as one further major cause of the ongoing process of restructuring and privatisations in the German hospital sector.

### 3.1 Restructuring of hospitals and German competition law

Since the growing number of mergers and takeovers, the German hospital sector has become more and more confronted with the German competition law. On 11 March 2005, the Federal Cartel Office (Bundeskartellamt) prohibited for the first time the takeover of two public hospitals in the district of Rhön-Grabfeld by the private hospital company Rhön-Klinikum AG in order to prevent a dominant position of a single hospital provider in a certain regional market (cf. Monopolkommission 2006). Only two weeks later, on 29 March 2005, the Federal Cartel Office also prohibited Rhön from acquiring the municipal hospital of the city of Eisenhüttenstadt. In April 2005 the Cartel Office accepted the acquisition of majority shares in the public hospital group LBK Hamburg by the private hospital company Asklepios only under the condition that Asklepios goes on to sell one of the seven LBK hospitals. In its justification of its decisions the Cartel Office recognised the special status of hospitals and made clear that it is not against privatisations in principle (cf. Bundeskartellamt 2005). The affected private hospital company Rhön has made an appeal against the decision of the Cartel Office at the Higher Regional Court (Oberlandesgericht) (which has not yet passed a final judgement). At the same time the regional government of the Rhön-Grabfeld district asked the Federal Ministry of Economics to give a special permission (Ministererlaubnis) for the takeover.³ In May 2006, however, the Ministry rejected this demand and confirmed the decision of the Cartel Office (cf. Ministry of Economics 2006).

The Cartel Office decision was widely criticised by legal experts (cf. Bruckenberger et.al. 2006) as well as by private hospital companies. There is an apprehension that if the Cartel Office’s ruling becomes final “it would basically throw private clinic chains’ expansion strategy into doubt. Since cost-cutting measures have potentially reduced the rate of return on public-sector hospital takeovers, private operators are increasingly looking to the synergetic effects of regional concentration of their capacities” (Hess 2005, 10). However, it remains to be seen if German competition law will really become an instrument to limit hospital privatisations.

### 4. OUTLOOK

If the current trends in the German hospital sector continue, as is expected by most experts, there will be a continuous decline in the number of hospitals as well as a growing number of hospital privatisations. These developments will have a significant impact on both working conditions and industrial relations, as well as on the quality of hospital treatment. Much more research is therefore needed to get a more detailed picture of the differences in the functioning and organisation of public and private hospitals.

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³ According to Article 42 of German competition law (Gesetz gegen Wettbewerbsbeschränkungen, GWB) the Federal Ministry of Economics has the possibility to cancel a decision of the Cartel Office and could give a planned merger or acquisition special ministerial permission for general economic reasons.