

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

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Abstract: This paper investigates development and protection of economic competition in Kosovo focusing on the analysis of the level of competition in the Gjilan region. The paper deals with the legislative aspect of competition, the sensitive sectors (banks, insurance, gas stations and pharmacies) where the competitions is damaged and finally are presented the measures on improvement based on the EU practices. Like other economies in transition, the economy in Kosovo the activity for protection of competition 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 the principles of a free market economy after 1999. Through a case study, it is attempted to give a realistic picture of the level of competition development, 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 the market economy.

Keywords: Market economy; economic competition; monopolies; abuse of dominance position

JEL Classification: F12

1. 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 the behavior that harms the free market. The 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:

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- 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 & Baker, 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, 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 elections, quality, fair prices and new products;
- Competition affects investment growth by eliminating various barriers and thereby increasing the employment rate, ultimately;
- Increasing 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. It forces outbid firms to market inefficient firms and 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 law laws and the development of proper anti-trust policies in order to promote it amongst the contestants in the market and the growth of competitiveness is a continuous work and it benefits all market players. It can be said that protection and development of competition is realized through its two main pillars: Competition Law and Competition Policies. Within the Competition Law are included: controlling cartels, controlling concentration and controlling abuse of dominant position. While competition policies include: economic activities of economic regulators as well as economic policy areas where competition is affected.

2. Legal Aspect of the Competition Control-Law on Protection of Competition

The Constitution of the Republic of Kosovo, article 10 lays down economic system of Kosovo as a system based in free market economy and freedom of economic activity.¹ Free market means the economy where the decision about production and consumption are taken by individuals and private companies. Price, quantity and production method is set out by market. To fulfill this function the market must have competition rules and such rules to 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 to have a considerable position in market (point where the demand equals with offer), by this company itself, in this case consumers are not able to play their role in setting the prices and are affected by losing. 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*?).²

Law on protection of competition respects share of control *ex ante and ex post*, by treating from one side forbidden agreements and excluding from prohibition (article 4 of Law) and abuse of the companies in dominant position (article 10) and the other side and anticipatory control of Concentrations (article 13). In the other part the law lays down the competition authority as responsible body for law implementation (article 24). 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. Now the competition in Kosovo is regulated by the Law on Protection of Competition nr.03/1-229, of October 7th 2010 (official gazette of Republic of Kosovo).³ This law amended the Law 2004/36. The law set out the opportunity of market monitoring by two methods: a) By controlling actions of enterprises, and b) By controlling the market structure.⁴

3. Historical Environment of Kosovo

Kosovo is situated in the middle of the South-East Europe, positioned in the center of Balkan Peninsula. It represents an important crossroad between South Europe and

¹ Constitution of the Republic of Kosovo, <https://gzk.rks-gov.net>.

² Asllani, G. Competition and Competition rights, Pristine, 2016.

³ Law on Protection of Competition no. 03/1-229, October 7, 2010.

⁴ Regulation No. 1/2003, European Competition Commission.

Middle Europe, Adriatic Sea and Black Sea. The Kosovo's area is 10,887 km². It is forecasted that Kosovo has 1,907,592 residents and the density of the population is around 159 persons per km², and it is divided in 38 Municipalities. Kosovo was under UNMIK administration since 1999. During this time Kosovo was administered by United Nations Mission and Provisional Institutions of Self-Government, while the security issues were trusted to NATO- (KFOR) troops. On 17th February 2008 the Kosovo's Assembly has declare the independence of Kosovo. On 2011 has been organized the general registration of the population, apartments and households, but the Statistical Office of Kosovo and come out with the final results of registration. The previous last registration of the population has taken place in 1981.¹

4. Study Case- Region of Gjilan

The study focuses on the analysis of economic competitiveness in the Gjilan region. Equal to the level of development of Economic Competition in Kosovo and Gjilan Region faces the same challenges, so by researching some of the most vulnerable sectors where competition is being affected is attempted 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 region.

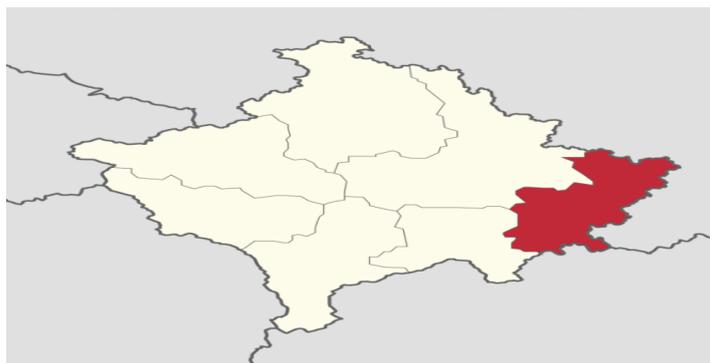


Graph 1. The Kosovo map is divided into administrative units

Source: Statistical Agency of Kosovo

¹ Kosovo Agency of Statistics, <http://ask.rks-gov.net/>.

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 as bigger municipality as well as Ranilug, Partesh and Klllokot municipality with population and small territory (inhabited by Serbian minority). The research is focused in the three major municipalities while other municipalities in terms of competition, market size and market impact do not have any relevance.



Graph 2. Map of Gjilan Region

Source: Statistical Agency of Kosovo

4.1. Research Methodology and Data

For the purpose of developing this paper, through the comparative analyzes, the use of the sample method and the primary data extracted from the questionnaire, attempts to answer the research questions.

Research question?

The research question consists in the fact that Businesses in Gjilan Region have difficulties in doing business because of unfair competition and how well are these businesses knowledgeable and 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 on the problems with questionnaire filling, hesitation in answering the questionnaire, location, technical and organizational conditions.

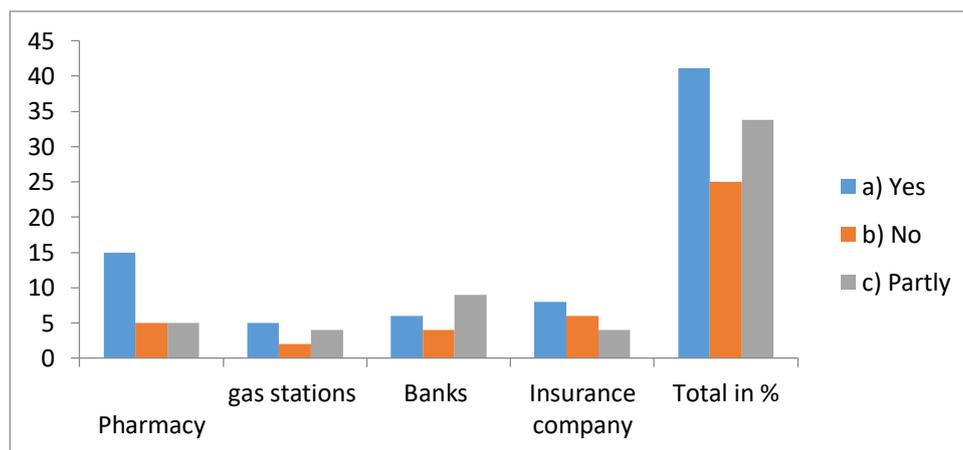
4.2. Empirical Analysis

In order for the research to be more reliable and to receive objective information, a questionnaire was prepared for the sectors of: Pharmacy, Insurance Companies, Gas stations, 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 (respondents) have been selected with high school diploma: high school, bachelor and undergraduate studies in order to have their answers relevant.

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

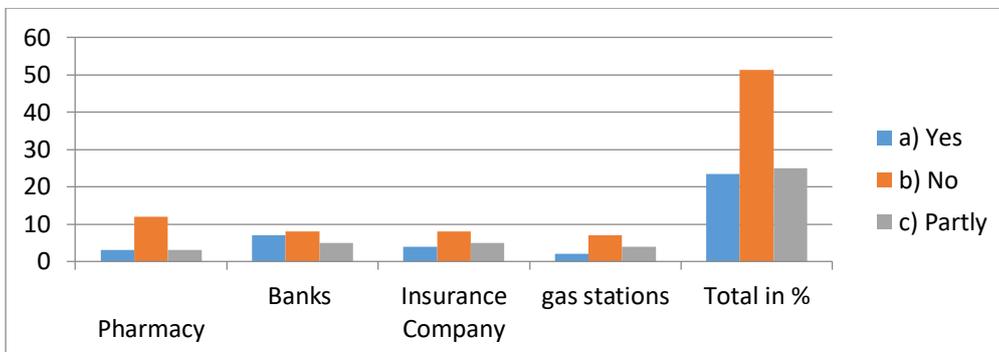
1. Are there any difficulties in doing business in the Gjilanit region?



Graph 3

Source: The data from the questionnaire

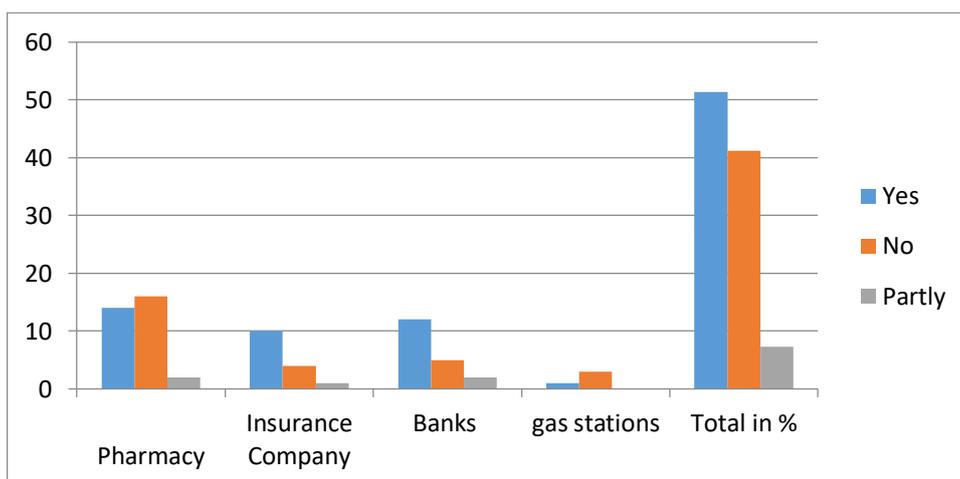
2. Does the Republic of Kosovo have sufficient legal basis for the functioning of the proper competition in the field of business?



Graph 4

Source: The data from the questionnaire

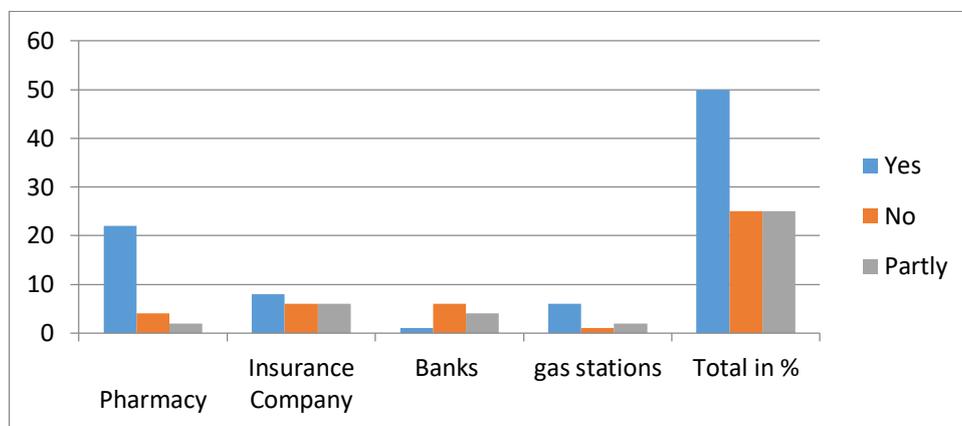
3. Are you aware that the Republic of Kosovo has the Law no. 03/1-229 on Protection of Competition?



Graph 5

Source: The data from the questionnaire

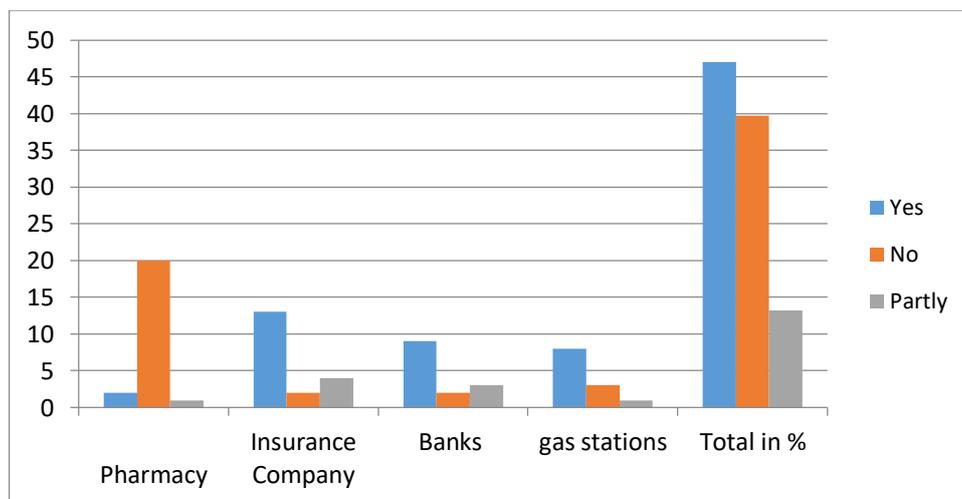
4. Monopoly as an economic phenomenon is present in your business field?



Graph 6

Source: The data from the questionnaire

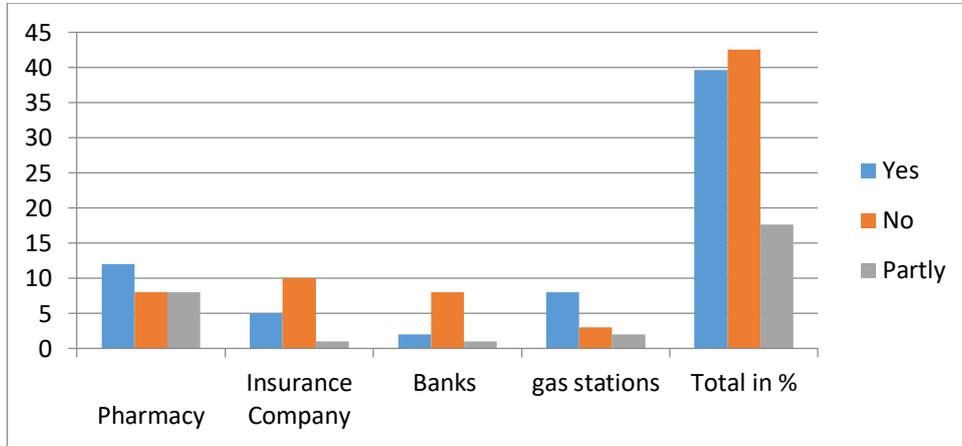
5. Competition Authority are there occasions when it intervened in defense of genuine competition in the nature of your business?



Graph 7

Source: The data from the questionnaire

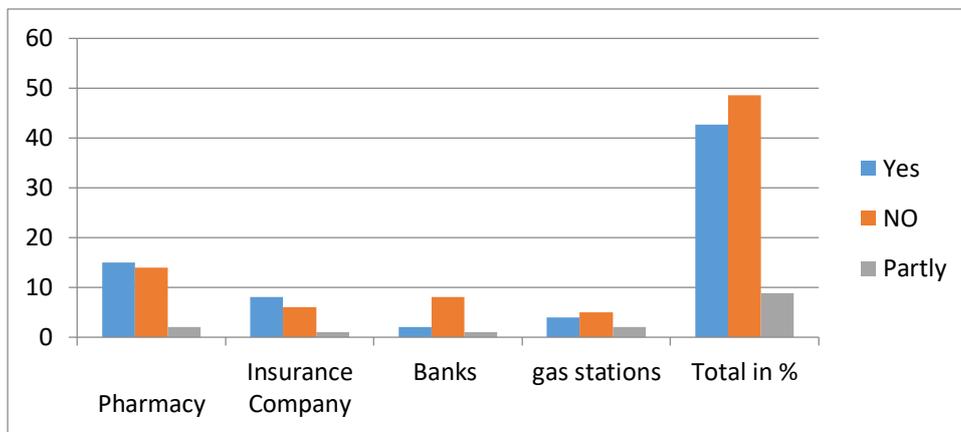
6. Do you think there are legal obstacles to making genuine competition in Kosovo?



Graph 8

Source: the data from the questionnaire

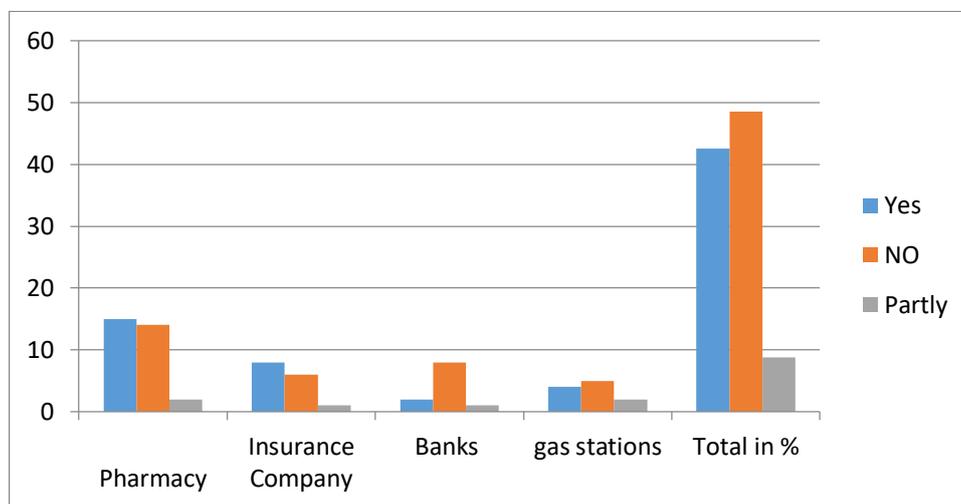
7. In the nature of your business, are there cases when businesses have entered into agreements on the unique services and prices offered to consumers?



Graph 9

Source: the data from the questionnaire

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



Graph 10

Source: the data from the questionnaire

5. 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 Sector) show a modest level of competition development compared to the sector of Insurance Companies and Gas stations.
- Respondents indicate that in the other surveyed sectors (Insurance Companies and Petrol Pumps) 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 associated with the ease of doing business.

And finally, it is very important to have more advocacies by Kosovo Competition Authority regarding to the importance of competition, introduction to 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 create fair competition. All these acts shall create sustainable environment for further development of free competition and its protection, as one the fundamental condition for sustainable economic development and protection of consumer health.

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