

# The Role of the Judiciary in Effective Enforcement of Competition Law in New Jurisdictions: the Case of Kosovo

by

Avdylkader Mucaj\* and Isuf Zejna\*\*

## CONTENTS

- I. Introduction
- II. The main stages in the development of competition legislation in Kosovo
- III. The role of the judiciary in competition law enforcement
- IV. The establishment of the Commercial Court
- V. The initial challenges of the Commercial Court
- VI. Professional competence of judges of the Commercial Court to handle competition cases
- VII. Private enforcement of competition law in Kosovo *vis-à-vis* stand-alone actions
- VIII. Conclusion

## *Abstract*

This paper aims to discuss the role of the judiciary in the effective, or ineffective, enforcement of competition law. It analyses those jurisdictions that can still be considered 'new' in the field of competition law, in particular the case of Kosovo, and by using qualitative research methods. The paper addresses the main findings characterizing the weak enforcement of competition law by the judiciary in Kosovo

---

\* Dr. Avdylkader Mucaj holds a Ph.D. in EU law from University of Ljubljana and LL.M. in EU Law from Stockholm University. Dr. Mucaj also spent two years as a PhD researcher at Free University of Berlin. E-mail: [mucajavdylkader@gmail.com](mailto:mucajavdylkader@gmail.com); ORCID: <https://orcid.org/0000-0002-9665-4492>.

\*\* Isuf Zejna is an Attorney at Law and the founding partner at Law Firm RZZ. Mr. Zejna holds an LL.M. in international law from Pittsburg University. E-mail: [zejna@rzzlaw.com](mailto:zejna@rzzlaw.com); ORCID: <https://orcid.org/0009-0003-6527-9858>.

Article received: 4 April 2023, accepted: 30 June 2023.

over a period of a decade, that is, from when the courts have started hearing competition cases since 2010. On the other hand, the paper places special attention to the establishment of the Commercial Court in Kosovo in 2022, which now has jurisdiction over the judicial review of competition decisions. The last part of the paper considers recent legal changes in the field of private enforcement of competition law. Kosovo's new competition legislation, approved in 2022, expressly provides for the right to compensation for damage.

### *Résumé*

Cet article vise à examiner le rôle du pouvoir judiciaire dans l'application du droit de la concurrence, qu'elle soit efficace ou inefficace. Il analyse les juridictions qui peuvent encore être considérées comme « nouvelles » dans le domaine du droit de la concurrence, en particulier le cas du Kosovo, en utilisant des méthodes de recherche qualitatives. Cet article aborde les principales conclusions caractérisant la faible application du droit de la concurrence par le système judiciaire au Kosovo sur une période de dix ans, c'est-à-dire à partir du moment où les tribunaux ont commencé à entendre des affaires de concurrence en 2010. D'autre part, l'article accorde une attention particulière à la création du Tribunal de commerce du Kosovo en 2022, qui est désormais compétent pour le contrôle judiciaire des décisions en matière de concurrence. La dernière partie du présent article examine les changements juridiques récents dans le domaine de l'application privée du droit de la concurrence. La nouvelle législation kosovare sur la concurrence, approuvée en 2022, prévoit expressément le droit à la réparation des dommages.

**Key words:** competition law enforcement; role of judiciary; commercial court; private enforcement; stand-alone actions.

**JEL:** K23, A23, Z23

## **I. Introduction**

Adopting competition rules was not the most difficult step for Kosovo since the country aspires to become a member of the European Union, and thus already had the EU model to follow. The EU model, in addition to its normative aspect, was also used on the institutional side whereby Kosovo's next step should have been the establishment of executive agencies, responsible for enforcing competition rules. In the institutional chain, however, in addition to the administrative pillar, the judiciary side proved to be a crucial factor too. Therefore, this article concentrates on the role of the judiciary, as a crucial component for the effective enforcement of competition law. It uses qualitative research methods in analysing the normative aspects of competition law, and

paying particular attention to its institutional aspects, discussing mostly judicial rulings on the subject matter.

There are generally two pillars through which competition law is enforced – the administrative pillar, which is carried out in most cases by an executive agency, and the judicial pillar dealing with appeals against administrative decisions.<sup>1</sup> Each is as influential as the other for the effective, or ineffective, enforcement of competition law.

Although in most cases the administrative pillar turns out to be more successful in facilitating effective enforcement of competition law, the same cannot be said for the judiciary. In Southeast European countries with a socialist background, the predominant judiciary logic is formal, rather than focusing on the merits of the cases at hand, especially for pieces of legislation that are new and require specific legal knowledge, such as competition law.<sup>2</sup> Kosovo is not an exception in this context. On the basis of most of the relevant court judgments, it is possible to say that the judiciary has paid least attention to competition law. Most of the judgments are assessed and decided based on procedural and administrative legislation. This approach is disadvantageous to competition rules, as they are not characterised and bound by legal formality. For instance, it is not at all important for a competitive assessment how a contested document is formulated in order to restrict competition between separate undertakings – what is crucial is what can be deduced from that document. Paul Craig and Gráinne de Búrca note that ‘if the competition rules operated only when an explicit, formal agreement was made they would be of little practical use, since undertakings would achieve their anti-competitive goals in less formal ways. It is therefore necessary to have provisions to catch less formal special agreements’.<sup>3</sup> Evaluating a document through a completion

---

<sup>1</sup> Council Regulation (EC) 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty [2003] OJ L1/1 [hereinafter: EU Regulation 01/2003]; KJ Cseres, ‘The Impact of Regulation 1/2003 in the New Member States’ (2010) 6(2) *Competition Law Review* 145; David J Gerber, ‘Two Forms of Modernization in European Competition Law’ (2008) 31(5) *Fordham International Law Journal* 1235; Jürgen Basedow, ‘The Modernization of European Competition Law: A Story of Unfinished Concepts’ (2007) 42 *Texas International Law Journal* 429; Ben Depoorter and Francesco Parisi, ‘The Modernization of European Antitrust Enforcement: The Economics of Regulatory Competition’ (2005) 13(2) *George Mason Law Review* 309.

<sup>2</sup> See Jasminka Pecotić Kaufman, ‘Competition law enforcement in European post-socialist countries: authoritarian legal culture legacy, semantic dissonance and skewed agencification’ (2021) Non-Resident Research Fellowship Program Institute for Consumer Antitrust Studies – Loyola University Chicago – School of Law [hereinafter: Jasminka Pecotić Kaufman, ‘Competition law enforcement in European post-socialist countries’].

<sup>3</sup> Paul Craig and Gráinne de Búrca, *EU Law, Text, Cases and Materials* (5th edn, Oxford University Press 2011) 962, 962. See also Case C-41/69 *ACF Chemiefarma NV v Commission* ECLI:EU:C:1970:71, paras 110–124.

law lens is the object and effect of the document.<sup>4</sup> Kosovo's existing case law has shown that the form of a document was a more consequential aspect for the judiciary to consider, rather than the content of the document itself.

The situation in Kosovo, among other jurisdictions, proves that the legal transplant of competition rules does not seem to be easy in terms of achieving the goals of competition law. Most countries adopt competition rules enthusiastically, as if they themselves would regulate the market and thus bring undistorted competition. This is not the case however, if there are no professionally competent institutions dedicated to the effective enforcement of competition law, where in addition to the administrative pillar, the judiciary also has an indispensable role to play. Therefore, one of the aims of this paper is to reflect on the challenges that the judiciary in Kosovo has encountered while enforcing competition law.

## II. The main stages in the development of competition legislation in Kosovo

With the change of its political system in 1999, a general transformation of Kosovo's economic ecosystem also began. The most significant economic change, in the first years after the war, was the privatization process.<sup>5</sup> The primary goal of privatization was for the numerous socially or state-owned properties and enterprises, that had been inherited from the former socialist system, to be placed in private hands. The aim was to create a new economic model, based on free market economy, to slowly begin to form alongside the reduction of State presence. What made the privatization process in Kosovo unique is the fact that this process was not started, nor led, by the Kosovo authorities, but by

---

<sup>4</sup> See Case T-322/01 *Roquette Frères v Commission* ECLI:EU:T:2006:267, paras 73–75. See also Case C-23/14 ECLI:EU:C:2015:651 paras 66–67; Case C-52/09 *TeliaSonera Sverige* ECLI:EU:C:2011:83, para 64; Case T-127/04 *KME Germany and Others v Commission* ECLI:EU:T:2009:142, para 68; Case T-241/01 *Scandinavian Airlines System v Commission* ECLI:EU:T:2005:296, para 122; Case T-59/02 *Archer Daniels Midland v Commission* ECLI:EU:T:2006:272, paras 159–161; Case T-43/02 *Jungbunzlauer v Commission* ECLI:EU:T:2006:270, paras 153–155; Case T-329/01 *Archer Daniels Midland v Commission* ECLI:EU:T:2006:268, paras 176–178.

<sup>5</sup> See Robert Muharremi, 'The Role of the United Nations and the European Union in the Privatization of Kosovo's Socially-Owned Enterprises' (2013) 14(7) *German Law Journal* 889; Rita Augestad Knudsen, 'Privatization in Kosovo: The International Project 1999–2008' (2010) *Norwegian Institute of International Affairs* 1. <<https://www.files.ethz.ch/isn/121346/Knudsen%20reportNUI%20Report.pdf>> accessed 4 April 2018. See also Organization for Security and Co-operation in Europe (OSCE) 'Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo' (2008) <<https://www.osce.org/kosovo/32012?download=true>> accessed 4 April 2018.

the international community that had Kosovo under administration at that time, namely the United Nation Interim Mission in Kosovo (the UNMIK).

In 2004, in the wake of efforts to create a new economic model, the Assembly of Kosovo adopted its first Law on Competition (hereinafter: LC of 2004)<sup>6</sup> – however, the law entered into force and began its enforcement only after 2008. This legislation has adopted the European model, similar to most other countries in the Western Balkans and beyond.<sup>7</sup> At this point, the countries aspiring to join the European Union did not have much room to manoeuvre with respect of the competition law model to be chosen, although there were not many choices available either.<sup>8</sup>

This law aimed to achieve an economy based on free competition, by prohibiting acts that restrict, suppress or distort competition.<sup>9</sup> The first issue in the area of competition that this new legislation addressed was the prohibition of agreements and concerted practices that restrict competition. Its other provisions prohibited the abuse of a dominant position as well as acquisitions. The law provided for the establishment of a competent institution for enforcing Kosovo's competition legislation and thus sanctioning violators of competition rules. In case of an infringement of competition rules by undertakings, the law provided a fine of up to the maximum of 100,000.00 Euro.<sup>10</sup>

As in most other countries, Kosovo was not an exception in taking its first step towards a competitive economy by creating the normative part of competition rules. However, the hardest part of putting in place and effectively enforcing competition rules, is its institutional aspect. Like most new countries in the field of competition, Kosovo was not immune to many of the challenges either.<sup>11</sup> The main problems emerged quickly in that the legislator

---

<sup>6</sup> Law no 2004/36 on Competition (Official Gazette 14/2007, 1 July 2007) [hereinafter: LC of 2004].

<sup>7</sup> See Marcus Pollard, 'More Than a Cookie Cutter: the Global Influence of European Competition Law' (2014) 5(6) *Journal of European Competition Law & Practice* 329; Ariel Ezrachi, 'Sponge' (2016) 49 *Journal of Antitrust Enforcement* 51; Amber Darr, 'Role of Courts in Enforcing Competition Laws: A Comparative Analysis of India and Pakistan' (2018) 1 *Oxford Journal of Antitrust Enforcement* 1–3.

<sup>8</sup> See Joel Davidow, 'The Worldwide Influence of United States Antitrust' (1990) 35(3) *Antitrust Bulletin* 603 and Marcus Pollard, 'More Than a Cookie Cutter: the Global Influence of European Competition Law' (2014) 5(6) *Journal of European Competition Law & Practice* 329.

<sup>9</sup> LC of 2004 (n 6) Art 1.

<sup>10</sup> LC of 2004 (n 6).

<sup>11</sup> Cf Jasminka Pecotić Kaufman, 'On the development of (not so) new competition systems – findings from an empirical study on Croatia' (2022) *Journal of Antitrust Enforcement* (2022), 10, 326–364, doi: 10.1093/jaenfo/jnab018; Daniel Sokol, 'Antitrust, Institutions, and Merger Control' (2010) 17(4) *George Mason Law Review* 1055 ('we cannot expect a brand-new antitrust agency with no previous experience to undertake enforcement in the area of bundled discounts. This task challenges even the most experienced antitrust agencies and antitrust systems'); Einer

failed to establish a competition authority, and thus failing in initiating law enforcement. The time gap between the moment the law was enacted (2004) and when it actually started being enforced (2009), was attributable to the lack of a competent authority responsible for its enforcement. This problem had not been addressed for years. The Law on Competition (LC) was adopted in 2004, but by the end of 2008, the Kosovo Competition Authority (hereinafter: the Authority) has still not been established.<sup>12</sup> In fact, the first competition law cases to be investigated in Kosovo at the administrative level only emerged in 2009 – namely the *Insurance Companies Case* and the *Fiscal Electronic Devices Case* (hereinafter: the *FED Case*). In the former, the Authority fined ten insurance companies for a price fixing agreement; in the latter case, it fined two companies, one for the abuse of its dominant position and the other for engaging in concerted practices.

### III. The role of the judiciary in competition law enforcement

Originally, the administrative decisions of the Authority, which found a violation of competition rules and, as a result, imposed fines on economic entities, could be appealed to the Administrative Court (hereinafter: the Court). As the field of competition law was new and hardly known in Kosovo, until now, judicial review has mainly focused on procedural aspects of the case, rather than on its competition law side.<sup>13</sup>

‘The judiciary is a key player in the antitrust system via judicial evaluation of antitrust cases. In the US context, generalized courts have evolved over time as a result of shifts in judicial interpretation, economic thinking, and government policies and priorities’.<sup>14</sup> Richard A Posner notes that ‘the real problem of antitrust

---

Elhauge, ‘Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory’ (2009) 123(2) *Harvard Law Review* 399.

<sup>12</sup> Kosovo Competition Authority, Annual Report 2017 1, 7 [in Albanian only] <[https://ak.rks.gov.net/assets/cms/uploads/files/Raporti%20i%20Punes%202017\\_FINAL\\_AKK.pdf](https://ak.rks.gov.net/assets/cms/uploads/files/Raporti%20i%20Punes%202017_FINAL_AKK.pdf)> accessed 14 April 2018.

<sup>13</sup> Avdylkader Mucaj, ‘Antitrust Law in Kosovo: Challenges in Following the EU Enforcement Jurisprudence’ (2019) *Journal of European Competition Law & Practice*, vol. 11, Issue 3–4, March–April 2020, 166–172 <<https://doi.org/10.1093/jeclap/lpz069>>; Avdylkader Mucaj, ‘Competition Law Framework in Kosovo and the Role of the EU in Promoting Competition Policies in Other Countries and Regions Wishing to Join the Block’ (2020), *Yearbook of Antitrust and Regulatory Studies*, vol. 2020, 13(22), doi: 10.7172/1689-9024.YARS.2020.13.22.4.

<sup>14</sup> Daniel Sokol, ‘Antitrust, Institutions, and Merger Control’ (2010) 17(4) *George Mason Law Review* 1055.

in the new economy lies on the institutional side: the enforcement agencies and the courts do not have adequate technical resources, and do not move fast enough, to cope effectively with a very complex business sector that changes very rapidly'.<sup>15</sup>

There are two key reasons why Kosovo's jurisprudence does not have many judgments in the field of competition law. First, the Authority was established only in 2008,<sup>16</sup> and the competition law enforcement only began in 2009. Second, the decision-making body within the Authority, the so-called Commission, was unable to work due to the fact that the position of its five members remained vacant for years.<sup>17</sup> The members of the Commission have to be elected by the Assembly of Kosovo, on the proposal of the Government, for a 5-year mandate. However, vacancies occurred after the end of the mandate, thus negatively affecting the enforcement of Kosovo's competition rules.

However, the two main cases in which the Authority had imposed fines, and which have been subjected to judicial review, are the aforementioned *Insurance Companies Case* (a total of ten insurance companies were fined) for a price fixing agreement and; the *FED Case* (two undertakings were fined) where one of the companies was fined for the abuse of its dominant position and the other for concerted practices. In both of these cases, as examined in the previous studies,<sup>18</sup> the rulings went against the goals of competition law. For example, despite the fact that in the *Insurance Companies Case* based on a price fixing agreement, the Authority had, in fact, managed to find an actual copy of the contested agreement, the Court adjudicated contrary to the goals of competition law, such as object and effect of the agreement. The goals of the competition law, *inter alia*, were to caught any agreement whose purpose or effect is restriction or distortion of competition. Whereas, the Court assessed different facets such as: who had signed the agreement on behalf of the undertaking(s); the identification of that person by name and surname; whether the person was employed and what kind of position the person has had in the insurance company; on behalf of whom the person acted; whether that person was authorized or was a representative of the Gjakova branch; whether the agreement intended to inflict harm on other companies or certain people; whether the agreement was enforced in practice; and, what were the consequences of that agreement and whether it was in actual fact implemented etc.<sup>19</sup> All these issues were not relevant in the light

---

<sup>15</sup> Richard A Posner, 'Antitrust in the New Economy' (2001) 68(3) Antitrust Law Journal 925.

<sup>16</sup> See (n 12).

<sup>17</sup> See European Commission, Kosovo Progress Report 2016 (2016) 1, 47.

<sup>18</sup> See Avdylkader Mucaj, 'Antitrust Law in Kosovo: Challenges in Following the EU Enforcement Jurisprudence' and 'Competition Law Framework in Kosovo and the Role of the EU in Promoting Competition Policies in Other Countries and Regions Wishing to Join the Block' (n 13).

<sup>19</sup> Ibid.

of competition law objectives, which is not formalistic in itself or the goals that it intends to achieve. From a competition law point of view, it is sufficient to examine the subject or effect of the agreement, in order to assess its lawfulness or not.<sup>20</sup> This approach was not followed by the judiciary in Kosovo; quite the opposite, the Court appraised the price fixing agreement only from the formal and procedural side. This constitutes an obstacle in the effective enforcement of competition legislation.

However, the challenges of reviewing competition law cases, besides their excessive duration, due to the inefficiency of the judiciary in Kosovo, was also reflected in their merits. In most judgments, there was *prima facie* lack of basic knowledge when it comes to the goals that competition law seeks to achieve. In the *Insurance Companies Case*, despite the fact that the Authority had provided a copy of the price fixing agreement, which covered all insurance companies active in the Kosovo market, the Court exclusively dealt with the formal aspects of the agreement, that is, if it meets the formal and procedural criteria to be considered a legally binding agreement, rather than the agreement's object and effect. As well established in EU case law, the document (that is, agreement) as such is not that important for a competition law assessment; rather the conclusions drawn from it. EU case law<sup>21</sup> is also rich on the issue of the object and effect of an anti-competitive agreement, an essential element of a competition law case, where attention should be focused, rather than on the form of an agreement.

In addition, there were contradictions within the same Court of First Instance (that is, the Administrative Court), depending on which of its judges were adjudicating the case. Unfortunately, the appeals were sent for judicial review by the relevant undertakings separately, and the Court did not merge them, but adjudicated each of the identical cases separately. This may also be due to the fact that the administrative decisions of the Authority that fined these undertakings were also issued separately for each of them, that is, as multiple individual decisions. The same Court has ultimately decided the (same) cases differently. In a few of the rulings, the decisions of the Authority were upheld, as they were seen as grounded and lawful. In the majority of the cases however (where ten insurance companies were fined individually), the decisions of the Authority were annulled because they were judged as lacking grounds and unlawful.<sup>22</sup> This happened until the Court of Appeals forced the Court of

---

<sup>20</sup> See (n 4).

<sup>21</sup> See EU case law cited in (n 4).

<sup>22</sup> Basic Court of Pristina – Administrative Department, ruling on the *Dardania Case*, no. A183/2011, 16 July 2014; Basic Court of Pristina–Administrative Department, *Sigma* ruling, no. A2415/14, 03 May 2018; Basic court of Pristina – Administrative Department, *Croatia Sigurimi* ruling, no. A.172/2011, dated 2014; Basic court of Pristine – Administrative



First Instance to unify its rulings on the same issue. As a result, the Authority had almost all of the 10 decisions towards the insurance companies overturned.

What stood out most in the rulings is the fact that the competition law cases were mainly adjudicated based on general administrative law, rather than on competition law, which was in fact their cornerstone.<sup>23</sup> Unfortunately, competition law played a marginal role in these judgments. Even in the few cases where the First Instance Court has attempted to apply the provisions of competition law, it was done in the wrong way and contrary to its goals. However, the formalistic approach of the judiciary in competition law cases turns out not to be limited to Kosovo only. Bernatt argues that although the Polish First Instance Court of Competition and Consumer Protection (SOKiK) is entitled to provide full judicial review of the decisions issued by the Polish NCA (UOKiK), including the merits of the case at hand, from both a legal and factual viewpoint, such review is often limited to superficial and formal issues.<sup>24</sup> Almost the same judicial approach appears to be present in competition law cases in Croatia too. Akšamović notes that ‘with regard to the scope of judicial review in competition cases in Croatia, until 2012 the judiciary was only conducting a ‘control of legality’ without going into a deeper evaluation of the facts and evidence. This type of control was rather superficial and insufficient. Following the 2012 administrative justice reform, the powers of the administrative courts in the Republic of Croatia, including the powers of the High Administrative Court of Republic of Croatia (HACRC), have been significantly broadened. After 2012, the HACRC became entitled to conduct a full review (or unlimited review) of administrative decisions including, but not limited to, decisions brought by the Croatian Competition Agency (CCA).<sup>25</sup>

---

Department, *Dukagjini* ruling, no. A.184/11, dated 2014; Basic court of Pristina – Administrative Department, *Elsig* ruling, no. A.173/11, dated 2015; Basic court of Pristina – Administrative Department, *Gekos* ruling, no. A.181/2011, dated 2015; Basic court of Pristina – Administrative Department, *Illyria* ruling, no. A.96/2011, dated 2015; Basic court of Pristina – Administrative Department, *Insig* ruling, no. A.198/11, dated 2015; Basic court of Pristina – Administrative Department, *Siguria* ruling, no. A.180/11, dated 2014; Basic court of Pristina – Administrative Department, *Sigma* ruling, no. A.132/2011, dated 2014.

<sup>23</sup> Court cases cited above in (n 22).

<sup>24</sup> Maciej Bernatt, ‘Effectiveness of Judicial Review in the Polish Competition Law System and the Place for Judicial Deference’ (2016), *Yearbook of Antitrust and Regulatory Studies*, vol. 2016, 9(14), doi: 10.7172/1689-9024.YARS.2016.9.14.4, 119. See also Maciej Bernatt, ‘The control of Polish courts over the infringements of procedural rules by the national competition authority. Case comment to the judgment of the Supreme Court of 19 August 2009 – Marquard Media Polska (Ref. No. III SK 5/09)’ (2010), *Yearbook of Antitrust and Regulatory Studies*, vol. 2010, 3(3), 302.

<sup>25</sup> Dubravka Akšamović, ‘Judicial review in competition cases in Croatia: Winning and losing arguments before the High Administrative Court of the Republic of Croatia’ (2020) *Yearbook of Antitrust and Regulatory Studies*, vol. 2020, 13(22) doi: 10.7172/1689-9024.

Although the decisions of Kosovo's Authority were not the best possible, in terms of justifying the violations of competition rules, seeing as they were the first decisions for the Authority itself, the trajectory of competition law enforcement was on the right course. Its very first case, the *Insurance Companies Case*, saw the Authority impose fines on the ten participating insurance companies for their violation of competition rules, in addition to having managed to obtain a written copy of the agreement on price fixing agreement, directly affecting many consumers. An easy victory was expected to occur, and thus with a positive epilogue for the Authority. Moreover, the decisions of the Authority would have been welcomed by many citizens who do not know the rules of competition law, since Kosovo did not have a competition culture at all.

Apart from the fact that the judiciary lacked a healthy competition culture, since Kosovo had not enforced its LC of 2004 until 2008, the judges did not have any specific education, nor any training, in the field of competition law. This made the aforementioned two cases the first judicial cases in the field of competition law in the country. The Academy of Justice of Kosovo, responsible for training its judges,<sup>26</sup> has no training programme in the field of competition law within the initial training process for judges,<sup>27</sup> nor does it have one in the more advanced training programme,<sup>28</sup> for newly appointed judges as well as existing ones. All these factors taken cumulatively are sufficient indicators of the lack of a judicial culture in the field of competition law in Kosovo. Another factor that had historically put competition law at a disadvantage, was that the competence to review competition law cases rested with Kosovo's Administrative Court. However, after more than a decade of judicial review, the competence to hear competition cases has now shifted from the Administrative to the newly established Commercial Court, which shall be elaborated on in this paper as well.

---

YARS.2020.13.22.1, 16; see also Alexandr Svetlicinii, 'The Judicial Review of the Standard of Proof in Cartel Cases: Raising the Bar for the Croatian Competition Authority Case – comment to the Judgment of the Constitutional Court of the Republic of Croatia No. U-III-2791/2016 of 1 February 2018 (*Sokol Marić d.o.o.*)' (2018), vol. 2018, 11(18) doi: 10.7172/1689 9024.YARS.2018.11.18.13.

<sup>26</sup> See the Academy of Justice of Kosovo <<https://ad.rks-gov.net/en/home>>.

<sup>27</sup> The Academy of Justice of Kosovo, Initial Training Program for Newly Appointed Judges 2023–2024 <[https://ad.rks-gov.net/Uploads/Documents/PTFgjyqtar2023eng\\_.pdf](https://ad.rks-gov.net/Uploads/Documents/PTFgjyqtar2023eng_.pdf)> accessed 18 June 2023.

<sup>28</sup> The Academy of Justice of Kosovo, Training Program 2022 <[https://ad.rks-gov.net/Uploads/Documents/PTPTV2022eng\\_.pdf](https://ad.rks-gov.net/Uploads/Documents/PTPTV2022eng_.pdf)> accessed 18 June 2023.

#### IV. The establishment of the Commercial Court

Since the approval of Kosovo's first legislation on the protection of competition, the judicial review power has rested on the Administrative Court, which handled all administrative disputes including fiscal, public procurement, competition, customs and other administrative cases.<sup>29</sup> As such, the Administrative Court had exclusive jurisdiction on the adjudication of administrative disputes for all of the Kosovo territory. As a result of the exclusive nature of its jurisdiction, the number of inbound cases was very high, and it took the Administrative Court several years to adjudicate a case because of backlog.

Moreover, the quality of the adjudication of competition cases also left a lot to be desired. Judges in Kosovo did not acquire sufficient knowledge on competition law during their university education, nor from the Academy of Justice of Kosovo.<sup>30</sup> Consequently, most of the decisions of the Authority were reviewed more from the procedural point of view, rather than the actual content of the decisions. Judges were more prone to apply the Law on Administrative Procedures, rather than Kosovo's competition law. Likewise, Kosovo's judiciary was widely perceived as biased and professionally incompetent. According to surveys, only 39.7% of citizens believe that the judiciary in Kosovo is impartial.<sup>31</sup> According to the EU Kosovo 2022 Report, the judiciary needs to increase its efficiency in handling administrative disputes to ensure citizens' rights and access to administrative justice.<sup>32</sup>

However, in order to address the challenges of stagnant and poor quality of jurisprudence, especially in business-to-business disputes (including competition cases), the Government of Kosovo has initiated the establishment of a Commercial Court, which took place in 2022. The Commercial Court shall have the competence to adjudicate competition law disputes, among its other powers.<sup>33</sup> By its very nature, the purpose of establishing the Commercial Court was to increase the speed and quality in the handling of commercial cases, with a purpose to improve the business climate in Kosovo.<sup>34</sup>

---

<sup>29</sup> Law no 06/L – 054 on Courts, Art 17 (Official Gazette 22/18 December 2018), Article 17, Law on Courts <<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18302>>.

<sup>30</sup> See (n 25) and (n 26).

<sup>31</sup> Public Pulse XVIII, Prepared by UNDP Kosovo Public Pulse Project team, April 2020, 10. <<https://www.undp.org/kosovo/publications/public-pulse-xviii>>.

<sup>32</sup> The EU Kosovo 2022 Report, 15.

<sup>33</sup> Law No. 08/L-015 on Commercial Court <<https://gzk.rks-gov.net/ActDetail.aspx?ActID=53748>> [hereinafter: Law on Commercial Court].

<sup>34</sup> Law on Commercial Court, Article 13 [Competences of the Commercial Court].

The Commercial Court of Kosovo is an integrated type of court, since the First Instance and the Second Instance Chambers operate under the same umbrella, and the review of the legality of its rulings is not subject to the Court of Appeal of Kosovo.<sup>35</sup> The First Instance Chambers of the Commercial Court are composed of four separate Departments: 1) the Economic Department; 2) the Fiscal Department; 3) the Administrative Department; and 4) the General Department. Within the Department for Economic Matters, a separate division deals with disputes concerning foreign investors, which has jurisdiction over the entire territory of Kosovo. This institutional change was made with the aim that court cases with an economic character, including those based on competition law, are finalized within a shorter time. Through this legal change, the Government intends, on the one hand, to improve the business environment for local companies, and, on the other hand, to attract more foreign investments.

## V. The initial challenges of the Commercial Court

Despite the fact that the Commercial Court was established in order to be more efficient and to shorten the decision-making time, because of its broad competences, it has ‘inherited’ a large number of open cases from other courts. As a result, each judge appointed to the Commercial Court, has been assigned

---

<sup>35</sup> Law on Commercial Court, Article 4 [Jurisdiction]. The legal powers of this court are: ‘1.1. disputes between local and foreign business organizations, as well as disputes between public and private legal persons, related to mutual business issues and other issues between them; 1.2. legal remedies, as defined in the applicable law on enforcement procedure, on issues falling under the competences of this Court; 1.3. recognizing and allowing the enforcement of local and international arbitration awards; 1.4. court disputes arising from the applicable Law on Business Organizations; 1.5. reorganization, bankruptcy and termination of business organizations; 1.6. disputes concerning obstruction of possession between business organizations, 1.7. disputes between business organizations regarding the real rights, as provided by the Law on Property and Other Real Rights and the Law on Business Organizations; 1.8. disputes related to the violation of *competition*, misuse or monopoly and the dominant position in the market as well as monopoly agreements including the assessment of illegality; 1.9. protection of copyright and industrial property rights, including trademarks, patents, industrial design, commercial secrets and other forms of industrial property as foreseen by relevant legislation; 1.10. disputes between aviation companies subject to the Law on Aviation, excluding disputes concerning passenger rights; 1.11. administrative disputes initiated by business organizations against the final decisions of Tax Administration, Customs Authorities, Ministry of Finance and any other public body in charge of imposing taxes or other state duties; 1.12. administrative disputes initiated by business organizations against final decisions in administrative proceeding; 1.13. and other matters as may be provided by law’.

one thousand unresolved cases.<sup>36</sup> According to data from the monitoring of Kosovo's courts, a case takes an average of 5.3 years to be closed with a final ruling in regular courts.<sup>37</sup> In the current situation, if each judge has been assigned a thousand open cases, this means that it will take 4–5 years to resolve only these “inherited” cases, and only in the 1<sup>st</sup> instance. According to the available data, the average number of cases adjudicated per year by a judge in the regular courts of Kosovo is 213.6 per year;<sup>38</sup> still, regulations adopted by the Kosovo Judicial Council require that each judge adjudicate at least 329 per year.

The delay experienced by procedural parties in getting a final verdict in their case within a reasonable timeframe, has not gone unnoticed by the European Union, which, in its Kosovo report states:

‘Also, the time taken for judgments (i.e. the average time from filing a court case to receiving a judgment) remains a cause for concern as they are overall far too long. In 2021, the disposition time stands at 1 339 days for civil/commercial cases in first instance and 798 days for administrative cases in first instance. At second instance, that is 646 for civil/commercial cases and 426 days for administrative cases’.<sup>39</sup>

Having said that, in the initial phase at least, the Commercial Court is not likely to improve the adjudication of disputes, as it was originally expected. When it comes to the merits of the cases, it remains to be seen whether the quality of judgments will actually improve.

## **VI. Professional competence of judges within the Commercial Court to handle competition cases**

Since the concept of a free-market economy is relatively new to Kosovo, as is the case for most countries in the Western Balkans region, adequate education of judges in relation to competition law is needed. Initially, judges educated in Kosovo receive very rudimentary training on competition law, due to old fashioned law school curricula.<sup>40</sup> Moreover, the Academy of Justice of

---

<sup>36</sup> Interview of the President of the Commercial Court, Mahir Tutuli <[<sup>37</sup> Kosovo Law Institute, ‘Regress of Civil Justice in Kosovo. A monitoring report of 2021’ 9.](https://www.dukagjini.com/kryetari-i-gjykates-komerciale-numri-i-gjyqtareve-eshte-i-vogel-nje-prej-tyre-dote-pranoje-mbi-nje-mije-lende//></a>.</p></div><div data-bbox=)

<sup>38</sup> Ibid. 8.

<sup>39</sup> European Commission, Commission Staff Working Document, *Kosovo 2022*, SWD (2022) 334 final. Brussels, 12.10.2022, 1, 22.

<sup>40</sup> See the list of all subjects to be taken for a Bachelor degree in law (in Albanian only) <[https://juridiku.uni-pr.edu/Departamentet-\(1\)/Bacelor.aspx](https://juridiku.uni-pr.edu/Departamentet-(1)/Bacelor.aspx)>. In the Faculty of Law at the

Kosovo does not have a comprehensive training programme for judges and for professional staff on competition matters.<sup>41</sup> Therefore, it is not surprising that Kosovo's judiciary enforces competition rules based on general administrative law, rather than on competition law.

As a result of the lack of training on competition protection and legal education in the field of competition law, judges are facing a number of challenges as they are having difficulties in recognising their role. For instance, according to the legal framework in places, the Kosovo Competition Authority is allowed to conduct unannounced inspections at the premises of a procedural party, as well as third parties.<sup>42</sup> However, before conducting such inspection the Authority has to request the court to authorize it. Until June 2021, courts refused to authorize inspections since the Administrative Court and the Criminal Court were having doubts on who should authorize inspections and under what rules, administrative or criminal. Therefore, the Supreme Court of Kosovo had to issue an Instruction that identified the Administrative Court as the competent body to review requests for unannounced inspections.<sup>43</sup>

This fact illustrates that Kosovo is still at an early stage of the development of a competition culture and of the enforcement of its competition legislation that is currently in force.

## VII. Private enforcement of Competition Law in Kosovo

Albeit Kosovo had its first LC of 2004 since 2004, Law on Protection of Competition of 2010 (hereinafter: LPC of 2010), and now its third, the Law on Protection of Competition in 2022 (hereinafter: LPC of 2022), it can be said that the necessary enforcement pillars are complete only now. The first pillar of competition law enforcement, that is public enforcement, has been introduced by the LC of 2004, but it started to be enforced only after 2008 when the Kosovo Competition Authority was actually established. However, it is only the LPC of 2022 that has advanced the private enforcement pillar, by explicitly recognizing stand-alone actions, finally filling the significant and long standing

---

University of Pristina, which is the oldest and largest law school in Kosovo, competition law is an elective course taught only in the first year of Bachelor studies. At the Master level it is not part of the syllabus.

<sup>41</sup> See (n 24–26).

<sup>42</sup> Law no 03/L-229 on Protection of Competition, Art. 40 (Official Gazette No 88/2010, 25.11.2010) [hereinafter: LPC of 2010].

<sup>43</sup> The Supreme Court of Kosovo, Guide approved at the General Session of the Supreme Court, held on 10 June 2021.

void necessary for an effective enforcement of its competition legislation. The latest legal changes are therefore expected to complete the legal framework in the field of competition law, complementing its public enforcement pillar with private enforcement. These legal changes largely reflect the need for Kosovo to further align its legal framework with that of the EU.<sup>44</sup>

The LPC of 2022 stipulates that an undertaking that violates this law must compensate the damage it has caused to another undertaking or to a person. Such compensation shall be awarded through a regular civil court. Article 63 of the LPC of 2022 reads as follow:

‘Legal remedies against causing damage

1. The enterprise that violates this law must compensate the damage caused to the enterprise or other person, in accordance with the legislation in force.
2. Anyone whose legitimate interest is violated by a restrictive action from Article 5 or 9 of this law can request through the court:
  - 2.1. termination of illegal action;
  - 2.2. compensation for the damage caused’.<sup>45</sup>

Up-to-date research related to the enforcement of competition law in Kosovo<sup>46</sup>, has not found any cases registered in the courts for the compensation of damages as a result of the actions of an enterprise or enterprises that constitutes a violation of Kosovo’s competition law. This fact is mainly attributable to the lack of a specific legal basis that provides for a right to damages. However, this situation is expected to undergo changes based on the new LPC of 2022, which expressly guarantees the right to seek compensation for harm caused to a natural or legal person by any undertaking acting in violation of Kosovo’s competition law.

An adequate legal framework for an effective enforcement of competition rules is a necessary prerequisite, although not sufficient in itself, for the creation of a competitive market. However, such legislation must be supported by an adequate and well-trained institutional framework in the field of competition law. Public enforcement of competition rules in Kosovo has encountered essential challenges when it comes to understanding as well as

---

<sup>44</sup> European Parliament and Council Directive 2014/104/EU 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 [2014] OJ L349/1; joined Cases C-295/04 to C-298/04 *Vincenzo Manfredi v Lloyd Adriantico Assicurazioni SpA et al.* [2006] ECR I-6619; Wouter P.J. Wils, ‘Private Enforcement of EU Antitrust Law and its Relationship with Public Enforcement: Past, Present and Future’, (2017) *World Competition*, vol. 40, 1.

<sup>45</sup> Law no. 08/L-056 on Protection of Competition (Official Gazette No. 14, 7 June 2022) [hereinafter: LPC of 2022].

<sup>46</sup> See (n 13).

correctly and effectively protecting competition law goals by the judiciary; similar difficulties are expected to follow private enforcement as regards stand-alone actions.

A criticism voiced years ago about the ineffective judicial enforcement of competition law, was based on the fact that the Authority's decisions were reviewed by the Administrative Court.<sup>47</sup> Therefore, the establishment of the Commercial Court, and the transfer of judicial review of competition cases to the new court, was seen as a good opportunity for a substantive shift in the implementation of competition policies. The belief was that the Commercial Court will most likely follow a market-oriented approach, rather than pursue the formal aspects of judicial review, which do not fit competition law.

The shift of judicial review powers from the Administrative Court to the Commercial Court is a significant pre-requisite for a more effective enforcement of competition law, albeit it is not self-fulfilling. In the last decade, assessing the results of judicial review of competition cases by the Administrative Court, one of the problems observed was the approach of the Court – that the main focus of the Administrative Court's assessment was placed on procedural facets,<sup>48</sup> rather than the merits of the cases from the competition law point of view.

With the establishment of the Commercial Court, and the assignment of the competence to review competition cases to the latter, the legitimate expectations are that competition cases will be given more attention from the prism of competition law objectives, rather than the procedural one. Formalism is not embodied in competition law enforcement.

Kosovo seems to be the last country in the Western Balkans that explicitly provided stand-alone actions in its law, thus making it possible to seek compensation for damages.<sup>49</sup> However, like most new legislations that bring difficulties in their enforcement, the same is expected to follow for stand-alone actions too. This is more related to the fact that the courts of Kosovo have are notably deficient in the field of competition law in general, and private enforcement in particular, since the Commercial Court is a new institution too.

Having said that, the Authority should organize a widespread education campaign to popularize the rights that natural and legal persons have to seek compensation when they believe that competition law has been violated to their detriment. On the other hand, training for judges of the Commercial Court

---

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> See Gentjan Skara, 'Europeanisation of Albanian Competition Law: the case of Albania' (1<sup>st</sup> edn, Springer 2022) 1; Ermal Nazifi and Petrina Broka, 'Review of Ten Years of Albanian Competition Law Developments' (2015), *Yearbook of Antitrust and Regulatory Studies*, vol. 2015, 8(11).



in the field of competition law is necessary. Such training can be organized by the Kosovar Academy of Justice, as the institution competent to provide training for judges. Given the fact that the field of competition is specific, similar training efforts by the Authority in cooperation with the Academy of Justice would also be a good choice. Nevertheless, competition law-related training should be more comprehensive and continuous.

## VIII. Conclusion

The role of the Kosovo Competition Authority in the effective enforcement of competition law is indispensable. The Authority is not only the guardian of the enforcement of competition rules itself, but it has a responsibility in relation to other institutions also, with respect to how they play their role towards sound competition in the market. However, a crucial fact must be acknowledged, no matter how effective the Authority is in the enforcement of the LPC, if its efforts are not followed in the judicial review phase, it is almost impossible to have a truly effective enforcement of competition law.

It is imperative therefore, that both sides of the coin work properly within their respective competences to achieve effective enforcement of competition law. The administrative pillar alone cannot achieve the goals of competition law, if the judiciary does not understand and correctly apply the provisions and goals that competition law embodies. In Kosovo, existing judicial practice is not satisfactory. It is exceedingly important for the judiciary to first understand the purposes of competition law, and then its own role in protecting and promoting competition rules. Judges must pay more attention to the merits of a case from the viewpoint of competition law, and not limit themselves to reviewing formal procedural aspects only, as current judicial practice has demonstrated.

The establishment of the Commercial Court is a good foundation for the examination of competition cases with greater attention from the market economy point of view. Formalism is not the best ally of effective enforcement of competition law. However, the aforementioned large number of cases inherited from other courts remains an initial challenge for the Commercial Court. It remains to be seen and assessed in the near future what the Commercial Court's approach towards competition law will be once its first rulings are taken on this subject matter.

The latest changes that the new LPC of 2022 has brought, are also related to, *inter alia*, the fact that from now on it is possible to seek damage compensation by all those whose legitimate interests have been violated by actions breaching

competition law. This was a necessary precondition for affected entities to seek compensation. However, just like public enforcement, stand-alone actions are expected to be accompanied by challenges as well, especially within the judiciary, since it is a completely new mechanism for enforcing the law in general, and competition law in particular.

## Literature

- Academy of Justice of Kosovo, Framework Training Program 2021–2022 <<https://ad.rks-gov.net/en/working-program-training>>.
- Akšamović D, ‘Judicial review in competition cases in Croatia: Winning and losing arguments before the High Administrative Court of the Republic of Croatia’ (2020) *Yearbook of Antitrust and Regulatory Studies*, vol. 2020, 13(22) doi: 10.7172/1689-9024.YARS.2020.13.22.1.
- Amber D, ‘Role of Courts in Enforcing Competition Laws: A Comparative Analysis of India and Pakistan’ (2018) 1 *Oxford Journal of Antitrust Enforcement* 1–3.
- Ariel E, ‘Sponge’ (2016) *Journal of Antitrust Enforcement* 51.
- Avdylkader M, ‘Antitrust Law in Kosovo: Challenges in Following the EU Enforcement Jurisprudence’ (2019) *Journal of European Competition Law & Practice*, vol. 11, Issue 3–4, March–April 2020, 166–172, <https://doi.org/10.1093/jeclap/lpz069>.
- Avdylkader M, ‘Competition Law Framework in Kosovo and the Role of the EU in Promoting Competition Policies in Other Countries and Regions Wishing to Join the Block’ (2020), *Yearbook of Antitrust and Regulatory Studies*, vol. 2020, 13(22), doi: 10.7172/1689-9024.YARS.2020.13.22.4.
- Basedow J, ‘The Modernization of European Competition Law: A Story of Unfinished Concepts’ (2007) 42 *Texas International Law Journal* 429.
- Basic Court of Pristina – Administrative Department, *Croatia Sigurimi* ruling, no. A.172/2011, dated 2014.
- Basic Court of Pristina – Administrative Department, *Dardania* Ruling, no. A183/2011, 16 July 2014.
- Basic Court of Pristina – Administrative Department, *Dukagjini* ruling, no. A.184/11, dated 2014.
- Basic Court of Pristina – Administrative Department, *Elsig* ruling, no. A.nr.173/11, dated 2015.
- Basic Court of Pristina – Administrative Department, *Gekos* ruling, no. A.181/2011, dated 2015.
- Basic Court of Pristina – Administrative Department, *Illyria* ruling, no. A.96/2011, dated 2015.
- Basic Court of Pristina – Administrative Department, *Insig* ruling, no. A.198/11, dated 2015.
- Basic Court of Pristina – Administrative Department, *Sigma* Ruling, no. A2415/14, 03 May 2018.
- Basic Court of Pristina – Administrative Department, *Sigma* ruling, no. A.132/2011, dated 2014.

- Basic Court of Pristina – Administrative Department, *Siguria* ruling, no. A.180/11, dated 2014.
- Bernatt M, ‘Effectiveness of Judicial Review in the Polish Competition Law System and the Place for Judicial Deference’ (2016), *Yearbook of Antitrust and Regulatory Studies*, vol. 2016, 9(14), doi: 10.7172/1689-9024.YARS.2016.9.14.4.
- Bernatt M, ‘The control of Polish courts over the infringements of procedural rules by the national competition authority. Case comment to the judgement of the Supreme Court of 19 August 2009 – Marquard Media Polska (Ref. No. III SK 5/09)’ (2010), *Yearbook of Antitrust and Regulatory Studies*, vol. 2010, 3(3), p. 302.
- Case C-23/14 ECLI:EU:C:2015:651 paras 66–67.
- Case C-41/69 ACF Chemiefarma NV v Commission ECLI:EU:C:1970:71, paras 110–124’.
- Case C-52/09 TeliaSonera Sverige ECLI:EU:C:2011:83, para 64.
- Case T-127/04 KME Germany and Others v Commission ECLI:EU:T:2009:142, para 68.
- Case T-241/01 Scandinavian Airlines System v Commission ECLI:EU:T:2005:296, para 122.
- Case T-329/01 Archer Daniels Midland v Commission ECLI:EU:T:2006:268, paras 176–178.
- Case T-43/02 Jungbunzlauer v Commission ECLI:EU:T:2006:270, paras 153–155.
- Case T-59/02 Archer Daniels Midland v Commission ECLI:EU:T:2006:272, paras 159–161.
- Craig P and Gráinne de Búrca, *EU Law, Text, Cases and Materials* (5<sup>th</sup> edn, Oxford University Press 2011) 962.
- Cseres KJ, ‘The Impact of Regulation 1/2003 in the New Member States’ (2010) 6(2) *Competition Law Review* 145.
- Davidow J, ‘The Worldwide Influence of United States Antitrust’ (1990) 35(3) *Antitrust Bulletin* 603.
- Directive 2014/104/EU 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 [2014] OJ L349/1.
- Dukagjini, Interview of the President of the Commercial Court, Mahir Tutuli. <<https://www.dukagjini.com/kryetari-i-gjykates-komerciale-numri-i-gjyqtareve-eshte-i-vogel-nje-prej-tyre-do-te-pranoje-mbi-nje-mije-lende/>>.
- Elhauge E, ‘Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory’ (2009) 123(2) *Harvard Law Review* 399.
- European Commission, Commission Staff Working Document, *Kosovo 2022*, SWD (2022) 334 final. Brussels, 12.10.2022.
- Gerber D J, ‘Two Forms of Modernization in European Competition Law’ (2008) 31(5) *Fordham International Law Journal* 1235.
- Joined Cases C-295/04 to 298/04 Vincenzo Manfredi v Lloyd Adriantico Assicurazioni SpA et al. [2006] ECR I-6619.
- Pecotic Kaufman, Jasminka, *Judicial Interpretation and Competition Law Enforcement: Authoritarian Legal Culture, Semantic Dissonance and Skewed Agencification in Post-Socialist Croatia* (September 8, 2023). Forthcoming in *Review of Central and East European Law* (2023), available at SSRN: <https://ssrn.com/abstract=4566004>
- Knudsen RA, ‘Privatization in Kosovo: The International Project 1999–2008’ (2010) *Norwegian Institute of International Affairs* 1. <<https://www.files.ethz.ch/isn/121346/Knudsen%20reportNUPI%20Report.pdf>> accessed 4 April 2018.
- Kosovo Law Institute, *Regress of Civil Justice in Kosovo. A monitoring report of 2021*.
- Law no 03/L-229 on Protection of Competition. (Official Gazette No 88/2010, 25.11.2010).
- Law no 06/L-054 on Courts, Art 17. (Official Gazette 22/18 December 2018).

- Law No. 2004/36 on Competition (Official Gazette 14/2007, 1 July 2007).
- Law No. 08/L-015 on Commercial Court (Official Gazette No. 7/10 February 2022).
- Law No. 08/L-056 on Protection of Competition (Official Gazette No. 14, 7 June 2022).
- Muharremi R, 'The Role of the United Nations and the European Union in the Privatization of Kosovo's Socially-Owned Enterprises' (2013) 14(7) *German Law Journal* 889.
- Nazifi E and Petrina Broka, 'Review of Ten Years of Albanian Competition Law Developments' (2015), *Yearbook of Antitrust and Regulatory Studies*, vol. 2015, 8(11).
- Organization for Security and Co-operation in Europe (OSCE) 'Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo' (2008) <<https://www.osce.org/kosovo/32012?download=true>> accessed 4 April 2018.
- Pecotić Kaufman J, 'On the development of (not so) new competition systems—findings from an empirical study on Croatia' (2022) *Journal of Antitrust Enforcement* (2022), 10, 326–364 doi: 10.1093/jaenfo/jnab018.
- Pollard M, 'More Than a Cookie Cutter: the Global Influence of European Competition Law' (2014) 5(6) *Journal of European Competition Law & Practice* 329.
- Pollard M, 'More Than a Cookie Cutter: the Global Influence of European Competition Law' (2014) 5(6) *Journal of European Competition Law & Practice* 329.
- Posner RA, 'Antitrust in the New Economy' (2001) 68(3) *Antitrust Law Journal* 925.
- Public Pulse XVIII, Prepared by UNDP Kosovo Public Pulse Project team, April 2020.
- Regulation 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty [2003] OJ L1/1.
- Skara G, 'Europeanisation of Albanian Competition Law: the case of Albania' (1<sup>st</sup> edn, Springer 2022) 1.
- Sokol D, 'Antitrust, Institutions, and Merger Control' (2010) 17(4) *George Mason Law Review* 1055.
- T-322/01 *Roquette Frères v Commission* ECLI:EU:T:2006:267, paras 73–75.
- The Supreme Court of Kosovo, Guide approved at the General Session of the Supreme Court, held on 10 June 2021.
- United Nations Development Programme Kosovo, Public Pulse XVIII, 10 <<https://www.undp.org/kosovo/publications/public-pulse-xviii>>.
- Wils W P J, 'Private Enforcement of EU Antitrust Law and its Relationship with Public Enforcement: Past, Present and Future' (2017) *World Competition*.