



**COMPETITION LAW ENFORCEMENT: ARBITRATION, STANDARD OF PROOF,
ENFORCEMENT PRIORITIES**

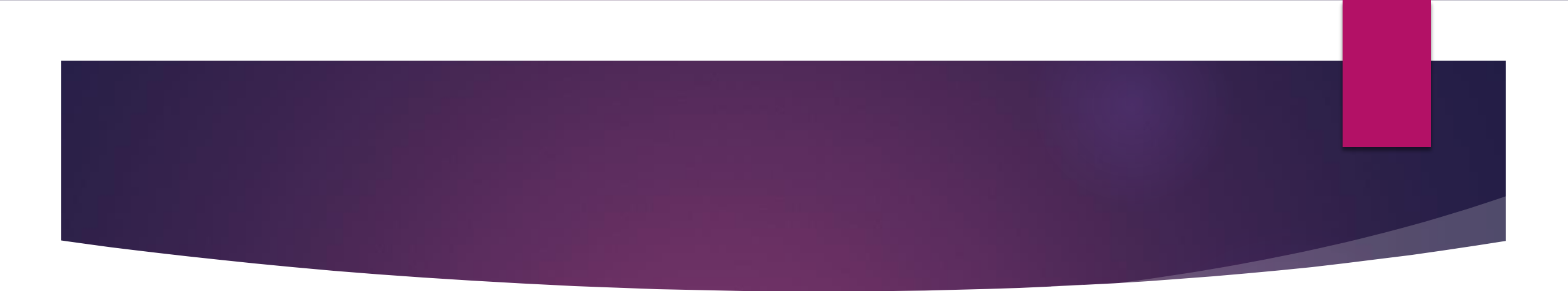
COMPETITION DAY, OSJEK APRIL 2023

BORKA TUSHEVSKA GAVRILOVIKJ

DARKO SPASEVSKI

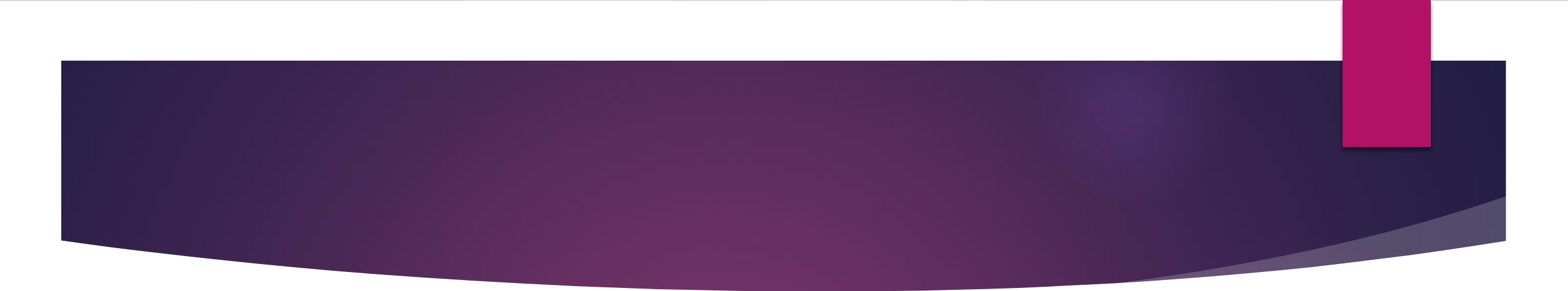
COMPETITION LAW ENFORCEMENT: ARBITRATION, STANDARD OF PROOF, ENFORCEMENT PRIORITIES

- ▶ ADVANTAGES AND DISADVANTAGES OF THE LEGAL REGIME AND PRACTICE;
- ▶ CHALLENGES THAT COMPETITION LAW IS FACING NOWADAYS;
- ▶ HISTORICAL OVERVIEW OF THE LEGISLATION

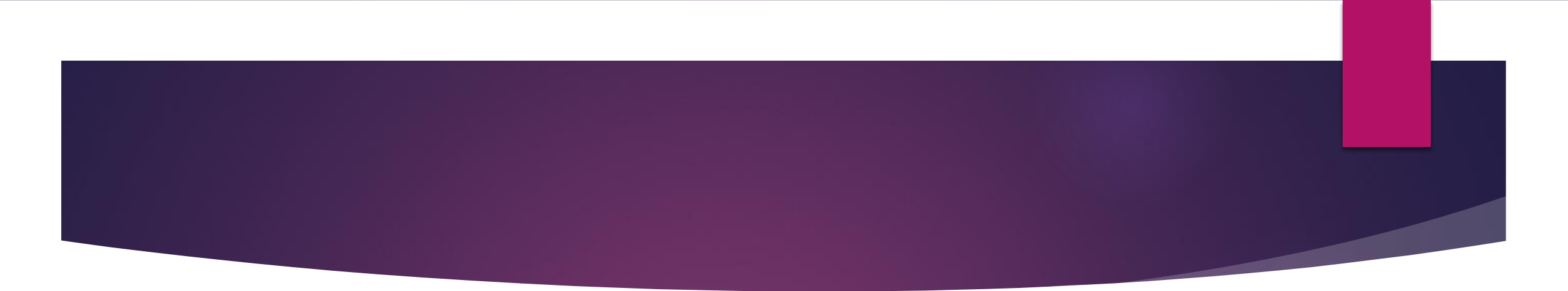
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- ▶ **COMPETITION LAWS WERE ENACTED IN THE RNM WHEN IT BECAME AN INDEPENDENT AND SOVEREIGN STATE. IN 1991 THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA PROVIDED FOR “FREE MARKET AND ENTREPRENEURSHIP” AND “EQUAL TREATMENT OF MARKET PARTICIPANTS.” ARTICLE 55 SPECIFICALLY STATES THAT “[T]HE FREEDOM OF THE MARKET AND ENTREPRENEURSHIP IS GUARANTEED.”² LIKEWISE, IN THIS ARTICLE, THE DRAFTERS OF THE CONSTITUTION ENSURED THAT “THE REPUBLIC GUARANTEES AN EQUAL LEGAL POSITION TO ALL PARTIES ON THE MARKET” AND THAT “[T]HE REPUBLIC TAKES MEASURES AGAINST MONOPOLISTIC POSITIONS AND MONOPOLISTIC CONDUCT ON THE MARKET. THE FREEDOM OF THE MARKET AND ENTREPRENEURSHIP CAN BE RESTRICTED BY LAW, ONLY FOR REASONS OF THE DEFENSE OF THE REPUBLIC, PROTECTION OF THE NATURAL AND LIVING ENVIRONMENT OR PUBLIC HEALTH.”**

COMPETITION LAW IN CONSTITUTION IN RNM

- ▶ ARTICLE 55 FROM THE CONSTITUTION, THE PROHIBITION OF THE MONOPOLISTIC BEHAVIOR IS ALSO ANTICIPATED BY THE MACEDONIAN 1995 LAW FOR TRADE. THE 1995 LAW FOR TRADE SETS FORTH THE REQUIRED CONDITIONS FOR DOING BUSINESS IN RNM. THIS LAW ACTUALLY BANS THE AGREEMENTS WHICH UNDERMINE MARKET COMPETITION AND PROHIBITS DAMAGE TO THE ENVIRONMENT AND HUMAN HEALTH.
- ▶ IN 1999 THE REPUBLIC OF MACEDONIA ENACTED THE LAW AGAINST RESTRICTIONS OF COMPETITION.⁴ THIS LAW WAS REPEALED AND SUPERSEDED BY THE LAW ON PROTECTION OF COMPETITION FROM 2005 (HEREINAFTER 2005 LPC).⁵ EVEN THOUGH 1999 LAW AGAINST RESTRICTIONS ON COMPETITION WAS DE FACTO UNENFORCED ACT, IT SHOWS OFF THE INTENTION OF MACEDONIAN GOVERNMENT TO ADOPT A COMPETITION LAW AND IT IS PERCEIVED AS A FIRST STEP OF THE MACEDONIAN GOVERNMENT IN FIGHTING UNFAIR COMPETITION.



Competition law is a legal branch with priority in the EU approximation process. SAA explicitly stipulated a proper time-frame for the alignment of Macedonian with EU competition law. According to the formulation in article 68, paragraph 1 from SAA, “[s]tarting on the date of signing of the agreement and lasting as explained in article 5 from SAA, the approximation of laws shall extend to certain fundamental elements of the Internal Market acquis, as well as to other trade related areas, along a programme to be defined in coordination with the Commission of the European Communitie

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- ▶ REGULATION ON ESTABLISHING CONDITIONS AND PROCEDURE FOR GRANTING AID FOR RESCUE AND RESTRUCTURING OF FIRMS IN DIFFICULTY (Consolidated text; “Official Gazette of the RM” No. 81/03 and 83/07);
 - ▶ On 21 – 25 September 2015 the Federal Antimonopoly Service (FAS Russia) organized an annual international event – “Competition Week in Russia” in Moscow. This year the event is devoted to the 25th anniversary of antimonopoly regulation in the Russian Federation. This event was opened by the President of the Russian Federation Vladimir Putin, and representatives of the Government of the Russian Federation, representatives of the federal states and regional authorities, representatives of the competition authorities from several countries.
 - ▶ *Source: <http://kzk.gov.mk/en/category/news/>.