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Development and Protection of Economic Competition in Kosovo: Case Study Gjilan Region

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Abstract

This paper investigates the development and protection of economic competition in Kosovo focusing on analyzing the level of competition in one region of Kosovo (the Gjilan region). The paper deals with legislative aspects of competition, and with sensitive sectors (banks, insurance, gas stations and pharmacies) where competition is damaged. The paper presents measures for improvement based on EU practices. Like other economies in transition, action for protection of competition in the Kosovo economy is faced with many challenges. Moreover, these challenges result from the fact that Kosovo was the last country in South Eastern Europe to start implementing principles of a free market economy, i.e. only since 1999. Through a case study, we attempt to give a realistic picture of the level of development of competition, where competition is undermined, general business knowledge about the functioning and enforcement of the law on competition protection, and concrete measures to be taken in order for competition to function based on the rules of a market economy.

Keywords: *Market economy, economic competition, monopolies, abuse of dominance position.*

Introduction

The creation of a market economy and the free operation of market mechanisms is an important objective for sustainable economic development. The realization of this objective imposes the need for decision-makers to create such economic policies adapted to adequate legislation that will impact economic growth through a competitive market on the one hand and on the other hand eliminate behavior that harms the free market. Sound competition policy and the encouragement of competitiveness among market participants have multiple positive effects on the state's economy, businesses and consumers in particular. The importance of protection and development of competition, among other things, is seen as:

- Competition should be the basis for determining the quality of goods and services provided, based on certain standards that will be offered to

consumers. Competition creates an economic environment where firms can operate freely in achieving these objectives, while consumers, in turn, benefit from the prices set on the basis of the interaction between demand and supply forces (Gavil., Kovacic, W., and Baker, J, 2002).

- Competition brings dynamism, so it ensures that businesses are under constant pressure to deliver the best possible goods and services to customers at the best possible prices. In this way it affects the improvement of the allocation of production factors and the growth of the welfare of the society (Gerber, D., 2001).
- Competition forces firms to always improve their products and promote the development of new technologies. It should eliminate as much as possible reduced choices or scarce innovations. It promotes initiatives and innovations as well as adapting new technologies.
- Competition also hampers the creation of monopolies because they have been detrimental both to the economy and to the consumer, because the latter benefit from the possibility of alternatives, quality, fair prices and new products.
- Competition affects investment growth by eliminating various barriers and thereby increasing the employment rate, ultimately
- Competition increases the economic efficiency of different entities and increasing economic growth and disciplining the management of these entities. Competition is the main driver of competitiveness among firms and leads to a country's economic growth. Inefficient firms are outbid in the market, which redistributes production resources from failed firms to more powerful competitors.

The implementation of the Law on Protection of Competition by the Institutions for Protection of Competition, other commercial laws, and the development of proper anti-trust policies promote contestation in the market and the growth of competitiveness. Such promotion is a continuous work benefiting all market players. It can be said that protection and development of competition is realized through two main pillars: Competition Law and Competition Policies. Within Competition Law are included: controlling cartels, controlling concentration and controlling abuse of dominant position. Competition policies include the economic activities of economic regulators as well as economic policies affecting competition.

Legal Aspect of Competition Control—Law on Protection of Competition

The Constitution of the Republic of Kosovo, article 10 lays down the economic system of Kosovo as a system based on a free market economy and freedom of economic activity (Constitution of the Republic of Kosovo, 2007). Free market means an economy where decisions about production and consumption are taken by individuals and private companies. Price, quantity and production methods are determined by the market. To fulfill this function the market must have competition rules and such rules must be implemented. There shall not be a free market economy where the production opportunities are kept away from companies with dominant position in market, whether they are private or public. When a company achieves a wholly dominating position in the market (to the point where demand equals the offer by this company solely), consumers are not able to play their role in setting prices, and end up losing (Asllani, G., 2016). The difference between the investigation of agreements and the dominant position from one side and concentration of companies in the other side consists by analyzing two cases: in the first case is based on: a) Past (is performed *ex post*), whereas in the second case and b) is based prognosis for the future (performed *ex ante*?).

The law on protection of competition balances control *ex ante* and *ex post*, by treating from one side forbidden agreements and excluding from prohibition (article 4 of Law on Protection of Completion, 2010) and abuse of the companies in dominant position (article 10 of Law on Protection of Completion, 2010) and the other side and anticipatory control of Concentrations (article 13 of Law on Protection of Completion, 2010). Secondly the law establishes a competition authority as the responsible body for law implementation (article 24 of Law on Protection of Completion, 2010). The Kosovo Competition Commission has been established by a decision of the Assembly of the Republic of Kosovo, in 2008, but in fact was active in March 2009. Presently competition in Kosovo is regulated by the Law on Protection of Competition nr.03/l-229, of October 7th 2010 (official gazette of Republic of Kosovo, 2010). This law amended the Law 2004/36. The current law sets out the opportunity of market monitoring by two methods : a) By controlling actions of enterprises, and b) By controlling the market structure (Regulation No. 1/2003, EC).

Historical Environment of Kosovo

Kosovo is situated in the middle of the South-East Europe, positioned in the center of the Balkan Peninsula. It represents an important crossroad between South Europe and Middle Europe, the Adriatic Sea and the Black Sea. Kosovo's area is 10,887 km². It is estimated that Kosovo has 1,907,592 residents and the density of the population is around 159 persons per km², divided in 38 Municipalities. Kosovo was placed under UNMIK administration in 1999. During

this time Kosovo was administered by the United Nations Mission and the Provisional Institutions of Self-Government, while security issues were trusted to NATO- (KFOR) troops. On 17th February 2008 Kosovo's Assembly declared the independence of Kosovo. In 2011 a general census of the population, apartments and households was undertaken, but the Statistical Office of Kosovo and come out with the final results of the census. The previous population census took place in 1981 (Kosovo Agency of Statistics, 2011).

Study Case-Region of Gjilan

This study focuses on the analysis of economic competitiveness in the Gjilan region. Similarly to the general level of development of Economic Competition in Kosovo, the Gjilan Region faces the same challenges, so by researching some of the most vulnerable sectors where competition is being affected this study attempts to give a clear picture of the level of competition development and law enforcement for the protection of competition. The Republic of Kosovo is divided into the first level of local government in seven administrative regions, which are: Pristina, Mitrovica, Gjilan, Ferizaj, Prizren, Gjakova and Peja.

Figure 1. The Kosovo map is divided into administrative units



Source: Statistical Agency of Kosovo

The District of Gjilan is one of the seven districts (the higher-level administrative divisions) of Kosovo. The district of Gjilan has a total of 6 municipalities: Gjilan, Kamenica and Vitia are larger municipalities while Ranilug, Partesh and Killokot, with a greater percentage of Serbians, have smaller populations and territories. This research is focused in the three major municipalities, since the other

municipalities in terms of competition, market size and market impact do not have much relevance.

Figure 2. Map of Gjilan Region



Source: Statistical Agency of Kosovo

Research Methodology and Data

This paper attempts to answer its research question through comparative analysis, the use of the sample method, and primary data extracted from the questionnaire.

Research question

The research question consists in evaluating whether businesses in the Gjilan Region have difficulties doing business because of unfair competition, and how well are these businesses knowledgeable about, and able to enforce, competition protection law?

Hypotheses

The hypotheses put forward consist in that:

H1- The enforcement of the law on protection of competition will affect the creation of fair economic competition and

H0 - Does the enforcement of the law on competition protection have any significance in making the business easier and with this growing competition?

Restrictions of paper

Difficulties in providing information are problems with filling out the questionnaire, hesitation in answering the questionnaire, and difficult location, technical, and organizational conditions.

Empirical analysis

In order for the research to be more reliable and to receive objective information, a questionnaire was prepared for the sectors of: Pharmacies, Insurance Companies, Gas stations, and Banks. Relevant market research has been done by defining the geographic market (Gjilan region) and the product market. The hypotheses put forward relate to specific questions and enable the receipt of reliable replies.

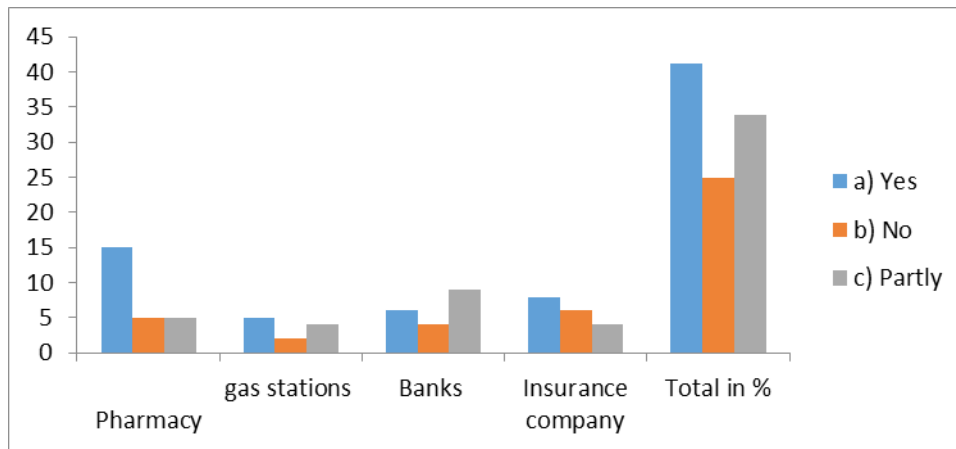
The respondents have been restricted to those with a high school diploma or higher (undergraduate studies or degree) in order to get relevant answers.

Results

From the answers given by the respondents from the questionnaire, the following findings result:

1. Are there any difficulties in doing business in the Gjilanit region?

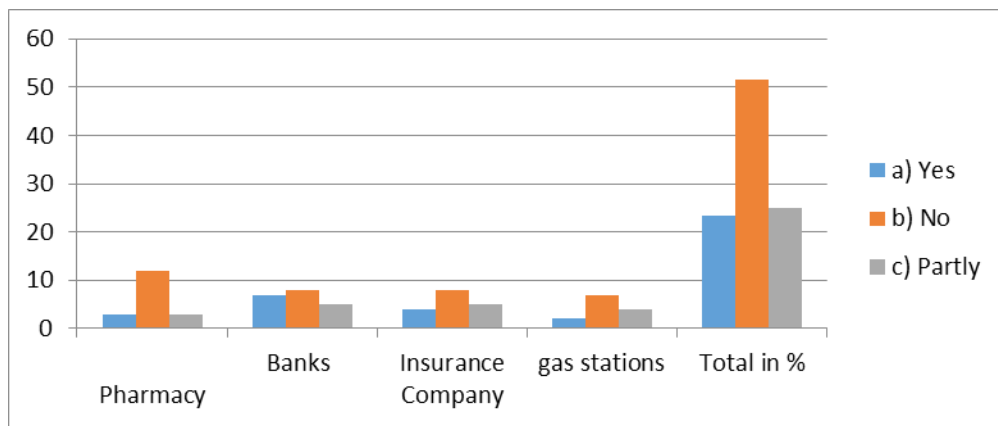
Figure 3.



Source: the data from the questionnaire

2. Does the Republic of Kosovo have sufficient legal basis for the functioning of proper competition in the field of business?

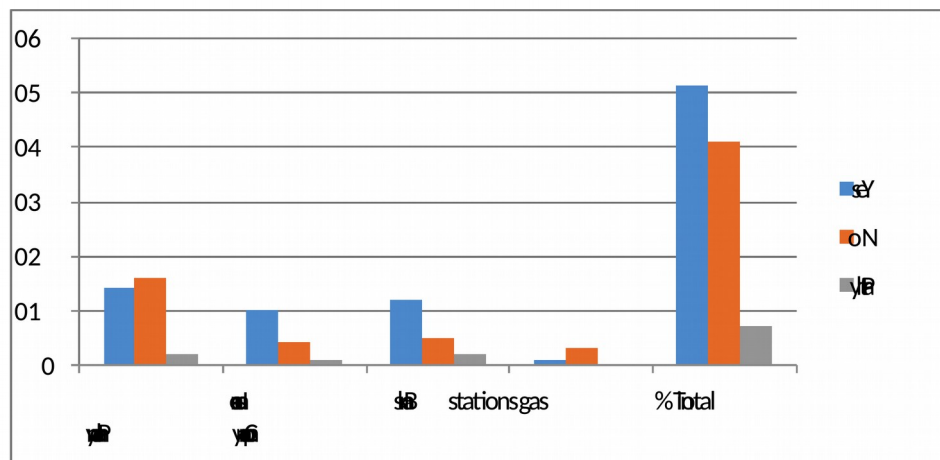
Figure 4.



Source: the data from the questionnaire

3. Are you aware that the Republic of Kosovo has the Law no. 03 / 1-229 on Protection of Competition?

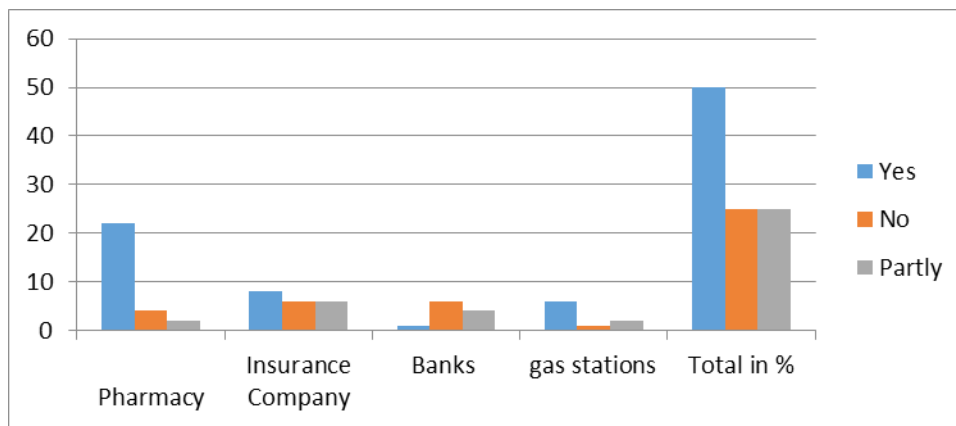
Figure 5.



Source: the data from the questionnaire

4. Is monopoly as an economic phenomenon present in your business field?

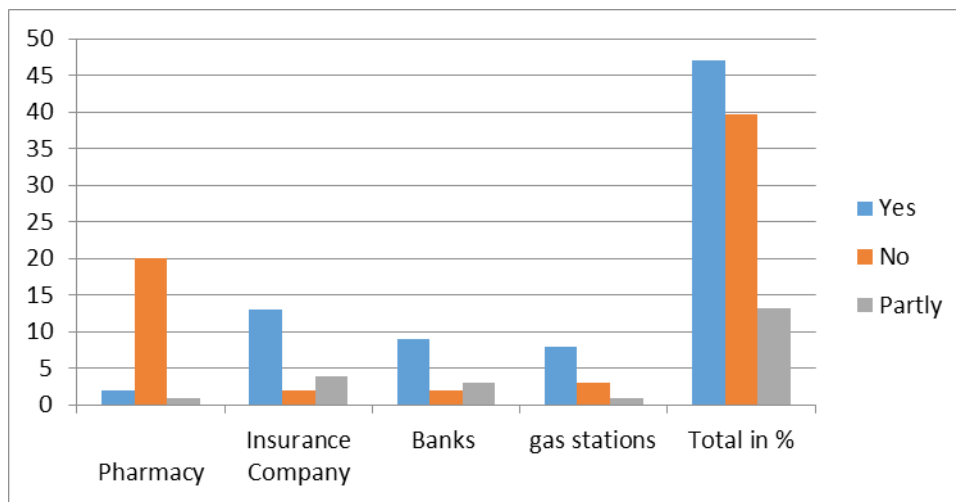
Figure 6.



Source: the data from the questionnaire

5. Are there occasions when the Competition Authority intervened in defense of genuine competition in the nature of your business?

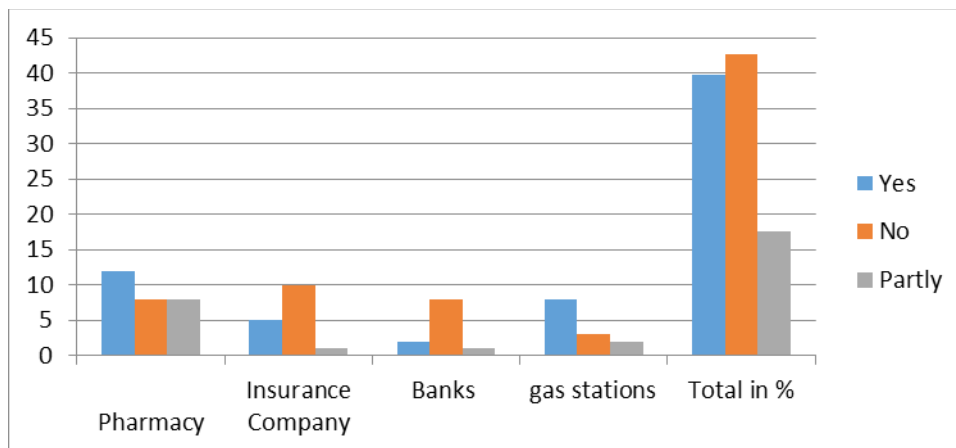
Figure 7.



Source: the data from the questionnaire

6. Do you think there are legal obstacles to making genuine competition in Kosovo?

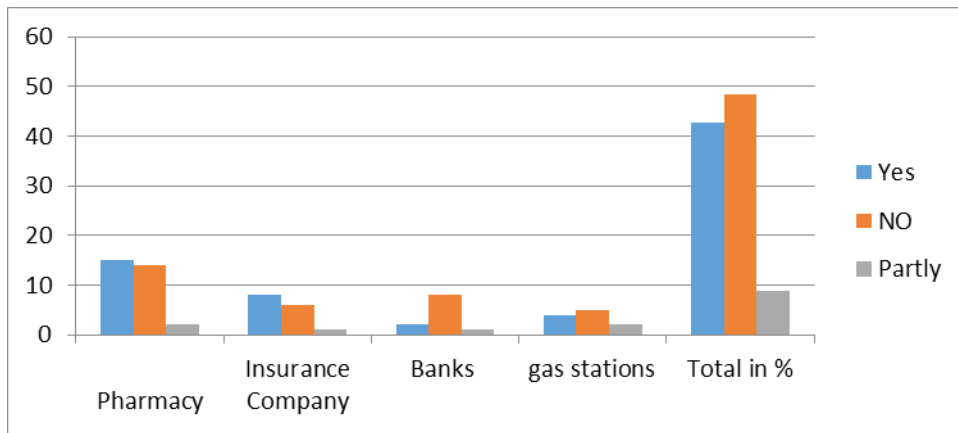
Figure 8.



Source: the data from the questionnaire

7. In the nature of your business, are there cases when businesses have entered into agreements on unique services and prices offered to consumers?

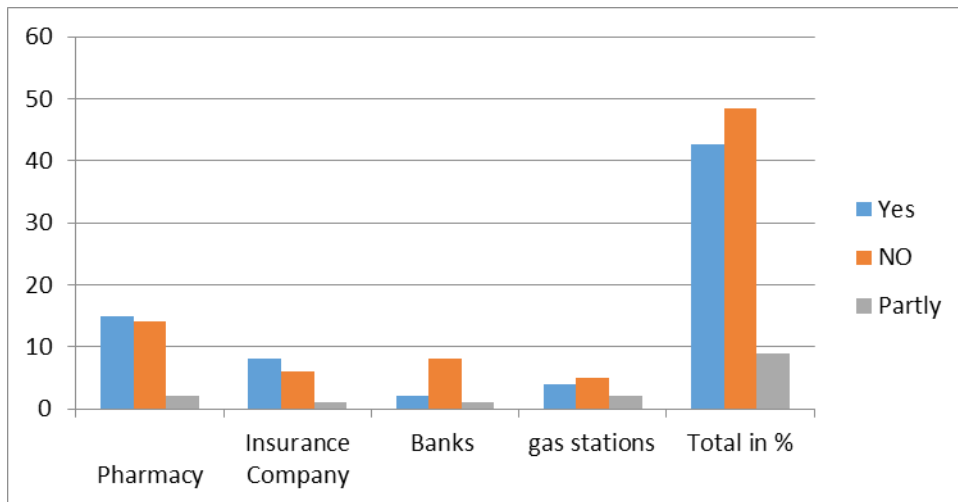
Figure 9.



Source: the data from the questionnaire

8. Do you think that the business you represent is damaged as a result of agreements prohibited between economic participants in the market?

Figure 10.



Source: the data from the questionnaire

Conclusion and Recommendation

Based on the data collected from the questionnaire and their analysis, we can draw some conclusions related to the hypotheses set out in the paper:

- The recognition and enforcement of competition law has positive effects on the growth of competition. The research shows that the regulated sectors (Bank and Pharmacy sectors) show a modest level of competition

development compared to the sectors of Insurance Companies and Petrol Stations.

- Respondents indicate that in the other surveyed sectors (Insurance Companies and Petrol Stations) these two markets need to be regulated in terms of functional laws and their implementation. Where there is insufficient knowledge to enforce the law on competition protection, there is the possibility of market damage, abuse, and other difficulties with doing business.

Finally, it is very important to have more advocacy by the Kosovo Competition Authority regarding the importance of competition, and informing people about the law on protection of competition and another administrative acts. There is a need that the authority should have regular cooperation with economic regulatory bodies with a view to creating fair competition. All these acts shall create a sustainable environment for further development of free competition and its protection, as a fundamental condition for sustainable economic development and protection of consumer health.

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