

***Competition Authorities in South Eastern Europe
– Building Institutions in Emerging Markets,*
Boris Begović, Dušan V. Popović (eds.),
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The book *Competition Authorities in South Eastern Europe – Building Institutions in Emerging Markets*, published in 2018, is a follow-up of the Conference on Institution Building of the Competition Authorities in South-East Europe, held in Belgrade, Serbia on 2–3 June 2016, organized jointly by the European Bank for Reconstruction and Development and the Commission for the Protection of Competition of Republic of Serbia. The book delivers 11 papers authored by scholars and practitioners as well as the very useful introduction written by the editors, Mr. Boris Begović and Mr. Dušan V. Popović, both of the School of Law of the University of Belgrade, covering various topics concerning the current status as well as proposals for further development of competition regimes across the region. However, the book is not only about local experiences, but provides also a very good blend of national, regional as well as general topics and issues.

South-East Europe (which, for the purposes of the conference and the book, consist of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Kosovo, Moldova, Montenegro, North Macedonia, Romania, and Serbia; hereinafter: SEE) is a rather small, but quite a diverse region, both from political as well as cultural perspective. Such diversity clearly reflects onto the status of competition policy and competition law enforcement. Whilst some of the jurisdictions have been part of the European Union for decades and have a longer-standing competition law practice (Greece), some have joined the EU rather recently (Croatia). Most are still at different stages of an ongoing EU-accession process, and at rather early stages of their competition law development. In that context, although benchmarking against well-developed economies and jurisdictions is a logical approach in developing competition regimes across the region, those regimes can also largely benefit from each others' experiences, in substantive as well as procedural terms. It therefore comes with little surprise that the conference, and also the book, deal not only with one aspect of competition enforcement, but provide a very-welcome, multi-sided approach to both assessing the competition regimes in the region and proposing tools and approaches in dealing with specific policy, legal and economic challenges.

Several authors deal with topics covering certain national or regional matters, which, however, can also prove useful elsewhere, as the underlying issues are or may become relevant across the globe.

In that respect, the paper of Paolo Buccirossi and Lorenzo Ciari provides a comprehensive overview and comparison of the role of the economic, institutional and cultural characteristics of the competition law design in the so-called Western Balkans. However, the entire first half of the paper is dedicated to a generally applicable introduction to those characteristics, which can indeed prove very useful for practitioners in emerging economies worldwide.

Boris Begović analyzes the dangers of the middle income (or non-convergence) trap for SEE countries and the role of competition policy in avoiding that trap, which Mr. Begović argues is crucial. As one of his key conclusions, the Author proposes the increase of merger notification thresholds and allocating sufficient resources of competition enforcers to competition advocacy, which he believes should remain the priority of the competition policies in the region.

Dušan V. Popović discusses institutional design of state aid authorities in the countries that are candidates or potential candidates for membership of the European Union, arguing that they all have unsatisfactory enforcement records and show an overly lenient approach overall. The paper does not stop at detecting what the issues are, but also delivers the Author's understanding of the reasons for the inefficiencies, which, as we understood it, mostly derive from the lack of sincere governmental support to an efficient, objective and independent state aid control system.

Dimitris Loukas gives an interesting insight into the way in which competition advocacy priorities shifted and even expanded in relation to the economic adjustment programmes in Greece. The Author discusses each of the four advocacy initiatives, which we would argue reflect the issue of advocacy in a broad sense, as some of them actually related to the Greek competition authority dealing with hard law initiatives and proposals. Although the Author is careful in drawing any final conclusions, it seems that the experience did reveal several important shortfalls of the entire system, going even beyond competition issues, such as a poorly structured legislation formation process, unnecessary regulatory barriers etc.

Ivana Rakić presents the Serbian experience in competition advocacy and its role, both in terms of its nature and tools as well as its result and lessons learnt. The Author argues, and we can certainly agree, that the Serbian experience can serve as a valuable lesson to other developing and transition countries in tailoring their own competition advocacy activities. In that light, Ms. Rakić presents her own set of advice to such competition authorities, which indeed need to consider many different aspects of their work and how to appropriately contribute to the positioning of the authority as well as to competition policy overall.

Finally, Radu A. Păun and Danusia Vamvu provide a Romanian case study of using the difference-in-differences approach in the ex-post analysis of a merger, which was cleared by the Romanian Competition Council.

The remaining papers deal with general topics and issues that are universally applicable, and are not strictly related to the regional competition law landscape.

Andrej Plahutnik analyses the pros and cons of combining antitrust, merger control, state aid and consumer protection competences under one authority, strongly arguing against cost-saving being an argument in favour of such an approach. Although, given

the nature of the conference, the purpose of the paper was to present the Author's standpoint and pieces of advice to SEE countries, it is not tailor-made to SEE, so can easily be applied in any jurisdiction dealing with its institutional structure of the four areas.

Yannis Katsoulacos discusses the still (or always) ongoing topic of determining the extent of economic analysis and legal standards in competition law enforcement, applicable not only to the SEE region, but universally. The paper presents an interesting view on the object vs. effect-based approach, in arguing that welfare-related considerations would overall be in favour of an effects-based approach, however that there are other non-welfare related matters that often surpass the consumer, or even total welfare, when it comes to their place in the spotlight.

Russell Pittman provides a very useful introduction into the three economic tools that become widespread in competition law enforcement in general, and in the analysis of proposed mergers in particular: critical loss analysis, upward pricing pressure, and the vertical arithmetic. The aim of the paper is to be non-technical, and to serve as a solid starting point for any enforcement agency analyst in using those tools. We would certainly argue that this would be a very welcome approach in emerging economies, where competition issues may often slip into a very vague and subject-to-interpretation legal-technical environment, even where there are solid economic tools to be applied.

Siniša Milošević, Jelena Popović Markopoulos, Jelena Grahovac and Aleksandra Ravić analyze the pricing benchmark in market definition, both from the theoretical as well as practical perspective. The Authors used an example of three products (two different brands of edible sunflower oil – belonging to the same market – and one brand of diesel fuel) in demonstrating the practical implementation of price-based tests in determining the relevant market.

Finally, Bojan Ristić discusses the rationale for using the classic Cournot mechanism in merger control. The Author argues that the model is important and useful in the context of a merger simulation, applied to both homogeneous as well as differentiated product markets. However, Mr. Ristić emphasizes the importance of judges and lawyers to actually understand the underlying economic theories of a simulation method. Nevertheless, the author is clear in detecting the need for a more significant inflow of economic theory into the merger control assessment, in particular in the clarification or questioning of evidence.

As one can take from the above brief outline of each of the papers, the book succeeds at what seems to be its goal – indeed to provide an insight into the current state of play in SEE competition regimes, but put even more emphasis on topics that are generally applicable and are not regionally-bound, from a policy, legal and economic perspective. For that reason, this book should clearly be an interesting read to all dealing with one or more of the SEE competition regimes in whatever capacity, but should also raise the attention of professionals far from the borders of the region.

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