

# REGIONAL CO-OPERATION FOR MORE EFFECTIVE COMPETITION POLICY

Competition Policy in Eastern Europe  
and Central Asia



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With contributions by Frédéric Jenny, Chair of the OECD  
Competition Committee, and the Chairpersons of the RCC  
beneficiary authorities

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## A Special Edition for a special moment



**Renato Ferrandi**

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Regional Centre for Competition

We are facing unprecedented times. The combined effects of globalisation, technological change, immigration, climate change, the financial and sovereign debt crises of 2008–2009 and 2011–2013, the Covid-19 pandemic and the war in Ukraine seem to threaten the pillars of our economic and political systems. Many critical voices claim that the correct response to these challenges is nationalism.

This is not the path suggested by international organisations. As highlighted by the OECD Secretary General Mathias Cormann at the Opening Session of the latest Ministerial Council Meeting, the sustainable expansion of global trade and investment is one of the most important drivers of further economic development and better international economic relations. *“We need to push back against the forces of economic nationalism and protectionism”,* he stated, *“while making sure that the benefits of trade are widely and fairly shared”*.<sup>1</sup>

The OECD-GVH Regional Centre for Competition has decided to dedicate the present Special Edition of its newsletter on regional co-operation in competition policy, which can be a key component in this effort. Whenever neighbouring countries decide to co-operate, they can exploit a huge potential insofar

as economies in the same region are deeply integrated, their economic development is comparable and they share similar legal systems. Furthermore, informal co-operation can be as effective as formal co-operation based on official agreements. We believe that regional co-operation can not only foster welfare, but more importantly, it can lay the foundation for mutual trust and sympathy, which are a powerful antidote to conflicts.

This Special Edition builds on the inspiring discussion at the March 2022 meeting of the Heads of the beneficiary competition authorities of the OECD-GVH Regional Centre for Competition.

We are proud and grateful that Lear decided to support this Special Edition, which will be launched at the Lear Competition Festival on 21-23 September 2022, in Rome. Lear is an economic consultancy specialising in competition, which has carried out several technical assistance projects for competition authorities in Eastern Europe and Central Asia. Despite heterogeneity in the scope of activities performed, these projects show some common traits with regard to the problems faced by emerging competition authorities and the initiatives undertaken to address those problems.

Lear’s engagement confirms that all stakeholders, from their own specific perspectives, can fruitfully contribute to enhance mutual understanding and co-operation between neighbouring jurisdictions.

I would like to thank my colleague Nasli Aouka for her outstanding support in planning and putting together this Special Edition.

<sup>1</sup> <https://www.oecd.org/about/secretary-general/oecd-sg-remarksopening-2022-mcm-9-june-2022.htm>

# Reviewing the Past to Design the Future



**Csaba Balázs Rigó**  
*President of the Hungarian  
 Competition Authority*

On behalf of the Hungarian competition authority, the GVH, it was a great honour to host the meeting of the Heads of Agencies in March 2022. Based on the participants’ opinion, the event was such a success that it brought forth the idea to gather the discussions in a Special Edition on regional and international co-operation of the RCC Budapest Newsletter.

The Heads of Agencies meeting is organized annually in the framework of the OECD Regional Centre for Competition (RCC) and it motivates us to further strengthen co-operation. Recent years have forced us to face extraordinary circumstances in both our private and professional lives. Unfortunately, the difficulties caused by the COVID-19 pandemic didn’t allow the event to be held in person, however, with the Heads of Agencies meeting having a long history in the operation of the Centre, by no means did we wish to give up this tradition of organizing the event. I am particularly grateful that the representatives of the beneficiary authorities involved in the work of the RCC accepted our invitation to the meeting so that we could hear about the challenges they face in their daily practice.

The Memorandum of Understanding, which established the RCC in 2005, declares its main goal to foster the development of competition law policy and culture in Southeast, East and Central Europe. To achieve this goal, the Centre has always put great emphasis on meeting the actual training needs of beneficiary institutions, and the biannual meetings can be considered as a main tool to map demands in order to further improve our future seminars. We believe in the involvement of the benefi-

ciaries. As Benjamin Franklin said, *“Tell me and I forget, teach me and I may remember, involve me and I learn.”*

The Centre has put enormous efforts into its projects in the past 18 years, and continuous interest has been expressed by the target countries. I am convinced that the RCC plays a prominent role in capacity building and networking in the region. Furthermore, the RCC remains an essential institution for the dissemination of best practices in the field of competition law. The RCC is also a steadfast reference point for competition law experts across the region; it has grown to be a reliable institution offering high quality competition law training and seminars.

Indeed, strong emphasis is placed on feedback from participants who are regularly requested to evaluate the professional programmes and the speakers of the seminars. We are proud to say that in recent years approximately 94% of the participants have rated the overall quality of the events as either high or very high. This is an outstanding standard we are committed to maintain in future seminars. It is important to highlight that for some of the participants, the trainings provided by the Centre are the only available organized seminars and therefore our events are free of charge. We are fully committed to ensuring continuous funding for the operation of the RCC. I wish to highlight at this point that these seminars provide an excellent opportunity for free and informal discussions about the present and foreseeable practical needs. Therefore, we always welcome comments and possible questions that competition authorities may have, and encourage participants to recommend topics for next year’s seminars to add new input to our future work.

Finally, I wish to take this opportunity to extend my deepest appreciation to the RCC team at the GVH and at the OECD for their dedicated work in ensuring that the programmes of the RCC are always tailored to the needs of the beneficiary authorities. Last but not least, I would like to gratefully thank the OECD for its financial contribution towards the OECD-GVH RCC seminars.

# THE KEY ROLE OF INTERNATIONAL CO-OPERATION



# The Importance of International Co-operation



**António Gomes**

*Deputy Director of the Directorate for Financial and Enterprise Affairs, OECD*

The world is at a crossroads. As countries emerge and rebuild from the COVID-19 pandemic, the war in Ukraine has exacerbated supply chain and other economic disruptions. As a result, many countries are facing high rates of inflation, particularly for energy, food and other basic necessities.

In this context, international co-operation is key, and competition policy is no exception. Indeed, protecting open and competitive markets is essential both in a crisis context, and in the longer term to support sustainable and inclusive development. During a crisis such as the global pandemic, there are unique risks of cartels or other anticompetitive behaviour that can hinder governments' response and ultimately cause harm to the most vulnerable. And as we have seen around the world, a lack of healthy competition holds back countries from building thriving and efficient economies.

The OECD-GVH Regional Centre is uniquely placed to facilitate co-operation across Eastern Europe and Central Asia. Having recently celebrated its 15<sup>th</sup> anniversary, the Centre combines the complementary strengths of the OECD and GVH to provide policy advice, and to encourage information sharing, dialogue and capacity building among competition experts in the region.

The Centre's areas of focus – including bid rigging in public procurement, the use of market studies and preventing the abuse of dominance in digital markets – support competition authorities to take the enforcement measures needed to protect markets both during and after a crisis. This is complemented by the Centre's work on competitive neutrality and transparency and procedural fairness in competition law enforcement – two themes that are crucial to levelling the playing field and promoting an open, predictable regulatory environment conducive to competitive markets.

The Centre continues to rise to the task, despite these challenging times, by providing important analysis and support to its members during the crisis. Just to note one example, in 2020 the Centre organised a series of interactive sessions for competition experts to exchange views on how to tackle exploitative

pricing, merger control and co-operation between competitors in a pandemic context.

This cross-border collaboration is an example of the kind of values-based, international co-operation that policy-makers should be prioritising in this time of crisis. The global pandemic, and now the crisis in Ukraine, have only compounded existing challenges faced by regulators, such as digitalisation of markets and the increasing urgency to address climate change. International and regional co-operation between competition agencies is indeed essential, as these challenges ignore national borders and cannot be solved alone.

Countries in Eastern Europe and Central Asia are especially exposed to economic challenges. COVID-19 caused enormous pressure in labour markets, some of which already faced high levels of unemployment and informality. The collapse of tourism hit Eastern European countries hard, as a considerable share of GDP. Western Balkan countries also face a decline in foreign direct investment (FDI) and remittances, which have contributed considerably to their economies in recent years. In Central Asia, the crisis has affected key drivers of growth, especially in economies that heavily rely on the export of extractive raw materials. Due to their strong business ties with Russia, Central and Eastern European economies have been also affected by greater financial risk aversion and uncertainty, with higher risk premia and currency depreciation. Commercial air travel and freight are also being rerouted or ceasing operations altogether, increasing the costs of doing business, and many multinational companies have suspended operations in Russia<sup>2</sup>. Businesses in Central Asia are being squeezed by their rising production costs and worsening access to credit. As a result, these firms' productivity and competitiveness will likely suffer, leading to closures, job losses, and slower economic growth<sup>3</sup>.

At the OECD, we are also actively engaged in promoting international co-operation on competition policy, in particular via the OECD Competition Committee. The Committee's work includes:

- analysing existing formal and informal co-operation among agencies, to identify best practices, tools and possible areas for future development;
- sharing models for co-operation, such as the design of bilateral and multilateral co-operation agreements;
- exploring new and enhanced forms of co-operation that support investigations by multiple competition authorities; and

<sup>2</sup> OECD Economic Outlook, Interim Report Economic and Social Impacts and Policy Implications of the War in Ukraine, March 2022, <https://www.oecd.org/economy/Interim-economic-outlook-report-march-2022.pdf>.

<sup>3</sup> M. Iooty, M. Melecky, Taking the pulse of business in Central Asia following the Russian invasion of Ukraine, World Bank Blogs, July 21, 2022, <https://blogs.worldbank.org/europeandcentralasia/taking-pulse-business-central-asia-following-russian-invasion-ukraine>.



- Encouraging trust and information sharing among competition authorities, including on their respective laws, policies and practices.

Recently, we have assessed the implementation of the 2014 OECD Recommendation on International Co-operation for Competition Investigations and Proceedings. We are now looking at ways to strengthen implementation, especially to encourage and enable the exchange of confidential information among agencies.

Looking ahead, the Competition Committee will continue to focus on enhanced international enforcement co-operation

as one of its key priorities. At the same time, the OECD-GVH Centre will continue to serve the agencies, and their priorities and shared need and wish for increased regional co-operation.

I also want to highlight two recent OECD Council recommendations on competitive neutrality, and on Transparency and Procedural Fairness in Competition Law Enforcement, which support the OECD-GVH Regional Centre's outreach, and ultimately help competition authorities strengthen trust and market efficiency.

I am proud of our work and the excellent collaboration with the GVH, and I look forward to continuing to serve the competition policy community in Eastern Europe and Central Asia.

# International Co-operation on Competition: Lessons from Past Experiences



**Frederic Jenny**  
*Chairman of the OECD Competition Committee*

The state of play and the current problems of international and regional co-operation can be analysed through the lenses of five topics: the interaction between the globalization of markets and the fragmentation of competition laws; the responses to the challenge of globalization; international co-operation on competition; regional co-operation; and lessons we can learn from the past.

## 1. Interaction between the globalization of markets and the fragmentation of competition laws

Globalization has taken place in several ways: through negotiation at the multilateral level, through the increase in trade but also through technology, in particular with the rise of the digital sector. Globalization is still expanding and moving forward at a fast rate. Globalization clearly increases competition, insofar as it allows international competition to supplement domestic forces of competition. However, the globalization of markets also has other effects and one of them is allowing even small geographical entities to acquire independence: they can trade and therefore they can import from abroad whatever they need and can afford while exporting what they have or can produce.

One striking feature since the move towards globalization started sixty years ago is the increase in the number of countries in the world. For nearly a century, prior to the end of the Second World War, there were about 100 countries. Now there are about 200. This trend was abetted by the globalization of markets, because globalization made even small countries more economically independent and therefore more politically sustainable. At the same time, there has been a fragmentation of legal regimes, leading to 200 different sets of laws. Fragmentation also affected competition laws: more than 140 countries have adopted competition laws that are not exactly the same. Despite sharing the goal to try to protect consumers and facilitate firms' market entry, they reflect differences in the history, sociology and political circumstances of each country.

These differences among competition laws give rise to several problems.

They increase the cost of transactions at the international level. At a time when the digital economy creates great challenges to competition authorities, it is very clear that many countries are simultaneously looking in different directions on how to handle this sector, where there are a few large multinational firms.

More precisely, the fragmentation of competition law, which is one of the by-products of globalization, creates two possibilities of concern. One is the possibility of conflicts, whenever the same practice having transnational effects is scrutinized by different competition authorities, not because it has different effects but because different laws apply. This issue is recurrent in the digital sector. The second source of concern is the existence of gaps. There might be practices by transnational firms which affect many countries simultaneously, but which are not taken into consideration by any of their competition authorities. Export cartels are a telling example. The country that is victim of an export cartel may not have the tools to investigate it because the cartel was formed in another country. And in this other country the competition authorities may not be interested in the export cartel because it does not affect the citizens of its country.

As seen, globalization increases the possibility of conflicts and gaps. This is the basic reason why we need co-operation on competition law, in order to maintain the national basis for competition law but at the same time to have a way to deal with those transnational effects.

## 2. Responses to the challenge of globalization

The response to globalization has been wider than co-operation, but co-operation is a crucial part of it. Roughly, there have been four major elements. These four elements are to a large extent complementary. First, an attempt to converge on competition law and to exchange good practices, to have competition authorities think together about reasonable and useful ways to enforce competition law. Second, co-operation between agencies, on which I will focus later in this article. The third element, which has been a very important movement over the last 20 years, is regional integration of competition law, with the EU as the most notorious example. Finally, an attempt at the multilateral level, which has been put on hold due to the difficulties experienced by the WTO. I will not address this last element because it is not the focus of this article.



## Convergence of competition laws

I would like to focus in particular on what the OECD has been doing, which is mostly looking at convergence and trying to get competition authorities to discuss good practices: discuss the basis on which they act; the goals of competition law, and come to a mutual understanding. One example of this convergence can be observed in the EU, where competition law changed substantially around the beginning of this century. For example, the EU changed its approach to vertical restraints from a presumption of illegality to a rule of reason approach, which is much closer to U.S. practice. It also changed the standard for merger control from pure dominance to a combination of dominance and significant impediment of competition, which is a more economic standard. Again, this led to a greater degree of convergence with the United States. More recently, in the digital sector the EU took the initiative to search for a new approach. There are some indications that the U.S. is now moving in the same direction as Europe. Hence, convergence comes from discussion. Focusing on the digital sector, the OECD held 40 roundtables over the last few years to foster a common reflection and promote a harmonious way forward, so as to avoid the two conflicts and gaps pitfalls mentioned earlier.

## 3. International co-operation on competition

Co-operation is the second dimension in which the OECD Competition Committee has been deeply engaged. It involves communication, consultation, technical assistance, information sharing among agencies, as well as frameworks for co-operation. There are at least six immediate benefits of co-operation.

The first obvious one in a free trade world is a more effective fight against import cartels. If we eliminate governmental barrier to trade, one of the things that we need to worry about is whether there are private practices, which may undermine the trade liberalization measures adopted and thereby create new obstacles to export. If there is a cartel of importers in country B, there is a need for the exporters of country A to be able to rely on a competition authority in country B that can make markets in B open and accessible.

The second benefit is a more effective fight against export cartels. Export cartels do not usually hurt consumers in the countries where they take place, but they hurt consumers elsewhere. In many cases, it is only if there is a co-operation agreement between the competition authority of the country of export (A) and the competition authority of the country of import (B) that the competition authority of the country of the victims of the export cartels can ask the competition authority in the country of the cartelists to gather the proof needed to uncover and establish the existence of the export cartel.

The third benefit is the enhanced ability to fight against transnational cartels or transnational anti-competitive mergers. The same merger may have a similar effect in different countries. It is of vital importance that competition authorities

cooperate on the remedies, in order to make sure that remedies imposed in one country do not restrict competition in another country and are consistent with each other.

There are also other benefits that do not always come to mind immediately. For example, co-operation reinforces national competition authorities of small countries when confronted with powerful multinationals, which can threaten to leave the country. COMESA is a regional competition authority, dealing with roughly 20 countries in Africa, where transnational merger control is now centralized and which has made multinationals much more aware of the importance of respecting competition on the African continent.

Fifth benefit: learning about potential anti-competitive practices, listening to what other competition authorities have uncovered very often is a very useful indication of anti-competitive practices that might be taking place in your own country. This is true in any sector and may be particularly relevant in the digital sector, because it is likely that ecosystems behave exactly the same way in different countries.

Finally, exchanging experience and best practices in enforcement is also a beneficial result of co-operation. This is why a number of organizations have tried to develop cooperative mechanisms on competition, from UNCTAD to the ICN and the OECD.

The drivers of enforcement co-operation are the increase in the number of competition authorities, on the one hand, and the continued growth in international economic interconnectivity and interdependence, on the other. These factors mean that competition authorities to a large extent face exactly the same issues. They can get help thanks to co-operation with other competition authorities, to better understand the implications of the practices they are confronted with and make sure that the remedies they impose are consistent with each other.

## Forms of co-operation

There are many forms of international co-operation and I will not go through all of them. I will just mention that international co-operation frameworks can differ in scope.

There is, first, the multilateral level. The WTO is not active in terms of negotiations for the time being, but there is quite lively co-operation in the context of UNCTAD or at the ICN.

There is also the plurilateral level. Plurilateral co-operation takes place, for example, at the OECD.

Then we have the regional level. Examples of regional co-operation on competition could be found in the CARICOM, the Mercosur, the Andean Pact and many bilateral agreements between countries that have a particular interest in cooperating with each other.

Co-operation agreements can be agreements between governments that intend to cooperate on competition or agreements between competition authorities. Co-operation agreements do not need to be governmental acts, even though

governmental acts can often go further than a Memorandum of Understanding between competition authorities.

The levels of co-operation can be very different, spanning from consultation to technical assistance, to the exchange of non-confidential and public information. Co-operation agreements can include positive or negative comity provisions, i.e. a commitment either to favourably examine a request by a foreign authority to eliminate anticompetitive practices hurting businesses or consumers in the requesting country or a commitment not to engage in pursuits or to adopt remedies that may be problematic for the other country.

Finally, co-operation can differ by type. There can be optional co-operation, in which two countries decide that they will cooperate on cases only if it is in the interest of both countries. Or there may be a commitment to cooperate, unless some extraordinary circumstances apply, as was proposed in the context of the WTO.

The matters on which firms decide to cooperate can be very diverse too. They may include:

- locating and identifying persons,
- serving documents, which may be quite important because using diplomatic channels to serve documents to foreign firms can take a very long time and be very inefficient,
- taking evidence in another country;
- executing requests for searches and seizures, in the context of joint investigations;
- providing publicly available evidence;
- exchanging information;
- providing documents and reports;
- discussing the theories of harm;
- enforcing administrative and judicial decisions including the collection of fines, when the fines have been imposed on a foreign firm.

The legal instruments on which these co-operation activities rest are quite varied. They can be non-competition-specific instruments, like Mutual Legal Assessment Treaties, or Letters Rogatory. They can also be trade agreements or competition co-operation agreements, along the lines that I mentioned earlier. Provisions in national laws providing for a mandate to cooperate are also very useful.

In some competition cases, the parties sign confidentiality waivers, which are documents by which a firm under investigation accepts that its confidential information can be transmitted to another competition authority. Merging parties in several countries may have an interest in making sure that the merger process goes as smoothly and fast as possible in all the countries subject to merger control rules. Confidentiality waivers can speed up the process.

Finally, there is informal co-operation, which can be as effective as formal co-operation. In cross-border enforcement cases, informal co-operation may include activities such as

keeping each other informed of the progress of cases of mutual interest; discussions on investigation strategies; exchanges of public information; sharing leads and comparing authorities' approaches to an issue in a case; co-ordination of surprise inspections (even in the absence of formal co-operation agreements).

More common forms of informal co-operation include the sharing of best practices and enforcement expertise aimed at improving the capacity and effectiveness of the cooperating organisations.

The OECD/ICN Report on International Co-operation in Competition Enforcement 2021<sup>4</sup> shows a clear trend in development of co-operation over the last decades. There has been a significant increase in the number of first-generation bilateral enforcement co-operation agreements and arrangements since 2012 (approximately 45 more compared to 2012). However, only a few bilateral or multilateral second-generation enforcement co-operation agreements were completed in the same period, although a few more are currently being negotiated. Although bilateral competition agreements are the most common legal basis for enforcement co-operation, they are not the most frequently used, nor the most relevant. Many authorities reported that they were co-operating effectively using their existing legal authority and instruments, together with tools, resources and networks that support their enforcement co-operation.

However, while progress has been made towards improving enforcement co-operation since 2012, some authorities pointed out that significant legal barriers continue to exist in respect of exchanging confidential information, absence of waivers, certain forms of investigative assistance and certain forms of enhanced co-operation.

The OECD/ICN Report shows that even where these legal barriers do not exist, for all these three forms of enforcement co-operation to be effective, they generally require a strong relationship of trust and understanding of applicable laws, practices, procedures, and protections (e.g., confidentiality and privilege) between authorities, which is frequently developed through informal co-operation and contacts that precede enforcement co-operation.

Finally, I would like to mention first-generation and second-generation agreements.

First-generation co-operation agreements generally reflect co-operation activities that the authorities involved could undertake on their own. They generally only allow for the exchange of non-confidential information, or the exchange of confidential information subject to consent of the information source.

Second-generation co-operation agreements, on the other hand, generally contain all the provisions of first generation co-operation agreements, while also enabling competition authorities to engage in deeper co-operation activities in clearly prescribed circumstances, such as sharing confidential infor-

<sup>4</sup> OECD/ICN (2021), OECD/ICN Report on International Co-operation in Competition Enforcement <http://www.oecd.org/competition/oecd-icn-report-on-international-cooperation-in-competition-enforcement-2021.htm>

mation, providing investigative assistance, and engaging in enhanced co-operation. In some second-generation co-operation agreements, in some circumstances confidential information can be shared without the requirement to seek prior consent from the source of information.

#### 4. Regional co-operation

Regional co-operation may develop for several reasons. The economy of a country is usually more deeply integrated with other economies of the same region than with countries that are more distant. Neighbouring countries may have similar levels of economic development. In addition, they may share the same kind of legal system. And, as mentioned earlier, regional agreements are easier to negotiate than multilateral agreements because there are fewer parties to the agreements.

There are many examples of regional agreements. To my knowledge, the most effective is the European Competition Network, but other successful examples can be mentioned, including MERCOSUR, the Andean Community, CARICOM, WAEMU, ECOWAS, SACU, COMESA, and the ASEAN. Regional agreements have proliferated over the past two decades.

Again, regional co-operation agreements can have different levels or different framework. The OECD has identified four possible frameworks<sup>5</sup>.

One is Regional Referee, where the investigations are carried out at the national level by the national competition authorities, but the decision-making power for transnational cases rests with the regional authority. This is the case of MERCOSUR.

In the two-tier decision model, the regional competition authority has exclusive jurisdiction over regional cases, while national competition authorities have exclusive jurisdiction over national cases, as in the case of CARICOM.

The joint enforcement framework foresees that national and regional authorities apply the regional competition provisions in their respective cases. This is the European model, in which national competition authorities apply both their domestic law and the EU law.

Finally, the one-tier decision framework is characterised by a regional authority that investigates and takes decision both at the national and the regional level, as in the case of the WAEMU.

There are pros and cons for all of the systems and the choice depends on the specific circumstances, even though the experience of WAEMU is not necessarily encouraging.

What have been the results of regional co-operation? They have been uneven. They certainly contribute to raising the awareness of the cooperating member states. They may also push countries to adopt competition law, under peer pressure.

Among the European-type co-operation agreements, we could mention the Nordic co-operation agreement, which

enables the exchange of confidential information between the Nordic competition authorities.

The ECN, based on Regulation 1/2003, is a unique setting for co-operation, because members apply the same substantive rules, i.e. the EU law, and belong to an economically and politically integrated area. Therefore, the ECN model is not necessarily duplicable.

Outside Europe, the BRICS is a prominent regional co-operation framework. One of the reasons it has not led to intense enforcement co-operation is that the interests of the different BRICS members are not aligned. For example, South Africa is very concerned with unemployment and disadvantaged people, so it has some specific dimensions of integration of the poor into the economic system, with no equivalent in the other BRICS countries.

#### 5. Lessons that we can learn from the past

One of the lessons learned is the fact that being part of a regional or an international co-operation agreement contributes to ensuring the independence of national competition authorities and discourages national governments from interfering with the work of competition authorities. If there is a substantive conflict between competition authorities, it is advisable to solve it at the level of the competition authorities, rather than escalate it to the political level. One telling example is the Boeing-McDonnell Douglas merger in the 1990s, in which politicians in Europe and in the U.S. got involved.

If competition authorities are not part of a regional or an international co-operation agreement, that also opens a door for firms to choose the forum to which they want to bring their cases, and to try to play one competition authority against the other.

For competition authorities, engaging in co-operation is relatively easy, and can be done through a memorandum of understanding. Such memoranda of understanding are flexible and often informal tools: they are not treaties but rather a declaration of intent. A memorandum of understanding may simply provide for discussing common cases, informing each other or helping each other.

In their Report, the OECD and the ICN have ranked the main challenges to enforcement co-operation based on the feedback from participants in their survey. The most troubling factors that prevent fuller co-operation include i) the existence of legal constraints, ii) the low willingness of some countries to cooperate because they do not see that they have an interest in co-operation; iii) the lack of resources; and iv) the lack of waivers by parties.

I will conclude by saying that the OECD-GVH Regional Centre for competition (RCC) has a huge potential role in promoting co-operation and competition in Eastern Europe and Central Asia. The RCC is committed to supporting its benefi-

<sup>5</sup> OECD (2018), REGIONAL COMPETITION AGREEMENTS: BENEFITS AND CHALLENGES, Background note by the Secretariat, 29 September 2018, [https://one.oecd.org/document/DAF/COMP/GF\(2018\)5/en/pdf](https://one.oecd.org/document/DAF/COMP/GF(2018)5/en/pdf)

ciary competition authorities by improving the knowledge and skills of their staff. The topics of the RCC seminars are selected based on the specific features of the region, while taking into account the themes debated by international organizations, notably the OECD. Besides capacity building, the RCC seminars provide precious occasions for informal networking among participants, which is the basis for mutual trust and understanding and paves the way for informal co-operation. Moreover, the RCC offers a platform for information exchange on cases and advocacy initiatives between competition authorities of the region. Finally, each issue of the RCC review “Competition Policy in Eastern Europe and Central Asia” is dedicated to a prominent topic for the region (bid rigging, competitive neutrality, and abuse of dominance in digital markets). RCC beneficiaries can display and compare their experience as well as learn from case studies conducted by other competition authorities all over the world, which provide contributions.

As to challenges for the future, we should think about ways to coordinate the activities of competition authorities that go beyond exchange of information. In current and future cases

involving digital giants, exchanging information can be helpful, but it is not realistic to think that every competition authority will make a decision for its own territory on exactly the same practices also examined in other countries. There may be better ways to organize competition enforcement on global cases.

I will mention one example: the Booking.com case. The competition authorities of Sweden, France and Italy came up with a coordinated decision: they were able to co-decide the case. This is an extreme example, but we should ask ourselves whether such mechanisms make it possible to address the problem of consistency between the approaches of the different competition authorities. Besides joint decision making by several competition authorities, there are several paths that we may explore to enhance new means of coordination, including: i) adopting a one-stop shop for leniency markers, ii) developing international standards for comity, iii) promoting mutual recognition of other agencies’ decisions and iv) encouraging non-binding deference to one “lead authority”. All of these could be ways to overcome some of the difficulties that we have experienced so far.

# REGIONAL CO-OPERATION IN EASTERN EUROPE AND CENTRAL ASIA





# When the compass points East

## *Drivers for increased regional co-operation in Eastern Europe and Central Asia*



**Renato Ferrandi**  
Senior Competition Expert, OECD

### Being influential to support economic recovery

Eastern Europe and Central Asia is the region in which the social and economic consequences of the war in Ukraine are perceived most directly. After the end of the war, appropriate policies will be necessary to support the most vulnerable groups of population and foster a quick and inclusive economic recovery. Appropriate competition policy can offer a valuable contribution to these efforts. As highlighted by the World Bank Chief Economist for Europe and Central Asia, competition is important because “it is associated with dynamism, incentivizes firms to innovate, forcing more efficient firms to enter and grow, while facilitating the exit of less efficient ones”.<sup>6</sup>

Most competition authorities in Eastern Europe and Central Asia are still young and have limited experience. Yet, all of them can contribute to surmount the economic challenges and be influential actors in the domestic economic debate by advocating pro-competitive reforms and fighting competition infringements. To this end, they can rely on the support of neighbouring competition authorities and on the experience gathered by more advanced competition authorities worldwide, as well as on guidance provided by international organizations, such as the OECD.

Against this backdrop, a survey carried out in March 2022 by the OECD-GVH Regional Centre for Competition (RCC) highlighted that competition authorities in Eastern Europe and Central Asia consider regional co-operation crucial to support their future efforts. It emerged that three main drivers can contribute to enhance regional co-operation: capacity building, enforcement co-operation, and consistent advocacy to strengthen competition culture in the region.

### Capacity building and key topics to be addressed

There is international consensus that constant development of technical expertise is important for any competition author-

ity, in view of increased complexity in addressing competition issues. This is all the more true for younger competition authorities like most of the ones in Eastern Europe and Central Asia. A fruitful source of knowledge is international experience, which allows to examine how advanced competition authorities have dealt with similar issues and verify whether the path taken has been successful.

The competition topics indicated by competition authorities in Eastern Europe and Central Asia as the most relevant are: bid rigging, particularly in the context of e-procurement, competition issues in digital markets and competitive neutrality.

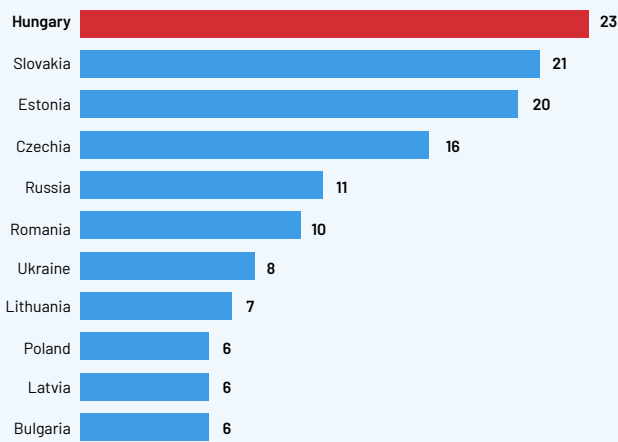
Public procurement and **bid rigging** are expected to become paramount in the likely event that governments decide to increase public spending to support recovery. Competition authorities in the region are aware that it is vital to ensure value for money in public procurement at times of economic recession and have set the fight against bid rigging as a priority for their actions in coming years. Moreover, several competition authorities in Eastern Europe and Central Asia combine competition law enforcement with advocacy initiatives to raise awareness of bid-rigging costs, promote competition in public procurement, and recommend good practices in the prevention and detection of collusion. Training public procurement officials on the risks, costs, prevention and detection of bid rigging is extremely useful, insofar as procurement officials are in the best position to limit and identify collusion in public tenders.

As regards **digital markets**, it should be noted that the Covid-19 crisis has boosted e-commerce all over the world. In the EU Member States, online retail sales in April 2020 increased by 30% compared to April 2019, while total retail sales diminished by 17.9%. Although Western Europe is still the most developed e-commerce market in Europe (it accounted for 70% of the total e-commerce value in Europe in January 2020), the biggest growth in 2019 occurred in the eastern part of Europe, where Romania and Bulgaria recorded an increase of 30%. In 2021, Hungary was the country with the highest share of e-commerce in retail in Central and Eastern Europe, measured at 23%. Slovakia followed with a 21% share. Poland, Latvia and Bulgaria had the lowest figures in the region, as e-commerce represented only 6% of total retail in these countries (see Figure).

<sup>6</sup> World Bank Group, Competition and Firm Recovery, Post-COVID-19, Europe and Central Asia Economic Update, Office of the Chief Economist, Fall 2021, <https://openknowledge.worldbank.org/bitstream/handle/10986/36296/9781464818028.pdf>



Figure. E-commerce share in total retail in CEE region 2021, bycountry, 2021, (%)



Statista 2021 (<https://www.statista.com/statistics/1167300/e-commerce-share-in-cee-by-country/>)

From the competition perspective, many digital markets exhibit characteristics that result in high market shares for a small number of firms, namely low variable costs, high fixed costs and strong network effects. In some cases, this can even lead to “competition for the market” dynamics, in which a single firm captures the vast majority of sales. Therefore, the state of competition in digital markets has become a major concern for policymakers, the media, and, increasingly, the general public.

Coming to **competitive neutrality**, in Eastern Europe and Central Asia the relevance of state-owned enterprises (SOEs) is particularly evident, due to the historical role played by governments in the national economy. Despite a gradual decrease in the last decade, the share of SOEs in total value added in 2016 was still significantly higher than 10% in Belarus, Russia, Poland and Serbia, and reached approximately 10% in Slovenia, Croatia, Albania, Bosnia and Herzegovina, Ukraine, Romania and Bulgaria. In Russia and Ukraine, SOEs account for approximately 15% of overall national employment, while in Belarus this share is around 30%. In most jurisdictions, the State has a dual role as policymaker/sector regulator and supplier or purchaser of goods and services. In markets open to competition, governments may be tempted to grant SOEs certain advantages over private businesses, e.g. privileged market position, soft loans, outright subsidies, regulatory exemptions or tax benefits. This tilts the playing field and prevents the most capable entities – whether public or private actors – from providing consumers with goods and services at higher quality and lower prices.

Against this background, competition authorities should engage to ensure competitive neutrality, i.e. a framework within which all enterprises, irrespective of their ownership (state-owned or privately owned) or nationality (domestic or foreign), face the same set of rules and where State action does not result in a competitive advantage for a particular market participant. There is a general consensus that competition law should apply in a neutral way to both private enterprises and SOEs that engage in economic activities. In particular, when it

comes to anti-competitive conduct, SOEs should be assessed under the same standards as those applied to privately owned businesses. If this is not the case, this may result in an unlevel playing field and competition distortion between state-owned and privately owned competitors. That being said, enforcing competition rules against SOEs presents enforcers with particular challenges.

The **OECD-GVH Regional Centre for Competition** has been responsive to these needs and addressed such issues in its seminars. The format of RCC seminars looks consistent with the request for a hands-on approach, insofar as speakers from advanced competition authorities illustrate paramount cases and build on them to draw more general suggestions. Thereafter, interactive breakout sessions allow participants to take the lead, share their experience and seek advice from the experts and other participants.

Another powerful tool for dissemination of good practices is the OECD-GVH RCC review “Competition Policy in Eastern Europe and Central Asia”. The latest editions of the review focused on competitive neutrality, abuse in digital markets, bid rigging, market studies, and effective investigation. The structure of the review consists of a substantive article on a specific topic by an OECD expert, followed by contributions both by RCC beneficiaries and other advanced competition authorities in the world, all of which describe case studies from their jurisdictions. This allows to appreciate that similar challenges can be faced in different ways using different approaches.

## Enforcement co-operation

Competition enforcement is typically national, insofar as it is based on a national legal framework and is applied by a national competition authority. Nevertheless, the most relevant competition infringements are increasingly international or regional and take the form of cross-border cartels or abuses of dominance by international players with a global strategy. Furthermore, a growing number of mergers have a multijurisdictional nature. In tackling cross-border cases, competition authorities have to face several issues such as case allocation, coordinated evidence gathering (most importantly through dawn raids), exchange of information, consistency of decisions (and possible related remedies), implementation and monitoring of decisions (including execution of sanctions) and consistency of judicial review in different jurisdictions.

International organisations, such as the OECD, the International Competition Network (ICN) and the UNCTAD share a mission to promote effective international co-operation among competition authorities. They have worked for years to improve the resources, frameworks and opportunities required for effective collaboration.

In January 2021, the OECD and the ICN published a Joint Report on International Co-operation in Competition Enforcement, which outlines key aspects of the current state of international enforcement co-operation between competi-

tion authorities. The document contains a description of the drivers of international enforcement co-operation, a high-level review of the main OECD and ICN initiatives to support international enforcement co-operation and the results and analysis of a survey of OECD and ICN members.

According to the OECD/ICN Report, there has been an overall increase in international enforcement co-operation across all enforcement areas, which has provided benefits, regardless of the size and level of maturity of the competition authorities involved. Importantly, enforcement co-operation within regions (including through specific regional arrangements) has proven to be one of the most significant and successful types of co-operation. That said, the Report identified five key categories of challenges that limit international enforcement co-operation: legal limitations, especially relating to confidential information sharing and investigative assistance; resourcing; co-ordination and timing of parallel investigations; trust and reciprocity between competition authorities; practical issues, including language, time zones and cultural differences.

In the replies to the mentioned OECD-GVH RCC survey, all beneficiary competition authorities expressed the need and wish for increased enforcement co-operation, especially at the regional level. Nevertheless, consistently with the OECD/ICN Report, they also highlighted challenges stemming from legal barriers and the lack of resources. As a result, the current situation in Eastern Europe and Central Asia is that enforcement co-operation is very limited. Some of the RCC beneficiary competition authorities belong to the European Competition Network (ECN), others to the Eurasian Economic Union; but apart from that, enforcement co-operation is rare, despite the existence of several memoranda of understanding between competition authorities. In sum, some tools for co-operation exist, but implementation is lagging behind.

The OECD-GVH RCC can **support informal enforcement co-operation** in many ways. First, each of the beneficiary authorities has appointed an RCC contact person, who usually is the head of the International Division. On top of being “ambassadors” of the Regional Centre, because they are crucial in promoting OECD-GVH RCC activity within their organizations, they are also the backbone for mutual contact and exchange between competition authorities.

Second, the OECD-GVH RCC has implemented a request for information (RFI) system. Whenever a beneficiary competition authority deals with a sector and wishes to know whether other neighbouring authorities have addressed the same sector already, it can circulate a specific RFI through the system. Other competition authorities that have been active in that specific sector would share their experience. In a restricted area of the RCC website, the beneficiary authorities can access a database that reports the results of all the RFIs since the establishment of the system in 2017. This means that extensive information on

the activity of competition authorities in the region regarding a number of sectors is already available.

Finally, a new initiative, launched in 2022, will help strengthen the network of competition authorities in the region and further expand regional co-operation: the first regional conference was organised by the Competition Council of Bosnia and Herzegovina in co-operation with the OECD-GVH RCC. It was held in April 2022 and addressed “Anticompetitive practices of public utility companies”. Participants from Serbia, Croatia, Montenegro, Albania, Kosovo<sup>7</sup>, North Macedonia and Slovenia attended the Conference. The main goal of the event was to share experiences and views with the competition authorities in the region on the issue of competitive neutrality and discuss the cases of anticompetitive practices of public utility companies in their respective countries. We expect it to be the first in a long series of regional conferences.

## Consistent advocacy and enhanced competition culture

Competition advocacy may help governments to ensure that new regulations do not unduly restrict competition. Competition authorities can also advocate for lifting existing regulatory obstacles when they prevent the smooth adjustment of supply and demand. At the same time, they should provide guidance to the business community on how the principles of competition law enforcement would apply in the context of crisis, so as to ensure that firms have a clear understanding of what is allowed or prohibited.

Competition advocacy is the area in which the practice of more experienced competition authorities may provide the most meaningful insights for their peers in Eastern Europe and Central Asia. Following the disruptive impact first of digitalization, then of the Covid-19 pandemic and finally of the war, new business models have emerged, also affecting the role of competition and the opportunities for co-operation between competition authorities and regulators. For example, competition authorities can be involved in the process of designing new regulatory regimes in the context of co-operation within dedicated Working Groups.

Competition authorities may also play a key role in the context of privatisation and liberalisation reforms, typically jointly or in consultation with sector regulators (if any) and sectorial ministries. In a privatisation context, the main aim of advocacy initiatives should be to ensure that no undue competitive advantage is transferred from a State-owned (often monopolist) company to the (private) acquirer of the SOE’s assets and activities that are being privatised. Similarly, competition authorities may engage in advocacy efforts to ensure that, in a newly liberalised sector, incumbent firms and new entrants are subject to the same set of rules and regulatory burdens. These are initia-

<sup>7</sup> This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the Advisory Opinion of the ICJ on Kosovo’s declaration of independence. Hereafter referred to as Kosovo.

tives that would mitigate the risks of anti-competitive conducts in the long run.

All competition authorities in Eastern Europe and Central Asia have worked to strengthen their institutions and enhance competition in their jurisdictions, in which often competition culture is still not fully developed. Competition authorities in the region show high engagement in advocacy initiatives, towards both policy makers and other stakeholders.

Once again, the OECD-GVH RCC and the OECD can support competition authorities in their advocacy efforts. First, every year the OECD Competition Committee and its Working Parties discuss a number of cutting-edge topics. The respective Background Note and reports are fully accessible on the OECD website and provide a goldmine of guidance documents that any competition authority can use to inspire its initiatives at the domestic level.

The OECD documents are complemented by the mentioned OECD-GVH RCC review “Competition Policy in Eastern Europe and Central Asia”, which tackles competition issues of specific interest for the region, by recalling international good practices and displaying successful case studies by other competition authorities in the region and in the world.

Finally, the online training course “Key competition topics explained in a few minutes”, created by the OECD-GVH Regional Centre for Competition, can be a valuable resource to disseminate competition culture, even to non-specialists in competition. It consists of short and engaging training videos, which illustrate the basic features of key competition topics in no more than eight minutes. Thanks to the support

of the OECD-GVH RCC beneficiary competition authorities, the videos come with subtitles in up to 15 different languages, including Armenian, Azerbaijani, Bulgarian, Croatian, Georgian, Romanian, Serbian and Ukrainian, as well as Finnish, French, German, Italian, Portuguese, Spanish and Swedish.

## Conclusion

To better surmount the challenges ahead, competition authorities in Eastern Europe and Central Asia need to be (or become) resolute enforcers and, above all, influential actors in the domestic economic debate. To this end, they should be able to rely on regional and international co-operation, namely on each other’s support, on the experience gathered by more advanced competition authorities worldwide, and on the guidance provided by international organizations such as the OECD.

The OECD-GVH Regional Centre for Competition is keen to assist the relevant competition authorities in their commitment, by providing opportunities and tools to develop capacity building, encourage enforcement co-operation and ensure consistent competition advocacy. Besides that, in their replies to the survey carried out by the OECD-GVH RCC in March 2022, some competition authorities stated that the OECD-GVH RCC “*is like a family*” to them. We are proud of this. Notwithstanding the dramatic situation we are facing, or rather having that in mind, we should redouble our efforts to promote human relations, which are the essential requisite for any form of co-operation.

# Role and potential of regional co-operation for competition authorities

## *Declarations by Heads of Agencies of the OECD-GVH Regional Centre for Competition*



**Denar Biba**

*Chairman of the Albanian Competition Authority*

The Albanian Competition Authority (ACA) has been pursuing cooperation with the OECD-GVH RCC through participation in trainings that the Centre offers to Central, Eastern and South-Eastern European countries, by making use of its RFI instrument to communicate with other beneficiary authorities and by publishing numerous articles in the RCC Newsletters.

Our staff has been trained on different topics related to competition policy and on the issues that arise in enforcement cases, for example abuse of dominant position, prohibited agreements and merger assessment. Furthermore, it has received specific training on competition advocacy, and on important sectors of the economy, such as telecommunications, banking, energy,

pharmaceutical, public procurement, retail markets, and also challenging markets including the digital economy.

The knowledge gained by both junior staff and senior experts through their participation in these trainings has proven to be extremely relevant and beneficial in their everyday work. The participating staff members have been able to develop skills related to the legal and economic assessment of cases, which they have been actively applying in ongoing cases at the ACA. In addition to the knowledge gained through participation in the concerned trainings, these events have helped to establish and maintain international cooperation among colleagues, thereby contributing to sharing experiences between experts.

We have found the RFI instrument to be a very effective communication tool allowing authorities to exchange experiences with one another. This tool enables new perspectives and solutions to be provided for given problems, thereby helping authorities to address the issues they face. We believe that it will play an increasingly important role in communication among the authorities that are part of the RCC network.

We look forward to fostering future collaboration.



**Gegham Gevorgyan**

*Chairman of the Competition Protection Commission of the Republic of Armenia*

First I would like to welcome and state the significance of co-operation with the OECD GVH Regional Centre for Competition in Budapest with whom the Competition Protection Commission of the Republic of Armenia has come a long way over the years. During this time, OECD RCC has played a major role for us, being a communication platform and a bridge between partner countries strengthening and stimulating co-operation among competition authorities through

exchange of experience, discussions and debates covering various interesting competition topics. Looking into the future, we emphasize the importance of further strengthening and deepening co-operation with OECD RCC, as this platform provides opportunities to find solutions for a number of competition issues common for different countries and to tackle modern challenges more successfully. In this context, the long term and more active exchange of knowledge and information between partners is especially essential, as in the modern world, they are rapidly becoming obsolete and need ongoing improvement.

Taking this occasion, I wish OECD RCC effective performance, and new programmes and tools that will enable more active co-operation and promote the development of a healthy competitive environment supporting the recovery of economies in these difficult and challenging times.





**Mammad Abbasbeyli**  
*Head of the State Service for Antimonopoly and Consumer Market Control of the Republic of Azerbaijan*

The OECD-GVH Regional Centre for Competition in Budapest plays a substantial role in promoting a healthy economic environment in the area of competition. The State Service for Antimonopoly and Consumer Market Control under the Ministry of Economy of the Republic of Azerbaijan has been continuously implementing rigorous institutional reforms through legislative initiatives and governance optimization since 2022.

In that respect, a draft Competition Code has been developed in accordance with international best practices, and we

believe it will serve as a firm foundation for the harmonization of local legislation with the European practices. The new Competition Code will cover important areas of antimonopoly policy, such as geographical determination of market shares, detailed coverage of market dominance, and precise definition of unfair competition and its forms. The OECD-GVH RCC's technical assistance on enablers of free business environment and improvement of human capital through educational capacity improvement of our colleagues has been very helpful.

The platform provided by the RCC plays a crucial role in coordination and collaboration with fruitful partnership among all the beneficiaries.

Therefore, we would like to confirm our support for this initiative and look forward to further expanding our future cooperation.



**Amir Karalić**  
*President of the Council of Competition of Bosnia and Herzegovina*

Concerning the role and potential of the RCC, I see it as a solid support for co-operation at a narrower geographical level.

As a concrete example of this type of co-operation, the Competition Council of Bosnia and Herzegovina planned the organisation of a virtual seminar with the participation of countries in the region and with the kind support of the RCC in April 2022. The virtual seminar was planned as an exchange of experience for the countries of the region regarding anti-competitive practices of state-owned utility companies.



**Julia Nenkova**  
*Chairwoman of the Bulgarian Commission for the Protection of Competition*

The OECD-GVH Regional Centre for Competition in Budapest (RCC) is an amazing example both for continuous enthusiasm and for high expertise in disseminating competition knowledge among the beneficiary competition authorities. For more than 15 years the RCC has been a great forum where competition experts from participating countries meet, discuss professional topics, share experience and create strong bonds with their colleagues, making these young professionals part of the united family of competition experts in the world.



**Mirta Kapural**  
President of the Croatian Competition Council

The Croatian Competition Agency (CCA) has been participating in the RCC training programmes since its founding in 2005. The evolution of the CCA's practice has been to a great extent a reflection of education received in the RCC. Numerous generations of CCA staff members have attended seminars on a range of competition-related topics, including mergers, cartels, and abuses of dominant position. The high quality instruction provided by knowledgeable speakers from the EU, the USA, and other jurisdictions covered both theoretical and practical aspects, allowing the newly acquired knowledge to be applied in the enforcement of competition.

The format of the RCC seminars encourages free discussion and gives participants the chance to learn from one



**Irakli Lekvinadze**  
Chairman of the Georgian National Competition Agency

In 2020, remarkable amendments to the Law of Georgia on Competition were approved, which is a clear example of the process of harmonization of Georgian legislation with European legislation. Consequently, sharing international experience has become an important factor in the efficient enforcement of the revised law. Therefore, RCC contribution in information sharing and discussion about the developments in competition policy and law enforcement is crucial and gives us a great opportunity to increase our role at international level and conduct our activities in accordance with European standards and regulations.

We have had a fruitful co-operation with the OECD-GVH Regional Centre for Competition in Budapest, Hungary, by participating in various events, publishing articles in Newsletters on ongoing important topics, etc. Continuing co-operation and support in this format, as well as demonstrating our activities at the international level through the OECD-GVH Regional

another, share experiences, and identify common issues they come across in their daily work. Colleagues are also given the opportunity to improve their presentation and communication skills in a global setting by including national case studies in the seminars. We particularly value the fact that the RCC quickly adjusted to pandemic restrictions in the last couple of years and made participation possible in an online environment.

The fact that the RCC pays for all of the case handlers' expenses, now that we are back to long-awaited live formats, is also greatly appreciated by the participating national competition authorities, especially in the context of budgetary restraints and uncertainties as to economic prospects. We also think it is advantageous that the RCC organizes a seminar every year outside of Budapest. This customary practice enables individuals to gain a better understanding of one another's jurisdictions.

Considering all these RCC values, we remain committed to supporting its future work, participating in all the activities and thus contributing to strengthening competition culture and enforcement in our region.

Centre platform is essential and very useful for us. We appreciate the permanent and ongoing working processes conducted by the Centre to involve our agency staff and train them on important topics.

In view of the challenges faced by our agency, we believe that bilateral work with the RCC on the following issues should be conducted: sharing international experience and practices for conducting on-site inspections, market monitoring, investigations, mergers, mechanisms for effective communication with the Agency's stakeholders.

We especially appreciate the Centre's support for strengthened co-operation among the competition authorities of the countries in the region. As the strengthening of competition policy is an essential precondition for an inclusive and sustainable economy, coordinated co-operation is necessary among countries at a regional level, through information sharing and exchange, and planning bilateral events. The RCC as a hub plays a major role in enhancing and boosting this process at a regional level and sharing the challenges and experiences faced by the region.

We thank the RCC for their support and tremendous contribution and look forward to collaborating in planned activities and ways to improve and refine competition policy enforcement mechanisms.





**Omarov Marat Talgatovich**  
*Chairman of the Agency  
 for Protection and Development  
 of Competition of the Republic of  
 Kazakhstan*

Fair/Honest competition in the Republic of Kazakhstan is defined as one of the main principles on which the country's new economic policy is based. In this regard, the promotion of competition and the improvement of antimonopoly legislation, taking into account international best practices, is a priority for the Agency for Protection and Development of Competition of the Republic of Kazakhstan.

An important milestone in the antimonopoly regulation of Kazakhstan was 2015, which marked the beginning of a large-scale reform of antimonopoly policy in accordance with global best practices, based on the recommendations of the OECD.

Since then there has been a continuous improvement of legislation in the field of competition and the activities of the antimonopoly authority of the Republic of Kazakhstan. Suc-

cessful cooperation between the Agency for Protection and Development of Competition of the Republic of Kazakhstan and the Regional Centre for Competition of the OECD plays a key role in promoting new reforms.

Our staff actively participates in the Centre's events, which serve as a real platform for the exchange of practical experience with the antimonopoly authorities of other countries and the development of recommendations for the implementation of competition policy, and contribute to the professional growth of staff. Every year, the Agency publishes articles in the RCC journals «Competition Policy in Eastern Europe and Central Asia», which makes it possible for a wider audience to get acquainted with the Agency's activities in terms of competition protection and antimonopoly regulation.

We highly appreciate and thank the OECD RCC for the constant and ongoing working process that contributes to the development of competition policy in Kazakhstan and the improvement of the human capital of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan.

We appreciate the high level of business relations and express our hope for further fruitful cooperation.



**Neime Binaku Isufi**  
*Chairwoman of the Kosovo  
 Competition Authority*

On May 13 2022 the Law on the Protection of Competition No. 08/L-056 was adopted in a plenary session of the Assembly of the Republic of Kosovo<sup>8</sup>. On 01.06.2022 it was announced by decree No. DL-159/2022, by the President of the Republic of Kosovo. While it was published in the official journal on June 7 2022, on June 22 2022 Law No. 08/L-056 on the Protection of Competition entered into force, repealing Law No. 03/L-229 on the Protection of Competition and Law No. 04/L-226 on the amendment and completion of Law No. 03/L-229 for the Protection of Competition.

Therefore, as stated above, Law No. 08/L-056 for the Protection of Competition was adopted in the spirit of harmonizing the legislation of the Republic of Kosovo with the EU Acquis, taking into consideration the fact that also formally, the Republic of Kosovo is a potential candidate country for membership in the European Union. Therefore, the exchange of international experience and expertise is an important factor in the efficient implementation of this law. Therefore, the contribution

of the Regional Competition Centre (RCC) represents a useful and very necessary added value for the Kosovo Competition Authority in the exchange of experiences and discussions on developments in competition policy and law enforcement; this is essential and it gives a great opportunity to raise our role at the international level, and to carry out our activities in accordance with the European standards, practices and EU legislation.

Since the beginning, we have had a fruitful cooperation with the OECD-GVH Regional Competition Centre in Budapest, Hungary, participating in various events, and publishing articles in the Bulletins on ongoing important topics, etc. Continued cooperation and support in this format, as well as the demonstration of activities at the international level through the platform of the OECD-GVH Regional Centre, is essential and very useful for us. We appreciate the ongoing process of work done by the Centre to engage our agency staff in an equal manner with other sister agencies from our region and to train them on important topics.

The Competition Authority of Kosovo is grateful for the extraordinary support and contribution of RCC-GVH and we look forward to cooperating in the activities and formats planned to improve the enforcement mechanisms of the Competition Law, namely competition policies, and the common experience of the active participating states.

<sup>8</sup> This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the Advisory Opinion of the ICJ on Kosovo's declaration of independence. Hereafter referred to as Kosovo.



**Tailakov Keneshbai Doskulovich**

*Director of the State Agency of Antimonopoly Regulation under the Ministry of Economy and Finance of the Kyrgyz Republic*

We would like to thank the Regional Competition Centre for organising ongoing seminars that not only inform about the activities of individual competition authorities, but also provide a forum for exchange of experience in applying the rules of competition law in practice, and also allow us to express our hope for the continuation of such cooperative and fruitful work, which is so necessary for promoting the understanding of competition culture among all market participants!



**Alexei Gherțescu**

*President of the Competition Council of the Republic of Moldova*

In this process the design and well-thought-out approach to workshop organization, in particular by combining theoretical and practical panels, and the presentation of case studies by the beneficiary authorities has been essential. An important role in ensuring the continuity of professional development is played by the informational materials available on the RCC website, which is one of the sources of information and training for the employees of the Competition Council.

On behalf of the Competition Council of the Republic of Moldova, I would like to express our sincere appreciation and good wishes to the OECD-GVH Regional Centre for Competition in Budapest. The experience and regional practices accumulated over the years due to participation in the events organized by the OECD-GVH RCC played a crucial role in the design and implementation of competition policies in the Republic of Moldova and in the institutional capacity development of the competition authority.

The RCC, in addition to its role as disseminator of the latest trends and techniques in the field, represents a platform for communication and co-operation among the participating competition authorities. The seminars have led to fruitful bilateral relations between the Competition Council of the Republic of Moldova and other beneficiary authorities of the RCC. Such relationships have been strengthened through exchange of information and shared experience in investigations, useful studies and international events.

The Competition Council of the Republic of Moldova has been a loyal beneficiary of the OECD-GVH RCC through participation in the organized seminars and workshops throughout its existence since 2007, the year of establishment of Moldova's competition authority. During this period we had the opportunity to participate in the events organized by the RCC, and the employees of the Competition Council of the Republic of Moldova received training and gained expertise, but also international best practices in the field of competition policy and advocacy. The accumulated knowledge has been successfully integrated into the daily activity of the authority, contributing to the attainment of tangible results and improving the quality of the cases and investigations carried out.

In addition to the above, in the year of the 15th anniversary of the creation of the Competition Council of the Republic of Moldova, we were particularly honoured to be selected, for the first time, to host the regional international seminar under the auspices of the OECD-GVH Regional Centre for Competition in Budapest, which was held in Chisinau on Interim Measures in Competition Cases.

We are firmly convinced that this unique joint experience contributed to the strengthening of existing relationships and opened a new page in the collaboration between our institutions.



**Dragan Damjanovic**  
*President of the Agency for Protection of Competition of Montenegro*

The new management of the Agency for Protection of Competition is fully committed to solve challenging cases using the practice of EU members, as well as to fulfil the obligations defined by the final criteria in Chapter 8 of the EU Acquis - Competition. Aware of the importance of educated and trained staff, the Agency will devote full attention to strengthening its



**Vladimir Naumovski**  
*President of the Commission for Protection of Competition of North Macedonia*

administrative capacities in the coming period, both through hiring officials with experience in this demanding field, and through providing additional training to existing officials by means of bilateral technical cooperation with member states.

Furthermore, we see an added value to the process of European integration in the improvement of cooperation between countries of the Western Balkans, in order to achieve the best possible results through joint effort within the chapter covering the field of competition. The Berlin process, under the auspices of the Federal Republic of Germany, is the only process accepted by all countries of the Western Balkans and offers a chance to swiftly reach EU standards through joint cooperation on the way to membership in the family of European countries.



**Bogdan M. Chirițoiu**  
*President of the Romanian Competition Council*

We are all deeply concerned by the events generated by the invasion of Ukraine and the humanitarian crisis that followed. Our countries pass through a difficult and unpredictable international crisis generated mainly by the adoption of economic measures to counter the situation of Ukraine. Most countries worldwide including Romania cope with accelerated inflation, overregulation measures and digitalization of companies and economies, in general.

Against this backdrop, our top priority is now to assist the companies and sectors severely impacted by the current geopolitical developments in our countries to be better off. Therefore, I think that our cooperation at regional and international level becomes of paramount importance since it enables the adoption of a response to the current challenges in a coordinated way, with regard to both antitrust and state aid policy.

At the same time, current framework in distress offers us, the competition authorities, a tremendous opportunity i.e. that

RCC is like a family to us. We meet on a regular basis, learn about latest developments in the competition area, share experience with the colleagues from other competition authorities and strengthen regional co-operation.

of transforming current challenges in increased visibility and legitimacy of our authorities in our countries. It is our responsibility to be innovative, to work hand in hand with other competition stakeholders at national level so to adapt our policies and tools to the current international framework in disorder, by counteracting excessive and superfluous populism measures and preserving competition on markets on the longer run. Accordingly, Romanian Competition Council is carefully monitoring priority sectors such as energy, financial services and public procurement and other current volatile markets such as food retailing, pharma and construction materials by making increased use of dawn raids. The objective pursued remains the same as in the Covid-19 crisis, respectively that companies would not take advantage of these turbulent economic times and continue preserving a level playing field.

It is a pity that we missed the opportunity to celebrate together the 15th anniversary by the OECD RCC in 2020, due to the Covid crisis. Nevertheless, I can definitely argue now when the Centre is already in its 17th year of existence that all the competition authorities in our region have benefited from an increased quality of competition enforcement and advocacy in our countries by means of the OECD RCC's high professional programmes and tools of cooperation developed.

In a global context marked by the current international crisis, the recovery from the Covid-19 crisis and increased digitalization of our economies, the OECD RCC's tools and mechanism enabling the exchange of experiences on our advocacy and enforcement initiatives on various sectoral, competition enforcement or advocacy topics have expanded and refined over the years. In this respect, we all have witnessed the quick and effective shift of the OECD RCC's capacity building activities from the traditional physical seminars to the new format of webinars which facilitated the training of more staff of our competition authorities and an increased contact among our staff. It's also remarkable that even in these turbulent times, the topics addressed by the OECD-RCC have supported us, the competition authorities of South-East, East and Central European region to ensure efficient and effective competition enforcement actions during and after the Covid-19 crisis.

I would like to recall here other more recent and productive initiatives for all the competition authorities in our region such as the useful 2017 platform of exchange of information, the regular newsletters on competition law developments at regional level or the training course on competition principles. All these undertakings have been largely and regularly promoted by the OECD RCC and are indeed very useful for the development of a strong competition culture at national and regional level.

Another tough asset of the OECD RCC is that it provides the proper framework to establish our goals and evaluate our performance against our peers at regional level. At the same time, it is clear cut that the OECD Competition Committee (OECD CC) remains the main hub of inspiration and knowl-

edge and an outstanding reference point at a wider scale, an international one, for building a strong and reliable competition law and policy regime conducive to economic growth and consumer welfare in our countries.

The OECD RCC represents also a benchmark institution that provides a basis to develop and enforce common and predictable norms and procedures in the area of competition for the sake of the businesses and consumers alike.

Last but not least, the OECD RCC is also an outstanding source of absorbing and implementing best practices in the field of competition law and policy at national level for all authorities across the region.

Looking ahead, Romania, through Romanian Competition Council, in its capacity of Associate to the OECD CC, engages itself to continue exercising a leading role in the region by implementing and disseminating OECD's best practices. Also, our affiliation to a series of projects of technical assistance for our neighbouring competition authorities will be further consolidated.

It is also our wish to continue making use of all tools and mechanisms of cooperation developed by the OECD RCC for us, the competition authorities, irrespective of the nature of the issue involved (case related topic, legislative-type issue, advocacy).

Finally, I would like to wish the OECD RCC further success in its capacity-building activities so that all our efforts put together would contribute to a common approach and strengthened cooperation among all competition authorities in our region, in particular, in these difficult times.



**Nebojša Perić**  
President of the Commission for Protection of Competition of the Republic of Serbia

On behalf of the Commission for Protection of Competition of the Republic of Serbia and myself, I wish to express my gratitude for our successful, long-standing mutual co-operation.

Over the years, the RCC has proven to be a reliable partner to competition authorities from the West Balkan and Eastern European region by contributing to exchange of experience between them, as well as to training young competition authority staff. It is my firm belief that these activities remain crucial for the future development of competition in the aforemen-

tioned region and that the ties created there should withstand the test of time, including through uncertainties of the pandemic, such as the most recent one of Covid-19.

It is in the above context that I perceive the role of the RCC in the future. First of all, through exchange of experience, which contributes to the fulfilment of the Commission's objectives and legal competences, especially as regards international co-operation and collection of information on protection of competition in other countries. Secondly, through constant training and professional advancement of the competition authority staff. Thirdly, by enhancing and encouraging bilateral co-operation between competition authorities, which occurs as a natural follow-up to RCC's multilateral meetings and seminars.

Having all of the above in mind, I hope we can continue building on the results already achieved, wishing for a better year ahead to enable conditions for more fruitful meetings and exchanges in the future.



**Olha Pishchanska**  
*Chairwoman of the Antimonopoly  
 Committee Of Ukraine*

Nowadays, regional cooperation between countries is becoming a vital aspect for the further growth of economies and for the improvement of the citizens' well-being in the region.

Even in the era of globalization, it is regional cooperation that leads to faster trade development, ensures market liberalization, and eliminates anti-competitive barriers.

In my opinion, all of this is possible only if there is close cooperation between competition authorities, in particular through exchange of experience, development of common

approaches to law enforcement and, thereafter, through joint market research and investigations. As a result, cooperation contributes to the creation of equal conditions for doing business in each country of the region, ensuring effective competition both at the national and regional levels.

We are glad that the OECD-GVH RCC has become a platform and a driving force that contributes to the development of regional cooperation and helps many countries, and Ukraine in particular, to improve regulation as well as law enforcement in the field of competition, building on best international practices. For many years, the AMCU has been involved in fruitful cooperation with the OECD-GVH RCC and received exceptional support and invaluable knowledge through seminars and RFI exchange.

The Antimonopoly Committee of Ukraine looks forward to further support by the OECD-GVH RCC, including in the framework of the reconstruction of Ukraine's economy in the post-war period.



# OECD Competition Trends; Key trends of cartel enforcement in Eastern Europe and Central Asia



**Wouter Meester**  
Competition Expert, OECD



**Daniel Westrik**  
Junior Competition Expert, OECD

Competition policy plays an essential role in making our economies function, it keeps businesses agile and prompts them to strive to be more innovative and provide better products and services at better prices. How can analysis of competition-related data inform competition policy-making around the world? The OECD CompStats database developed over the last four years is unique in its coverage and comes directly from the world’s competition authorities. These data are analysed every year in a report presenting insights into global competition enforcement trends. What are the specific competition enforcement trends in Eastern Europe and Central Asia?

- Cartels and other anticompetitive agreements (e.g. number of decisions, number of cases with dawn raids, total amount of fines imposed)
- Abuse of dominance/unilateral conduct (e.g. number of decisions, number of investigations launched, total amount of fines imposed)
- Mergers and acquisitions (e.g. number of notifications, number of clearances, number of prohibitions)
- Advocacy (e.g. number of market studies, number of advocacy events)

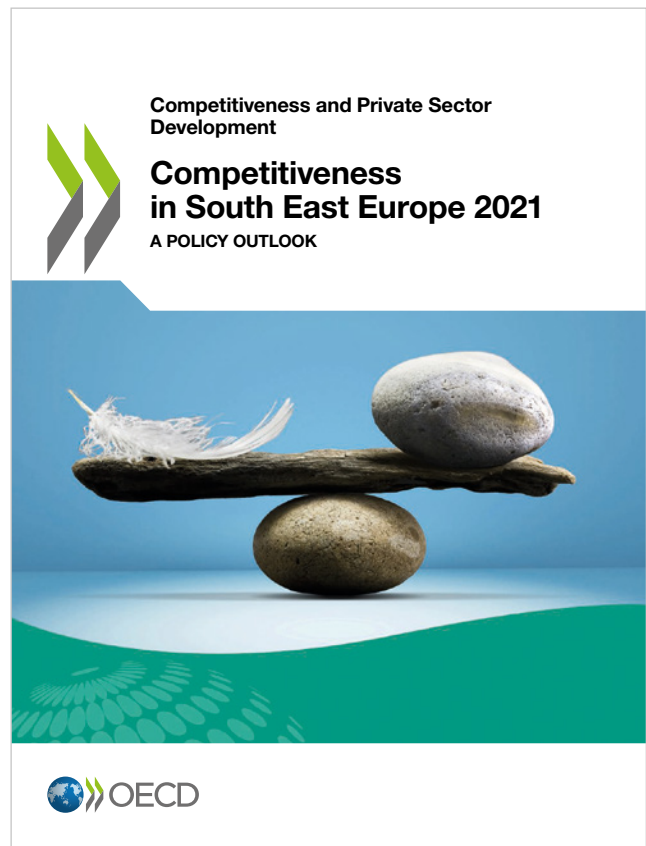
## 1. OECD CompStats coverage

The data are collected through an annual survey sent out to 73 OECD and non-OECD jurisdictions, representing almost three-quarters of the world’s population and more than nine-tenths of its GDP. A number of RCC beneficiaries are already included: Albania, Bulgaria, Croatia, Kazakhstan, Montenegro, Romania and Ukraine. There is also a number of “regional peers”: Austria, Czech Republic, Hungary, Poland, Slovak Republic and Slovenia. Some RCC beneficiaries however are missing from CompStats: Armenia, Azerbaijan, Bosnia and Herzegovina, North Macedonia, Georgia, Kosovo, Kyrgyzstan, Moldova, and Serbia. It would be highly beneficial for the competition community to be as inclusive as possible, as well as for the jurisdictions to be able to compare themselves with regional averages. It is important to note that no data on individual jurisdictions is disclosed: analysis is being performed on an aggregate level (for instance with average numbers of decisions by region).

The Competitiveness in South East Europe 2021<sup>9</sup> contains six of the Western Balkan economies, providing a detailed look at competition law policy in Western Balkan economies.

In CompStats, five areas are covered using more than 30 indicators:

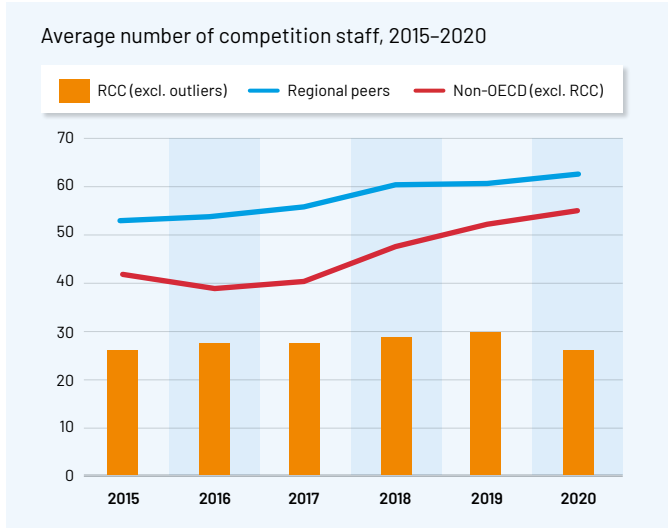
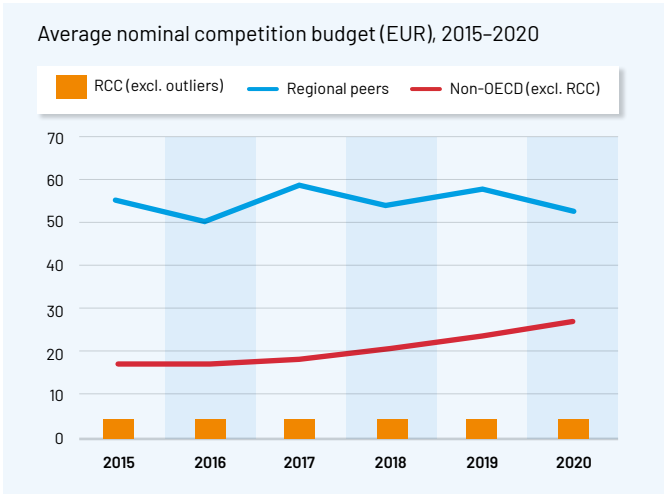
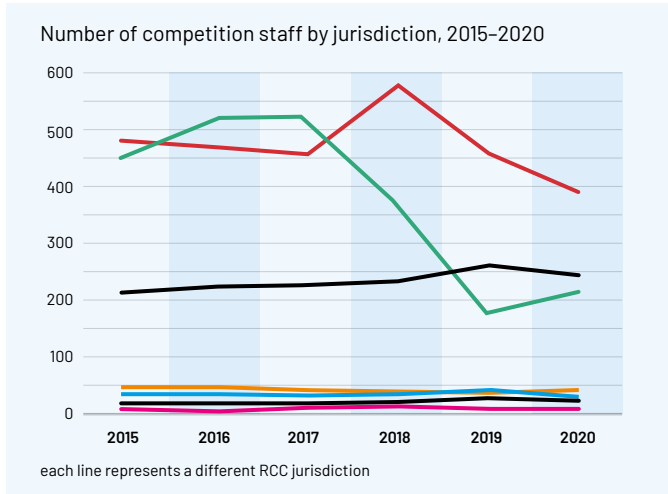
- General information on resources (e.g. budget, staff)



<sup>9</sup> OECD (2021), Competitiveness in South East Europe 2021: A Policy Outlook, Competitiveness and Private Sector Development, OECD Publishing, Paris, <https://doi.org/10.1787/dcbc2ea9-en>.



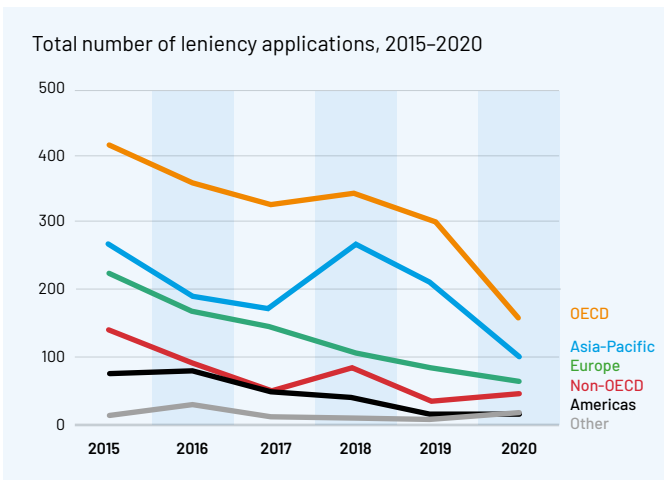
## 2. Competition authority resources



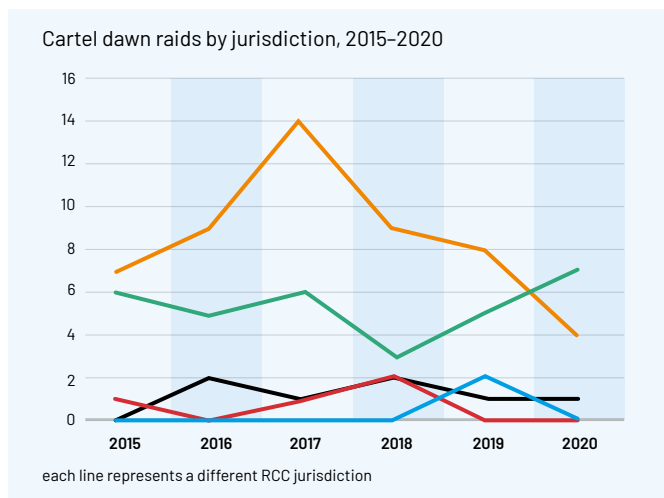
There is a great amount of heterogeneity within the RCC jurisdictions in terms of population and size of economies. There is a clear variation in the number of competition staff, with two clear groups: one with far higher number of competition staff, and a second group of smaller jurisdictions with lower number of competition staff. In the second figure above, the smaller group is represented in terms of their average number of staff by the orange bars. Non-OECD jurisdictions are represented by the red line and their regional peers by the blue line. In recent years, there has been more positive growth: competition agencies have been gaining more staff in the regional peer and non-OECD jurisdictions, which is not always the case in some RCC jurisdictions. The discrepancy between these jurisdictions and the regional peer and non-OECD countries becomes even starker, when looking at competition budgets below.

## 3. Cartel enforcement

When looking at cartel enforcement, it appears that all RCC jurisdictions included in CompStats data have leniency programmes but many have either zero or very low number of leniency applications. Half of the jurisdictions had no leniency applications, only two had a sporadic number of applications in some years and only one has a consistent and positive number of leniency applications. Given the low level of sanctions observed in those RCC jurisdictions, companies do not seem to have a strong incentive to come forward and engage in leniency programmes. Nonetheless, there were two key findings highlighted in the OECD competition trends reports. The first was that overall leniency applications are concentrated in a handful of jurisdictions: 20 of the 73 jurisdictions handled over 90 % of the leniency applications. Secondly, there has been a consistent decline in the number of leniency applications across jurisdictions over the period 2015 to 2020.

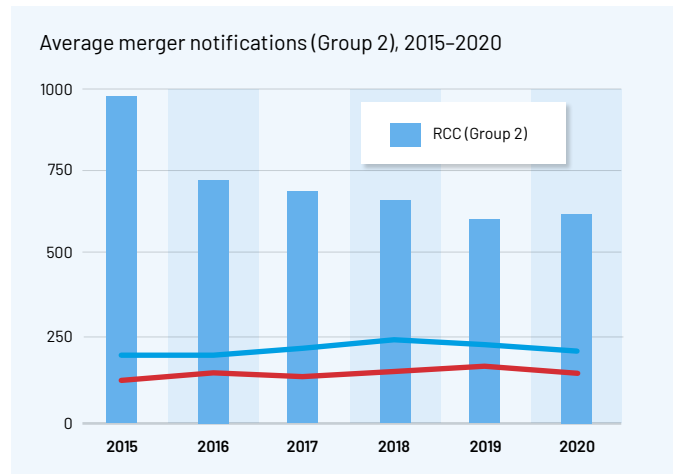
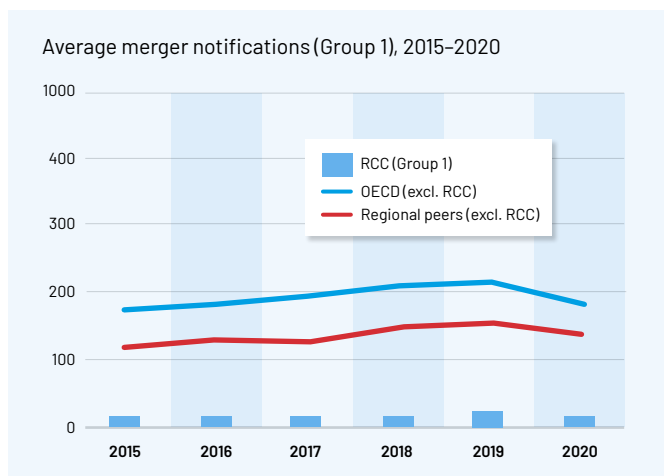


Dawn raids are also an important tool in the cartel enforcement toolkit. They are useful to investigate and substantiate allegations of anti-competitive behaviour and can help competition authorities to adopt robust decisions. Although dawn raids are particularly common in cartel cases, they were limited in the RCC jurisdictions for which data are available, with only two of those jurisdictions having a number of dawn raids around 6 to 10 per year, and the rest of the RCC jurisdictions having 2 or less dawn raids per year (as shown in the figure below). However, this is broadly in line or slightly below the regional peers and non-OECD jurisdictions despite the potential limitations of their leniency programmes.



#### 4. Merger control

When it comes to merger control and more specifically to merger notifications, the RCC jurisdictions are again split into two groups.



The first group had relatively fewer merger notifications but follows the international trends observed for OECD and regional peer jurisdictions: there was growth during the period 2015 to 2019 followed by a slight decline in 2020 potentially due to Covid-19. The second group of jurisdictions had more merger notifications compared to the OECD average, but observed a decline during the period 2015 to 2019.

#### 5. Conclusion

Overall, while there has been promising progress in the RCC jurisdictions, competition authorities in the region are hindered by a lack of financial and professional resources. Competition decisions are still limited, particularly for cartels, and sanctions for infringers seem too low to deter firms from engaging in anti-competitive conduct. Part of the reason is the low use of the leniency regimes in most jurisdictions in the region. Moreover, the fight against cartels requires the competition authorities to make full use of their investigative powers, yet some competition authorities have not yet carried out inspections, and others have only started very recently.

Notwithstanding these challenges, many competition authorities have engaged in competition advocacy, most notably in the Western Balkan economies. This should also contribute to a successful competition law and policy, for instance by promoting a culture of competition.

Finally, the conclusions from CompStats are based on only a partial coverage of jurisdictions in the region. It would be beneficial for the competition community for CompStats to be as inclusive as possible, so the OECD encourages jurisdictions that are missing to join. The latest competition trends can be found at [oe.cd/comp-trends](http://oe.cd/comp-trends).

# THE NEAR FUTURE



# What's Next in International Co-operation?



**Sabine Zigelski**  
Senior Competition Expert, OECD

*International co-operation is one of the permanent themes of the OECD and other international organisations active in the field of competition. The beneficiaries of the OECD-GVH Regional Centre for Competition in Budapest (RCC) live and breathe applied international co-operation at each seminar they participate in. Recent research and developments suggest that it is time for bolder steps to overcome persistent legal obstacles to effective international co-operation. This article aims to explain why the time to act is now, and what RCC beneficiaries can do to boost their enforcement co-operation.*

International co-operation in competition enforcement has been on the agenda of the OECD's Competition Committee for over 50 years. The first of a series of OECD Council Recommendations on International Co-operation on Competition Investigations and Proceedings was adopted in 1967, with the latest version in place being the 2014 Recommendation.<sup>10</sup> Various Roundtables and Hearings have addressed all possible aspects of international co-operation, and the international co-operation homepage<sup>11</sup> hosts a wealth of easily accessible information and resources.

Over the past four years, intensive stocktaking took place to assess the state of international co-operation, to find out what is working well, what could be improved, and how to tackle remaining challenges in the best way. The 2021 OECD-ICN Report<sup>12</sup> analysed answers by more than 60 member and non-member jurisdictions. It presents the probably most comprehensive compendium of international competition enforcement co-operation work and instruments to date. The work provided the basis for the 2022 Report<sup>13</sup> to the OECD Council

on the implementation of the 2014 Recommendation<sup>14</sup>, which concluded that the 2014 Recommendation was still relevant and up to date.

What sounds like good news is effectively a diagnosis of stagnation: persistent legal limitations, differences in legal standards, and lack of precedent and models for traditional and enhanced co-operation prevent more and intensified international enforcement co-operation, in particular outside of regional networks. While international enforcement co-operation is part of the daily enforcement reality of many jurisdictions, it is often informal, bilateral, limited to the exchange of public information, and often restricted to parallel cases and proceedings. The observed instances of international enforcement co-operation are stagnating, and little to no progress was made to move towards conducting, for example, joint investigations, resource sharing or support of other agencies' work, or to enabling models of lead jurisdictions, one-stop-shop models, or deference to another jurisdiction's decisions and remedies. There was also little progress in creating multilateral instruments that would enable and facilitate such co-operation.

Contrary to the developments in international co-operation, the global economy has substantially evolved. Globalisation of trade and services has kept increasing over the last decade. Digitalisation has created business models and global players that are similar all over the world. Notwithstanding the significant benefits for the global economy and consumers, this also increases the geographical scope of competition risks and infractions. The proliferation of competition law and competition agencies with an increase of more than 600% over the last 30 years and currently more than 140 competition laws and agencies in place addresses the problem and at the same time increases challenges that may consist in parallel, duplicative, or even contradictory enforcement actions.<sup>15</sup>

To overcome the standstill, and to deal with the urgent challenges that competition agencies need to address if they want to remain relevant players on the global playing field, the OECD Council encouraged the Competition Committee to further improve the implementation of the 2014 Recommendation by promoting adherence and considering more ambitious legal models and instruments to improve enforcement co-operation.

<sup>10</sup> The current 2014 version and the history of previous Recommendations can be found at: <https://www.oecd.org/daf/competition/international-coop-competition-2014-recommendation.htm>

<sup>11</sup> <https://www.oecd.org/competition/internationalco-operationandcompetition.htm>

<sup>12</sup> OECD/ICN (2021), OECD/ICN Report on International Co-operation in Competition Enforcement <http://www.oecd.org/competition/oecd-icn-report-on-international-cooperation-in-competitionenforcement-2021.htm>

<sup>13</sup> OECD (2022), International Co-operation on Competition Investigations and Proceedings: Progress in Implementing the 2014 OECD Recommendation <https://www.oecd.org/daf/competition/international-cooperation-on-competitioninvestigations-and-proceedings-progress-in-implementing-the-2014-recommendation.htm>

<sup>14</sup> OECD, Recommendation of the Council Concerning International Co-operation on Competition Investigations and Proceedings, OECD/LEGAL/0408

<sup>15</sup> See OECD/ICN (2021), OECD/ICN Report on International Co-operation in Competition Enforcement, pp. 69-74.

A closer look demonstrates clearly that legal limitations to exchanging confidential information, absence of waivers and providing investigative assistance to another competition authority are the core limiting factors. These are essential pre-conditions for parallel, co-ordinated investigations, for support of another agency's investigations in cross-border cases, and any form of enhanced enforcement co-operation,<sup>16</sup> such as joint investigations, lead agency models, or one-stop-shop models. The ability to recognise another jurisdiction's decision could greatly enhance the efficiency of enforcement.<sup>17</sup>

The OECD Competition Committee, through its Working Party 3, has set out to address the identified challenges. Recognising that in other enforcement areas legal obstacles to the exchange of confidential information and to investigative assistance have already been overcome, it held a Hearing session in June 2022<sup>18</sup> to learn more about the legal instruments and models used, and to consider their relevance to improve competition enforcement co-operation. As a next step, Working Party 3 will discuss what type of OECD legal instrument or model – for example a multilateral agreement, an OECD Decision, or some type of model agreement<sup>19</sup> – could be most appropriate to trigger the much-needed legal changes allowing for the exchange of confidential information and for investigative assistance between competition enforcers.

How is this relevant to the main target audience of this Newsletter, the beneficiary countries of the RCC? After all, none of them is an OECD member country (yet). Should they sit back and wait and see what OECD countries are doing? The answer to this clearly rhetorical question is of course “no”. Closer and better international co-operation is a must, particularly for smaller jurisdictions and those in transition. Global competition infractions, by definition, do not stop at national borders. However, smaller and less experienced jurisdictions may be less equipped to deal with a cross-border cartel, merger, or abusive practice. Large multinational businesses may not pay much attention to their enforcement action and can even threaten to withdraw from a particular jurisdiction in case of a competition intervention. Other competition infractions may take place on a more regional level, and closer regional co-operation could greatly enhance the effectiveness of enforcement in each of the regional neighbours.

An ideal first step is certainly the establishment of good relationships with regional neighbours, but also the larger international competition community, and this can take a

variety of forms, all of them already actively practised by many RCC beneficiaries:

- Hosting of and participation in regional conferences and events
- Participation in international events such as the OECD Global Forum<sup>20</sup> on Competition or ICN conferences
- Regular participation and active contribution to RCC events
- Entering into co-operation agreements and memoranda of understanding (MoU) with other competition agencies

All these activities help to create and foster the essential interpersonal relationships that form the basis of any meaningful co-operation, as they create trust and understanding, which are the main currency in international co-operation. Agreements and MoU usually serve to formalise a trusting relationship and can elevate it to an institutionalised level. In this regard, agencies could already start aiming higher. Many MoU include mostly very basic declarations of good intentions. Where appropriate and legally possible, agencies could promote such MoU to include a deeper commitment that could, for example, extend to notifications, exchange of information and investigative assistance. The OECD's inventories of competition MoU and agreements can provide useful inspiration for more aspirational provisions.<sup>21</sup>

Trusting relationships often require a minimum of common understanding of other jurisdictions' rules and practices. In this regard, every agency can contribute by

- Publishing relevant contacts and information on their publicly accessible websites, in English language
- Providing information to international information resources, such as
  - ICN Templates<sup>22</sup>
  - OECD Competition Enforcement Co-operation Database<sup>23</sup> and keeping them up to date.

Closer to home but often more challenging would be endeavours to create enabling legal provisions in domestic laws to create mechanisms allowing for

- Provision of confidential information to other competition agencies (information gateways)
- Provision of investigatory and other types of legal assistance to other competition agencies
- Recognition of other jurisdictions' enforcement decisions.

<sup>16</sup> For more detail see <https://www.oecd.org/daf/competition/enhanced-enforcement-cooperation.htm>.

<sup>17</sup> See also 2022 Hearing on Thinking Out of the Competition Box, pp. 15–25. <https://www.oecd.org/daf/competition/thinking-out-of-the-competition-box-enforcement-cooperation-in-other-policy-areas.htm>.

<sup>18</sup> See <https://www.oecd.org/daf/competition/thinking-out-of-the-competition-box-enforcement-cooperation-in-other-policy-areas.htm>

<sup>19</sup> On OECD Legal Instruments at: <https://legalinstruments.oecd.org/en/>, and OECD Background Note, 2022 Hearing on Thinking Out of the Competition Box, p. 28. <https://www.oecd.org/competition/globalforum/>

<sup>21</sup> See for inter-agency agreements at: <https://www.oecd.org/competition/inventory-competition-agency-mous.htm>, and inter-governmental agreements: <https://www.oecd.org/daf/competition/inventory-competition-agreements.htm>

<sup>22</sup> The ICN provides a number of templates in all enforcement areas that inform about practices, rules and contacts of various member jurisdictions, for example Frameworks, and Templates <https://www.internationalcompetitionnetwork.org/working-groups/cartel/templates/>; <https://www.internationalcompetitionnetwork.org/working-groups/merger/templates/>; <https://www.internationalcompetitionnetwork.org/frameworks/competition-agency-procedures/cap-templates/>.

<sup>23</sup> The OECD's Competition Enforcement Co-operation Database (CEC) will go live in Q3 2022 and will provide easily accessible information on the most relevant aspects of international enforcement co-operation. The database will be updated annually, and it is open to all competition agencies and not limited to OECD member countries. RCC beneficiaries still wishing to contribute should contact the author directly.

Such provisions would greatly facilitate the support of and co-operation with other competition agencies in appropriate cases, and address the core restrictions to international enforcement co-operation directly.

The menu of options is rich, but it will often require not only commitment and resources by the competition agencies but also by their governments. In order to make progress in international competition enforcement co-operation as an “all-of-government” endeavour, RCC beneficiary countries might want to consider becoming Adherents to the [OECD’s 2014 Recommendation on International Co-operation on Competition Investigations and Proceedings](#), already referenced at the beginning of this article. The Recommendation addresses all relevant tools, including comity, notifications, information exchange, investigative assistance, and enhanced enforcement co-operation. While not legally binding, Adherents express a

strong commitment to the implementation of its provisions. Experience shows that the Adherent’s competition agencies find it easier to call on their governments for adequate resources and required legal changes, as they can refer to the stated commitment made by the country. Contrary to what many believe, the OECD Recommendations are open to non-member countries, and the process of adherence is rather light.<sup>24</sup>

The more agencies actively engage in various forms of international enforcement co-operation, the more effective it will become. This will also boost the OECD’s and other international players’ efforts to facilitate and create legal models and instruments to the benefit of all enforcers – and ultimately the consumers in all jurisdictions, who will enjoy more effective protection from harmful cross-border competition law violations.

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<sup>24</sup> The Competition Division stands ready to assist any competition authority interested in becoming an Adherent to the 2014 Recommendation, as well as its other Recommendations (<https://www.oecd.org/daf/competition/recommendations.htm>). In case of interest, please contact the author, [sabine.zigelski@oecd.org](mailto:sabine.zigelski@oecd.org), or any other member of the Competition Division.



# Sustainable Development and Competition Law: GVH Special Project

Presented by Csaba Kovács, Deputy Head of Competition Economics and Market Research, Hungarian Competition Authority (as summarized by Nasli Aouka, OECD)



**Csaba Kovács**  
Deputy Head of Competition Economics and Market Research, Hungarian Competition Authority

## Context of the survey

As the host of the ICN Annual Conference in 2021, the Hungarian Competition Authority – the GVH – chose ‘Sustainable development and competition law’ to be the topic of its special project. As part of this project, the GVH conducted a survey among ICN members and NGAs on their experience concerning sustainability and competition law.

The topic attracted great international interest and numerous competition authorities (52) and NGAs (41) submitted their responses revealing available experience in this field. Sustainability in this exercise was narrowed down to environmental sustainability.

The purpose was to contribute to the ongoing dialogue with a basic but global stocktaking of actual practice and focus on restrictive agreements. Actually, if we turn to the RCC beneficiary countries we had 50% response rate by the RCC competition agencies, which is better than the 40% ICN average response rate for competition agencies.

## Main findings

The most important finding concerned the response as to the possible role of competition law (if any) in achieving sustainability objectives. The overwhelming majority of the NGAs answered that there is a reasonable role for competition law in this context. The comments suggested that this role, however, should not be too big. It is a restricted role that should not entail paradigmatic changes in competition law application or enforcement.

Secondly, the survey found that there is very little experience: 88% of competition agencies had sustainability defence

cases. Between 2015 and 2017, 8 cases with sustainability defence were reported. Between 2018 and 2021, 22 cases were reported. These numbers are small but there is an increase in terms of sustainability defence (in contrast to the number of sustainability-related competition concerns where the curve remains flat).

Nevertheless, there is undeniable interest and anticipation. When asked whether competition agencies think they will encounter sustainability in an enforcement context in the coming years, it appears that European agencies do expect this to happen. For competition agencies outside Europe, the numbers are much higher than actual experience, and this is telling about the future.

Many of the competition agencies also keep the issue on their strategic agenda: Europe seems to be more interested in this topic, but there is a significant interest outside Europe as well, even though it again exceeds existing experience. Of course, the burning question is whether we can expect convergence. In this respect, the results of the survey are not conclusive. What is remarkable, however, is that signs of regional convergence in Europe were found: competition agencies, for example, referred to the European Green Deal as a possible focal point of regional convergence.

The survey purposefully distinguished between offence vs defence, i.e. between sustainability related competition concerns vs sustainability defence. The results showed more defence cases along with a relatively high number of questions from the agencies about the approaches and methodologies in these cases. This may be explained by the defence side being more elaborated and more accepted by NGAs and competition agencies. One example of an offence within the European Union would be the recent Car emissions case of the European Commission<sup>25</sup>. An example of what many observers commented as a defence case for the carmakers was the California Car Emissions case<sup>26</sup>, where the Department of Justice launched the case to later drop it. It was not clear whether the Department of Justice would be inclined to accept such a defence, as the first signs were not very encouraging.

Does the legal framework come into play when it comes to the number of cases found in a given jurisdiction? Surprisingly,

<sup>25</sup> Case COMP/AT.40178, Commission Decision of 08/07/2021.

<sup>26</sup> E.g. <https://www.cnbc.com/2019/09/06/doj-launches-antitrust-probe-over-auto-emissions-deal-with-california-wsj-reports.html>; <https://www.cnbc.com/2019/09/06/doj-launches-antitrust-probe-over-auto-emissions-deal-with-california-wsj-reports.html>; <https://www.reuters.com/article/us-autos-emissions-antitrust-idUSKBN2012NP>

there was no real link: all sustainability cases happened in jurisdictions where there was a welfare or efficiency goal in competition law. No cases were reported in jurisdictions where other goals, such as public interest, are covered by the law or where there are explicit sustainability considerations in competition law. The legal background did not seem to be very important, at least according to these responses. What is missing however is soft law; NGAs undoubtedly urged competition agencies to issue guidelines, and soft laws.

As another result, it is clear that competition agencies need to prepare to be able to deal with sustainability cases properly. For example, they were asked if they encounter expertise gaps when it comes to sustainability cases. Some agencies reported past or ongoing efforts to deal with those gaps while even more

agencies were planning to make such efforts. NGAs were asked about the appropriateness of the legal framework and enforcement. Overall, they were more satisfied with the legal framework than with enforcement; it was either the recognition of sustainability by the competition agencies or the analysis of sustainability and competition. Consequently, the bottleneck might not be the law itself but rather the enforcement, skills and capacity of the competition agencies.

Lastly, international co-operation appeared as a much supported notion: many agencies advocated the idea that international organizations should deal with these topics and should identify best practices to disseminate them.

To find out more about the survey, the report and the relevant results can be accessed through the GVH website.<sup>27</sup>

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<sup>27</sup> <https://www.gvh.hu/en/gvh/Conference/icn-2021-annual-conference/special-project-for-the-2021-icn-annual-conference-sustainable-development-and-competition-law>

# Lear – Technical Assistance Projects



## *An overview of Lear's technical assistance projects to national competition authorities*

Lear is an economic consulting firm founded in 1999 and based in Rome, which specializes in competition matters. Among its practice areas, since 2015 Lear has engaged in multiple technical assistance projects, providing to emerging national competition authorities a variety of services aimed at strengthening and sustaining their institutional development, enforcement capacity, and advocacy activities. Over this time, Lear has carried out technical assistance projects for the competition authorities or other institutions of Serbia, Bosnia and Herzegovina, Moldova, Bulgaria, Albania, Armenia and Uzbekistan. The projects are heterogeneous in terms of scope of activities performed, but common traits can be identified when considering the problems that emerging competition authorities face, and the type of activities that can be undertaken to address those problems.

One typical problem has to do with the institutional setting where emerging competition authorities often operate. Competition laws may sometimes fail to properly define the role of competition authorities, or may equip them with insufficient independence and power for them to be effective enforcers of those laws. For instance, we often find that competition authorities do not have the power to carry out dawn raids, which are a crucial tool in tackling cartels; or may have to work against unreasonably short timelines for antitrust proceedings; or may have quite limited powers when it comes to fines. Competition laws may also be suboptimal in that they may be overly prescriptive, departing from the flexibility that characterizes competition law in more mature jurisdictions, and that enables competition authorities to perform effect-based assessments regardless of the particular shape that a potential antitrust infringement may take; or in that they may conflate consumer protection and competition issues – two areas that, while related, should be clearly distinct as they pursue different objectives.

Emerging competition authorities may sometimes struggle with their reputation and credibility vis-à-vis the stakeholders they interact with. This is closely related to the institutional issues described above: a competition authority that has scant fining powers will not enjoy enough credibility with respect to the companies that it is investigating; similarly, if it is not independent from the government, a competition authority may be subject to undue influence when developing recommendations on pro-competitive changes to laws and regulations and will not be an effective advocate for those pro-competitive reforms.

Another potentially problematic area is the skills of the staff that emerging competition authorities have at their disposal. Countries with a less developed competition culture will not produce economists and lawyers that are adequately trained to

carry out accurate and thorough competition assessments: we have often found that universities in these countries do not offer courses on competition law and economics. Relatedly, judges and policymakers may also lack that skillset, and may thus be unable to properly assess the evidence and the recommendations that a competition authority will bring before them.

Transparency of enforcement activities is another typical problem. Emerging competition authorities may be somewhat vague with respect to the conducts that they may regard as breaches of competition law, or with the evidence and the methodologies they employ to find those breaches. This is often at the expense of legal certainty and of competition authorities' ability to detect anticompetitive practices and to succeed in court. Businesses may not be fully aware of the specific conducts which could potentially constitute infringements, failing to refrain from such conducts or to bring them to the attention of the competition authority if they are the victims of them. It will also mean that judges tasked with reviewing infringement decisions may regard that lack of transparency as grounds for dismissing those decisions.

Lastly, we often find that emerging competition authorities do not engage to a sufficient extent in networking activities, neither domestically nor internationally. These efforts are key to build relationships that would enable emerging competition authorities to cooperate successfully with other national agencies such as sector regulators and to acquire international best practices.

The problems described so far do not have easy and immediate solutions, but rather require patient capacity building efforts that cut across multiple dimensions, and that carefully take into account the local context. To this end, Lear routinely identifies and cooperates with local experts.

Trainings to the competition authorities' staff members are always a key part of those efforts, and have been delivered in all the countries where Lear has provided technical assistance services. Their aim is to provide the staff with the necessary knowledge and tools to correctly identify and address competition concerns. Lear usually undertakes a preliminary assessment to ascertain the background of the training participants, so that the content and level of the trainings can be adjusted accordingly, enabling Lear to develop a curriculum specifically tailored to the staff's needs and background. For example, in addition to provide trainings on the basic foundations of EU antitrust enforcement and competition economics, Lear devoted an entire module in Moldova on the remedial actions used to mitigate or prevent competition concerns, while in Uzbekistan additional modules were envisaged on the regulation of natural monopolies, the role of state-owned enter-

prises in the economy and the competition distortions which may arise from their presence. Generally, Lear strives to make trainings as practical as possible: relevant theoretical concepts are explained and exemplified through reference to real world cases, as this is likely to result in more engagement by training participants.

Besides traditional trainings, capacity building programmes may envisage on-the-job trainings, whereby Lear staff and the staff from the competition authority work together on actual cases and studies that the competition authority is developing. For instance, both in Armenia and Moldova, economists from Lear worked alongside officials from the competition authorities to develop market studies. In Moldova, Lear helped conduct a market study on the road repair and maintenance sector. In Armenia, Lear has overseen the development of a market study in the pharmaceutical sector and is currently working on a market investigation in the transport sector. On-the-job trainings can be particularly effective as they allow for more direct interactions than traditional trainings, and are a valuable opportunity to incorporate best practices into the actual workflow of the competition authority.

Problems with the institutional setting can be addressed by reviewing the local competition law and other relevant laws or regulations, as Lear did in Armenia. The activity resulted in recommendations on changes to the local competition law aimed at bringing it in line with international best practices – but still ensuring that Armenian political and economic contexts were accounted for properly. For instance, Lear identified problems with the definition of dominance provided by the law, solely based on market shares threshold and therefore overly reliant on market definition; with the concept of concentration, which did not revolve around the notion of a change in control, as would be advisable; and with the regulation of dawn raids, for which the powers of the competition authority were not clearly defined.

Transparency issues can be addressed *inter alia* through the development of guidelines. Guidelines are documents whose content is typically not binding and that have the purpose of clarifying the scope of certain aspects of competition law or to inform practitioners and the business community on how the competition authority carries out assessments within its enforcement efforts. In Armenia, Lear drafted guidelines on the

determination of fines and on the leniency programme, detailing the methodologies and procedures to be followed for both: the aim was both to define a methodology that the competition authority could follow internally and to improve transparency vis-à-vis stakeholders. Lear is currently developing guidelines on market definition, predatory pricing and excessive pricing.

Another way to boost the reputation and credibility of an emerging competition authority is to improve its advocacy efforts. Advocacy comprises all those activities that a competition authority may take besides enforcement, for instance proposing procompetitive changes in laws and regulations, or taking actions to improve awareness of the benefits of competition among key stakeholders. Such efforts can be crucial to improve the competition culture and create a more favourable setting for the competition authority. In this respect, Lear developed a long-term competition advocacy strategy for the Albanian competition authority, based on an analysis of past advocacy efforts aimed at identifying gaps to be filled – the document was nominated for the Concurrences Antitrust Writing Awards in 2021. Lear is currently working on the development of an advocacy strategy for the Armenian competition authority.

Competition authorities should not be regarded as the sole possible beneficiaries of technical assistance projects, as other institutions may benefit from such initiatives. For instance, in Serbia and Bosnia and Herzegovina, Lear worked for public procurement agencies, focusing on how to design tenders to maximize competition between bidders and on how to detect instances of collusion between them by analysing tender outcomes. Sector regulators may similarly benefit from capacity building programmes to the extent that the promotion of competition in the sector they regulate may (and should) be part of their remit.

Finally, in the context of technical assistance projects, Lear arranged several study visits to national competition authorities in Europe and to international events in order to establish a network for future co-operation, and to allow the competition authorities participating in each project to share their experiences with colleagues. This activity has been carried out by Lear in Albania and Armenia, and will hopefully result in strengthening the ties between the competition authorities involved.

## Lear - Tailored Solutions in Economics



**PAOLO BUCCIROSSI**  
DIRECTOR

Lear is an economic consulting firm that specializes in applying microeconomic modelling and econometric tools to address competition and regulatory issues.

Lear was founded in 1999 by Paolo Buccirossi, formerly an economist at the Italian Competition Authority.

It has rapidly grown in

size and reputation and, since 2005, the Global Competition Review, a leading antitrust publication, has included Lear among the top 20 economic consulting firms specializing in competition issues in the world.

In the years since it was set up, Lear's staff has advised a large number of companies, in Italy and abroad, in a wide variety of sectors, ranging from telecommunications, media, banking and financial services to consumer goods, retailing, road, air and maritime transportation.

We support firms and their legal advisers in the ex-ante assessment of the competitive implications of mergers, acqui-

sitions, agreements and unilateral conducts and we provide expert advice and testimony during proceedings with national competition authorities and the European Commission for alleged breaches of antitrust legislation. We analyse and assess, on behalf of our clients, the economic merits of allegations of foreclosure and exclusionary conduct, tying and bundling, vertical restraints, collusive behaviour, abuse of (collective) dominance, and anticompetitive pricing. We provide litigation support and perform damage assessments in the event of IP or trademark infringements, breach of contracts and anticompetitive practices.

At Lear we undertake research projects, policy evaluations and regulatory impact assessments for regulatory agencies, trade associations and public institutions on topics ranging from competition economics to consumer protection to market regulation. In addition, we organize workshops, seminars and training courses for lawyers, executives and members of public institutions who want to improve their knowledge of antitrust and regulatory economics.

Lear economists have undertaken research projects for competition authorities, including the European Commission (DG Comp and DG EcFin), the UK Competition and Markets Authority (CMA), the European Parliament, the Italian Competition Authority (ICA), the Dutch Competition Authority (NMa) and the Czech Office for the Protection of Competition.



# OECD membership: three candidates from Eastern Europe

On 25 January 2022, the OECD Council decided to open accession discussions with six candidates to OECD Membership, including three candidates from Eastern Europe – Argentina, Brazil, Bulgaria, Croatia, Peru and Romania.

This follows careful deliberation by OECD Members based on the Framework for Consideration of Prospective Members<sup>28</sup> and the progress made by the six countries since their first respective requests for OECD membership.

Individual roadmaps for the detailed assessment process will be prepared provided those countries confirm their adherence to the values, vision and priorities reflected in the OECD's 60th Anniversary Vision Statement and the Ministerial Council Statement adopted last year.

These documents reaffirm the goals of the OECD's founding Convention, to which new Members must accede, and set out the values shared by OECD Members, including the preservation of individual liberty, the values of democracy, the rule of law and the protection of human rights, and the value of open, trading, competitive, sustainable and transparent market economies. They also refer to OECD Members' commitment to promote sustainable and inclusive economic growth and their goals to tackle climate change, including halting and reversing biodiversity loss and deforestation.

Concerning competition, new Members shall confirm their commitment to the importance of strengthening the rules-based multilateral trading system with the WTO at its centre, opposition to economic coercion, the levelling of the international playing field through increased competition, better integration of SMEs into global value chains and the dismantlement of unnecessary barriers to international trade, which benefits consumers and promotes economic growth and innovation.

Speaking after the decision, OECD Secretary-General Mathias Cormann noted: "OECD Members confirmed today

that the OECD is an open, globally relevant and evolving organisation. OECD membership remains the most direct and effective way to ensure the adoption and dissemination of our shared values, principles and standards across the world". He pointed out that "candidate countries will be able to use the accession process to promote further reforms for the benefit of their people, while also strengthening the OECD as a like-minded community committed to a rules-based international order".

As responses are received from candidate countries to the letter from the Secretary-General, individual Accession Roadmaps will be considered and adopted by the OECD Council, setting out the terms, conditions and process for accession and reflecting priority areas already identified by OECD Members.

The process will include a rigorous and in-depth evaluation, by more than 20 technical committees, of the candidate country's alignment with OECD standards, policies and practices.

As a result of these technical reviews, and prior to any invitation to join the organisation as Members, changes to the candidate countries' legislation, policy and practices will be required to bring them into line with OECD standards and best practices, thus serving as a powerful catalyst for reform.

The technical reviews will cover a wide range of policy areas and will focus on priority issues including open trade and investment, progress on public governance, integrity and anti-corruption efforts, as well as the effective protection of the environment and climate action.

There is no deadline for completing the accession processes. The outcome and timeline depend on each candidate country's capacity to adapt and adjust to align with the Organisation's standards and best practices.

Once all the technical committees have completed their reviews, a final decision will need to be taken unanimously.<sup>29</sup>

<sup>28</sup> Available at: <https://www.oecd.org/mcm/documents/C-MIN-2017-13-EN.pdf>.

<sup>29</sup> Press release 25/01/2022.

# Challenges and future projects of the RCC



**Ori Schwartz**  
*Head of the Competition Division,  
 OECD*

The Eastern Europe and Central Asia region is an important and promising area in many fields, and especially in competition. Suffice it to look at how competition policy has progressed over the 17 years since the establishment of the RCC to have a clear picture of the progress made. Most of the competition authorities in the region were taking their first steps at the time; now some are well-established, powerful institutions, and others are getting stronger and increasingly influential.

In the current situation, speaking of co-operation may look like wishful thinking. Yet, the OECD (Organisation for Economic Co-operation and Development) contains the word “co-operation” in its very name and we will insist on co-operation because we are convinced that ultimately it is the most effective way to ensure progress and well-being.

Regional and international co-operation is crucial for competition policy. It is not a matter of whether or when we should engage in co-operation: it is a matter of how, and the time is now. Global challenges require global, coordinated and consistent responses. This is proving all the more important in these difficult times.

However, the OECD Council recently decided to open accession discussions with six candidates to OECD Membership: it is telling that three of them are from Eastern Europe – Bulgaria, Croatia and Romania – and it is a step in the right direction to foster co-operation.

Since global competition issues are affecting everyone’s life, every competition authority in the world needs to share the same principles, have a common understanding and ensure equally high professionalism. They are essential requisites for effective competition enforcement and advocacy. The task of the Regional Centre for Competition in Budapest is to assist countries in the region to further develop the skills of their staff. It is also an outstanding platform for capacity building, experience sharing and informal co-operation.

Over the last two years, the Covid-19 crisis has strongly affected the activities of the Centre. Travel restrictions prevented in-person seminars, which are the most effective way

to provide capacity building while fostering networking and informal contacts, which may be as important as training itself. However, the RCC staff and the competition authorities have shown that even the most haunting challenges are associated with opportunities, and that creativity can be the right resource to make the best out of a bad situation. The impressive number of new initiatives undertaken by the Regional Centre has allowed maintaining and even strengthening its role in the face of the Covid-19 crisis.

It is true that virtual seminars and events only partially replaced in-person meetings, but they allowed the Centre to continue to fulfil its mandate, while expanding the audience and enriching the range of speakers. We are glad that since May 2022 we have been able to restore our usual in-person seminars in Budapest.

The new training video project “Key competition topics explained in a few minutes” has become an extremely successful complement to the RCC toolkit, so much so that the United Nations Economic and Social Commission for Western Asia signed an agreement to create the Arabic version of the training videos.

The review “Competition Policy in Eastern Europe and Central Asia” is now a prominent specialised publication in the region, which attracts contributions not only from the RCC beneficiaries, but also from competition authorities all over the world, from New Zealand to Canada, from India to Brazil. The latest issues have provided an opportunity for discussion and experience sharing on key topics, such as bid rigging, competitive neutrality, and abuse of dominance in digital markets.

Despite this appalling and challenging period, the RCC Team stands ready to continue to explore opportunities and provide your authorities with additional tools for capacity building and informal co-operation. Among them, the OECD Competition Trends project can support policy decisions and help locate where an authority stands vis-à-vis regional and international trends. Many competition authorities already participate in Competition Trends and the missing jurisdictions are strongly encouraged to join in.

I would like to confirm the commitment of the Competition Division of the OECD for Eastern Europe and Central Asia. The value of the region, not only in political and economic terms, but also in terms of human and cultural heritage, is immense. The Regional Centre for Competition is more than ever dedicated to support its beneficiaries in the face of these challenging times.

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