

Need for Competition Law – Discussing the Case of Georgia

by

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CONTENTS

- I. Introduction
- II. Twisted path of Georgian competition law
- III. The reasons and motivation for re-introducing competition law in Georgia
- IV. The impact of the abolition of Georgia's Antimonopoly Law in 2005
- V. Competition law – challenges and expectations
- VI. Conclusions

Abstract

The article deals with the question whether the market needs to be regulated and if competition law is a desirable regulatory instrument for developing countries such as Georgia. This issue is not merely theoretical in nature, but reflects Georgia's actual developments throughout the last decade when the country first repelled its existing antimonopoly law, since it was seen as unnecessary and hindering economic development, and yet later reintroduced it once again. For years Georgia was not regulating its market and, as the newly set up Competition Agency is starting to take its first steps, the question of the rationality for pro-competitive state intervention raises again.

The chosen jurisdiction is unique for its unusual development path and history. It is even more special because of this particular point in time, witnessing the birth-phase of yet another competition law jurisdiction and the launching of its competition law enforcement authority. The article is dedicated to questions which are widely disputed in society, among politicians, in the media, within the local NGO sector etc. However, the academic community has not yet written much about

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them. This paper aims to fill this gap and encourage further academic discussion on this topic. Due to the limited number of academic sources and case-law in this field, a variety of sources has been used in this paper including: dissertations, reports of international organizations and local NGOs, personal interviews, blogs and so forth. The article is divided into sections. It starts by reviewing the evolution of competition law in Georgia and demonstrates its illogical development pattern. It moves on to outline the background and motivations present in Georgia at moments when breakthrough decisions were taken regarding its competition law regime. The article describes and analyses processes that took place on the un-regulated Georgian market in the last ten years. Based on the findings, it researches the question of the desirability of competition law, that is, whether Georgian market needs such state intervention, and what are the main challenges facing the effective enforcement of its recently adopted competition law.

Résumé

L'article porte sur la question de savoir si le marché doit être réglementé et si le droit de la concurrence représente un instrument réglementaire souhaitable pour les pays en voie de développement comme la Géorgie. Cette question n'est pas purement théorique, mais elle reflète l'évolution réelle de la Géorgie à travers la dernière décennie, lorsque le pays a tout d'abord abrogé sa législation anti-monopole existante, considérée comme inutile et gênante le développement économique, pour la réintroduire après. Pendant des années, la Géorgie ne réglementait pas son marché, mais quand l'Agence de la concurrence nouvellement créée commence à faire ses premiers pas dans ce domaine, la question de la rationalité de l'intervention étatique se pose à nouveau.

La juridiction choisie est unique pour son chemin de développement inhabituelle et son histoire. Elle est encore plus particulière à l'heure actuelle, car elle nous permet d'assister à la naissance d'une autre juridiction du droit de la concurrence et à la création de son autorité de la concurrence. L'article est consacré aux questions largement discutées dans la société, parmi les politiciens, dans les médias, dans le secteur des ONG locales, etc. Cependant, la doctrine juridique n'a pas encore beaucoup écrit sur ces questions. Cet article vise à combler cette lacune et à encourager la discussion académique sur ce sujet. En raison du nombre limité de sources académiques et de la jurisprudence dans ce domaine, une variété de sources a été utilisé dans le présent article, y compris: des dissertations, des rapports des organisations internationales et des ONG locales, des entretiens, des blogs, etc.

L'article est divisé en deux parties. Il commence par l'examen de l'évolution du droit de la concurrence en Géorgie et démontre le caractère illogique de ce processus. Il continue avec la description du contexte et des motivations présentes en Géorgie aux moments quand les décisions cruciales du point de vue du droit de la concurrence ont été prises. L'article décrit et analyse les processus non réglementés qui ont eu lieu sur le marché géorgien dans les dix dernières années. Sur base des résultats de ces recherches, l'article étudie la question de l'opportunité

du droit de la concurrence, c'est-à-dire, si le marché géorgien besoin d'une telle intervention de l'Etat, et quels sont les principaux défis de l'application efficace du droit de la concurrence récemment adopté.

Classifications and key words: competition law; developing state; Georgia; market liberalization; necessity for market regulation; state intervention; transition.

I. Introduction

After more than two decades of earning its independence, rejecting a centrally-planned socialist economy, and starting developing a free and competitive market, Georgia seems to stand now at the starting point when it comes to market regulations. As its new Competition Law¹ is about to get actually enforced, and the recently formed Competition Agency² starts operating, part of the business sector and of the society remain uncertain and suspicious of whether competition law and its new enforcement authority are in fact necessary for the Georgian economy³.

In the last decade, the Georgian market has been shaped by the *laissez-faire*⁴ slogan and the outcome does not seem healthy. A number of its markets have become oligopolized and lack transparency, there are signs of anticompetitive practices, existence of cartels and the abuse of power by dominant firms. On the other hand, its new competition law regime promises competitive markets, low prices, high quality of goods and services, production efficiency and dynamic economic development. What may seem self-evidently desirable remains, however, uncertain and disputed in Georgia. The article attempts to analyze the results of the 2005 'market liberalization' reform. In response to the skepticism toward the adoption and enforcement of Georgia's new Competition Law, the paper aims to answer the questions whether the national market needs such state intervention, as well as how satisfactory and sufficient are the steps taken in recent years. The paper will also examine the rationality of persistent societal fears and mistrust towards the launch of a new state authority.

¹ Parliament of Georgia, Law of Georgia of 8 May 2012, No 6148-Ib on Competition

² LEPL Competition Agency; official website: <http://competition.ge/>.

³ I. Lekvianidze, 'What an effective competition policy should be like?' *Forbes Georgia*, 13 February 2014.

⁴ *Laissez-faire* (French: 'allow to do'), policy of minimum governmental interference in the economic affairs of individuals and society; Encyclopedia Britannica (available at: <http://www.britannica.com/EBchecked/topic/328028/laissez-faire>).

Skepticism toward the desirability of market regulation based on competition law is born out of the unusual evolution of Georgian competition policy. The following section will briefly review the twisted path taken by Georgia until now and demonstrate the current stage of its development.

II. Twisted path of Georgian competition law

Georgia gained its independence in April 1991⁵. After decades of living under the communist regime, the country stepped out of the ruins of the Soviet Union and entered the path of long and painful transitions. The collapse of the Soviet Union and the “victory” of capitalism quickly devaluated socialist ideas and enhanced the attractiveness of market economy and competition⁶. The need to start preparing grounds for a market economy was quickly realized in Georgia; from the first days of its independence, the government started working towards the creation of an appropriate legal framework⁷. The task was especially complicated by the fact that Georgia did not inherit a competition law culture or any traditions of the free market⁸. Build on Karl Marx’s ideas, the Soviet Union was designed to build a society without competition, profit or property⁹.

In spite of its communist background, Georgia moved forward fast. Already one year after declaring its independence, the State Council adopted the Decree on the Limitation of Monopoly Activities and Development of Competition¹⁰. Alongside this Decree, some provisions on antimonopoly enforcement were included in other legal acts also such as: the law on Basic Principles of Entrepreneurial Activity, and the Decree of the Council of Ministers of Georgia on Measures for the De-monopolization of the National Economy. The enforcement of Georgia’s first antimonopoly rules was entrusted to the Ministry of Economy of Georgia which was also assigned to

⁵ For more information, see: http://www.government.gov.ge/index.php?lang_id=ENG&sec_id=193.

⁶ M. Dabbah, *International and Comparative Competition Law*, Cambridge University Press, 2010, p. 8.

⁷ S. Fetelava, *The Evolution of the Competition Theory and Antimonopoly regulation in Georgia*, Grigol Bakradze State University, 2008, p. 15, 16.

⁸ *Ibidem*, p. 4.

⁹ D. Prychitko, *Marxism*, (for the Concise Encyclopedia of Economics) (available at: <http://www.econlib.org/library/Enc/Marxism.html>).

¹⁰ E. Udesiani, *Establishing Competition policy According to the Deep and Comprehensive Free Trade Agreement between Georgia and EU*, p. 10 (available only in Georgian at: <http://goo.gl/ik8kZQ>).

promote competition, protect consumers and support entrepreneurship¹¹, as well as monitor the ongoing privatization process and avoid the formation of new private monopolies¹². In August 1995, the Georgian Parliament adopted the Georgian Constitution. The principles of free market economy and related State obligations were underlined therein:

*The State shall be bound to promote free enterprise and competition. Monopolistic activity shall be prohibited, except as permitted by law. Consumer rights shall be protected by law*¹³.

In June 1996, the Parliament adopted the Law on Monopoly Activity and Competition¹⁴ (hereafter, Antimonopoly Law); an Antimonopoly Authority was created in the same year¹⁵. Thus started the most active period for market regulation in Georgia, which lasted until the beginning of the 2000s. In those years, the Antimonopoly Authority introduced European-style provisions, was working actively on cases of unfair competition and the abuse of dominance, revealed first cartel agreements, and established a State Registry for Monopolist Enterprises¹⁶. The European Bank for Reconstruction and Development assessed positively the effectiveness of the Authority in its report of 1999¹⁷.

From 2002 started the process of fragmentation and limitation of the powers of the Antimonopoly Authority. It was stripped of a number of its earlier rights, and certain fields and economic sectors were taken away from of its jurisdiction. Legal amendments created new barriers making market studies and analyses practically impossible for the Authority. Eventually, the efficiency and impact of the Antimonopoly Authority dramatically reduced¹⁸. The whole process ended in a complete rejection of the existing legal framework and institutions. The direction taken by Georgian competition policy since 1992 was changed by 180 degree and things started moving the opposite way¹⁹. In 2005,

¹¹ K. Lapachi, M. Tivishvili, 'Georgia' [in:] *Competition Regimes in the World – A Civil Society Report*, 2006, p. 383–384.

¹² S. Fetelava, *The Evolution...*, p. 17.

¹³ Parliament of Georgia, No. 786, of 24 August 1995, Constitution of Georgia, Article 30(2).

¹⁴ Parliament of Georgia, Law of Georgia of 25 June 1996 No. 288, on Monopoly Activity and Competition.

¹⁵ The president of Georgia, Edict of 28 Dec. 1996, No. 848 on the Antimonopoly Authority within the Structure of the Ministry of Economy of Georgia.

¹⁶ S. Fetelava, *The Evolution...*, p. 17–20.

¹⁷ Ibidem; European Bank for Reconstruction and Development, *Transition Report*, 1999, p. 132–145.

¹⁸ S. Fetelava, *The Evolution...*, p. 20–22.

¹⁹ Ibidem, p. 22.

new legislation was adopted that repealed Georgia's existing antimonopoly rules and abolished the Antimonopoly Authority²⁰.

The new phase of Georgian market regulation, or better to say 'non-regulation', started in 2005 and has *de facto* lasted up until now. After shutting down the Antimonopoly Authority, a new Agency of Free Trade and Competition was set up²¹. Its authority was limited primarily to State aid issues, and it did not possess any rights necessary for effective market regulation. In fact, the new legislation was merely nominal, not even defining its basic terms such as: relevant market, dominant position, significant market share etc.²².

In 2008, the EU mission evaluated Georgia's readiness for a free trade agreement. In so doing, the mission highlighted the need to improve Georgia's competition policy²³ and renewed talks about reforming it. As a priority area for the successful completion of Deep and Comprehensive Free Trade Agreement (DCFTA) negotiations, the Georgian government issued created Comprehensive Strategy on Competition in 2010²⁴. Ultimately, a new Law on Free Trade and Competition was adopted in May 2012. Through a Presidential decree, a new enforcement authority was created for this purpose – the Competition and State Procurement Agency²⁵, however this body never actually started functioning.

After subsequent parliamentary elections, a new coalition government came into power in October 2012 with a national competition policy reform among its pre-election promises²⁶. Works on amending the newly adopted Law on Free Trade and Competition commenced, but lasted longer than expected²⁷. Finally, in March 2014, the Georgian Parliament renamed it into the Law on Competition²⁸ (hereafter, Competition Law) subjecting it at the same time

²⁰ Parliament of Georgia, Law of Georgia of 3 May 2005 No. 1550 on Free Trade and Competition.

²¹ The Minister of Economic Development of Georgia, Order of 9 December 2005, No 1-1-/1992 on Amending the Charter of the Agency of Free Trade and Competition, adopted by the Order of the Minister of Economic Development No. 1-1/948 of 23 August 2005.

²² Transparency International Georgia, *Competition Policy in Georgia*, Tbilisi 2012, p. 11.

²³ Center for Social and Economic Research, *Economic Feasibility, General Economic Impact and Implications of a Free Trade Agreement between the European Union and Georgia*, 2008, p. 83–84.

²⁴ Government of Georgia, Decree of 3 December 2010, No. 1551 on the Approval of the Comprehensive Strategy in Competition Policy.

²⁵ The president of Georgia, Edict of 19 December 2011, No. 829, on the Creation of LEPL – Competition and State Procurement Agency.

²⁶ Transparency International Georgia, *Competition Policy and Competition regulatory Authority in Georgia*, Tbilisi 2013, p. 5.

²⁷ Ibidem.

²⁸ Parliament of Georgia, Law of Georgia of 8 May 2012, No. 6148-1b on Competition.

to fundamental amendments. Through the ordinance of the Government of Georgia²⁹, a new Competition Agency was formed.

In June 2014, local media published an interview with the chairman of the new Competition Agency – Giorgi Baramidze. He stated that before the Agency would start functioning, it was necessary to adopt certain normative acts on its procedural rules. A group of experts was already working on these acts and their adoption was expected by October 2014³⁰. Mid November 2014, the Agency declared that it had started, on its own initiative, to investigate the national oil products market. Moreover, the Agency area received two external submissions applications: one regarding the flour market, and the other concerning an alleged monopoly over thermal spas in the Tsqaltubo resort³¹. These are the first three cases under consideration after the re-introduction of competition law in Georgia. Not a single decision has been issued yet.³²

III. The reasons and motivation for re-introducing competition law in Georgia

The following section aims to reveal the actual reasons and aims standing behind the decisive points in the history of Georgian competition policy developments. This will help better understand the illogical nature of its evolution, and lead to the roots of societal mistrust and skepticism toward its competition authority, as yet another State regulatory body.

Georgia's decision to introduce antimonopoly law soon after it declared its independence does not raise many questions. After the collapse of the socialist Soviet Union, independent Georgia was trying to transform itself into a market economy – perceiving antimonopoly law as a necessary part of such

²⁹ Government of Georgia, Ordinance of 14 April 2014, No. 288 on Adopting the Charter of LEPL Competition Agency.

³⁰ Interview of Giorgi Baramidze with *Commersant.ge*, 26 June 2014 (available at: <http://commersant.ge/?lang=1&menuid=11&id=12769>).

³¹ For more information, visit: <http://www.bpn.ge/biznesi/7538-konkurenciis-saagentom-navthobproduqtetbis-bazris-shestsavla-daitsyo.html?lang=ka-GE>.

³² The end of 2014 was marked with massive decrease in oil prices globally; Georgian market legged behind the tendency. In the middle of December 2014, the prime minister of Georgia requested new competition agency to analyze oil market and prepare a report regarding the reasons of non adequate decrease in oil prices in Georgia. The preliminary report has already been presented to the prime minister. As the Agency stated, the signs of anticompetitive agreements and concerted practices has been discovered on the market, however the market study has not been completed and no decision has been made yet. For more information, visit: <http://competition.ge/ge/page4.php?b=198>.

transformation was quite logical³³. This was so especially when taking into account that there was a boom, at that time, of adopting competition laws in the former socialist States, as well as in other developing countries in Central America, South East Asia, Africa, etc.³⁴

Since becoming an independent State, Georgia's declared foreign policy was that of integration with the EU and with Euro-Atlantic institutions³⁵. Seeking membership in the North Atlantic Treaty Organization (NATO) was driven mainly by security reasons³⁶. However, joining the European family was an issue also related to the identity of the Georgian nation³⁷, and was seen as part of returning to European roots³⁸. From the first years of its independence, Georgia started establishing close relations with the EU and later, after claiming its European identity, set EU membership as its goal³⁹.

Since the 1990s, significant efforts have been taken toward Georgia's 'de-sovietization' and to its Europeanization. According to Bache and Jordan, Europeanization is the process of 'reorientation or reshaping of politics in

³³ S. Fetelava, *The Evolution...*, p. 15, 16.

³⁴ R. Whish, C. Townley, *New Competition Jurisdictions: Shaping Policies and Building Institutions*, Edward Elgar Publishing, 2012, p. 261.

³⁵ For more information, visit: <http://www.eu-nato.gov.ge/en/eu/cooperation>.

³⁶ For more information, visit: http://mfa.gov.ge/index.php?lang_id=ENG&sec_id=453.

³⁷ On 27 April 1999, at the accession ceremony of Georgia to the Council of Europe, the chairman of the parliamentary assembly, Lord Russel-Johnston, addressed the Georgian delegation with the following words: 'Georgia, welcome back home!' The Prime minister of Georgia, Zurab Zhvania, delivered his historic speech, stating: 'I am Georgian and therefore I am European'. For more information, see: N. Mestvirishvili, M. Mestvirishvili 'I am Georgian and there-fore I am European' Re-searching the Europeanness of Georgia' p. 52–53.

Address by Minister of Foreign Affairs of Georgia, H.E. Mr. G. Vashadze at the Parliamentary Assembly of the Council of Europe, Strasbourg, 25 January 2012 (available at: http://www.spain.mfa.gov.ge/index.php?lang_id=ENG&sec_id=142&info_id=13766). Also, see: M. Saakashvili, K. Bedukidze, 'Georgia, the Most Radical Catch-up Reforms' [in:] A. Aslund, S. Djankov, (eds.) *The Great Rebirth: Lessons from the Victory of Capitalism over Communism*, Peterson Institute for International Economics, 2014, p. 150.

³⁸ At the campaign concert 'We Choose Europe' dedicated to the signing of the AA between Georgia and the EU, Giorgi Margvelashvili, the president of Georgia, stated during his speech: 'All of us here today are united for a bright goal, which is not just the choice of some political union, neither is this the choice of any politician or a state official; this is not the choice made only by us; this is the choice made by our ancestors, who created this free country – Georgia, who built the freedom, freedom of soul, acceptance of others, tolerance, in the basement of the Georgian culture. That's why, we are here not only for our choice, but for the choice made by our predecessors' (available at: <https://www.president.gov.ge/en/PressOffice/News/Releases?8750>).

³⁹ N. Mestvirishvili, M. Mestvirishvili, 'I am Georgian and there-fore I am European'..., p. 53. K. Lapachi, *Georgian Competition Way to EU*, 2011 (available at <http://dfwatch.net/georgian-competition-way-to-eu-60215>).

the domestic arena in ways that reflect policies, practices or preferences advanced through the EU system of governance⁴⁰. As Cseres claims, the experiences of EU's eastern enlargement show that competition law is a key mechanism in this context and the most acute illustration of Europeanization⁴¹.

Competition law developments in Georgia have always been closely linked and influenced by the EU. In 1996, Georgia signed the Partnership and Cooperation Agreement (hereafter: PCA) with the EU⁴². Although cooperation with the EU started already in 1991-1992, the PCA was the first milestone on this road launching the continuous process of legal approximation and harmonization. Along with a number of political, economic and social issues⁴³, the PCA indicated also what key topics should be given particular attention. Article 44 of the PCA stated that Georgia should develop its competition law and implement it, for which the EU would provide technical assistance. Responding to these obligations, Georgia adopted its antimonopoly legislation only a few months later and founded its first Antimonopoly Authority⁴⁴. Despite such prompt reaction by the Georgian government, the enforcement of its antimonopoly rules has never been sufficiently successful in Georgia.

The work of the Antimonopoly Authority is praised in the works of the most prominent and widely quoted Georgian competition law authors such as Fetelava and Lapachi. However, these authors, in their capacity as former officials of that body⁴⁵, act as representatives of that very Authority and thus naturally they remain more focused on its achievements than on its short fallings. According to an evaluation undertaken by Forbes Georgia, competition in Georgia was limited in a number of national markets, informally privileged undertakings existed, and cartels and various corruption schemes were in operation even before the abolishment of its Antimonopoly Law⁴⁶. However, the malfunctioning of the Georgian market should be blamed on the general situation in the country, rather than on a single State institution. As Lapachi herself assessed the work of the Authority, she indicated key

⁴⁰ I. Bache, A. Jordan, 'Europeanization and Domestic Change', [in:] I. Bache, A. Jordan (eds.), *The Europeanization of British Politics*, Basingstoke 2006, p. 30.

⁴¹ K. Cseres, 'Accession to the EU's Competition Law Regime: A Law and Governance Approach' (2014) 7(9) *YARS* 35.

⁴² Georgia & EU, *Partnership and Cooperation Agreement*, 1996.

⁴³ For more information, visit: <http://eu-nato.gov.ge/en/eu/agreement>; http://mfa.gov.ge/index.php?lang_id=ENG&sec_id=462.

⁴⁴ S. Fetelava, *The Evolution...*, p. 17.

⁴⁵ S. Fertlava was a deputy head and later acting head of the Antimonopoly Authority of Georgia; K. Lapachi is also a former deputy head of the Authority.

⁴⁶ I. Lekvianidze, 'What an effective competition policy should be like?' *Forbes Georgia*, 13 February 2014.

problems which had hindered affective law enforcement in Georgia⁴⁷. She listed: legislative gaps and deficiency of secondary legislation; lack of data accessibility; inconsistency of State policy and non-comprehensive nature of economic reforms; weak institutional position of the Authority (status, funding, lack of qualified personnel); political situation which had often failed to support it; absence of political will.

Among the abovementioned problems, the principal one has always been the lack of political will towards market regulation⁴⁸. Even in 2014, before launching the new Competition Agency, a survey conducted by Forbes Georgia demonstrated that 56% of the questioned business leaders said that the Agency is necessary. However, 53% believed that its effectiveness is fully depended on the political will of the government⁴⁹.

The significance of the government's actual willingness to bust market competition is vital in developing and transitional countries like Georgia, which lacks the tradition and culture of independent and powerful state institutions, and where political leaders possess vast formal and informal authority. While in certain parts of the world, such as the EU or the USA, the question of the desirability of competition law is beyond doubt, the same conviction is not necessarily shared all around the world. In countries with strong ties between the government and business, the idea of the State taking steps to develop competition means to take away the power and influence exercised so far by a small elite, which controls specific sectors of the local economy. Competition can thus be a highly undesirable and disliked idea by an government⁵⁰. An almost nominal operation of state institutions, while the government never truly allows them to reach their declared goals, gives birth to public skepticism and distrust toward state bodies.

For years, Georgia was sunk deeply into corruption. In fact, it was considered as one of the most corrupt countries in the world⁵¹; in 2003, the Transparency International's Corruption Perception Index placed Georgia in the 124th place among the 133 listed states⁵². Rampant corruption, pushing Georgia to the stage of a 'failing state'⁵³, could explain the absence of governmental will to

⁴⁷ K. Lapachi, *Competition Policy in Georgian 1992–2012*, presentation for the Georgian Development Research Institute. 2012, section 27.

⁴⁸ Interview of Prof. Solomon Pavliashvili with GHN.ge, 10 October 2014.

⁴⁹ I. Lekvianidze, *What an effective competition...*, op. cit.

⁵⁰ M. Dabbah, *International and Comparative Competition Law*, Cambridge University Press, 2010, p. 8.

⁵¹ G. Nodia, Á. Scholtbach, *The Political Landscape of Georgia: Political Parties: Achievements, Challenges and Prospects*, Eburon Uitgeverij B.V., 2006, p. 16.

⁵² For more information, visit: http://www.transparency.org/research/cpi/cpi_2003.

⁵³ G. Nodia, Á. Scholtbach, *The Political Landscape of Georgia: Political Parties: Achievements, Challenges and Prospects* Eburon Uitgeverij B.V., 2006, p. 16; T. Bočorišvili, W. Sweet, D. Ahern *Politics, Ethics and Challenges to Democracy in 'new Independent States'* CRVP, 2005, p. 110.

effectively enforce its own Antimonopoly Law. A good demonstration of this problem is the fact that despite its struggle, the Antimonopoly Authority could never manage to establish itself as a separate and independent body. Not only did it remain a structural unit within the Ministry of Economy, but with its authority shrinking as well⁵⁴. Looking at the development and enforcement practice of Georgian Antimonopoly Law until its abolition in 2005, a question arises; was adopting this law, and establishing its enforcement authority, in fact a conscious decision taken by the Georgian government meant to enhance the competitiveness of the national market? Or was it maybe an idea “planted” from the outside, and seen by the government as a necessary tribute for a better state image, without the government having any actual will to enforce the law? The same question may apply to the decision to abolish the law in 2005 and then re-introduce it in 2012.

The abolition of competition law in Georgia was preceded by dramatic political changes. Extreme forms of corruption and failing state institutions lead Georgia into a peaceful revolution in November 2003⁵⁵, the old government was overthrown and a team of young reformers was brought into the new cabinet⁵⁶. From 2003 onwards, Georgia witnessed the largest scale reformation wave since its independence⁵⁷. Its economic reforms are related to the name of Kakha Bendukidze, who held the posts of the Minister of Economy and then Minister for Reform Coordination between 2004 and 2008. Bendukidze, widely seen as the “godfather”⁵⁸ and “architect” of Georgia’s market liberalization reforms⁵⁹,

⁵⁴ K. Lapachi *Competition Policy in Georgian 1992–2012*, Presentation for the Georgian Development Research Institute 2012, section 20.

⁵⁵ For more information, visit: <http://news.bbc.co.uk/2/hi/4532539.stm>; <http://www.usip.org/sites/default/files/sr167.pdf>.

⁵⁶ L. Mitchell, *Uncertain Democracy: U.S. Foreign Policy and Georgia’s Rose Revolution*, University of Pennsylvania Press, 2011, p. 115; C. Sudetic, *The Philanthropy of George Soros: Building Open Societies*, Public Affairs, 2011, p. 33–35; W. Shoemaker, *Russia and The Commonwealth of Independent States*, Rowman & Littlefield, 2014, p. 238, 239; E. Svante, S. Cornell, F. Starr, *The Guns of August 2008*, M.E. Sharpe, Jun 8, 2009, p. 85–104.

⁵⁷ M. Saakashvili, K. Bedukidze, ‘Georgia, the Most Radical Catch-up Reforms’ [in:] A. Aslund, S. Djankov, (eds.) *The Great Rebirth: Lessons from the Victory of Capitalism over Communism*, Peterson Institute for International Economics, 2014, p. 150.

⁵⁸ Associated Press, 14 Nov. 2014 (available at: <http://bigstory.ap.org/article/52e3e1784d7b444d91b21ce0dc2a51c3/godfather-georgias-reforms-dies-58>).

⁵⁹ N. Emerick, G. Jandieri *Rose Revolution Shows the Results of Freeing Markets*, 13 Nov. 2013 (available at: <http://www.bdlive.co.za/opinion/2013/11/13/rose-revolution-shows-the-results-of-freeing-markets>); Associated Press, 14 Nov. 2014 (available at: <http://bigstory.ap.org/article/52e3e1784d7b444d91b21ce0dc2a51c3/godfather-georgias-reforms-dies-58>); H. Bedwell for Bloomberg, 14 Nov. 2014 (available at: <http://www.bloomberg.com/news/2014-11-14/georgia-reformer-businessman-bendukidze-dies-in-london-at-58.html>); The Economist, ‘A Different Sort of Oligarch’, 29 Jul. 2014 (available at: <http://www.economist.com/node/2963216>).

had extreme views regarding market de-regulation⁶⁰. He saw competition law as a burden for business and an undesired barrier for attracting foreign direct investments. Ignoring the question of how reasonable and desirable it was to abolish Antimonopoly Law in Georgia, it was at least made genuinely by the government itself, rather than being recommended or suggested by foreign partners or institutions. Therefore, in order to convince the society of the rightfulness of the reform, market regulating bodies were labeled as an unnecessary barrier. As Bendukidze stated in an interview in 2009, the operation of regulatory bodies meant they have to ‘regulate something, to correct something, to interfere with people’s lives’⁶¹.

The de-regulation reform of 2005 was rejected by 2010 and works begun on re-introducing competition law in Georgia, despite the fact that the same political team was still in power⁶². However, in the context of the negotiations taking place between Georgia and the EU on the DCFTE and the AA, the idea that competition law is necessary came to Georgia, once again, from the outside⁶³ rather than as a result of analyzing internal mistakes of previous years. It is obvious that the legal changes and the actual political will of the government might, in such case, contradict each other. This might lead to making the business and the society skeptical as to the promised changes.

A survey conducted among business leaders by Forbes Georgia in February 2014 demonstrated that market players remain widely suspicious of the reform and keep their expectations low before the launch of the new Competition Agency.

- 67% of the survey participants agreed that there is a competition problem on the Georgian market, while:
- 44% did not see the need for a competition authority;
- 53% thought that the effectiveness of the competition authority is depended on the political will of the government;
- 35% considered that the competition authority will become another regulatory barrier for business;
- Only 11% expected that launching the authority will have an actual positive impact on the market and the level of competition will increase.

⁶⁰ The famous quote of Kakha Benukidze was: ‘Georgia should sell everything that can be sold, but its conscience’.

For more Information, see: *The Economist*, ‘A Different Sort of Oligarch’, 29 Jul. 2014 (available at: <http://www.economist.com/node/2963216>).

⁶¹ Interview to K. Bendukidze, ‘There Is Only One Way – Building a Free Economy’ by Natalia Morari, Ekho Kavkaza, 7 December 2009, p. 1 (available at: <http://www.esiweb.org/pdf/georgia%20-%20Ekho%20Kavkaza%20Interview%202009.pdf>).

⁶² Government of Georgia, Decree of 3 December 2010, No. 1551 on the approval of the comprehensive strategy in competition policy.

⁶³ For more information, visit: http://mfa.gov.ge/index.php?lang_id=ENG&sec_id=462.

The attitude to favor the currently known bad situation, due to fear of an unknown, potentially worse future, will not bring any positive changes to the country's economy. The following section will discuss whether the current status-quo of an un-regulated Georgian market needs to be changed, and the impact of this situation regarding market competitiveness.

IV. The impact of the abolition of Georgia's Antimonopoly Law in 2005

Georgia has taken important steps in the last few years in order to develop effective market regulation system. Since the idea of the reform originated from EU recommendations, the reform has a certain political context, although this does not negate its timeliness. The following section will demonstrate the outcome of Georgia's "market liberalization" of 2005 in order to answer the question whether the decision to repeal its Antimonopoly Law was correct and whether this path should have been continued. Considered will also be the question whether, alternatively, the Georgian market at all needs state intervention to regulate competition.

Between 2004-2012, post-revolutionary Georgia went through a massive reformation process and attained a number of impressive achievements. Its placements on international rankings were continuously improving including: the World Bank's Doing Business Index, the Heritage Foundation and the Wall Street Journal Index of Economic Freedom, the Transparency International Corruption Perception Index, and the Fraser Institute Economic Freedom of the World Index⁶⁴. Georgia's average yearly economic growth equaled 6.1% between 2004 and 2012. Due to the level reached and the speed of its developments, this process has been termed the 'Georgian Economic miracle'⁶⁵.

Unfortunately, the same success did not apply to the competitiveness of the Georgian market. Its position on the Global Competitiveness Index was not as impressive – the country was placed between positions 85 and 93 during 2005–2012⁶⁶. Although the situation was not ideal even with competition rules in place, it started to worsen after the Antimonopoly Law was repealed.

⁶⁴ M. Saakashvili, K. Bedukidze, 'Georgia, the Most Radical Catch-up...' [in:] A. Aslund, S. Djankov, (eds.) *The Great Rebirth...*, p. 162–163.

⁶⁵ Interview to K. Bendukidze 'There Is Only One Way – Building a Free Economy' by Natalia Morari, Ekho Kavkaza, 7 December 2009, p. 1 (available at: <http://www.esiweb.org/pdf/georgia%20-%20Ekho%20Kavkaza%20Interview%202009.pdf>).

⁶⁶ The reports can be found on the following address: <http://www.weforum.org/issues/global-competitiveness>.

Georgia moved towards a national economy dominated by monopolies⁶⁷ and oligopolies, which started to form on markets for the most common goods and services.

Comparing to the year 2000, the share of small and medium sized enterprises (SMEs) in the Georgian market's total turnover decreased by more than 50%⁶⁸ and currently equals 15.6%⁶⁹. This is a very unhealthy situation since SMEs are seen as the backbone and engine of economic growth, primarily responsible for innovation and R&D⁷⁰. The shrinking share of the turnover of SMEs indicates that fewer companies remain on the market. When few large companies capture the market, the risk of anticompetitive agreements or abuse of dominance is more than high in the absence of competition rules.

The Georgian fuel market is a good example here which used to encompass dozens of undertakings. However, after the reformation of 2005, medium firms started to leave the market and the retail level was ultimately divided among five big companies⁷¹. Eventually, an oligopoly formed in this very important segment of the national economy⁷² which was reflected in its price structure. In 2006, fuel prices started to increase dramatically in Georgia⁷³. Companies remaining on the market shared an analogous price dynamics. Another anomaly developed since then: price increases taking place in the international market affect prices on the national market, but an international price cut much less effect in Georgia⁷⁴. The fuel market remains widely disputed until now. It was specifically in response of the public interest that

⁶⁷ L. Papava, 'Georgia's Socio-Economic Development: Prospects over the Medium Term', 16 December 2012 (available at: <http://www.international-alert.org/blog/socio-economic-development-english#sthash.HybS6xPh.pdf>).

⁶⁸ Interview of Prof. Solomon Pavliashvili with GHN.ge, 10 October 2014 (available at: <http://ghn.ge/news-116316.html>).

⁶⁹ National Statistics Office of Georgia, *Statistics on the Operation of Undertakings*, 3 September 2014 (available at: http://www.geostat.ge/cms/site_images/_files/georgian/business/Press%20Release%202014_II.pdf).

⁷⁰ For more information, visit: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/index_en.htm Also see: P. Këllezi, *Antitrust for Small and Middle Size Undertakings and Image Protection from Non-Competitors*, Springer, 2014, p. 5.

⁷¹ 'Before the Rose Revolution, dozens of companies operated in the retail fuel market. We could buy decent gas, bad gas and black market gas. After the Rose Revolution, the government effectively eliminated the black market retailers as new companies emerged and began to consolidate their presence. One by one, independent gas stations were swallowed up by bigger fish. Now, only 5 suppliers operate on the Georgian market' – P. Rimple, *Who Owned Georgia*, Transparency International Georgia, 2012, p. 65. See also: Transparency International Georgia, *Competition Policy in Georgia*, Tbilisi, 2012, p. 20.

⁷² *Ibidem*, p. 17.

⁷³ *Ibidem*, p. 6, 8.

⁷⁴ *Ibidem*, p. 17.

the new Competition Agency has chosen this very market as the first subject of its investigation⁷⁵.

Oligopolies developed in other consumer vulnerable markets, such as the pharmaceutical and food sector. The food market is especially important since it covers the most widely consumed goods. Since 2005, food prices started to grow in Georgia with particularly sharp increases taking place after 2009⁷⁶.

The pharmaceutical sector is another sensitive field which has been described by the Transparency International in Georgia as “an oligopoly and vertical monopoly of two companies that use their strong concentration of market power in the import/distribution, the retail and the manufacturing sectors to dominate the market”⁷⁷. The report, published in 2012, indicated the following problems:

- Out of 70 undertakings active on the production market, two controlled 90% of the market;
- Those two companies, along with three others, formed an oligopoly on the retail level;
- Companies employed various exploitative and exclusionary practices including: high prices that continuously increased, much higher than other general goods and services; the mark-up for medicines was very high, far above the average mark-up in European States; pharmaceutical companies offered financial or other incentives to doctors for prescribing their medicines; largest pharmaceutical chains aggressively promoted their own medicines. Even when patients presented prescriptions from doctors for specific medicines, without any request they were offered alternative solutions, produced by the pharmacy owning company.
- Large scale pharmaceutical companies were supposed to have close ties with the government.

Market monopolization, or their division among a few companies, has often taken place with the help of the state itself. The Georgian hospital sector is a good example here. The state imposed an obligation on insurance companies to construct and operate hospitals – in order to allow them to cover their losses, they were awarded legal monopolies in specific regions⁷⁸. Eventually, almost the entire country was divided among a few insurance

⁷⁵ BNP.ge 14 Nov. 2014 (available at: <http://www.bpn.ge/biznesi/7538-konkurenciis-saagentom-navthobproduqtebis-bazris-shestsavla-daitsyo.html?lang=ka-GE>).

⁷⁶ Transparency International Georgia, *Competition Policy in Georgia*, Tbilisi 2012, p. 33, 39.

⁷⁷ Transparency International Georgia, *The Georgian Pharmaceutical Market*, Tbilisi 2012, p. 1; P. Rimple, *Who Owned Georgia. A Pharmaceutical Oligopoly*, p. 73-92.

⁷⁸ Transparency International Georgia, *The Georgian Pharmaceutical Market*, Tbilisi 2012, p. 4.

companies⁷⁹. Hence, vertical integration allowed ownership of hospitals by insurance companies, despite the risk of a serious conflict of interests⁸⁰. At the same time, dominants of the pharmaceutical sector managed to successfully integrate vertically also and entered the insurance and hospital sectors as well⁸¹. To complete the picture, controversial acquisitions took place in 2010 on the insurance market itself whereby a single undertaking gained control of more than 1/3 of the market⁸².

The hospital sector is not the only example of the abovementioned trend. Other examples of monopolization or oligopolization of markets with the help of the state include: lottery⁸³, cargo services⁸⁴, postal services⁸⁵, slaughterhouses⁸⁶, minibuses⁸⁷ and other sectors. The above list is not exhaustive but illustrates well the tendencies taking place in Georgia during the absence of market regulation. Existence of elite corruption and close ties between business sector and the government⁸⁸ encouraged various forms of anticompetitive actions and abuses. Without an effective, independent body to prevent them, both the Georgian economy and its consumers suffered damages.

⁷⁹ See the map, developed by Transparency International Georgia, available at <http://a.tiles.mapbox.com/v3/tornike.mergedinsurancecompanies/page.html#9/42.4488/44.0607>.

⁸⁰ Transparency International Georgia, *The Georgian Pharmaceutical Market*, Tbilisi 2012, p. 14, 15.

⁸¹ Ibidem, p. 17.

⁸² Transparency International Georgia, *The Georgian Health Insurance Industry*, Tbilisi 2012, p. 20.

⁸³ M. Huter, M. Andguladze, 'Lottery nationalized and put under management of Georgian Post' Transparency International Georgia Blog, 3. Sept. 2011 (available at: <http://transparency.ge/en/blog/lottery-nationalized-and-put-under-management-georgian-post>).

⁸⁴ T. Khaliani *Cargo Companies, on the Verve of Extinction*, Liberali, 23 May 2013 (available at (Only in Georgian): <http://www.liberali.ge/ge/liberali/articles/114945/>).

⁸⁵ Transparency International Georgia *New draft law on Postal Service: Establishing the Georgian Post monopoly?* 4 March 2014 (available at: <http://transparency.ge/en/blog/new-draft-law-postal-service-establishing-georgian-post-monopoly>).

⁸⁶ Transparency International Georgia, *Competition Policy in Georgia*, Tbilisi 2012, p. 48. Also visit: http://www.messenger.com.ge/issues/2376_june_14_2011/2376_econ_three.html.

⁸⁷ T. Zhvania, 'Monopoly Money in Georgia', 23 September 2011; Humanrights.ge *Scheme of Monopolist Winner of Min-Bus Tender*, 4 March 2011 (available at: <http://www.humanrights.ge/index.php?a=main&pid=13011&lang=eng>). Also visit: http://www.sakrebulo.ge/index.php?lang_id=ENG&sec_id=6&info_id=1682.

⁸⁸ P. Rimple, *Who Owned Georgia*, Transparency International Georgia, 2012; Transparency International Georgia, *Intersection of business and politics: Problem of the 'revolving door' in Georgia*, 5 February 2013 (available at: <http://transparency.ge/en/blog/intersection-business-and-politics-problem-revolving-door-georgia>); L. Papava, 'Georgia's Socio-Economic Development: Prospects over the Medium Term' 16 Dec. 2012 (available at: <http://www.international-alert.org/blog/socio-economic-development-english#sthash.HybS6xPh.dpuf>).

Georgia became a current example of extreme market liberalization. The architects of the reform claimed that “the market would ultimately dictate”⁸⁹ and the “invisible hand”⁹⁰ would regulate it. However, looking back from today’s point of view, it is obvious that repealing Georgia’s Antimonopoly Law and closing its Antimonopoly Authority was not a reasonable decision. Lapachi and Tivishvili called it ‘an absolute disaster’⁹¹. Fetelava quotes a number of other prominent Georgian experts and academics, such as: Papava, Leiashvili, Gogiashvili, criticizing the abolishment and listing its negative effects⁹². In this context, re-introducing competition law in Georgia was a move in the right direction, although the situation has not yet improved much. New competition legislation has been adopted, but the recently created authority is only starting to take its first enforcement steps. The effectiveness and actual independence of that body, and the question whether breakthrough, genuine changes are actually going to materialize, are still ahead to be tested by time.

V. Competition law – Challenges and Expectations

The precious section described anticompetitive anomalies that had developed on the Georgian market due to the absence of effective market regulation. Now, as the country starts regulating its market again, it is important to have realistic expectations as to the possible outcomes, about what positive changes can, in fact, be achieved, and what challenges might be ahead.

The rationale of Georgia’s radical and comprehensive reformation wave that started in 2004 was that the state was actually failing, that there was no time for a long-term, painless transformation, and that the country needed immediate, aggressive changes⁹³. Moreover, because of the kleptocratic nature of the state’s activities in earlier years, and the malfunctioning of its institutions, any kind of state control was considered suspicious⁹⁴. While such belief could have been effective for a limited period of time, it seems to be

⁸⁹ Transparency International Georgia, *Competition in Georgia*, 2008, p. 5 (available at: <http://transparency.ge/sites/default/files/Competition%20in%20Georgia.pdf>).

⁹⁰ For more information, see: S. Adam, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 1776 Book IV, Chapter II, p. 456, para. 9.

⁹¹ K. Lapachi, M. Tivishvili, ‘Georgia’ [in:] *Competition Regimes in the World – A Civil Society Report*, 2006, p. 384.

⁹² S. Fetelava, *The Evolution...*, p. 22.

⁹³ M. Saakashvili, K. Bedukidze, ‘Georgia, the Most Radical...’ [in:] A. Aslund, S. Djankov (eds.) *The Great Rebirth...*, p. 149–150.

⁹⁴ Transparency International Georgia, *Competition in Georgia*, 2008, p. 5 (available at: <http://transparency.ge/sites/default/files/Competition%20in%20Georgia.pdf>).

still widely shared in Georgia even today⁹⁵. Adopting a new Competition Law was seen as a necessary step for improving the state image and integrating it closer with the EU⁹⁶. How practically beneficial the new Law can actually be for a developing country like Georgia is a question that is still very much open.

The mere adoption of a new Law is certainly not supposed to change anything, and the two years in Georgia have illustrated this realization well. As a Chicago Law School Professor and former US official Kenneth Dam states, 'law matters...but much else counts as well'⁹⁷. Good legislation that remains unenforced amounts to gold buried in the ground. Practice shows that enforcement is generally the Achilles Heel of the majority of newly formed competition authorities⁹⁸. That is why their independence and impartiality is absolutely necessary. Unlike its predecessor, the new Competition Agency is an independent entity⁹⁹ – the law grants it full freedom and independence in its decisions and actions¹⁰⁰. However, the question remains of its impartiality from political influences, and only the Agency's future actions will tell how effective and independent it can actually be.

Moreover, an independent judiciary has a vital role to play for the effective enforcement of competition law. First of all, the Agency's decisions can be appealed to Georgian courts. Second, even if the Agency fails to stay free of political influence, private enforcement mechanism allows concerned parties to seek legal remedies for competition law infringements directly before the courts. This mechanism has already been used after the adoption of the Law on Free Trade and Competition in 2012, even before the Agency started operating¹⁰¹.

⁹⁵ See the previous section.

⁹⁶ See section III above: The reasons and motivation for reintroducing market regulation in Georgia.

⁹⁷ K. Dam, *The Law-Growth Nexus: The Rule of Law And Economic Development*, Brookings Institute Press, 2006, p. 221, 230.

⁹⁸ K. Davidson, *Economic Development, Competition and Competition Law*, American Antitrust Institute, 2011, p. 3.

⁹⁹ Parliament of Georgia, Law of Georgia of 8 May 2012, No 6148-1b on Competition, Art. 4.

¹⁰⁰ *Ibidem*, Art. 16, 17.

¹⁰¹ In May 2013, Tbilisi City Court abolished the Order of the Minister of Finance, granting the State-owned Georgian Post an advantageous position and establishing barriers on the market. (For more information, regarding the disputed order, see: Transparency International Georgia, *With the help of the Finance Minister's order the Georgian Post has assumed an advantageous position on the market*, 2013 – available at: <http://transparency.ge/en/blog/help-finance-minister-s-order-georgian-post-has-assumed-advantageous-position-market?page=2>). Along with several other grounds, the court shared the position of the claimant, blaming the Ministry of Finance for unauthorized state aid (*Stargroup llc, Kara llc, v. The Ministry of Finance of Georgia*, Georgian revenue service, decision of 27 May, 2013, the City Court of Tbilisi on

Along with the judiciary, low corruption levels and ‘arm’s length’ relations between the business and the political sphere are vital for effective competition law enforcement. While a number of developing States struggle with these problems, low effectiveness of market regulation should not come as a huge surprise. Therefore, along with opening a competition authority, Georgia will need to invest much energy in making improvements in this context, in order to exercise an actual impact on the market.

If it proves possible to successfully resolve the practical problems of effective competition law enforcement, the question will remain as to what actual benefits can the country achieve from it? Having powerful giants that dominate the market may seem a more successful demonstration of a growing economy; however, the key to growth for developing countries is investment in SMEs. As Arancha González, Executive Director of the International Trade Centre states: ‘SMEs are key drivers for economic growth, innovation, employment and social integration...the world’s most concentrated, booming and innovative engine’¹⁰². Competition law is a tool that protects SMEs and creates the necessary market environment for little companies to grow and to develop the economy without getting swallowed up by market dominants. The wealthiest corporations dominating current global markets, such as Microsoft, Intel, Google or Facebook, started as small low capital ventures. This does not mean that every SME should expect the same fate, but the whole magic of competition is that it selects the most successful entities and lets them flourish¹⁰³. As discussed above, SMEs play an increasingly insignificant role in the Georgian economy, a good indicator of an economy’s lack of health and the urgent need for restrained State intervention.

Stopping anticompetitive practices and abuses of dominance, competition law assists the market in getting rid of uncompetitive undertakings and paves the way for the most successful ones. It creates a healthier environment for business and a stronger market. Developing States strive to integrate into the world economy and have their global economic role grow. In order to increase their competitiveness on the international level, they should however first turn to the competitiveness of their own economy, make it full of strong, but not

the Case N 3/362-13, Para. 6.5). The same position has been shared by the Appellate Court of Tbilisi. The Supreme Court of Georgia has recognized the case as inadmissible, thus letting the Appellate Court decision come into force. For more information, see: <http://news.ge/ge/news/story/122661-gadamzidma-kompaniebma-khadurs-sami-instantsia-mouges-da-akhla-zaralis-anazghaurebas-itkhoven>.

¹⁰² Speech before the European Parliament’s Committee on International Trade in Brussels, Belgium. Delivered on 19 March 2014 (available at: <http://www.intracen.org/news/Statement-at-the-European-Parliament-Committee-on-International-Trade/>).

¹⁰³ K. Davidson, *Economic Development...*, p. 10, 11.

necessarily giant enterprises, which are capable of effectively competing on the international level.

Effective market regulation makes the economy competitive – competition enhances production, innovation, reduced poverty, creates wealth and lets consumers get a fair share out of the resulting gains. Competition law has more than symbolic role to play here, however its mere adoption, without effective enforcement, does grant club membership to the developed world. Market regulation is a process of effective law enforcement, state intervention into the market in order to correct its irregularities and enhance efficiency. Market regulation has the potential to make the economy stronger and healthier, develop the market, give space to SMEs and benefit consumers. Due to that, it is as desirable for developing countries as for the developed ones. The issue facing Georgia now is thus not to worry about adopting a new Law, or launching a competition authority, but to think about how to ensure its effectiveness and avoid repeating the mistakes of the past.

VII. Conclusion

Since earning its independence in 1991, Georgia has gone through almost two and a half decades of transformation. While the country has never rejected the chosen path of democratization, Europeanization and developing a market economy, its strategy on certain issues has been changing over time. Competition policy developments have not been steady or logical in the last decade. The question whether Georgia needs competition law has already been subject to much debate in the last ten years; it seems that even now there still is no general consensus on this issue. Is market regulation based on competition law as necessary in small economies, such as Georgia, as in wealthy nations? Absolutely yes! As Lewis answers “the really big distortions to competition happen in poor countries”¹⁰⁴. Market regulation is the right choice for every market economy as it has the potential of enhancing market performance, turning it into a strong and competitive one, and bringing benefits to consumers¹⁰⁵. Georgian experiences demonstrate well that a non-regulated

¹⁰⁴ W. Lewis, *The Power of Productivity: Wealth, Poverty, and the Threat to Global Stability*, University of Chicago Press, 2005, p. 15.

¹⁰⁵ Direct consumer benefits have been well demonstrated by the Competition authority (GVH) in Hungary, another former socialist state, which passed a somehow similar path of transformation as Georgia. As GVH claimed in 2014, only in the period between 2008 and 2012, Hungarian consumers (a population of roughly 10 million) saved at least 58 billion HUF (in 2013 value, approx. 200 million EUR according to the 2013 exchange rate). Benefits are

market becomes a playground for destructive anomalies. Well-chosen and restrained state intervention is the only known answer to the question how to avoid past mistakes and make the Georgian market healthier. This refers not only to the formal adoption of a new Law, and the formation of a new authority, but the overall process of law enforcement and the actual work conducted by the Competition Agency from now on. Georgia seems to be at a good starting point for effective market regulation. It has a European-type competition law, an already formed enforcement authority, previous good and bad experiences in this field, and a problematic market which needs active adjustments. If all these are wisely used, with the support of the political will of the government (that is, granting independence and freedom of actions to the Agency and not interfering with the market without absolute necessity), then Georgia has the potential to demonstrate that competition law is more than a symbolic attribute, and that it can bring actual benefits to the national economy and society.

Literature

- Bache I., Jordan A., 'Europeanization and Domestic Change' [in:] Bache I., Jordan A. (eds.), *The Europeanization of British Politics*, Basingstoke 2006.
- Bočorišvili T., Sweet W., Ahern D., *Politics, Ethics and Challenges to Democracy in 'new Independent States'* CRVP, 2005.
- Cseres K., 'Accession to the EU's Competition Law Regime: A Law and Governance Approach' (2014) vol. 7(9) *YARS*.
- Dabbah M., *International and Comparative Competition Law*, Cambridge University Press, 2010.
- Dam K., *The Law-Growth Nexus: The Rule of Law And Economic Development*, Brookings Institute Press, 2006.
- Davidson K., *Economic Development, Competition and Competition Law*, American Antitrust Institute, 2011.
- Drexel J., *Competition Policy and Regional Integration in Developing Countries*, Edward Elgar Publishing, 2012.
- El-Agraa A., *The European Union: Economics and Policies* Cambridge University Press, 2011.
- European Bank for Reconstruction and Development, *Transition Report*, 1999 (available from: <http://www.ebrd.com/downloads/research/transition/TR99.pdf>).

calculated from the prevented harmful effects, which were supposed to occur without the GVH involvement. For more information see: http://www.gvh.hu/en/press_room/press_releases/press_releases_2014/direct_consumer_gains_from_gvh_s_activities_a_luc.html.

- Fetelava S., *The Evolution of the Competition Theory and Antimonopoly regulation in Georgia*, Grigol Bakradze State University, 2008 (available from: <http://www.nplg.gov.ge/dlibrary/collect/0002/000330/avtoref-english.pdf>).
- Fox E., Trebilcock M., *The Design of Competition Law Institutions: Global Norms, Local Choices (Law and Global Governance)*, Oxford University Press, 2013.
- Free R., *21st Century Economics: A Reference Handbook*, SAGE Publications, Inc, 2010.
- Këllezi P., *Antitrust for Small and Middle Size Undertakings and Image Protection from Non-Competitors*, Springer, 2014.
- Lewis W., *The Power of Productivity: Wealth, Poverty, and the Threat to Global Stability*, University of Chicago Press, 2005.
- Mas-Collel A., 'The Theory of Perfect Competition' [in:] Donald J., Ehud K., Morton K., Nancy S., *Frontiers of Research in Economic Theory: The Nancy L. Schwartz Memorial Lectures 1983–1997 (Econometric Society Monographs)*, Cambridge University Press, 1998.
- Mestvirishvili N., Mestvirishvili M., 'I am Georgian and there-fore I am European" Re-searching the Europeanness of Georgia' (available from: <http://static.cejiss.org/data/uploaded/1397214644292492/Article%2003.pdf>).
- Mitchell L., *Uncertain Democracy: U.S. Foreign Policy and Georgia's Rose Revolution*, University of Pennsylvania Press, 2011.
- Nodia G., Scholtbach A., *The Political Landscape of Georgia: Political Parties: Achievements, Challenges and Prospects*, Eburon Uitgeverij B.V., 2006.
- Nove A., *An Economic History of the U.S.S.R.*, IICA, 1969.
- Prychitko D., *Marxism* [in:] *Concise Encyclopedia of Economics* (available at: <http://www.econlib.org/library/Enc/Marxism.html>).
- Saakashvili M., Bedukidze K., 'Georgia, the Most Radical Catch-up Reforms' [in:] Aslund A., Djankov S. (eds.), *The Great Rebirth: Lessons from the Victory of Capitalism over Communism*, Peterson Institute for International Economics, 2014.
- Shoemaker W., *Russia and The Commonwealth of Independent States*, Rowman & Littlefield, 2014.
- Smith A., *An Inquiry into the Nature and Causes of the Wealth of Nations*, 1776.
- Sokol D., Lianos I., *The Global Limits of Competition Law*, Stanford University Press, 2012.
- Sudetic C., *The Philanthropy of George Soros: Building Open Societies*, Public Affairs, 2011.
- Svante E., Cornell S., Starr F., *The Guns of August 2008*, M.E. Sharpe, Jun 8, 2009.
- Whish R., Bailey D., *Competition Law*, Oxford University Press, 2012.