

## **Summary of PhD Thesis**

The subject of the PhD thesis is “Independence of National Regulatory Authorities and National Competition Authorities in the light of European Union Law.” The thesis is concerned with the concept of independence understood as an attribute of national regulatory authorities in electronic communications, energy, rail transport and postal services and national competition authorities. National regulatory authorities are public authorities whose tasks, powers and some institutional features, including their independent status, have been established in provisions of European Union law (mostly in directives). National competition authorities are public authorities whose basic tasks and powers have been also set forth in EU law. In the EU legal order, however, there are no explicit legal provisions which protect the independence of national competition authorities. The scope of the author’s research includes mainly EU law and references to the law of EU member states have only supplementary character and are limited in their scope.

The first chapter of the thesis serves as an introduction to the independence of national regulatory authorities and national competition authorities as a research problem. The author starts with the origins of independent regulatory authorities and competition authorities in legal orders of, inter alia, the United Kingdom, Germany, France and the United States of America. The emergence of these bodies in EU law has been described separately. The first chapter also contains a description of the current state of scholarly research which has been established on the basis of literature review and a description of all the problems that are discussed in the thesis. The methods used by the author include logical and linguistic analysis, historical method, comparative analysis and an empirical method.

The second chapter is concerned with the notions of “national regulatory authorities” and “national competition authorities” and with the functioning of these authorities in EU law. The aim of that chapter is to establish which bodies, according to EU law, can be qualified as the said authorities. The author’s deliberations in the second chapter focus also on the activities of national regulatory authorities and national competition authorities understood as tasks and powers conferred upon these bodies. Additionally, the chapter includes the economic and legal context in which regulatory authorities and competition authorities function, that is the fundamental features of network sectors’ regulation and competition law.

In chapter three the focus is on the notion of “independence” as an attribute of a public authority. The meaning of the said notion is researched starting from its linguistic meaning and

then looking at some of the legal institutions in which various types of independence of public authorities can be found. These include independence of judiciary, independence of decentralized authorities, independence in various systemic links between authorities in public administration and independence in federal states. The conclusion reached by the author is that the concept of independence refers to a legal guarantee that public authorities carry out their tasks without an external interference from any kind of third parties.

Thereafter, three types of independence of national regulatory authorities and national competition authorities are presented: independence from undertakings, independence from national public authorities and independence from EU institutions, quasi-EU institutions and independent authorities from different member states. In the fourth chapter, concerning independence from undertakings, the author starts with a description of aims of the said type of independence which are as follows: objective and non-discriminatory application of law, prevention of capture, gaining credibility and signalling of market economy. Next, the mechanisms which can be used in order to ensure the independence of regulatory and competition authorities are described and the analysis turns to the legal provisions of EU law on independence of national regulatory authorities and national competition authorities. The analysis of EU law is complemented by a review of the Polish and British legal orders and public authorities functioning therein. The fourth chapter ends with a characterization of risks that may occur when a state provides its regulatory and competition authorities with a very broad scope of independence from undertakings.

Independence from national public authorities is under consideration in the fifth chapter. At first the author describes the aims of the said type of independence. They are as follows: objective and non-discriminatory application of law, prevention of capture, increase of credibility of political commitments, increase of credibility of authorities, reduction of the political uncertainty, stability in systems with small numbers of veto players, signalling of market economy, technical expertise and blame avoidance. The author distinguishes institutional, functional, financial and personal aspect of independence from national public authorities. That chapter also contains a detailed analysis of EU legal provisions concerning independence of national regulatory authorities with numerous references to the judgments of the Court of Justice of the European Union. The review of national legal orders includes Poland, the Netherlands, Portugal, the United Kingdom and Germany. The fifth chapter also points out the risks which may occur when the scope of independence from national public authorities is very broad.



In the sixth chapter the author's aim is to answer the question whether one may talk about the existence of independence of national regulatory authorities and national competition authorities from the European Commission, the Body of European Regulators of Electronic Communications, the Agency for the Cooperation of Energy Regulators and independent national authorities from other member states. The mentioned bodies cooperate with each other in networks of public authorities. The analysis focuses particularly on the powers of the European Commission, and other authorities mentioned above, allowing them to interfere with the actions taken by national regulatory authorities and national competition authorities.

In the last chapter of the thesis independence of national regulatory authorities and national competition authorities is contrasted with their accountability. At first the author presents the notion of accountability as well as its types and, subsequently, the relation between independence and accountability is established. Thereafter, various accountability mechanisms are described with particular focus on judicial review of decisions of national regulatory authorities and national competition authorities. The thesis ends with the author's final conclusions.

01.02.2017 n. Krystof Rokito