parties to the contract in an unequal position relative to other business entities;

- preventing other economic entities from entering the market (when exiting the market);

- violation of the pricing procedure established by regulatory legal acts;

- formation and maintenance of monopolistic high/low prices;

- the establishment of different prices (tariffs), which are unreasonable for buyers of the same product from an economic, technical, and another point of view;

- a creation of discriminatory conditions;

- unreasonable reduction or termination of production of goods for which there is a demand or orders from consumers, if there is a possibility of their break-even production;

- unreasonable refusal to conclude an agreement with individual buyers (customers) if it is possible to manufacture or supply the relevant goods;

- introduction of prices (tariffs) and making appropriate changes to them without prior notice (provision of information) to the state antimonopoly body. (Article 9, Law on Protection of Competition)

The decision of the competition authority, in our case the State Anti-monopoly authority is made based on the Code of the Republic of Tajikistan on administrative offenses. Most of the law infringements are administrative offenses and very few cases (no cases were found) to considered criminal offenses.

The administrative offenses fines set by defined by the indicator (calculated for all sorts of fines, taking into account consumer basket). In 2022 the indicator for calculating fines is 1indicator = 64 Tajik somoni TJS (approx. 6.7EUR).

For example, the conclusion of contracts, agreements, or other types of transactions, or the performance of concerted actions by business entities (a group of persons), which are contrary to antimonopoly legislation and restrict competition, entail the imposition of a fine as follows:

- on individual entrepreneurs operating based on a patent in the amount of from 50 (50 X 64TJS) to 70 indicators;

- on officials, and public servants from 70 to 100 indicator;

- on individual entrepreneurs operating based on a certificate from 100 to 200 indicators;

- legal entities - from 2000 to 3000 indicators;

(Code of the RT on administrative offenses, Article 543)

or operation by business entities (a group of persons) of unfair competition violating the Law on the Protection of Competition, and antimonopoly legislation entails the imposition of a fine as follows:

- on individual entrepreneurs operating based on a patent in the amount of from 30 (30 X 64 TJS) to 50 indicators;
- on officials from 50 to 100 indicators;
- on individual entrepreneurs operating based on a certificate from 60 to 120 indicators;
- legal entities from 3000 up to 5000 indicators

(Code of the RT on administrative offenses, Article 545)

The same action committed repeatedly within one year after the imposing of administrative penalties entails the imposition of a fine as follows:

- on individual entrepreneurs operating based on a patent in the amount of 50 (50 X 64 TJS) to 70 indicators;
- on officials from 100 to 150 indicators;
- on individual entrepreneurs operating based on a certificate from 150 to 200 indicators;
- legal entities from 6000 to 8000 indicators.

(Code of the RT on administrative offenses, Article 545)

3. Do you have leniency regulation? Provide short information on the leniency program in your country (if any).

In the Law on the Protection Law, there is no any article considering leniency. The reference can be done to the Criminal Code of the Republic of Tajikistan, article 72. Article 72. Exemption from criminal liability in connection with active repentance - a person who has committed a crime of small or medium severity for the first time may be exempted from criminal liability if, after the commission of the crime, he voluntarily turned himself in or actively contributed to the disclosure of the crime or compensated for the damage caused or otherwise made amends for the damage caused by the crime.

or Article 83. Pardon - 1) Pardon is carried out by the President of the Republic of Tajikistan in respect of a certain person.

2) By an act of pardon, a person convicted of a crime may be fully or partially exempted from criminal liability, both primary and additional, or for such a person, the unserved part of the punishment may be reduced or replaced with a milder type of punishment, or a conviction may be expunged.

4. Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).

The Law on Protection of Competition does not provide any regulation on the settlement procedure.

5. Are there any specific rules on private enforcement of Competition law?

There are no any specific rules on private enforcement of Competition law in the Law of Protection of Competition.

6. Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).

From 1993 until now there were 4 reforms to the Competition law (1993, 2000, 2006, and 2017) and in between, there were several amendments to each of the adopted laws. The current law on the protection of competition which is in force since 2017, there was only amended on July 19, 2022, it included only 2 articles, with 5 paragraphs altered.

7. Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?

Tajikistan's Law on the Protection of Competition is relatively new, and possible will have more reformations in the future. There is nothing special worth mentioning from the Law on the Protection of Competition. A study of the EU Competition Law and other countries' Laws will be beneficial in further law reformations.

PART B - ENFORCEMENT

1. Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?

The State Anti-monopoly authority under the Government of Tajikistan is in charge of Competition law enforcement. It is an independent body; According to the decision of the Government of Tajikistan No.489 from 13.09.2012, the authority is financed by the state budget. The State Anti-monopoly authority is entitled to set fines and has the power to do inspections. The inspections can be planned as well as the "surprise" inspections. (Article 22, paragraph 1, Law on Protection of Competition). Sanctions, fines, and limitations on certain infringements are brought in the Code on administrative offenses.

2. Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?

According to the charter of the State Anti-monopoly authority, paragraph 3. the head of authority is appointed or dismissed by the Government of the Republic of Tajikistan. The decisions of the competition authority are not published; thus, transparency and reasonable decisions might be in question. As the decisions are not available publicly it's difficult to answer how transparent it is, predictability of the enforcement should be assured by the Law on the Protection of the Competition, but there is no defined range of fines and no any study cases with decisions.

3. Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?

The available information on the official webpage (http://ams.tj/) of the State Anti-monopoly authority from the listed is only a working plan of the inspections, with the calendar of the planned inspections of the named companies with dominant position and monopolistic status.

4. Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?

The only available document an annual working plan, approved for each year is a detailed plan with the defined tasks and missions of the inspections. The documents reveal the dates of inspection, (start and end), previous inspection date, a framework of the inspection, and details of the listed company. Unfortunately, the results of those inspections are not available. The column "Evaluation" in the working plan table for the last 3 years is empty. As well the absence of the annual report makes it impossible to analyze the effectiveness of the authority, and practically impossible to make a comparative analysis.

5. What are the competition advocacy activities taken in your country by competition authority?

There is no available information on taken activities, nor a working plan published. The analysis of the website news page shows, that the competition authority organizes once in a quarter of meeting with companies (with dominant positions), has constant monitoring of price regulation in the market, and planned and "surprised" inspections.

6. What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?

The current economic context in the country demonstrates the growth of organizations with a dominant position. Especially in some of the certain sectors that concluded numerous vertical agreements. But there are no priorities on detection of infringement by its types according to the law, nor a prioritized sector of the economy, e.g. energy sector.

7. Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?

The current law does not foresee any deadlines for detecting or investigating. The orders (decision and instructions) of the Anti-Monopoly authority could be appealed to the court within 30 days, after announcing the decision (Article 29, Law on Protection of Competition).

PART C – JUDICIAL REVIEW

1. Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).

According to the Criminal Code Article 273. Monopolistic actions and restricting competition:

1. Monopolistic actions committed by setting monopolistic high or low prices, as well as restricting competition by dividing the market, restricting access to the market, eliminating other economic entities from it, establishing or maintaining uniform prices,

- shall be imposed a fine amounting to 250 to 365 indicator for calculations (1 indicator 64TJS), or imprisoned for up to two years. (Criminal code amendments from 21.07.2010., №617).

2. The same acts committed:

a) again;

b) by a group of persons by prior agreement,

shall be imposed a fine amounting to 365 to 912 indicator for calculations or imprisoned from two to five years (Criminal code amendments from 21.07.2010., №617).

3. The infringements mentioned in the first or second part of this article, committed:

a) with the use of violence or threatening;

b) with the destruction or damage of someone else's property or with the threat of destruction or damage of someone else's property, in the absence of signs of extortion;

c) using official position;

d) an organized group,

- shall be imposed a fine amounting to 912 to 1823 indicators for calculations, or imprisoned for a term of five to ten years, and with sanctions in appointing to certain positions or restrictions of engagement in certain activities for up to five years. (Criminal code amendments from 12.06.2013., №966)

Individuals and legal entities for non-compliance with the Law on Protection of Competition are subject to responsibility under the legislation of the Republic of Tajikistan. (Article 30, Law on the Protection of Competition). The Law on Protection of Competition, Article 22. states the power and authority of the State Anti-Monopoly authority, and has a right to:

- participate in court in consideration of cases related to the use and (or) violation of

competition law and antimonopoly legislation of the Republic of Tajikistan;

- applies to the court with a statement of claim for violation of competition law and the antimonopoly legislation Republic of Tajikistan.

So far this article has never been applied, and Competition law infringements are imposed with administrative fines. There some cases the authority can make warnings and preventive actions, setting up the deadline for cessation law violation.

2. Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases?

There are no juridical cases of Competition law infringement. The reason might be acceptable the Law on Protection of Law is relatively young and well-promoted, and competition authorities have a right to impose administrative fines, for some companies these fines are acceptable, so the appeals to the court for a decision of Anti-Monopoly authority are fairly few.

3. What are in your opinion the main challenges for more effective Competition law enforcement?

One of the challenges for effective Competition law enforcement is awareness. Unfortunately, we could not find any special programs, plans, and activities to rising awareness of the law, which should be actively taken by the State Anti-monopoly authority. One question is awareness, another is the understanding law, rights, and opportunities of the law. Not all individuals or small business understands that they might seek redress or compensation caused by violating competition law.

2.2. Key findings

Conducted research provided a set of useful information about Competition law enforcement in Project partner countries which will be used as a foundation for further empirical research on the legal regulation.

Main findings are summarized as follows:

1. With regard to issues related to legislative framework, conducted research showed that in vast majority of analyzed jurisdictions Competition law regulation exists since 1990's. However, those laws which were enacted during 1990's or somewhat later, were replaced with new laws which were brought under the strong influence of EU law. In all analyzed jurisdiction Competition law regulation was subject to several reforms. At the moment of writing this Report regulatory reform of Competition law is taking place in Bosnia and Herzegovina and Serbia.

2. In all analyzed jurisdictions Competition law enforcement encompass following infringements: prohibited agreements, abuse of dominant position and merger control (control of concentrations). Competition law of Moldova in addition to previously mentioned types of infringement, regulates *anticompetitive conduct of public authorities* as special type of infringement. In Tajikistan there is a special regulation on *coordinated ant-competitive actions*.

3. Situation with regard leniency regulation and settlement procedure is rather diverse in analyzed jurisdictions. Conducted research showed that all countries, except for the Tajikistan, have Leniency regulation. In some countries, such as Albania, Bosnia and Herzegovina or Croatia there are special regulation on leniency, while in other countries leniency is regulated within general competition act. Situation with the settlement is completely different. Only Croatia has legislation on the settlement procedure in competition cases. In all other countries, settlement procedure in competition cases is not regulated.

4. When it comes to private enforcement, conducted analysis showed several things. Firstly, not all countries have rules and regulation on private enforcement. Countries that do not have regulation on private enforcement are Bosnia and Herzegovina, North Macedonia and Tajikistan. Secondly, among analyzed countries only Croatia has separate law on private enforcement. In all other countries rules on private enforcement are contained in Competition act. And lastly, in Moldova and Serbia private enforcement is only possible as a follow-on claim.

5. In relation to issues regarding competition authorities and enforcement, conducted research provided set of information about powers, organization model and level of independence of Competition authority. Conducted research showed that in all analyzed countries competition authorities have more or less similar powers. In all countries competition authorities are at least declaratory independent. Differences exist with regarding model of funding. In most analyzed jurisdictions competition authority is funded from the state budget. Only in Serbia competition authority is funded by the revenues generated from its activity.

6. Lastly, Report also provided some very basic information about judicial review of competition agencies' decisions. With regard to that it is worthwhile to mention that there are differences with regard to reviewing courts and models of judicial review. In most analyzed jurisdictions reviewing court is administrative court. This is not the case for Tajikistan where courts of general jurisdictions are also reviewing competition law cases. A thing worth mentioning is also that in Tajikistan competition law infringement is a criminal act regulated by the Criminal Code. In all other countries competition law procedure before the competent court is subject to administrative law rules.

2.3. Conclusion

Conducted analysis provided systematic information about substance and enforcement of competition laws in Project partner countries. Based on conducted analysis we can draw a general conclusion that the competition law enforcement of analyzed jurisdictions share many common features mainly thanks to fact that the competition laws of all analyzed countries are strongly influenced by the EU competition law. Differences that exist are consequence of legal legacy of particular country, general system of the organization of the courts, efficiency of judiciary, legal culture, etc.

Furthermore, conducted research indicated some common problems in competition law enforcement in all analyzed countries and jurisdictions. One of those problems is the lack of compliance culture, which is a consequence of lack of awareness of competition rules. Another problem that is also emphasized in several reports is insufficient or inadequate judicial review of infringement decisions. Moreover, conducted research also showed that in all analyzed countries private enforcement is still in formative period or non-existent. With regard to settlement procedure conducted research showed that, this institute is regulated only in Croatia.

Therefore, further legislative measures are primarily needed with respect to private enforcement and settlement. Conducted research also showed that additional efforts are required in relation to raising awareness of general public and businesses about completion law rules and with regard to strengthening judicial review.

2.4. Table 1: Summary of the Report

STATE	LEGAL FRAMEWORK/ ONGOING REFORM	MAIN COMPETITION LAW INFRINGEMENTS	LENIENCY	SETTLEMENT PROCEDURE	PRIVATE ENFORCEMNET	COMPETITION AUTHORITY OR OTHER REGULATOR	JUDICIAL REVIEW	CHALLENGES
ALBANIA	The Law No. 9121 On the Competition protection (2003) No reform at the moment	Anticompetitive agreements Abuse of dominant position Mergers	Leniency regulation since 2010; new regulation adopted in 2015	Not regulated	Regulated by the articles 65-68 of the CA; Guidelines on damages (2019)	Competition Authority funded by the State Budget	Administrative procedure; Administrative court 1°; Administrative Court of Appeal The High Court	Fining No private enforcement claims Lack of awareness Economic analysis
BOSNIA AND HERZEGOVINA	Law on Competition (2005) In 2020 working group started to prepare draft Amendments to current Law	Anticompetitive agreements Abuse of dominant position Mergers	Regulation on the procedure for granting immunity from fines (2006)	Not regulated	Not regulated	Competition Council; funded by the State Budget	Administrative dispute before the Court of BiH; unlimited review	Support to Competition Council Improving legal framework
CROATIA	Competition Act (2009; last amended 2021) No reform at the moment	Anticompetitive agreements Abuse of dominant position Mergers	Regulation on immunity from fines and reduction of fines (129/2010, 96/2017)	Settlement procedure available since 2021	Act on Action for Damages for the infringement of Competition law (2017)	Croatian Competition Agency; funded by the State Budget	Administrative dispute before the High Administrative Court of the Republic of Croatia; Supreme Court	Define Competition law priorities on regular base; Improve model of judicial review;

								Private enforcement almost non-existent; collective actions poorly regulated.
ITALY	Competition Act since 1990; still in force and amended several times No reform at the moment	Anticompetitive agreements Abuse of dominant position Mergers	Leniency procedure regulated by 15 *quarter* 1. 287/1990 of the Competition Act	Not regulated	Regulated in d. lgs. 19 January 2017 and harmonized with the Directive 2014/104	Competition Authority since 1990 (*Authorita Garante per la Concorrenza e del Mercato*); funded from imposed fines	Administrative Regional tribunal of Rome 1°; Administrative national court of 2°	Private enforcement, more collective actions ; how to balance Competition law goals with other goals such as social concerns, environment, etc.
MOLDOVA	Competition Law 2012 (first CL since 1992) No reform at the moment	Anticompetitive agreements Abuse of dominant position Mergers Unfair competition Anticompetitive Conduct of	Leniency procedure regulated by the Competition Law	Not regulated	Competition Act provides for a follow-on claim; persons affected by the anticompetitive agreement can file a civil suit	Competition Council funded from the State budget	Administrative procedure; Regional district court 1°; Chişinau Court of Appeal 2°; Supreme Court of Justice	Lack of qualified personnel and technical resources; Strengthen competition advocacy; Private enforcement inexistent

		Public Authorities						
NORTH MACEDONIA	Competition Act (2010) First CA in 2005 No reform at the moment	Anticompetitive agreements Abuse of dominant position Mergers	Leniency procedure regulated by the Competition Law	Not regulated	Not regulated in separate piece of legislation; damaged party may seek damage in accordance to the Law on Obligation	Commission for the Protection of Competition Funded by the State budget	Administrative dispute before the Administrative court 1°; Supreme Court 2°	Private enforcement and settlement procedure
SERBIA	Law on the Protection of Competition (2009) First CA 1996 (Antimonopoly law) Regulatory reform started in 2017 and is still pending	Anticompetitive agreements Abuse of dominant position Mergers	Leniency procedure regulated by the Competition Law	Not regulated	Private enforcement is possible only as a follow –on claim; regulated by art. 73 of the CA	Commission for the Protection of Competition Funded by the revenues that generates from its activity	Administrative Dispute before the Administrative Court 1°; The Supreme Court of Cassation 2°	Need to raise awareness by strengthening Competition advocacy; Lack of compliance culture; Improve judicial review
TAJIKISTAN	Law on protection of competition (2017)	Anticompetitive agreements Abuse of dominant position	Not regulated	Not regulated	Not regulated	State Anti-monopoly authority	City court or regional court Administrative procedure	Need to raise awareness and knowledge about

	First CA 1993 No reform at the moment	Coordinated anti-competitive actions Concentrations				Funded by the state budget		Competition law (need for more intensive competition advocacy)

Part II: Report on Competition Law courses and Competition Law course content in project partner countries

3.1. Introduction

Teaching students on the EU Competition Law and policies is one of the main perquisites for the strengthening of the EU law. Students are future policymakers; therefore, they should have at least basic knowledge of the EU Competition Law.

It that regards, the purpose of conducted research on the Competition Law courses provided in this Report is to get a closer insight:

1/Are Competition Law course part of curriculum in the Project Partner countries?
2/If is not what are the reasons for such a situation and is there an intention or/and possibility to introduce the Competition Law course in near future and how (how many teaching hours, ECTS, content, etc.)?
3/If yes at what academic level the Competition Law is taught, what are the learning outcomes and content of the course, how many hours and ECTS the courses have, is it elective or mandatory course, in which languages the courses are taught and is there a cooperation between universities and competition authority in the Project Partner countries?

National Reports are provided by alphabetic order as follows:

9. Albania,
10. Bosnia and Herzegovina,
11. Croatia,
12. Italy,
13. Moldova,
14. North Macedonia,
15. Serbia,
16. Tajikistan.

At the end of Report main findings and conclusions will be provided.

3.1.1. Albania

Report prepared by Petrina Broka, Lecturer at the Civil Law Department, Faculty of Law, University of Tirana

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

Is the Competition Law course part of your curriculum in your country?

1. ***At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?***

   EU Competition law may be taught, in Albania, at all levels: undergraduate, graduate, and postgraduate, depending on many variables i.e., part of courses on EU law, business law, etc. It is especially taught, as a specific subject, at the Professional Master of EU Business law at the University of Tirana, Faculty of Law. Competition law courses on Albanian competition law are taught at several Universities in Albania. They are based in the EU competition law as the Albanian competition law is based in the EU competition Acquis.

2. ***Briefly explain the course content. What are the learning outcomes of the course?***

   The course content depends on both the level competition law is taught in *and* whether it is a single course or a section of a wider course. E.g., competition law is frequently taught, at the undergraduate level, as a part of Commercial Law or at the postgraduate level as part of European Private Law. In this case, content is limited to agreements, abuse of dominant position, mergers.
   If competition law is taught as a specific course, it is focused on Albanian competition law, but it usually includes also international aspects (EU competition and US antitrust law). In the case of the specific EU Competition Law course, taught at the Professional Master of EU Business Law, it is focused only on EU *acquis*.
   Specific competition law courses are generally taught at graduate level while when part of EU law or commercial and business law are taught both at undergraduate and graduate level.

   The EU competition law course mentioned above has the aim to provide students with an overview of how competition is defended at the level of the Union by analyzing each of the pillars of the competition policy and the latest developments in the field. The course will start with a general analysis on how competition law was born, its developments, the economic analysis of the competition, the concept of the relevant market, the concept of enterprise, of trade infringement to move on to an in-depth analysis of each of the pillars of competition policy: prohibited agreements, abuse of dominant position, concentrations, and state aid. A special attention will be dedicated to the analysis of the application of competition law. The course ends with an analysis of competition policy over the years.

Some of the learning outcomes include:
a) Knowledge of the specific competition law issues.
e) Capacity to implement the legal knowledge in practice in several work environments i.e., Law firms, businesses, public administration.
g) Capacity to research on competition law.

At the end of the course students should be able to:
a) Identify the most important anticompetitive conducts and understand the legal consequences.
b) Understand legal remedies and responsible institutions to address.
c) Understand the permitted and the forbidden state aid.

3. How many hours do you teach Competition Law (per week or in semester) and how many credits students get?

Answer to this question really depends on *which* course one is dealing with.
"EU Competition Law" is a mandatory course in curriculum of Professional Master EU Business Law, in Faculty of Law University of Tirana. It has 5 credits, 60 hours in the auditorium, from which 45 lecturers and 15 seminars, for one semester.

"Competition Law" course in Faculty of Law University of Tirana has:

- 4 credits, 42 hours in the auditorium, from which 30 lecturers and 12 seminars in curriculum of the second cycle integrated program "Master of sciences in law".
- 4 credit, 42 hours in the auditorium, from which 30 lecturers and 12 seminars, for one semester, as an elective course in the curriculum of Master of Science in Civil Law.
- 6 credits, 60 hours in the auditorium, from which 45 lecturers and 15 seminars, in the curriculum of Professional Master Civil Law.

4. Is it elective or mandatory course? If the course is elective, is it thought every year?

"EU Competition Law" course is a mandatory course in curriculum of Professional Master EU Business Law, in Faculty of Law University of Tirana.
"Competition Law" course in Faculty of Law University of Tirana is:

- an elective course in curriculum of the second cycle integrated program "Master of sciences in law", in the fifth year. This course is taught in the fifth year as one from 18 courses foreseen in the curricula, and the students must choose only one of them.
- an elective course in curriculum of Master of Science in Civil Law. This course is taught in the second year, as one from 10 courses foreseen in the curricula, and the students must choose only one of them.
- a mandatory course (6 credits) in curriculum of Professional Master Civil Law. This is taught in the first year.

If competition law is thought, as a part of Commercial Law or European Private Law, etc. it is mandatory as the course in which it is part.

5. ***Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?***

   Competition Law courses, in Albania, are offered in Albanian. There is a plan for the coming years to offer English courses for Albanian and international students studying in the University of Tirana. There is not any requirement for students to enroll in these courses.
   In the Courses of EU Competition Law, the focus is on EU competition law, while in Competition Law course the focus is both on national and EU competition law.

6. ***Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?***

   Cooperation between universities and the Competition Authority is mainly on an ad hoc basis and includes internships of students at the ACA, open lecturers, cooperation for the organization of conferences, etc.

3.1.2. Bosnia and Herzegovina

Report prepared by Kanita Imamovic Cizmic, Associate Professor, Faculty of Law, Sarajevo, Bosnia and Herzegovina

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. Studying the competition law discipline at law faculties in Bosnia and Herzegovina

According to the curricula of 23 higher education institutions which offer legal studies, and which at the time of the research were available on the official websites of the faculties (universities), it can be stated that the subject Competition Law is studied within the 8 programs of the following public universities at the Faculties of Law in Bosnia and Hercegovina.

When it comes to private higher education institutions, according to the available study programs, Competition Law is studied only at the International University Sarajevo (IUS) and the International University of Brčko.

It can be concluded that at all higher education institutions, which have legal studies, the subject Business (commercial) law is studied, but it cannot be reliably determined whether and to what extent within this subject, as a thematic unit, competition law is studied.

1.1 Analysis of the curricula of law faculties in BiH – status of the competition law subject, number of ECTS, learning objectives and outcomes, content of the subject and literature

This part of the report presents the study of competition law in Bosnia and Herzegovina based on data available on the websites of higher education institutions in Bosnia and Herzegovina.

1.1.1 Analysis of the syllabus of the Law and Politics of Competition subject at the Faculty of Law of the University of Sarajevo

According to the study program of the Master university study of law (II cycle)[2] at the Faculty of Law of the University of Sarajevo, it can be stated that the subject Law and Politics of Competition is studied in the II cycle of studies at the Law and Economics Course as a compulsory subject carrying 10 ECTS points.

The primary objective of the subject is to educate students to understand the basic categories and institutes of politics and law of competition. Through all forms of class activities, students acquire the necessary knowledge about prohibited agreements, abuse of a dominant position and prohibited concentrations as legally prohibited behaviors on the market. Specifically, students gain knowledge about how these behaviors are regulated and sanctioned in the legislation of the United States of America, the European Union and Bosnia and Herzegovina.

Through 30 hours of lectures in the Bosnian language, in the first semester (two hours per week), the content of the subject is realized and students master the following thematic units:

1. Market competition as an economic and legal category (general indications about market structures, legal definition of competition),
2. Legal regulation of market competition as a form of economic role of the state (law and politics of competition),
3. Economic institutes regulated by competition law,
4. Law and politics of competition in the USA,
5. Law and politics of competition in the EU,
6. Internationalization of law and policy of competition,
7. Law and politics of competition in BiH,

[2] https://www.pfsa.unsa.ba/pf/wp-content/uploads/2018/05/STUDIJSKI-PROGRAM-MASTER-UNIVERZITETSKI-STUDIJ-PRAVA.pdf

8. Macroeconomic effects of competition law.

When it comes to learning outcomes at the subject level, after successfully mastering the subject, students will be able to:

a) regarding the knowledge:

- *at the level of facts:* identify, define and describe terms and categories of law and politics of competition, determine their connection with the system of legal and economic sciences, recognize the sources of competition law in the USA, the EU and Bosnia and Herzegovina.

- *at the level of understanding:* analyze, compare and evaluate the concepts of law and politics of competition.

b) *in terms of skills:* analyze the facts and bring them under the norm of competition law, analyze the trends of changes in the regulation of the mechanism of legal protection of market competition and the causes that lead to them.

c) *in terms of competences:* qualified for jobs related to the behavior of business entities on the market.

There are no special requirements for taking the exam in the Law and Politics of Competition subject. All students can take the exam in the regular and remedial exam period after attending the lectures in the 1st semester of the Law and Economics course.

Before the beginning of the academic year, the Academic Council of the Faculty, by special decision, determines the compulsory and recommended textbooks and manuals, as well as other literature needed for the preparation and taking of the exam. The established compulsory literature is available in the library, or via the official website of the Faculty or online.

1.1.2. Analysis of the competition law subject syllabus at the Faculty of Law of the University of Zenica

According to the Curriculum of the first-cycle studies at the Faculty of Law of the University of Zenica[3], the subject Competition Law is studied as a compulsory subject in the VIII semester and carries 3 ECTS points.

The objective of the subject is to enable students to understand the structure of this legal discipline through the analysis of relevant legal concepts and principles. This is achieved through the explanation of concept and essence of competition policy and institutional frame established within the competition law domain, through concepts of mergers and acquisitions, monopoly and abuse of a dominant position on the market.

[3] https://www.prf.unze.ba/Docs/NPPIciklus.pdf

Content-wise, the subject program includes the following thematic units, which are covered in BHS languages:

1. Principles of competition law,
2. Development of competition law,
3. Theoretical trends of competition law development,
4. Contemporary aspects of competition law,
5. Competition law in European Union law,
6. Anti-competitive practice according to the UFEU,
7. Prohibition of abuse of a dominant position on the market according to the UFEU,
8. Control of mergers and acquisitions,
9. State aid,
10. Competition law in US law,
11. Competition law in the law of Bosnia and Herzegovina,
12. Regulatory reform in the field of competition law in Bosnia and Herzegovina,
13. Expansion of competition law beyond national legal systems,
14. Public and private law competition law mechanisms,
15. Competition law in case law.

When it comes to learning outcomes at the subject level, after successfully mastering the subject, students will have:

1. Ability to independently research and analyze literature and legal practice in the field of competition law,

2. Competencies in terms of recognizing undesirable forms of market competition in order to provide proposals for adequately overcoming the problem,

3. Ability to reasoned approach to existing legal solutions.

There are no special requirements for taking the Competition law exam.

1.1.3. Analysis of the competition law subject syllabus at the Faculty of Law of "Džemal Bijedić" University of Mostar

According to the Curriculum of the second-cycle studies (academic year 2011/12)[4] at the Faculty of Law of "Džemal Bijedić" University of Mostar, it can be stated that the subject Competition Law is studied as an elective subject and carries 5 ECTS. There is no available curriculum from which the objectives, content and teaching units studied within the program, learning outcomes and the requirements for taking the exam, would be visible.

[4] https://pf.unmo.ba/media/zlubax50/nastavni_plan_i_program_pravno-ekonomski_smjer.pdf

On the website of the Faculty, there is no information on whether this subject is offered as an optional content every year. Specific information on cooperation with the Competition Council, as the body responsible for the public enforcement of competition law in BiH, also isn't available.

1.1.4. Analysis of the competition law subject syllabus at the Faculty of Law of the University of Tuzla

According to the Curriculum of the first-cycle studies in the field of law (consolidated text applying from the academic year 2021/2022)[5], competition law[6] is studied as a professional elective subject in the first cycle of study. It carries 2 ECTS points and it is taught within two classes a week.

There is no information on the Faculty's website as to whether this subject is taught as an elective every year.

The objective of the course is to acquire adequate theoretical and practical knowledge necessary for understanding the importance of competition law in economic and legal transactions.

Students study the following thematic units within the scope of the subject:

1. The concept and significance of competition law
2. Assumptions and sources of legal regulation of competition
3. Subject and method of competition law
4. Monopolistic activity, speculation and unfair competition
5. Institutions and responsibilities in competition law
6. Restricting the market
7. Responsibility in competition law: System of responsibility, Sanctions according to acts, Sanctions according to persons,
8. Criminal sanctions
9. Supervisory authorities

Regarding learning outcomes, it is stated that upon successful completion of teaching activities and duties, students are expected to be able to acquire basic, i. e. elementary, knowledge about the essence of the Competition Law.

There are no special requirements for taking the Competition Law subject exam.

1.1.5. Analysis of the competition law subject syllabus at the Faculty of Law of the University of Mostar

[5] http://pf.untz.ba/?page_id=94 01.08.22.

[6] http://www.untz.ba/index.php?page=studij 01.08.22.

According to the University graduate study in law - study program - 1ST YEAR SYLLABUS[7], it can be stated that the subject Competition Law is studied as an elective subject in the 1st year of study and carries 6 ECTS credits. It encompasses 4 class hours per week (two hours of lectures and two hours of exercises).

On the website of the Faculty, there is no information on whether this subject is offered as an elective content every year.

The objective of the course is to make students familiar with fundamental issues of competition law, protection authorities, agreements that limit market competition, the concept of a dominant position and the market concentration.

Students study the following thematic units within the scope of the subject:

1. introduction to competition law,
2. historical development,
3. legal sources of competition law,
4. protection bodies,
5. market power and relevant market,
6. agreements that limit market competition,
7. horizontal agreements,
8. vertical agreements,
9. the concept of dominant position,
10. market concentration.

Regarding the learning outcomes in the syllabus, it is indicated that students will be able to:

- name the basic features of competition law;

- determine the sources of competition law, historical features of the development of competition law,

- analyze specific cases and apply the theoretical part in practice when determining competition authorities, agreements that limit competition, horizontal and vertical agreements, abuse of a dominant position (concept, types, forms of abuse), market concentrations (concentration application, assessment procedure, repeal and amendment of the decision on concentration),

- define market power and relevant market, prohibited agreements (*de minimis* doctrine), restriction of market competition through cartels, horizontal cooperation agreements, most common vertical restrictions, abuse of dominant position, market concentrations.

[7] https://pf.sum.ba/program-prav-dipl/ 01.08.22.

There is no specific information on the Faculty's website about cooperation with the Competition Council as the body responsible for the public enforcement of competition law in Bosnia and Herzegovina.

1.1.6. Analysis of the competition law subject syllabus at the Faculty of Law of the University of East Sarajevo

The study of law at the Faculty of Law of the University of East Sarajevo takes place in Pale, Srebrenica and Bijeljina as the Centers of the Faculty. Each of them is separately presented on the website. First and second-cycle studies are taught in Pale and Bijeljina, and in Srebrenica only first-cycle is offered. According to the information available on the website, Competition Law is not taught in the first cycle of studies.[8]

According to the Curriculum of the second-cycle studies it can be stated that the subject Competition Law is studied as an elective subject and carries 10 ECTS and it is taught within five classes a week.

Objectives of studying: Familiarizing students with the reasons for the protection of free market competition, basic forms of competition violations by participants in market competition, procedures and means of its protection.

Learning outcomes: The student acquires knowledge and skills that enable him to independently, competently and professionally critically analyze and apply knowledge in the field of competition law.

Students study the following thematic units within the scope of the subject:

1. introductory part

2. personal and territorial application of competition law

3. relevant market

4. assessment of market power

5. agreements restricting competition

6. abuse of a dominant position -

7. concentration control

8. the position of the public sector of the economy with regard to competition law.

[8] https://www.pravni.ues.rs.ba/o-fakultetu/studijski-programi/silabusi-za-l-ciklus-studija-studijski-program-pravo-od-2022-2023-a-g

9. procedure before competition protection authorities -

10. civil protection

There is no specific information on the Faculty's website about cooperation with the Competition Council as the body responsible for the public enforcement of competition law in Bosnia and Herzegovina.

1.1.7. Analysis of the competition law subject syllabus at the Faculty of Law of the University of Banja Luka

According to the 2019-2020 Academic Master's Study Program[9], i.e. the II cycle studies at the Faculty of Law of the University of Banja Luka, master studies are conducted through one study program called "Master Studies in Law", which is divided into nine modules, namely:

1. Civil law

2. International law

3. Criminal law

4. Business law

5. State law

6. Administrative law

7. Labor and social law

8. Legal-historical studies

9. Legal and economic module

In the frame of the Business Law module, according to the curriculum, the teaching of the elective subject Competition Law, which carries **5 ECTS** points, is foreseen. On the website, in the section *All subjects*[10], where the curricula of all subjects are presented, the subject Competition law cannot be found, therefore the information regarding the objective, content, learning outcomes and literature is unavailable.

There is no specific information on the Faculty's website about cooperation with the Competition Council as the body responsible for the public enforcement of competition law in Bosnia and Herzegovina.

1.1.8. Analysis of the syllabus at the Faculty of Law of the University of Bihać

[9] https://pf.unibl.org/studijski-program-master-studije/?script=lat 04.08.22
[10] https://pf.unibl.org/svi-predmeti-master-studije/?script=lat 04.08.22

According to the information on the official website of the University, study programs are not available for the legal studies.[11]

1.1.9. Analysis of the syllabus at the Faculty of Law of the International University Sarajevo (IUS)

When it comes to private higher education institutions, competition law is studied only at the International University Sarajevo IUS. According to the information from the official website, competition law is studied in the second cycle of the Master Program in Comparative Private Law under the title Competition and Consumer Protection Law in the EU and it encompasses 3 class hours per week and carries 6 ECTS.[12]

There is no specific information on the Faculty's website about cooperation with the Competition Council as the body responsible for the public enforcement of competition law in Bosnia and Herzegovina.

1.1.10 Analysis of the syllabus at the Faculty of Law of the International University Brčko

According to the the syllabus of the Master's course in International Law[13], it can be concluded that the subject Competition Law is provided as an optional content, but there are no information about ECTS points, how many classes are taught, nor is the course syllabus available.

There is no specific information on the Faculty's website about cooperation with the Competition Council as the body responsible for the public enforcement of competition law in Bosnia and Herzegovina.

2. Studying of competition law at faculties of economics in Bosnia and Herzegovina: Analysis of curricula at economic faculties and universities in Bosnia and Herzegovina

According to the curricula and programs, i.e. study programs of the I, II and III cycle of studies at the faculties of economics at universities and colleges accredited in BiH, which were available on official websites at the time of the research, it can be concluded that only at two faculties certain elements of the scientific discipline of competition law that can be identified with the content of the subject of the same name at law faculties, namely the Faculty of Economics at the University of Sarajevo and the Faculty of Economics at the University of Banja Luka.

At 22 higher education institutions, the subject of Business (Commercial/Trade) Law is studied. While according to the syllabi, which were available, it can be concluded that at three higher

[11] http://unbi.ba/sadrzaj/studijski-programi-od-a-do-z/21

[12] https://ecampus.ius.edu.ba/syllabus/law524-competition-and-consumer-protection-law-eu

[13] http://www.iu-bd.org/index.php/bs/component/phocadownload/category/14-magistarske-studije?download=186:mag-pf-medjunarodno-pravo

education institutions (Zenica,[14] Tuzla, Bihać) competition law as a thematic unity is studied within the scope of Business (Commercial) Law subject.

On the official website of the Faculty of Economics of the University of Sarajevo, there are no available curricula, but according to the information regarding chairs, Chair of Business Law is divided into seven teaching subjects - separate scientific disciplines: (1) Business Law; (2) International business law; (3) European law; (4) Law of securities; (5) Law in tourism; (6) Banking and insurance law and (7) Competition law and consumer protection.[15]

At the Faculty of Economics of the University of Banja Luka, there are all three cycles of studies. First-cycle lasts four years, and in the fourth year of study, students can choose between six courses. Competition Law is not taught in the first cycle of studies. The second cycle of studies includes seven study programs (Finance, Banking and Insurance; Finance and Audit of Public Institutions; International Economics; Business Economics; Actuarial Science; Cultural Heritage Management, Tourism Management), but competition law is not studied in any of these study programs. The third cycle of studies is designed in the frame of four modules: Business Finance and Banking, Insurance, Management and Entrepreneurship, Economic Analysis and Policy and International Economy.

Within the Economic Analysis and Policy Module, the subject Economics of Regulation is studied.[16] Based on the content of the subject syllabus, it can be concluded that certain elements of competition law are presented to students. It is compulsory subject, taught in 4 class hours of lectures and 3 class hours of exercises and carries 9 ECTS points. The main goal of this course is to introduce the role of the state in markets characterized by "market failure" to doctoral students. The subject of the analysis is the behavior of individual markets with an emphasis on cost analysis, determinants of market demand, investor behavior, market power and analysis and effects of state regulatory activities. When it comes to learning outcomes, doctoral students will gain the necessary knowledge and tools for verification and analysis of market imperfections, historical development, basics and the need for state regulation of the market. After this course, doctoral students will be able to recognize market imperfections, analyze them and propose appropriate policies for their correction.

Course content:

- The role of the state

- Markets

- Market failure ("market failure")

[14] The Faculty of Economics of the University of Zenica has signed a Memorandum of understanding with the Council of Competition.

[15] http://www.efsa.unsa.ba/ef/bs/katedra/katedra-za-poslovno-pravo 04.08.22.

[16] https://ef.unibl.org/predmeti-i-predavaci/predmeti-stranica?predmet=301 03.08.00

- Oligopolies and collusion

- Dominant company and strategic competitors

- Introduction to economic regulation

- Public enterprises

- Regulation of natural monopolies

- Price analysis and monopoly regulation

- Regulation of vertical markets

- Regulation of mergers and antitrust policy

- Externalities

- The "value" of life

- 1. Regulation of the environment (environment) 2. Clean air market. Internet regulation. Regulation of the pharmaceutical market - analysis of patents.

3.1.3. Croatia

Report prepared by Lidija Šimunović, Assistant Professor, Faculty of Law, Osijek, Croatia

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?

In the law faculties in the Republic of Croatia, Competition Law is not taught at the undergraduate level, but is taught at the integrated undergraduate and graduate level (1) and postgraduate level (e.g. specialist postgraduate and PhD programs) (2).

At the faculties of economics, Competition Law is also not taught at the undergraduate level, but it is taught at the graduate level (1) and postgraduate level (e.g. specialist postgraduate and PhD programs) (2). At the faculties of economics, Competition Law is also not taught at the undergraduate level, but it is taught at the graduate level (1) and postgraduate level (e.g. specialist postgraduate and PhD programs) (2). At the University of Zagreb, Faculty of Economics and Business and at the Faculty of Economics at the University of Osijek, Competition Law course is taught at the integrated studies program (3rd,4th,5th year students may take it as an elective

course). At the University of Zagreb, Faculty of Economics and Business is taught as well at the postgraduate level.

2. Explain briefly the course content. What are the learning outcomes of the course

Competition Law is taught at all faculties of law as part of the integrated undergraduate and graduate legal study program as a separate (mandatory[17] or elective[18]) course at the final (the fifth) year of studies.
At the postgraduate level, Competition Law is taught at some law faculties at specialist postgraduate[19] and PhD programs[20].
The subject matter of the courses does not differ, regardless of the level of education, or the type of faculty. The one distinction is the fact that there is more focus on the EU Competition Law at the postgraduate level
If Competition Law is taught as a separate course it deals with Croatian Competition Law and State Aid Law, but it also usually includes EU competition law and U.S. antitrust law. The common content of the syllabi includes the concept and purpose of Competition Law, legal sources of Competition Law and authorities for the protection of market competition, prohibited agreements, dominant position and abuse of dominant position and concentration, public law vs. private law protection, judicial review in Competition Law cases and the prohibition of state aid etc.
In this course, the students gain knowledge about basic concepts of Competition Law, learn about the legal framework and main competition law infringements, distinguish between main types of infringements and learn about Competition Law enforcement and judicial review in Croatia as main learning outcomes.

3. ***How many hours do you teach Competition Law (per week or in semester) and how many credits students get?***

All courses on the Competition Law at all academic levels are taught only in one semester.
At integrated undergraduate and graduate level (at the Faculty of Law Osijek and the Faculty of Law Rijeka), Competition Law is taught in 45 hours of classes per semester and has 6 ECTS.

[17] E.g. at the Faculty of Law in Osijek.
[18] E.g. at the Faculty of Law in Zagreb and at the Faculty of Law in Split the course on Competition Law is not taught anymore at the integrated undergraduate and graduate level.
[19] At the specialist postgraduate program in Osijek and Zagreb, but not at the Faculty of Law in Rijeka and Split at least as a separate course.
[20] At the PhD program in Osijek and Zagreb but not in Rijeka and Split as a separate course.

At the Faculty of Law Zagreb, Competition Law carries 4 ECTS.[21] Currently, at the Faculty of Law Split, Competition Law is not taught but according to the description the course is taught in 4 hours of classes and 1 hour of seminar per week and carries 6 ECTS.
At the Faculty of Economics and Business or instance the Competition Law course: 30 hours (15 lectures+15 seminars), 6 ECTS.
At the specialist postgraduate level, the course on Competition Law is only taught at the Faculty of Law Osijek and Zagreb and at the University of Zagreb, Faculty of Economics and Business Competition La . E.g., at the Faculty of Law Osijek at specialist postgraduate level the course is taught for 16 hours per semester and carries 6 ECTS.
At the PhD programs, Competition law as a separate course is only taught at the Faculty of Law as elective course and is taught 15 hours per semester and carries eight ECTS.[22]

4. Is it elective or mandatory course? If the course is elective, is it thought every year?

At the integrated undergraduate and graduate levels, Competition Law is a mandatory course only at the Faculty of Law in Osijek for students enrolled in the Module "Business and Economic Law. At all other faculties of law and other academic levels, the courses are elective.
When it comes to elective courses, the regulations of the Faculties prescribe how many students must enroll for the course in order for it to be held. Most often, at the integrated undergraduate and graduate level it is a minimum of 10 students, and at the postgraduate level it is less than 10 students.
A good example is the Competition law course at the University of Zagreb at the Faculty of Economics and Business where the maximum of enrolled students is 100 and usually students ask to enroll in the course when the specified quota is filled.

5. Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?

Most of the presented courses are conducted in the Croatian language., The faculties offer these courses in English for ERASMUS students and there the focus is on the EU Competition Law. There are no special requirements for enrolment and passing the exam, except for the usual requirement related to passing the exam from the previous academic year (basic studies) or to enroll into the following academic year.

[21] There is no publicly available information on how many hours the course is taught per semester at the Faculty of Law Zagreb.
[22] For other faculties of law there is no available information about teaching Competition Law at the PhD level.

6. Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?

Yes, there are many examples of such cooperation. For example, the cooperation between the Faculty of Law and Faculty of Economics in Osijek introduced during Erasmus+ project Jean Monnet Module EU Competition Law in 2018. The project team noticed that Competition Law students of Faculty of Economics so far had no opportunity to gain any knowledge about the EU Competition Law and introduced a new specially tailored course on the EU Competition Law at Faculty of Economics in Osijek. Project fostered international and multidisciplinary networking and research with the involvement of young researchers in their first teaching experience through specific project activities (live legal client clinic, workshops etc.) increased knowledge and awareness of local undertakings about the EU Competition Law rules.[23]

Furthermore, this cooperation has been extended within the new EU project the Jean Monnet Centre of Excellence South and East European Competition Law. The purpose of this project is to establish south and east European center of excellence for the EU Competition and State aid law and thus to find the missing link between academic institutions from east Europe and beyond. This center has the intention to become a regional center and focal point for academic research, teaching, debate and reflection in the field of the EU Competition and State Aid Law. It brings together prominent Competition Law academics and experts from 8 countries, 2 EU Member state countries (Croatia and Italy), 3 the EU candidate countries (Serbia, North Macedonia and Albania) and 3 the EU partner countries (Bosnia and Herzegovina, Moldova and Tajikistan). Joined under the Project, Project partners organize and coordinate their resources, lead research activities and promote innovative contributions to the study of the Competition Law topics relevant to EU integration and EU economic interests. [24]

Cooperation between the faculties and professional societies and organizations is very often through the organization of joint seminars, guest lectures, open days, workshops etc. by academia, experts from the Croatian Agency for the Competition Law and the Croatian Society for Competition Law and Policy and other professional organizations and societies.

[23] http://competition.efos.hr/o-projektu/
[24] https://jmcoe-competition.com.hr/

In addition, Professors who teach and/or research the field of Competition Law participate as experts in various projects introduced by the Croatian Competition Law Agency. and the Competition Law and the Croatian Society for Competition Law and Policy.

3.1.4. Italy

Report is prepared by Emiliano Marchisio, Associate Professor of Commercial Law of the "Giustino Fortunato" University

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. ***At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?***

   Competition law may be thought, in Italy, at all levels: undergraduate, graduate and postgraduate, depending on many variables. It is especially taught, as a specific subject, at the undergraduate level.

2. ***Explain briefly the course content. What are the learning outcomes of the course?***

   The course content depends on both the level competition law is thought in *and* whether it is a single course or a section of a wider course. E.g. competition law is frequently taught, at the undergraduate level, as a part of Commercial Law or Industrial Law. In this case, content is limited to agreements, abuse of dominant position, mergers and sometimes brief details on the authority, antitrust procedure, judicial control and private enforcement; the whole subject is dealt with rather synthetically.
   If competition law is thought at undergraduate level as a specific course, then higher detail is required, e.g. as regards interplay between EU and national competition law and authorities.

   At graduate and postgraduate level there is a different need of specialisation so that the program becomes wider (reference to application of competition law in different areas such as new technologies, IPRs *etc.*) and study is deeper into details. Interplay between EU and national competition law and authorities is also dealt with more emphasis, along with comparison with foreign competition law systems (especially with the USA one).

3. ***How many hours do you teach Competition Law (per week or in semester) and how many credits students get?***

Answer to this question really depends on *which* course one is dealing with. If Competition Law is thought within Commercial or Industrial Law it can amount up to one credit corresponding to seven hours of teaching. Undergraduate courses on competition law are granted around six credits, corresponding to 42 hours of teaching. Credits and hours of teaching for graduate and postgraduate students depends on single courses.

4. ***Is it elective or mandatory course? If the course is elective, is it thought every year?***
   If competition law is thought, at the undergraduate level, as a part of Commercial Law it is mandatory (since Commercial Law is a mandatory exam), is it is a part of Industrial Law it is likely to be non mandatory. If Competition Law is thought, at the undergraduate level, as a single course it is non mandatory.

   For graduate and postgraduate students the answer depends on single courses.

5. ***Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?***

   Competition Law courses, in Italy, are generally offered in Italian. An English course may be provided in a very few cases, especially with respect to European Competition Law.
   It is customary that students can enroll to Competition Law (if provided as a single course) only if they passed successfully Commercial Law.

   Focus is normally on Italian competition law but one should note that Italian law was drafted in compliance with existing European legislation (at that time: the Treaty of Rome and the EEC system) and, pursuant to art. 1, co. 4, l. 287/1990 is interpreted pursuant to the principles of the EU system on competition.

6. ***Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?***

   There is cooperation which varies depending on universities. Occasional lectures by experts from competition authority may be provided; study visits to competition authorities could be organised; participation to conferences could be planned *etc.*.

3.1.5. Moldova

Report prepared by Plotnic Olesea, Ph.D Moldova State University and Academy of Economics Studies of Moldova, Moldova

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. Timeliness of data on higher education institutions accredited by the Ministry of Education in Moldova[25]

According to the statistical data on the activity of higher education institutions (for the bachelor's and master's higher education levels) in the academic year 2020/21, in Moldova (with a population of 4 official and unofficial million of 2.6 million) the network of higher education institutions consists of 24 units, including 16 state institutions (2 units fewer than in 2019/20[3]) and 8 private institutions (1 unit less than in 2019/20[4]). Most of the higher education institutions have their headquarters in Chisinau municipality (center) – 20 units, 1 unit each – in the municipalities of Balti (north), Cahul, Comrat and Taraclia (south).

At the beginning of the 2020/21 school year, the number of students in bachelor's (cycle I) and master's (cycle II) higher education was 59.0 thousand people (without foreign students), up by 2.2 thousand compared to 2019/20. The number of students in the form of full-time education constituted 36.9 thousand (with 0.8 thousand or 2.1% more than in the academic year 2019/20), with a share of 62.5% of the total students in higher education. In state institutions they held 64.9%, while in private institutions there were equal proportions for both forms of education – with and without frequency.

In state higher education institutions, the number of students constituted 49.5 thousand persons, representing 83.9% of the total number of students. Compared to the academic year 2019/20, the number of students in state institutions increased by 1.8 thousand people or 3.8%. The number of students has seen different increases depending on the form of funding and the form of education. Thus, the number of students with contract-based studies in the part-time form increased by 6.1% (or by 0.9 thousand people) and the number of students with budget funding at the full-time form - by 4.5% (or by 0.9 thousand people). At the same time, within state institutions, the share of students on a contract basis remains higher than the share of students with budgetary funding – 56.1% and, respectively, 43.9%.

In private higher education institutions, the number of students constituted 9.5 thousand persons, representing 16.1% of the total students. In private institutions, the increase in the number of students by 0.4 thousand people was found in the case of those with reduced frequency (or by 9.6%).

[25] https://statistica.gov.md/pageview.php?l=ro&idc=24&id=255

Most **students are** aged between 19-23 years (63.7%), down by 1.8 percentage points compared to the 2019/20 school year. At the same time, higher education also attracts non-traditional age groups at this level, students aged 30 and over represent 15.1% (up by 1.7 p.p.).

2.The system of organizing studies in Moldova

Higher education in the Republic of Moldova, with the exception of medical and pharmaceutical education, is carried out in three cycles:

- Cycle I - bachelor's degree higher education, lasting 3-4 years and corresponds to a number of 60 credits for one year of study
- Cycle II - master's degree, lasting 1-2 years and corresponds to a number of 90-120 study credits
- Cycle III - doctoral higher education, lasting 3 years and corresponds to a number of 180 credits.

3. Up date information for all Law faculties in Moldova (graduate level, master level and PhD level) regarding the Competition Law course

Of the 22 institutions of higher education[26], in only half, there are Faculties of Law, namely 11. Following a correspondence with each educational institution and by checking the certificates published on their official websites, based on the table below, regarding the discipline of Competition Law, we have established the following:

University	***Faculty of Law***	***Discipline Competition Law (license)***	***Discipline Competition Law (master)***
State Universities			
1. Moldova State University	Faculty of Law	Competition Law: iv year, semester 8 / optional for students from with reduced training (distance)	n/a
2. Academy of Economic Studies of Moldova	Faculty of General Economics and Law	n/a There are prospects of introducing the discipline as a	n/a

[26] https://mec.gov.md/

		mandatory one starting with the academic year 2023/2024	
3. "Alecu Russo" State University of Balti	Faculty of Law and Social Sciences	Competition law: fourth year of studies, semester 8 / optional	n/a
4. Comrat State University	Faculty of Law	n/a	n/a
5. Agrarian State University of Moldova	Faculty of Cadastre and Law	n/a	n/a
6. "Stefan cel Mare" Police Academy	Faculty of Law, Administration, Public Order and Security	n/a	n/a
7. "Bogdan Petriceicu Hasdeu" State University of Cahul	Faculty of Law	Competition law / Optional / 45 hours direct contact / Year III / Sem VII	
Private Institutions			
1. Free International University of Moldova	Faculty of Law	n/a	n/a
2. Cooperative-Commercial University of Moldova	Faculty of Law	Competition law: fourth year of studies, semester 8 / optional	Competition law: first year, first semester, within the specialization Economic law
3. University of European Political and Economic studies	Faculty of law, international relations and social-human sciences		Competition law / Consumer protection mechanisms: first year, first semester, within the specialization Business law
4. University of European Studies of Moldova	Faculty of Law	n/a	Competition law / Optional: second year, semester 2, within the specialization Economic law

It is important to note that according to Government Decision No. 485 of 13-07-2022 regarding the reorganization through merger (absorption) of some institutions in the fields of education, research and innovation and the modification of some decisions of the Government, the Agrarian

University (no.7) will be absorbed by the State University of Moldova, so from 11 existing Faculties of Law ending with the year 2023, there will already be only 10[27].

Based on the findings, I would like to mention that *Competition Law course is part of curriculum in Moldova with following precisions according to the proposed Qs:*

4.At what academic level do you teach the course*?*

In most universities, this course is studied at the Bachelor's level as an optional discipline, namely in the last year, and in the case of private universities this course is studied at the master's level, but missing at the bachelor's level.

5.Explain briefly the course content. What are the learning outcomes of the course?

According to the course published on the website of the Faculty of Law of the State University of Moldova, considered the first in the ranking and the biggest, Competition Law is identified as a legal discipline and a sub-branch of private law that studies all the legal norms meant to ensure, in the internal and international market relations, the existence and normal exercise of competition between economic agents in the fight for winning, expanding and preserving the clientele.

Being inspired by the study plans of some law faculties from universities abroad (France, Romania, Russian Federation) to which similar disciplines are held (Commercial Competition Law, Droit de concurrence, Konkurentnoe pravo, Competition law), competition law was included in the study plan of the Faculty of Law of the U.S.M. in 1996 and continues to be an attractive discipline until now. Moreover, in the context of the current aspirations of the Republic of Moldova towards the Community market, where goods, services and capitals move freely over the borders of the member countries, and where the correct exercise of the competition legislation represents *perpetually mobile* of the prosperity of the economy, the discipline "Competition law" acquires a major and undoubted importance[28].

This discipline comes to concretize and finalize from the theoretical and practical point of view the constitutional concept of fair competition, its antipode – the monopoly, and other relevant phenomena. Although this notion is a purely economic one, yet the contemporary social relations acquire multi-disciplinary valences, which requires the study of this economic category also through the prism of the legal sciences. Moreover, lately it is becoming more and more difficult to establish distinctive boundaries between the legal and economic natures of the competition phenomenon. What is certain, however, is that its purpose is the same in amble cases.

[27] https://www.legis.md/cautare/getResults?doc_id=132127&lang=ro

[28] http://drept.usm.md/disciplinaview.php?l=ro&idc=143&id=393&t=/Departamente/Departamentul-Drept-Privat/Cursuri

6.How many hours do you teach Competition Law (per week or in semester) and how many credits students get?

The number of hours varies from one university to another, but in the case of state universities, this course at the bachelor's degree is optional of no more than 45 h (4 credits), and in the case of the master course whether it is optional or compulsory, it is 60 h (5 credits).

7. Is it elective or mandatory course? If the course is elective, is it thought every year?

In the case of state institutions, the course is studied in the last year and the last semester, being optionally proposed only once. In the case of private institutions, it can be both optional and faculty, not being a pre-established rule. Each university being able to decide depending on the specialty (economic law, business law, etc.)

8. Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)?

Only in the case of State University of Moldova, law is studied in 4 languages: Romanian, Russian and English and French. In the case of the other universities only in the languages spoken on the territory of the country: Romanian and Russian.

9. Do you have any requirements for students to enroll the course (such as passing other related course)?

Yes, usually the Competition Law is proposed to the licensee, after studying civil law and business law, sometimes in combination with Consumer Law.

10. Is the focus on the national or on the EU Competition law?

Just as Moldova tends towards integration into the EU, all law courses contain elements of EU law, especially those studied in French and English.

11. Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?

Taking into consideration that the course is an optional one, no increased attention is paid to this collaboration, but in the case of the Academy of Economic Studies of Moldova, the field of economics and law is in the same Faculty, namely the Faculty of General Economics and Law, respectively this collaboration being an internal one. In the case of the other institutions, there is no collaboration, including with the Competition Council, which is a competent authority in the field of the country in competition.

Sources:

1. Correspondence with the Higher education institutions of the Republic of Moldova

2. https://statistica.gov.md/pageview.php?l=ro&idc=24&id=2552
3. https://mec.gov.md/
4. https://www.legis.md/cautare/getResults?doc_id=132127&lang=ro
5. http://drept.usm.md/disciplinaview.php?l=ro&idc=143&id=393&t=/Departamente/Departamentul-Drept-Privat/Cursuri

3.1.6. North Macedonia

Report prepared by Darko Spasevski, PhD, Full Professor at the Faculty of Law, University "St. Cyril and Methodius" in Skopje

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1.At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?

Regarding this issue, the experience in higher education institutions at the national level in North Macedonia is different. In the majority of law faculties, at bachelor level content of competition law is included in the course business law. In a limited part, these contents are included in separate course. At master's studies, there is usually a separate course Competition Law and it is almost always an elective course either within the framework of master's studies in business law, or civil law or intellectual property law. In very few master studies, the course competition law is a mandatory course. Please see answers on questions number 3 and 4.

2.Explain briefly the course content. What are the learning outcomes of the course?

Based on the available information, the content the course Competition Law is in principle focused on the national competition law. This means that the course includes the domestic legislation, the organization of the domestic competition authorities and the rules and regulations promoted by the national legislation of North Macedonia. Very limited part is dedicated to the legislation of the European Union in this segment. However, should be underlined that the national legislation is harmonised with the legislation of the European Union.

3. How many hours do you teach Competition Law (per week or in semester) and how many credits students get?

- At the Faculty of Law "Instinianus Prumus", *University "St. Cyril and Methodius" in Skopje* at bachelor studies, the contents of competition law are included with four hours of teaching in total within the course Business Law. At the same Faculty, *the course Competition Law is elective course at the master studies of intellectual property law and has 8 credits and 5 hours per week.*

- At *"Goce Delchev" University in Shtip the course* Competition Law is mandatory course at bachelor studies with *4 hours per week and 4 credits, and is elective course at master studies* with *4 hours per week and 4 credits.*
- Competition law as mandatory course at master studies is included at *"American University Europe FON" in Skopje, with 4 hours per week and 7 credits.*
- At the *"St. Kliment Ohridski" University in Bitola, the course Competition Law is part of the Business Law master program with 3 hours per week, as elective course with 4 credits and at the bachelor level the course Competition Law has 6 credits with 5 hours per week and is mandatory course.*

4.Is it elective or mandatory course? If the course is elective, is it thought every year?

Bachelor studies
At number of cases there is no Competition Law course as a separate course at bachelor studies. Competition law content is included in the course Business Law, as for examples at the Faculty of Law "Iustinianus Primus", University *"St. Cyril and Methodius" in Skopje and "University of Southeast Europe" in Tetovo. However* At *"Goce Delchev" University in Shtip and "St. Kliment Ohridski" University in Bitola the course* Competition Law is mandatory course at bachelor studies

Master studies
Competition law topics are part of the course Business Law Applied Program at the master program in Civil Law offered by "University of Southeast Europe" in Tetovo.
The course Competition Law is elective at the master studies at the following higher education institutions: Faculty of Law "Iustinianus Primus", University *"St. Cyril and Methodius" University in Skopje, "St. Kliment Ohridski" University in Bitola and "Goce Delchev" University in Shtip.*
The course Competition Law as mandatory course at master studies is included at *"American University Europe FON" in Skopje*

On the second question my answer is limited to the Faculty of Law "Iustinianus Primus", University *"St. Cyril and Methodius" in Skopje. Due to the fact that the number of students that are opt for the course Competition Law is below the minimum number of students needed for the course to be active, this course is not* thought every year.

5.Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?

- All the analyzed programs that are implemented at the universities covered by this research are thought in Macedonian language, as the first national language, while the study programs at the public-private "University of Southeast Europe" in Tetovo and the "University of Tetovo" in Tetovo are taught in Macedonian language as the first national language and in Albanian as the second national language. Curriculums for legal studies at the public-private "University of Southeast Europe" in Tetovo as well as at private

universities *"International Balkan University" in Skopje* and *"American College" in Skopje* in addition to the official languages of North Macedonia, are also thought in English.
- From the analysis of the subject programs, there are no requirements for students to enroll the course (such as passing other related courses).
- In general the focus is at the national competition law.

6.Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?

It is very common for external experts, representatives of the state authorities and legal practitioners to be involved in the teaching. Also, it is common for students to have organised study trips to the relevant authorities.

3.1.7. Serbia

Report prepared by Tatjana Jovanić, Full Professor, Faculty of Law, University of Belgrade, Serbia

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. ***At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?***

In Serbia, Competition Law is taught both at undergraduate and postgraduate level (Master's programs, PhD programs). A comparison of the teaching programs and syllabi of the state owned law faculties, carried out for the purposes of filling out this questionnaire, portrays that this course is mainly taught at the level of the Master's programs (Master or Laws (LL.M.) Degree). As may be observed from answers to the questions listed below, Competition Law is taught at the undergraduate level at the Faculty of Law of the University of Belgrade (and is a compulsory subject for students specializing in Business Law), whereas at the Faculty of Law of the University of Kragujevac, EU Competition Law is compulsory for students enrolled at the Module "Business and Economic Law".

Note: in some textbooks of Business Law, used at the level of undergraduate studies (a compulsory subject for all majors), there are smaller chapters covering the basic institutes of Competition Protection Law.[29] Some textbooks on European law and European integration, which deal with special EU policies, have a chapter on EU competition protection policy. Some coursebooks on Financial Law and Public Finance include rationales and rules for State Aid control. Economic law, at both levels of teaching, entails the concept of competition as market physiology and focuses on competition infringements as one of the rationales for regulation, ex

[29] This will not be subject of the comparison in this Review of Competition Law courses and teaching content.

ante regulation of selected liberalized sectors, services of general economic interest as well as non-competitive behavior of the state, including regulation and implementation of the regulatory regime for state aid control.

2. Explain briefly the course content. What are the learning outcomes of the course?

Conducted comparison of the syllabi on Competition Law taught at the state law faculties in Serbia shows that there is a common content of the analyzed courses, that does not differ significantly from courses offered in other countries. Of course, at the level of postgraduate studies, Competition Law is more elaborative.

The following table lists identified and analyzed Competition Law courses at undergraduate (University of Belgrade) and postgraduate levels (all state Universities), including courses that deal with specific institutes of the Law on competition protection, understood in its broadest scope. It should be noted that in this table (under "content"), only specific issues that go beyond the identified common topics will be indicated.

It should be noted that common denominators of the syllabi include the following topics: the purpose of Competition Law; basic economic concepts; notion of restriction of competition in general, and in relation to the most important types of restraints among undertakings; the concept of collusion and abuse of dominant position. Therefore, Serbian law schools in their syllabi recognized three pillars of Competition Law (Articles 101, 102 and EU Merger Regulation): prohibition of anti-competitive agreements, prohibition of the abuse of market power, and the regulation of takeovers and mergers. Courses at the postgraduate level such as Comparative Competition Law, EU Competition Law and Policy (University of Belgrade) and EU Competition Law (University of Kragujevac), in addition to the Treaty (TFEU) rules also portray secondary legislation. The majority of scrutinized syllabi also refer to the mechanisms for the enforcement of the rules (predominantly public enforcement authorities): institutional aspects of competition protection, procedural aspects of competition protection and sanctioning of competition violations. However, from the course description itself and the content stated in the syllabus, it is not clear how detailed it is. Another important remark refers to situations when classes are taught by professors from the Departments of Law and Economic Studies at the level of Master in Laws (University of Niš – Antimonopoly Law and University of Kragujevac – Competition Law) or PhD Program (University of Belgrade – Economic Analysis of Competition), where competition provisions are studied also from an economic perspective. Some courses, such is the EU Competition Law and Policy (taught in English) also focuses on the interplay between competition rules and regulation in specific domains (notably intellectual property) and areas (e.g. telecommunications). With regards to State Aid, it seems that, compared to the coverage of the mentioned three pillars of the Law on Competition protection and the institutional part combined with the enforcement of competition legislation, less space is reserved for State Aid related topics. Nevertheless, the example of Economic Law at the Faculty of Law of the University of Belgrade shows that this segment, especially at the level of doctoral and master's studies, is elaborated alongside state measures that distort competition - as forms of distortion of competition by the state.

In comparison with the Competition Law syllabi as it is studied in EU and non-EU countries, it can be said that the outcome of the studies stated in the Serbian syllabi is very similar. After successful completion of the course, the student is expected to be able to: demonstrate knowledge and understanding of overall principles and governance mechanisms in domestic and/or EU competition law; demonstrate deeper methodological knowledge regarding competition law, including insight about the significance of economic theory, display the ability to independently identify and critically analyse complex competition law issues with application of competition legislation; understand the importance of institutions in competition protection and enforcement mechanisms; and in general, use of source material and proper citation of sources.

It should be repeated that the comparative law dimension of the course also determines the outcome, in the sense that greater knowledge and understanding of comparative law will characterize those courses that go beyond the national dimension - albeit one certainly cannot avoid considering the sources of competition law in the EU, since they have been transposed into domestic law.

University	**Level of Studies**	**Status, (Semester)/ Credits**	**Content (Note: *only additional exceeding common core content*)**
UNIVERSITY OF BELGRADE, FACULTY OF LAW	**Competition Law** *Undergraduate* (3rd year) – Business Law Module	Mandatory for students majoring in Business Law, 3 ECTS	
	Economic Law *Undergraduate* (2nd year) – Business Law Module	Mandatory for students majoring in Business Law, 4 ECTS	Competition as a concept and rationale for regulation. State Measures that Distort Competition, including Introduction to State Aid.
	Comparative Competition Law *LL.M in International Business Law*	Elective, 10 ECTS	In addition to the EU Law (TFEU, regulations, case law) it encompasses the US Antitrust Law, and WTO law related to competition protection, and competition protection aspects of international trade agreements.
	EU Competition Law and Policy – *Master in*	Elective, 8 ECTS	Inter alia, focuses on the interplay of competition and intellectual property,

	European Integration		as well as the interplay of competition and regulation in certain sectors.
	Economic Law – *LL.M. Law and Economy*	Elective, 10 ECTS	Competition as a concept and rationale for regulation. Unfair Competition. State Measures that Distort Competition, including State Aid.
	Competition Law – *Doctoral Program(PhD in Business Law, also PhD in Economic Law)*	Elective, 10 ECTS	Industrial law and industry standards and competition. Intellectual property and competition. Competition Law and sectors specific regulation. Human rights in the context of enforcement of competition protection etc.
	Economic Law – *Doctoral Program (PhD in Economic Law)*	Elective, 10 ECTS	State and Economy - State Measures that Distort Competition, including State Aid. The interplay of Competition and Regulation in selected liberalised sectors.
	Economic Analysis of Competition *Doctoral Program in Law, Micro and Macroeconomics*	Elective, 10 ECTS	It is not focused so much on regulation as on economic analysis of its effects. Econometric models, analysis of market power, analysis of the effects of concentrations and restrictions, assessment of damage from distortion of competition, etc.
UNIVERSITY OF KRAGUJEVAC, FACULTY OF LAW	**EU Competition Law** *Master in Business and Economic Law*	Compulsory, 8 ECTS	Includes, *inter alia*, the legal position of subjects of the public sector in the competition law of the European Union.
	Competition Law *Master in Law and Economy*	Elective, 8 ECTS	Unfair competition is included as a specific topic.
UNIVERSITY OF NOVI SAD, FACULTY OF LAW	**Competition Law,** *Master in Law*	Elective, 9 ECTS	
	Financial Law, *Master in Law*	Elective, 9 ECTS	Only State Aid.
UNIVERSITY OF NIŠ, FACULTY OF LAW	**Competition Law** – *Master in Business Law*	Elective, 7 ECTS	

	Antimonopoly Law *Master in Law and Economy*	Elective, 7 ECTS	In addition to the standardised content, this course describes the practical dimension of the application of antimonopoly policy using economic argumentation, critically evaluates positive legal solutions and various measures of antimonopoly policy, discusses the preconditions for development of antimonopoly culture..

3. How many hours do you teach Competition Law (per week or in semester) and how many credits students get?

Please see the table above (column no. 3), where all assigned credits for each of identified courses are presented. All courses are taught only in one semester. At the level of undergraduate studies (University of Belgrade), Competition Law is taught 2 hours (2 x 45 minutes) every week (Summer Semester lasting 12 or 13 weeks).

At the level of postgraduate studies, the provisions of the Law on Higher Education, on the basis of which the regulations on the accreditation of state universities were adopted, leave the possibility of redistributing theoretical and practical classes, that is, lectures, exercises and the time needed for exam preparation. In this sense, the clarify: 1 ECTS je 25/30 hours of total student load, not only teaching. Pursuant to Standards, 50 to 60 percent are lectures, and the rest are exercises and other forms of active teaching.

4. Is it elective or mandatory course? If the course is elective, is it thought every year?

Please see the table above, under Question No. 2., and answer to the Question No. 1. As may be observed from answers to the questions listed below, Competition Law is taught at the undergraduate level at the Faculty of Law of the University of Belgrade (and is a compulsory subject for students specializing in Business Law), whereas and at the Faculty of Law of the University of Kragujevac, EU Competition Law is compulsory for students enrolled at the Module ”Business and Economic Law”.

When it comes to elective courses, the regulations of the Faculties regulate the question of how many students must register in order to hold the course in question. Most often, it is a minimum of five students.

5. Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?

Most of the presented courses are conducted in the Serbian language. Considering that the Master of European Integration is conducted entirely in English, the European Competition Law and Policy course (which has existed since the very beginning of these studies) is conducted in English.

There are no special requirements for enrolment and passing the exam, except for the usual requirement related to passing the exam from the previous academic year (basic studies). At law faculties in Serbia, the subject Principles of Economics is also studied (somewhere also Economic Policy), which precedes the study of Competition Law, and thus greatly facilitates the understanding of economic concepts.

As stated above, when the adjective "European" is visible in the course title, the main focus is on provisions of the EU law, including case law. However, since our national competition law is harmonized to the greatest extent with EU law (and is still being harmonized), reference is often made to EU law as well.

6. ***Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?***

Yes, such cooperation is formalized by Memorandums of Understanding signed by Serbian Commission for Protection of Competition, and a faculty of law or economy. For instance, such MoU has been signed at the University of Belgrade Faculty of Law in April 2017.[30] The memorandum of cooperation defines the establishment of professional and educational cooperation between these two institutions in the field of competition policy through the organization of seminars, guest lectures by experts from the Commission, joint thematic workshops, formation of student internship programs, joint publishing activities in the field of competition and the like. The signed document provided for joint work on the promotion of competition protection policy and raising the level of knowledge in the field of competition law and better education of students in order to achieve that goal.

In addition, teachers who teach and/or research the field of competition protection participate as local legal experts in various donor-funded projects in Serbia, as well as international experts through development aid programs in neighbouring countries.

[30] *http://www.kzk.gov.rs/potpisan-memorandum-o-saradnji-sa-prav*

3.1.8. Tajikistan

Report prepared by Saidqosim Mukhtorov, Senior lecturer at World Economy department, Institute of Economy and Trade of Tajik State University of Commerce in Khujand, Tajikistan

PART II: COMPETITION LAW COURSES AND TEACHING CONTENT

1. Is the Competition Law course part of your curriculum in your country?

This is the overview of the Competition Law course taught at the Faculty of Law of the following universities:

1. The Tajik State University of Law, Business and Politics (TSULBP),
2. Institute of Economy and Trade of Tajik State University of Commerce (IET TSUC).

Competition Law taught as an integral part of the curriculum:
International Commercial Law – Bachelor degree (TSULBP)
Economic Law - Bachelor degree (TSULBP)

If no:

1. ***What is the reason (according to your opinion) that you do not have the Competition Law course in your country?***

   At the IET TSUC, Competition Law is not an integral part of the curriculum. It is only taught as the topic in the course of Business Law (5 credits). Only covering 3hours of lecturing and 3 hours of practice. Mainly touching on theories of competition and monopolistic activities. The reason for the absence of the course could be explained because a shortage of teaching staff, lack of resources, and inaccessibility of the cases.

2. ***Is there an intention or/ and possibility to introduce a Competition law course in the near future? What do you think should be course goals?***

   At IET TSUC there is an intention to introduce a new course Modern Economic Law, which will cover mostly Commercial Law and Competition Law.

3. ***Should be Competition law thought of as a separate course or should it be a part of some general course (such as Business law, Economics law…), and at what level?***

It should be taught as a separate and mandatory course for the Economic Law, and International Commercial Law study programs for a Bachelor level, and much in detail, profound with the analysis of real cases infringements of the Law on Protection of Competition.

If yes:

1. ***At what academic level do you teach the course? Graduate, undergraduate, or postgraduate level?***

At the *TSULBP* the course of Competition Law is only taught at the Bachelor level of the *International Commercial Law* and *Economic Law study programs*. The course was added to the program in 2019 as a mandatory course. Until now it's not been taught at the master level. There is an intention to introduce the course to its Master programs.

2. ***Explain briefly the course content. What are the learning outcomes of the course?***

The competition Law course (TSULBP) syllabus is designed generally, and wide. It does not concentrate in detail on Competition Law. Instead, the content covers the learning of the Law of the Republic of Tajikistan on:

1. State Protection and Support of Entrepreneurship - 2014.
2. State Registration of Legal Entities and Individual Entrepreneurs - 2009.
3. Bankruptcy - year 2003.
4. On Advertising - year 2003.
5. On Protection of Competition - 2017.
6. On Investment - year 2007.

Also, the course content covers unnecessary topics, repeated in Commercial law such: as definitions of competition, the definition of business according to Law, forms of business entities, entity registration processes, business law concepts, business entity bankruptcy, legal aspects of advertisement, licensing and IPO, investment, etc. Regarding the main topic just some questions like monopolistic activities, antimonopoly measures, competition and monopolistic activity, where also overviewing the Law of the Republic of Tajikistan on Protection of Competition – 2017.

The described learning outcomes should be:

- understanding methods and forms of legal regulation of business and commercial activity in the conditions of market economy and market relations;
- understanding the concept and essence of competition in business development;
- understanding monopolistic activity and being able to use protective and preventive measures;
- understanding the legal status of a business and commercial entities;
- to be able to use effective ways of protecting the interests of business entities and legal rights.

The course program is not based on learning case studies. The interview with teaching staff approved that difficulty in finding and accessing real cases could be used for learning purposes.

Generally, Competition Law (named) course content replicates the Business Law course, mostly differs by offered topics for course work:

15. Legal provision of competition and limitation of monopoly activity.

16. The concept of a dominant position.
17. Definition and types of monopoly activity.
18. Definition and forms of unfair competition.
19. Legal regulation of activities of natural monopoly subjects.

This is 5 topics out of offered 23 matchings the course needs.
In my opinion, the Competition Law course should be designed as a more subject-based course, focusing on the main issues and infringements of the Law on Protection of Competition.

3. ***How many hours do you teach Competition Law (per week or in a semester) and how many credits do students get?***

The Completion Law course of TSULBP is 3 credits course or 72 teaching hours, whereas 48 hours of in-class activities (lectures, practical classes, and seminars) and 24 hours of individual assignments for students. However, current course content-related hours are 12 hours in total, including assignments, meaning about 16% of the course is related to competition law, and the rest is about general business law.

At the IET TSUC, the Business Law course is 5 credit course or 120 teaching hours whereas 72hours in-class activities (lectures, practical classes, and seminars) and 48 hours for individual assignments of students. Teaching hours covering competition law topics are about 6hours of only lectures and seminars.

4. ***Is it an elective or mandatory course? If the course is elective, is it thought every year?***

At TSULBP Competition Law taught International Commercial Law and Economic Law as a mandatory course, during the 3rd year of study or 5th semester. At IET TSUC there is no Competition Law course in general. The Economic Law study program has a mandatory course in Business Law, where Competition Law is taught as part of the course.

5. ***Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll in the course (such as passing other related courses)? Is the focus on the national or the EU Competition law?***

The competition Law course is offered in the national Tajik language, and also in the English language. There are no any requirements to enroll in the course. The focus is made only on the national context.

6. ***Is there cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from the competition authority or study visits to the competition authority)?***

During the interview, the teaching staff confirmed, that there is cooperation between the faculties of law and economics, especially during the designing of the course program. It's rare to invite teachers from another faculty as guest lecturers. And difficult to bring an expert from the competition authority, however sometimes guests from General Regional Prosecutor's Office are coming. In general, there are no barriers to organizing study visits to the competition authority.

3.2. Key findings

Conducted research on teaching part provided a set of useful information about the Competition Law courses in Project Partner countries, which will be used as a foundation for further empirical research and/or introduction of new courses and/or development of exiting courses at the target Universities and Faculties in Project partner countries.

Main findings are summarized as follows:

1. A comparison of the teaching programs in the Project Partners countries portrays that the competition law is taught in each Project Partner country (at least at one academic institution per each Project Partner country). However, there are significant differences with regard to the course content and/ or level at which competition law is thought. Moreover, for some countries provided report on competition law courses is very detailed, while for some Project partner countries research provided in the report encompassed only few (usually major) law faculties in particular country. Therefore it is difficult to draw a general conclusions and to provide recommendations for future activities for all Project partner countries.

2. Furthermore, with regard to the course content. The content of the course depends on several issues: the type of faculty where the course is taught (faculties of law or economics), the level of education (graduate, integrated undergraduate and graduate or postgraduate level) and whether it is a separate course or is Competition law taught as part of a more general course such as European public law, etc. The courses on Competition law are mostly based on national competition law legislation, but it also usually includes few hours of teaching on the EU competition law and sometimes on the U.S. antitrust law. The common content of the syllabi includes the concept and purpose of Competition Law, legal sources of competition law and authorities for the protection of market competition, prohibited agreements, dominant position and abuse of dominant position and concentration, public law vs. private law protection, etc. In these courses,

students gain knowledge about basic concepts of competition Law, learn about the legal framework and main competition law infringements, distinguish between main types of infringements and learn about competition law enforcement as main learning outcomes.

3. If the competition law course is taught within other courses it can amount up to 1 ECTS credit corresponding to 7 teaching hours per semester. If is taught as a separate course it can amount from 2-10 ECTS credits corresponding to 30-60 teaching hours per semester.

4. If competition law is thought as a part of other courses, it is mostly compulsory since those courses are mandatory exams (in North Macedonia, Italy, Albania etc.). If competition law is thought as a separate course, it is mostly elective course. In most of the countries, the competition law is compulsory for students enrolled at the Modules oriented to the commercial law or business law or economic law. Most often, a minimum number of students that must be enrolled in order to hold the course is five to ten students.

5. Most of the courses are generally offered in national languages. Most of the faculties offer these courses in English for incoming students such as ERASMUS students with the focus on the EU Competition Law. Currently, only in Albania there is no course on the Competition Law in English.

6. Usually there are no special requirements for enrolment and passing the exam, except for the usual requirement related to passing the exam from the previous academic year or to enroll into the following academic year. Only in Moldova, usually the Competition Law is proposed to the licensee, after studying civil law and Business Law, sometimes in combination with Consumer Law.

7. Lastly, there are many examples of cooperation between universities (and competition authority in Albania, Bosnia and Herzegovina, Croatia, Italy, North Macedonia, Serbia. Cooperation between the faculties, professional societies and organizations is very often through the organization of joint seminars, guest lectures, open days, workshops etc. by academia, experts from the practice. In Tajikistan and in Moldova there is no barriers to establish cooperation between Universities and practice on competition law and currently there is no public available information about it.

3.3. Conclusion

Conducted analysis provided interesting information on the Competition Law courses in Project Partner countries. Based on conducted analysis we can draw a general conclusion that the Competition law is taught in each project partner country but the number of academic institutions that provide the Competition Law courses, contents and learning outcomes of such courses are not harmonized due to fact that the Project partner countries do not have the same status in the EU (some of them are Member States, some of them are candidates, etc.). Courses on the Competition Law are mostly integrated in other courses at the undergraduate level and at postgraduate levels are separate but mostly elective courses.

Courses are taught in national languages and in English mostly for incoming international students.

Moreover, conducted research also showed that in all analyzed countries the EU Competition Law is more oriented to the national Competition law and polices.

3.4. Table 2: Summary of the Report

STATE	**COURSE ON COMPETITION LAW**	**ACADEMIC LEVEL**	**INTEGRATED OR SEPARATED COURSE**	**COURSE CONTENT/LEARNING OUTCOMES**	**HOURS PER SEMESTER/ECTS CREDITS**	**ELECTIVE/COMPULSURY**	**LANGUAGE**	**COOPERATION BETWEEN UNIVERSITIES AND COMPETITION LAW AUTHORITIES**
ALBANIA	+	at all levels	depending on many variables-both	See above number 3.1.1.	42-60 hours 4-6 ECTS	depending on many variables-in general both	Albanian	ad hoc basis (internships of students at the ACA, open lecturers, cooperation for the organization of conferences etc.
BOSNIA AND HERZEGOVINA	+	at all levels	depending on many variables i.e.-integrated in other courses and/or separated	See above number 3.1.2.	depending on many variables but mostly 30 hours 2-10 ECTS	depending on many variables-in general both	Bosnian for English no specific information	no specific information about cooperation
CROATIA	+	at all levels	mostly separated	See above number 3.1.3.	15-45 hours 4-8 ECTS	mostly elective	Croatian, in English for incoming international students	Erasmus+ project JM EUCL in 2018; EU project the JMCEECL ;joint seminars, guest lectures, open days, workshops etc. by academia, experts from practice. HDPPTN, as national competition association, activities such as webinars, roundtables, involves academics, practitioners, NCA, judges etc.
ITALY	+	at all levels	both	See above number 3.1.4.	mostly 42 hours 6 ECTS	If competition law is thought, as a part of other course it can be compulsory or elective. depending on the status of main course.	Italian and in English may be provided	Occasional lectures by experts from competition authority may be provided; study

						If Competition Law is thought, as a single course it is elective.		visits to competition authorities could be organized; participation to conferences could be planned etc.
MOLDOVA	+	mostly at the Bachelor's level and in the case of private universities at the master's level, but missing at the bachelor's level.	both	See above number 3.1.5.	45-60 hours 4-5 ECTS	depending on many variables-in general both	Romanian, Russian and English and French languages	No increased attention is paid to collaboration.
NORTH MACEDONIA	+	At all levels	both	See above number 3.1.6.	3/5 hours per week 4/8 ECTS	depending on many variables-in general both	Macedonian, Albanian and English languages	external experts, representatives of the state authorities and legal practitioners to be involved in the teaching, students' study trips
SERBIA	+	at all levels	both	See above number 3.1.7.	mostly 2 hours per week 3/10 ECTS	depending on many variables-in general both	Serbian and English languages	Serbian Commission for Protection of Competition, and a faculty of law or economy cooperation through seminars, guest lectures, joint thematic workshops, formation of student internship programs, joint publishing activities
TAJIKISTAN	+	only at undergraduate level	both	See above number 3.1.8.	If is integrated in the course on Business Law only 3 hours.	Compulsory because the main courses are compulsory	Tajik and English languages.	No

					If is separate course then 3 credits and 72 teaching hours per semester.			

4. APENDIX 1- QUESTIONNAIRE on the competition law enforcement in project partner countries

PART 1 - Dealing with Competition Law enforcement in project partner countries

Legal framework and enforcement

PART A- LEGISLATION

1. Please specify the existing legal framework for the Competition law in your country (if any). When is the first the Competition Act enacted? Has the law in this area been influenced by legislation of the European Union or by other international organization or country? If the Competition law in your country has not been influenced by the EU legislation, please specify the origin of your Competition law (if any).

2. Please specify main types of Competition law infringements and relevant sanctions. Please provide short description for each type of Competition law infringement.

3. Do you have leniency regulation? Provide short information on the leniency program in your country (if any).

4. Do you have regulation on the settlement procedure? Provide short information on the settlement procedure in your country (if any).

5. Are there any specific rules on private enforcement of Competition law?

6. Please briefly describe whether any Competition law reform is taking place in your jurisdiction or whether there are any planned reforms that will take place in near future (in next six months).

7. Are there, in your jurisdiction, any specific characteristics of the legal framework dealing with Competition law that are worth mentioning for the purpose of this study?

PART B - ENFORCEMENT

1. Is there a competition authority in charge for Competition law enforcement? Is it an independent body or is it a part of a Ministry? How is it financed? What are the powers of the competition authority including the competence to impose fines? Does competition authority in your country has the power to do surprise inspection (down raids)?

2. Who appoints head of competition authority? Is, in your opinion, competition authority independent or there is a political or other kind on influence that impacts the competition authority decisions? Are decisions of competition authority published? Is competition law enforcement transparent and predictable?

3. Are the working plans, annual reports, budgets, financial plans, public procurements of the national competition authority publicly available on the website of the authority?

4. Is the structure of the working plans, annual reports determined in a way to provide sufficient data on the work of the national competition authority and make them comparable thru the years?

5. What are the competition advocacy activities taken in your country by competition authority?

6. What are, in your opinion, main Competition law concerns that competition authorities should deal with? Are enforcement priorities clearly defined in your jurisdiction (for example, are competition authorities mostly focused on detection and prosecution of cartels, or on bid rigging, or on abuse of dominant position)?

7. Are the legal deadlines for resolving cases realistic given the complexity of detecting, investigating and processing individual cases?

PART C- JUDICIAL REVIEW

1. Is there a judicial review of competition decision? Which court deals with competition cases? What type of judicial review the court conducts (limited or unlimited review).

2. Please think of at least a couple of significant cases which occurred in your jurisdiction. They do not need to be recent but if they occurred more than 10 years ago please explain their relevance for today's practice. If you don't have cases, can you address the reasons why there are no cases.

3. What are in your opinion the main challenges for more effective Competition law enforcement?

5. APENDIX 2- QUESTIONNAIRE Dealing with competition law teaching in project partner countries: Competition law courses and teaching content

Part II Dealing with Competition Law teaching in project partner countries: Competition law courses and teaching content

Is the Competition Law course part of your curriculum in your country?

<u>If no:</u>

7. **What is the reason (according to your opinion) that you do not have the Competition Law course in your country?**
8. **Is there an intention or/ and possibility to introduce Competition law course in near future? What do you think should be course goals?**
9. **Should be Competition law thought as a separate course or should it be a part of some general course (such as Business law, Economic law…), at what level?**

If yes:

1. **At what academic level do you teach the course? Graduate, undergraduate, postgraduate level?**
2. **Explain briefly the course content. What are the learning outcomes of the course?**
3. **How many hours do you teach Competition Law (per week or in semester) and how many credits students get?**
4. **Is it elective or mandatory course? If the course is elective, is it thought every year?**
5. **Do you offer Competition Law courses only in your national language or in other languages as well (if yes, specify in which languages)? Do you have any requirements for students to enroll the course (such as passing other related course)? Is the focus on the national or on the EU Competition law?**
6. **Is there a cooperation between universities (faculties of law and economy) and competition authority in your country and in which form (for example, occasional lectures by experts from competition authority or study visits to competition authority)?**