ПРАВО ЄВРОПЕЙСЬКОГО СОЮЗУ

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HISTORICAL DEVELOPMENT AND CURRENT STATE OF EUROPEAN UNION COMPETITION LAW

Under modern market conditions and active development of integration processes in the world economy, competition becomes the central concept, expressing the essence of market relationships. The subject of competition between commercial enterprises is control over the existing market share, as well as the capture of an increasing number of new markets.

It is evident that at the modern stage of society's development, the market mechanism cannot be regulated by competitive forces only under the influence of demand and supply. Instead, its efficiency is ensured by the balanced policy of competition, which is one of the forms of market relationships government regulation.

Competition law forms the legislation basis on the protection of economic competition and regulation of monopolies activities. However, the peculiarities of modern legal regulation of economic competition are the result of the long evolution process. The study of its main stages provides a deeper understanding of the essence of the concept of competition law and its alteration depending on the calls of the time. This causes the urgency of the research.

The purpose of the article is to identify the main aspects of competitive relationships regulation during their historical development.

It should be noted that the competition law as an independent area of law was formed only at the end of the XIX century in the United States. It was caused by the necessity of fighting against cartels, which occurred more frequently in most industries, particularly in the transport sector. Thus, in 1890, the first antimonopoly law (Sherman Antitrust Law) was adopted. It was industry-specifically determined. This means that it regulated antimonopoly relationships in certain spheres of economic activities only [2, p. 7-9].

At the beginning of the XX century, Harvard University in the United States became the center for the development of competition law doctrine. Its representatives developed the «Structure – Conduct – Performance» paradigm to explain the competitive behavior. According to the paradigm, the market structure determines both the behavior of companies and the performance of the market in general. Harvard School believes that the market structure change from monopoly

to competition should have become the basis for the development of effective antimonopoly legislation. The ideas of this school were widespread until the 1970s. However, they were constantly subjected to considerable criticism during this period [2, p. 9-10].

The main opponents of Harvard School were the representatives of Chicago School of competition law, who advocated the idea of self-regulating ability of the market. According to this school, government market regulations in the form of antitrust laws should primarily be directed not to the change of market structures, but to achieve the productive and allocative efficiency of the market, which will automatically increase the population welfare.

The postulates of Chicago school were subjected to devastating criticism because of their excessive belief in market reliability and the lack of a clear idea of how to achieve productive and allocative efficiency. As a result, Chicago School became less popular in the late 1980s, and the concept of regulating American competition law began to increasingly focus on the ideas of Harvard School. These days, American competition law is the synthesis of Chicago and Harvard schools with the prevailing views of the latter.

The development of competition law in Europe at the end of the XIX – in the first half of the XX century was significantly different from the American practice. For the first time, the regulation of competitive relationships was defined in the Treaty of Paris establishing of the European Coal and Steel Community in 1951. The issue of competition was regulated by articles 65 and 66 of the Treaty of Paris. In particular, Article 65 prohibited making deals that contradicted the principles of competition, whereas article 66 prohibited illegal mergers of companies and abuse of their market power [2, p. 16].

It is worth mentioning that the European competition law was based on the views of Freiburg School, embedded in the concept of the social market economy with an emphasis on consumer welfare. Its representatives called themselves «ordoliberals» by the title of one of their publications.

The main idea of ordoliberals stated that pure competition was the only way to achieve sustainable economic performance and stability. The views of Freiburg School on competition policy differed from the ideas of Harvard and Chicago schools. Unlike two American schools, representatives of Freiburg School considered competition as the basis of economic stability and freedom, whereas economic freedom was viewed as the basis of political freedom.

The following step in the development of European competition law was the proliferation of the common market ideas and the signing of the Treaty establishing the European Economic Community (also called as the Treaty of Rome) in 1957.

The set of legal norms of the European Economic Community containing basic competition law principles are provided in Part 3 «Policy of the Community», Title 1 «Common rules», Chapter 1 «Rules on Competition», Articles 85-94 of the Treaty of Rome. Particularly, Articles 85 and 86 concern antitrust principles and

abuse of market power. Article 90 defines the conditions for competition of state-owned enterprises. Article 92 outlines the rules of national assistance. All other provisions of this part of the Treaty of Rome determine the principles for the implementation of these norms. It should be noted that the regulation of competitive relationships in European law remained virtually unchanged over the next 35 years.

With the creation of the European Union (EU) in 1992 after signing of the Treaty on the European Union, the competition policy, which always played an important role in the process of European integration, has remained virtually unchanged since the Treaty of Rome.

The general understanding of the competition law concept of this period was introduced in Article 130 of the Treaty on European Union which emphasized the importance of competitive relationships among EU Member States. In accordance with this article, any activity of business entities that would contradict the interests of the protection of competition was prohibited [3]. However, a more liberal approach to regulating competitive relationships was denoted in the text of the Treaty compared with the previous stages of the European competition law development.

Today, the EU is the largest integrated economic alignment that provides equal competitive opportunities for all business entities in the Member States.

The basic principles of modern EU competition law are highlighted in the Lisbon Treaty of 2007, which came into force in 2009.

It is worth noting that the following priority tasks of regulating the EU competition law can be distinguished at the modern stage of its development: antitrust sphere; regulation of the behavior of companies that abuse their market power; control over concentration of production and market; monitoring of national assistance.

The main features of the EU competition law in comparison with it of previous periods are as follows:

- Focus on consumer safety, protection of social rights, effective employment policies and environmental protection.
- Priority to ensuring the maintenance of the welfare of consumers over the acceleration of the integration process.
- Focus on regional development among EU Member States [1, p. 251].

Thus, the functioning of competition law in its modern sense is the result of a long evolution process. For the first time, the concept of the competition law emerged in the United States at the end of the XIX century, and it became applicable in European practice only in the middle of XX century. Since then, competition law has been constantly improving, developing and gaining increasing importance in the general system of law. The main document which defines the core principles of EU competition law is the Treaty of Rome, 1957. After having undergone some changes, those regulations are denoted nowadays in the Treaty on the Functioning of the European Union.

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ВИХІД ВЕЛИКОБРИТАНІЇ З ЄС: ПРАВОВІ НАСЛІДКИ

Членство в Європейському Союзі (далі – ЄС) було спірним питанням для Сполученого Королівства з моменту приєднання країни до тодішньої Європейської економічної спільноти в 1973 р. Великобританія з початку свого членства, не входила до Єврозони і не вступила до Шенгенської зони. Рішення щодо виходу Великобританії з ЄС було неочікуваною подією для всіх країн – членів ЄС і саме це потягнуло за собою правові наслідки.

Метою даної статті є аналіз виходу Великобританії з ЄС та дослідження правових наслідків для світової економіки.

На початку 2013 р. прем'єр – міністр Великобританії Д. Камерон вперше підняв питання щодо референдуму про вихід Великобританії з ЄС, оскільки такий крок допоміг би країні уникнути європейських економічних проблем та обмежити число емігрантів.

18 лютого 2016 р. опитування населення Великобританії показало, що 51% населення за вихід Великобританії з ЄС, а 49% проти цього рішення. Але після вбивства депутата парламенту, який виступив за підтримку ЄС показники дещо змінились. За день до референдуму рішення щодо виходу Великобританії з ЄС становило 44% проти 44% [1].

Події розвивалися в такій послідовності. Спочатку в Акті про референдум з питання ЄС, внесеному до парламенту Великої Британії, передбачалося питання: «Чи має Велика Британія залишитися членом ЄС?». Можливі відповіді: «Так» і «Ні». Згодом виборча комісія запропонувала інше формулювання, яке було прийняте урядом в вересні 2015 р. до третього читання акту в парламенті.