

YEARBOOK  
*of* ANTITRUST  
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STUDIES

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Vol. 2013, 6(8)



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**YEARBOOK OF ANTITRUST AND REGULATORY STUDIES**  
**VOL. 2013, 6(8)**

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## **Editorial foreword**

The Editorial Board is pleased to present the 8th volume of the Yearbook of Antitrust and Regulatory Studies (YARS 2013, 6(8)). This volume continues and develops YARS's new mission – presenting developments in antitrust and sector-specific regulation not only, as originally envisaged, in Central and Eastern Europe, but also in the Balkans.

The first article in YARS 2013, 6(8) is written by Alexandr Svetlicinii and concerns the concepts of an ‘undertaking’ and ‘economic activities’ in the competition law of Bosnia & Herzegovina. The analysis focuses on the application of these two notions with respect to the functioning of state (public) entities. The author assessed the impact of EU law and jurisprudence on the national enforcement practice and presents the peculiarities of the domestic system in this regard.

Dusan Popovic identifies in his article three key problems of the enforcement of competition law in Serbia, a country with a rather weak economy. Among them is the arguably privileged treatment of state-owned companies. This is reflected in a reluctant antitrust enforcement in ‘sensitive’ industry sectors, which are still dominated by state-owned companies.

Csongor Istvan Nagy writes about the decisions of the Hungarian competition authority with respect to the abuse of dominance, comparing them with EU jurisprudence and the case law of the European Commission. The author claims that domestic and EU standards for the application of the abuse of dominance prohibition diverge. These differences are identified in the article as well as their results both for the competition law enforcement system as such, and for the market situation of individual undertakings.

The three following papers present the state of the development of private enforcement of competition law in Slovenia (Maja Brkan and Tanja Bratina), Poland (Agata Jurkowska-Gomułka) and Estonia (Karin Sein). The authors analyze relevant national jurisprudence, if there is any, or assess the reasons for its absence. All three articles, despite referring to different jurisdictions, illustrate the under-development of private enforcement of competition law in their domestic systems of competition protection.

The current volume of YARS contains also a number of legislative and jurisprudential reviews. It opens with a paper by Anna Piszcz on the 2012 developments in Polish antitrust law and jurisprudence. Roman Svetnický, Robert Neruda and Lenka Gachova resent next the recent amendments to the Czech Competition Act. The following two papers, written by Pál Szilágyi and Tihamér Tóth and by Aranka Nagy, concern competition law developments in Hungary in 2012. Nora Ziba Memeti and Adnan Jashari sum up the competition law enforcement practice in Macedonia in 2011-2012. Finally, Zuzana Šabová, Katarína Fodorová and Daniela Lukáčová discuss 2012 developments in the competition law of Slovakia.

The next part of YARS 2013, 6(8) is devoted to case comments. It includes an assessment of a judgment of the Polish Supreme Court delivered in an abuse of a dominant position case (prepared by Elżbieta Krajewska), a discussion of cartel judgments rendered by the court in Brno (written by Petra Pipkova) and finally, an analysis of judgments adopted by the Slovak Supreme Court regarding dawn raids (written by Ondrej Blažo).

In its book review section, the current volume of YARS presents the reviews of two books on competition law and IPRs both published in 2012, one in Poland and one in Serbia.

Finally, YARS 2013, 6(8) contains also two conference reports and the CARS Activity Report for 2012. The volume closes with antitrust and regulatory bibliography for 2012 in Poland, Croatia, the Czech Republic, Estonia, Hungary, Macedonia and Slovakia.

Two separate YARS volumes will be published in 2014. Aside from the regular volume, a special volume will be dedicated to the impact of EU law on domestic competition law and sector-specific regulation over the ten years of the CEE countries' membership in the EU. A Call for papers for each of the volumes will be announced shortly on the YARS website. The YARS special volume is expected to become the first product prepared within the framework of CRANE – a newly established network of academics from CEE countries specialising in antitrust and regulation.

Warsaw, December 2013

*Dr. Agata Jurkowska-Gomulka*  
YARS Volume Editor

## **List of acronyms**

### **COMPETITION AUTHORITIES:**

<b>AMO</b>	– Antimonopoly Office of the Slovak Republic
<b>CPC</b>	– Commission for the Protection of Competition in the Republic of Macedonia
<b>GVH</b>	– Hungarian Competition Authority
<b>HCO</b>	– Hungarian Competition Office
<b>KV</b>	– Competition Authority in Bosnia and Herzegovina
<b>NCA</b>	– National Competition Authority
<b>OPC</b>	– Czech Office for the Protection of Competition
<b>SOKiK</b>	– Polish Court of Competition and Consumer Protection
<b>UOKiK</b>	– Polish Office for Competition and Consumer Protection

### **OTHER INSTITUTIONS:**

<b>CFI</b>	– Court of First Instance
<b>CJEU</b>	– Court of Justice of the European Union
<b>ECJ</b>	– European Court of Justice
<b>ECN</b>	– European Competition Network
<b>ECtHR</b>	– European Court of Human Rights
<b>GC</b>	– General Court

### **LEGAL ACTS:**

<b>CCP</b>	– Estonian Civil Procedure Code
<b>Competition Act</b>	– Polish Competition and Consumers Protection Act of 2007
<b>CzAPC</b>	– Czech Act on Protection of Competition
<b>CPC</b>	– Estonian Criminal Procedure Code
<b>CUCA</b>	– Polish Combating Unfair Competition Act
<b>ECHR</b>	– European Convention for the Protection of Human Rights and Fundamental Freedoms
<b>HCA</b>	– Hungarian Competition Act

<b>GPCCA</b>	– General Part of Estonian Civil Code Act
<b>LOA</b>	– Estonian Law of Obligations Act
<b>LPC</b>	– Macedonian Law of the Protection of Competition
<b>LSAC</b>	– Macedonian Law on State Aid Control
<b>TFEU</b>	– Treaty on the Functioning of the European Union
<b>UPC</b>	– Unfair Commercial Practices Directives

**OTHER ACRONYMS:**

<b>ATC</b>	– average total costs
<b>AVC</b>	– average variable costs
<b>B&amp;H</b>	– Bosnia and Herzegovina
<b>CEE</b>	– Central and Eastern Europe(an)
<b>LPP</b>	– legal professional privilege
<b>LRAIC</b>	– long-run average incremental costs test
<b>OJEU</b>	– Official Journal of the European Union
<b>R.M.</b>	– Republic of Macedonia
<b>RPM</b>	– resale price maintenance
<b>SIEC</b>	– Significant Impediment of Effective Competition
<b>UCP</b>	– Unfair Commercial Practices

# A R T I C L E S

## **Expanding the Definitions of ‘Undertaking’ and ‘Economic Activity’: Application of Competition Rules to the Actions of State Institutions in Bosnia and Herzegovina**

by

Alexandr Svetlicinii\*

### **CONTENTS**

- I. Introduction
- II. State institutions as undertakings in EU competition law
- III. State institutions as undertakings within the meaning of the B&H Competition Act
- IV. Competition infringements committed by State institutions in the enforcement practice of the B&H Competition Council
  - 1. Anti-competitive agreements in the national healthcare system
  - 2. State institutions as undertakings in the public transport markets
  - 3. Reasons for exempting State institutions from competition law enforcement
- V. Concluding remarks

### ***Abstract***

State-initiated competition restraints remain a recurrent problem for competition law enforcement in transition economies characterized by a history of price controls and extensive State regulation of economic activities. The application of the concepts of ‘undertaking’ and ‘economic activity’ to the actions of State institutions, as developed in EU competition law, allows national competition authorities to enforce competition rules against public bodies. EU candidate countries, as well as States aspiring to a candidate status, have been continuously reforming their competition laws, aligning them with *acquis communautaire* and applying EU competition law concepts and standards in their domestic enforcement

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practices. This paper deals with the particularities of the application of competition rules to the actions of State institutions in Bosnia and Herzegovina. A detailed study of emerging domestic case law demonstrates significant deviations in the interpretation and application of these well known competition law concepts. The legislative and enforcement peculiarities observed in the target jurisdiction are compared with those found in EU competition law and in the legal systems of neighbouring courtiers.

### *Résumé*

Les restrictions de la concurrence initiées par l'Etat restent un problème répétitif pour l'application du droit de la concurrence dans les pays en transition ayant l'histoire du contrôle des prix et une réglementation vaste relative aux activités économiques imposée par l'Etat. L'application des concepts d' « entreprise » et d' « activité économique » à l'action des institutions de l'Etat, mises en oeuvre par le droit communautaire de la concurrence, permet aux autorités nationales d'imposer des règles de la concurrence contre des organes public. Les pays candidats à l'UE et les Etats qui aspirent au statut de pays candidat ont constamment réformé leurs lois sur la concurrence afin de les aligner à l'acquis communautaire et d'appliquer les concepts du droit de la concurrence et des normes européens dans leurs pratiques nationales. Le document traite sur des particularités de l'application des règles de la concurrence aux actions des institutions de Bosnie-Herzégovine. L'étude détaillée de la jurisprudence actuelle montre des écarts importants dans l'interprétation et l'application de ces concepts du droit de la concurrence bien connus. Les particularités législatives et d'exécution observées dans la juridiction sont comparées avec celles trouvées dans le droit de la concurrence de l'UE et des pays voisins.

**Classifications and key words:** anti-competitive agreement; antitrust enforcement; Bosnia and Herzegovina; economic activity; sanctions and penalties; State institutions; undertaking.

## **I. Introduction**

In the context of the EU enlargement process, accession candidates (Macedonia, Montenegro, Serbia), and countries aspiring to a candidate status (Albania, Bosnia and Herzegovina and Kosovo<sup>1</sup>)<sup>2</sup>, have been required

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<sup>1</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

<sup>2</sup> For their current status in relation to the EU see [http://ec.europa.eu/enlargement/countries/check-current-status/index\\_en.htm](http://ec.europa.eu/enlargement/countries/check-current-status/index_en.htm).

# Competition Law Enforcement in Times of Crisis: the Case of Serbia

by

Dusan Popovic\*

## CONTENTS

- I. General assessment of the Serbian competition law regime
- II. Specific problems of competition law enforcement
  - 1. Doubts as to the privileged treatment of state-owned undertakings
  - 2. Competition advocacy as a substitute for competition law enforcement
  - 3. 'Simulation' of state aid control
- III. Concluding remarks

### *Abstract*

The development of Serbian competition law started in 2005 with the adoption of its first modern Competition Act. National competition rules are generally harmonized with European Union law, especially following the adoption of the current Competition Act of 2009. However, several problems in competition law enforcement can be identified still, the importance of which increases as the effects of the current economic crisis spread. The paper focuses mainly on three problems specific to competition law enforcement in Serbia, a country with a weak economy. The first problem identified is that of a possibly privileged treatment of state-owned companies. The Competition Authority commenced so far only two proceedings against undertakings with state-owned capital. Furthermore, the Authority seems to accord insufficient attention to some industry sectors that are of special public interest, such as the production and trade of gas or oil, dominated by undertakings with state-owned capital. Sector-specific analyses undertaken by the Competition Authority did not result in any proceedings being initiated *ex officio*. The second problem identified in this paper is the reluctance of the Serbian Competition

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\* Dr. Dusan Popovic, Associate Professor, University of Belgrade, Faculty of Law; dusan.popovic@ius.bg.ac.rs.

Authority to enforce competition rules in certain ‘sensitive’ situations. Instead of taking a pro-active approach, it sometimes seems that the Authority chooses to act as an ‘advisor’ of undertakings rather than an enforcer of competition law. Finally, the paper analyzes the activities of the Commission for State Aid Control, notorious for its perpetually positive approach towards institutions granting state aid.

### *Résumé*

Le développement du droit serbe de la concurrence a commencé en 2005, avec l’adoption de la première loi moderne relative à la protection de la concurrence. Les règles nationales de la concurrence sont généralement harmonisées avec le droit de l’Union européenne, en particulier suite à l’adoption de la loi relative à la protection de la concurrence en 2009. Pourtant, l’auteur identifie plusieurs problèmes relatifs à la mise en œuvre des règles de concurrence, dont l’importance a augmenté pendant la crise économique actuelle. L’article se concentre en particulier sur trois problèmes relatifs à la mise en œuvre des règles de concurrence en Serbie, un pays à difficultés économiques. Le premier problème identifié par l’auteur est relatif à un possible traitement préférentiel des entreprises publiques. Jusqu’à présent, l’Autorité de la concurrence n’a initié que deux procédures contre les entreprises publiques. De plus, il paraît que l’Autorité de la concurrence n’accorde pas suffisamment d’attention aux secteurs d’intérêt général, comme celui de la production et distribution de gaz, qui sont dominés par d’entreprises publiques. Les enquêtes sectorielles entreprises par l’Autorité de la concurrence dans ces secteurs n’ont abouti à aucune procédure initiée *ex officio*. Le deuxième problème identifié par l’auteur est celui de la réticence de l’Autorité de la concurrence d’initier des procédures dans certaines situations « sensibles ». Au lieu d’approche proactive, l’Autorité a choisi de jouer le rôle de « conseiller » d’entreprises dans certains cas. Finalement, l’auteur analyse les activités de la Commission pour le contrôle d’aides d’Etat, fameux pour la totalité de décisions déclarant l’aide compatible avec la loi.

**Classifications and keywords:** competition advocacy; competition law enforcement; control of state aid; economic crisis; Serbia.

## **I. General assessment of the Serbian competition law regime**

Similarly to other South-East European countries, Serbia embraced competition rules quite late, under the direct influence of European Union law and following significant political changes. While it was still part of the Socialist Federative Republic of Yugoslavia, Serbia had a centrally planned economy where the majority of market participants were state-owned. The idea of free competition was, thus, inconsistent with the values of a socialist society. In the last decade of the twentieth century, Serbian economy started



# **A Chicago-School Island in the Ordo-liberal Sea? The Hungarian Competition Office's Relaxed Treatment of Abuse of Dominance Cases**

by

Csongor István Nagy\*

## **CONTENTS**

- I. Introduction
- II. Predatory pricing
- III. Refusal to deal
- IV. Price squeeze
- V. Evaluation

### ***Abstract***

The paper presents and evaluates the impact of the 'more economic' approach of the Hungarian Competition Office's decisional practice as to predatory pricing, margin squeeze and refusal to deal under Hungarian competition law. It compares the Hungarian practice with the more formalistic approach of the CJEU's jurisprudence. The paper evaluates the Hungarian decisional practice in abuse cases and provides a brief assessment on the consequences of applying diverging standards in EU and national abuse of dominance law.

### ***Résumé***

Cet article présente et apprécie l'impact de l'approche plus économique («more economic approach») de l'Autorité hongroise de la concurrence en matière de prix d'éviction, compression des marges et refus de vente en droit hongrois. Il compare

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la pratique hongroise avec l'approche plus formaliste de la jurisprudence de la CJUE. L'article apprécie la pratique hongroise en matière d'abus de position dominante et rend la récapitulation des conséquences de l'application des règles divergentes en droit européen et national en matière d'abus.

**Classifications and key words:** Article 102 TFEU; dominant position; Hungarian competition law; margin squeeze; predatory pricing; price squeeze; refusal to deal.

## I. Introduction

Although the European Commission has endeavoured to infuse the law on the abuse of a dominant position with a 'more economic' approach<sup>1</sup>, the CJEU's judicial practice still seems to be dominated by a rather ordoliberal attitude. The enforcement practice of Hungarian competition law clearly differs from this judicial trend. The Hungarian Competition Office (hereafter, HCO) takes a rather relaxed position towards alleged abuse of dominance and has, in fact, imposed no fines between 2007–2010 under Sections 21–22 of the Hungarian Competition Act<sup>2</sup> (hereafter, HCA), the domestic equivalent of Article 102 TFEU. Combating abuses appears to not have been a priority in Hungarian competition law enforcement. The HCO terminated its proceeding with a commitment order in numerous cases, in other words, the closure occurred in exchange for commitments from the dominant enterprise<sup>3</sup>.

As a fundamental principle, the HCO has repeatedly stated that although exclusionary practices directly victimise rivals of the dominant undertaking, Hungarian competition law is not meant to shield competitors but to protect competition. This declaration can be found, among other places, in a policy document entitled 'Fundamental principles followed by the HCO concerning the freedom of competition'<sup>4</sup>, which summarizes its enforcement policy. This document clarifies that the purpose of competition law is to protect competition, rather than market operators and competitors, and especially

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<sup>1</sup> See e.g. the Guidance on its enforcement priorities in applying Article 102 to abusive exclusionary conduct by dominant undertakings (hereafter, Guidance on Article 102), OJ [2009] C 45.

<sup>2</sup> Act LVII of 1996 on unfair market practices and restraints of competition.

<sup>3</sup> See C.I. Nagy, 'Commitments as surrogates of civil redress in competition law: the Hungarian perspective' (2012) 33(11) *ECLR*.

<sup>4</sup> A verseny szabadságával kapcsolatos, a GVH által követett alapelvek (2007), available at [http://www.gvh.hu/domain2/files/modules/module25/pdf/elemzesek\\_gvhtanulmanyok\\_antitrosztpolicy\\_2007\\_05.pdf](http://www.gvh.hu/domain2/files/modules/module25/pdf/elemzesek_gvhtanulmanyok_antitrosztpolicy_2007_05.pdf)

# **Private Enforcement of Competition Law in Slovenia: A New Field to Be Developed by Slovenian Courts\***

by

Maja Brkan \*\*, Tanja Bratina \*\*\*

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\* This article is based on the national report for Slovenia, written in the framework of the project 'Comparative Private Enforcement and Consumer Redress in the EU', led by Professor Barry Rodger, Strathclyde University Law School and financed by Arts & Humanities Research Council (UK). The details of the project as well as the national report can be found at [www.clcpecreu.co.uk](http://www.clcpecreu.co.uk).

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### ***Abstract***

This contribution aims to demonstrate the legal framework that can shape and influence private enforcement in Slovenia. This includes, in particular, conditions for damage claims, collective redress mechanisms, legal costs and fees as well as discovery and burden of proof. It is shown which legislative changes may be needed in order to improve the effectiveness of private enforcement and the practical obstacles that will have to be overcome in the future. Furthermore, the article analyses the jurisprudence of Slovenian courts concerning private enforcement. Although there was practically no jurisprudence in this area only a few years ago, Slovenian courts have now ruled on a few such cases already. The number of private enforcement proceedings will most likely increase in the future. Therefore, it can be stated that private enforcement of competition law is an area that is slowly, but steadily, gaining importance in the Slovenian legal system.

### ***Résumé***

La présente contribution vise à démontrer le cadre juridique susceptible de former et d'influencer la mise en œuvre des règles de concurrence de l'UE à l'initiative de la sphère privée (« *private enforcement* ») en Slovénie. Les conditions pour des recours en dommages et intérêts, des mécanismes des recours collectifs, des règles sur des dépenses ainsi que la divulgation des preuves et la charge de la preuve y sont analysés. La contribution démontre quelles modifications législatives seraient nécessaires et quelles obstacles pratiques devront être surmontés à l'avenir afin d'améliorer l'effectivité de ce type de mise en œuvre du droit de la concurrence. La jurisprudence des juridictions slovènes dans ce domaine-là est également analysée.

# Private Enforcement of Competition Law in Polish Courts: The Story of an (Almost) Lost Hope for Development\*

by

Agata Jurkowska-Gomułka\*\*

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- I. Introduction
- II. Polish jurisprudence on private enforcement of competition law
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- III. Legal, structural and institutional background of private enforcement of competition law in Poland
- IV. Conclusions

## *Abstract*

The article reviews judgments of Polish courts on private enforcement of competition law between 1993 and 2012. A quantitative analysis of this jurisprudence shows that very few cases of that type exist at all. Their qualitative characteristics illustrate that: none of them referred to consumers; none of the claims was a 'pure' damage

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\* This article is based on the national report for Poland, written in the framework of the project 'Comparative Private Enforcement and Consumer Redress in the EU', led by Professor Barry Rodger, Strathclyde University Law School and financed by the Arts & Humanities Research Council (UK). The details of the project can be found at <http://www.clpecreu.co.uk>.

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claim; all of these cases focused on partial or general nullity of contracts concluded as a result of an anticompetitive practice; almost all of them concerned an abuse of a dominant position; only one referred to competition-restricting agreements. The relevant jurisprudence largely focused on the binding force of a prior decision of the Polish competition body upon civil courts. Even if the fact that some cases of this type were at all record might suggest that there is a potential for developing private enforcement of antitrust in Poland, nothing like this actually happened. Unfortunately, the Act on Collective Redress (in force since July 2010) has not contributed to a growth in the number of consumers (or any other entities) engaging in court disputes with undertakings restricting competition.

### *Résumé*

L'article passe en revue les jugements des tribunaux polonais sur l'application privée du droit de la concurrence entre 1993 et 2012. Une analyse quantitative de cette jurisprudence montre que très peu de cas de ce type existent. Leurs caractéristiques qualitatives montrent que: aucun d'entre eux ne concernait les consommateurs; aucune des revendications ne constituait une demande d'indemnisation dans le sens exacte; tous ces cas axaient sur la nullité partielle ou générale des contrats conclus à la suite d'une pratique anticoncurrentielle; la quasi-totalité d'entre eux concernaient un abus de position dominante; une seule visait aux accords restreignant la concurrence. La jurisprudence se concentrait surtout sur la force contraignante d'une décision préalable de l'organe polonais de la concurrence prise par des tribunaux civils. Même si le fait que certains cas de ce type-là étaient notés, il pourrait suggérer qu'il existe un potentiel de développement de l'application privée de la concurrence en Pologne – rien que cela ne s'est réellement passé. Malheureusement, la Loi sur les recours collectif (en vigueur depuis juillet 2010) n'a pas contribué à une augmentation du nombre de consommateurs (ou d'autres entités) s'engageant dans des litiges judiciaires avec les entreprises qui restreignent la concurrence.

**Classifications and key words:** antitrust damage; collective redress; evidence; nullity; private enforcement of competition law; Poland; public enforcement of competition law.

## **I. Introduction**

Public enforcement of competition law started in Poland in 1990 as an element of the widespread economic and political changes that took place at the turn of the 1980s and 1990s<sup>1</sup>. At its outset, the nature of public enforcement

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<sup>1</sup> The first antimonopoly act was adopted in 1987 but it was not a competition act in a modern sense so it should not be seen as the beginning of competition protection in Poland's market economy.

# Private Enforcement of Competition Law – the Case of Estonia\*

by

Karin Sein\*\*

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- III. Estonian jurisprudence on private enforcement of competition law
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### *Abstract*

Jurisprudence on private enforcement of competition law has so far been almost non-existent in Estonia. Most cases where competition law issues are raised within the context of damage claims are solved by out-of-court settlements. One of the main reasons for this scarcity is the fact that this is a fairly unfamiliar field for Estonian lawyers, attorneys and judges. The first reason for the low number of private enforcement of competition law cases in Estonia is therefore lacking awareness and legal uncertainty. The other key barrier lies in burden of proof issues associated with damage claims. It has proven very difficult in practice for an injured person to prove that he/she sustained damages as a result of a competition

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\* This article is based on the national report for Estonia, written in the framework of the project 'Comparative Private Enforcement and Consumer Redress in the EU', led by Professor Barry Rodger, Strathclyde University Law School and financed by the Arts & Humanities Research Council (UK). The details of the project can be found at <http://www.clpecreu.co.uk>.

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law infringement; even more so to prove the actual extent of such damages. There is no juridical practice yet on how to calculate business losses and judges face considerable difficulties when confronted with this task. Another problem lies in the availability of evidence. As discovery is not possible in Estonia, its civil procedure rules make it difficult for claimants to obtain evidence necessary to prove the facts underlying their claims.

Estonian law does not provide for a special procedure for antitrust damage claims – there are no collective claims, no class actions, nor actions by representative bodies or other forms of public interest litigation (no collective redress). It is thus only possible to file damage claims arising from competition law infringements either in normal civil proceedings or as a civil claim within the framework of criminal proceedings on a competition law crime. The need for collective redress has not yet been subject to a legal debate at the national level, and there has not been a single private enforcement case opened by a consumer in Estonia so far. The only Supreme Court case in existence in this field, which was decided in 2011, has cleared the basis and availability of damage claims for competition law infringement. It has shown, at the same time, the many problems connected to calculating damages in this context.

### *Résumé*

La jurisprudence relative à l'application privée du droit de la concurrence a été jusqu'à présent presque absente en Estonie. La plupart des cas où les questions de droit de la concurrence sont soulevées dans le cadre de demandes d'indemnisation, sont résolus par des règlements à l'amiable. L'une des raisons principales de cette pénurie est le fait que c'est un domaine assez inconnu pour les avocats, les procureurs et les juges estoniens. La première raison pour le faible nombre de cas de l'application privée du droit de la concurrence en Estonie est donc la manque de conscience et l'incertitude juridique. L'autre obstacle majeur réside dans des questions relatives à la charge de preuve liées à des demandes d'indemnisation. Il s'est avéré très difficile en pratique pour une personne blessée à prouver qu'il/elle a subi des dommages à la suite d'une infraction au droit de la concurrence; plus encore à prouver l'étendue exacte de tels dommages. Il n'existe pas encore de pratique juridique sur la façon de calculer les pertes commerciales. Alors les juges font face à des difficultés considérables lorsqu'ils sont confrontés à cette tâche. Un autre problème réside dans la disponibilité de la preuve. A cause du fait que la découverte n'est pas possible en Estonie, ses règles de procédure civile rendent l'obtention des preuves nécessaires pour soutenir les faits qui prouvent des revendications soumis par des demandeurs difficile.

La législation estonienne ne prévoit pas de procédure spéciale pour les demandes de dommages antitrust – il n'y a pas de revendications collectives, aucune action de classe, ni des mesures prises par les organes représentatifs ou d'autres formes de litiges d'intérêt public (pas de recours collectif). Il n'est donc possible que de déposer des demandes d'indemnisation en cas d'infraction au droit de la



# NATIONAL LEGISLATION AND CASE LAW REVIEWS

## Key Legislative and Jurisprudential Developments of Polish Antitrust Law in 2012

by

Anna Piszcz\*

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  - 4. Control of concentrations
  - 5. Relationships between the Competition Act and other legislation
  - 6. Enforcement issues

### *Abstract*

This article has two objectives. First, it presents the most important developments of Polish antitrust legislation of 2012. These include recent amendments to legal

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provisions on judicial antitrust proceedings contained in the Code of Civil Procedure, and some novel issues in the area of non-binding guidelines of the Polish NCA, the UOKiK President. Second, the article introduces key developments in Polish competition law jurisprudence of 2012. It characterises selected rulings delivered by the Polish Supreme Court, the Court of Appeals in Warsaw and the Court of Competition and Consumer Protection. Judgments are divided according to their subject matter.

### *Résumé*

Cet article a deux objectifs. Premièrement, il présente les développements les plus importants de la législation antitrust polonaise de 2012. Il s'agit notamment de récentes modifications apportées à des dispositions juridiques en matière de procédure antitrust judiciaires qui se trouve dans le Code de procédure civile, et quelques nouvelles questions dans le domaine des lignes directrices non-contraignantes de l'Autorité nationale du contrôle polonaise, le président de l'Organe pour la protection de la concurrence et des consommateurs (UOKiK). Deuxièmement, l'article présente les développements principaux en matière de jurisprudence de 2012 relative à la loi polonaise de la concurrence. Il caractérise des jugements sélectionnés prononcés par la Cour suprême polonaise, la Cour d'appel de Varsovie et la Cour de la concurrence et de la protection des consommateurs. Les jugements sont présentés selon les sujets qu'ils concernent.

**Classifications and key words:** antitrust legislation; judicial antitrust proceedings; guidelines; antitrust jurisprudence; anticompetitive agreements; abuse of a dominant position; concentrations; fines.

## **I. Antitrust legislation**

### **1. General remarks**

The currently applicable Act of 2007 on Competition and Consumer Protection (hereafter, the Competition Act)<sup>1</sup> underwent its last amendment in 2011, making 2012 a relatively quiet year for Polish antitrust legislation. At the same time, no new relevant regulations were issued by the Council of Ministers, nor existing ones amended. In light of the above, this review focuses on changes introduced in 2012 to Poland's legislation on judicial antitrust

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<sup>1</sup> Journal of Laws 2007 No. 50, item 331, as amended.

# 9<sup>th</sup> Amendment to the Czech Competition Act

by

Robert Neruda<sup>\*</sup>, Lenka Gachová<sup>\*\*</sup>, Roman Světnický<sup>\*\*\*</sup>

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## I. Introductory Summary

On 9 October 2012, the President of the Czech Republic signed Act No. 360/2012 Coll., amending Act No. 143/2011 Coll., on the Protection of Competition, as amended (the ‘Competition Act’), and Act No. 40/2009 Coll., the Criminal Code, as amended (the ‘Criminal Code’). The Amendment became effective on 1 December 2012.

The main objective of the Amendment Act is to improve the effectiveness of detecting cartel arrangements by the Czech Office for the Protection of Competition (the ‘Office’). Many of the legal tools covered by the Amendment were already in use before its promulgation – either on the basis of existing soft laws of the Office or in fact, without any legal backing. Their introduction directly into the Competition Act is expected to increase legal certainty and thus make their use more effective. They include, most of all, the leniency programme and the settlement procedure. Seen as novel is the introduction of certain material consequences of both instruments particularly with respect to the range of potential penalties and criminal law consequences associated with them.

The Amendment also expressly regulates the Office’s right to refrain from taking action against anti-competitive practices because of their minor harmful effects. The purpose of such ‘prioritisation’, which is a manifestation of the opportunity principle, is to free up the Office’s sparse resources in order to enable it to investigate more serious violations. Although this should be seen as a legitimate goal, it also entails risks which are addressed in this paper.

Last but not least, the Amendment introduces a new power into the Competition Act which allows the Office to supervise public administration bodies in order to determine whether their activities restrict competition. This is quite a controversial step which could ultimately create the impression that the principles of competition protection take priority in the Czech legal order over all other national interests. This impression is strengthened by the general wording of the relevant provision.

Each of these major amendments is described and thoroughly commented on in a separate section of this paper. The final part presents other changes introduced by the aforementioned Amendment Act relating mainly to jurisdictional and technical issues that might also be of interest.

### **FIVE KEY CHANGES**

- Leniency application as protection against criminal liability
- Settlement – only a 20% fine reduction
- The Office is entitled to decide which cases to pursue
- Public administration bodies may not distort competition
- New penalty – ban on public contracts and concession agreements

# Recent Competition Policy Developments in Hungary – Unfair Commercial Practices, Cartels and Abuse of Dominance\*

by

Pál Szilágyi\*\*, Tihamér Tóth\*\*\*

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  - 8. Sanctions
- III. Anticompetitive agreements
- IV. Abuse of a dominant position
- V. Conclusions

## I. Introduction

This article introduces the most important Hungarian competition cases decided between the beginning of 2012 and May 2013. The paper presents

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legal novelties and issues which might prove interesting for an international readership in light of recent developments and focus of competition policy. Shown are both developments concerning unfair commercial practices and the UCP Directive<sup>1</sup> as well as anticompetitive agreements and abuse of dominance.

Hungary has an enforcement system where the national competition authority, the Gazdasági Versenyhivatal (hereafter, GVH) is responsible for the enforcement of competition rules. Within the GVH the Competition Council is responsible for taking substantive decisions on infringements. The GVH is headed by a president and there are two vice-presidents supervising the operation of case handlers, while the other acts as the chairman of the Competition Council. The Competition Council consists of lawyers and economists who enjoy a quasi-judicial status. Decisions are made in proceeding councils composed of three or five members selected by the chairman of the Competition Council.

## II. Unfair commercial practices

### 1. Introduction

The investigation of unfair commercial practices (hereafter, UCP) dominates the GVH's enforcement agenda. This is certainly true with respect to both the number of its cases and its press appearances. Looking at the size of antitrust fines, cartel cases are usually considered to be more important. However, the year 2012 was an exception to this rule due to low numbers of cartel decisions. A quick look at the GVH's official website illustrates that UCP dominate its policy and its competition culture agenda as well. It is notable that the Hungarian competition authority issued in 2012 new guidelines on commitments but they only cover UCP, excluding antitrust issues from its scope. It seems therefore that the GVH is campaigning much more against certain UCP than towards a further strengthening of the antitrust culture.

Cases decided in the reference period with respect to UCP related to markets that are at the top of the enforcement agenda for several years already: retail chains, time share, mobile phones, banking and other financial services. The unique areas that the GVH has recently tackled include:

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<sup>1</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11/05/2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ [2005] L 149/22.

# Recent Competition Policy Developments in Hungary – Merger Control\*

by

Aranka NAGY\*\*

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  - 3. Repeated procedures
- IV. Conclusions

## I. Introduction

One of the most significant enforcement tasks of the Hungarian Competition Authority (hereafter, GVH) is the control of concentrations. Undertakings are

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The content of this article does not necessarily reflect the official position of the Hungarian Competition Authority. Responsibility for the information and views expressed in this article lies entirely with the author.

legally obliged to receive clearance for their transactions from the competition authority if the notified operation meets the turnover thresholds<sup>1</sup> set out in the Hungarian Competition Act.

This article gives a short overview of the most significant procedural and case-law improvements that took place in the GVH's practice in 2012.

## **II. Procedural and structural reforms**

In 2012, the Hungarian Competition Authority undertook to reform its concentration control system. The aim of the reform was to speed up the review procedures, but at the same time, to preserve (and possibly improve) the quality of work conducted by the GVH in this area.

### **1. New notification form, new unit**

As of February 2012, a new notification form is in use that aims to reduce unnecessary administrative burdens placed on the parties, to shorten the review process and to strengthen transparency. The new form contains two main sections although its second part (Chapters VI–VII.) needs to be completed only if the concentration results in significant overlaps or relations (e.g. vertical or portfolio relations). However, the GVH is allowed to place a duty on the parties to complete Chapters VI-VII of the notification form even in other cases, if that seems to be necessary in order to conduct an in-depth analysis of the concentration.

The GVH facilitated also the formal introduction of pre-notification contacts between the parties and itself (such contacts were informally available already before the reform). Their aim is to increase the efficiency and productivity of the review procedures by providing the parties with the opportunity to consult the authority on various questions relating to the notification form before its actual submission. These types of meetings are completely informal and

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<sup>1</sup> In line with Article 24 (1) 'For a concentration of undertakings, the authorisation of the Hungarian Competition Authority shall be sought in cases where the aggregate net turnover of all the groups of undertakings concerned (Article 26(5)) and the undertakings jointly controlled by undertakings that are members of the groups of undertakings concerned and by other undertakings exceeded HUF fifteen billion in the preceding business year, and the net turnover of each of at least two of the groups of undertakings concerned in the preceding business year combined with the net turnover of the undertakings jointly controlled by undertakings members of the respective group of undertakings and other undertakings was more than HUF five hundred million'.



# **Competition Law in Macedonia in 2011–2012: New Perspectives and New Challenges**

by

Adnan Jashari\*, Nora Ziba Memeti\*\*

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## I. Introduction

Keeping in mind that competition policy is of key importance for the European Union, the Republic of Macedonia (hereafter, R.M.) has taken it upon itself to introduce and adopt a domestic competition law regime in the framework of its EU accession process.

Macedonian Constitution guarantees the freedom of trade and business as well as security and equal protection of the legal position of different entities in the market<sup>1</sup>. From a historical perspective, it should be noted that the R.M. was the first country in the Western Balkan region to sign the Stabilization and Association Agreement with the European Union in April 2001<sup>2</sup>, which entered into force in 2004. In 2005, the European Council granted Macedonia the status of an EU 'candidate country'. This status provides for a competition regime to be applied in the trade relations between the European Union and the R.M. Significant changes were made to Macedonian antitrust legislation, which was in force since January 2005, by way of the new Law on the Protection of Competition of 2010 (hereafter, LPC)<sup>3</sup>. These recent legislative reforms introduced relevant changes to the institutional structure of Macedonia's competition protection system at the same time. The purpose of the LPC is to ensure free competition in the domestic market in order to stimulate economic efficiency and consumer's welfare<sup>4</sup>.

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<sup>1</sup> Constitution of the Republic of Macedonia, Article 37.

<sup>2</sup> Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, Brussels, 26 March 2001.

<sup>3</sup> Law for the Protection of Competition, Official Gazette of the R.M., No. 145/2010.

<sup>4</sup> LPC, Article 2, Official Gazette, No. 145/2010.

# Recent Developments in Slovak Competition Law – Legislation and Case Law Review<sup>1</sup>

by

Zuzana Šabová\*, Katarína Fodorová\*\*, Daniela Lukáčová\*\*\*

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- IV. Significant judgments of Slovak courts in competition matters
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<sup>1</sup> All views expressed by authors in this paper are strictly personal and do not represent the opinion of the Antimonopoly Office of Slovak Republic; zuzana.sabova@antimon.gov.sk.

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## I. Introduction

Slovak competition law is set by the Act No. 136/2001 Coll. on the Protection of Competition, as amended (hereafter, Competition Act). Covered therein is the prohibition of competition restricting agreements and the prohibition of the abuse of dominance as well as concentration control. The wording of the prohibitions is identical to Articles 101 and 102 TFEU. Control of concentrations is largely modelled after the EU system also including the substantive test, Significant Impediment of Effective Competition, which is used in Slovakia since 2012 with some procedural divergences. Enforcement is administrative in nature and only undertakings are subject to investigations and fines. The relevant enforcement body is the Antimonopoly Office of the Slovak Republic<sup>2</sup>.

The EU enforcement model remains the main source of inspiration for national legislation, for the decision-making practice and competition policy of the national competition authority – the Antimonopoly Office (which tends to rely on the concepts and doctrines established at EU level) as well as for the soft laws adopted by the Office on its own initiative (Leniency programme, Guidelines on Commitments, Guidelines on Settlement etc.).

In recent years, the main issue has been the interplay between the Office's decision-making practice and judicial review carried out by the Regional Court in Bratislava, acting as the first-instance court, and the Supreme Court of Slovakia, as the appellate body. The Office lost several big cases in 2009–2011 before the first-instance court that related to issues such as: bid-rigging in the construction sector; restrictive agreement in the banking sector and; several abuse cases in telecoms<sup>3</sup>. Some of these cases are still pending before the Supreme Court based on appeals lodged by the authority. The differences in opinion between the Courts and the Office related mainly to the evidential threshold and other procedural aspects. Unlike the authority, the courts tend to rely more on criminal investigations or general administrative principles than on EU case-law and doctrines as their reference point.

The need for coherent application of EU competition law has led to two *amicus curiae* interventions by the European Commission pursuant Article 15(3) Regulation 1/2003<sup>4</sup>. The first took place in 2011 and concerned the notion of

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<sup>2</sup> Decisions of the Office and the relevant national judgements are published on the Office's web site [www.antimon.gov.sk](http://www.antimon.gov.sk).

<sup>3</sup> The Office's stance on the judgments can be found in the document „Problems arising from the decision-making practice of the courts in competition law in Slovakia“. The Office published the document on its webpage; an English version is available at <http://www.antimon.gov.sk/849/c-2011.axd>.

<sup>4</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ [2003] L 1/1.

**Lack of a Price Reduction Despite a Decrease in Service Quality  
as an Unfair Price and Abuse of a Dominant Position.  
Case Comment to the Judgment of the Supreme Court of 13 July 2012,  
*Autostrada Malopolska*  
(Ref. No. III SK 44/11)**

The Polish Supreme Court delivered in 2012 an important ruling with respect to the definition of unfair prices charged by a dominant firm. Imposing unfair prices was so far generally associated in Polish jurisprudence with either excessive prices (exploitive practices) or predatory pricing (exclusionary practices)<sup>1</sup>. The Supreme Court held here, instead, that the lack of a reduction in a set service fee (toll) despite a decrease in quality of the service provided by a dominant company can also count as imposing unfair prices.

**1. Facts of the case**

The case at hand concerns the fees charged for the use of the A-4 toll dual-carriageway leading from Cracow (point X) to Katowice (point Y) managed by Stalexport Autostrada Małopolska S.A. (hereafter, Stalexport or plaintiff). Stalexport holds a concession which places the company under a duty to operate and maintain this section of the A-4 dual-carriageway.

It was found in the framework of the investigation that Stalexport charged car drivers a fixed fee of 13 PLN for the use of the toll road irrespective of the fact that its substantial part was periodically being renovated, leading to numerous traffic problems and reduced utility for car drivers. The Polish Competition Authority, the President of the Office for Competition and Consumer Protection (hereafter, UOKIK President) found this behaviour to be an abuse of a dominant position and imposed a fine of 1.300000 PLN (309.524 EUR) on Stalexport. The company appealed the decision to the Court of Competition and Consumer Protection (hereafter, SOKIK). However, SOKIK confirmed in its ruling the position of the UOKIK President. The plaintiff appealed the first instance judgment, but the ruling was once again upheld by the Court of Appeal. The dispute was eventually litigated before the Supreme Court.

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<sup>1</sup> Cases of margin-squeeze are exceptionally rare.

Similarly, the Court did not agree with the view that the toll was meant to constitute public revenue. It stressed that although the fee is charged within statutory obligations, it still belongs to Stalexport as a private investor that runs an economic activity and bears the financial risk associated with it. The mere fact that a public duty is placed upon a private entity does not classify it as part of the public sector.

### *Consumer welfare*

Last but not least, another interesting argument raised in the comments to this judgment<sup>11</sup> concerned the issue of *consumer welfare* and the real consequences of public intervention into the behaviour of a dominant firm. During the entire administrative and juridical proceedings, Stalexport did not change the amount of the toll it charged – it did not introduce any price reductions for the time periods when construction works were being carried out. Concerns were also raised that the antitrust fine (1.300.000 PLN) could have been, at least indirectly, passed on to consumers seeing as the toll for car drivers now stands at 18 PLN as compared to 13 PLN which it used to be in the past.

### **Conclusion**

According to the ruling under review, the notion of excessive (and thus unfair) prices can be applied to cases where the level of prices remains unchanged irrespective of the decrease in the quality of the service rendered. If this practice is committed by a dominant firm, it can amount to abuse. When determining this practice, reference needs to be made to the model of a full-fledged service (so-called reference transaction). This test largely resembles the ‘equivalence test’ which compares the price and the value of the service provided in exchange.

The Supreme Court confirmed also the narrow relevant market definition established originally by the Competition Authority as the market for paid driving on the A-4 dual-carriageway from point X to point Y. The adopted reasoning is based on the features of paid-for dual-carriageways, which are largely different to national roads – they provide two driving lines that facilitate a faster driving speed and easier overtaking.

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<sup>11</sup> Ibidem.

## **Regional Court in Brno on Cartels in 2012.**

### **Case comments to judgments in *CRT* cartel and *GIS* cartel**

In 2012, the Regional Court in Brno has delivered a couple of judgements in two globally notorious cases which were primarily dealt with by the European Commission: the gas insulated switchgear cartel (*GIS* cartel) and the cathode ray tubes cartel (*CRT* cartel). Czech authorities decided these cases because the duration of the scrutinised cartels extended to the time before the Czech Republic's accession to the EU.

The parties to both of the proceedings disputed the competences of the Czech Office for the Protection of Competition (hereafter, OPC or Office) to impose financial penalties upon them. They saw these fines as a breach of the *ne bis in idem* principle, seeing as the Commission has already fined the same cartels. The Office, as well as the reviewing courts,<sup>1</sup> stated first that the question of parallel prosecution of the cartels was clear and that the Czech authority had indeed jurisdiction to decide these cases<sup>2</sup>. The Supreme Administrative Court cited in this context its older *RWE* judgement<sup>3</sup>. Following the jurisprudence of the Court of Justice, the Court confirmed that the purpose of national competition law is to protect effective competition on the domestic market. By contrast, the aim of EU competition law is not only to protect competition but also, through it, to protect the effective functioning of the common market against, in particular, activities sealing off national markets or affecting the structure of competition within the common market<sup>4</sup>. The Court reasoned that the *ne bis in idem* principle is subject to the threefold condition of identity of facts, unity of offender and uniformity of legal interest protected. The respective cartel decision of the European Commission repeatedly referred to the EC/EEA territory and did not cover the anti-competitive consequences of the said cartel in the territory of the Czech Republic before its accession to the EU. Therefore, the OPC had the competence to decide on this case.

Both courts, the Regional Court in Brno as well as the Supreme Administrative Court, held that the question of jurisdiction was an *acte claire* here. However, the

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<sup>1</sup> The Regional Court in Brno as well as the Supreme Administrative Court.

<sup>2</sup> See e.g. the judgements of the Regional Court in Brno ref. no. 62 Ca 22/2007 of 25 June 2008 and of the Supreme Administrative Court ref. no. 2 Afs 93/2008 of 10 April 2009, both in the *GIS* cartel.

<sup>3</sup> Judgment of the Supreme Administrative Court ref. no. 5 Afs 9/2008 of 31 October 2008 in the case of *RWE Transgas*.

<sup>4</sup> Joined cases C-295/04, C-296/04, C-297/04 and C-298/04 *Manfredi* [2006] ECR I-06619.

managers in defining business strategies of its subsidiary may act as another factor for determining liability (see Court of Justice judgement in *Commercial Solvents*<sup>17</sup>). This, however, may not have discriminatory effects – liability shall be determined according to the cumulative principle (cumulative fines) rather than on the basis of solidarity (see General Court judgement in *Tokai Carbon*<sup>18</sup>).

The Regional Court in Brno then resumed that there are several methods how to take into account the concept of a single economic unit. It is necessary to choose the method that corresponds best with the concept of the given cartel and with reasonable sanctioning of cartel participation, without unjustifiably discriminating any of the cartel members. It is thus sometimes necessary to determine the individual degree of cartel participation of each given undertaking. In some cases, particular companies within the corporate group may be regarded as mere instruments of the cartel idea concluded among corporate groups. In this scenario, it is reasonable to establish liability of parent companies. However, it is unreasonable to cumulate liability in such a manner that it is established for the parent company and its subsidiaries. This cannot be viewed as establishing liability within the particular corporate group on the basis of solidarity, be it from the point of view of declaring that an infringement has been committed, or from the point of view of imposing a fine.

The Regional Court in Brno concluded on the basis of the administrative case file that the Office did not gather enough material to determine liability of individual companies within particular groups.

It must be stated for the sake of completeness that the Regional Court's judgement was reviewed by the Supreme Administrative Court in April 2013. The conclusions of the Regional Court in Brno were confirmed. The Supreme Administrative Court added also that it is indeed possible to determine liability of each of the undertakings party to the proceedings according to different methods, considering which of these methods is in each particular case the most appropriate.

## Conclusions

It must be stated in conclusion that the two 2012 judgements of the Regional Court in Brno provided very useful guidelines for the Czech Competition Office and for parties to future cartel proceedings. They summarised the jurisprudence of EU courts on how the Commission is to conduct its proceedings in cartel cases and acknowledged its applicability to proceedings conducted by the Czech authority.

Although one cannot always agree with the conclusions reached by the Regional Court in Brno, its judgements in both the *GIS* cartel and the *CRT* cartel case provide helpful new guidance for the Office and parties to cartel proceedings.

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<sup>17</sup> 6-7/73 *Commercial Solvents* [1974] ECR 223.

<sup>18</sup> T-71/03, T-74/03, T-87/03, T-91/03 *Tokai Carbon* [2005] ECR 00010.



# Recent judgements of the General Court and the Supreme Court of the Slovak Republic in inspection matters – Landmark Decisions or Wasted Opportunities to Solve Problem?

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## I. Introduction

On-the-spot investigations (inspections, dawn raids) are now an indispensable tool in the portfolio of a competition authority's investigative powers. They constitute a very efficient method of seizing documents and accumulating information of an undertaking regarding its alleged anticompetitive behaviour – information that the undertaking would not normally be willing, or in fact obliged to provide because of the right of non self-incrimination. On the other hand, inspections are a rather “uncomfortable” intrusion into the private sphere of undertakings. As a result, the violation of the principle of the ‘inviolability of the home’ has become a common objection against inspections carried out by competition authorities. It is not the aim

The ECtHR found the ‘envelope procedure’ to be an efficient safeguard against abuse, but it also spoke of another necessary safeguard in this context – the availability of immediate judicial review of the procedure. It is unlikely that the Court of Justice will consider annulling a part of the General Court’s judgement on this ground because this issue does not seem to be mentioned in the appeal. So whilst the Court of Justice of the European Union opted for a narrower interpretation of the notion of the act reviewable by the action for annulment, the legality of the inspection procedure will be put in danger because of the lack of effective judicial remedy required under Article 8 ECHR designed to scrutiny performance of the inspection.

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# B O O K R E V I E W S

**Dawid Miąsik, *Stosunek prawa ochrony konkurencji do prawa własności intelektualnej [The relationship between competition law and intellectual property law]*,  
Warszawa 2012, 586 p.**

The relationship between intellectual property law and competition law is certainly a fascinating one. It is therefore not surprising that it has attracted the attention of many scholars. Leading Polish jurisprudence on the relationship between intellectual property rights (IPRs) and competition law has also, and unsurprisingly, attracted the attention of numerous academics and commentators. However, there has never been a comprehensive analysis of this relationship. Dawid Miąsik's excellent book certainly fills this important gap.

The author properly points out that the exercise of such exclusive rights as IPRs can potentially have negative effects on the market. This is particularly so, as the author rightly notices, when an IP holder is capable of excluding others from the market by exercising his/ her exclusive right. Indeed, the way in which the IPR is exercised might not be the most desired one from the perspective of satisfying the public interest in the proper functioning of the market<sup>1</sup>.

As the author correctly states, the key issue at the intersection of IPRs and competition law is the importance that should be attached to the fact that a given activity, which is considered potentially anticompetitive, is in fact a form of the exercise of an IPR<sup>2</sup>. One should not forget that exclusive IPRs are granted as a reward for investments already incurred and as an incentive for further innovation. This suggests that a dynamic competition perspective must be taken into account when an intervention by way of competition law is being considered. Having studied Dawid Miąsik's book, I believe that this is the view taken by its author. The question remains, however, whether dynamic competition concerns are the only valid ones here or whether, and if so in what circumstances, should static competition issues also be addressed.

The author provides the readers with a comprehensive analysis of the relationship between IP and competition law in US, EU and Polish law. The thorough analysis of this relationship in the above jurisdictions is preceded by the presentation of leading theories that explain the relationship between these two legal fields. Although some of these doctrines are no longer in use, their presentation remains useful as it helps to

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<sup>1</sup> D. Miąsik, *Stosunek prawa*, p. 67.

<sup>2</sup> D. Miąsik, *Stosunek prawa*, p. 75.

It seems that the author's approach to the ordoliberalism is rather critical, in particular with respect to the manner in which ordoliberals approached the concept of competition restrictions and, as a result, the importance they attached to rivalry between competitors. This criticism is indeed widely accepted today. Protecting rivalry, which results in a certain market structure, might in the long run be positive for competition, also if competition is understood in terms of economic efficiency. *Microsoft* seems to prove ordoliberal concerns about market players gaining too much economic power. Lack of rivalry affected competition in a negative manner by depriving consumers of products, in this case software, capable of satisfying their needs to a much greater extent.

Concerns over structure should not be abandoned. Indeed, EU competition law makes reference to market structure. It must be stressed that Article 101(3) TFEU not only refers to 'promoting technical progress' and 'allowing consumers fair share of the benefits' but also stresses that competition should not be eliminated with 'respect of a substantial part of the products concerned'. By making a reference to technical progress, the TFEU indicates that dynamic competition concerns must be taken into account. By underlining at the same time that competition should not be eliminated, it points to market structure as well.

I would also like to address comments made by the author when referring to the *Masterfoods* case. The CJEU states therein that it is possible to place restrictions on the exercise of an IPR if these restrictions are proportional and do not affect the specific subject matter of that right<sup>10</sup>. The author then adds that forcing IP holders to make their immaterial property available without compensation could be regarded as overly excessive interference with the exercise of their right. Generally, this is correct but there are circumstances where this will not be an accurate assumption. An IP holder who additionally holds a dominant position is required to license on FRAND terms. In the context of standardization, as well as patent pools, an obligation to license on FRAND terms dictates non-discriminatory treatment with respect to setting conditions for access to technologies controlled by dominant undertakings. If an IP holder decides to license royalty free, which is by no means uncommon, subsequent licenses must also be granted on royalty free terms. A different approach would result in discrimination and the conditions of competition on the downstream product markets would not be the same for all market participants.

Finally let me say that Dawid Miąsik's book is both a must have and a must read for all those who deal with IP law. It is now no longer possible to operate in many markets without properly understanding how competition law affects the exercise of IPRs. Dawid Miąsik's book helps the reader to understand this complicated relationship. It is not easy to read, but getting through it certainly gives a lot of satisfaction.

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Adam Mickiewicz University, Poznań

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<sup>10</sup> D. Miąsik, *Stosunek prawa*, p. 354–355.

**Dušan Popović, *Isključiva prava intelektualne svojine i slobodna konkurencija*  
[*Exclusive Intellectual Property Rights and Free Competition*],  
Faculty of Law of the University of Belgrade 2012, 284 p.**

The monograph entitled *Exclusive Intellectual Property Rights and Free Competition* by Dr. Dušan Popović, Assistant Professor of Intellectual Property Law and Competition Law at the Faculty of Law of the University of Belgrade (Serbia), is one of Serbia's first to examine, in detail, the complex relationship between the protection of intellectual property and the protection of free and undistorted competition. It is not surprising that Dušan Popović has decided to tackle this complex issue. In the course of his career he has demonstrated the courage and the capacity to examine, analyze and competently comment on cross-cutting issues concerning competition law. Over the past years, the issue analyzed in the monograph has become a topical one in comparative law, given the increase in the number of decisions of competition authorities which limit intellectual property rights. Such practice results in an external limitation of subjective IP rights that goes alongside the exemptions inherent to intellectual property law itself. However, the author does not perceive the relationship between competition law and IP rights as a necessarily disharmonious one – quite to the contrary. The monograph first analyses this relationship through examples of successful coexistence (in the first part). It is only after that the author singles out the cases which he finds to be an impressive incursion of competition law into the system of IP rights protection (second part).

Given the lack of relevant Serbian case-law, Dušan Popović focuses on EU law and, to a lesser extent, US law as well as national legal systems of certain European countries. Since Serbia signed the Stabilization and Association Agreement with the European Union, the analysis of the *acquis communautaire* in this area is of the utmost importance to Serbian readers. International scholars will particularly benefit from the detailed and insightful comparative analysis contained in this book.

In the first part is entitled “Intellectual property rights as possible means of competition infringement”. Analyzed here is the possible outcome of the application of competition rules to market participants which own IP rights, relying mostly on the practice of the European Commission and the Courte of Justice of the European Union. The first chapter deals with the prohibition of anti-competitive agreements. The author assesses the treatment of certain clauses contained in license agreements concluded by the owners of IP rights such as: exclusivity clauses, non-compete clauses, exclusive supply clauses, confidentiality clauses etc. It is concluded that

that would allow for the harmonization of national competition rules and, possibly, the creation of a world-wide competition authority. Meanwhile, owners of IP rights participating in the global economy remain exposed to multiple competition law regimes. The outcome of proceedings undertaken by different national or regional competition authorities may differ significantly and further generate legal uncertainty for IP rights owners.

Dušan Popović writes systematically and precisely; his arguments are easy to follow and convincing, and while dealing with complex legal issues, the monograph is easy to read.

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Institute of Comparative Law in Belgrade

# C O N F E R E N C E      R E P O R T S

## **Entrepreneur's rights in antitrust cases. Conference Report Warsaw, 23 April 2012**

A conference entitled 'Entrepreneur's rights in antitrust cases' was held in Warsaw on the 23<sup>rd</sup> of April 2012 gathering around 150 participants. The conference was co-organized by the Centre for Antitrust and Regulatory Studies (CARS) and the Institute of Law Studies of the Polish Academy of Sciences. It was co-financed by the Polish Science Foundation.

The opening speech was delivered by Professor Władysław Czapliński, Director of the Institute of Law Studies. The conference was divided into three sessions. The first session was chaired by Professor Tadeusz Skoczny, Director of CARS and contained four presentations, two of them related to the classification of antitrust proceedings (cases) as administrative and/ or criminal proceedings.

Professor Małgorzata Król-Bogomilska (Institute of Law Studies) spoke of 'Entrepreneur's rights standards in antitrust cases – administrative and criminal problems?' She concluded that 'the necessity to respect certain rights of entrepreneurs, sanctioned on the basis of antitrust law, cannot be put into question, irrespective of the extent to which the thesis is accepted on the criminal character of fines and antitrust proceedings'. The speaker noted in particular that the Lisbon Treaty made the criminalization process of antitrust violations more dynamic in EU Member States, because it introduced a direct legal basis for co-operation in criminal matters in the EU.

Dr. Anna Błachnio-Parzych (Institute of Law Studies) entitled her presentation 'Character of entrepreneur's liability in antitrust proceedings and the concept of accusation in the case law of the European Court of Human Rights'. In the analysed jurisprudence, she found under which conditions liability for particular legal breaches would be criminal in nature; one of these conditions was the seriousness of the resulting sanctions.

Dr. Rafał Stankiewicz (Faculty of Law and Administration, University of Warsaw) delivered a speech on 'The scope of the application of the Code of Administrative Procedure in antitrust proceedings'. He stressed therein, among other things, that 'the general reference included in Article 83 CAP is related to the creation of strong personal rights in antitrust proceedings'.

Aleksander Stawicki (LL.M) spoke of 'Court proceedings on an appeal from a decision of the UOKiK President and constitutional guarantees for the protection of entrepreneur's rights'. He addressed the necessity of the verification by the Court of

the rule of effective legal protection and Convention-based standard of a right to a fair trial.

Dr. Krystyna Kowalik-Bańczyk (Technical University in Gdańsk, Institute of Law Studies) dedicated her speech to ‘Procedural autonomy of Member States and EU rights of defence in antitrust proceedings’. The paper meant to answer the question whether EU ‘procedural *aquis*’, resulting from the jurisprudence of EU courts and concerning proceedings before the Commission, should become the standard applicable to national antitrust proceedings concerning Article 101 and 102 TFEU. The authors concluded that reference to EU jurisprudence is necessary when it improves the level of entrepreneurs’ protection.

Among the many comments made during the concluding discussion, special note should be taken of the views expressed by Professor Sławomir Dudzik (Jagiellonian University). When analysing entrepreneurs’ rights in antitrust proceedings in the context of ECHR’s jurisprudence and EU *aquis*, Professor Dudzik stressed that the fact should not be forgotten that proceedings before the UOKiK President, also in EU-related matters, are first and foremost subject to the provisions of the Polish Constitution. Constitutional standards cannot be lowered in comparison to EU standard.

Prof. Małgorzata Król-Bogomilska raised the problem of fines for antitrust violations, especially as far as their concurrence is concerned (for instance, in the case of bid-rigging which can be sanctioned on multiple legal bases, not just the Competition Act).

In conclusion, Dr. Krystyna Kowalik-Bańczyk summarized the most important issues raised in the speeches delivered during the conference as well as thanked a number of persons for their contribution to the organization of the conference.

The decisive majority of the papers delivered during the conference were based on articles published in the Yearbook of Antitrust and Regulatory Studies 2012, vol. 5(6). Its content is available at <http://www.yars.wz.uw.edu.pl>.

*Dr. Agata Jurkowska-Gomulka*  
CARS Scientific Secretary



## 2<sup>nd</sup> International Competition Law Forum. Report Warsaw, 27 September 2012

A conference took place on 27 September 2012 organized by the Polish Competition Authority (hereafter, UOKIK) in the premises of the Warsaw School of Economics. The conference was dedicated to most important challenges in the enforcement of competition law. It brought together prominent experts from foreign competition authorities (including the European Commission, OECD and UNCTAD), Polish officials and law practitioners.

After welcoming the participants, Małgorzata Krasnodębska-Tomkiel (UOKIK President) described the background and objectives of the meeting emphasizing that the opinions gathered during the conference were especially valuable in light of the amendment process to the Polish Competition Act underway at the time. It was also stressed that the conference was only the beginning of a broader debate to be continued at a meeting of the International Competition Network planned to take place in Warsaw in April 2013.

Piotr Ostaszewski (Vice-Rector, Warsaw School of Economics) took the floor next. By recalling the words of Margaret Thatcher: “*the manner of winning is a matter of honor*”, he highlighted the importance for companies of achieving their business goals by honest means. Joaquín Almunia (Vice-President, Commissioner for Competition, European Commission) presented the main challenges for competition policy in the European Union. He drew attention to the liberalization of the telecommunication sector and to current attempts to create a single energy market. He also introduced recent activities of the Commission in the *Google* and *Universal* case and noted the *Memorandum of Understanding* that has been signed with China.

Eduardo Perez Motta (Chairman, Mexican Federal Competition Commission, ICN Chair) discussed the main activities of the International Competition Network. He stressed, on the one hand, that the observed economic slowdown cannot be treated as an excuse for a relaxation of competition enforcement. He argued that such approach would be to the detriment of consumers who pay prices higher by 40% on average on non-competitive markets. On the other hand, policy must be balanced so as not to intervene where the mere costs of intervention outweighs the possible harm for consumers. To avoid this, OECD seeks to identify those sectors where over-regulation may restrict competition. One possible example is the area of credit or debit cards.

only present evidence supporting his/her position but also respond to the allegations of the plaintiff. The speaker mentioned also changes connected to a recent amendment to the Polish Civil Procedure Code.

The President of the UOKiK summarized the conference emphasizing the value of the discussion that has taken place, especially in view of the debate concerning the planned amendment to the Polish Competition Act (The bill is currently being discussed in Polish Parliament, it is expected to come into force in 2014).

More information on the conference together with a choice of its presentations is available at <http://competitionforum.uokik.gov.pl/2012/en>.

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# A C T I V I T I E S O F C A R S

## CARS Activity Report 2012

### 1. General information

In the sixth year of its activities, CARS focused once again on the pursuit of key scientific goals specified in its founding documents. The first CARS Award for an outstanding books on legal and economic aspects of competition protection was granted in 2012 to Professor Marek Szydło, University of Wrocław (sponsored by PKO BP).

2012 was especially active in the publishing field. CARS started to issue a new journal: 'internet Quarterly on Antitrust and Regulation' (*internetowy Kwartalnik Antymonopolowo-Regulacyjny*) – iKAR). It published at the same time two separate volumes of the 'Yearbook of Antitrust and Regulatory Studies': a special edition, vol. 5(6) and a regular volume, vol. 5(7). The CARS Publishing Series, Antitrust and Regulatory Monographs and Textbooks, was expanded by another publication also.

Two CARS Open PhD Seminar meetings took place in 2012 as well as two scientific seminars. CARS co-organized also a conference in conjunction with the Institute of Law Studies of the Polish Academy of Sciences.

Importantly also, CARS participated in 2012 in public consultations announced by the Polish Competition Authority on a draft amendment to the current Competition Act as well as in public consultations announced by the European Commission concerning General Block Exemption Regulation on State Aid Measures.

### 2. Open PhD Seminar

#### *2.1. Judicial review of decisions issued by the President of the Polish Office of Electronic Communications*

The fourteenth meeting of the CARS Open PhD Seminar was held on 18 September 2012. The opening speech was delivered by Mateusz Chołodecki, PhD candidate (Faculty of Law, Adam Mickiewicz University in Poznań) and commented on by Professor Stanisław Piątek (Faculty of Management, University of Warsaw). The focus of the seminar was on the dual character of the juridical review model applicable to regulatory decisions of the Polish Telecoms regulator (President of the Office of Electronic Communications) – depending on the type of decision issued, judicial control is exercised by administrative courts or by the Court of Competition and Consumer Protection. The key speaker outlined the legal basis of both forms of

juridical review, their similarities and differences as well as the varied consequences resulting from the two models. Different types of regulatory decisions were analyzed in light of the judicial control model applicable.

### ***2.2. Leniency as an instrument for combatting anti-competitive agreements in the Polish system of competition protection***

The fifteenth meeting of the Open PhD Seminar, held on 10 October 2012, was dedicated to practical problems associated with the use of leniency in the Polish competition protection system. Dr. Bartosz Turno (law firm WKB, Wierciński, Kwieciński, Baehr) presented the results of his extensive research in this field outlining, most importantly, the foundations of an 'optimal' leniency programme that he formulated for application in Poland. Particular elements of the model were defined within the legislative sphere, application practice and antitrust policy. A key part of the analysis of the proposed model was devoted to a critical appraisal of past experiences with the use of leniency for competition protection in Poland.

## **3. Publications**

### ***3.1. Yearbook of Antitrust and Regulatory Studies (YARS)***

A special volume of YARS [vol. 5(6)] was published in April 2012 followed by a regular volume [vol. 5(7)] in December 2012.

The special volume focused on the protection of entrepreneurs' rights in antitrust proceeding before Polish and EU antitrust authorities. The periodical contains twelve articles based on papers delivered during a conference co-organized in April 2012 by CARS and the Institute of Law Studies of the Polish Academy of Science. The volume contained also two case comments (one of them referring to a merger prohibition issued by the Polish Competition Authority), a book review and Polish bibliography on antitrust procedure.

The 2012 regular volume of YARS was the first to contain articles submitted not only by Polish authors, but also by specialists from other Central European countries (Croatia and Slovakia). YARS 2012, vol. 5(7) contains six articles, seven legislative and jurisprudential reviews on antitrust and sector-specific regulation (among them an exhaustive review of ECJ judgments in competition cases), three case comments and three book reviews, CARS annual activity report 2011 and a bibliography of Polish publications on antitrust and sector-specific regulation.

### ***3.2. internetowy Kwartalnik Antymonopolowy i Regulacyjny (iKAR) [internet Quarterly on Antitrust and Regulation]***

CARS started publishing a completely new e-periodical in 2012 – iKAR – which is available at <http://www.ikar.wz.uw.edu.pl>. The basic (reference) version of the journal is electronic in nature, paper copies play a marketing role only. iKAR (acronym

for *internetowy Kwartalnik Antymonopolowy i Regulacyjny*) is open to both legal and economic publications as well as papers bordering on either/both of these areas as well as on management or even technical disciplines. iKAR's two basic fields of interest are: (1) antitrust (including restrictive practices and merger control) and (2) sector-specific regulation. The second area was initially limited to infrastructure sectors only, but with the development of the periodical it now also covers other sectors (such as audiovisual and financial services) or related areas (e.g. state aid, consumer protection, relationships between competition and IPRs etc.). iKAR contains both full articles and smaller texts such as case comments or book reviews, related to Polish, European and global problems.

Six volumes of iKAR were published in 2012, two of them [vol. 5(1) and 6(1)] are dedicated to telecommunications.

### **3.3. 'Special clearances in the law on merger control' (ISBN: 978-83-61276-99-9)**

The tenth monograph published in the CARS 'Textbooks and Monograph' series written by Professor Tadeusz Skoczny is devoted to the key element of pre-emptive merger control – the material and formal legal basis for the issue of special clearances. The analysis is centered on the theoretical concept of 'special' clearances for the issue of which it is not sufficient to establish that a notified merger is not likely to lead to a significant impediment of competition (as is the case for ordinary clearances) or to clearances that must be issued despite the fact that the notified operation will in fact lead to a significant impediment of competition and thus should be prohibited. The analysis covers 3 types of special clearances: exceptional clearances issued when a prohibitive decision is inappropriate due to the fact that the expected significant impediment of competition will occur even if the merger is prohibited; extraordinary clearances for anti-competitive mergers that must be permitted for public policy reasons other than competition protection; and finally conditional clearances issued in order to avoid a prohibitive decision in situations when the parties modify their operations so as to eliminate the expected impediment of competition. The Author proves that special clearances, and in particular conditional clearances, should be seen as a preferred option before prohibitive decisions.

## **4. Conferences and seminars**

### **4.1. *Entrepreneurs' rights in antitrust proceeding***

A conference held on 23 June 2012 was co-organized by CARS and the Institute of Law Studies of the Polish Academy of Sciences and financed from the Foundation for Polish Science programme Pomost/Powroty/2010-1/1/NQC.

The conference focused on the discussion of entrepreneurs' rights in national and European antitrust proceedings. Participants debated over such problems as: legal character of antitrust proceedings; applying the European Convention on Human Rights in antitrust cases; particular rights and guarantees for entrepreneurs that are a

'party' to antitrust proceedings (access to the file, right to fair hearing, etc.); juridical control of decisions issued by competition authorities as a tool for the formulation of standards for the activities of the competition bodies concerned etc.

A set of articles based on the specific papers presented during the conference were published in YARS 2012, vol. 5(6) [see point 3.1. above].

#### ***4.2. Safety/security and effectiveness of airports***

A seminar co-organized by CARS and the State Enterprise 'Polish Airports' (PPL) was held on 24 May 2012. It was a platform for the presentation of the results of a major research project entitled 'Airport services in the European Union and Poland – selected problems'. These results were published in a book (under the same title) included in the CARS Publishing Series, Antitrust and Regulatory Monographs and Textbooks.

Papers were delivered by researchers from the Faculty of Management, University of Warsaw as well as by Professor Anna Fornalczyk (Technical University of Lodz), Krzysztof Banaszek (President of Polish Air Navigation Services Agency) and Filip Czernicki (PPL). Speakers focused on safety of air traffic, personal control at airports as well as building a business strategy for airports. The benchmarking of selected airports located in the EU was also presented.

#### ***4.3. Juridical control model applicable to antitrust and regulatory cases***

A conference organized by CARS on 4 July 2012 gathered academics and practitioners interested in the problems surrounding juridical control of decisions issued by the Polish Competition Authority (President of the Office of Competition and Consumer Protection) and other regulatory authorities. Panelists participating in the debate included: Professor Zbigniew Kmiecik (judge of the Supreme Administrative Court), Professor Stanisław Piątek (Chair of Legal Problems of Administration and Management, Faculty of Management, University of Warsaw), Professor Tadeusz Skoczny (CARS), Professor Karol Weitz (member of the civil law codification commission) and Professor Andrzej Wróbel (judge of the Constitutional Tribunal).

Participants discussed problems such as: constitutional and European Convention-based requirements for juridical control of administrative proceedings; full and specialized jurisdiction of courts in cases related to the control of administrative proceedings in competition and regulatory cases in the current model; juridical control of proceeding before the European Commission; juridical control of proceedings in antitrust and regulatory cases from the perspective of administrative courts and legislation.

### **5. Consulting**

In May 2012, CARS presented its expert opinion on the draft amendment to the current Polish Competition Act prepared by the Polish Competition Authority (President of the Office of Competition and Consumer Protection). The opinion was

jointly written by a Working Group, founded by CARS, consisting of academics and practitioners active in this field. The opinion extended beyond merely commenting on the amendments proposed by the Competition Authority. Contained therein were also alternative ideas for potentially more desirable legislative solutions. The full paper is available on the CARS website ([http://www.cars.wz.uw.edu.pl/tresc/doradztwo/06/Opinia\\_GR\\_CARS-fin.pdf](http://www.cars.wz.uw.edu.pl/tresc/doradztwo/06/Opinia_GR_CARS-fin.pdf)) and became the starting point for a wider discussion on the proposed draft that continued in iKAR (internet Quarterly on Antitrust and Regulation).

In September 2012, CARS submitted also to the European Commission a Questionnaire providing its comments on the application of a General Block Exemption Regulation ('GBER') exempting state aid programmers/projects from the mandatory notification duty set in Article 108(3) TFEU. The submitted comments were part of the 2013 GBER review. The opinion prepared by the CARS Working Group chaired by Dr. Łukasz Grzejdziak (Faculty of Law and Administration, University of Lodz) is available on the CARS website ([http://www.cars.wz.uw.edu.pl/tresc/doradztwo/07/gber\\_questionnaire\\_pl\\_CARS\\_final.pdf](http://www.cars.wz.uw.edu.pl/tresc/doradztwo/07/gber_questionnaire_pl_CARS_final.pdf)).

*Dr. Agata Jurkowska-Gomułka*  
CARS Scientific Secretary

Warszawa, August 2013

# B I B L I O G R A P H Y 2 0 1 2

## POLAND\*

### Books (2012)

- Błachucki M., *System postępowania antymonopolowego w sprawach kontroli koncentracji przedsiębiorców* [System of antitrust proceeding in merger cases], UOKiK, Warszawa 2012.
- Bogdanowicz P., *Interes publiczny w prawie energetycznym Unii Europejskiej* [Public interest in EU energy law], C.H. BECK, Warszawa 2012.
- Czarnecka M., Oglódek T., *Prawo energetyczne. Komentarz* [Energy Law. Commentary], C.H. BECK, Warszawa 2012.
- Dzierżanowski W., *Ochrona konkurencji w prawie zamówień publicznych* [Protection of competition in public procurement law], LEX a Wolters Kluwer business, Warszawa 2012.
- Fornalczyk A., *Biznes a ochrona konkurencji* [Business and competition protection], OFICYNA a Wolters Kluwer bussiness, Warszawa 2012.
- Giedrewicz-Niwińska A., Piszcz A. (eds), *System ochrony prawnej konkurencji: zagadnienia wybrane* [System of legal protection of competition: selected issues], Wyd. Adam Marszałek, Toruń 2012.
- Grossmann T., Knopkiewicz W., Sebzda-Załużka J., Szydło M., Wilczewski J., *Ustawa o wspieraniu rozwoju usług i sieci telekomunikacyjnych. Komentarz* [Act on supporting a development of telecommunications services and networks], C.H. BECK, Warszawa 2012.
- Gorlewski B., *Kolej dużych prędkości. Uwarunkowania ekonomiczne* [High speed rail. Economic conditions], Oficyna Wydawnicza SGH, Warszawa 2012.
- Hoszman A., *Wpływ regulacji na sektor pasażerskiego transportu lotniczego* [Impact of regulation on air paasenger transport], Oficyna Wydawnicza SGH, Warszawa 2012.
- Jurczyk Z., *Kartele w polityce konkurencji Unii Europejskiej* [Cartels in EU competition policy], C.H. BECK, Warszawa 2012.
- Kohutek K., *Praktyki wykluczające przedsiębiorstw dominujących. Prawidłowość i stosowalność reguł prawa konkurencji* [Exclusionary practices of dominant undertakings. Correctness and applicability of competition law], LEX a Wolters Kluwer business, Warszawa 2012.
- Kowalik-Bańczyk K., *Prawo do obrony w unijnych postępowaniach antymonopolowych. W kierunku unifikacji standardów proceduralnych w Unii Europejskiej* [Right to defence in EU antitrust proceedings. Towards unification of procedural standards in the EU], LEX a Wolters Kluwer business, Warszawa 2012.
- Krzykowski M., *Zasada dostępu stron trzecich w prawie energetycznym Unii Europejskiej i Polski* [Principle of third party access in EU and Polish energy law], Difin, Warszawa 2012.
- Maławski M., Wieczorek A., Sosnowska H., *Konkurencja i kooperacja. Teoria gier w ekonomii i naukach społecznych* [Competition and cooperation. Game theory in economics and social sciences], Wydawnictwo Naukowe PWN, Warszawa 2012.



- Miąsik D., *Stosunek prawa ochrony konkurencji do prawa własności intelektualnej [Relationship between competition law and intellectual property law]*, LEX a Wolters Kluwer business, Warszawa 2012.
- Nowak B., *Gas market liberalization and energy security. Legal and institutional aspects*, LEX a Wolters Kluwer business, Warszawa 2012.
- Pach-Gurgul A., *Jednolity rynek energii elektrycznej w Unii Europejskiej w kontekście bezpieczeństwa energetycznego [Single market for energy in the EU in the context of energy security]*, Difin, Warszawa 2012.
- Pijet-Migoń E., *Zmiany rynku lotniczych przewozów pasażerskich w Polsce po akcesji do Unii Europejskiej [Changes in market of air passenger transport in Poland after EU accession]*, Instytut Geografii i Rozwoju Regionalnego Uniwersytetu Wrocławskiego, Wrocław 2012.
- Przybylska M., *Pozycja ustrojowa i funkcje organów regulacyjnych [Position in institutional system and functions of regulatory authorities]*, MADO, Toruń 2012.
- Sieradzka M., *Pozew grupowy jako instrument prywatnoprawnej ochrony interes konsumentów z tytułu naruszenia reguł konkurencji [Collective redress as a tool for private protection for consumers' interests in antitrust cases]*, Warszawa 2012.
- Skoczny T., *Zgody szczególne w prawie kontroli koncentracji [Special clearances in the law on merger control]*, Wyd. Naukowe WZ, Warszawa 2012.
- Sylwestrzak D., *Postępowanie przed Prezesem Urzędu Ochrony Konkurencji i Konsumentów [Proceeding before the President of Office for Competition and Consumer Protection]*, LexisNexis, Warszawa 2012.
- Szwaja J. (ed.), *Ustawa o zwalczaniu nieuczciwej konkurencji. Komentarz [Combating Unfair Competition Act. Commentary]*, Warszawa 2012.
- Wojtkowska-Łodej G., Michalski D., Hawranek P., *Zmiany uwarunkowań funkcjonowania przedsiębiorstw na rynku energii elektrycznej w Unii Europejskiej [Changes of conditions for functioning of enterprises on energy market in the EU]*, Oficyna Wydawnicza SGH, Warszawa 2012.

### Chapters in books (2012)

- Brzezińska-Rawa A., 'O granicach interwencji państwa w gospodarkę wyznaczanych przez normy unijnego prawa konkurencji' ['On limits of state intervention in economy indicated by norms of EU competition law'] [in:] Brzezińska-Rawa A., Nowicki H. (ed.), *Państwo a gospodarka [State and economy]*, Toruń 2012.
- Jurkowska-Gomułka A., 'Odpowiedzialność prawna menadżerów za antykonkurencyjne praktyki przedsiębiorców' ['Criminal liability of managers for anticompetitive practices of undertakings'] [in:] *Księga jubileuszowa z okazji 40-lecia Wydziału Zarządzania UW [Jubilee Book of the Faculty of Management, University of Warsaw]*, Wyd. Naukowe Wydziału Zarządzania UW, Warszawa 2012.
- Mamrot M., 'Decyzja zakazująca dokonania koncentracji' ['Decision prohibiting concentration'] [in:] Brzezińska-Rawa A., Nowicki H. (eds), *Państwo a gospodarka [State and economy]*, Toruń 2012.
- Materna G., 'Pozyskiwanie dowodów w sprawach antymonopolowych – granice uprawnień Prezesa UOKiK' ['Collecting evidence in antitrust cases – limits of competence of the President of Office of Competition and Consumer Protection'] [in:] Brzezińska-Rawa A., Nowicki H. (eds), *Państwo a gospodarka [State and economy]*, Toruń 2012.

- Targański B., 'Prawo ochrony konkurencji jako źródło ograniczeń w wykonywaniu praw własności intelektualnej' ['Competition law as a source of restraints in executing IPRs'] [in:] Mokrysz-Olszyńska A., Targański B., *Uwarunkowania prawne marketingu w społeczeństwie informacyjnym* [Legal conditions for marketing in information society], Oficyna Wydawnicza SGH, Warszawa 2012.
- Wiśniewski A., 'Pojęcie nieuczciwej ceny w prawie antymonopolowym' ['Concept of unfair price in antitrust law'] [in:] Brzezińska-Rawa A., Nowicki H. (eds), *Państwo a gospodarka* [State and economy], Toruń 2012.

### Articles (2012)

- Bagdziński T., 'Differentiation between entrepreneurs (on the basis of the public task criterion) and its legal consequences. Case comment to the judgment of the Court of Appeals in Warsaw of 21 April 2011 *UOKiK President v Polish Football Association and Canal + Sp. z.o.o.* (Ref no. VI ACa 996/10)' (2012) 5(7) *YARS*.
- Baran M., Doniec A., 'EU Courts' Jurisdiction over and Review of Decisions Imposing Fines in EU Competition Law' (2012) 5(6) *YARS*.
- Bator T., 'Nowe podejście do regulacji MTR w Unii Europejskiej – wybrane zagadnienia' ['New approach to MTR regulation in European Union – selected problems'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Bernat M., 'Środki tymczasowe w prawie pomocy publicznej' (cz. I i II) ['Interim remedies in state aid law' (part I and II)] (2012) 7 *Europejski Przegląd Sądowy*; (2012) 8 *Europejski Przegląd Sądowy*.
- Bernatt M., 'Can the Right To Be Heard Be Respected without Access to Information about the Proceedings? Deficiencies of National Competition Procedure' (2012) 5(6) *YARS*.
- Bernatt M., 'Prawo do rzetelnego procesu w sprawach ochrony konkurencji i regulacji rynku (na tle art. 6 EKPC)' ['The right to fair legal proceedings in the cases involving competition protection and market regulation (referring to Article 6 of the European Convention on Human Rights)'] (2012) 1 *Państwo i Prawo*.
- Bernatt M., 'Ustawa o ochronie konkurencji i konsumentów – potrzeba nowelizacji. Perspektywa sprawiedliwości proceduralnej' ['Need for revision of the Act on competition and consumer protection. A perspective of procedural fairness'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Będkowski-Koziół M., 'Kilka uwag o dogmatyce prawa energetycznego' ['Some remarks on the dogmatic jurisprudence of energy law'] (2012) 4 *Przegląd Ustawodawstwa Gospodarczego*.
- Błachnio-Parzych A., 'The Nature of Responsibility of an Undertaking in Antitrust Proceedings and the Concept of 'Criminal Charge' in the Jurisprudence of the European Court of Human Rights' (2012) 5(6) *YARS*.
- Błachucki M., 'Umiejdzynarodowienie procesów kontroli koncentracji przedsiębiorców' ['Internationalization of processes of merger control'] (2012) 1 *Ekonomia i Prawo*.
- Błachucki M., Józwiak S., 'Exchange of Information and Evidence between Competition Authorities and Entrepreneurs' Rights' (2012) 5(6) *YARS*.
- Bolecki A., 'Porozumienia zakazane ze względu na cel lub skutek – aktualne tendencje w orzecznictwie UE' ['Agreements by object or effect – current trends in EU case law'] (2012) 3(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.

- Bolecki A., 'Porozumienia zakazane ze względu na cel lub skutek w aktualnej polskiej praktyce orzeczniczej' ['Restrictions of competition by object or by effect in recent Polish case law'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Bolecki A., 'Ustalanie cen odsprzedaży. Głosa do wyroku Sądu Najwyższego z 23.11.2011 r. w sprawie III SK 21/11 *Röben Ceramika Budowlana*' ['Resale Price Maintenance – Time for Changes. Case comment to the judgment of the [Polish] Supreme Court of 23 November 2011 in case III SK 21/11 *Röben Ceramika Budowlana*'] (2012) 3(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Bożekowska-Zawisza K., 'Legislative Developments in Rail Transport in 2011' (2012) 5(7) *YARS*.
- Burdziak A., Grzybkowski M. J., Więcek D., 'Nowe możliwości liberalizacji sektora telekomunikacyjnego w aspekcie technik kognitywnych' ['New possibilities of liberalization of telecommunication sector in the context of cognitive technologies'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Chołodecki M., 'The model of judicial review of decisions issued by President of Electronic Communications Office' ['Model kontroli sądowej decyzji Prezesa Urzędu Komunikacji Elektronicznej'] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Ciupak K., 'Niech się stanie dywersyfikacja. Decyzja Komisji Europejskiej z 5.10.2011 r. o niewnoszeniu zastrzeżeń do projektu pomocy publicznej na budowę gazoportu w Świnoujściu' ['Let there be diversification. Decision of the European Commission of 5 October 2011 clearing state aid for the construction of liquefied natural gas terminal in Świnoujście'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Ciupak K., 'Występowanie i reguły zgodności pomocy publicznej w publicznym finansowaniu infrastruktury portów morskich' ['State aid or not? Legal dilemmas connected with the assessment of public financing of sea ports infrastructure'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Czernicki F., 'Legislative Developments in the Aviation Sector in 2011' (2012) 5(7) *YARS*.
- Czyżak M., 'Kara pieniężna jako instrument regulacji rynku telekomunikacyjnego' ['Financial penalty as instrument of regulation of telecommunications market'] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Danek M., 'Korzyści efektywnościowe w kontroli koncentracji przedsiębiorstw w systemach ochrony konkurencji Unii Europejskiej i Stanów Zjednoczonych Ameryki – porównanie prawno-ekonomiczne' ['Efficiencies in control of mergers between undertakings in the competition law systems of the European Union and the United States – a legal and economic comparison'] (2012) 3 *ZNUJ*.
- Elżanowski F., 'Legislative and Jurisprudential Developments in the Energy Sector in 2011' (2012) 5(7) *YARS*.
- Fidala J., 'Narzucenie minimalnych i sztywnych cen odsprzedaży z punktu widzenia celu oraz skutków rynkowych' ['Imposing minimum and fixed resale prices from the perspective of its object and market effects'] (2012) 3(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Fronczak E., 'Rola sądów krajowych w postępowaniu z zakresu pomocy państwa' ['The role of national courts in EU state aid proceedings'] (2012) 8 *Europejski Przegląd Sądowy*.
- Długosz T., 'Regulacja publicznoprawna cen energii elektrycznej i gazu w świetle orzeczenia TS w sprawie C-265/08 *Federutility*' ['Public law regulation of prices for electricity and gas in the light of the judgment of the Court of Justice in case C-265/08 *Federutility*'] (2012) 9 *Europejski Przegląd Sądowy*.

- Dyl K., 'Regulacja telekomunikacji – decyzje Prezesa UKE w porozumieniu z innym organem. Głosa do wyroku Sądu Najwyższego z dnia 24.01.2012 r., III SK 23/11' ['Telecommunications regulation – decisions of President of UKE agreed with other body'] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Gac M., 'Programy zgodności z prawem konkurencji – efektywny mechanizm w tworzeniu europejskiej kultury compliance?' ['Competition law compliance programmes – an effective mechanism in creating European compliance culture?'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Gałkowski Vignolo Laureti P., 'Usługi świadczone w ogólnym interesie i prawo antymonopolowe, włoskie i polskie rynki lokalne' ['Services of general interest and antitrust law, Italian and Polish local markets'] (2012) 1 *Przegląd Prawa Publicznego*.
- Gołąb Ł., 'Kilka uwag o potrzebie zmian w systemie sądowej kontroli decyzji i postanowień Prezesa Urzędu Transportu Kolejowego' ['A few remarks on a necessity of changes in a system of juridical control of decision of the President of Rail Transport Office'] (2012) 3 *Kwartalnik Prawa Publicznego*.
- Gołąb Ł., 'Umowa jako instrument realizacji prawa dostępu do infrastruktury kolejowej' ['Agreement as an instrument for enforcement of the right to get access to railway infrastructure'] (2012) 2 *Przegląd Ustawodawstwa Gospodarczego*.
- Górska M. A., 'Concurrence of wills – a necessary ingredient of an agreement restricting competition. Case comment to the judgment of Court of Competition and Consumer Protection of 8 February 2011 – ZST Gamrat S.A. v President of the Office of Competition and Consumer Protection (Ref. No. XVII Ama 16/10)' (2012) 5(6) *YARS*.
- Hoff W., 'Book review: Stanisław Piątek, *Sieci szerokopasmowe w polityce telekomunikacyjnej*' [*Broadband Networks in Telecommunications Policy*], Wydawnictwo Naukowe Wydziału Zarządzania, Warszawa 2011' (2012) 5(7) *YARS*.
- Jurkowska-Gomułka A., 'Key Legislative and Jurisprudential Developments of Polish Antitrust Law in 2011' (2012) 5(7) *YARS*.
- Jurkowska-Gomułka A., 'Między efektywnością walki z kartelami a efektywnością dochodzenia roszczeń z tytułu naruszenia art. 101 ust. 1 TFUE – głosa do wyroku TS z 14.06.2011 r. w sprawie C-360/09 Pflaiderer AG v. Bundeskartellamt' ['Between efficiency of fight against cartels and efficiency of pursuing claims for infringement of Art. 101(1) TFEU – commentary on CoJ judgment of 14 June 2011 in case C-360/09 Pflaiderer AG v. Bundeskartellamt'] (2012) 7 *Europejski Przegląd Sądowy*.
- Jurkowska-Gomułka A., 'Stosowanie zakazu porozumień ograniczających konkurencję zorientowane na ocenę skutków ekonomicznych? Uwagi na tle praktyki decyzyjnej Prezesa Urzędu Ochrony Konkurencji i Konsumentów w odniesieniu do ustawy o ochronie konkurencji i konsumentów z 2007 roku' ['Effects-oriented application of the prohibition of competition restricting agreements? Some comments on the decisions issued by the Polish competition authority on the basis of the Competition Act of 2007'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Karski L., 'Podsystem wsparcia odnawialnych źródeł ciepła w ramach systemów ciepłowniczych, ze szczególnym uwzględnieniem instrumentów pośrednich – aspekty prawne' ['The sub-system of support for renewable heat sources in the district heating systems, with particular focus on indirect instruments – legal aspects'] (2012) 3 *Przegląd Ustawodawstwa Gospodarczego*.
- Karski L., 'Podstawowe instrumenty wsparcia odnawialnych źródeł ciepła w ramach sieci ciepłowniczych – aspekty prawne' ['The main instruments to support renewable heat

- sources in the district heating networks – legal aspects’] (2012) 8 *Przegląd Ustawodawstwa Gospodarczego*.
- Kawka I., ‘Commission guidelines on market analysis and the assessment of significant market power do not impose obligations on individuals. Case comment to the preliminary ruling of the Court of Justice of the European Union of 12 May 2011 *Polska Telefonia Cyfrowa sp. z o.o.(PTC) v Prezes Urzędu Komunikacji Elektronicznej*’ (2012) 5(7) *YARS*.
- Kiljański K., Bakhtieva D., ‘Universal Service Obligation and Loyalty Effects: An Agent-Based Modelling Approach’ (2012) 5(7) *YARS*.
- Kawka I., ‘Rights of an Undertaking in Proceedings Regarding Commitment Decisions under Article 9 of Regulation No. 1/2003’ (2012) 5(6) *YARS*.
- Klehr K., ‘Polityka rabatowa przedsiębiorców dominujących w świetle orzecznictwa z zakresu prawa konkurencji – przegląd orzecznictwa [‘Rebate policy of the dominant entrepreneurs in the light of judicial decisions in the area of competition law – case law review’] (2012) 4 *Glosa*.
- Kohutek K., ‘Aprobata testu efektywności i odrzucenie warunku niezbędności dla oceny praktyki nożyc cenowych w świetle art. 102 TFUE – glosa częściowo krytyczna do wyroku Trybunału Sprawiedliwości z 17.02.2011 r. w sprawie C-52/09 *Konkurrensverket v. TeliaSonera*’ [‘Approval of efficiency test and rejection of the indispensability condition for the purpose of legal assessment of margin squeeze under Art. 102 TFEU – partially critical commentary on Court of Justice judgment of 17 February 2011 in case C-52/09 *Konkurrensverket v TeliaSonera*’] (2012) 4 *Glosa*.
- Kohutek K., ‘Cena nieobniżona mimo pogorszenia parametrów jakościowych usługi ceną nieuczciwą w rozumieniu art. 9 ust. 2 pkt 1 uokik Glosa do wyroku Sądu Najwyższego z 13 lipca 2012 r., III SK 44/11 *Autostrada Małopolska*’ [‘A steady price despite the fall in service quality as an unfair price under Article 9(2(1)) of the Competition Act. Case comment to the judgment of the Supreme Court of 13 July 2012, III SK 44/11 *Autostrada Małopolska*’] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Kociubiński J., ‘Kryterium korzyści w kontroli pomocy publicznej w prawie UE’ [‘Advantage criterion in state aid control in EU law’] (2012) 12 *Europejski Przegląd Sądowy*.
- Kociubiński J., ‘Prywatyzacja zadań władzy publicznej w świetle unijnego prawa konkurencji’ [‘Privatisation of public service tasks in the light of EU competition law’] (2012) 9 *Przegląd Ustawodawstwa Gospodarczego*.
- Kociubiński J., ‘Szczególne kategorie przedsiębiorstw w europejskim prawie konkurencji’ [‘Special categories of undertakings in European competition law’] (2012) 5-6 *Palestra*.
- Kohutek K., ‘Pięciolecie stosowania zakazu nadużywania pozycji dominującej w świetle uokik z 2007: kształtowanie się wykładni kluczowych pojęć’ [‘Five years of the application of the prohibition of a dominant position abuse in the light of the Competition Act 2007: the evolution of the interpretation of its key concepts’] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Kolasiński M.K., ‘Dopuszczalność ograniczania tajemnicy adwokacko-radcowskiej w imię zapewnienia skuteczności prawa konkurencji Unii Europejskiej – glosa do wyroku Trybunału Sprawiedliwości z 14.09.2010 r. w sprawie C-550/07 P *Akzo Nobel Chemicals Ltd i Akros Chemicals Ltd v. Komisja Europejska*’ [‘Permissibility of limiting the scope of legal professional privilege in order to ensure the efficiency of the EU competition law – commentary on CoJ judgment of 14 September 2010 in case C-550/07 P *Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v European Commission*’] (2012) 2 *Glosa*.

- Kolasiński M.K., 'Polityka kontroli koncentracji w Polsce – stan obecny i możliwe zmiany' ['Polish merger control policy – current state of play and possible changes'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Kolasiński M.K., 'Maciej Bernatt, *Sprawiedliwość proceduralna w postępowaniu przed organem ochrony konkurencji* [Procedural fairness in the proceedings before the competition authority], Wydawnictwo Naukowe Wydziału Zarządzania, Warszawa 2011' (2012) 5(7) *YARS*.
- Koźnierzak L., 'Stosowanie kar pieniężnych z tytułu naruszenia ustawy antymonopolowej – praktyka i postulaty de lege ferenda' ['Application of fines for Competition Act infringements – practice and de lege ferenda proposals'] (2012) 1 *Kwartalnik Prawa Publicznego*.
- Koralewski P., 'Usługi oparte na przetwarzaniu danych geograficznych' ['Services based on processing geographical data'] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Korn K., 'Określanie rynku właściwego w orzecznictwie Trybunału Sprawiedliwości Unii Europejskiej w latach 1997–2010' ['Relevant market definition in case law of the Court of Justice of the European Union in 1997–2010'] (2012) 2 *ZNUJ*.
- Kosmala K., 'Legislative and Jurisprudential Developments in Telecommunications Sector in 2011' (2012) 5(7) *YARS*.
- Kostecka-Jurczyk D., 'Nożyce kosztowo-cenowe jako nadużycie pozycji dominującej. Glosa do wyroku TSUE z 17.02.2011 w sprawie C-52/09 *Konkurrensverket przeciwko TeliaSonera Sverige AB*' ['Margin squeeze as abuse of dominant position. Case comment to the judgment of the Court (First Chamber) of 17 February 2011, *Konkurrensverket v TeliaSonera Sverige AB*'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Kowalik-Bańczyk K., 'Jednolite stosowanie unijnego prawa konkurencji jako ograniczenie dla autonomii proceduralnej krajowych organów ochrony konkurencji – glosa do wyroku TS z 3.05.2011 r. w sprawie C-375/09 *Prezes UOKiK v. Tele 2 (obecnie Netia)*' ['Uniform application of EU competition law as restriction of procedural autonomy of national competition protection authorities – commentary about CoJ judgment of 3 May 2011 in case C-375/09 *Prezes UOKiK v Tele 2 (now Netia)*'] (2012) 2 *Europejski Przegląd Sądowy*.
- Kowalik-Bańczyk K., 'Procedural Autonomy of Member States and the EU Rights of Defence in Antitrust Proceedings' (2012) 5(6) *YARS*.
- Kozak M., 'Odmowa statusu autoryzowanego dystrybutora w systemie dystrybucji selektywnej – glosa do wyroku TS z 14.06.2012 r. w sprawie C-158/11 *Auto 24 SARL v. Jaguar Land Rover France SAS*' ['Refusal of a status of authorized distributor in a selective distribution system' – commentary about CoJ judgment of 14 June 2012 in case C-158/11 *Auto 24 SARL v. Jaguar Land Rover France SAS*'] (2012) 12 *Europejski Przegląd Sądowy*.
- Kozak M., 'Umowa agencyjna w świetle artykułu 101 TFUE. Jak gonić króliczka, aby go nie złapać' ['Agency in the light of Article 101 TFEU. How to chase a rabbit without actually catching it?'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Krajewska E., 'Settlement w świetle doświadczeń europejskich – w poszukiwaniu najlepszych rozwiązań' ['Settlement in the light of European experiences. In search of optimal solutions'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Król-Bogomiłska M., 'Program łagodzenia kar (leniency) w polskim prawie antymonopolowym – po pięciu latach obowiązywania ustawy' ['Leniency programme in the Polish

- anti-monopoly legislation – after five years of application of the law’] (2012) 4 *Europejski Przegląd Sądowy*.
- Król-Bogomilska M., ‘Standards of Entrepreneur Rights in Competition Proceedings a Matter of Administrative or Criminal Law?’ (2012) 5(6) *YARS*.
- Kwiatkowska E.M., ‘Ilościowe i jakościowe metody oceny konkurencyjności rynków telekomunikacyjnych w postępowaniach antymonopolowych i regulacyjnych’ [‘Competitiveness of the telecommunication markets – quantitative and qualitative evaluation methods in antitrust and sector specific regulations proceedings’] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Kuik K., ‘Book review: Ewelina D. Sage, *European Audiovisual Sector – Where business meets society’s needs*, Wydawnictwo Naukowe Wydziału Zarządzania, Warszawa 2011’ (2012) 5(7) *YARS*.
- Kuik K., Mościbroda A., ‘2010 and 2011 EU Competition Law and Sector-specific Regulatory Case Law Developments with a Nexus to Poland’ (2012) 5(6) *YARS*.
- Lewandowski M., ‘Sankcja nieważności w ustawie antymonopolowej – problematyka kompetencji organów w przedmiocie ustalania naruszenia zakazów antymonopolowych’ [‘Invalidity sanction in antitrust law – analyzing competences of institutions in verifying violations of antitrust ban’] (2012) 2 *Przegląd Prawa Handlowego*.
- Marszałek M., ‘Brak unijnego jednolitego modelu wsparcia wytwórców energii elektrycznej z odnawialnych źródeł lub kogeneracji – normatywne zakłócenie konkurencji’ [‘The Lack of a Uniform UE Model of Support for Producers of Electricity from Renewable Sources or Cogeneration – How Legal Acts May Disrupt the Competition’] (2012) 12 *Europejski Przegląd Sądowy*.
- Materna G., ‘Granice zastosowania zakazu nadużywania pozycji dominującej do działalności organizatorskiej samorządu terytorialnego – przegląd orzecznictwa Sądu Najwyższego’ [‘Limits of application of the rules on the abuse of dominant position to the organisational activities of local government units – review of Supreme Court case law’] (2012) 2 *Glosa*.
- Materna G., ‘Prowadzenie postępowań antymonopolowych w sprawach antykonkurencyjnych porozumień dystrybucyjnych przeciwko ich organizatorom’ [‘Conducting antimonopoly proceedings in the cases of distribution agreements solely against organizers of distribution systems’] (2012) 5 *Przegląd Prawa Handlowego*.
- Materna G., ‘Sądowy nadzór nad wykonywaniem kontroli (przeszukania) u przedsiębiorcy w toku postępowania przed Prezesem UOKiK’ [‘Juridical supervision on control (search) execution in entrepreneur’s seat during the proceeding before President of Consumer and Competition Protection Office’] (2012) 7 *Przegląd Ustawodawstwa Gospodarczego*.
- Maziarz A., ‘Eksterytorialne stosowanie unijnego prawa konkurencji’ [‘Extraterritorial application of EU competition law’] (2012) 5 *Państwo i Prawo*.
- Maziarz A., ‘Ewolucja ustalania kolektywnej pozycji dominującej w prawie UE’ [‘Evolution of setting a collective dominant position in EU competition law’] (2012) 5. *Przegląd Ustawodawstwa Gospodarczego*.
- Mednis A., ‘Zmiana stawek opłat z tytułu dostępu telekomunikacyjnego – wybrane zagadnienia’ [‘Change of rates for telecommunications access – selected problems’] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Miąsik D., ‘Ustawa o ochronie konkurencji i konsumentów a prawo własności intelektualnej – czy art. 2 ustawy jest w ogóle potrzebny?’ [‘Is a normative regulation of the

- IP/antitrust interface really needed?'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Nesterowicz M.A., 'Nowa brazylijska ustawa o systemie ochrony konkurencji' ['New Brazilian Act on Competition Protection System'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Nowak B., 'Shortcomings of the Energy Market Liberalization in the European Union' (2012) 4 *European Public Law*.
- Olender-Skorek M., 'To Regulate Or Not to Regulate? – Economic Approach to Indefeasible Right of Use (IRU)' (2012) 5(7) *YARS*.
- Piątek S., 'Nowa strategia regulacyjna na rynku telekomunikacyjnym' ['New regulatory strategy for telecommunications market'] (2012) 6(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piątek S., 'Usługi telekomunikacyjne o podwyższonej opłacie' ['Premium Rate Services'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piszcz A., 'Kilka uwag do projektu założeń ustawy o zmianie ustawy o ochronie konkurencji i konsumentów' ['A few remarks on the draft assumptions for an Act amending the Act on competition and consumer protection'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piszcz A., 'Uwagi do Wyjaśnień w sprawie wydawania decyzji zobowiązującej w sprawach praktyk ograniczających konkurencję oraz praktyk naruszających zbiorowe interesy konsumentów' ['Remarks to the Guidelines for issuance of commitment decisions in cases of competition-restricting practices and practices infringing collective consumer interests'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piszcz A., 'Zmiany w polskim prawie antymonopolowym w latach 2010-2011' (część 1 i 2) ['Review of changes to Polish competition law in 2010-2011' (part 1 and 2)] (2012) 1(1) and 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piszcz A., 'Przegląd polskiego orzecznictwa antymonopolowego za lata 2010-2011' (część 1 i 2) ['Review of Polish antitrust case law from 2010-2011' (part 1 and 2)] (2012) 1(1) and 1(3) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Piszcz A., 'Still-unpopular Sanctions: Developments in Private Antitrust Enforcement in Poland After the 2008 White Paper' (2012) 5(7) *YARS*.
- Przybojewska I., 'Poszukiwanie i wydobywanie gazu niekonwencjonalnego w Polsce' ['The exploration and exploitation of unconventional gas in Poland'] (2012) 7 *Europejski Przegląd Sądowy*.
- Radomyski M., 'The *EMPiK* and *Merlin* concentration prohibition: Would the European Commission reach a similar verdict? Case comment to the decisions of the President of the Office of Competition and Consumer Protection of 4 November 2010 *Polska Telefonii Cyfrowa Sp. z o.o.* (DOK-9/2010) and of 24 February 2011 *Polkomtel SA* (DOK-1/2011)' (2012) 5(6) *YARS*.
- Rogalski M., 'Zmiany w zakresie umów o świadczenie usług telekomunikacyjnych' ['Changes in the Telecommunications Law concerning agreements on the provision of telecommunications services'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Rosiak P., 'The *ne bis in idem* Principle in Proceedings Related to Anti-Competitive Agreements in EU Competition Law' (2012) 5(6) *YARS*.
- Różyk-Rozbicka I., 'Możliwości kwestionowania decyzji regulacyjnych Prezesa UKE na gruncie prawa ochrony konkurencji' ['The opportunities to challenge regulatory decisions



- of the President of the Office of Electronic Communications pursuant to the provisions of competition law'] (2012) 5(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Rudolf S., 'Recenzja książki B. Borkowskiej *Regulacja monopolu naturalnego w teorii i praktyce*' ['Review of a book by B. Borkowska *Regulation of natural monopoly in theory and practice*'] (2012) 1 *Ekonomista*.
- Rutkiewicz K., 'System kontroli i egzekwowania prawa pomocy publicznej w Unii Europejskiej – kompetencje Komisji Europejskiej i jej współpraca z sądami państw członkowskich w latach 2000–2010' ['System of control and enforcement of state aid law in the EU – competences of the European Commission and its cooperation with courts in member States'] (2012) 2 *Ekonomia i Prawo*.
- Sage E.D., 'Book review: Katarzyna Chałubińska-Jentkiewicz, *Media audiowizualne. Konflikt regulacyjny w dobie cyfryzacji* [*Audiovisual Media: regulatory conflict in the digitalisation era*], Wolters Kluwer Polska – LEX, Warszawa 2011' (2012) 5(7) *YARS*.
- Sieradzka M., 'Dochodzenie roszczeń odszkodowawczych z tytułu naruszenia unijnego i krajowego prawa konkurencji' (część 1 i 2) ['Pursuing claims on the grounds of infringement of the EU and national competition law' (part I and II)] (2012) 1 *Przegląd Ustawodawstwa Gospodarczego*; (2012) 2 *Przegląd Ustawodawstwa Gospodarczego*.
- Sieradzka M., 'Instrumenty ochrony konsumentów w ustawie o ochronie konkurencji i konsumentów z 2007 r. – potrzeba zmian?' ['Consumer protection instruments in the Competition and Consumer Protection Act 2007 – the need for changes?'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Sieradzka M., 'Wykładnia pojęcia rażąco niskiej ceny w świetle orzecznictwa z zakresu zamówień publicznych – przegląd orzecznictwa' ['Interpretation of the term predatory pricing in the light of public procurement judicial decisions – case law review'] (2012) 1 *Glosa*.
- Skurzyński P., 'Nowe wytyczne Komisji w sprawie ograniczeń wertykalnych a pobieranie innych niż marża handlowa opłat za przyjęcie towaru do sprzedaży' ['New Commission's Guidelines on Vertical Restraints and charging fees other than the trade margins for accepting goods for sale'] (2012) 6 *Przegląd Prawa Handlowego*.
- Sroczyński J., 'Naruszenie zbiorowych interesów konsumentów: decyzja zobowiązująca (uwagi praktyczne i *de lege ferenda*)' [Violations of collective consumer interests: commitment decisions (practical remarks and *de lege ferenda* proposals)] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Stankiewicz R., 'Między ochroną konkurencji a regulacją sektorową. Ustrojowe granice rozdzielania obszarów ingerencji państwa w gospodarce' ['Between competition protection and sector-specific regulation. Delimitation of areas of state intervention'] (2012) 1 *Ekonomia i Prawo*.
- Stankiewicz R., 'O konieczności zwiększenia partycypacji podmiotów trzecich w postępowaniu antymonopolowym' ['About the need to increase the participation of the third subjects in anti-monopoly proceedings'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Stankiewicz R., 'The Scope of Application of the Provisions of the Administrative Procedure Code in Competition Enforcement Proceedings' (2012) 5(6) *YARS*.
- Stawicki A., 'Competence of Common Courts in Poland in Competition Matters' (2012) 5(6) *YARS*.

- Stawicki A., 'Porozumienia zakazane ze względu na cel a porozumienia zakazane ze względu na skutek' ['Restrictions by "object" and restrictions by "effect" under Polish competition law: in search of delineation'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Stefanicki R., 'Zasada *ne bis in idem* w procesie wykonywania prawa konkurencji' ['*Ne bis in idem* principle in the competition law in action'] (2012) 8 *Przegląd Prawa Handlowego*.
- Syp Sz., 'Doktryna upadającej firmy' ['Failing firm doctrine'] (2012) 5 *Państwo i Prawo*.
- Syp Sz., 'O odpowiedzialności finansowej osób fizycznych w polskim prawie konkurencji – de lege lata i de lege ferenda' ['On the issue of financial liability of managers in the new Polish Competition Act'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Syp Sz., 'Postulowane zmiany w prawie kontroli koncentracji – uwagi na tle propozycji Prezesa Urzędu Ochrony Konkurencji i Konsumentów' ['The proposed changes in the merger control law – a few remarks on the proposal of the Office of Competition and Consumer Protection'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Szablewski A., 'Liberalizacja rynku a bezpieczeństwo dostaw gazu' ['Market liberalization and security of gas supplies'] (2012) 5–6 *Gospodarka Narodowa*.
- Szanciflo T., 'Stosowanie wzorca operatora publicznego do operatora niepublicznego a ochrona interesów konsumentów' ['The use of standard of publi operator to the non-public operator to protect the interests of the consumers'] (2012) 3 *Studia Prawnicze*.
- Szczodrowski J., 'Standard of Judicial Review of Merger Decisions Concerning Oligopolistic Markets' (2012) 5(6) *YARS*.
- Szot P., 'Microsoft – unijny standard uznawania odmowy udzielenia licencji za nadużycie pozycji dominującej – glosa do wyroku Sądu z 17.09.2007 r. w sprawie T-201/04 Microsoft v. Komisja WE' ['Microsoft – EU standard of recognizing refusal to grant license as abuse of dominant position – commentary on CFI judgment of 17 September 2007 in case T-201/04 Microsoft v Commission of the EC'] (2012) 3 *Europejski Przegląd Sądowy*.
- Szot P., Zięba A., 'Umowy dystrybucyjne w przemyśle samochodowym w nowym systemie wyłączeń grupowych' ['Distribution agreements in the motor vehicle industry in the new system of block exemptions'] (2012) 3(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Szwedziak I., 'Program Leniency w unijnym prawie ochrony konkurencji' ['Leniency Programme in the EU competition law'] (2012) 1 *Kwartalnik Prawa Publicznego*.
- Szwedziak I., 'Is the parallel competence set out in Regulation 1/2003 totally clear? Case comment to the preliminary ruling of the Court of Justice of 3 May 2011 *Tele 2 v President of Office of Competition and Consumer Protection* (Case C-375/09)' (2012) 5(7) *YARS*.
- Śliwa R., 'Separacja operatora telekomunikacyjnego jako narzędzie regulacji rynku. Przypadek sektora telekomunikacyjnego w Polsce' (2012) 1 *Ekonomia i Prawo*.
- Turno B., 'Model sądowej kontroli decyzji Prezesa Urzędu Ochrony Konkurencji i Konsumentów' ['The model of judicial control of decisions of the President of the Office of Competition and Consumer Protection'] (2012) 10 *Państwo i Prawo*.
- Turno B., 'Kategoria porozumień zakazanych ze względu na cel w unijnym oraz polskim prawie ochrony konkurencji' ['Category of agreements prohibited by object in EU and Polih competition law'] (2012) 2 *Kwartalnik Prawa Publicznego*.

- Turno B., Zawłocka-Turno A., 'Legal Professional Privilege and the Privilege Against Self-Incrimination in EU Competition Law after the Lisbon Treaty – Is It Time for a Substantial Change?' (2012) 5(6) *YARS*.
- Walaszek-Pyziół A., 'ENTSO E – nowa forma instytucjonalnego współdziałania w celu stworzenia wspólnego rynku energii elektrycznej na obszarze Unii Europejskiej' ['ENTSO-E – a new form of institutional co-operation in order to create common electricity market in EU region'] (2012) 9 *Przegląd Ustawodawstwa Gospodarczego*.
- Wolski D., 'Wybrane zagadnienia z zakresu wydawania i realizacji decyzji udzielających warunkowej zgody na dokonanie koncentracji przedsiębiorców' ['Selected issues from the scope of issuing and fulfillment of decisions on conditional consent to concentration of entrepreneurs'] (2012) 2(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Zawisza-Bożekowska K., 'Czy wciąż potrzebne jest nam krajowe prawo konkurencji? Głosa do wyroku Trybunału Sprawiedliwości UE z dnia 14 lutego 2012 r. w sprawie C-17/10 *Toshiba Corporation i inni przeciwko Úřad pro ochranu hospodářské soutěže*' ['Do we still need national competition laws? Case comment to the judgment of the Court of Justice of 14 February 2012 C-17/10 *Toshiba v Úřad pro ochranu hospodářské soutěže*'] (2012) 1(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Zawłocka-Turno A., 'Zmowa przetargowa czy działanie zgodne z prawem? Problemy na styku prawa konkurencji i prawa zamówień publicznych' ['Bid rigging or action allowed by law? The interplay between competition law and public procurement law'] (2012) 4(1) *internetowy Kwartalnik Antymonopolowy i Regulacyjny*.
- Zielińska M., 'Legislative and Jurisprudential Developments in the Postal Sector in 2011' (2012) 5(7) *YARS*.
- Żurawik A., 'Klauzula interesu publicznego w prawie gospodarczym krajowym i unijnym' ['Public interest clauses in Polish and EU commercial law'] (2012) 12 *Europejski Przegląd Sądowy*.

## CROATIA\*

### Chapters in books (2012)

- Cerovac M., 'Nadzor koncentracija poduzetnika: novine u hrvatskom zakonodavstvu' ['Merger control: novelties in Croatian law'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [*Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers*], Zagreb, Ekonomski fakultet, 2012.
- Liszt M., 'Ugovori o isključivoj distribuciji i poduzetnici s tržišnim udjelom većim od 30 %' ['Exclusive distribution agreements and undertakings with more than 30% market share'] [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [*Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers*], Zagreb, Ekonomski fakultet, 2012.

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- Marušić Kontent G., 'Kriteriji za izricanje kazneno-upravnih mjera: novine u hrvatskom zakonodavstvu' ['Criteria for pronouncing administrative fines: novelties in Croatian law'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.
- Patrlj V., 'Vertikalni sporazumi: novine u hrvatskom zakonodavstvu' ['Vertical agreements: novelties in Croatian law'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.
- Pecotić Kaufman J., 'Kartelni sporazumi i usklađeno djelovanje: kad je paralelno ponašanje poduzetnika nezakonito?' ['Cartel agreements and concerted practice: when is parallel behaviour of undertakings illegal?'] [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.
- Pecotić Kaufman J., 'Nadzor koncentracija poduzetnika na tržištu robe široke potrošnje u Hrvatskoj' ['Merger control in grocery market in Croatia'], [in:] Knego N., Renko S., Knežević B, (eds), *Promjene u trgovini na malo u Hrvatskoj* [Changes in grocery retail sector in Croatia], Zagreb 2012.
- Petrović S., 'Nadležnost tijela za zaštitu tržišnog natjecanja: aktualni prijepori' ['Competence of the competition authority: recent controversies'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.
- Porobija B., 'Odbijanje poslovanja kao oblik zloporabe vladajućeg položaja' ['Refusal to deal as a form of abuse of dominant position'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.
- Tot I., 'Kazna zatvora za kaznena djela protiv slobode tržišnog natjecanja u hrvatskom pravu de lege ferenda' ['Prison sentence for crimes against free competition in Croatian law de lege ferenda'], [in:] Pecotić Kaufman J. (ed.), *Pravo tržišnog natjecanja: novine u hrvatskom i europskom zakonodavstvu i praksi: zbornik radova* [Competition Law: Novelties in Croatian and European Law and Practice: The Collected Papers], Zagreb, Ekonomski fakultet, 2012.

### Articles (2012)

- Anić I.-D., Budak J., Pecotić Kaufman J., Radas S., Rajh E., Slijepčević S., *Studija: Mjerodavno tržište i tržišni udjeli u trgovini na malo u Hrvatskoj i EU* [Study: relevant market and market shares in grocery retail sector in Croatia and EU], Ekonomski institut, Zagreb, Zagreb, March 2012 (available at <http://www.eizg.hr/hr-HR/Mjerodavno-trziste-i-trzisni-udjeli-u-trgovini-na-malo-u-Hrvatskoj-i-EU-810.aspx>)
- Bouček V., 'Europsko kartelno privatno pravo u Uredbi Rim II' ['European Cartel Private Law in Regulation Rome II'] (2012) 62(5-6) *Zbornik Pravnog fakulteta u Zagrebu*.

- Dumičić K., Pavković A., Akalović Antić J., 'Mjerenje koncentracije u bankarstvu u Republici Hrvatskoj' ['Measuring Concentration in Banking Sector in the Republic of Croatia'] (2012) 10(2) *Zbornik Ekonomskog fakulteta u Zagrebu*.
- Pecotić Kaufman J., 'How to Facilitate Damage Claims? Private Enforcement of Competition Rules in Croatia – Domestic and EU Law Perspective' (2012) 5(7) *YARS*.
- Pošćić A., 'Dokazivanje predatornih cijena u europskom pravu tržišnog natjecanja' ['Proving predatory prices in European Competition Law'] (2012) 4, 3(105) *Zbornik radova Pravnog fakulteta u Splitu*.
- Pošćić A., 'Utvrđivanje mjerodavnog tržišta proizvoda u okviru članka 102. Ugovora o funkcioniranju Europske unije s naglaskom na odabir potrošača' ['Defining Relevant Product Market within the Framework of Article 102 TFEU with emphasis on consumer's choice'] (2012) 62(5-6) *Zbornik Pravnog fakulteta u Zagrebu*.
- Prebežac D., 'Državne potpore kao instrument poticanja zračnog prometa: studija slučaja Europske unije i Republike Hrvatske' ['State Aid as an Instrument of Encouraging Air Traffic: European Union and the Republic of Croatia Case Study'] (2012) 10(2) *Zbornik Ekonomskog fakulteta u Zagrebu*.
- Spevec O., 'Reforma i modernizacija politike državnih potpora u EU i posljedice za Hrvatsku' ['Reform and Modernisation of State Aid Policy in the EU and impacts on Croatia'] (2012) 58(9) *Računovodstvo i financije*.

## CZECH REPUBLIC\*

### Books (2012)

- Černoch F., Zapletalová V., *Energetická politika Evropské unie [Energy policy of the European Union]* Masarykova univerzita, Brno 2012.
- Janků M., Mikušová J., *Veřejné podpory v soutěžním právu EU [State aid in EU competition law]*, C.H.Beck, Praha 2012.
- Munková J., Kindl J., Svoboda P., *Soutěžní právo [Competition law]*, C.H.Beck, Praha 2012.
- Ondřejová A., *Zásada ne bis in idem v konání o porušení sůtažného práva [Ne bis in idem rule in antitrust proceedings]* Key Publishing, Ostrava 2012.
- Poláček B., *Mezinárodní říční doprava [International transport law]*, C.H.Beck, Praha 2012.
- Vlček T., Černoch F., *Energetický sektor České republiky [Energy sector of the Czech Republic]*, Masarykova univerzita, Brno 2012.

### Articles (2012)

- Bartáková H., Skalka P., 'Z rozhodnutí českých soudů v oblasti ochrany hospodářské soutěže' (2012) 3 *Antitrust*.
- Brodec J., Trnka O., Stanková E., 'Veřejné podpory podle nových pravidel' ['New rules for state aid'] (2012) 9 *Právní rádce*.
- Brouček M., 'Analýza kritické ztráty a vymezení relevantního trhu' ['Analysis of critical loss and an identification of relevant market'] (2012) 1 *Antitrust*.

---

\* Compiled by Roman Svetnický, Havel, Holásek & Partners.

- Brouček M., 'Případ Post Danmark: Vyjasnil Soudní dvůr pravidla pro posuzování selektivního snižování cen dominantními podniky?' ['Post Denmark case: did ECJ explained rules for assessing selective price decreases by dominant firms?'] (2012) 2 *Antitrust*.
- Brouček M., 'Více ekonomický přístup a Úřad pro ochranu hospodářské soutěže' ['More economic approach and Czech competition authority'] (2011/2012) *Antitrust – ročenka*.
- Donathová B., Majer O., 'Kontrola koncentrací v regionu střední a východní Evropy' ['Merger control in Central and Eastern Europe'] (2011/2012) *Antitrust – ročenka*.
- Drbal A., 'Z rozhodovací praxe Úřadu pro ochranu hospodářské soutěže' ['From decisional practice of Czech competition authority'] (2012) 1 *Antitrust*; (2012) 2 *Antitrust*; (2012) 3 *Antitrust*.
- Glogarová J., 'Koncernová propojení obecně a z hlediska ochrany hospodářské soutěže' ['Holding interconnections generally and from the competition law perspective'] (2012) 3 *Právní fórum*.
- Houška T., 'Soutěž s lidskou nedokonalostí (Behaviorální ekonomie v hospodářské soutěži)' ['Competition with human imperfection (behavioral economy in competition)'] (2012) 2 *Antitrust*.
- Jandová K., Pávková L., 'Komentovaný výběr z rozhodnutí Soudního dvora a Tribunálu' ['Comments on selected judgments of CEUJ'] (2012) 3 *Antitrust*.
- Jandová K., Svejovský V., 'Komentovaný výběr z rozhodnutí Soudního dvora a Tribunálu' ['Comments on selected judgments of CEUJ'] (2012) 1 *Antitrust*; (2012) 2 *Antitrust*.
- Januš J., 'Energetické právo' ['Energy law'] (2012) 9 *Právní rádce*.
- Kindl J., 'Cenová diskriminace je „zlem“ opravdu jen výjimečně' ['Price discrimination is bad only in exceptional circumstances'] (2012) 3 *Antitrust*.
- Musil A., 'Application of Competition Law in the Food Sector in the European Union' (2012) 2 *Antitrust*.
- Musil A., 'Interface between Competition policy and Consumer policy' (2012) 1 *Antitrust*.
- Musil A., 'Regulation vs Competition in Energy Sector' (2012) 3 *Antitrust*.
- Oberfalcerová K., 'Ochrana žadatele o Leniency a přístup do spisu v rámci řízení před ÚOHS' ['Protection of leniency applicant and an access to documents in the proceeding before Czech competition authority'] (2012) 1 *Antitrust*.
- Oberfalcerová K., 'Pokřivená aplikace doktríny EssentialFacilities v EU a ČR' ['Distorted application of essential facilities doctrine in EU and Czech Republic'] (2011/2012) *Antitrust – ročenka*.
- Pelikán R., 'Mobilní telefonie v ČR z pohledu práva hospodářské soutěže' ['Mobile phones in the Czech Republic from a point of view of competition law'] (2012) 3 *Antitrust*.
- Petr M., 'Významná rozhodnutí českého soutěžního úřadu v roce 2011' ['Significant decisions of Czech competition authority in 2011'] (2011/2012) *Antitrust – ročenka*.
- Pomahač R., 'Soudní dvůr EU: Souběžné trestání účastníků kartelových dohod' ['CEUJ: simultaneous fining of cartel participants'] (2012) 6 *Obchodně právní revue*.
- Poremská M., 'Může se při podání společné nabídky po prokázání splnění kvalifikace v užším řízení vyskytnout bid-rigging?' ['Could bid-rigging occur in case of joint offers after proving the qualification in the procedure?'] (2012) 11 *Právní fórum*.
- Příb J., 'K problematice bid-riggingu ve veřejných zakázkách v České republice' ['On bid-rigging in public procurement in the Czech Republic'] (2012) 2 *Antitrust*.
- Schenkova K., 'Výměna informací v rozhodovací praxi Evropské komise a národních soutěžních úřadů' ['Information exchange in decisional practice of the European Commission and national competition authorities'] (2012) 2 *Antitrust*.

- Skalka P., 'Judikatura českých soudů v oblasti ochrany hospodářské soutěže v uplynulém roce' ['Jurisprudence of Czech courts in competition cases in a previous year'] (2011/2012) *Antitrust – ročenka*.
- Skalka P., 'Z rozhodnutí českých soudů v oblasti ochrany hospodářské soutěže' ['From practice of Czech courts in competition cases'] (2012) 1 *Antitrust*; (2012) 2 *Antitrust*.
- Smolek M., 'Toshiba – Přelet nad kukaččím hnízdem? (Ke vztahu unijního a vnitrostátního práva hospodářské soutěže ve čtyřech nefilmových obrazech)' ['Toshiba – One Flew Over the Cuckoo's Nest (Relationships of EU and national competition law in four non-film pictures)'] (2012) 1 *Antitrust*.
- Valušková Z., Prunner V., 'Zákon o významné tržní síle nově a lépe?' ['Act on a significant position, new and better?'] (2012) 1 *Antitrust*.
- Vaníček Z., 'Regulace elektronických komunikací ex ante a ex post' ['Regulation of electronic communications *ex ante* and *ex post*'] (2012) 3 *Antitrust*.

## ESTONIA\*

### Chapters in books (2012)

- 'The interface between European Union energy, environmental and competition law' [in:] *Reports of the XXV FIDE Congress Tallinn 2012*, Volume 1, editor Julia Laffranque; general rapporteur Peter D. Cameron, Tartu University Press, 2012.
- 'The interface between European Union energy, environmental and competition law' [in:] *Reports of the XXV FIDE Congress Tallinn 2012*, Volume 2, editor Julia Laffranque; general rapporteur Peter D. Cameron, Tartu University Press, 2012.

### Articles (2012)

- Annus-Anijärv, L., 'Ettevõtjate kokkuleppe vormid, mis võivad kahjustada või kahjustavad konkurentsist' ['Forms of agreements by Entrepreneurs that May Affect Competition'] (2012) 7/8 *Eesti Majanduse Teataja*.
- Annus-Anijärv, A., 'Konkurentsist kahjustavate kokkulepetega kaasnevad tagajärjed ettevõtjale' ['Effects of anti-competitive agreements on entrepreneurs'] (2012) 9 *Eesti Majanduse Teataja*.
- Ginter, C., Parrest, N., Simovart, M-A., 'Kontsessiooni vastuoluline regulatsioon Eesti õiguses' ['Contradictory Regulation of Concession in Estonian Law'] (2012) VI *Juridica*.
- Linnart, K., 'Tõendamisvõimaluste erinevused kartellide uurimisel. Kas võrdse kohtlemise põhiõiguse rikkumine?' ['Differences in Possibilities of Proof in Investigating Cartels. Violation of the Fundamental Right for Equality of Treatment?'] (2012) VI *Juridica*.
- Luhaäär, T., 'Millal on konkurentide koostöö lubatud?' ['When is cooperation between competitors allowed?'] (2012) 1 *Forbes Eesti*.
- Lumiste, R., 'How Expensive Is It to Support Renewable Energy in Estonia? (2012) 2(1) *Baltic Journal of European Studies*.

---

\* Compiled by Dr. Alexandr Svetlicinii, Tallinn University of Technology, Tallinn Law School; Senior Research Fellow at the Jean Monnet Chair of European Law.

- Nežerenko, O., Koppel, O., 'Some Implications of the EU Rail Transport Policy on Rail Business Environment in CEE Countries' (2012) 2(2) *Baltic Journal of European Studies*.
- Nömper, A., 'Tervise kaitse põhiõigusest apteekide asutamispäringute näitel' ['On the Fundamental Right to Protection of Health on the Example of Restrictions on Freedom of Establishment of Pharmacies'] (2012) X *Juridica*.
- Paas-Mohando, K., 'Estonia: anti-competitive agreements – vodka' (2012) 33(2) *European Competition Law Review*.
- Paas-Mohando, K., 'Estonia: anti-competitive agreements' (2012) 33(8) *European Competition Law Review*.
- Paas-Mohando, K., 'Estonia: anti-competitive agreements – tyres – distribution' (2012) 33(12) *European Competition Law Review*.
- Paas-Mohando, K., Tammo, E., 'Estonia: Current Developments in Member States' (2012) 8(1) *European Competition Journal*.
- Pihor, K., Timpmann, K., 'Charging for Local Social Services: the Case of Estonia' (2012) 20(1) *Discussions on Estonian Economic Policy: Theory and Practice of Economic Policy*.
- Reiljan, J., Ülper, A., Puolokainen, T., 'Demand Side Factors of Local Public Services in Estonia' (2012) 20(1) *Discussions on Estonian Economic Policy: Theory and Practice of Economic Policy*.
- Sepp, J., Ernits, R., 'The Liberalisation of the Postal Service Market in Estonia and Its Effect on Competition' (2012) 20(2) *Discussions on Estonian Economic Policy: Theory and Practice of Economic Policy*.
- Svetlicinii, A., Lugenberg K., 'Merger remedies in a small market economy: the Estonian experience' (2012) 33(10) *European Competition Law Review*.
- Tamm, E., 'Estonia: Tallinn Administrative Court's ruling: it is not possible to contest the reasoning of Competition Authority's decision' (2012) 5(3) *Global Competition Litigation Review*.

## HUNGARY\*

### Books (2012)

- Balogh V., Nagy C. I., Pázmándi K., Verebics J., Zavodnyik J. (szerk.: Pázmándi Kinga), *Magyar Versenyjog [Hungarian Competition Law]*, HVG-ORAC Lap- és Könyvkiadó Kft., 2012.
- Kisfaludi A., *Versenyjogi jogsértések – magánjogi jogkövetkezmények [Competition law infringements – private law penalties]*, ELTE Eötvös Kiadó Kft., 2012.
- Koltay A., Nyakas L. (eds), *Magyar és európai médiajog [Hungarian and European media law]*, CompLex Kiadó, Budapest, 2012.
- Kovács A. G., *Piacszabályozás és jogorvoslat – A piacszabályozói döntések bírói gyakorlata, különös tekintettel az elektronikus hírközlésre [Market regulation and legal remedies – The judicial case law of the decisions of the market regulator, particularly with respect to the electronic communications]*, HVG-ORAC Lap- és Könyvkiadó Kft., 2012.

---

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- Miskolczi Bodnár P., Sándor I., *A fogyasztóvédelmi jog európai gyökerű szabályozása I–II.* [The European law-rooted regulation of consumer protection law I–II.], Patrocinium Kiadó, Budapest 2012.
- Nagy C. I., *EU and US Competition Law: Divided in Unity?*, Ashgate Publishing, 2012.
- Osztovits A. (ed.), *Recent developments in European and Hungarian competition law.* Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012/Acta Caroliensia Conventorum Scientiarum Iuridico-politicarum I./ European Competition Day Plus conference, held on 31th May, 2011.
- Rixer Á. (ed.), *Állam és közösség. Válogatott közjogi tanulmányok Magyarország Alaptörvénye tiszteletére* [State and community. Selected public law studies in honour of the Fundamental Law of Hungary], Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar, Lőrincz Lajos Közjogi Kutatóműhely, 2012.
- Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.

### Chapters in books (2012)

- Édes B., Gerhardt E., Micski J., 'A liberalizáció első időszakának versenyszempontú értékelése a magyar vasúti teherszállítási piacon' ['The competition-oriented evaluation of the first period of the liberalisation on the Hungarian rail freight market'], [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Grad-Gyenge A., 'The EU concept of the special subject-matter of copyright and the Premier League case', [in:] Osztovits A. (ed.), *Recent developments in European and Hungarian competition law.* Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012.
- Halpern L., Muraközy B., 'A verseny és a K+F összefüggései – elméleti megközelítések és számszerű eredmények' ['The connection between competition and R&D – theoretical approaches and quantitative results'], [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Mérő K., 'A bankszabályozás kihívásai és változásai a pénzügyi-gazdasági válság hatására' ['The challenges and changes of bank regulation as a result of the economic crisis'], [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Miskolczi Bodnár P., 'Indemnification and harm caused by infringement of antitrust rules from private law point of view', [in:] Osztovits A. (ed.) *Recent developments in European and Hungarian competition law.* Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012.
- Nagy C. I., 'A viszonteladási ár rögzítésének megítélése az amerikai, az EU és a magyar versenyjogban: kihasznált és kihagyott lehetőségek' [Resale price maintenance from the perspective of the US, European and Hungarian competition law: used and missed opportunities] [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.

- Nagy C. I., III. Fejezet: Antitröszt jog [Chapter III: Antitrust law] [in:] Pázmándi K. (ed.), *Magyar versenyjog [Hungarian Competition Law]* HVG-Orac, Budapest, 2012.
- Nagy C. I., IV. Fejezet: A Gazdasági Versenyhivatal jogállása és eljárása [Chapter IV: The legal status and procedures of the Hungarian Competition Authority] [in:] Pázmándi K. (ed.), *Magyar versenyjog [Hungarian Competition Law]* HVG-Orac, Budapest, 2012.
- Neményi J., 'A pénzügyi válság hatása a központi bankok szabályozására' [The effects of the economic crisis on the regulation of central banks], [in:] *Verseny és Szabályozás 2011 [Competition and regulation 2011]*, Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011 [Competition and regulation 2011]*, MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Osztovits A., 'Quantifying harm in action for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union – some remarks on the Draft Guidance Paper of the European Commission', [in:] Osztovits A. (ed.), *Recent developments in European and Hungarian competition law*. Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012.
- Paizs L., 'Kiskereskedelmi verseny és szolgáltatóváltás a magyarországi árampiacon' [Retail competition and switching suppliers on the Hungarian electricity market'], [in:] *Verseny és Szabályozás 2011 [Competition and regulation 2011]*, Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011 [Competition and regulation 2011]*, MTA KRTK Közgazdaság-tudományi Intézet, 2012..
- Szatmáry I., 'A kategóriamenedzsment versenyjogi kérdései' ['The competition law aspects of the category management'], [in:] *Verseny és Szabályozás 2011 [Competition and regulation 2011]*, Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011 [Competition and regulation 2011]*, MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Szilágyi P., 'A médiapiac versenyjogi szabályozása' ['Regulation of Competition in Media Markets'], [in:] Koltay A., Nyakas L. (eds), *Magyar és európai médiajog [Hungarian and European media law]*, CompLex Kiadó, Budapest, 2012.
- Szuchy Róbert, 'State aid and competition in the East-Central European electricity market' [in:] Osztovits András (ed.), *Recent developments in European and Hungarian competition law*. Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012.
- Tóth A., 'A médiaszabályozás elektronikus hírközlésjogi vonatkozásai' ['The electronic communication aspects of the media regulation'], [in:] Koltay A., Nyakas L. (eds), *Magyar és európai médiajog [Hungarian and European media law]*, CompLex Kiadó, Budapest, 2012. Tóth A., 'Competition law aspects of minority shareholdings', [in:] Osztovits A. (ed.), *Recent developments in European and Hungarian competition law*. Károli Gáspár Református Egyetem Állam- és Jogtudományi Kar – GVH VKK, 2012.
- Valentiny P., 'Válságban a verseny – válságban a verseny?' ['Crisis in competition – competition in crisis?'], [in:] *Verseny és Szabályozás 2011 [Competition and regulation 2011]*, Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011 [Competition and regulation 2011]*, MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Várhegyi É., 'A magyar bankszektor szabályozása és versenyhelyzete a válságban' [The regulation and the competitive situation of the Hungarian bank sector in the crisis], [in:] *Verseny és Szabályozás 2011 [Competition and regulation 2011]*, Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011 [Competition and regulation 2011]*, MTA KRTK Közgazdaság-tudományi Intézet, 2012.

- Vincze J., 'Fogyasztóvédelem a pénzügyi piacokon és a viselkedés-gazdaságtan' [Consumer protection on the financial markets and behavioral economics], [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.
- Vince P., 'Árszabályozás és versenyhelyzet a magyarországi energiapiaci nyitás után' [Price regulation and competition after the opening of the Hungarian energy market], [in:] *Verseny és Szabályozás 2011* [Competition and regulation 2011], Valentiny P., Kiss Ferenc L., Nagy C. I. (eds), *Verseny és szabályozás 2011* [Competition and regulation 2011], MTA KRTK Közgazdaság-tudományi Intézet, 2012.

### Articles (2012)

- Bakó B., Kálec-Simon A., 'Vertikális korlátozások – növelik vagy csökkentik a jólétet? Érvek az irodalomból' ['Vertical restrictions – do they increase or decrease welfare? Literary arguments'] (2012) 10 *Közgazdasági Szemle*.
- Bartóki-Gönczy B., 'Conncted TV – Átalakuló piaci értéklánc és új szabályozói kihívások a horizonton' ['Transforming market value chain and new challenges for regulators envisaged'] (2012) 52 *Infokommunikáció és Jog*.
- Bolf-Galamb Z., 'Az európai uniós versenyjogi értelemben vett állami támogatási és a közbeszerzési szabályok kapcsolata' ['The relation between State Aid (from European competition law perspective) and public procurement'] (2012) 6 *Közbeszerzési Szemle*.
- Bónis Csilla–Zsohár Á., 'Viselkedés-gazdaságtan és versenypolitika' ['Behavioural economics and competition policy'] (2012) 2 *Versenytitűkőr*.
- Dömötörfy Borbála T., 'Versenyjog és választottbíráskodás az Európai Unióban' ['Competition law and arbitration in the European Union'] (2012) 2 *Iustum, Aequum, Salutare*.
- Dömötörfy Borbála T., 'Árdiszkrimináció és párhuzamos kereskedelem a gyógyszeriparban: innovatív iparágak versenyjogi megítélése' ['Price discrimination and parallel trade in the pharmaceutical industry: innovative industries from the perspective of competition law'] (2012) 2 *Versenytitűkőr*.
- Fazekas B., Tóth A., Réczicza I., 'Az Európai Unió elektronikus hírközlés-szabályozásának 2009-es reformja és a reform utóélete' ['The 2009 European reform of the electronic communication regulation and its afterlife'] (2012) 50 *Infokommunikáció és Jog*.
- Fejes G., 'Round up' (2012) 3(4) *Journal of European Competition Law&Practice*.
- Gadó G., 'A fogyasztói kölcsönszerződések egyoldalú módosításáról' ['Unilateral modification of the consumer loan contracts'] (2012) 10 *Gazdaság és Jog*.
- Gyekiczky T., 'Kit védünk? A fogyasztó közösségi jogi fogalmának társadalmi összefüggéseiről' ['Who do we protect? The social context of Community law concept of the consumer'] (2012) 12(1) *Európai Jog*.
- Hegymegi-Barakonyi Zoltán–Horányi M., 'A Gazdasági Versenyhivatal határozatainak kötőereje polgári perekben' ['The binding force of the resolutions of the Gazdasági Versenyhivatal in civil trials'] (2012) 2 *Versenytitűkőr* 2012/2.
- Juhász M., 'Recent developments in Hungarian competition policy' (2012) 2 *Competition Policy International-Antitrust Chronicle*.
- Keszericzke A., 'A verseny tisztaságát sértő ajánlattevői cselekmények megítélése, az eljárás eredménytelenné nyilvánítása' ['The evaluation of the acts of bidders infringing fair competition, declaring the procedure inefficient'] (2012) 8-9 *Közbeszerzési Szemle*.

- Kovács A., Polyák G., 'Alternatív piacszabályozási eszközök. A hatósági szerződések, valamint az ön- és társszabályozás térnyerése' ['Alternative tools for market regulation. The expansion of the official agreements and self-and co-regulation'] (2012) 50 *Infokommunikáció és Jog*.
- Kovács A. G., Rozsnyai K., Varga I., 'A közigazgatási perorvoslatok szabályozásának lehetőségei európai perspektívában' ['The possibilities of regulating administrative lawsuit from the european perspective'] (2012) 59 *Magyar Jog*.
- Lanchidi P., 'The CISAC case under the Wouters exception' (2012) 33(3) *European Competition Law Review*.
- Miks A., 'Az engedékenységi iratok kezelésével kapcsolatos legújabb fejlemények' ['The newest developments relating to the handling of leniency documents'] (2012) 1 *Versenytükkör*.
- Nagy A. D., 'Az engedékenységi programok védelme vs. kártérítéshez való jog' ['Protection of leniency programmes vs. right to compensation'] (2012) 1 *Versenytükkör*.
- Nagy A., Bak L., 'A versenyjog a közbeszerzés terén – szemelvények' ['Competition law in the field of public procurement – extracts'] (2012) 10 *Közbeszerzési Szemle*.
- Nagy C. I., 'A versenykorlátozó megállapodásokkal kapcsolatos versenyjogi tilalom szerkezete' ['The structure of competition law prohibition relating to restrictive agreements'] (2012) 9 *Jogtudományi Közlöny*.
- Nagy C. I., 'Commitments as surrogates of civil redress in competition law: the Hungarian perspective' (2012) 33(11) *European Competition Law Review*.
- Nagy C. I., 'Recognition and enforcement of US judgments involving punitive damages in Europe' (2012) 1 *Nederlands Internationaal Privaatrecht*.
- Nagy C. I., 'The Hungarian Supreme Court pronounces a document acquired from an unspecified source as admissible in a bid rigging case concerning tenders published by the Municipality of Budapest for construction and renovation works' (2012) *e-Competitions Bulletin* No. 51107.
- Nedeczky A., 'Mindent a maga idejében, avagy – a csatlakozást követően – a párhuzamos jogalkalmazásból adódó problémák a Toshiba és társai – C-17/10. sz. ügy kapcsán' ['First thing first – after the accession – problems resulting from the parallel application of law in relation to the C-17/10. case (Toshiba and others)'] (2012) 2 *Versenytükkör*.
- Németh Z., Tamás O., 'The Hungarian Competition Office approves the creation of a joint venture for mobile phone services (MPVI Mobil)' (2012) *e-Competitions Bulletin* No. 45894
- Németh Z., 'The Hungarian Competition Office clears the acquisition of the prospective owner and operator of the gas interconnector between Slovakia and Hungary by two state owned companies (Magyar Villamos Művek/MFB Invest Befektetési és Vagyonkezelő/Magyar Gáz Tranzit)' (2012) *e-Competitions Bulletin* No. 49212.
- Németh Z., 'The Hungarian Competition Office approves an acquisition in the food sector and rules on the interim control over the target company before its approval (Bonduelle Central Europe/Kelet-Food)' (2012) *e-Competitions Bulletin* No. 49213.
- Ottlakán J., 'Az egészségre ható és gyógyhatás állítások a Gazdasági Versenyhivatal gyakorlatának tükrében' ['Health-affecting and medicative statements in the light of the practice of the Gazdasági Versenyhivatal'] (2012) 1 *Fogyasztóvédelmi Szemle*.
- Pánczél M., 'Régi-új szabályok és értelmezési kérdések a gépjárműszektorban a C-158/11. sz. ügy kapcsán' ['Old-new rules and interpretation questions in the motor vehicle industry relating to case C-158/11'] (2012) 2 *Versenytükkör* 2012/2

- Réger Á., 'The Hungarian Competition Authority puts an end to a long running investigation into a possible cartel infringement by sugar producers (Sugar Cartel)' (2012) *e-Competitions Bulletin* No. 52244.
- Rippel-Szabó P., 'A sporttevékenységgel összefüggő vagyoni értékű jogok jogtulajdonosi és értékesítési kérdései' ['The right holding and marketing issues of property rights relating to sport activities'] (2012) 59 *Magyar Jog*.
- Ritter E., 'The Hungarian Supreme Court upholds second instance judgment in the Budapest road construction cartel case and rules on the admissibility of evidence and the applicability of the ECHR to cartel proceedings (Betonút)' (2012) *e-Competitions Bulletin* No. 45018.
- Ritter E., 'The Hungarian Metropolitan Court of Appeal rejects follow-on damages claim on the basis of the passing-on defence' (2012) *e-Competitions Bulletin* No. 48224.
- Ritter E., Németh Z., 'The Hungarian Metropolitan Court dismisses a claim for damages on the basis of bid-rigging established by the Hungarian Competition Office (Közlekedésfejlesztési Koordinációs Központ v Strabag Építő and Debreceni Magas, Mély és Útépítő)' (2012) *e-Competitions Bulletin* No. 50300.
- Ritter E., 'The Hungarian Competition Office rules on ancillary restraints and provides an overview of its related practice (Waberer/Szemerey)' (2012) *e-Competitions Bulletin* No. 51292.
- Ritter E., Oláh T., 'The Hungarian Competition Office holds in a cartel case that the statutory immunity relating to agricultural products may be in violation of EU competition law (Watermelon cartel)' (2012) *e-Competitions Bulletin* No. 52708.
- Simon B., 'A koordinatív hatások megjelenése a magyar joggyakorlatban' ['The appearance of the coordinated effects in the Hungarian case law'] (2012) 2 *Versenytükör*.
- Szakadát L., 'Szankciók antitröszt eljárásokban' ['Sanctions in antitrust procedures'] (2012) 2 *Versenyjogi Kutatóközpont, Versenyjogi tanulmányok*.
- Szentlélek S., 'A hálózatsemlegesség problematikája versenyjogi szempontból' ['Net neutrality from the perspective of competition law'] (2012) 52 *Infokommunikáció és Jog*.
- Szilágyi P., 'Hungarian Competition Law & Policy: The Watermelon Omen' (2012) 10(2) *Competition Policy International-Antitrust Chronicle* 10(2) pp. 2–5. (2012)
- Szilágyi P., 'A kétoldalú piacok versenyjogi megítélése a médiapiacokra tekintettel' ['The competition law perception of the two-sided markets, having regard to the media markets'] (2012) 1(1) *In Medias Res*.
- Szilágyi P., 'Catalin Stefan Rusu, European Merger Control. The Challenges Raised by Twenty Years of Enforcement Experience. Alphen aan den Rijn: Kluwer Law International, 2010.' (2012) 49(2) *Common Market Law Review*.
- Tari Z., 'Versenyjog és választottbíráskodás' ['Competition law and arbitration'] (2012) 1 *Versenytükör*.
- Tárczy E. Z., 'Vásárlásra való felhívás – az Európai Unió Bíróságának megállapítása' ['Invitation to purchase – the conclusion of the Court of Justice of the European Union'] (2012) 2 *Versenytükör* 2012/2.
- Tóth A., 'TEU competition law aspects of minority shareholding' (2012) 35(4) *World Competition*.
- Tóth A., 'Magyarország gazdasági rendje az Alaptörvény és a piaci verseny viszonyára tekintettel' ['The economic order of Hungary having regard to the relation between Fundamental law and competition'] (2012) 1 *Versenytükör*.
- Tóth A., 'A nemzeti versenyhatóságok szerepe a gazdasági válság kezelésében' ['The role of national competition authorities in handling economic crisis'] (2012) 2 *Versenytükör* 2012/2.

- Tóth T., 'Összegző tanulmány a verseny szerepéről az EU tag Magyarországon' ['Summing study on the role of competition in the EU-member Hungary'] (2012) 4 *Versenyjogi Kutatóközpont, Versenyjogi tanulmányok*.
- Tóth T., 'Állami versenykorlátozások és esélyegyenlőség: a görög lignitbányászati jogokról született ítélet' ['Public restrictions on competition and equality: the judgment delivered on Greek lignite miner rights'] (2012) 2 *Versenytükkör*.
- Udvarý S., 'Some Remarks on Class Action in Antitrust Cases in the US and EU' (2012) 2 *Versenytükkör*.
- Váci N., 'Magatartási jellegű fúziós feltételek és kötelezettségek a GVH közelmúltbeli gyakorlatában' ['Behavioural remedies in the recent practice of the GVH'] (2012) 1 *Versenytükkör*.
- Verebics J., 'Szerződések az elektronikus kereskedelem körében és a fogyasztóvédelem' ['Contracts in the field of electronic commerce and consumer protection'] (2012) 2 *Gazdaság és Jog*.
- Vincze J., 'A tartós fogyasztási cikkek javítása és alkatrészellátása versenyjogi szempontból' ['The repair and component supply of durable consumer goods from competition law perspective'] (2012) 56(7-8) *Külgazdaság*.
- Virág P., 'A Telefónica-ügy – avagy az árprésnek is két oldala van?' ['The Telefónica case – does margin squeeze have two sides?'] (2012) 1 *Versenytükkör*.
- Wallacher L., 'Az uniós versenyjog érvényesítési rendszerének hatékonysági előnyei és hátrányai a Bíróság Tele2 Polska ügyben hozott ítélete fényében' ['Efficiency benefits and disadvantages of EU competition law enforcement system in relation to the judgment delivered by the Court in the Tele2 Polska case'] (2012) 12(2) *Európai Jog* 12.2.

## MACEDONIA\*

- Galev G., 'Posebno o odnosu između nacionalnog prava konkurencije zemalja-članica evropske zajednice i komunitarnog prava' ['In particular about the relations between National competition law of the Member States of the European communities and Community Law'] (2012) *Shkolla Prirodnog Prava, Kopaonik, Srbia*.
- Jashari A., Memeti N., 'Important aspects of concentrations in Macedonia' (2012) 2(2) *International Journal of Business and Social Research*.
- Jashari A., Memeti N., 'Competition Law in Macedonia: An Important Factor for Economic Development' (2012) 2(3) *International Journal of Business, Humanities and Technology*.

## SLOVAKIA\*\*

### Books (2012)

- Kalesná K., Blažo O., *Zákon o ochrane hospodárskej súťaže, komentár* [Act on Protection of Competition, commentary], C.H. Beck, 2012.
- Králičková B., *Súkromnoprávne aspekty protimonopolného práva* [Private Law aspects of Competition law] Bratislava, Veda, 2012.

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**Articles (2012)**

- Blažo O., 'What do limitation periods for sanctions in antitrust matters really limit?' (2012) 5(7) *YARS*.
- Blažo O., 'Rule of Reason, pridružené obmedzenia a systém výnimiek v príprave dohôd obmedzujúcich súťaž v európskom a slovenskom práve' ['Rule of Reason, ancillary restraints and the system of exemptions concerning the agreements restricting competition in European and Slovak competition law'] (2012) 1 *Acta Facultatis Iuridicae Universitatis Comenianae*.
- Blažo O., 'OSN a medzinárodné súťažné právo' ['UNO and the international competition law'] (2012) *Mílniky práva v stredoeurópskom priestore, Univerzita Komenského v Bratislave, Právnická fakulta*.
- Kalesná K., 'Zneužívanie dominantného postavenia v teórii a aplikačnej praxi' ['Abuse of dominant position in theory and case law'] (2012) 4 *Právny Obzor* 4/2012.
- Demčák P., 'Novela zákona o ochrane hospodárskej súťaže, manuál k inštitútu urovanie, civilné spory' ['New amendments to the Competition Act, Settlements and Private enforcement of competition Law'] (2012) *Forum*.
- Demčák P., 'Súťaž vs. regulácia na slovenský spôsob – stále s otáznikom?' ['Competition vs. regulation in Slovakia – still a question?'] (2012) 3 *Antitrust*.
- Králik A., 'Vývoj súkromnoprávneho presadzovania súťažného práva v judikatúre Súdneho dvora Európskej únie' ['Development of private enforcement of competition law in the case-law of the Court of Justice of the European union'] (2012) 6 *Zo súdnej praxe*.
- Oravec P., Telepčák I., 'Nezákonná inšpekcia Protimonopolného úradu? Pár poznámok k jednému rozhodnutiu' ['An illegal dawn raid? Some comments to one decision'] (2012) 1 *Antitrust*.
- Oršulová A., 'Používanie soft law nástrojov při presadzovanísúťažných pravidiel vosvetle-princípov právniho štátu' ['Application of soft law in enforcement of competition law from a perspective of state of law'] (2012) 2 *Antitrust*.
- Šabová Z., 'Vybrané rozhodnutia slovenských súdov v súťažnom práve' ['Selected judgments of the Slovak courts in competition law'] (2012) 1 *Antitrust (Revue soutežního práva)*; (2012) 2 *Antitrust*; (2012) 3 *Antitrust*; (2012) 4 *Antitrust*.
- Šabová Z., 'Regulácia profesijných služieb a súťažné právo (prax Protimonopolného úradu SR v kontexte európskeho práva)' ['Regulation of the professional services (decision-making practice of the Slovak Antimonopoly Office in the light of the European law'] (2012) 1 *Antitrust*.
- Šabová Z., 'Competition Law in Slovakia: An Authority Viewpoint', (2012) 2 *Competition Policy International*.
- Šabová Z., Lovásová E., 'Prístup do spisu – ochrana leniency dokumentov vs. právo na obhajobu' ['Acces to file – protection of leniency documents vs. rights of defence'] (2012) 4 *Antitrust*.
- Šramelová S., Šupáková A., 'Development of the Judicial Review of the Decisions of the Antimonopoly Office of the Slovak Republic' (2012) 5(7) *YARS*.
- Zemanovičová D., 'Nezávislosť súťažných autorít' ['Independence of competition authorities'] (2012) 3 *Antitrust*.

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