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Report for research project

Project: A New Approach to Deterrence and Compliance in EU Competition Law

Dnr: 315/2012

Project responsible: Prof. Antonina Bakardjieva Engelbrekt

Project contributor: Katharina Voss (Doctoral Candidate)

Report:

2012

This project, which is a doctoral project carried out under the supervision of Prof. Antonina Bakardjieva Engelbrekt and Associate Professor Vladimir Bastidas started in September 2012.

The first four months of the project were spent on three main tasks: First, clarifying and fine-tuning the research questions, second, elaborating a structure and outline of the doctoral project and third, reflecting on the choice of appropriate methods to be used for the project. Furthermore, a first article on part of the project was published in *Europarättslig Tidskrift* issue 1/2013.

2013

During Spring 2013, a first draft of the introduction to the thesis was written and discussed at a doctoral seminar which was attended by, amongst others, Johan Sahl from KKV. A presentation of the project was also given at KKV on May 21st 2013.

Furthermore, work on the first chapter of the thesis concerning the current state of EU competition law enforcement was begun. This part of the research project was discussed in the course of two study trips made in June 2013: The first one was to London, where I attended a graduate conference at Queen Mary School of Law and presented a paper dealing with the principle of equality in EU competition law enforcement. A modified version of that paper was published in the *Global Antitrust Review* in 2013.¹ A second study trip was taken to the EUI in Florence to use the library resources available there and to meet with Prof. Giorgio Monti, a prominent academic authority in competition law. The meeting with Professor Monti resulted in some changes made to the structure of the first chapter which was divided into two shorter chapters. These chapters now review the goals of EU competition law enforcement and the fulfilment of these goals, respectively. The first chapter, dealing with goals of EU competition law enforcement was completed and amended during Fall 2013. It was also presented and discussed at the Nordic Meeting of Researchers in Competition Law in Helsinki on October 3rd 2013.

Work on the second chapter, dealing with the fulfilment of goals started at the end of 2013 and was completed in early 2014. Subsequently, work on the second research question of the project began, dealing with possible changes/improvements to the enforcement of Articles 101 and 102 TFEU.

¹ See the journals' homepage at: <http://www.icc.qmul.ac.uk/GAR/>.

2014

During 2014, the first part of the thesis, dealing with the goals of EU competition law enforcement and the fulfilment of these goals was completed and revised. The first part of the thesis at this stage consisted of four chapters rather than the initially planned two chapters. The first chapter sets out some points of departure, especially with regard to research from law & economics and socio-legal studies as used in the thesis. These two fields of studies serve to enrich the legal analysis of EU competition law enforcement carried out in the first part of the thesis. In the second chapter, the analysis of goals of EU competition law enforcement mentioned above is carried out. The third chapter consists of an inquiry in the fulfilment of the goals set by the legal provisions regulating the enforcement of Articles 101 and 102 TFEU as carried out by the Commission. The fourth chapter looks at the enforcement of Articles 101 and 102 TFEU from a statistical point of view observing whether the enforcement provisions fulfil the goals they are supposed to fulfil. The chapter is based on results from empirical studies using quantitative methods. These first four chapters are intended to serve as the foundation for the second part of the thesis, where alternative ways for achieving compliance with Articles 101 and 102 TFEU will be explored. Putting together a rough draft of these chapters started during 2014 with the intention of completing a first draft of the thesis during 2015.

2015

Work on the thesis continued as planned during 2015 and the first part of the thesis was presented at a half-time seminar held at Stockholm University in May 2015. Prof. Lars Henriksson (Handelshögskolan Stockholm) acted as an opponent at the seminar and considered the project to be very promising, put on solid ground and developing well. His comments and suggestions, as well as comments from numerous participants at the seminar were noted. Considering these comments, work on the second part of the thesis was commenced. The second part now looks at a select number of improvements that could be integrated in the Commission's work on achieving the goals of Articles 101 and 102 TFEU. A special focus is given to the potential use of corporate compliance programmes as a form of self-regulation by undertakings that could be encouraged or even enforced by the Commission.

To develop a better understanding of the Commission's activities in this field, Katharina undertook a study visit at the Commission's DG Competition (Unit A1) for three months during the fall of 2015. The insights gained during this visit primarily served to confirm the analysis made in the first part of the thesis.

2016

The financing provided by KKV has now ended, but since this project is a doctoral thesis, it has not been finished yet. There is still one final year which is to be financed by the Faculty of Law, Stockholm University. The project is currently paused due to parental leave, However, a first full draft of the thesis has been completed and both supervisors have given comments. There are consequently all the prerequisites for the project to be finalised successfully and on time, in 2018.