

Editorial foreword

The editorial board is pleased to present the 9th volume of the Yearbook of Antitrust and Regulatory Studies (YARS 2014, 7(9)). Three separate volumes of YARS will be issued this year: the current volume, a ‘regular’ volume (YARS 2014, 7(10)) and a special volume (YARS 2014, 7(11)) containing contributions from a workshop which will take place during the 9th Annual ASCOLA Conference, edited by Ewelina D. Sage, PhD. The Conference is organised by CARS and will be held on 26-28 June 2014 in Warsaw. It is worth emphasising that CARS invited to the conference a group of young scholars from the countries of the Eastern Partnership.

The current volume is dedicated to the impact of EU competition law on the national competition law regimes of ‘new’ EU Member States. With this publication, we wish to commemorate the 10th anniversary of the 2004 accession to the European Union of ten European countries, amongst them eight from Central and Eastern Europe (CEE) – the Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia, Slovenia and Hungary. Continuing the tradition set by the most recent volume of YARS (YARS 2013, 6(8)), the research papers published in the current volume focus not only on the Polish competition law regime but also present the national competition laws of some other CEE countries.

The transition processes of the formerly socialist CEE countries, from central planning to a market economy, proceeded at different speeds and in a variety of different ways. Poland appeared among the leaders of these developments with its 1988 Economic Activity Act and early laws against monopolistic practices, in particular the 1990 legislation. The 1990s also saw the start of an East-West integration process in Europe, soon followed by the foundations for the 2004 EU enlargement being laid. The adaptation process of national legal systems to European law has thus begun.

The 2004 EU enlargement was linked with the introduction into national competition laws of legal provisions mirroring common competition rules (Articles 81 and 82 TEC) as well as the modernisation (decentralisation) of their enforcement system (Regulation 1/2003). National Competition Authorities (NCAs) began to perform tasks imposed thereon by the

Modernisation Regulation and joined the newly established network of competition authorities – the European Competition Network. Their cooperation with one another as well as with the European Commission has proven to be one of the reasons why the national competition laws of ‘new’ EU Member States have moved, in some respects, toward uniformity during the first ten years of their membership in the European Union. Some ‘de facto’ (spontaneous) harmonisation of national competition laws with EU law is still occurring (illustrated, for instance, by the Polish Competition and Consumer Protection Amendment Act adopted on 10 June 2014). On the other hand, the Commission has moved towards ‘hard harmonisation’ measures and issued a proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union. The Directive was adopted by the European Parliament on 17 April 2014.

The role played by European courts in the harmonisation processes is also vital in this context and thus cannot be ignored. It is analysed in the guest article by J. Bejček, which opens the current volume of YARS. The next section contains an article on the interplay between the EU’s external (pre-accession) and internal (post-accession) governance model in the field of competition law (K.J. Cseres). The following papers focus on the direct application of EU competition rules in the Estonian legal system (A. Svetlicinii), the impact of EU competition rules on Lithuanian competition law (R.A. Stanikunas and A. Burinskas) and the developments of Slovak competition law (O. Blažo, B. Králičková). The discussion of Polish competition law covers the ways of its harmonisation with EU law (K. Kowalik-Bańczyk), its ‘economisation’ (A. Laszczyk) and the impact of EU law on the leniency programme (P. Sitarek).

Aside from the above research papers, the current volume of YARS also contains two case comments concerning EU competition law infringements that took place in the CEE region (more precisely, in the Czech Republic and in Slovakia). Among the questions tackled by the Court of Justice of the EU in the two present judgements is (i) whether proceedings for the imposition of a fine initiated by the Commission after 1 May 2004 permanently prevent the NCA of a Member State which acceded to the EU on that date from prosecuting under their own domestic competition law a cartel, the effects of which materialised in the national territory before its EU accession (M. Sieradzka); and (ii) whether Article 101(1) TFEU is to be interpreted as meaning that the fact is of legal relevance that a competitor adversely affected by a restrictive agreement between other competitors was operating

on the relevant market illegally at the time when the agreement was concluded (B. Mäihäniemi).

The next section contains a review of a book written by Agata Jurkowska-Gomułka *‘Publiczne i prywatne egzekwowanie zakazów praktyk ograniczających konkurencję: w poszukiwaniu zrównoważonego modelu współistnienia’* [‘Public and private enforcement of prohibition of anticompetitive practices: in search of a balanced model of coexistence’] and a review of a book written by Anna Piszcz *‘Sankcje w polskim prawie antymonopolowym’* [‘Sanctions in Polish antimonopoly law’]. The reviewers (P. Korycińska and W. Hoff) recommend both books not only to theoreticians, but also to practicing lawyers.

The current volume of YARS closes with three reports on conferences entitled (i) ‘Living with Competition Law Issues’ (Warsaw, 14.03.2014), (ii) ‘EU Competition Law and the Emerging Harmonization of Private Enforcement: The Proposed Directive and Beyond’ (Uppsala, 15-16.05.2014), (iii) ‘The impact of EU law on Polish competition law and sector-specific regulation’ (Warsaw, 21.05.2014). Also included in this section is a report on the establishment of CRANE (Competition Law and Regulation Academic Network, Europe – Visegrad, Balkan, Baltic, East). YARS will become CRANE’s future flagship project and this volume can be seen as the first result of the existence of CRANE. The Editorial Board of YARS hopes that the Network will attract active participation from many different countries. We also hope that CRANE will provide its members with valuable experiences in the antitrust and regulation field as well as improve international cooperation in this research area.

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