



ANTIMONOPOLY
OFFICE
OF THE SLOVAK
REPUBLIC

Plan of the Main Tasks of the Antimonopoly Office of the SR in 2018

June 2018

For 2017 the Antimonopoly Office of the SR set the plan of main tasks within the scope of its competence in the area of competition protection and state aid coordination. After the analysis of its activity in 2017, the Office has assessed the fulfilment of the tasks and has set out the following main tasks for the year 2018.

On the basis of a number of mappings and analyzes of the Office's own activity, it will be necessary to adopt system and organizational and administrative measures to increase the efficiency and to optimize organization management and the division of work. The Office must do this in such a way that it does not affect the exercise of the scope of its own activity determined by the law.

AREA OF COMPETITION

In the area of competition, the Office fulfills the main intentions within its medium-term objectives as follows:

1. the enforcement of competition law in its national as well as its international dimension with the application of the regularly revised prioritization policy,
2. active contribution to the development of the legislative framework of competition in Slovakia in coordination with the competent European institutions promoting the protection of competition in the context of the cooperation of the Member States of the European Union,
3. raising awareness of the competition law and of the economic and social consequences of its infringement and intensifying communication with representatives of associations of undertakings,
4. developing cooperation with other central state administration bodies in creating
 - effective system of revealing and correct sanctioning the infringements of competition law,
 - business environment stimulating competition,
5. initiating and developing cooperation with renowned Slovak universities and institutions focusing on the legal and economic aspects of competition protection.

In line with these intentions, the Office set several main tasks for the year 2017 and it assessed them in order to set tasks for the current period.

Enforcement of law with the application of the current prioritization policy in the area of competition should have been done by updating the current wording of prioritization criteria while retaining the direction of its capacities for the most serious types of offense with a significant impact on the sector concerned and the entities involved. At the same time, the Office, in addition to laying down rules for the ongoing monitoring of the development of the level of competition in markets and sectors which are by their very nature more prone to the coordination of conduct of established entities, should have focused on ex post evaluation of the Office's decisions (in particular in the area of merger control) with the aim to assess the capacity of the Office to create the preconditions for sustainability and the positive development of the competitive environment through its activity.

For the assessed period, the Office considered the following sectors as its priority:

- e-Commerce,
- agriculture, food industry,
- Information systems, information technologies,
- Sectors affected by state regulations (utility companies, financial and insurance services, etc.).

In the sectors of e-Commerce and agriculture, food industry the Office opened sector inquiries in 2017 to thoroughly map the affected markets, the level of competition in them, as well as factors with the potential to influence their current situation or their future development.

In cooperation with the institutions which the Office concluded cooperation agreements with, it has been preparing not only the up to date output but also the mechanism of continuous monitoring of further development on the system of

defined indicators.

In the priority sectors, the Office not only actively conducts own-initiative inquiries that are mentioned above, but also consistently approaches to the incentives addressed to the Office. In several cases, the review resulted in the processing of lawyer's papers to propose system adjustments in the legislative framework creating conditions for functioning of the affected markets. The Office also paid increased attention to interministry comment procedure, which had the potential to change conditions in the priority sectors.

As part of the tasks set, the Office evaluated the non-revision of the prioritization policy as an unfulfilled task for the period evaluated. This was caused by the opening of several system changes in the methodologies and management documents of the Office.

Based on the facts outlined above, the task continues for the period of the year 2018.

In terms of practices, the Office continued focusing on cartel agreements, bid rigging in public procurement and non-notified mergers. Pursuant to the agreement with the central coordinating body (hereafter "CCB") it was actively involved in coordinating the programming, implementation, monitoring and evaluating of the European Structural and Investment Funds (hereafter "ESIF") and pursuant to the project associated with the drawing of a non-repayable financial contribution through ensurance of funding of wages and remuneration of the Office's employees in the area of revealing agreements restricting competition it created the preconditions for increasing the Office's executive capacity in this area.

For the year 2017 the Office planned to fundamentally revise the risk indicators within the ESIF Management System and to establish a flexible model of cooperation with the CCB with the aim to regularly update the evaluation equipment of subjects which are involved in the control of the funds of this financial mechanism.

In the framework of the tasks set, the Office evaluated the incomplete fundamental revision of the risk indicators as an unfulfilled task in the assessed period. This was due to concentrating Office's capacity to the updation of the cooperation agreement with the CCB, as well as to the CCB's guideline for cooperation with the Office.

In the same way, in relation to risk indicators, the Office started developing an application which should help not only to indicate the suspicions of anticompetitive activities of undertakings, but also to assess the relevance of detected risk indicators in the review. This should help reduce the number of irrelevant incentives the Office has to deal with, which should release the Office's blocked capacity to cases of higher relevance from the point of view of risk indicators assessment.

Based on the facts outlined above, the task continues also for the period of the year 2018.

In the framework of investigation and decision-making activity in revealing agreements restricting competition, the Office issued and introduced to the public a new instruction to selected issues of applying the institute of notifier where a natural person who is not an undertaking according to the Act on Protection of Competition nor an employee of an undertaking already participating in the leniency programme, has the right to remuneration for the provision of the information and evidence important for the Office if the statutory conditions are fulfilled.

Development of legislative framework of competition protection has the potential to be significantly affected by the forthcoming Directive of the European Parliament and of the Council on enhancing the competence of competition authorities in the Member States for the purpose of more effective law enforcement and ensuring the proper functioning of the internal market, where the Office took an active role in formulating the positions of the Slovak Republic on the proposed text and in communicating them at the European level, which it continues intensively in the ongoing period.

The Office intensively perceives the specifics of its position as well as its processes in relation to the current and proposed amended wording of the Act on the Electronic Form of Exercising the Powers of Public Authorities and on the Amendment and Supplements to Certain Acts (the Act on e-Government), which the Office rephrased several times in

comments on the subjected legislation, but also on the ongoing activities relating to the computerization of exercise of public power. In this relation, the Office, by its internal management act, directed its organizational units with the aim to meet the responsibilities imposed on public authorities.

Last but not least, by creating internal inter-division working groups the Office set prerequisites for updating selected Office's soft laws, its guidelines and instructions setting out the details of the exercise of its competence in the relevant areas. In addition to fining rules, the Office will also focus on the application of investigative tools stemming from the provisions of the Act on Protection of Competition. The Office presented the partial results of its activities in this area to the professional public at a conference organized by the Office and the University of Economics in Bratislava, and at the end of the year 2017 it invited the public to comment on the proposed revision of the procedure for setting fines. The Office intends to introduce the final document in the first half of the year 2018.

In the area raising the awareness of competition law and competition advocacy in 2017 the Office intensified its communication mainly with associations of undertakings in Slovakia. The set aims

- to raise the awareness of representatives of these interest groups and representatives of their members about the competition protection,
- to cooperate in creation and maintenance of competition environment in individual sectors of economy, namely by the form of active cooperation in the legislative process within the inter-ministry comment procedure,

the Office materialized into the form of several meetings and consultations as well as the active participation of its employees in professional conferences.

Office's analyses (e. g. of the ECS) certainly contributed to the development of awareness of the competition rules and its benefits to its participants, too. The Office also took advantage of the information acquired by its activity also in the context of its competition advocacy, by which it would like to contribute to taking into account the competition issues in optimizing and regulating in the area of the provision of health care.

In the planned creation of distant online learning tools (courses, check-lists, FAQs) helping to increase the availability of information on competition law for both undertakings and the public, the Office did not fulfill specific level of their deployment. In this area, therefore, the Office will intensify its activity in the year 2018.

In building the effective system of revealing and correct sanctioning for infringements of competition law and competition stimulating business environment, the Office was actively **developing the cooperation with other central state administration bodies**, mainly particular supervisory bodies and regulators in particular sectors of the economy, namely by the form of:

- strengthening the principles of healthy competition by increased activity in the inter-ministry comment procedure,
- introducing control mechanisms within sectors prone to applying agreements restricting competition by the undertakings through intensified communication with the sectors concerned, in particular in the case of identifying system failures,
- active participation in the implementation of liberalization rules on historically long-term monopolized and regulated markets and the subsequent monitoring of the development of the affected areas of the economy and
- proposing remedy and preventive measures.

The Office is convinced that the cooperation agreements prepared in 2017 and concluded in the ongoing period will help to fulfill the tasks more efficiently.

The aim of the Office in the course of the current year will be the further **development of the successfully established cooperation with selected faculties** of the University of Economics in Bratislava and the **opening of cooperation with technically oriented educational entities**, especially in the field of information technologies and information systems.

On the basis of the memoranda on cooperation in the area of competition law concluded between the Office and the Faculty of Law of the Comenius University in Bratislava and the Faculty of Law of the Trnava University of Trnava, the Office continues holding students internships and, in the current period, the Office plans to further intensify and expand opportunities for students at all levels of education.

AREA OF STATE AID

Within the medium-term objectives, the Office has set several main tasks for the year 2017 and for the current year in the area of state aid.

The Office intends to continue **raising the awareness of state aid rules** at all levels of state administration, with particular emphasis on the level of local state administration, cities and municipalities, in the year 2018 mainly through:

- regular updating the website www.statnapomoc.sk, including the new section „Self-government“;
- regular updating the network of contact persons (also on the basis of own initiative) and using this tool for sending topical information on the area of state aid,
- preparing methodological guideline for cities, municipalities and self-government,
- preparing the searches of the selected decision of the European Commission and sending them to providers.

The task to raise awareness through the regularly updated website www.statnapomoc.sk was also set for the year 2017. At the website, a total of 96 information was published in the year 2017. Out of this figure, 25 information concerned state aid schemes, including state aid schemes as amended, 25 information concerned de minimis aid schemes, including de minimis aid schemes as amended, 8 information concerned the legislation and methodological guidelines, 23 information published on the website concerned news related to the area of state aid and 15 information were on the basic rate for setting the reference and discount rates, the state aid report as well as the edited or updated information at the website.

In accordance with the plan of tasks in 2017, the network of contact persons was continuously updated, namely on the basis of current contact details from the aid providers. At the same time, it was used as a communication tool in the area of state aid, e.g. for sending information on each update on the website.

The methodological guideline for cities, municipalities and local authorities, the preparation of which the Office included in its plan of main tasks for the year 2017, has currently been prepared from the side of the Division of State Aid. The Office organized a training focused on the specific needs of self-governing regions and it actively cooperated with selected self-governing regions in assessing particular aid measures. In the course of 2018, the trainings will be continued and will be organized directly in the regions (through the regional education agencies) so that the most of their representatives of cities, municipalities and self-governing regions can attend. Afterwards, the most frequent questions and topics of the trainings will be included in methodological guideline for cities, municipalities, and self-government.

The task of preparing the searches of selected European Commission's decisions, which was set for the year 2017, was fulfilled by the Office. For its own needs, it prepared the searches of selected European Commission's decisions (e. g. on no impact on trade or compensation for services of general economic interest). Through information processed from the State Aid Weekly e-News, it regularly informs aid providers about the latest decisions of the European Commission.

In the year 2018 the Office as an aid coordinator plans to **intensify cooperation with existing aid providers**, focusing on the application of state aid rules in practice (e. g. by the form of trainings and workshops or methodological guidelines of the Office for aid providers) and monitoring aid granted (e. g. through coordination meetings). As a part of this task it plans to:

- organize working meetings with aid providers focused on specific or planned aid measures,
- organize trainings for providers of state aid and de minimis aid at central level as well as at the level of cities, municipalities and self-governing regions (directly in regions),
- cooperate with the Government Office of the SR in educating administrative capacities in the area of state aid and with the Ministry of Finance of the SR in educating auditors.

In 2017, the task associated with intensifying cooperation with existing aid providers was met as follows:

- In the course of the year 2017, the Office organized 69 meetings with aid providers or with aid scheme administrators. The subject of the meetings were the existing and planned aid measures proposed from the side of aid providers, the aim of which was to harmonize the measures with the rules for granting state aid or de minimis aid.
- In 2017 there were totally 12 training sessions organized by the Office for aid providers. The subject of the trainings were the basic concepts and procedural rules in the area of state aid, the state aid act as well as the work with the central registry (Information system for registering and monitoring aid - IS SEMP). It also cooperated with the Ministry of Finance of the SR in educating auditors (3 trainings).
- The cooperation of the Office with the Office of the Government of the Slovak Republic in 2017 took place in educating administrative capacities in the area of state aid - two training sessions were carried out in total. In addition to general issues in the area of state aid, the subject of trainings included specific questions from aid providers.
- Information on the results of the European Commission's monitoring of state aid schemes was provided to aid providers. The Office is the member of the working group of the Member States and of the European Commission and on its ground the European Commission regularly reports on the results of monitoring state aid schemes. Aid providers are informed about the results of the aid schemes monitoring, in particular through comments on the measures of state aid (ad hoc aid, aid schemes) as well as during working meetings.

Within its own initiative, the Office intends to **focus its activities on legislative/non-legislative acts, within which the aid could be granted or on potential aid providers**. This includes

- continuation of the Office's activities in areas that are the subject to new obligations under the Act No. 358/2015 Coll. on adjustment of certain relations in state aid and de minimis aid and on amendments and supplements to certain acts (the State Aid Act) (e.g. the supplements to contracts in the public interest in road passenger transport) and also
- continuation of the Office's activities related to the activity of cities, municipalities and self-governing regions through which state or de minimis aid may be granted (e.g. handling the property by the virtue of worthy special consideration).

In connection with the Office's initiative to focus its activities on the aforementioned legislative/non-legislative acts, the Office realised in 2017 the following:

- The Office intensively cooperated with self-governing region, which wished to prolong the validity contracts in the public interest in road passenger transport with two carriers in the form of supplements so that their provisions were in line with the relevant legislation in this area.
- Within its work, it also dealt with the specific status of cities, municipalities and self-governing regions as aid providers, either in the framework of methodological guidelines (a total of 17 % of responses through the info address) or in the framework of training focused on this area. The Office also assessed specific measures by the side of self-governing regions - de minimis aid schemes as well as ad hoc aid measures. The Office devoted special attention also to proposals of measures by the sides of cities and municipalities in the framework of the examination of applications for regional contributions to support the least developed districts (the Office assessed 34

applications for regional contributions altogether). On the website www.statnapomoc.sk was set up a separate section „Self-Government“, where documents related to granting aid at this level have been published and will be published in the future. Aid providers were informed about the establishment of the new section through the network of contact persons.

Last but not least, it plans to **develop cooperation in the area of state aid with partner institutions in other EU member states**. It will strive to develop cooperation with the Office for the Protection of Competition in Brno in the area of state aid (mainly with the focus on aid for sport clubs, services of general economic interest and administrative proceedings concerning the imposition of fines for non-compliance with the obligations of aid providers).

Already in the plan of main tasks for 2017, the Office set the establishment of cooperation with the Office for the Protection of Competition in Brno in the area of state aid. Communication with the Office for the Protection of Competition was ongoing at working level. In May 2017, selected employees of the Antimonopoly Office of the SR participated in the conference of the Office for the Protection of Competition in Brno and the Director of the Division of State Aid presented mainly changes in area of state aid in the SR after 1 January 2016 and regional contributions aimed at supporting the development of at least developed districts.