

# Competition Law Sanctioning in the European Union

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*Edited by*  
**Gerhard Dannecker  
and Oswald Jansen**

EUROPEAN MONOGRAPHS

# **Competition Law Sanctioning in the European Union**

The EU-Law Influence on the  
National Law System of Sanctions  
in the European Area

Gerhard Dannecker  
Oswald Jansen



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# **Competition Law Sanctioning in the European Union**

*EUROPEAN MONOGRAPHS*

*Editor-in-Chief Prof. Dr. K.J.M. Mortelmans*

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*Competition Law Sanctioning in the European Union*  
is the forty-sixth title.

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## PREFACE

European competition law represents a classical field of application of European sanctioning law. Already since 1962 the European Commission has been able to impose fines on undertakings and associations of undertakings in order to sanction infringements of the European competition law rules, whereas the European Commission made use of its sanctioning competencies to a considerable extent. Starting from 1 May 2004, the consequence of the reform of the European competition law will be a large decentralised application and enforcement of the European competition rules. In particular, the national competition authorities will be obliged to sanction infringements of Articles 81 and 82 EC Treaty.

Concerning merely the reform of European competition law, the effective implementation of the European competition rules necessitates the study of the national competition law systems of the EU Member States. Based on the fact that national competition authorities will be obliged to apply national competition procedural and sanctioning law while enforcing the European competition law, it would be advantageous to be aware of the differences of the various national competition law systems within the European Community.

The present book reproduces the results of the research project "Competition law sanctioning in the European Union: EU law influence on the national law system of sanctions in the European area", which was realised in close cooperation between the law faculties of the University of Bayreuth (Chair of Prof. Dr. Gerhard Dannecker) and the University of Utrecht (Centre for the Enforcement of European law).

In order to investigate to what extent the European competition law affected the national competition law orders, reporters from 12 Member States of the EU, which were included in the research project, prepared a national report on the basis of a questionnaire. Additionally, the intermediate results of the research project were presented and discussed at a conference which was held in Utrecht on 27<sup>th</sup> and 28<sup>th</sup> June 2002. The country reports and the contributions by the participants to the conference can be found in the present book as well as the general report, in which the country reports and the contributions to the conference in Utrecht were analysed.

The realisation of the research project would not have been possible without the financial support of the German Research Foundation (Deutsche Forschungsgemeinschaft/DFG).

## PREFACE

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This project has taken place within the framework of the cooperation between DFG and NWO. Therefore, we are also grateful to the Dutch Scientific Council (NWO).

Furthermore, we would like to thank the editors of the G.J. Wiarda Institute, Willemien Vreekamp and Irnsje Veerman.

Special thanks go to Yasemin Körtek, University of Bayreuth. The realisation of the research project depended to a large extent on her extensive contribution and on her capable coordinating talents.

We have every confidence that the present book will find its way to everyone who is interested in competition law or competition law enforcement in general and particularly the enforcement of the European competition rules.

Bayreuth/Utrecht, July 2003

Gerhard Dannecker, Oswald Jansen

## LIST OF ABBREVIATIONS

AB	Administratiefrechtelijke beslissingen
Abr	Afdeling bestuursrechtspraak (Administrative law division, Council of State)
AC	Dioikitiko Protodikeio (Administrative Court of First Instance)
ACA	Dioikitiko Efeteio (Administrative Court of Appeals)
AG	Afdeling geschillen Raad van State
ArchNom	Archeio Nomologias (Archive of Cases) – Legal Periodical
Areopag	Greek Supreme Court in civil and criminal matters
BGB	Bürgerliches Gesetzbuch
BGBI.	Bundesgesetzblatt (Federal Law Gazette)
BGH	Bundesgerichtshof
BKartA	Bundeskartellamt
BlgNR	Beilagen zu den stenographischen Protokollen des Nationalrats (Annexes to the Stenographic Records of the National Council)
BVerfG	Bundesverfassungsgericht
BW	Burgerlijk Wetboek - Dutch Civil Code
C(P)C-Decision/	Decision or Opinion of the Competition Commission or of
CA	Competition Act
Cass. com.	Cour de cassation, commercial chamber
Cass. crim.	Cour de cassation, criminal chamber
CAT	Competition Appeal Tribunal
CC	Código Civil (Civil Code)
CC	Competition Commission (1983 et subs.)
CC-Opinion	the (former) Competition Commission for the Protection of Competition (all opinions and decisions until 31 May 1995 are published in the Collection of Decisions and Opinions edited by Koutsoukis/Tzouganatos, see bibliography)
CCAT	Competition Commission Appeal Tribunal
CMLR	Common Market Law Review
Competition Act	Law no. 703/1977 ‘on the Control of Monopolies and Oligopolies and the Protection of Free Competition’
Council of State	Symboulío tis Epikrateias – Greek Supreme Court in administrative matters
CP	Código Penal (Criminal Code)



# LIST OF ABBREVIATIONS

CPC	Commission for the Protection of Competition (1979-1982)
CRvB	Centrale Raad van Beroep – Central Appeals Tribunal
D.G.C.C.R.F.	Direction générale de la concurrence, de la consommation et de la répression des fraudes
DCA	Dutch Competition Act
DEE	Dikaio Epicheirison kai Etairion (Enterprises' and Companies' Law) – Legal Periodical
DiDi	Dioikitiki Diki (Administrative Trial) – Legal periodical
Diki	(Trial) – Legal Periodical
DPC	Dutch Penal Code
E.C.J	European Court of Justice
E.L.Rev.	European Law Review
ECFI	European Court of First Instance
ECHR	European Convention on Human Rights
ECHR	European Court of Human Rights
EDDD	Epitheorisis Dimosiou Dikaiou kai Dioikitikou Dikaiou (Review of Public Law and Administrative Law) – Legal Periodical
EEEurD	Helliniki Epitheorisi Europaikou Dikaiou (Greek Review of European Law) – Legal periodical
EEmpD	Epitheorisis tou Emporikou Dikaiou (Review of Commercial Law) – Legal Periodical
EEN	Efimeris Ellinon Nomikon (Journal for Greek Jurists) – Legal Periodical
EiDik	Helliniki Dikaiosyni (Greek Justice) – Legal Periodical
FEK	Fyllo Efimeridas tis Kybernisis (Greek Government Gazette), Fascicule: No./Part/Date
GA	Goltdammer's Archiv für Strafrecht
GALA	General Administrative Law Act
GeS	Zeitschrift für Gesellschafts- und Steuerrecht
GG	Grundgesetz, the German constitution
GJ	Gaceta Jurídica (Legal Gazette)
GP	Gesetzgebungsperiode (legislative term of the National Council)
Gst.	De Gemeentestern
GWB	Gesetz gegen Wettbewerbsbeschränkungen
Harmenopoulos	Legal periodical
HR	Hoge Raad (Supreme Court)
ICCPR	International Convention on Civil and Political Rights
JAP	Juristische Ausbildung und Praxisvorbereitung
JBI	Juristische Blätter
JORF	Journal officiel de la République française

KartVO	Kartellverordnung
LCD	Ley de Competencia Desleal (Law 3/1991 against Unfair Competition)
LDC	Ley de Defensa de la Competencia (Law 16/1989 on the Protection of Free Competition)
LPA	Ley 30/92, de Régimen Jurídico de las Administraciones Públicas y Procedimiento Administrativo Común (Act 30/92 on the Legal Framework of Public Administration and Common Administrative Procedure)
MMC	Monopolies and Mergers Commission
MR	Medien und Recht
NEJ	Nueva Enciclopedia Jurídica (New Legal Encyclopedia)
NJ	Nederlandse Jurisprudentie
NMa	Nederlandse Mededingings autoriteit – Dutch Competition Authority
NomV	Nomiko Vima (Law Tribune) – Legal Periodical
OFT	Office of Fair Trading
OGH	Oberster Gerichtshof (Supreme Court)
ÖJZ	Österreichische Juristen-Zeitung
OLG	Oberlandesgericht (Regional Appellate Court)
öStGB	(österreichisches) Strafgesetzbuch 1974
öStPO	(österreichische) Strafprozessordnung
OWiG	Gesetz über Ordnungswidrigkeiten
ÖZW	Österreichische Zeitschrift für Wirtschaftsrecht
Paris	Cour d'appel de Paris
PoinChr	Poinika Chronika (Criminal Chronicles) – Legal Periodical
PoinDik	Poiniki Dikaiosiini (Criminal Justice) – Legal Periodical
PPRS	Pharmaceutical Price Regulation Scheme
PPS	Public Prosecution Service
R	Resolución del TDC (decision of the TDC)
RAP	Revista de Administraciones Públicas (Public Administration Journal)
RdW	Österreichisches Recht der Wirtschaft
REDA	Revista Española de Derecho Administrativo (Spanish Administrative Law Journal)
REDC	Revista Española de Derecho Constitucional (Spanish Constitutional Law Journal)
RHDI	Revue hellénique de droit international – Legal Periodical
RPEPS	Reglamento 1398/1993, de Procedimiento para el Ejercicio de la Potestad Sancionadora (1398/1993 Rules of Procedure for the Exercise of Punitive Powers)
RZ	Richterzeitung

# LIST OF ABBREVIATIONS

SDC	Servicio de Defensa de la Competencia (Spanish Restrictive Practices Service)
SFO	Serious Fraud Office
STC	Sentencia del Tribunal Constitucional (Decision of the Constitutional Court)
StG	Strafgesetz 1852
StGB	Strafgesetzbuch
StPO	Strafprozeßordnung
STS	Sentencia del Tribunal Supremo (Supreme Court Decision)
Sv	Wetboek van Strafvordering
TDC	Tribunal de Defensa de la Competencia (Spanish Restrictive Practices Court).
TGI	Tribunal de grande instance
ToS	To Syntagma (The Constitution) – Legal Periodical
UWG	Gesetz gegen den unlauteren Wettbewerb (Act on Unfair Competition)
VfSlg.	Sammlung der Erkenntnisse und wichtigsten Beschlüsse des Verfassungsgerichtshofes (Collection of the decisions and most important orders of the Austrian Constitutional Court)
VwVG	Verwaltungsvollstreckungsgesetz,
wbl	Wirtschaftsrechtliche Blätter (Beilage zu den Juristischen Blättern)
Yperaspisi	(Defense) – Legal Periodical
ZVB	Zeitschrift für Vergaberecht und Beschaffungspraxis
ZVR	Zeitschrift für Verkehrsrecht

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