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Competition Law and Enforcement Croatia

On 1st July 2013, Croatia is set to join the European Union. As this important date approaches, *Lawyer Monthly* finds out how the country's competition law is adapting in preparation for coming under EU law, by speaking to Jelena Zjacic and Ivana Manovelo, partners at MACESIC & PARTNERS Law Offices. MACESIC & PARTNERS is one of the oldest Croatian law firms oriented towards international practice, covering dispute resolution, transportation, insurance, energy and natural resources, corporate, M&A, insolvency, corporate restructuring, competition, public procurement, banking and finance, intellectual property, commercial property and real estate.

What are the key cases you deal with regularly?

Recent key cases involved state aid issues, as a broader spectrum of competition law. Namely, as per the EU Treaty, the objective of state aid control is to ensure that government interventions do not distort competition inside the EU and enable free market.

Our recent engagement mostly referred to transactions in infrastructure and shipbuilding financings where we were providing advice and guidance in defining whether state aid elements exist in the transaction, whether such state aid is lawful or unlawful and what are the legal consequences of unlawful state aid.

Croatia's European Union accession is fast approaching; how are you preparing for it?

Our offices' preparations for Croatia's EU accession have been gradual. We followed the pace of Croatia's adoption of the *acquis communautaire* and tried to prepare in advance for certain developments.

Croatia already signed the Stabilization and Association Agreement (hereinafter SAAA) in 2001. Since 2001 the country has enacted a number of new laws (first Competition Act and first State Aid Act (2003) as well as substantial part of secondary EU legislation).

Additionally, in case of legal gaps or discrepancies in interpretation, the Competition Act (Official Gazette 79/2009) in line with Article 70 of SAAA explicitly provides that interpretations adopted by EU institutions (EU Commission, European Court of Justice, Council of Europe) should be applied.

Due to the above, we do not expect any major surprises in the process, relating to the existing competition scheme. However, since EU competition law is under fast development we expect to adopt new issues as they come along.

With Croatia joining the EU on 1 July 2013, the country's competition law will be expanded and strengthened as it falls under the EU body of Law. What will be the main changes?

From 2003 to 2013 Croatian Competition Agency (hereinafter CCA) was the sole competent authority for state aid issues (approval, monitoring of application, maintenance of state aid register, etc.) Such a system was designed for the pre-accession period. Now, with accession pending 1st July 2013 Croatia must adopt existent EU state aid system enabling direct application of Council Regulation (EC) 659/199 of 22 March 1999. Due to reasons explained, the new State Aid Act is currently in the parliamentary procedure. Under the new Act, the competence will shift from the CCA to the Commission for most state aid related issues. There will be no changes in the material aspect, only in the procedural ones (powers will be divided between the EU Commission, European Court of Justice and Croatia).

What effects will these changes have on business in Croatia do you think?

CCA yearly reports show that the existing state aid policy in Croatia is (was) incoherent. State aid was being granted on ad hoc basis.

Also, the reports show that in the period from 2006 to 2011 there was a decrease in state aid in relation GDP from 2.38% in 2006 to 1.46% in 2011. In comparison to EU member states, this percentage is still high.

Industries that were heavily subsidised by the State (shipbuilding, highway construction and maintenance, electricity generation, etc.) have started to face difficulties even before Croatia's EU accession, due to adoption of secondary EU legislation and EU institutions' interpretation. **LM**



Jelena Zjacic

Jelena started her professional career with MACESIC & PARTNERS and today has more than 8 years' experience in advising in all aspects of corporate law with particular focus on banking and finance as well as restructuring practice.



Ivana Manovelo

Ivana is experienced in advising international clients on commercial, banking, finance, energy and dispute resolution matters.

Contact:

Macesic & Partners Law Offices

Rijeka office

Pod kastelom 4, 51 000 Rijeka
Tel.: +385 (0)51 21 50 10

Zagreb office

Mihanoviceva 16, 10 000 Zagreb
Tel.: + 385 (0)1 45 76 794

Email: zjacic@macesic.hr
manovelo@macesic.hr

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