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**REGULATION OF COMPETITION IN HUNGARY AND  
IN THE EUROPEAN UNION WITH PARTICULAR VIEW  
ON MONOPOLIES AND MERGERS**

**Doctoral (Ph.D.) Dissertation  
Thesis**

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## **I. Programme of Research**

Main direction of the investigation is the research of the control of competition of Hungary and European Union and their projection connected with monopolies and fusions. One of the questions is the exploration of connection among the regulation of different regions and own control and practice. The theoretical and economical questions are and have getting large attention in special bibliographies in the past 20 years. Every civilized national economy has economic- and competition policy too. But the regulations and the thesis are differing. We can generate easily so categorical establishing, because the deviations permanently have got stage the factors of the social policy and evolution of the international motivations too.

Some competition policies are harmonizing interests, conflicting interests, at the same time summarizing with statually vocation of economic bureaucratic structure. Together the member states have the competition political conception, but these don't declare the concrete conceptual competition political approximation.

The dissertation contract the presentation of economic analysis and powerfuller appearance of concentrations, and the relations between. Moreover the author would like to elucidate the will, that byt the development of economic analysis thought it necessary the separate regulation of merger (fusion)-control.

The author presents the relevant market's approaches and interpretations, where the exchanges of produces and connected with technological, marketing attitudes have role, and whiches realize purposes of the partnerships.

The undertaking in markets obtain sections and positions. The main object of undertakings are the growing and development. It have an advantage over medium- and small business with touch of the economies of scale. The companies outgrow others and they can decrease own costs of productions. The economies of scale will strategical factor, for example: cheap gettings, mass-production, small logistics costs, decrease the number and costs of personnel. The purpose of the fusions among the companies is the commanding of greater prportion of relevant markets. But isn't accompanied whenever growing of effectiveness.

The other macroeconomic acting has a requirement: in the market will be much actings, because it increase the competition among companies, and it don't leave path for

monopoly situations, and it reports induce for renewal, accomodation, optimal allocate of source. The price-competition in clout is influenced by state with this will got stronger the improvement of national performance.

## **II. Preliminaries and applied methodology**

Int he past years the analysis of problems of the market failure announce great defiance to author int the course of works in own works. In this theme he turned with strange inquiry, which has even a youthful regulation, current, and one of largest problem in market. It have getting a headway in the monopol position with a disregarding of Pareto-efficiency. There is the world of fusions. Its regulations and deviations has scanning in this dissertation deployed the european and hungarian analysisses too. The author among others would like to prove, that this market situation is keeping in itself some efficiency elements, which can stabilize the economy and advance growing. Moreover he presents the problems of the global mergers and these how can handle and solve in further possibility.

The selection of theme of dissertation were by right of two weighty reason. One of these is the youthful regulation of merger-control and such it be necessary to develop and analyse. The another motive is the area of science of economics and jurisprudence, in which the author own study has obtained expertise.

In applied methodology the searching of primary souces are the trunk of the research work It is completed the independent and critical processing and building of regarding scientific literature. The procedure of dissertation is characterized of convenient interpretations of notions and categories, the conceptual approaches, and the comparison of real practices.

## **III. The principal establishmentes of dissertation, thesis**

1. The dissertation deals with theoretical and empirical questions of regulation of competition focusing monopolies and mergers of corporations that represent most the phenomenon of market failures. It seeks to answers how failures and their negative

impacts should and can be managed or reduced. It shows theoretical questions of market failure and analyzes how merger lead to acceleration of failure then describes how failure becomes global. Evaluating these fields it suggests solutions, too. Theoretical description, critical analysis and evaluation of the questions are based on international and domestic experiences, mainly from USA, European Union and Hungary.

**2.** Early in the eighteenth century, Adam Smith wrote that no government or any ethics are needed for promoting good deals. In his view, people serve public interest best, if they simply follow their self-interest. People are more likely able to define their own interest than to define what public interest is. Smith's logic is very simple: if there are goods and services for that people consider value but those are in short, they would willing to pay for them. For profit business are looking for these opportunities and if the values of the product exceeds its production cost, business start producing it. This model of efficiency assumes the existence of perfect market competition, the equal benefits of a good or service for individual and for society, and the equal individual and social costs of them.

**3.** To define optimum, efficiency and equilibrium can vary. They are explained mostly from four approaches, the first three represent market allocation. These are:

- the "realized market allocation" that features allocation of factors in the real economy;
- the "equilibrium market allocation" that features those allocations of factors out of the all possible ones that emerge by market automatism, by individual motivations of market actors;
- the "Pareto-efficient market allocation", that leads the simultaneous equilibrium between supply and demand in all markets of the economy, and the dead-weight loss of market actors is zero;
- and finally, the "socially optimal allocation of resources", that is the most desirable by a given (public, social, ethical, traditional, etc.) point of view in a society.

**4.** If the Pareto-efficient or equilibrium allocation of a market (economy) deviates from the socially desirable allocation of resources one can speak about market failure or market imperfection. Market failure (or imperfection) means that factor allocation due

to an unregulated, pure market mechanism deviates from factor allocation considered socially optimal. Categories of market failures are: monopolies, externalities, public goods and asymmetric information, short term interest, unjust income distribution, imbalanced economic growth and international economic relations.

**5.** Monopoly seriously limits the satisfaction of customer needs and narrows possible choices. Customers must accept low quality services, high and non-optimal prices and are not able to “discipline” producers. Monopoly results inefficient allocation of resources. In case of monopoly, criteria for production-, product-mix- and exchange efficiencies – those are basics for Pareto-efficiency - can not be realized. Consequently, monopoly can be considered as the most critical market failure.

**6.** Monopolies are creations of historical development. Beside cartels, mergers and acquisitions a monopoly-position could also be emerged spontaneously, if a company becomes dominant in a given market as the first supplier and it can block entry of others by having cost-advantage. In case of a merger, independent companies are going to be united or melted, but the criteria of efficiency are going to be distorted because of monopolizing control and influence of the market. If the minimum efficient scale is large compared to the size of a limited market, a producer monopoly can emerge that requires government regulation or intervention. Emergence of cartels is constrained by antitrust policy in the USA and by competition-policy in Europe. Today one of the features of globalization is a dynamic growth of corporate concentration and spread of mega-mergers. The new challenges strengthen impulses of concentration.

**7.** Concentration has two forms: merger of properties and getting the rights for control. Merging properties results unified common control, sharing of business risks, and mutually integrated property-business relations. The objectives of getting the rights for control are to have dominant influence in the corporation, mainly over the property and the business strategy, but also over the organizational, voting and decision-making systems. Dominant influence varies along different circumstances of cases.

**8.** Merger processes have three groups: horizontal-, vertical- and conglomerate mergers. In case of horizontal concentration, the companies operating in the same industry, that is, competitors are merging. This is the most serious problem from the view of competition laws. In case of vertical concentration, the companies operating in different levels of production line are merging. The conglomerate merger refers to companies operating at separate, non-related industries. Arguments against mergers pro and con are numerous. Pro argues, for example, are: market share can be increased faster, entry to unknown territory is less risky, and merging modern technologies is easier. Con argues, for example, are: organizational problems can emerge in giant corporations, decreasing employment. From the customer side it is good, if prices are decreasing due to the changing economy of scale or synergy, but it is bad, if prices are increasing and quantities are decreasing due to the monopolistic economic power.

**9.** In concentration efficiency-oriented motives lead to an increase of efficiency and to a decrease of cost, all in all, to an increase of welfare. That is why they are called as “efficiencies”. The factors of “efficiencies” are: economy of scale, economy of activities, optimal factory size, low administrative cost, and development of management, joint R + D systems and other innovation activities. Many ‘efficiency’ models having tied to different schools of economics dealing with mergers have proved “benefits” of concentration.

**10.** The Williamson model (Schools of Chicago) examines impacts of concentration to the changes in welfare of the society. According to this model the concentrations increase production efficiency. Its focus is how to evaluate concentration that decreases the efficiency of distribution and consumer surplus but at the same time increases production efficiency and producer surplus. The two effects should be measured. The theory states that concentration should be permitted if the increase in production efficiency is larger than the decrease in distributional efficiency. This model does not define exactly what concentrations are desirable. That is the aim of the Farrell-Shapiro model.

**11.** The FS model assumes that only concentrations beneficial for the participants can be implemented. In order to be beneficial for the society the minimum condition for a concentration is that the net external effect should be positive. This goes up to the point when the joint market share of the actors of merger is at a certain level. That limit can be calculated as a weighted average of the shares. This model is a better and more precise theoretical basis for concentration than the “Williamson” model.

**12.** The model of Structure-Behaviors-Performance (the Harvard School) states that there are causal relations between the three elements. The school of ‘structure’ was formulated in the first half of the twentieth century. It says if there is a concentration in a market (dominant or oligopoly structure) it limits competition and it certainly leads to harmful and uneven income redistribution. So there is a linear relation between market concentration and monopolistic profit. The Harvard School considers factors of efficiency as ones that increase market power. The competition policy of the school has been developed for the sake of medium size companies.

**13.** Schumpeter’s (the Austrian School) hypothesis is that monopolistic environment is more favorable for R+D activities. Innovation provides profit for innovative business. The origin of the profit is the new product which has not been part of existing valuation system. The value of the new product is determined by direct and subjective evaluation of the customer and not by production costs derived from the value of marginal product. Due to innovations changing economic environment leads to new market positions. A basic function of businessmen is to innovate.

**14.** One should make difference between market share and market concentration. The market share represents the weight of a given business in a geographically separated market of certain or some products. From legal point of view, it raises the question that the position of one actor could lead to abuse of power. The market concentration shows the general power of a company in a given market. This position could lead to a behavior of ascendancy. In one hand, this is narrower category because it does not cover territorial regions and substitution relations. On the other hand, this is wider because on

the basis of calculating concentration one can gain information at more aggregate levels for regulating competition. Both analytical methods can parallel be applied.

**15.** The degree of concentration is a crucial feature of the structure of the economy or a branch of the economy. It is graphed by the Lorenz-curve that expresses the cumulated descending market shares of the biggest company in a given industry. Key question of the graphs is that concentration has a temporary or long term effect on the market shares.

**16.** Three methods are applied in measuring concentration. All of them I have used in my research.

A, Rate of concentration – most frequently used – shows the ratio of total industry sales due to the total market share of the biggest companies in the industry.

B, Table of concentration shows the number of biggest companies that contribute to a given market share, for example, how many companies provide a given part of the sale in an industry, if companies are in descending according to the size of sale.

C, Hirschman-Herfindhal index provides a comparison of industry concentrations. Taking degree of concentration into consideration it gives a synthesis of the two above methods. It cares about the number of seller in a given market but considers differences in their sizes, too.

Other methods are applied mainly at company level to modeling commercial concentration and to supplementing the global methods. These are: quintile distribution, Gini-coefficient (G), index of deviation (ID), Gini median deviation (GMD), double nucleus-density estimation, number and structure of companies, size of economic units, and tables of economy of scale.

**17.** Controlling concentration is a young branch of competition law but its role is becoming more and more reevaluated. Licensing mergers aims to control artificial increase of concentration knowing that this is not natural evolution of companies and getting higher market share could be a result of not only negotiation but market power. The European Union considers mergers as factors changing in time where the objective is not to decrease sizes but the ease constrains of market entry.

**18.** There different expectations concerning the objectives of concentration. In the “triad” (USA, EU, and Japan) representatives of antitrust give importance mainly to the distributive efficiency. In Europe economic efficiency is the goal via which antitrust policy can also be efficient without hurting customer surplus. However, some difficulties arise when one expects realization of too many objectives simultaneously, for example, consumer protection, distribution of welfare, equity, protection of small and medium size enterprises, industrial and regional policies, integration, protection of domestic market.

**19.** In acquisitions processes called ‘market for corporate control’ play special roles. These processes are legally regulated, controlled. Mergers and acquisitions represent a sort of business branch. Merger has generally three motives: to eliminate holes of product portfolio, to invest profit, and to strengthen union of business strategy.

**20.** It is the task of the state to fight negative forms of limiting competition and to force companies into competition. Its objectives are determined by the state competition policy. The regulation of competition is the system of means aiming to implement competition policy. The government can intervene into market processes in several ways for the sake of fairness of competition. One of the largest fields of competition regulation is the ‘antitrust’ regulation. Another large part comprises general regulation of market conditions (e.g. commercial, environmental, technological rules) and its institutions.

**21.** The state can directly influence market competition by operating public enterprises. Of course, this can not do by limiting competition. The danger – if any – of this policy can be decreased or eliminated with extending regulation of competition to the public sector as well. There are markets (e.g. electricity, postal services, and railway) where so-called natural monopoly exists. Here the state must create conditions for public enterprises being similar to the private sector in efficiency and results.

**22.** Basis elements of competition regulation are the competition laws. These consider illegal every corporate strategy that limits competition hurting efficiency, at the same time these define sanctions for doubtful behavior. Due to traditions and historical factors these laws are in some countries called antitrust laws, cartel laws or unfair competition laws. Main rules are:

- It is forbidden for competitors to negotiate – open or secret – on determining prices, on production contracts leading to price increase and to gain advantages from limiting competition. These behaviors are illegal.
- The competition laws represent state control over mergers of corporations in order to block anticompetitive organizational changes in the market.
- The competition laws forbid for supplier to apply price discrimination against buyers, to apply different prices of the same quantity and quality products for different customers.
- Not only monopolies are subject of competition laws, but case that lead to lower efficiency.

The American, the European and the Hungarian laws have similar but significantly different characteristics.

**23.** The first competition law in the world was the Canadian Combines Act (1889), but the Sherman Anti-trust Act (USA, 1890) has even more importance. Together with the Clayton Act (1914) they represent the basic for the American competition regulation even today. The laws forbid for a company to buy the shares of its competitors, for individuals to have position in management of their competitors' company, if these represent dangers of monopolistic power and decrease competition significantly. The Celler-Kefauver Act (1950) forbids for a company to get property of its competitor. However, competition laws do not forbid mergers in general, only if it hurts efficiency, public interest and public welfare.

**24.** Competition law in the European Union is more comprehensive embracing four topics: corporate competition law, subsidy law, special rules for businesses having unique or exclusive rights, and rules for state monopolies of commercial type.

Competition laws do usually deal only with corporate competition rules that comprises to large fields:

a.) unfair market behaviors

b.) antitrust that embraces behaviors of three types: prohibition of cartel or corporate collusion, abuse of economic power or dominance, merger or concentration.

**25.** In Europe regulation of competition has originally been interpreted from the Rome Treaty (1957) and has gradually been developed since the seventies when the European Commission approved precedents as rules for elaborating decrees concerning mergers. Article 85 of the Rome Treaty refers to the general prohibition of horizontal and vertical cartels that are eased a system of exemptions. Article 86 forbids abuse of economic power in the common market.

**26.** The community control of mergers has competition and industrial policy aspects, as well. It generates debates. Germany gives priority to competition policy aspects, while France and Italy consider industrial policy as priority. There are several differences between individual country regulations. For example, thresholds for mergers considered community size are subject of different application in different countries. Analyzing reasons for differences I conclude the followings: a relatively low threshold occurs in two cases, when a small country protects domestic market, or the same in a transition country.

**27.** In the EU competition regulation certain corrections are efficiently used in merger processes. If blocking a given merger is not feasible the Commission expects certain commitments from the parties involved in exchange of permit in order to guarantee efficient competition and prevent abuse of economic power. In controlling merger this is a three-level filtering system. Transactions should pass new and new filters. Participants of merger can implement their correction commitments even before decisions are made on different levels. The filtering rules contain instructions at community and national levels, too. It is desirable to find ways to adjust to the criteria, since the objective of merger control is not simple the prohibition but to protect the

competition. It would be welcome even in Hungary to introduce similar correction procedures.

**28.** Competition policy in transition countries is one of the most exiting issues of our time. A strange fact is that since the introduction of the first laws on mergers only few mergers have been refused. The ratio is not more than 5 percent in each country, and only 3 or 5 cases except in Poland. Explanations are different. For example, authority does not want to hinder market transition by blocking entries of international big actors. Perhaps authority does not want to hurt corporate or political interests when it is looking for its position in the hierarchy of public administration. From economic point of view, one can argue, that - in many cases – the relevant market is defined very narrow that is with strict substitution and entry requirements. It often occurs that actors with intention to merge are monopolies in their own market segment but together they become equal in the new environment. The reason for this anomaly is the underdeveloped market structure. My research has partly proved the above assumptions.

**29.** The Hungarian competition law is close to one-hundred years old. The first law was passed in 1923 and 1931, in which cartel law and unfair market behavior have been separated. After the Second World War the laws were almost forgotten. Due to the 1968 new economic mechanism the elements of unfair market behavior emerged again in 1984. The real rebirth has started only at time of system change by regulating unfair market behavior, prices as subject law. Regulation embraces different fields of competition and the institutional basis was established, the Economic Competition Agency.

**30.** One part of the regulation has become legal via continues practice of the Agency. On the other hand, significant changes have been made in regulation, for example in the interpretation of mergers, in the evaluation system, in the rules of commitments and procedures. In the first half of the transition control of concentration was not in the focus of regulation. The reasons are manifold, perhaps the main one is, that the privatization transactions were under the control of Parliament.

**31.** One of the principles applied by the Agency for mergers is that only changes favorable for the customer can be considered as advantage of a merger. This principle has been defined in its case-law. Not only the intentions of the parties are important but their real interests are the bases for considering evaluation of mergers. Advantages should be proved by the parties. The Agency states, that despite expected efficiency a merger is prohibited if there is no proof.

**32.** I analyzed efficiency criteria concerning mergers and acquisitions in the competition policy of the USA, EU and Hungary. In the US and EU practice of merger control the efficiency does not play major role in evaluating concentration. Questions of efficiency are in place if authorities (US) conclude that the merger must not be permitted. In front of the European Commission efficiency arguments are mostly secondary. In Hungary, parties usually refer to their market position and to customer protection. For them it is difficult to prove details of planned efficiency effects. Authority considers these arguments as not really realistic ones. Due to the difficulties of decision, a merge can be licensed on the basis of efficiency criteria only if positive effects significantly overrule the negative consequences of the concentration.

**33.** The objectives of correction measures are to diminish market power of merging parties, to reestablish efficient competition and its necessary conditions. This would be desirable in Hungary, too. If such supplementary regulation were in hand, opportunity would be to give more autonomy for the parties regarding regulation of conditions and commitments. It would also be more transparent and at the same time the Competition Agency would force companies to establish feasible competition.

**34.** A new application of legal rules might be put into practice even it would not be similar to the European practice. In the Hungarian cases with few conditions and commitments the Agency made straightforward decisions on the basis of the commitments of the parties. However, it would be better, if not the Agency were laid down conditions. Then the company would have a chance to decide on its own since he knows better whether the offers are good or not for remedy.

**35.** Today, the Agency – like the European Commission - should investigate the above circumstances not from the points of company’s commitment, but according to its own decisions on conditions and commitments. This should be derived from the text of the Competition Law. As for companies’ commitments concerns, the European Commission investigates their types, objectives, measures, chance for implementation and successful modification. That is a detailed analysis of market structure and the positions of the parties of merger. It would be better, if the Commission set up preferences in commitments. The Commission prefers structural changes against behavioral ones, since the main objective of the correction commitments is to establish competition.

**36.** In the European Union there are so-called separate agent (trustee) and release agent (trustee) in phases of pledge and commitment of merger processes since the Commission is not able to control pledges systematically. An agent (trustee) has been appointed who is responsible for two actions. This person exercises control over business branch to be released and over assets until the final sale. This activity is reasonable and desirable because only the parties would be responsible for keeping real features of the branch.

The conditions for employing such agent (trustee) should be established in the Hungarian regulation, too. Although the law on competition says that the Agency “can hold post audit in order to check fulfillment of ex ante or ex post condition or commitment laid down in its order”, it does not give incentives to react in time. First a supervisory agent with few authorities would be feasible and then a release agent could be employed on the basis of experience.

**37.** Yearly or at stated intervals competition agencies or ministries publish behaviors of competition of different forms, like fair or unfair, efficient or inefficient, doubtful, to be sanctioned or prohibited, etc. In Hungary a very detailed list is published concerning market behaviors of enterprises. This makes possible to analyze the typical behaviors and regulations of competition for different periods, business branches and for some specific issues of competition.

#### **IV. Critical points, possible methods of mending, proposals**

1. In community level the relevant companies take it upon oneself to do the corrections, obligations, but in Hungary the Hungarian Competition Authority (Gazdasági Versenyhivatal: GVH) prescribes its.

The undertakings can come forward with faster A vállalkozás csoportok gyorsabb, effective shoulders, than the GVH with own cuttings. Consequently the author would like to employ in compliance corrections with practice of european methods.

2. The European Commission is releasing notices in which fullness is giving the standpoints of competition legal procedures in fusional control.

It were right, when the GVH like to release an exhaustive announcement, which contains the ground of practises of legal procedures, so the procedure will calculabler.

3. The purpose of the application of the corrections is the moderation of strength of the companies in fusion and reconstruction of the effectual competition to creation of conditions.

It were right to employ in Hungary too. This complementary regulation can get larger autonomy to companies in prescription of conditions and obligations.

4. In the course of the interpretation of the Hungarian law differs from the European competition law. Therefore it were right, that the undertakings can get larger autonomy to enforce own notion over measures and healing of competition legal misgiving. This possibility doesn't wish it to prescribe the conditions.

5. The Hungarian Competition Council according to sample of European Commission is obligatory examine the circumstances, but not according to undertakigs, rather from text of law, ont he basis of own conditions and obligations.

The European Commission give preference to stuctural transactions opposite the attitudes. The author suppose it to be right application in Hungary too.

6. There is a parting and detaching fiduciary in the European Union by the phases of the merger processes. This management work is the cause of systematic control in which the committee can't have a share.

It should be in the Hungarian practice such fiduciary too with his condition of employing.

7. The Competition Authority or ministries annually or at fixed intervals tell the honest-, dishonest-, rivalry-, effectual-, increase-, opposed-, perilous-, to approve-, to prohibit-, to decompose-, etc. competition attitude of competitive sector. In this communication our country is excellent, although GVH has critical and functional points. This publication opens the door to support the individual attitudes, regulating areas, with complex example. This is the problem that will have to solve in European Union.

8. The global problems and their possibilities of solving. Globális problémák és azok megoldásának lehetőségei. The competition regulation is a discipline over the world. There are the regulations in most countries, but they are indebted to any region in TRIAD. The roots are similar in traditions and codifications, but they are independent entities. It is especially important, that at much place integrations take over the functions of democratic institutes from states. Well the competition law is founded on common wish of these integrations

It was established some organizations for treatment of the influence of interdependent (IMF, WTO), but these can't serve with problems of globalization.

After all the solving will probably be the global governance and for this reason the global competition regulation. This is taking hold in the relation of European Union, United States, and practice of World Trade Organization strikingly.

## **V. Publications in subject matter of dissertation**

### **Books (bookchapters):**

Gazdaságpolitika [2006.] (Hoós J.-Horváth Cs.-Hógye M.), Sopron, NyME.

A közösségi döntési rendszer [2002.] (Hoós János) AULA, ebből a Közösségi döntési rendszer tankönyvben önálló fejezet a Ph.D. kutatások eredményeit felsorakoztatva (3.3, 3.3.1 fejezet).

**Construing:**

A közösségi döntési rendszer [2002.] (Hoós János) AULA, ebből a Közösségi döntési rendszer tankönyvben önálló fejezet a Ph.D. kutatások eredményeit felsorakoztatva [3.3, 3.3.1 fejezet].

Konjunktúra- és piackutatás [2003.] (Hoós János) AULA

**Investigational accounts:**

A közgazdasági elemzés szerepének változása az EK fúzió-ellenőrzésének fejlődésében, tanulmány [2004.] GVH, Konzulens: Dr. Bara Zoltán

A versenyszabályok harmonizációjának összefoglaló elemzése különös tekintettel a regionális fúziókra [2004.] március, Regionális Kutató NyME-KTK.

**Domestic conference dissertations:**

Közjóságok az európai Unió kapujában (A Tudomány ünnepe Konferencia) [2002.] november

Piacelemzés a versenyszabályozás kapcsán, OTDK Konferencia, Sopron, [2005.] április PHD szekció.

**International conference dissertations:**

A fúzió-kontroll fejlődésének közgazdasági elemzése az Európai Unióban és Magyarországon (Nemzetközi Konferencia) JCI [2004.] 04.29. Sopron SIP.

Improving of Company Control (M&A) of Competition in Pannon Basin as a Present and the Potential point in Euro Region, „The Impact of European Integration ont he National Economy” International Conference, by the Faculty of Economics and Business Administration Cluj-Napoca, [2005.] October 28.

The Comparative analysis the most Controlling Organisation in State Institutes in East-Middle-europe, „The Impact of European Integration ont he National Economy” International Conference, by the Faculty of Economics and Business Administration Cluj-Napoca, [2005.] October 28.