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REGARDING THE ASSESSMENT OF THE OUTCOMES OF DEVELOPMENT AND IMPLEMENTATION OF COMPETITION ECONOMIC POLICY IN GEORGIA

The article presents the main stages of formation and development of competition policy and competition legislation in Georgia, assessment of the past period based on the critical analysis and comparison of the relevant EU regulations and suggestions for improvement of the field of competition.

Keywords: competition, economic policy, competition legislation, economic order, privatization, deregulation, competition agency.

At the initial stage of transition to the market economic relations in Georgia, the important task on the agenda was to select the economic model of development and formulate the conceptual directions of the economic policy. Naturally, their practical manifestation and systematic, gradual implementation was possible through the accelerated formation of the legislative base, creation of executive and legislative institutions, and urgent introduction of the legislative requirements in the economic life and their consistent implementation.

It is widely recognized that the major difference between the modern economic models of development in the system of market relations is conditioned by the state's different roles and places. It is known that despite the unrivaled advantage of the competition principles in the process of balancing the demand-supply for every model of the market economy, the Anglo-Saxon models, based on the "liberal market" concept relieve the market mechanism from the state interference as much as possible (which does not imply the rejection of the core functions by the state, including the economic functions) and support to declare more "trust" to the so-called natural, self-regulating mechanism in the development of economics.

As for the so-called German-Swedish models of the market economy, i.e. socially oriented models, as the title indicates, the state, to the greatest possible extent, tries to rectify the negative effects of the market mechanism by taking into consideration and protecting the interests of various social sectors (not only winners of the competition, but also socially weaker and less protected parts of the society). Obviously, even in this case, the significance of competition –of the major stimulating lever of the market economy –is not ignored [1, p.18]. As for the extent of the state's involvement in the economy, it reaches its peak during an economic crisis and the depression and accordingly, the number of J. Keynes and Keynes supporters rise both in the state authorities, as well as

among the scientists-economists. However, in the periods of economic growth – increases the number of M. Freedman's supporters who support the principle of the state's non-interference in the economy to the maximum extent and explain the causes of disproportions in the economic development by the state's inadequate intervention and regulation of the market economy mechanism.

Unfortunately, Georgia, neither at the initial stages of transition to the market economy, nor in the later stages made an official declaration on the selected economic model of development. However, based on the analysis of the individual fragments of the economic policy, target programs and indicative plans, we can conclude that the country's economy in its development process originally relied on the principles of a more socially-oriented model, and later, when the radical reforms in the direction of economic liberalization and deregulation were implemented, the priority was placed on the requirements of a liberal market model [4, p. 11].

It is important to note that every society needs a certain order, which can be regarded as one of the main arguments and justifications for the necessity of a state's existence. Certainly, the economic order plays an important role in the general order, which is nothing but competitive order for the market economy. Therefore, the overall economic policy of the country, if it is based on the market relations, competition economic policy i.e. the competition order policy, plays a key role. Otherwise, it is impossible to imagine the market economy management as one of the key advantages of the latter against the administrative-directive model of the economic development is reflected in the competition order. Healthy competition leads to optimal uses of resources and minimization of the potential "losses" of social well-being. Thus, the support of the latter for a state, which applies the market economic model, should be and actually is of a great importance and the biggest priority. As the competition economic policy is the basis for sustainable economic development, the main element of the market relations is one of the key priorities of the state's economic policy without which it is unlikely to make free economic choices, rationally balance the supply and demand to the commodity markets, ensure price formation acceptable for consumers, support the development of competition, protect the competition, detect and prevent the anti-competitive actions [4, p. 13].

Here, it is interesting to recall that for "political economy" of Socialism, it was unacceptable to assign any form of order to a competition and in every single case, the competition was referred to as an anarchy.

A society, which is building free economic relations, must formulate the economic policy, the most important part of which is the competition policy created by taking into consideration the international experience and proven standards and regulations.

It is widely recognized that competition and competitive environment together with the private property is the major stimulating factor of the economy development in perspective of the market relations. Due to the characteristics of the transitional period from the centralized economy to the market economy, in Georgia, the accelerated privatization process of the State property began in order to form the

private-ownership rights (in some cases the process was undocumented and sometimes even incomprehensible), which was carried out at several stages by donating housing funds, food and service and other small-scale facilities to the employees free of charge through the universal vouchers, lease-redemption, and various auction (including zero auction) methods;

In some cases, the method of property direct sale (sometimes at symbolic cost) was also used. We will not dwell on the assessment of the outcomes of the methods and procedures of the privatization performed in Georgia, which itself is the area of an independent research and is extremely interesting and important problem for all especially, the post-socialist countries. Moreover, it should be noted that the process of the privatization (despite many drawbacks) achieved the main goal – created private ownership and many private owners. This in turn automatically formed the essential component of the market economy, – competition [3, p. 19].

The above mentioned led to the fact that the list of primary normative-legal acts, which were hastily adopted by the State Council in Georgia after 1991-1992 well-known events (primarily the civil war and the coup) and until the restoration of the parliamentary activities at the beginning of 1992, included a decree "On Restricting of Monopolistic Practices and Promoting the Competition Development", which in 1996, before adoption of the competition law, played the role of the document, which defined and regulated the competitive relations. This decree, and from 1996, the law "On Monopolistic Activities and Competition" determined the major directions of the economic policies of competition in the country, the mechanisms of formation and protection of the competition environment. They also played a role in the implementation of privatization and de-monopolization of the economy [3, p. 20].

The process of development of the competition legislation in Georgia included the world experience in this field, and despite the number of faults and shortcomings indicated by both Georgian and foreign experts, overall it was still considered as the progressive legislation. Unfortunately, the legislative and institutional reforms introduced in the field of competition in 2005 neglected a number of important regulations and provisions of competition, which actually significantly estranged the country's competition legislation from the EU legislation instead of approximating it, the harmonization of which was and is considered as the officially declared priority and target criteria of Georgia. This refers first to the law "On Free Trade and Competition", which functions as a framework law in the Georgian competition legislation with regard to hierarchical, as well as functional perspective. The main competition law adopted in 2005, unfortunately did not regulate (did not reflect at all) the key issues of the widely- recognized competition legislation: abuse of dominant position; anticompetitive horizontal and vertical agreements; combinations of economic agents; spheres of competence of specific property owners (natural monopolies); detection and prevention of unfair competition [5, p. 35].

It should be noted that both foreign and Georgian experts regularly point to the shortcomings in the country's field of competition and the need for their elimination. The need to improve the competition law and in particular, Georgian law "On Free Trade and Competition" was caused by two main factors; First, the urgency to solve the universally recognized and proven set of problems (international norms and standards in the field of competition), without which it is actually impossible to develop and maintain the relevant competitive environment. Second, in accordance with the Partnership and Cooperation Agreements and the relevant bilateral documents, Georgia has undertaken a number of commitments towards the international organizations regarding the improvement of the national legislation and its harmonization with the EU legislation, including the field of competition (On May 8, 2004, the Georgian Government approved the resolution N22 on "The National Program on the Harmonization of the Georgian legislation with the EU Legislation"). Naturally, the term and degree for the fulfillment of the mentioned commitments significantly determined and will continue to determine the attitude of the democratic world to our country and the economy. It is actually impossible to place the problem of competition (which unfortunately took place in Georgia 2005-2012) to the background (even temporarily) in the process of ongoing deregulation with the view to implement the reform policy and economic liberalization. Moreover, the deregulation policy and the successful economic reform policy, which should create a freely operating market economy, cannot be implemented unless the country has a strong legal system to protect the competition and its relevant executive institutions [3, p. 23].

The retrospective of the competition policies shows the apparent lack of State's action in this direction in 2004-2012. The analysis of the government programs indicates that the Georgian government recognized the need for the development of competition, but there was insufficient understanding of how such activities and through what means could be carried out. The problem included not only the underestimation of the role and importance of competition in the process of economic development (its declaration would be a nonsense in terms of market relations), but the absence of appropriate mechanism for protection of constant competitive environment in order to promote the healthy competition. Otherwise, even the healthy competitive struggle is often followed by the gradual concentration of power in the hands of economic agents and the emergence of a monopoly entity with respective outcomes and market behavior.

In response to the criticism by the European experts and the requirements for improvement of the competition policy, the Country for many years performed systematic and pseudo-intensive work in order to reconstruct and reorganize the economic competition policy and to increase (to change) the powers of relevant executive bodies, which did not have any positive effect and in fact it could not have had as there was no (at least it was not visible) desire and the country's will to achieve

it. The Georgian Government, in December 2010, by adopting a comprehensive strategy of the competition policy allegedly expressed the political will to develop the modern competition policy and put the competition law into conformity with the international practice and at the same time acknowledged that the Law "On Free Trade and Competition" was developed for the transitional period and there was practically a need for adoption of a new framework law which could cover all the sectors of the economy, including non-liberal and state procurement fields. Within the institutional reform considered under the strategy, pursuant to the Presidential Decree of 26 February 2010, an independent LEPL was created – Free Trade and Competition Agency, with the promise that in the future, it would be granted respective powers and rights. In late 2011, the agency merged with the State Procurement Agency and since the beginning of 2012, the Competition and State Procurement Agency was already under way, whose large structure actually "swallowed" relatively small staff working on the issues of competition; In our opinion, functionally it is incompatible to grant one authority the powers of two agencies [3, p. 24].

The Georgian authorities (government and parliament), which in the pre-election program intended to regulate the competition field and approximate it to the European standards, conducted intensive work together with the non-governmental organizations and foreign experts in order to improve the current competition legislation and to create the optimal structure of the respective executive body. The justified recommendations made by the EU competition authorities were appropriately responded; a new competition law was adopted, which was more or less adequate to the requirements; Currently, the radical institutional reform is being carried out, which will expand and complement the Agency's competencies, improve its structure, contribute to improvement of the efficiency of its activities and ensure the transparency.

Currently, the country is operating through the law of 2012 "On Free Trade and Competition" which at the end of March 2014 was significantly amended (including the changed name of the law and now it is the Georgian Law "On Competition"), by which it was approximated to the relevant EU regulations. Since April 14, 2014, the executive body of the Georgian Law "On Competition" has been the legal entity – the Competition Agency [5, p. 33].

It should be noted that the economic policy "armed" with the effective mechanism of protection and regulation of the competitive relationship allows the Country to protect the domestic market from anticompetitive activities of economic agents using the generally accepted legal means and to implement the regulatory measures in order to compensate the damage caused by such actions. A special significance should be given to refined competition legislation for relatively small economies, especially if they represent developing and transitional countries to the market economy.

Under the globalization and economic integration, which on the one hand is necessary for improving the country's economy and competitiveness of its products,

on the other hand, it poses a serious threat for a small country's economy i.e. relatively small firms (globally) in the country may face barriers in the market during the independent operations in the conditions of discriminatory, anticompetitive market conduct created by large, transnational companies and their branches. In this respect, the competition legislation is the most important tool, effective leverage which is able to provide the proper competitive environment within the country for all economic agents regardless of their size and degree of the market power [2, p. 338].

Consequently, elaboration of the competition legislation and efficiency of its practical implementation greatly determines the economic and to some extent political independence as well for such small countries like Georgia, as it can provide the normal conditions of operation for domestic manufacturers (who due to economic scale of the country cannot be large companies). In this case, the domestic producers will be given the chance to gain a competitive advantage in various segments of the international market.

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ОЦІНКА ПІДСУМКІВ РОЗРОБКИ ТА ВПРОВАДЖЕННЯ КОНКУРЕНТНОЇ ЕКОНОМІЧНОЇ ПОЛІТИКИ В ГРУЗІЇ

У статті представлені основні етапи становлення та розвитку конкурентної політики та законодавства у сфері конкуренції в Грузії. Здійснено оцінку за минулий період на підставі критичного аналізу та порівняння відповідних правил ЄС. Надано пропозиції щодо вдосконалення області конкуренції.

Ключові слова: конкуренція; економічна політика; законодавство у сфері конкуренції; економічний порядок; приватизація; дерегулювання; конкуренція агентства.

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В статье представлены основные этапы становления и развития конкурентной политики и законодательства в сфере конкуренции в Грузии. Осуществлена оценка за прошедший период на основании критического анализа и сравнения соответствующих правил ЕС. Даны предложения по совершенствованию области конкуренции.

Ключевые слова: конкуренция; экономическая политика; законодательство в сфере конкуренции; экономический порядок; приватизация; дерегулирование; конкуренция агентства.