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REGIONAL COMPETITION AGREEMENTS: BENEFITS AND CHALLENGES

Contribution from Albania

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Regional Competition Agreements: Benefits and Challenges

-- Albania --

1. This paper describes the experience of Albania in all the activities regarding the cooperation with other competition authorities from stand-alone agreements, mutual legal assistance treats and regional trade agreements. At the end it outlines the benefits and challenges of these collaborations.
2. During the last years, Albanian Competition Authority's main objective has been to strengthen competition policy instruments, with other countries in the region and beyond. International relations have been in focus, by expanding multilaterally and bilaterally agreements. Close cooperation with other competition authorities is a must, because they promote consistent outcomes, increase investigative efficiency by reducing unnecessary duplication of work, reduce gaps in information and increase familiarity between agencies and mutual understanding. Companies, nowadays, are always getting bigger, affecting several markets in different countries, through merger transactions, organized cartels or other anti-competitive practices. Thus, countries are actively co-operating and making efforts to converge in substantive approaches to competition law enforcement. Bilateral cooperation agreements are providing many satisfactory results at the moment, with rapid change in competition law enforcement and increasingly more connected economies.
3. The Albanian Competition Authority (ACA) actively engages in some international organizations and is part of many multilateral or bilateral cooperation agreements.

1. Stand Alone Competition Agreements

4. The Albanian Competition Authority actively engages in cooperating with other homologue authorities, in the region and beyond. Formerly the Authority signed Memorandums of Understanding with the Macedonian Competition Authority (2007), the Hungarian Competition Authority (2009), the Italian Competition Authority (2013) and the Austrian Competition Authority (2014). The most recent bilateral cooperation signed by the Authority, is the Memorandum of Understanding with the Turkish Competition Authority, in September 2018. The ACA, is now under negotiations to sign a Memorandum of Understanding with the Serbian Competition Authority.
5. These memorandums shall promote and strengthen cooperation in competition law enforcement of the Parties and competition policy in line with the memorandums. These agreements are based on principles of equality and mutual benefit, aiming the creation of favorable conditions for the development of bilateral relations.

2. Mutual Legal Assistance Treats (MLATS)

6. In December 2017, the Albanian Competition Authority organized an international conference, inviting participants from competition authorities in Europe and USA, representatives from international organizations like: the EU, OECD, the United Nations Conference on Trade and Development (UNCTAD), the Energy Community Secretariat

(ECS), as well as well-known experts and lecturers from the competition field from around the world.

7. In October 2017, ACA took part in the annual meeting of Sofia Competition Forum, in which also contributed with three articles, regarding the Compliance Program published in October 2017, the Insurance Market in Albania and Standard Telecommunication Patents in Europe, for the third issue of the SCF bulletin.

8. In June 2018, as a result of previous successful co-operations, the Albanian Competition Authority was selected by OECD-GVH / RCC as the host country for the organization of the Seminar "On Merger Control", which was focused in discussions on merger control based on law no. 9121/2003 "On Competition Protection", as amended. OECD-GVH / RCC selected Albania as a host country for the organization of this seminar, thanks to the contribution that the Competition Authority has awarded over the last year to international relations between the competition authorities. Representatives from 27 Competitiveness Authorities from Europe and Asia participated in this seminar.

9. In July 2018, at the United Nations Conference on Trade and Development (UNCTAD) in Geneva, was held the 17th meeting of the Intergovernmental Experts Group (IGE) on Law and Competition Policy. The Chairwoman of the Albanian Competition Authority, Ms. Juliana Latifi, was elected Vice-Chair-Cum-Rapporteur for the 17th IGE meeting, where were discussed the challenges faced by developing countries in competition and regulation in the maritime transport sector, competition issues in the sale of audiovisual rights for major sporting events, voluntary peer review of competition law and policy of Botswana, capacity-building in and technical assistance on competition law and policy and reports of the discussion group on international cooperation. Also, Ms. Juliana Latifi, Chairwoman of ACA, was elected Chair to the Peer Review section of Botswana, leading the panel in which was assessed the legal framework and enforcement of the law on protection of competition.

10. At the Global Competition Review (GCR), the ACA, recently contributed to the process of compiling "The Handbook of Competition Economics 2019" and "Handbook of Competition Enforcement Agencies 2018". During 2018, the ACA, also sent an update on developments in Albanian Competition Law for the 2018 Implementation Report to the Energy Community Secretariat in Vienna, Austria. As a member of International Competition Network (ICN), the Authority is actively engaged in all Working Groups of this organization, participating in different conference calls or by submitting information regarding recent developments in the competition field in Albania.

3. Regional Trade Agreements (RTAs)

11. With a view to enhancing the potential for greater intra-regional trade, contributing to greater economic growth, investment generation and employment, Albania agreed to be part of CEFTA in 2007. Recently, the Albanian Competition Authority took part in the CEFTA Meeting organized in Skopje, Macedonia in July 2018. This meeting referred to the consolidation of the MAP plan for the regional economic zone and was presented a part of the work plan in the competition field for the countries of the Western Balkans.

4. Benefits and Challenges

12. Agreements between competition authorities have a significant potential to overcome some of the main problems they face, especially the authorities of small and developing countries. Cooperation agreements assist the authorities in adopting common instruments that enable the reduction of time in information gathering, the development of standards in terms of regulatory and legal framework, and the development of international standards regarding legal instruments for law enforcement.

13. It is worth underlining the fact that cooperation agreements in the field of competition are defined, *inter alia*, by the way in which they are based. It is clear that the greater the level of cooperation, the greater the benefits.

14. Arrangements can significantly reduce financial and human constraints by merging of resources in order to efficiently implement activities such as investigations or law enforcement and competition advocacy.

15. As a young authority in large/major economies, engaged in enforcement related to cross-border cases mostly merger cases, often it faces serious challenges during cooperation with other authorities. Challenges to an effective enforcement of competition rules against cross-border practices are very common and authorities feel the need to minimize cooperation boundaries between them.

16. Obstacles related to the ability to reach an agreement and to maintain its benefits over time, which are inter-connected, the ability to enforce the agreement, once created, may be the challenges that Authorities will face if they sign bilateral or multilateral agreements.

17. Instead, RTAs obstacles might be legal, political or economic. They might result from real threats to welfare (e.g., political economy constraints of interest groups), or from perceived threats (e.g., misconceptions of the effects of competition) or they might be specific to competition law, or general.

18. Future challenges for co-operation arise from the significant increases in the complexity of co-operation as the economy continues to globalize and as the newer competition authorities in fast-growing emerging economies become more active.