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Recently the Competition Authority in Albania with the Decision No.719, dated 28.10.2020 ("*Decision*") has decided to start a preliminary investigation in the market of loading and unloading, import, storage, wholesale of fuels.

The Competition Authority provides that there are suspicions of possible anti-competitive behavior of enterprises operating in these markets, which may lead to violation of Law No. 9121, dated 28.07.2003, "*On the protection of competition*", as amended.

Some of the most important aspects of the Decision are as follows:

❖ Decision

The Competition Authority, pursuant to the ongoing requirements over the years of the Parliament's Resolutions, has continuously assessed the conduct of enterprises to which the state has granted exclusive and special rights through concession contracts in this market.

The Competition Authority provides that the import, storage and loading-unloading of fuels in the territory of the Republic of Albania is realized through **three concessions** in two ports in the geographical area of the Bay of Vlora and in the geographical area of Porto Romano, Durrës, which are built and

operate on the basis of concession agreements.

The conduct of the concessionaire companies has been the subject of investigation by the Competition Authority over the years regarding the services they provide in the relevant market.

The fuel market in the Republic of Albania is regulated by law No. 8450, dated 24.02.1999, "*On the processing, transportation and trade of oil and their by-products*", as amended, Decision of the Council of Ministers No. 970, dated 2.12.2015, "*On determining the procedures and conditions for issuing licenses for trading of crude oil and its by-products*", and Decision of the Council of

Ministers No. 808, dated 05.11.2004 "*On the maintenance and management of the safety reserve for oil, gas and their by-products*", as amended.

Referring to the import data from the General Directorate of Customs, for processed fuels (*loading-unloading, storage*) realized in these ports it has been observed that:

a) Most of the fuels imported into the country are over 80% diesel and less than 20% gasoline. The total amount imported for fuels turns out to have decreased in 2018 and has continued to increase in the period 2019-2020;

b) The fuel import market for the period 2017-2020 (*January-September*) is presented as highly concentrated where the CR3 indicator is over 80%.



Furthermore, the Competition Authority provides that the trend of average annual fuel import prices in the last year is decreasing compared to the period 2017-2019, while imported quantities are increasing, and enterprises import at approximate prices.

Competition Authority finds that there is a limited number of operators that carry out

loading-unloading and storage of fuels in the two ports of Vlora-1 and Porto Romano, granted by concession, where each concessionaire operates with different models and holds a dominant position in the geographical area, the port where it operates, and the highly concentrated structure of the fuel market.

In this regard, the Competition Authority provides that there are suspicions of possible anti-competitive behavior of enterprises operating in these markets, which may lead to violation of Law No. 9121, dated 28.07.2003, "*On the protection of competition*", as amended.

As above, the Competition Authority has decided the opening of the preliminary investigation procedure in the "*Market of loading and unloading, import, storage, wholesale of fuels*", to see if there are, or not, signs of restriction of competition.

In virtue of this Decision, the preliminary investigation is to cover the period January 2017 - October 2020.

The Competition Authority provides that the preliminary investigation report must be submitted to the Competition Commission no later than 3 (*three*) months from the receipt of this decision.

The Secretary General is in charge of implementing this decision.

Entry into force

This decision enters into force immediately.

❖ Conclusion

The Competition Authority in Albania seems to be very active lately in providing a regulatory role in various major fields of the market. Recently the Competition Authority

has undertaken various investigations in fields such as education, telecommunication, pharmaceutical market, utilities, etc.

It is important to highlight the fact that the above areas are mainly dominated by big companies and thus, the competition may be easily obstructed.

It remains to be seen how the Competition Authority will decide on the above-mentioned investigation in the market of loading and unloading, import, storage, wholesale of fuels. *However, the investigations until now have been concluded mostly with mere recommendations for the big companies or enterprises that may have been found obstructing the competition in various fields of the market.*

Following these recommendations, the enterprises found obstructing the competition have shown a behavior which needs to be verified. *Most of the times, the enterprises have respected the Authority's recommendations for a short period of time and afterwards have reverted back at their anti-competitive behavior.* This actions from big enterprises in Albania not only seem to obstruct the competition in the country, but on the other hand seem to play a major role

in damaging the authority and figure of the Competition Authority.



In this regard it is very important that the Competition Authority, first and foremost, ensures that its role and authority is respected in the territory of the Republic of Albania. Furthermore, it should play a bigger role in ensuring that the competition in Albania is not obstructed, by making sure to give proper measures, however harsh they may be, to the enterprises found obstructing the competition and violating the provisions of Law No. 9121, dated 28.07.2003, "On the protection of competition", as amended.



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The office is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The office delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law office, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law offices, we are grounded in the essence of “who” we are and “where” we started. We understand the importance of family, hard-work, and dedication.

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