

  
**COLLECTION OF LAWS**  
**OF THE SLOVAK REPUBLIC**

Volume 2021

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Promulgated on: 25 May 2021      Time version of the regulation effective from: 1 June 2021

The content of the document is legally binding.

**187**

**A C T**

of 11 May 2021

**on Protection of Competition and on Amendments to Certain Acts**

The National Council of the Slovak Republic has passed the following Act:

**Article I**

**§ 1**

**Purpose of the Act**

- (1) The purpose of this Act is to protect competition (hereinafter referred to as “competition”) from its restriction, to create conditions for its further development for the benefit of consumers and to regulate the scope of activities and competences of the Antimonopoly Office of the Slovak Republic (hereinafter referred to as “Office”) in supervising compliance with the provisions of this Act.
- (2) This Act shall, in particular, regulate the instruments for the protection and promotion of competition, forms of unlawful restriction of competition, control of concentrations, manner of appointment, dismissal and competences of the Chairman of the Office, the Vice-Chairman of the Office, the Council of the Antimonopoly Office of the Slovak Republic (hereinafter referred to as “Council”), powers, competences and procedure of the Office, sanctions for non-compliance with the provisions of this Act and the procedure for enforcing decisions issued in other Member States of the European Union.

**§ 2**

**Scope of the Act**

- (1) This Act shall apply to
  - a) undertakings under Section 3(1),
  - b) government authorities in the exercise of state administration, municipalities and regions in the exercise of self-government and the transferred state administration and interest self-governments in the transferred exercise of state administration,
  - c) any other persons as stipulated by this Act.
- (2) This Act shall apply to any activities and conduct of undertaking that restrict or may restrict competition, except for the restriction of competition by undertakings providing services in the public interest, if the application of this Act prevents them, de facto or de jure,

from fulfilling their tasks.

(3) Sections 16 to 63 shall also apply to the Office's procedure, where the Office assesses the activities and conduct of undertakings under a special regulation.<sup>1)</sup>

(4) This Act shall also apply to activities and conduct that have occurred in a foreign market, if they result or might result in the restriction of competition in the territory of the Slovak Republic.

(5) With the exception of Sections 19 to 30, this Act shall not apply to any restriction of competition, the effects of which are only apparent in a foreign market, unless otherwise provided by an international treaty which is binding for the Slovak Republic.

### § 3

#### Definition of Certain Terms

(1) For the purposes of this Act, an undertaking shall mean an entity that carries out an economic activity or if it concerns its activity and conduct that is or may be related to competition, regardless of its legal form, existence of legal personality, method of its financing, and whether its activity is aimed at profit making. Several natural or legal persons that are related to one another due to control relations or other contractual, property, personal or organisational relations may also be considered as one undertaking. An association of undertakings or associations of such associations shall also be considered an undertaking.

(2) For the purposes of this Act, an agreement between undertakings shall mean any oral or written consent of will of the parties thereto or any other consent of will derived from their actions.

(3) For the purposes of this Act, a concerted practice between undertakings shall mean any coordination of their activities which does not bear signs of an agreement between undertakings under paragraph 2 and cannot be characterised as naturally following the behaviour of another undertaking.

(4) For the purposes of this Act, a decision of an association of undertakings shall mean any action of the association's body or a recommendation of the association's body.

(5) For the purposes of this Act, an employee of an undertaking shall mean a natural person in an employment relationship or any other similar relationship with the undertaking,<sup>2)</sup> statutory body of an undertaking, member of a statutory body of an undertaking, control body of an undertaking, member of a control body of an undertaking or any other natural person, who carries out an activity for the undertaking or is engaged in its activities.

(6) For the purposes of this Act, an employee of the Office shall mean a natural person in a civil service employment relationship, employment relationship or other similar relationship with the Office<sup>2)</sup> or any other natural person entrusted with the performance of a task falling within the Office's competence.

(7) For the purposes of this Act, the relevant market shall mean the geographical and temporal concurrence of the supply of and demand for goods, products, performances, works or services (hereinafter referred to as "goods") considered by a consumer to be identical or interchangeable to satisfy certain needs.

(8) For the purposes of this Act, the relevant product market shall mean a relevant market, which includes identical or substitutable goods capable of satisfying certain needs of consumers, while the substitutability of the goods shall mainly be assessed in terms of their characteristics, price and purpose of use.

(9) For the purposes of this Act, the relevant geographical market shall mean a relevant market determined by a territory, in which the competition conditions are homogeneous to

such extent that this territory can be separated from other territories with different competition conditions.

(10) For the purposes of this Act, turnover shall mean revenue or any accounting equivalent of revenue generated by the sale of goods and other revenue related to the ordinary activities of an undertaking after deduction of discounts and indirect taxes and addition of financial aid under paragraph 11. In case of an association of undertakings, in addition to the sum under the first sentence, the sum of the received contributions of members of this association shall be added to the turnover thereof. Undertaking's turnover expressed in a foreign currency shall be converted into euros and the average of the reference exchange rates determined and announced by the European Central Bank or the National Bank of Slovakia<sup>3)</sup> valid for the relevant accounting period shall be used for the conversion of the foreign currency into euros.

(11) For the purposes of this Act, financial assistance provided to an undertaking shall mean any financial assistance provided to an undertaking from public funds relating to the activity carried out by the undertaking, which is reflected in the price of its goods.

(12) For the purposes of this Act, confidential information shall mean

- a) the information that is not a business secrets and that is not information protected under a special regulation, <sup>4)</sup> is available only to a limited group of persons and its disclosure could seriously harm the legally protected interests of the person who has provided it or of any other person,
- b) a statement by a party to the agreement restricting the competition submitted under the leniency programme and submission of a party to proceedings filed within the settlement negotiations.

(13) For the purposes of this Act, an office of another Member State shall mean a competition authority designated by a Member State of the European Union under a special regulation<sup>5)</sup> as the authority responsible for the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union, as amended.

(14) For the purposes of this Act, a consumer shall mean a person who is an existing or a potential, direct or an indirect user of the goods, including a person who uses the respective goods as an input, a distributor or an end consumer.

## **Forms of Unlawful Restriction of Competition**

### **§ 4**

#### **Agreement Restricting Competition**

(1) Agreements restricting competition shall mean agreements between undertakings, concerted practices of undertakings and decisions of associations of undertakings, which are intended to or may result in the restriction of competition. Agreements restricting competition shall be prohibited, unless otherwise provided by this Act.

(2) Agreements restricting competition shall not mean agreements between undertakings, concerted practices of undertakings and decisions of associations of undertakings with a negligible effect on competition. Agreements between undertakings, concerted practices of undertakings and decisions by associations of undertakings shall have a negligible effect on competition, if the market shares of the undertakings being parties to the agreements between the undertakings, concerted practices of undertakings or decisions of associations of undertakings do not exceed the thresholds specified by a generally binding legal regulation (Section 64(a)). Agreements between undertakings, concerted practices of undertakings and decisions of associations of undertakings aimed at restricting competition shall not have a negligible effect on competition.

(3) Prohibited shall be agreement restricting competition which, in particular, consists in

- a) any direct or indirect fixing of prices of goods or any other trading conditions,
- b) any commitment to limit or control production, markets, technical development or investments,
- c) any share markets or sources of supply,
- d) any commitment by the parties to the agreement that dissimilar conditions relating to equivalent or comparable transactions will be applied to individual undertakings, which will or may place these undertakings at a competitive disadvantage
- e) any conditions stipulating that the conclusion of contracts will require the contracting parties to accept further commitments which, by their nature or according to commercial usage, have no connection with the subject of these contracts, or
- f) any coordination of undertakings in public procurement, in a public tender or another similar tender, in connection with public procurement, public tender or another similar tender.

(4) The prohibition under paragraph 1 shall not apply to an agreement restricting competition, which

- a) contributes to the improvement of production or distribution of goods or to the promotion of technical or economic development, while providing the consumer with a fair share in the benefits resulting therefrom,
- b) does not impose on the parties to an agreement restricting competition such limitations, which are not indispensable to the attainment of these objectives under letter (a), and
- c) does not afford the parties to an agreement restricting competition to eliminate the competition with regard to a substantial part of the goods in question in the relevant market.

(5) The prohibition under paragraph 1 shall not apply to a group of agreements restricting competition, which cannot affect trade between the Member States of the European Union, which is intended to or may result in the restriction of Competition in the Slovak Republic and fulfil the conditions for an exemption from the prohibition under special regulations<sup>6)</sup> (hereinafter referred to as “block exemption”); Section 34 shall not be affected thereby.

(6) If a party to the proceedings states that its conduct or activity is covered by paragraph 2, 4 or 5, it shall be obliged to prove this fact to the Office.

(7) If the reason for prohibition under paragraph 1 only relates to a part of the agreement between undertakings or to a part of a decision of an association of undertakings, only that part shall be prohibited if it follows from the content of that agreement or decision that such part may be separated from the remaining content.

## **§ 5**

### **Abuse of Dominant Position**

- (1) Abuse of a dominant position in the relevant market shall be prohibited.
- (2) The dominant position in the relevant market is held by an undertaking or by several undertakings, which are not exposed to significant competition and which, due to their economic strength, can behave independently.
- (3) Abuse of a dominant position in the relevant market shall, in particular, mean
  - a) any direct or indirect imposing of unfair prices or other unfair trading conditions,

- b) any limitation of the production, sales or technical development of goods to the prejudice of consumers,
- c) any application of dissimilar conditions to equivalent or comparable transactions towards individual undertakings, through which the respective undertakings are or may be placed at competitive disadvantage, or
- d) binding the conclusion of a contract subject to accepting an obligation, that the other contracting party accepts further commitments which, by their nature or according to commercial usage, have no connection with the subject of such a contract.

## **§ 6**

### **Other Forms of Unlawful Restriction of Competition**

Government authority in the exercise of state administration, municipality and region in the exercise of self-government and in the transferred exercise of state administration and interest self-government in the transferred exercise of state administration shall not restrict competition by obvious support which advantages a particular undertaking or in other manner.

### **Concentration**

## **§ 7**

(1) Concentration shall mean the process of economic combining of undertakings on a lasting basis through

- a) a merger or an amalgamation of two or more independent undertakings, or
- b) an acquisition of control over an undertaking; an acquisition of control over an undertaking shall mean the acquisition of direct or indirect control by one undertaking or several undertakings over any other undertaking(s), part of it or over more or part of any other undertaking(s) or their parts.

(2) Concentration under paragraph 1(a) shall mean a merger or an amalgamation under the Commercial Code, as well as a merger or an amalgamation, where undertakings merge economically while maintaining their legal independence, especially if there is joint economic management.

(3) Part of the undertaking under paragraph 1(b) shall mean assets that can be used to generate turnover.

(4) Control under paragraph 1(b) shall mean a possibility to exercise decisive influence over the activity of the undertaking, in particular through

- a) ownership right or any other rights,
- b) rights, contracts or other facts allowing the exercise of decisive influence over the composition, voting or decisions of the undertaking's bodies.

(5) Concentration under paragraph 1(b) shall also mean the creation of a joint venture jointly controlled by two or more undertakings, if such a joint venture performs all functions of an autonomous economic entity.

(6) In the proceedings on concentration resulting in the acquisition of control by several undertakings under paragraph 1(b), which is intended or may lead to coordination of competitive behaviour of undertakings, the Office shall assess such concentration under Section 4.

(7) Concentration shall not be deemed to have taken place, where

- a) banks, branches of foreign banks, insurance companies or other financial institutions, the regular activities of which include trading in securities on their own account or on the account of others, temporarily acquire securities with a view to reselling them, which enables them to acquire control over another undertaking or part thereof, if they do not exercise voting and other rights in order to influence the competitive behaviour of that undertaking or if they only exercise these voting rights for the purpose of preparing the sale of the undertaking or part thereof or the sale of securities, provided that this sale is effected within one year of the date of acquisition of the securities and the control is lost by that sale; based on an undertaking's request, the Office may extend the one-year period if it is proven that the sale of securities was not possible within such period,
- b) temporary acquisition of control over another undertaking ensues from special regulations.<sup>7)</sup>

## § 8

(1) Concentration shall be subject to control by the Office, if

- a) the combined aggregate turnover of the undertakings concerned is at least EUR 46,000,000 for the accounting period preceding the concentration in the Slovak Republic and at least two of the undertakings concerned generated a turnover of at least EUR 14,000,000 each in the Slovak Republic for the accounting period preceding the concentration, or
- b) the aggregate turnover generated for the accounting period preceding the concentration in the Slovak Republic, in case of concentration under
  - 1. Section 7(1)(a), by at least one of the undertakings concerned is at least EUR 14,000,000 and, at the same time, the worldwide aggregate turnover for the accounting period preceding the concentration generated by another undertaking concerned is at least EUR 46,000,000, or
  - 2. Section 7(1)(b), by at least one of the undertakings concerned, over which or part of which the control shall be acquired, is at least EUR 14,000,000 and, at the same time, the worldwide aggregate turnover for the accounting period preceding the concentration generated by another undertaking concerned is at least EUR 46,000,000.

(2) For the purposes of this Act, the aggregate turnover shall be a sum of turnovers of

- a) the undertaking concerned,
- b) the undertaking, in which the undertaking concerned directly or indirectly
  - 1. holds more than half of the share capital,
  - 2. is entitled to exercise more than half of the voting rights,
  - 3. has the right to appoint more than half of the members of the undertaking's bodies, or
  - 4. has the right to manage the undertaking,
- c) the undertaking having the rights referred to in letter (b) in the undertaking concerned,
- d) the undertaking, in which the undertaking referred to in letter (c) has the rights referred to in letter (b),
- e) the undertaking, in which two or more undertakings referred to in letters (a) to (d) have joint rights referred to in letter (b).

(3) The aggregate turnover of the undertaking concerned shall not include the turnover

between the undertakings under paragraph 2. Turnover of the undertaking, in which the undertakings concerned or undertakings under paragraph 2(b), (c), (d) or (e) have joint rights referred to in paragraph 2(b), shall equally be shared between the undertakings concerned. Turnover of the undertaking, in which the undertaking concerned or the undertaking under paragraph 2(b), (c), (d) or (e) has the right referred to in paragraph 2 (b) point four, together with another undertaking, shall equally be shared between the undertaking concerned and the undertaking, with which it shares such right. In case of concentration under Section 7(1)(b), account shall be taken of the turnover and share of the undertaking or those parts, which are the subject of the concentration.

(4) Two or more concentrations, which take place within two years between the same undertakings and are jointly subject to the control referred to in paragraph 1, shall be considered one concentration, which arose on the date of the last concentration.

(5) If the accounting period preceding the concentration includes, even partially, the period under Section 49(1) and the undertakings concerned did not achieve the aggregate turnovers under paragraph 1, the accounting period immediately preceding the accounting period not affected by the period under Section 49(1) shall be considered decisive for the notification of the concentration.

## § 9

### Notification of Concentration

(1) Any concentration subject to control by the Office under Section 8(1) must be notified to the Office before the rights and obligations resulting therefrom are executed and after

- a) the conclusion of a contract,
- b) the acceptance of a bid in a public tender is announced,
- c) a state authority's decision is delivered to an undertaking, <sup>8)</sup>
- d) the announcement of an acquisition bid, <sup>9)</sup>
- e) the day when the European Commission (hereinafter referred to as "Commission") informed an undertaking that the Office would deal with the matter, or
- f) the day when another fact occurred based on which concentration arose.

(2) Notification of concentration shall jointly be submitted by the undertakings concerned in case of a merger or an amalgamation of two or more independent undertakings; in case of public tender, the notification shall be submitted by the selected bidder; in case of a state authority's decision on a merger or an amalgamation of undertakings pursuant to a special regulation <sup>8)</sup>, jointly by the undertakings concerned; in case of acquisition bid <sup>9)</sup>, by the proposer of the acquisition bid; otherwise by the undertaking(s) that acquire control over another undertaking.

(3) The Office may, upon the justified proposal of the undertaking, reduce the scope of the requirements required by a generally binding legal regulation (Section 64(b)). If the Office finds during the proceedings that the reduced scope of documents is not sufficient for a decision on the case, it may request the party to proceedings to supplement them; the Office shall request the party to proceedings to supplement the supporting documents whenever an assessment of the concentration is not possible without such supplement. The limitation period under Section 35 shall not run from the date of sending of the request to supplement the notification of concentration until the submission thereof.

(4) The notification of concentration may also be submitted to the Office in the form of an intent before the conclusion of the contract or before another legal event occurs which constitutes a merger, fusion, acquisition of control or a creation of a joint venture, provided

that the result is a concentration which is subject to control by the Office under Section 8(1). The notification of concentration must also contain a written statement of reasons and written supporting documents or other written information demonstrating the facts relevant to the concentration. The provisions of this Act relating to the concentration, with the exemption of paragraph 1, shall also apply to any intended concentration.

## § 10

### **Prohibition of Exercise of Rights and Obligations and Exemption**

(1) An undertaking may not exercise the rights and obligations arising from the concentration until the decision on the concentration becomes final.

(2) The prohibition under paragraph 1 shall not affect the right of the successful tenderer to implement its bid, if it does not exercise the voting right, which it has acquired in connection with the implementation of the bid.

(3) The prohibition under paragraph 1 shall not affect the implementation of a takeover bid or the execution of several transactions with securities in the securities market, <sup>10)</sup> by which control under Section 7(1)(b) is acquired from different entities, if

a) such concentration is immediately notified to the Office under Section 9(1) and

b) the undertaking acquiring control does not exercise the voting rights attached to those securities or only does so to maintain the full value of those investments, subject to an exemption granted by the Office pursuant to paragraph 4.

(4) Upon a proposal of the undertaking, the Office may grant an exemption from the prohibition under paragraph 1, if there are serious grounds for doing so. The proposal for granting of an exemption shall include the reasons for which the undertaking requests the exemption, the extent to which the undertaking requests the granting of the exemption and the information and supporting documents necessary to assess the exemption with regard to the effects on competition. The Office may request further information from the undertaking in order to evaluate the possibility of granting of an exemption.

(5) When deciding on an exemption, the Office shall consider the effects of the discontinuation of the concentration on the undertakings concerned and on third parties and the threat to competition posed by the concentration.

(6) The Office may make the granting of an exemption subject to conditions and obligations in order to ensure effective competition.

## § 11

### **Assessment of Concentration**

(1) The Office shall decide to approve the concentration if the concentration does not significantly impede effective competition in the relevant market, in particular as a result of the creation or strengthening of a dominant position.

(2) The Office shall decide to approve the concentration under Section 7(6), if the concentration is in accordance with paragraph 1 and the coordination of competitive behaviour is not prohibited under Section 4(1).

(3) The Office shall decide to approve the concentration, if the condition imposed in the decision ensures the compliance of the concentration with paragraph 1 or paragraph 2. In its decision, the Office may impose an obligation related to the condition, in particular to ensure the fulfilment of the imposed condition, to achieve its purpose or to control its fulfilment.

(4) The Office shall request the party to proceedings in writing to submit a draft condition and the obligation related thereto (hereinafter referred to as “draft condition”) under

paragraph 3, if the concentration raises concerns that it does not comply with paragraph 1 or paragraph 2, which the Office shall justify in the request. The Office shall not be bound by the draft condition.

(5) In the decision under paragraph 3, the Office may decide that a party to proceedings shall not exercise the rights and obligations arising from the concentration until the imposed condition is met.

(6) The Office shall prohibit any concentration that would significantly impede effective competition in the relevant market, in particular as a result of the creation or strengthening of a dominant position.

(7) The Office shall prohibit any concentration under Section 7(6), if the concentration would significantly impede effective competition in the relevant market, in particular as a result of the creation or strengthening of a dominant position, or if the coordination of competitive behaviour would be contrary to Section 4(1).

(8) A decision pursuant to paragraph 1, 2 or paragraph 3 shall also apply to a restriction of competition which is directly related to the concentration or is necessary for its implementation.

## **Office**

### **§ 12**

(1) When exercising its powers under this Act, the Office shall act impartially and independently. Government authorities, local self-government authorities, other public authorities and other persons shall not influence the Office in the exercise of its powers under this Act.

(2) The Office shall exercise the competence in the field of protection and support of competition entrusted to the competition authority by special regulations.<sup>11)</sup>

(3) The Office may also establish permanent workplaces or temporary workplaces outside its seat.

(4) The Office shall submit a report on financing and its activities to the Government of the Slovak Republic

a) once a year,

b) whenever the Government of the Slovak Republic requests so.

### **§ 13**

#### **Chairman of Office and Vice-Chairman of Office**

(1) The Chairman of the Office shall manage the Office and represent the Office externally.

(2) The Government of the Slovak Republic shall publish a call for candidates for the Chairman of the Office no later than four months before the expiry of the term of office of the acting Chairman of the Office or within 15 days from the termination of the term of office of the Chairman of the Office in a different way than expiration of the term of office on the website of the Government Office of the Slovak Republic and in at least one newspaper within national periodicals. Members of the National Council of the Slovak Republic, academic institutions or scientific institutions may also submit proposals for candidates for the Chairman of the Office within the determined limitation period. The Government of the Slovak Republic shall submit to the President of the Slovak Republic a proposal for the appointment of the Chairman of the Office no later than 30 days before the expiry of the term of office of the acting Chairman of

the Office. Further details on the method of selecting the candidate for the Chairman of the Office will be determined by a resolution of the Government of the Slovak Republic.

(3) The term of office of the Chairman of the Office shall be five years. The same person may be appointed for the Chairman of the Office for a maximum of two consecutive terms of office.

(4) A citizen of the Slovak Republic who has a master's university degree, has reached the age of 30, has full legal capacity and possesses integrity may be appointed for the Chairman of the Office.

(5) For the purposes of this Act, a person who has not been finally convicted of an intentional criminal offence or a criminal offence committed with negligence directly related to the performance of office shall be considered to possess integrity. Integrity shall be proven by an extract from the criminal record. For the purpose of proving integrity, the applicant for the position of the Chairman of the Office shall provide the Government Office of the Slovak Republic with the data necessary to request an extract from the criminal record. The Government Office of the Slovak Republic shall immediately send the data under the third sentence to the General Prosecutor's Office of the Slovak Republic in electronic form.

(6) The performance of the function of the Chairman of the Office shall be incompatible with the performance of office and activities pursuant to a special regulation. <sup>12)</sup>

(7) The performance of the function of the Chairman of the Office shall end

- a) upon the expiry of the term of office,
- b) by resignation from the office by a written notification to the President of the Slovak Republic,
- c) by dismissal from the office,
- d) in the event of death or by being declared dead.

(8) After the termination of the term of office of the Chairman of the Office under paragraph 7(a), the Chairman of the Office shall remain in office until a new Chairman of the Office is appointed.

(9) After the resignation under paragraph 7(b), the Chairman of the Office shall remain in office until a new Chairman of the Office is appointed, but not longer than for two months after the resignation.

(10) The President of the Slovak Republic shall remove the Chairman of the Office, if

- a) the Chairman has been convicted by a final court ruling of an intentional criminal offence or a crime committed with negligence directly related to the performance of office,
- b) the legal capacity of the Chairman has been limited by a final court ruling,
- c) the Chairman has begun to perform a post or an activity incompatible with the post of the Chairman of the Office under paragraph 6,
- d) the Chairman has not performed the post for a period exceeding six consecutive months due to their own fault or if their health condition prevents them from doing so, or
- e) the Chairman has ceased to be eligible for the appointment.

(11) The Vice-Chairman of the Office shall take the place of the Chairman of the Office in

his/her absence or, if the post of the Chairman of the Office is vacant. In addition, the Vice-Chairman of the Office shall perform other tasks assigned to him/her by the Chairman of the Office. The Vice-Chairman of the Office shall be appointed and recalled by the Government of the Slovak Republic upon the proposal of the Chairman of the Office. A special regulation applies to the post of the Vice-Chairman of the Office.<sup>12)</sup>

(12) The Chairman of the Office shall publish a call for candidates for the Vice-Chairman of the Office no later than four months before the expiry of the term of office of the acting Vice-Chairman of the Office or within 15 days from the termination of the term of office of the Vice-Chairman of the Office in a different way than expiration of the term of office on the website of the Office and in at least one newspaper within national periodicals. Members of the National Council of the Slovak Republic, academic institutions and scientific institutions may also submit proposals for candidates for the Vice-Chairman of the Office within the determined limitation period. The Chairman of the Office shall submit to the Government of the Slovak Republic a proposal for the appointment of the Vice-Chairman of the Office no later than two months before the expiry of the term of office of the acting Vice-Chairman of the Office.

(13) Paragraphs 3 to 6 shall equally apply to the exercise of the function of the Vice-Chairman of the Office.

(14) The performance of the function of the Vice-Chairman of the Office shall end

- a) upon the expiry of the term of office,
- b) by resignation from the office,
- c) by dismissal from the office,
- d) in the event of death or by being declared dead.

(15) After the end of function of the Vice-Chairman of the Office under paragraph 14(a), the Vice-Chairman of the Office shall remain in office until a new Vice-Chairman of the Office is appointed.

(16) The Vice-Chairman of the Office may, under paragraph 14(b), resign from the office by giving a written notice to the Chairman of the Office. After resignation from the office, the Vice-Chairman of the Office shall remain in office until a new Vice-Chairman of the Office is appointed, but not longer than six months after the resignation from the office.

(17) The Government of the Slovak Republic shall remove the Vice-Chairman of the Office, if

- a) the Vice-Chairman has been convicted by a final court ruling of an intentional criminal offence or a crime committed with negligence directly related to the performance of office,
- b) the legal capacity of the Vice-Chairman has been limited by a final court ruling,
- c) the Vice-Chairman has begun to perform a post or an activity incompatible with the post of the Vice-Chairman of the Office under paragraph 13,
- d) the Vice-Chairman has not performed the post for a period exceeding six consecutive months due to their own fault or if their health condition prevents them from doing so, or
- e) the Vice-Chairman has ceased to be eligible for the appointment.

**§ 14**  
**Council**

(1) The Council is a second-instance body of the Office, which decides on appeals against a decision of the Office issued in first-instance proceedings pursuant to this Act. The Council shall consist of the Chairman of the Council and six members of the Council. The Chairman of the Office shall, at the same time, be the Chairman of the Council.

(2) A member of the Council may not be a person in an employment relationship or in a similar employment relationship with the Office. A member of the Council shall be entitled to remuneration for the performance of office of a member of the Council.

(3) Members of the Council shall be appointed and removed by the Government of the Slovak Republic upon the proposal of the Chairman of the Office.

(4) The term of office of the members of the Council shall be five years. The members of the Council shall be appointed so that the term of office of not more than three of them expires in one calendar year.

(5) If the term of office of a member of the Council ends before the expiry of the term of office, a new member of the Council may only be appointed for the remaining period of that term of office.

(6) The Chairman of the Office shall submit to the Government of the Slovak Republic the proposals for at least three candidates for the position of each member of the Council, no later than three months before the expiry of their term of office. The Government of the Slovak Republic shall appoint members of the Council within two months of receiving the list of candidates. The newly-appointed members of the Council shall take up their posts on the day following the expiry of the term of office of the previously appointed members of the Council.

(7) A citizen of the Slovak Republic who has a master's university degree, has full legal capacity and possesses integrity may be appointed for a member of the Council. Section 13(5) shall equally apply to the performance of office of a member of the Council.

(8) At least two members of the Council must have a master's university degree in law and at least two members of the Council must have a master's university degree in economics.

(9) The performance of office of a member of the Council is incompatible with the performance of a function in a political party or in a political movement. A member of the Council shall not be engaged in any paid or unpaid activities that could establish a conflict of interest.

(10) The Council shall elect and remove the Vice-Chairman of the Council from among its members by a simple majority of the members present. If the Vice-Chairman of the Council is not elected under the first sentence, the member of the Council with the highest number of votes shall become the Vice-Chairman of the Council. In case of tied votes, the Chairman of the Council shall make the decision.

(11) The meeting of the Council shall be convened and chaired by the Chairman of the Council; in their absence or, if the post of the Chairman of the Office is vacant, by the Vice-Chairman of the Council.

(12) The term of office of a member of the Council shall end

- a) upon the expiry of the term of office,
- b) by resignation from the office,
- c) by dismissal from the office,

d) in the event of death or by being declared dead.

(13) The resignation of a member of the Council from the office shall be effective upon delivery of a written notification to the Prime Minister of the Slovak Republic.

(14) After the end of function of a member of the Council of the Office under paragraph 12(a), the original member of the Council of the Office perform the duties until a new member of the Council of the Office is appointed. After the resignation from the office under paragraph 12(b), the original member of the Council of the Office shall remain in office until a new member of the Council of the Office is appointed, but not longer than for two months after the resignation from the office.

(15) A member of the Council shall be removed by the Government of the Slovak Republic upon the proposal of the Chairman of the Office, if

- a) the member of the Council has been convicted by a final court ruling of an intentional criminal offence or a crime committed with negligence directly related to the performance of office,
- b) the legal capacity of the member of the Council has been limited by a final court ruling,
- c) the member of the Council has not performed office for a period exceeding four consecutive months, or
- d) the member of the Council has ceased to be eligible for the appointment.

(16) If the term of office of a member of the Council who is also its Vice-Chairman ends, the Council shall elect a new Vice-Chairman of the Board after the newly-appointed member of the Council has taken up their post.

## **§ 15**

### **Conflict of Interest after the Termination of Term of Office**

The Chairman of the Office, the Vice-Chairman of the Office and a member of the Council may not, for a period of one year after the termination of their term of office, take over the representation of a legal person or a natural person – undertaking or provide consultations to a legal person or a natural person – undertaking in a matter, in respect of which a decision has been issued on an agreement restricting competition, abuse of a dominant position, or a sanction has been imposed during their term of office, or in respect of which, on the day of the end of their office, proceedings were initiated on the concentration assessed under Section 35(2).

## **§ 16**

### **Competences of Office**

- (1) The Office shall
  - a) conduct investigations in the individual economic sectors in order to obtain information on the state of competition in the sector,
  - b) conduct investigations in order to determine whether there is a reason to commence the proceedings under this Act,
  - c) decide that the conduct or activity of an undertaking is prohibited under this Act or under Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, shall decide on the imposition of an obligation to refrain from such conduct and on the obligation to remove unlawful state,

- d) impose
  1. interim measures under Section 31,
  2. measures under Section 32 or Section 40,
  3. the fulfilment of commitments under Section 33,
- e) issue decisions that government authorities in the exercise of state administration, municipalities or regions in the exercise of self-government and in the transferred exercise of state administration or interest self-governments in the transferred exercise of state administration have violated this Act, shall decide on the imposition of the obligation to refrain from such conduct and on the obligation to remove unlawful state,
- f) proceed in and decide on matters of competition protection arising from the provisions of this Act or from special regulations, <sup>11)</sup>
- g) issue concentration decisions,
- h) issue opinions under a special regulation, <sup>13)</sup>
- i) monitor compliance with decisions issued in proceedings before the Office,
- j) determine, publish and update its prioritisation policy on the Office's website,
- k) ensure international relations in the field of competition protection at the level of competition authorities,
- l) ensure the exchange of information at the request of an office of another Member State under a special regulation<sup>1)</sup> and shall perform investigative acts and other legal aid acts at the request of an office of another Member State under Section 16(8), (9) or (10) or Sections 58 to 62, under a special regulation<sup>1)</sup> or an international treaty which is binding for the Slovak Republic,
- m) facilitate contact with an office of another Member State and shall be the contact point for law enforcement authorities of another Member State for the purpose of protecting an employee or former employee of an undertaking, that has requested the non-imposition of a fine under Section 51(1) prior to a sanction, which may be imposed on that natural person in criminal proceedings for infringements of the national rules of that Member State,
- n) submit a proposal to the court to issue a consent to the inspection for the Commission for the performance of its activities under a special regulation, <sup>11)</sup>
- o) submit a proposal to the court to issue a consent to the inspection for the performance of its activities under Section 17(8),
- p) provide an opinion to the court on the request for the submission of evidence from its file, on the adequacy of such request, on the disclosure of such evidence in court proceedings for damages under a special regulation<sup>14)</sup> and, within its scope of powers, shall provide further assistance to the court in proceedings for damages, if it considers it appropriate,
- q) issue approval of the person of the trustee or shall designate the person of the trustee pursuant to Section 32(5), Section 33(4) or Section 37(6),
- r) propose other measures to protect and promote competition.

(2) The Office may refuse a complaint, which does not constitute a priority in the enforcement of the law under paragraph 1(j) and Section 1(1). The Office shall justify the refusal with regard to the current prioritisation policy.

(3) In order to perform tasks under this Act or under a special regulation<sup>1)</sup>, the Office shall be entitled to request the undertaking, any other legal entity or any other natural person to provide any information and documents necessary for the Office's activities, in any form, to make copies and extracts therefrom or to request their sworn translations into Slovak. An undertaking or a person pursuant to the first sentence shall be obliged to provide such information and documents to the Office free of charge within the limitation period specified by the Office; in case of classified information, in compliance with the conditions stipulated by a special regulation.<sup>15)</sup>

(4) The Office shall be entitled to request the submission of an interview in connection with the performance of tasks under this Act and under a special regulation<sup>1)</sup> from an undertaking, a legal entity or natural person, if it has or may have any information necessary for the Office's activities. An undertaking or a legal entity shall be obliged to ensure that their designated employee appears for an interview. The Office may make an audio recording of the explanation provided.

(5) To the extent necessary for the performance of its tasks under this Act or a special regulation<sup>1)</sup>, the Office shall be entitled to request Police Force bodies or law enforcement authorities for information obtained under special regulations, inspect the files, make extracts and notes therefrom and make copies of files and their parts at its own expense and use them for the purposes under this Act or a special regulation.<sup>1)</sup> The Police Force bodies and law enforcement authorities shall not be obliged to provide the Office with information and access to the files, if, by providing them or by accessing the file, the purpose of the criminal proceedings may be endangered or frustrated, or if this could endanger or frustrate the tasks under a special regulation.<sup>16)</sup> The provision of the second sentence shall not affect the obligation of the law enforcement authorities to comply with the Criminal Procedure Code.<sup>17)</sup>

(6) The provisions of paragraphs 3 and 4 shall also apply to requests for information from public authorities other than those referred to in paragraph 5. The Office shall have free access to registers maintained and administered by public authorities and the right to be provided with information and extracts therefrom free of charge, even if the operation of the registers is entrusted to another legal or natural person, in matters where the Office conducts investigations under paragraph 1(a) or (b) or conducts proceedings or in matters concerning undertakings in a particular investigation or proceeding; this shall not apply to intelligence services. The provision of information by authorities under paragraph 5 and access to registers of authorities under paragraph 5 shall be subject to the restrictions under paragraph 5.

(7) The operator of an electronic means pursuant to the legislation on public procurement, through which the public procurement is carried out, is obliged, at the request of the Office, to make available all the requested information or documents which concern the public procurement and are inserted in the electronic means operated thereby, in the manner, within the period and to the extent specified in the request.

(8) Persons designated by an office of another Member State shall also be entitled to participate in and actively cooperate during investigative and other legal aid acts under paragraph 1(l).

(9) The Office conducts investigative and other legal aid acts under paragraph 1(l) also in order to determine whether an undertaking infringed its obligation in the investigative act, performed by an office of another Member State, or any obligation imposed on it by a decision of an office of another Member State.

(10) Under an international treaty which is binding for the Slovak Republic or under a consent of the person who provided the information or to whom the information relates, the

Office shall provide the competition authority with the information necessary to apply the competition rules of these states, including information protected under Sections 54 to 57 or under special regulations.<sup>4)</sup> The Office may only provide the information according to the first sentence if reciprocity is ensured.

(11) In the performance of the activities of the Office in the area of protection and promotion of competition, such as agreements restricting competition, abuse of a dominant position, unlawful restrictions of competition by public authorities, local and interest self-government authorities and the control of concentrations, the General Data Protection Regulation<sup>18)</sup> shall not apply if its application by the Office could make it impossible or seriously difficult for it to achieve its objectives in the performance of supervision and control. Failure to perform the activities referred to in the first sentence shall only be possible until the reasons, which prevented the performance thereof, cease to exist. If the Office acts in accordance with the first sentence, it shall notify the data subject in writing of the refusal of rights under the General Data Protection Regulation and the reasons for such refusal, this shall not apply if the provision of such information would make it impossible or seriously difficult to achieve the objectives under this Act. The Office shall document the grounds for refusal of the right of the data subject to access personal data under the General Data Protection Regulation. The procedure of the Office under the first sentence and restriction of the right of access under the General Data Protection Regulation shall, in particular, apply to categories of personal data such as name, surname, e-mail address, contact details or other information obtained in the activities of the Office under the first sentence.

(12) Contracting authorities and contracting entities may ask the Office for consultation, if they have a reason to suspect that the tenderer or candidate has concluded an agreement restricting competition in the procurement procedure. The Office shall assess the request of the contracting authorities or contracting entities for consultation with regard to the priorities determined under paragraph 1(j).

## **§ 17** **Inspection**

(1) In the performance of tasks under this Act or under a special regulation<sup>1)</sup>, employees of the Office shall be entitled, pursuant to a written authorisation under paragraph 2 (hereinafter referred to as “authorisation”), to enter all premises and means of transport of the undertaking related to the activities or conduct of the undertaking in order to conduct an inspection. The procedure under paragraphs 8 to 10 shall not apply to an inspection under this provision.

(2) When conducting the investigation and the first-instance proceedings, employees of the Office shall be authorised by the Vice-Chairman of the Office to conduct the inspection; in proceedings before the Council, employees of the Office shall be authorised by the Chairman of the Council. If the Office cooperates in an inspection conducted by the Commission under a special regulation, <sup>1)</sup> the authorisation to conduct the inspection shall be signed by the Chairman of the Office. Employees of the Office shall be authorised by the Chairman of the Office to conduct the inspection. The authorisation shall contain

- a) the name, surname and position of the person issuing the authorisation,
- b) the identification of the undertaking, in the premises and means of transport of which the inspection is to be conducted,
- c) the timeframe of the inspection,
- d) the subject of the inspection,
- e) the name and surname of the employee of the Office authorised to conduct the inspection,

- f) the instruction on the rights and obligations of the undertaking,
- g) the signature of the person issuing the authorisation,
- h) the authorisation number and stamp of the Office.

(3) When conducting the inspection, employees of the Office shall identify themselves by the authorisation under paragraph 2, the copy of which they shall submit at the beginning of the inspection to the undertaking or to any employee of the undertaking, in the premises and means of transport of which the inspection is to be conducted.

(4) An employee of the Office shall draw up minutes of the inspection. By signing the minutes, the inspection is completed; this is without prejudice to the powers of the Office to investigate papers and supporting documents obtained during the inspection in the premises of the Office. The inspection is completed even if one of the persons present at the inspection refuses to sign the minutes; the reasons for the refusal shall be stated in the minutes. The Office may, for objective reasons, interrupt the inspection for as long as strictly necessary, even repeatedly.

(5) During the inspection, in order to obtain the information and supporting documents listed in Section 16(3) to (6), employees of the Office shall be entitled, and, in case of classified information, in compliance with the conditions stipulated by a special regulation, <sup>15)</sup>

- a) to seal the documents or media where the information is stored, seal the premises and the equipment thereof, as well as the means of transport, for the time and to the extent necessary to conduct the inspection,
- b) to take away the documents or media where the information is stored for the necessary time in order to make copies or access the information, if the Office is unable to access the information or make copies of the supporting documents or papers during the inspection, in particular for technical reasons,
- c) to gain access to the premises and means of transport of the undertaking, open enclosed premises and the equipment thereof, or otherwise to gain access to the supporting documents or media where the information is stored; in order to gain access, the Office shall be entitled to invite other persons qualified to provide for the overcoming of an obstacle,
- d) to gain access to all the information stored in any electronic form on the data medium of the undertaking or created in any electronic form by the undertaking or to which the undertaking has access in connection with its activities, including the information stored in any electronic form on the data medium of other entities, while the undertaking has access to them and uses them for its activities; in order to gain access to these media, the Office shall be entitled to invite other persons qualified to provide for such access, who, however, shall not thereby be entitled to access the information.

(6) Employees of the Office shall be entitled to make copies of any information in paper form, all computer data and supporting documents stored in any electronic form on a data carrier under paragraph 5(d).

(7) In order to conduct the inspection and during its performance, the undertaking shall be obliged to

- a) allow entry under paragraph 5(c),
- b) cooperate with the employees of the Office and provide the necessary assistance and enable the due conduct of the inspection,

- c) enable its employee to provide explanations and submit information and supporting documents necessary for the activities of the Office, regardless of the media where they are stored,
- d) ensure access to all supporting documents, information and data in electronic form,
- e) ensure that the seal under paragraph 5(a) is not broken.

(8) If there is a reasonable suspicion that, in the premises or means of transport of the undertaking, other than those referred to in paragraph 1, or in the private premises or private means of transport of the existing or former employee of the undertaking, there are supporting documents or papers related to the activity or conduct of the undertaking, based on which a restriction of competition can be demonstrated, the Office may conduct an inspection in these premises with the court's approval of the inspection issued on the proposal of the Office.<sup>19)</sup> The court shall deliver the court's approval of the inspection to the person to be inspected at the beginning of the inspection. If the person to be inspected is not present, the Office shall send the court's approval of the inspection by post within 24 hours of the inspection performance, together with a copy of the minutes of the inspection.

(9) The Office shall invite a custodian appointed by the court that has decided on the approval of the inspection to attend the inspection according to paragraph 8.

(10) Paragraphs 4 to 7 shall apply to the inspection under paragraph 8, except for the sealing of the premises and means of transport.

(11) The Police Force department is obliged to provide the Office's employees with protection and assistance in the performance of tasks under this Act or at the request of the Office, as well as the employees of another competition body responsible for the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union, as amended, if they participate in inspections under paragraph 1 or paragraph 8, or the employees of the Commission and persons authorised by the Commission to perform tasks under a special regulation.<sup>1)</sup>

## **§ 18**

### **Common Provisions on Competences of Office**

The provisions of this Act governing the proceedings and the Administrative Procedure Code shall not apply to the procedure of the Office under Section 16(1)(a), (b) and (l) and Section 17, except for the provisions on the running of limitation periods, delivery of documents, representation, minutes and exclusion of employees or members of the administrative body, which shall apply *mutatis mutandis*.

## **Proceedings**

### **§ 19**

(1) Proceedings shall commence on the Office's own initiative or on the initiative of a party to proceedings. Proceedings in the matter of an agreement restricting competition, in the matter of abuse of a dominant position and in the matter of other forms of unlawful restriction of competition shall always be commenced on the Office's own initiative.

(2) The Office may commence proceedings on its own initiative, as well as based on a written notification of a person. If the person who submitted the written notification requests so, the Office shall notify the person in writing of the next steps in the matter within two months from the date of receipt of such request.

**§ 20****Parties to Proceedings**

- (1) A party to proceedings shall be the natural or legal person that, in the matter of
- a) agreement restricting competition, is responsible for involvement in the agreement restricting competition,
  - b) abuse of a dominant position, is responsible for any activity or conduct constituting the abuse of a dominant position,
  - c) assessment of concentration under Section 7(1)(a), is involved in the merger or amalgamation,
  - d) assessment of concentration under Section 7(1)(b), is acquiring direct or indirect control over the undertaking,
  - e) other than those referred to in letters (a) to (d), is the one upon the rights, legally protected interests or obligations established by this Act of which is to be decided.
- (2) In case of a violation of Section 6, the party to proceedings shall be a government authority, municipality, region or an interest self-government.
- (3) Responsibility for an infringement of the prohibition of agreements restricting competition, prohibition of abuse of a dominant position, prohibition of exercise of the rights and obligations arising from the concentration, for a failure to notify the concentration, which is subject to control of the Office or for a non-compliance with the Office's decision shall be transferred to the economic successor continuing with the economic activity of its predecessor, if the predecessor has ceased, de jure or de facto, to perform the economic activity. The transfer of responsibility for such an infringement may also occur if the successor is part of the same undertaking as the predecessor that continues to perform the economic activity. The party to proceedings under the first and second sentences shall be the economic successor.
- (4) Agreements restricting competition concluded between undertakings which, for the purposes of such agreements, operate at a different level of the production or distribution chain, shall be assessed by the Office in a single proceeding if the content of such restrictive agreements is identical in term of their subject-matter and purpose.
- (5) In the proceedings on the agreements restricting competition, which constitute a system for the sale or distribution of goods between undertakings which, for the purposes of the agreements restricting competition, operate at different level of the production or distribution chain, the Office may limit the circle of parties to proceedings only to an undertaking being always one of the parties to the respective agreement.
- (6) During the proceedings, the party to proceedings and its representative shall be obliged to notify the Office without delay of any change concerning the proceedings.
- (7) The Office shall instruct the party to proceedings on its procedural rights and obligations so that it does not suffer any harm in the proceedings due to the lack of knowledge; the Office shall not be obliged to do so if the party to proceedings is represented by a lawyer.
- (8) Without prejudice to the confidentiality obligation under Section 56(2), the representation of a legal or natural person or provision of consultations to a legal or natural person shall not be performed, during a period of one year after the date of termination of the civil service employment relationship, employment relationship or other similar relationship under special regulations<sup>2)</sup>, by a person, who in the same matter
- a) prepared, as an employee of the Office, a decision on the matter of an agreement

restricting competition, abuse of a dominant position or a decision imposing a sanction pursuant to Sections 41 to 48,

- b) participated as an employee of the Office in the assessment of the concentration in the matter, in which the proceedings on the concentration assessed under Section 35(2) has been commenced or
- c) decided by virtue of their office.

### **§ 21 Third Party**

(1) A third party shall mean a person that is not a party to proceedings, in particular a consumer, supplier, customer or competitor of the party to proceedings.

(2) If a third party requests in writing to comment on the subject-matter of the proceedings and demonstrates an interest in the matter, the Office shall inform the third party about the subject-matter of the proceedings to a reasonable extent and shall set a limitation period within which the third party may give its opinion.

(3) If a third party requests an oral hearing and demonstrates an interest in the matter, the Office may allow the third party to attend the oral hearing and give its opinion.

### **§ 22 Joinder of Matters and Separation of Matters**

(1) For the purposes of cost-efficiency, the Office may join the matters, in which proceedings have been commenced and which relate to or concern the same parties to proceedings.

(2) If the Office has joined the matters, it shall issue a decision on the joined matters within the limitation period applicable to the proceedings which had begun earlier.

(3) If the hearing of matter in a joint proceeding is not appropriate or if the reasons for which the Office has joined the matter cease to exist, the Office may separate the matters.

### **§ 23 Special Provisions on Delivery**

(1) A party to proceedings and its representative are obliged to notify the Office without delay of any change in the place of residence, registered office, person designated to receive documents or any similar fact necessary for the proper delivery of documents.

(2) When delivering an electronic official message by the Office pursuant to the E-Government Act, the storage period shall be eight calendar days from the day following the day of its deposit.

(3) If the delivery of documents cannot be performed according to the E-Government Act, a document returned by post as undelivered shall also be considered delivered if the addressee does not stay at the place of delivery and the Office delivered the document to the last known address notified to the Office, the Commercial Register or the Trade Register as the registered office of the legal entity or place of business, permanent residence or temporary residence in case of a natural person. The day of delivery shall be considered to be the day of return of the document to the Office.

(4) Should any difficulties or delays occur in the delivery on a party to proceedings, or if it is a party to proceedings based abroad, the Office may require such party to proceedings to choose to receive documents by a representative, on whom they may be delivered without difficulties or delays. If the party to proceedings does not choose such representative, the

documents will be deposited at the Office with the effects of delivery; the Office shall notify the party to proceedings thereof.

(5) If several parties to proceedings have lodged a joint motion to commence proceedings, the Office may designate a joint representative for delivery, unless they have appointed the joint representative themselves.

(6) If the E-Government Act cannot be applied, the documents of the Office may also be delivered by electronic means, if the party to proceedings or its representative requests so and notifies the address for sending the documents by electronic means. The document shall be deemed to have been delivered on the third day after it has been sent, even if the addressee has not accepted it, unless its receipt is acknowledged earlier.

(7) Delivery under paragraph 6 shall be excluded upon the delivery of a

- a) notice of initiation of proceedings,
- b) summons to oral proceedings,
- c) statement of objections,
- d) decision.

#### **§ 24**

#### **Interruption of Proceedings**

The Office may also interrupt the proceedings, except in cases stipulated by the Administrative Procedure Code,

- a) if an office of another Member State acts in the same case of violation of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended,
- b) in the matter of concentration for a period of time, until a special regulation<sup>20)</sup> determines who will act in the matter.

#### **§ 25**

#### **Discontinuance of Proceedings**

(1) The Office may discontinue the proceedings, if

- a) one of the parties to the proceedings has died or dissolved without a successor,
- b) the petitioner does not comply with the Office's request to remedy the deficiencies in the filing within the specified limitation period and the Office has instructed the petitioner on the possibility of discontinuing the proceedings,
- c) an office of another Member State acts in or has decided on the same case of violation of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended.

(2) The Office shall discontinue the proceedings, if

- a) the sole party to the proceedings has died or dissolved without a successor,
- b) the party to the proceedings withdraws its motion to initiate the proceedings and the proceedings does not concern any other party thereof or the other parties thereof agree to withdraw the motion,

- c) the reason for the proceedings has not been given or lapsed,
- d) in the course of the proceedings, the Office finds that the natural or legal person considered as the sole party to the proceedings by the Office is not a party to the proceedings,
- e) the Office has already acted in or decided on the same matter,
- f) it concerns such restriction of competition, the effects of which are only apparent in a foreign market, unless otherwise provided by an international treaty which is binding for the Slovak Republic,
- g) the Office did not prove in the proceedings that the party to the proceedings violated the provisions of this Act,
- h) it was found in the commenced proceedings that the activities or conduct of undertakings, which took place abroad, did not or could not lead to any restriction of competition in the domestic market,
- i) the Commission already acts in or has decided on the same case of violation of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended,
- j) the Commission already acts in or has decided on the same concentration.

(3) The Office may also discontinue the proceedings under paragraph 1 or paragraph 2 in part.

(4) Decision to discontinue the proceedings under paragraph 2(a) shall only be indicated in the file.

## **§ 26**

### **Statement of Objections**

Unless otherwise provided in Section 35, before issuing a decision on the matter, the Office shall request the party to the proceedings to comment in writing on its grounds and the manner of its ascertainment, or to propose its amendment, and shall inform the party to the proceedings about the conclusions of the investigation made by the Office based on information and supporting documents available to the Office. The Office shall not be obliged to take account of any statements, proposals and evidence received after the limitation period set by the Office for commenting on the submission to the statement of objections.

## **§ 27**

### **Decision Making and Appeal**

(1) The decision of the Office issued within the first-instance proceedings under this Act or in connection with the proceedings under this Act shall be signed by the Vice-Chairman of the Office or an employee of the Office authorised by the Vice-Chairman of the Office. An appeal may be lodged against a decision within 15 days from the date of delivery thereof.

(2) The decision of the Council shall be signed by the Chairman of the Council, in their absence or, if the post of the Chairman of the Council is vacant, by the Vice-Chairman of the Council.

(3) The Council shall be quorate if the Chairman of the Council or the Vice-Chairman of the Council and at least four other members of the Council are present; or the Chairman of the Council, the Vice-Chairman of the Council and at least three other members of the Council are present. Consent of an absolute majority of those present shall be required to adopt a decision of the Council. In case of tied votes, the vote of the Chairman of the Council shall be

decisive; his/her absence or, if the post of the Chairman of the Council is vacant, the vote of the Vice-Chairman of the Council shall be decisive.

(4) The Council shall decide by a vote. Council meetings shall not be public. Minutes shall be taken of the voting, stating the opinion of the member of the Council, the Chairman of the Council or the Vice-Chairman of the Council, if different from the adopted decision. Minutes of the voting shall not be public and shall not be covered by the Act on Freedom of Information.

(5) A member of the Council and the Chairman of the Council shall be excluded from hearing and deciding a case if, in view of their relationship with regard to the matter, parties to proceedings or their representatives, their impartiality may be questioned or if they participated in the proceedings on the same matter at another stage.

(6) Section 16, Section 17, Section 20, Section 21, Sections 23 to 26, Sections 28 to 30 and Sections 54 to 57 shall apply mutatis mutandis to appeal proceedings.

(7) Appeal shall not be permissible against any

- a) decision to join matters and decision to preclude matters to separate proceedings under Section 22,
- b) decision to discontinue the proceedings under 25(2)(a), (b), (i) or (j),
- c) decision to reward the whistleblower according to Section 53(5).

(8) An appeal against a decision on interim measures and against a decision imposing a penalty payments shall not have suspensive effect.

(9) Waiver of appeal shall only be possible against a first-instance decision, and only after its announcement.

(10) Appeal may be withdrawn until it is decided upon. If the party to proceedings withdraws the appeal, it may not file it again.

(11) If a party to proceedings waives or withdraws its appeal, the decision shall become final on the date of delivery of the waiver of the appeal or withdrawal of the appeal to the authority which issued the first-instance decision.

(12) The Council shall also review decisions outside the appeal procedure and shall decide on the reopening of proceedings in cases, in which the head of the central government body decides according to the Administrative Procedure Code.

## **§ 28 Limitation Periods**

(1) The Office shall issue a decision within three years from the date of commencement of the proceedings. The limitation period under the first sentence shall not apply to the issuance of a decision under Section 10(4), Section 11(1) to (3), (6) and (7).

(2) The Council shall decide on an appeal against the decision on a interim measures within three months from the date of referral of the appeal and the administrative file on the matter.

(3) Enforcement of the Office's decision may be ordered within five years of the expiry of the limitation period set for compliance with the imposed obligation.

## **§ 29**

- (1) Unless otherwise provided in paragraph 2, 3, 4 or 6, the limitation period for imposing

a fine, the limitation period for imposing a penalty payments and the limitation period for issuing a decision shall not run

- a) if a decision of the Office has been issued, from the date when the final decision of the Office became valid until the delivery of the complete administrative file by the competent court in accordance with the Administrative Procedure Code,
- b) during a period, in which the Office did not dispose of the complete file during the examination of the procedure of the Office by the competent court under the Administrative Procedure Code, except for the procedure under paragraphs 2 and 3,
- c) during the period, in which the Office did not dispose of the complete file due to a procedure of law enforcement authorities or other state bodies pursuant to Section 56(3)(b), (c) or (d), or
- d) during the interruption of proceedings.

(2) If the Office does not dispose of the file or part thereof during the investigation or proceedings, in particular due to the submission of this file to the court conducting the proceedings under the Administrative Procedure Code, the Office may, in order to ensure the purpose of the investigation or administrative procedure, also continue with a copy of the file or part thereof in paper form or in electronic form prepared for the purpose of continuing with the investigation or administrative procedure; in such case, paragraph 1(b) and (c) shall not apply. After returning the original file, the Office shall attach the copy made thereto.

(3) Limitation periods referred to in paragraph 1(b) and (c) shall run during the period, in which the Office has borrowed the administrative file or part thereof to ensure the purpose of the investigation or administrative procedure.

(4) Limitation periods for imposing a fine and limitation period for imposing a penalty payments shall be interrupted if an office of another Member State or the Commission conducts proceedings on a violation of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, from the notification of the first formal investigative acts to at least one undertaking until the completion of proceedings conducted by an office of another Member State or the Commission, or if they conclude that there are no grounds for further proceedings on the matter.

(5) If an action has been filed against a decision of the Office under the Administrative Procedure Code, the limitation period for the enforcement of the decision of the Office under Section 28(3) shall not start to run; the enforcement of the decision shall not be affected.

(6) If an action has been filed against a decision of the Office under the Administrative Procedure Code and the court has returned the case to the Office for further proceedings, a new limitation period under Section 28(1) shall start to run.

### **§ 30 Publication**

(1) The Office shall publish a final decision, notification on concentration and, unless it is precluded by the nature of the matter, a commencement of proceedings on all other matters arising from the provisions of this Act. In case of publishing under this paragraph, information constituting business secrets, confidential information or information protected under a special regulation shall be excluded from the decision.<sup>4)</sup>

(2) When publishing a notification on concentration under paragraph 1, the Office shall always publish the undertakings concerned, the character of the concentration and the industry sector, in which the concentration has arisen.

(3) The publication obligation under paragraph 1 shall be considered fulfilled if the

publication is made in the Commercial Bulletin and on the website of the Office.

### **§ 31** **Interim Measures**

(1) Before the end of the proceedings, the Office may, to the extent necessary, impose a interim measures by its decision, if

- a) there is a reasonable presumption that the prohibition of an agreement restricting competition has been infringed or that a dominant position has been abused and that there is a risk of serious or irreversible distortion of competition, or
- b) it is necessary to ensure proper and undisturbed conduct of the proceedings.

(2) In the decision under paragraph 1, the Office may

- a) impose an obligation to do something, to refrain from something or to tolerate something,
- b) order the seizure of an item to be destroyed or rendered unnecessary or which is necessary for taking of evidence.

(3) By the decision under paragraph 1(a), the Office may only impose an obligation on the undertaking.

(4) In the decision on the interim measures, the Office shall specify the period for which the interim measures is imposed; otherwise, the interim measures shall cease to have effect on the date, on which the proceeding is discontinued, the decision on the case becomes final or the interim measures is revoked. The Office may extend the period under the first sentence, while it is running, to the extent necessary, even repeatedly.

(5) The Office shall revoke the interim measures as soon as the reason, for which it was imposed, ceases to exist.

(6) An administrative action may be brought against a decision on the interim measures under the Administrative Procedure Code within one month from the date of its delivery, after the ordinary remedies have been exhausted. The provision of the Administrative Procedure Code, according to which a court may grant suspensive effect to an administrative action, shall not apply to the administrative action under the first sentence.

### **§ 32** **Remedies**

(1) If the Office decides on an infringement of the prohibition of an agreement restricting competition or on the prohibition of abuse of a dominant position, it may impose a remedy on the undertaking, which is proportionate to the infringement and necessary to bring this infringement to an effective end; Sections 41 to 48 shall not be affected thereby. When choosing from equally effective corrective remedies, the Office shall impose the one that is less burdensome for the undertaking.

(2) The remedy may be imposed by the Office for a specific period of time or the Office may determine that it is to be implemented within a specific period. The Office may extend the period or time limit under the first sentence to the extent necessary, even repeatedly.

(3) The Office may, on its own initiative, amend or repeal the remedy imposed if, after issuing the decision, the conditions decisive for the issuance thereof have changed significantly.

(4) By a remedy, the Office may impose an obligation concerning the undertaking's activity, in particular its conduct, an obligation to do something or to refrain from doing

something, or it may concern a change in the undertaking's structure, namely an obligation to waive certain rights or part of ownership. The Office may impose several remedies and obligations in a single decision at the same time.

(5) The remedy may also include the obligation to appoint an impartial trustee at the expense of the party to proceedings and the manner of his/her appointment. The trustee shall assist the Office in supervising the implementation of the remedy or ensure the implementation of the remedy on behalf and at the expense of the party to proceedings. The trustee shall carry out his/her activities in close cooperation with the Office. The trustee shall be impartial to the party to proceedings and must not be in a conflict of interest with regard to his/her relation to the matter being decided upon.

### **§ 33**

#### **Commitment Decision**

(1) The Office may terminate proceedings concerning the infringement of the prohibition of an agreement restricting competition, the prohibition of abuse of a dominant position or other forms of unlawful restriction of competition by a decision ordering a party to the proceedings to fulfil its commitments submitted by the party to the proceedings to remove a possible restriction of competition. Such a decision may be issued by the Office for a specified period. There shall be no legal entitlement to the issuance of such a decision.

(2) The party to proceedings may offer commitments until the expiry of the limitation period for submission to the statement of objections under Section 26; any commitments submitted later shall not be taken into account by the Office. The Office may test the submitted commitments by directly contacting natural or legal persons, publishing or otherwise.

(3) The Office may, on its own initiative, amend or revoke a decision under paragraph 1, if

- a) after issuing the decision, the conditions decisive for the issuance thereof have changed significantly,
- b) the party to proceedings fails to fulfil the commitments imposed, or
- c) the information provided by the party to proceedings decisive for the issuance thereof was incomplete or untrue.

(4) The draft commitments under paragraph 1 may also include the obligation to appoint an impartial trustee at the expense of the party to proceedings and the manner of his/her appointment; Section 32(5) shall apply *mutatis mutandis*.

### **§ 34**

The Office shall issue a decision that the block exemption under Section 4(5) shall not apply to an agreement restricting competition if its effects are incompatible with Section 4(4).

#### **Special Provisions for Assessment of Concentration**

### **§ 35**

(1) The Office shall issue a decision on the concentration within 25 working days from the date of receipt of the complete notification of concentration. If such a decision contains a statement of reasons, it shall generally indicate the undertakings concerned, the sector or, if applicable, the relevant market in which the undertakings concerned operate. The Office shall not send the statement of objections under Section 26 before issuing such a decision.

(2) If the assessment of the concentration requires a more in-depth analysis due to the

need to identify competition concerns, the Office shall notify the party to proceedings thereof in writing within the period under paragraph 1. In such case, the Office shall issue a decision on the concentration within 90 working days from the last day of the period under paragraph 1.

### § 36

(1) If the notification of concentration is incomplete, the Office shall request the party to proceedings to supplement it. The Office shall confirm to the party to proceedings in writing the completeness of the notification of concentration based on the documents submitted by the party to proceedings and the running of the limitation period for issuing a decision.

(2) If, in course of the proceedings, the Office finds that the notification of concentration contains untrue information, it shall be obliged to immediately notify the party to proceedings thereof. In such case, a new limitation period for issuing the decision on concentration shall begin to run from the day following the day on which the complete notification of concentration was received by the Office.

(3) If the Office requests the party to proceedings to submit additional information and supporting documents that may have a material effect on the decision on concentration, the limitation period under Section 35 shall not run from the date of sending the request to the party to proceedings until such additional information and supporting documents are submitted. The Office shall notify the party to proceedings thereof in writing.

(4) The party to proceedings and its representative shall immediately notify the Office of any changes in the facts stated in the notification of concentration and also of any material facts occurred during the administrative procedure, which relate to the notification of concentration. The time during which the party to proceedings and its representative failed to notify the Office of the fact under the first sentence shall not be included in the running of the limitation period under Section 35, starting from the day on which such fact occurred until the day of its notification to the Office.

(5) Following a justified request of a party to proceedings or with its consent, the Office may extend the limitation period under Section 35 before its expiry, even repeatedly, by a maximum of 30 working days in aggregate.

(6) If the decision of the Office on concentration is annulled by a court or the Office, and the original notification becomes incomplete due to changes in market conditions or information provided in the notification after the issuance of the original decision, the party to proceedings shall immediately supplement the original notification. If the changes under the first sentence have not occurred, the party to proceedings shall immediately confirm this fact to the Office in writing. Limitation periods under Section 35 shall begin to run on the next working day after the day of delivery of the complete information in the supplement to the original notification or after delivery of the confirmation of the party to proceedings.

### § 37

#### **Requirements and Obligations Related to Condition**

(1) The party to proceedings shall, within 30 working days from the delivery of the request, be obliged to submit to the Office a written draft condition for ensuring compliance of the concentration with Section 11(1) or (2). The Office shall not take account of any draft submitted after the limitation period.

(2) In justified cases, the Office may extend the limitation period at the request of the party to proceedings submitted before the expiry of the limitation period under paragraph 1.

(3) At the justified request of a party to proceedings, the Office may, in exceptional cases, accept a draft condition submitted after the expiry of limitation period for its submission, if the limitation period for issuing a decision under Section 35 allows a proper examination

thereof.

(4) The limitation period under Section 35 shall not run while the limitation period for submitting the draft condition is running. If the party to proceedings indicates the submitted draft condition as final before the expiry of the limitation period for its submission, the limitation period under Section 35 shall begin to run from the next working day following the day of delivery of this final draft.

(5) The Office may test the submitted draft condition by directly contacting natural or legal persons, publishing or otherwise.

(6) The draft condition under paragraph 1 may also include the obligation to appoint an impartial trustee at the expense of the party to proceedings and the manner of his/her appointment. The trustee shall assist the Office in supervising the implementation of the condition and obligation by the party to proceedings or ensure the implementation of the condition and obligation on behalf and at the expense of the party to proceedings. The trustee shall carry out his/her activities in close cooperation with the Office. The trustee shall be impartial to the party to proceedings and must not be in a conflict of interest with regard to his/her relation to the matter being decided upon.

### **§ 38 Exemption Decision**

The Office shall decide whether or not to grant an exemption from the prohibition under Section 10 within 20 working days from the date of delivery of the proposal. If the Office requires additional information from the undertaking under Section 10(4), the limitation period for issuing the decision on exemption shall not run from the date of sending the request by the Office until the required information is supplemented.

### **§ 39 Modification and Revocation of Decision**

(1) The Office shall revoke its decision under Section 11(3) on its own initiative and shall issue a decision under Section 11(1), (2), (3), (6) or (7), if the party to proceedings fails to fulfil the condition imposed thereon by the Office's decision.

(2) The Office may revoke its decision pursuant under Section 11 (1), (2) or (3) or Section 25 (2)(c) on its own initiative and may issue a decision under Section 11(1), (2), (3), (6) or (7), if

- a) the party to proceedings fails to fulfil the obligation related to the condition imposed thereon in the decision, or
- b) the decision is based on incomplete or untrue information provided by the undertaking concerned.

(3) At the request of a party to proceedings, the Office may modify its decision under Section 11(3) without being bound by the limitation periods under Section 35, if

- a) the situation in the relevant market has significantly changed so that it no longer justifies the compliance with the condition imposed on the party to proceedings or the related obligation, or
- b) before the expiry of the limitation period specified in the decision to fulfil the condition or the obligation related thereto, the party to proceedings requests its extension due to the impossibility of complying with it for a serious reason.

**§ 40****Measures to Restore or Maintain Conditions of Effective Competition**

(1) The Office may impose a interim measures on the undertaking which is appropriate in order to restore or maintain the conditions of effective competition, if there is a reasonable presumption of an exercise of the rights and obligations arising

- a) from the concentration before the decision thereon becomes final,
- b) from concentration that has been prohibited, or
- c) from concentration in conflict with the condition imposed in the decision under Section 11(3).

(2) The Office shall revoke the interim measures as soon as the reason for which it was ordered ceases to exist; otherwise it shall cease to have effect on the date on which the decision on concentration or decision under paragraph 5 becomes final.

(3) The procedure under paragraph 1 shall not affect the powers of the Office to impose a fine or penalty payments under Sections 41 to 43 and Section 46.

(4) An administrative action may be brought against a decision on the interim measures under the Administrative Procedure Code within one month from the date of its delivery, after the ordinary remedies have been exhausted. The provision of the Administrative Procedure Code, according to which a court may grant suspensive effect to an administrative action, shall not apply to the administrative action under the first sentence.

(5) The Office may impose on the undertaking an obligation to restore the level of competition as it had existed before the concentration arose, namely an obligation to unbundle the undertaking or transfer rights, as well as another obligation to ensure compliance with such obligation, if the Office finds that the rights and obligations arising from the concentration have been exercised contrary

- a) to the decision on its prohibition under Section 11(6) or (7), or
- b) to the condition imposed in the decision issued under Section 11(3).

**Imposition of Sanctions****§ 41**

The Office shall impose either a fine or a penalty payments; the Office may impose a prohibition of participation in public procurement under Section 48 in addition to the imposition of a penalty payments.

**§ 42****Fine**

(1) The Office shall impose a fine on the undertaking of up to 10% of the worldwide turnover for the previous accounting period, for each

- a) infringement of the prohibition of an agreement restricting competition,
- b) infringement of the prohibition of the abuse of a dominant position,
- c) failure to notify the concentration before the rights and obligations arising therefrom have been exercised,
- d) infringement of the prohibition to exercise the rights and obligations arising from the

concentration, if the Office has not granted the exemption under Section 10(4),

- e) non-compliance with the Office's decision; or
- f) infringement of the prohibition of participation in public procurement.

(2) The Office shall impose a fine of up to EUR 66,000 for violation of the prohibition pursuant to Section 6 of a state administration body, municipality, region or self-government.

(3) When imposing a fine under paragraph 1 or paragraph 2, the Office shall assess the gravity and duration of the infringement. When assessing the gravity of the infringement, the Office shall take into account its nature or impact on the market and the size of the relevant market. When imposing a fine, in addition to the above criteria, the Office shall, if appropriate, take account of other facts, namely repeated infringements, refusal to cooperate with the Office, position as a leader or an initiator of the infringement or non-performance of an agreement restricting competition in practice. When imposing a fine, the Office may also take account, as an mitigating circumstance, of the fact that a compensation for damage had been paid based on a mediation agreement or an out-of-court settlement agreement before the Office issued a decision to impose the penalty payments.

(4) When imposing the fine under paragraph 1(a) to the applicant for a reduction in the fine under Section 51(2), the Office shall not take account of the evidence submitted by the applicant for a reduction in the fine, if this would lead to the imposition of a higher fine than the fine that would otherwise have been imposed on the applicant for a reduction in the fine for the involvement in an agreement restricting competition.

#### **§ 43**

(1) If the infringement by an association of undertakings concerns the activities of its members, the Office shall impose a fine on the association of undertakings of up to 10% of the sum of the turnover of all its members active in the market affected by the infringement by the association. The financial liability of each member for the payment of the fine may not exceed 10% of its turnover.

(2) An association of undertakings, on which the fine has been imposed, in the calculation of which the Office has taken account of the turnover of its members and which association is unable to pay the fine, shall be obliged to call on its members to contribute to its payment.

(3) If the contributions of the members of the association of undertakings under paragraph 2 have not been paid to the association of undertakings in full and within the limitation period specified by the Office in the decision, the Office may demand that the fine shall be paid by any undertaking, the representatives of which were members of the decision-making bodies of the association of undertakings.

(4) If necessary to ensure payment of the fine in full, after the Office has requested the payment from the undertaking under paragraph 3, the Office may also require that any unpaid amount of the fine shall be paid by any member of the association of undertakings active in the market, where the infringement took place.

(5) Payment under paragraph 3 or paragraph 4 may not be required from a member of an association of undertakings, which proves to the Office that it has not enforced the decision of the association of undertakings and has not known about or actively distanced itself from the infringement before the investigation.

#### **§ 44**

(1) For any infringement of the obligation to submit documents or information to the Office within the specified limitation period, submission of untrue or incomplete supporting documents or information and not allowing their verification, failure to provide an interview

or for any infringement of the obligation to ensure that an employee appears to give an interview under Section 16(3) or (4), the Office shall impose

- a) a fine of up to 1% of turnover under Section 3(10) for the previous accounting period to an undertaking or a legal person not being an undertaking,
- b) a fine of up to EUR 1,650 to a natural person who is not an undertaking.

(2) The Office shall impose on the undertaking, in the premises or means of transport of which an inspection was to be carried out or was carried out for an infringement of the obligation referred to

- a) in Section 17(7)(a) or (e), a fine of up to 5% of the turnover under Section 3(10) for the previous accounting period,
- b) in Section 17(7)(b), (c) or (d), a fine of up to 1% of the turnover under Section 3(10) for the previous accounting period.

(3) The Office shall impose on a natural person, in the private premises or private means of transport of which an inspection was to be carried out or was carried out under Section 17(8), for an infringement of the obligation referred to

- a) in Section 17(7)(a) or (e), a fine of up to EUR 80,000,
- b) in Section 17(7)(b), (c) or (d), a fine of up to EUR 25,000.

#### **§ 45**

For a failure to appear to an oral hearing without serious reasons, failure to comply with the obligation under Section 20(6) or Section 23(1), infringement of obligations under Section 57(2) or for otherwise complicating the proceedings, the Office may impose a procedural fine of up to EUR 3,300.

#### **§ 46 Penalty**

(1) The Office shall impose on the undertaking a penalty payments not exceeding 5% of the average daily worldwide turnover for the preceding accounting period for each day of delay, calculated from the date determined by the Office, to ensure

- a) compliance with any decision of the Office,
- b) fulfilment of the obligations of the undertaking in order to conduct the inspection and during its performance.

(2) The Office shall impose on the undertaking a penalty payments not exceeding 3% of the average daily worldwide turnover for the preceding accounting period for each day of delay, calculated from the date determined by the Office, to ensure

- a) provision of an interview under Section 16(4) or
- b) submission of true and complete information and documents within the limitation period set by the Office upon the request of the Office under Section 16(3).

(3) Imposing a penalty payments under paragraph 1(a) shall not affect the powers of the Office to modify or revoke the decision imposing the measure, commitment or conditions and obligations related to the conditions and to act in the respective matter.

- (4) If the undertaking fails to fulfil the obligation, for securing of which the Office imposed

a penalty payments thereon, the Office may, by decision, impose an obligation to pay penalties in the aggregate amount for the specified period of non-fulfilment of the obligation. This shall not affect the obligation to pay penalties for the period of further non-fulfilment of the secured obligation.

(5) Penalties under paragraph 1(a) shall not apply in case of late payment of the fine after the due date.

#### **§ 47**

##### **Common Provisions on Fines and Penalties**

(1) For the purposes of Sections 42 to 44 and Section 46, the previous accounting period shall mean the accounting period, for which the last financial statements were prepared.

(2) If an undertaking or a legal entity which is not an undertaking has achieved a turnover for the previous accounting period under Section 3(10) of up to EUR 330 or had no turnover under Section 3(10), or its turnover under Section 3(10) cannot be quantified, the Office may impose a fine of up to EUR 330,000 for the violations under Section 42(1) and Section 44(1) and (2), unless otherwise provided in Section 51.

(3) When determining the amount of the fine under Section 41(1), the Office may take account of the turnover for the earlier accounting period, if there are reasonable doubts that there was an artificial reduction in the turnover of the undertaking in the accounting period preceding the accounting period, in which the fine is imposed.

(4) When imposing a sanction under Section 42(1)(c) to (e) and Section 46(1) in the proceedings or investigations concerning concentration, the turnover shall mean the aggregate turnover under Section 8(2).

(5) Any fine imposed under Section 42(1) and (2), Section 44(1) to (3), except for the fine for an infringement of obligations under Section 17(7)(e), and Section 45 may be imposed by the Office repeatedly.

(6) Fines and penalties under Sections 41 to 47 may be imposed by the Office within ten years from the date of infringement of the provisions of this Act, of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, of non-compliance with the Office's decision.

(7) For an infringement of this Act or Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, the Office may impose a fine on parties to proceedings, which are part of a single undertaking, for the payment of which they shall jointly and severally be responsible.

(8) Fines and penalties imposed under Sections 41 to 47 are the state budget income.

#### **§ 48**

##### **Prohibition of Participation in Public Procurement**

(1) Unless otherwise stipulated by paragraphs 2 to 4, the Office shall impose a prohibition of participation in public procurement on an undertaking for three years, if the Office has imposed a fine on this undertaking for an infringement of the prohibition of an agreement restricting competition consisting in the coordination of undertakings in public procurement, public tender or other similar tender, in connection with public procurement, public tender or other similar tender.

(2) The Office shall not impose a prohibition of participating in public procurement on the undertaking in case of reduction in the undertaking's fine under 51(2).

(3) The Office shall impose a prohibition of participation in public procurement on an

undertaking for one year, if the Office has imposed a fine on this undertaking for an infringement of the prohibition of an agreement restricting competition consisting in the coordination of undertakings in public procurement, public tender or other similar tender, in connection with public procurement, public tender or other similar tender, in case of reduction in the undertaking's fine under Section 52.

(4) In exceptional cases, the Office may also waive the imposition of a prohibition of participation in public procurement, if the imposition of such prohibition would significantly worsen the competitive situation.

(5) Periods under paragraphs 1 and 3 shall begin to run when the final decision becomes effective; in order to determine the beginning of the period, the final decision shall mean

- a) a final decision of the Office imposing the prohibition under paragraph 1 or paragraph 3, against which no action may be brought or against which no action has been brought under the Administrative Procedure Code,
- b) a final court decision dismissing an action or discontinuing proceedings for a review of the decision of the Office imposing a prohibition under paragraph 1 or paragraph 3, against which no cassation appeal has been lodged,
- c) a final court decision rejecting the cassation appeal or discontinuing the cassation proceedings.

(6) The Office shall immediately deliver the final decision under paragraph 5 to the Office for Public Procurement.

#### **§ 49**

#### **Special Provisions During Declared Exceptional Circumstances, State of Emergency and State of Exception**

(1) Measures under paragraph 2 shall apply during the period of the declared exceptional circumstances, state of emergency and state of exception<sup>21)</sup> by the Government in the territory of the Slovak Republic and during one month following the month, in which the exceptional circumstances, state of emergency and state of exception end (hereinafter referred to as "exceptional circumstances").

(2) The Office may also interrupt the proceedings, if the situation related to the exceptional circumstances prevents the Office from properly assessing and deciding the matter. No limitation periods under this Act shall run during the interruption of proceedings.

(3) The operative part of the decision to interrupt the proceedings under paragraph 2, in addition to the provision of this Act stipulating the interruption of proceedings, shall state the interrupted proceedings, the reason for the interruption under paragraph 2, the period during which the interruption lasts, or the operative part of the decision shall state that it is an interruption until the reasons for the issuance thereof cease to exist. Upon the expiry of the period or after the reasons no longer exist, the Office shall immediately continue with the proceedings.

(4) The same proceedings may be interrupted under paragraph 2 even repeatedly. Interruption of proceedings shall take place on the date of the decision under paragraph 2. Interruption of proceedings shall last until the end of the exceptional circumstances at the latest. In case of an interruption of proceedings for a certain period, the Office may continue with the interrupted proceedings even earlier than it was specified by the Office in the decision to interrupt the proceedings, if the changed conditions allow the Office to properly assess and decide the matter. In such case, the Office shall decide to continue with the proceedings. The proceedings shall be reopened on the day following the date of the decision. If the Office continues with the proceedings after the specified period, the end of the exceptional circumstances or after the reasons have ceased to exist, the Office shall not issue a decision

to continue with the proceedings.

(5) The decision to interrupt the proceedings under paragraph 2 and the decision to continue with the proceedings under paragraph 4 shall not state the grounds, on which they are based.

## § 50

(1) The Administrative Procedure Code shall apply to proceedings under this Act, unless otherwise stipulated by Sections 16 to 40, Section 45, Section 48(5) and Sections 54 to 63.

(2) Provisions of Section 20, Section 21, Sections 23 to 30 and Sections 54 to 57 shall apply *mutatis mutandis* to the proceedings on reopening of proceedings and to the review of the decision outside the appeal proceedings. The provisions of Sections 20 to 27 and Sections 54 to 57 shall apply *mutatis mutandis* to the proceedings on a protest of the prosecutor.

(3) The Office shall act in accordance with a special regulation<sup>22)</sup> in the matter of administrative fees.

## Special Forms of Cooperation with Office

### § 51

#### Leniency Programme

(1) The Office shall not impose a fine on an undertaking, at its request, for violating the prohibition of an agreement restricting competition under Section 4(1) or under Article 101 of the Treaty on the Functioning of the European Union, as amended, the parties to which operate at the same level of the production chain or distribution chain, if that undertaking admits its involvement in such agreement restricting competition and is the first to submit, on its own initiative,

- a) any decisive evidence of such violation or is the first to request a reservation of place and to submit such evidence within the limitation period determined by the Office, and fulfils the conditions for participation in the leniency programme, or
- b) any information and evidence decisive for conducting an inspection under Section 17, which is to obtain decisive evidence to prove such violation, or is the first to request a reservation of place and to submit such information and evidence within the limitation period determined the Office, and fulfils the conditions for participation in the leniency programme.

(2) The Office may, at the request of the undertaking, reduce the fine for a violation of the prohibition of an agreement restricting competition under Section 4(1) or under Article 101 of the Treaty on the Functioning of the European Union, as amended, the parties to which operate at the same level of the production chain or distribution chain, that the Office would impose under Section 42(1), by up to 50% if that undertaking admits its involvement in an agreement restricting competition and, on its own initiative, provides the Office with evidence with significant added value to the evidence already available to the Office, which, together with information and evidence already available to the Office, will enable to prove the violation of the prohibition under Section 4(1) or under Article 101 of the Treaty on the Functioning of the European Union, as amended, and if that undertaking fulfils the conditions for participation in the leniency programme.

(3) The conditions to participate in the leniency programme is that the applicant

- a) ended its involvement in an agreement restricting competition at the latest immediately following its leniency application, except for involvement in the agreement restricting competition with the consent of the Office, if this is necessary to preserve the effectiveness

of the inspection or further action of the Office,

- b) did not coerce another undertaking to involve in an agreement restricting competition,
- c) provided the Office with all the evidence available to it and cooperated properly, fully, continuously and without delay with the Office from the filing of the application until the end of proceedings; and
- d) did not disclose the intention to apply for leniency or the submission of its leniency application or its content until the expedition of the statement of objections.

(4) The conditions to participate in the leniency programme upon an application under paragraph 2 shall be that the applicant

- a) ended its involvement in an agreement restricting competition at the latest immediately following its leniency application, except for involvement in the agreement restricting competition with the consent of the Office, if this is necessary to preserve the effectiveness of the inspection or further action of the Office,
- b) provided the Office with all the evidence available to it and cooperated properly, fully, continuously and without delay with the Office from the filing of the application until the end of proceedings; and
- c) did not disclose the intention to apply for leniency or the submission of its leniency application or its content until the expedition of the statement of objections.

(5) The Office shall examine the fulfilment of the conditions for participation in the leniency programme under paragraphs 3 and 4 from the submission of the application until the issuance of a decision on the matter.

(6) The conditions for participation in the leniency programme under paragraphs 3 and 4 with regard to all applicants forming one undertaking and submitting a joint application shall only be deemed to be fulfilled if each of these applicants fulfils such conditions.

## **§ 52 Settlement**

If the established facts sufficiently substantiate the conclusion that there has been a violation of this Act or Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, except for a violation, for which the Office shall impose a fine under Section 44 or Section 45, the Office may, for the purposes of cost-efficiency or to obtain a swift and effective remedy in the market, on its own initiative or at the request of a party to proceedings, hold a settlement negotiation. If the party to proceedings and the Office agree with the conclusions of the settlement negotiations and the party to proceedings admits its participation in this violation and assumes responsibility for such participation, the Office shall reduce the fine that it would otherwise impose under Section 42(1) or (2). There is no legal entitlement to the settlement.

## **§ 53 Reward for Providing Evidence of Agreement Restricting Competition**

(1) The whistleblower is a natural person that was the first to deliver information to the Office regarding an agreement restricting competition under Section 4(1) or under Article 101 of the Treaty on the Functioning of the European Union, as amended, the parties to which operate at the same level of the production chain or distribution chain, namely

- a) a document in paper or electronic form being decisive evidence of such violation, or
- b) information and evidence decisive for conducting an inspection under Section 17, which

will provide decisive evidence enabling to prove such violation of the Act.

(2) The whistleblower under paragraph 1 shall not mean a natural person being an undertaking, an employee of the applicant for non-imposition of a fine or an employee of the applicant for a reduction of a fine under Section 51, if the application for non-imposition of a fine or application for reduction in a fine had been submitted before the whistleblower submitted evidence to the Office under paragraph 1.

(3) The whistleblower is entitled to a reward if he/she requests so and the evidence provided under paragraph 1 was decisive for proving the violation of the Act, the decision of the Office became final and enforceable and the fine imposed by the decision of the Office was paid. If the lawfulness of the Office's decision was subject to decision by an administrative court, the whistleblower is entitled to reward after the court finally dismissed the administrative action to review the lawfulness of the Office's decision and the fine imposed by the Office in the decision was paid or the court decided to reduce the fine imposed by the Office and the fine thus reduced was paid.

(4) The reward for the whistleblower shall be 1% of the sum of the fines imposed on all parties to the agreement restricting competition in the Office's decision, up to a maximum of EUR 100,000; if the amount of the fine imposed by the Office is changed by the administrative court, the basis for calculating the reward is the fine thus changed. If the fine was not paid within 100 days from the date, on which the Office's decision became enforceable, or until became effective the judicial review of the Administrative Court of the lawfulness of the Office's decision dismissing an administrative action for review of the lawfulness of the Office's decision or reducing the amount of the fine imposed by the Office, whichever is the latter, the whistleblower shall be entitled to 50% of the reward it would otherwise have received under the first sentence, up to a maximum of EUR 10,000.

(5) The Office shall issue a decision regarding the reward to the whistleblower.

(6) The obligation of the Office to publish decisions under Section 30 shall not apply to a decision on reward for a whistleblower issued under paragraph 5.

(7) The Office shall protect the identity of the whistleblower if the whistleblower requests so.

(8) Notification of an infringement under paragraph 1 shall not be considered an infringement of the Labour Code<sup>23)</sup> or a confidentiality obligation recognised by a contract.

(9) A special regulation<sup>24)</sup> shall not apply to the notification of an agreement restricting competition under this paragraph.

### **Information Protection, Disclosure and Confidentiality**

#### **§ 54**

(1) A party to proceedings and its representative shall have the right to inspect the files, make extracts and copies thereof and to receive copies of the files or to receive information from the files, except for minutes of the voting. The Office shall provide copies of files for the payment of material costs associated with making copies, ensuring technical medium and their expedition.

(2) The Office shall take measures to ensure the non-disclosure of any confidential information, classified information, banking secrecy, tax secrecy, business secrets, telecommunications secrecy, postal secrecy or the infringement of any duty of confidentiality imposed or recognised by law is infringed by the procedure under paragraph 1.

(3) In cases other than those under Section 3(12)(b), a person shall indicate, which information or documents submitted to the Office it considers to be the subject of business

secrets or which it considers to be confidential information under Section 3(12)(a), shall identify the undertaking, the business secrets or confidential information of which is concerned and provide a written justification for such identification of the information or documents. Appropriate procedure shall be followed to indicate and justify other information protected by special regulations<sup>4)</sup>.

(4) The Office shall protect the information and documents indicated under paragraph 3.

(5) If, notwithstanding the justification under paragraph 3, the Office concludes that the information and supporting documents submitted do not constitute business secrets or the information is not confidential, the Office shall notify the person requesting the protection thereof.

(6) The Office may request a natural or legal person to submit to the Office a different wording of information or documents, including a description of the protected information and supporting documents that do not contain business secrets, confidential information, personal data or other information protected under special regulations.<sup>4)</sup>

(7) In case of the notification of concentration under Section 9(1) or (4), the party to proceedings shall be obliged to indicate the information or supporting documents as business secrets or as confidential information in writing and provide a separate version of the notification without business secrets, confidential information and personal data, including a description of information and supporting documents protected under generally binding legal regulation (Section 64(b)).

(8) The Office shall only allow the party to proceedings or solely its representative, in exceptional cases, to get access to confidential information under Section 3(12)(a) or business secrets, if they constitute evidence of an infringement of this Act and are necessary for the exercise of the rights of defence in the proceedings, in which access was granted, and the information and supporting documents submitted under paragraph 6 are not sufficient for such purpose. This paragraph shall apply *mutatis mutandis* to proceedings on concentration.

(9) The Office shall only allow the access under paragraph 8 to the party to proceedings with the written consent of the person, who provided this information. If that person does not give the consent, the Office shall only make this information available for access to the representative of the party to proceedings; the representative of the party to proceedings may not be an employee of the undertaking being the party to proceedings.

(10) In case of the procedure under paragraphs 8 and 9, the Office shall instruct the party to proceedings or its representative in advance of the confidentiality duty with regard to the facts made available to them, and the Office shall prepare minutes thereof, which shall be signed by the party to proceedings or its representative. The representative of the party to proceedings shall be obliged to maintain confidentiality towards all persons, including the party to proceedings represented by them.

## § 55

(1) Until the statement of objections is issued, it shall be possible to access the file with the exclusion of those parts thereof, which contain a request for non-imposition of a fine or reduction in a fine under Section 51 and other supporting documents and information submitted to or prepared by the Office in relation thereto, kept out of the file at this stage of proceedings. After the statement of objections is sent, they shall become part of the file.

(2) After the statement of objections is sent, the Office shall only allow the party to proceedings or its representative under Section 54(9) to get access to the confidential information under Section 3(12)(b) without the possibility of making copies, for the purpose of exercising the rights of defence in proceedings before the Office, in which access was granted.

(3) The information obtained from the submitted statements within the leniency applications and submissions within the settlement negotiations, being confidential information, may be used for the purposes of evidence and decision under this Act.

### § 56

(1) The Office may only use the information or supporting documents obtained by the Office for the performance of tasks under this Act or a special regulation.<sup>11)</sup>

(2) An employee of the Office is obliged to maintain confidentiality of the facts of which they learned in connection with the performance of the tasks of the Office under Section 16, unless otherwise provided in paragraph 3. The obligation to maintain confidentiality shall even survive the termination of the employment relationship or similar relationship.

(3) Infringement of paragraph 1 or of the confidentiality obligation by an employee of the Office shall not mean the provision of information, being subject to the confidentiality duty, to

- a) a court,
- b) a law enforcement authority for criminal proceedings,
- c) the Criminal Police Service of the Police Force and the Financial Police Service of the Police Force to perform their tasks, <sup>25)</sup>
- d) the Prosecutor's Office to perform its tasks, <sup>26)</sup>
- e) a competition authority under an international treaty by which the Slovak Republic is bound, an office of another Member State<sup>11)</sup> or based on a consent of the person who provided the information or to whom the information relates,
- f) to another entity, with which the Office has concluded a cooperation agreement, a memorandum of cooperation or a similar cooperation agreement, on the own initiative of the Office, if the Office needs such provision for the purpose of performing tasks under this Act and such entity undertakes in writing to maintain confidentiality of the facts of which the entity learns,
- g) to an authority under a special regulation<sup>27)</sup>, if the Office finds that there is a reasonable suspicion that a special regulation may have been violated<sup>27)</sup>, while preserving the effectiveness of the investigation and administrative proceedings conducted at the Office.

(4) The Office shall provide an office of another Member State with a statement submitted by the applicant for the leniency programme under Section 51, regardless of its form, only if

- a) the applicant has consented thereto, or
- b) an office of another Member State demonstrates that the application for the leniency programme relating to the same infringement was delivered by the same applicant and that, at the time of sending the statement within the leniency programme, the applicant is not able to withdraw the information or supporting documents submitted to the office of the Member State that accepted the statement within the leniency programme.

### § 57

(1) Information and supporting documents relating to the statement within the leniency programme and submission within the settlement negotiations, to which a party to proceedings or any other person has gained access during proceedings or investigation conducted by the Office, may only be used to exercise the rights of defence in proceedings

before court or another authority, directly related to the proceedings before the Office, in which this access was granted.<sup>28)</sup> Provisions of a special regulation<sup>14)</sup> shall not be affected thereby.

(2) A party to proceedings or any other person shall not, before the Office finally terminates the proceedings, use information and supporting documents to which the party to proceedings or any other person has gained access during the proceedings or investigations conducted by the Office and which have been

- a) withdrawn by the submitter in the settlement negotiations,
- b) obtained by the Office,
- c) submitted to the Office or
- d) prepared by the Office.

### **Mutual Assistance and Cooperation**

#### **§ 58**

#### **Mutual Assistance in Delivering Documents**

(1) The Office shall, at the request of an office of another Member State, deliver on the addressee on behalf of the office of another Member State

- a) a statement of objections regarding an alleged infringement of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, and any decision applying Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended,
- b) another procedural act adopted in connection with the law enforcement proceedings under Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, and delivered in accordance with the law of the requesting authority, or
- c) another relevant document concerning the application of Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended, including the document concerning the enforcement of a decision imposing a fine or penalty payments.

(2) The Office may request an office of another Member State to deliver documents on behalf of the Office on the addressee under paragraph 1.

#### **§ 59**

#### **Mutual Assistance in Enforcing Decisions Imposing Fines or Penalties**

(1) At the request of an office of another Member State, the Office shall ensure the enforcement of a final decision imposing a fine or penalty payments, which meets the conditions under Section 60, if the requesting office of another Member State found, after making reasonable efforts in its territory, that the undertaking, against which the fine or penalty payments was enforceable, did not have sufficient assets in its Member State allowing the enforcement of such fine or penalty payments.

(2) The Office may, at the request of an office of another Member State, ensure the enforcement of the decision under paragraph 1 even if the office of another Member State did not find any lack of assets under paragraph 1, in particular if the undertaking is not based in the requesting authority of another Member State. Section 61(5)(d) shall not be applied to the procedure under this paragraph.

(3) When enforcing a decision under paragraphs 1 and 2, the Office shall carry out all acts in connection with its enforcement in the name and on behalf of the office of another Member State.

(4) The Office may request an office of another Member State to ensure the enforcement of a final decision of the Office imposing a fine or penalty payments, which meets the conditions under Section 60.

(5) The Office shall act in accordance with paragraph 4, in particular if, after making reasonable efforts to enforce a decision imposing a fine or penalty payments, the Office finds that the undertaking, against which the fine or penalty payments is enforceable, does not have sufficient assets in the Slovak Republic allowing the enforcement of such fine or penalty payments. If the Office requests an office of another Member State under paragraph 4 without meeting the procedure under the first sentence, Section 62(6)(d) shall not apply.

(6) The Office shall also request an office of another Member State to ensure the enforcement of a final decision under paragraph 4 at the request of an authorised person under a special regulation.<sup>29)</sup>

(7) The running of limitation periods in ensuring the enforcement of a decision under paragraphs 1 and 4 shall be governed by the law of the state requesting the enforcement of the decision.

## § 60

Mutual assistance acts upon request shall be carried out to ensure the enforcement of a decision issued in administrative proceedings other than criminal proceedings by the requesting authority or a court at the request thereof, and imposing a fine or penalty payments on an undertaking for a violation of

- a) the prohibition of agreements restricting competition or abuse of a dominant position under Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended,
- b) the obligation imposed by a decision to end the violation of the prohibition of agreements restricting competition or the abuse of a dominant position under Article 101 or Article 102 of the Treaty on the Functioning of the European Union, as amended,
- c) the obligation to provide assistance necessary for the purpose of conducting the inspection and its proper conduct,
- d) the obligation to ensure that seals affixed during the inspection are not broken,
- e) the obligation to ensure that a true and complete response is given by the employees of the undertaking to the request for clarification in connection with the conducted inspection,
- f) the obligation to submit true and complete information and supporting documents within a specified limitation period following a request for information,
- g) the obligation to give an interview or
- h) the obligation to act in accordance with the measures, interim measures or commitments imposed.

## § 61

### Office as Requested Authority

(1) As the requested authority, the Office shall immediately process any request for mutual assistance under Section 58(1) and Section 59 in accordance with the law of the Slovak Republic. In order to ensure the enforcement of a decision imposing a fine or penalty

payments under Section 59, the requesting authority of another Member State or the state of the requesting authority of another Member State shall be the qualified entity under the Enforcement Code.

(2) The Office, as the requested authority, shall deliver the documents under Section 58(1) and ensure the enforcement of final decisions imposing fines or penalties under the Enforcement Code, according to Section 59 through the uniform instrument, to which a copy of the document to be served or a copy of the decision to be enforced shall be attached.

(3) The uniform instrument, allowing the enforcement of decisions in the territory of the Slovak Republic, shall mean the only legal basis for the measures taken by the Office to ensure the enforcement of these decisions; requirements under paragraph 2 shall not be affected thereby. The uniform instrument is not subject to any act of recognition, supplementation or replacement in the territory of the Slovak Republic.

(4) The uniform instrument of a requesting office of another Member State for delivery of documents under Section 58(1) shall contain

- a) the business name or the name and surname, address of the addressee and other information to identify the addressee,
- b) a summary of the relevant facts and circumstances,
- c) a summary of the attached copy of the document to be served on the addressee or a copy of the decision to be enforced,
- d) the name, address and other contact details of the office,
- e) the limitation period, within which the document under 58(1) shall be served.

(5) In addition to the requirements under paragraph 4(a) to (d), the uniform instrument for the enforcement of a decision imposing a fine or penalty payments shall contain

- a) the information about the decision allowing the enforcement of the decision in the state of the requesting authority,
- b) the date when the decision to be enforced becomes effective,
- c) the information about the amount of the fine or penalty payments,
- d) the information proving the reasonable efforts made by the requesting authority to enforce the decision in its territory,
- e) the period of enforceability of the decision.

(6) If, in the Member State of the requesting authority of another Member State, there is a currency other than in the Slovak Republic, the Office shall convert the amount of the fine or penalty payments enforced to euros according to the exchange rate of the European Central Bank or the National Bank of Slovakia applicable on the day the fine or penalty payments is imposed.

(7) In order to indicate the date of enforceability of the decision according to the Enforcement Code, the date of enforceability of the decision shall be the date when the decision becomes effective under paragraph 5(b).

(8) The uniform instrument, a copy of the document to be served and a copy of the decision allowing the enforcement of the decision shall be delivered to the Office in the Slovak language; this shall not apply if the requesting office of another Member State agrees with the

Office being the requested authority, in individual cases, that they may be sent to the Office in another language. The Office may, at the expense of the requesting office of another Member State, ensure a translation of the uniform instrument and a copy of the document to be served or a copy of the decision allowing the enforcement of the decision.

(9) The Office may refuse to process a request from a requesting office of another Member State for the delivery of documents under Section 58(1) and the request for enforcement of a decision imposing a fine or penalty payments under Section 59(1), if

- a) the Office may prove reasonable ground confirming that the processing of the request would evidently be in conflict with the law of the Slovak Republic, or
- b) the request of the requesting authority of another Member State does not meet the requirements under paragraphs 2, 4, 5 or 8.

(10) If the Office plans to reject a request under paragraph 9, it shall notify the requesting authority of another Member State thereof.

(11) If it is necessary in relation to the processing of the request under Section 58(1) and Section 59, the Office may require additional information from the office of another Member State.

(12) The Office may require the requesting office of another Member State to reimburse all additional costs incurred in connection with the assistance in the inspection or hearing on behalf of the requesting office of another Member State or in relation to the processing the request for delivery of documents under Section 58(1).

(13) The Office may require the requesting office of another Member State to reimburse the costs incurred in connection with the enforcement of a decision imposing a fine or penalty payments, if such costs incurred in this context could not possibly or reasonably be recovered from the undertaking, against which the fine or penalty payments is enforceable.

(14) The Office shall require the reimbursement for the costs under paragraph 13 from the requesting authority of another Member State in euros.

## **§ 62**

### **Office as Requesting Authority**

(1) Under the uniform instrument, the Office may request an office of another Member State to deliver a document under Section 58(2).

(2) In addition to the uniform instrument by which the Office requests the delivery of a document under Section 58(2), the Office shall attach a copy of the document to be served on the addressee.

(3) The uniform instrument must contain

- a) the business name or the name and surname, address of the addressee and all other relevant information to identify the addressee,
- b) a summary of the relevant facts and circumstances,
- c) a summary of the attached copy of the document to be served on the addressee or a copy of the decision to be enforced,
- d) the name, address and other contact details of the requested office of another Member State and

e) the limitation period within which delivery shall be performed.

(4) Under the uniform instrument, the Office may require the competent office of another Member State to enforce a decision imposing a fine or penalty payments.

(5) The Office shall attach a copy of the decision, the enforcement of which the Office requires, to the uniform instrument by which the Office requires the enforcement of a decision imposing a fine or penalty payments.

(6) In addition to the requirements under paragraph 3(a) to (d), by which the Office requires the enforcement of a decision imposing a fine or penalty payments, the uniform instrument shall also contain

a) the information about the commencement of enforcement,

b) the date when the decision to be enforced becomes effective,

c) the information about the amount of the fine or penalty payments,

d) the information proving that reasonable efforts have been made to enforce the decision in the territory of the Slovak Republic,

e) the limitation period, within which the decision shall be enforced.

(7) The uniform instrument shall be sent by the Office in the official language or one of the official languages of the requested office of another Member State, unless otherwise agreed.

(8) If the law of the requested office of another Member State requires a translation of the document to be served or a translation of the decision allowing the enforcement, the Office shall provide a translation of the document to be served or a translation of the information about the commencement of enforcement in the official language or one of the official languages of the requested office of another Member State, unless otherwise agreed.

(9) The Office shall provide the requested office of another Member State with additional necessary information at its request.

(10) Upon the request, the Office shall reimburse in full all reasonable additional costs incurred by the requested office of another Member State in providing assistance in the inspection, hearing on behalf of the Office, in relation to delivery of the document under Section 58(2) or in connection with the enforcement of a decision imposing a fine or penalty payments. Costs according to the first sentence, which will be incurred in association with ensuring the enforcement of the decision under Section 59(6), shall be paid by the person authorised under a special regulation.<sup>29)</sup>

(11) The person authorised under a special regulation<sup>29)</sup> shall provide the Office with the necessary assistance in relation to ensuring the enforcement of the decision under Section 59(6).

### § 63

#### **Disputes Regarding Requests for Delivery of Documents or Requests for Enforcement of Decision Imposing Fines or Penalties**

(1) Any dispute regarding a request for delivery of a document or a request for enforcement of a decision imposing a fine or penalty payments shall fall within the jurisdiction of the competent authorities of the requesting office of another Member State and shall be governed by the law of the state of the requesting office of another Member State, if the Office is the requested authority and the dispute concerns

- a) the lawfulness of the document to be served under Section 58(1),
- b) the lawfulness of the decision, the enforcement of which is to be ensured under Section 59(1), or
- c) the lawfulness of the uniform instrument allowing the enforcement in the Slovak Republic.

(2) Any dispute shall fall within the jurisdiction of the competent authorities of the Slovak Republic and shall be governed by the law of the Slovak Republic, if the Office is the requested authority and the dispute concerns

- a) measures taken in the Slovak Republic in connection with the enforcement of the decision, or
- b) validity of the delivery performed by the Office.

(3) Any dispute shall fall within the jurisdiction of the competent authorities of the Slovak Republic and shall be governed by the law of the Slovak Republic, if the Office is the requesting authority and the dispute concerns

- a) the lawfulness of the document to be served under Section 58(2),
- b) the lawfulness of the decision, the enforcement of which is to be ensured under Section 59(4), or
- c) the lawfulness of the uniform instrument allowing the enforcement in the state of the requested office of another Member State.

(4) Any dispute shall fall within the jurisdiction of the competent authorities of the state of the requested office of another Member State and shall be governed by the law of the state of the requested office of another Member State, if the Office is the requesting authority and the dispute concerns

- a) measures taken in the state of the requested office of another Member State in connection with the enforcement of the decision, or
- b) validity of the delivery performed by the requested office of another Member State.

#### **§ 64 Enabling Provisions**

The Office shall issue a generally binding legal regulation stipulating

- a) thresholds for determination, whether the agreement between undertakings, concerted practice of undertakings or decision of associations of undertakings has negligible impact on competition,
- b) particularities of the notification of concentration,
- c) remuneration of a member of the Council,
- d) details of the submission of applications for the leniency program, the request for reservation of place and the details of these applications, the conditions of participation in the leniency programme and the procedure of the Office after the application for the leniency programme is filed,

- e) details of the terms of the settlement, the course of the settlement negotiations and the amount of the reduction in the fine.

## **§ 65**

### **Transitional Provisions**

(1) Proceedings of the Office commenced and not finally completed under Act No. 136/2001 Coll. on Protection of Competition and on Amendments to Act of the Slovak National Council No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of Slovak Republic, as amended (hereinafter referred to as "Act No. 136/2001 Coll."), shall be completed in accordance with this Act.

(2) Legal effects of acts that took place in proceedings before the effective date of this Act shall be maintained.

(3) If, as of the effective date of this Act, any proceeding on concentration under Act No. 136/2001 Coll. is commenced, the Office shall discontinue such proceedings if the concentration is not subject to control by the Office pursuant to this Act.

(4) The Chairman of the Office appointed to the position under Act No. 136/2001 Coll. shall be the Chairman of the Office under this Act; this shall not affect the running of the term of office.

(5) The Vice-Chairman of the Office appointed to the position under Act No. 136/2001 Coll. shall be the Vice-Chairman of the Office under this Act; the term of office of the Vice-Chairman of the Office appointed under Act No. 136/2001 Coll. shall expiry together with the term of office of the Chairman of the Office appointed under Act No. 136/2001 Coll.

(6) A member of the Council appointed to the position under Act No. 136/2001 Coll. shall be the member of the Council under this Act; this shall not affect the running of the term of office possibility of the member's dismissal if the member does not meet the conditions under this Act.

(7) This Act shall apply to the imposition of sanctions for an infringement of Act No. 136/2001 Coll., if this Act is less strict.

## **§ 66**

### **Repeal Provision**

The following shall be repealed:

1. Act No. 136/2001 Coll. on Protection of Competition and on Amendments to Act of the National Council of the Slovak Republic No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic, as amended, as amended by Act No. 575/2001 Coll., Act No. 465/2002 Coll., Act No. 204/2004 Coll., Act No. 68/2005 Coll., Act No. 165/2009 Coll., Act No. 387/2011 Coll., Act No. 151/2014 Coll., Act No. 343/2015 Coll., Act No. 125/2016 Coll. and Act No. 350/2016 Coll.,
2. Decree No. 169/2014 of the Antimonopoly Office of the Slovak Republic laying down thresholds for determination, whether the agreement between undertakings, concerted practice of undertakings or decision by associations of undertakings has negligible impact on competition,
3. Decree No. 170/2014 of the Antimonopoly Office of the Slovak Republic laying down details of notification of concentration,
4. Decree No. 171/2014 of the Antimonopoly Office of the Slovak Republic laying down details of settlement conditions,

5. Decree No. 172/2014 of the Antimonopoly Office of the Slovak Republic laying down details of leniency programme,
6. Measure No. 1/2017 of the Antimonopoly Office of the Slovak Republic of 13 March 2017 on Remuneration of Members of the Council of the Antimonopoly Office of the Slovak Republic (Notification No. 59/2017 Coll.), as amended by Measure No. 1/2019 (Notification No. 132/2019 Coll.).

## **§ 67**

### **Transposition Provision**

This Act transposes the legally binding acts of the European Union listed in the Annex.

### **Article II**

Act No. 162/2015 Coll. The Administrative Procedure Code as amended by Act No. 88/2017 Coll., Act No. 344/2018 Coll., Act No. 413/2019 Coll. and Act No. 423/2020 Coll. shall be supplemented as follows:

1. In Section 185, a comma and the words “unless otherwise stipulated by a special regulation,” shall be inserted after the words “the Administrative Court may”.
2. After Section 193, Section 193a shall be inserted as follows:

#### **„§ 193a**

The Administrative Court shall decide on the administrative action against the decision of the Antimonopoly Office to impose a interim measures under a special regulation within three months from the delivery of the defendant's statement on this action.”.

3. Section 458 shall be supplemented by paragraph 3 as follows:

“(3) The Cassation Court shall decide on the cassation complaint filed against the decision of the Regional Court regarding an administrative action filed against the decision under Section 193a within three months of the presentation of the case by the Regional Court.”.

### **Article III**

Act No. 575/2001 Coll. on Organisation of Activity of Government and on Organisation of Central State Administration, as amended by Act No. 143/2002 Coll., Act No. 411/2002 Coll., Act No. 465/2002 Coll., Act No. 139/2003 Coll., Act No. 453/2003 Coll., Act No. 523/2003 Coll., Act No. 215/2004 Coll., Act No. 351/2004 Coll., Act No. 405/2004 Coll., Act No. 585/2004 Coll., Act No. 654/2004 Coll., Act No. 78/2005 Coll., Act No. 172/2005 Coll., Act No. 474/2005 Coll., Act No. 231/2006 Coll., Act No. 678/2006 Coll., Act No. 103/2007 Coll., Act No. 218/2007 Coll., Act No. 456/2007 Coll., Act No. 568/2007 Coll., Act No. 617/2007 Coll., Act No. 165/2008 Coll., Act No. 408/2008 Coll., Act No. 583/2008 Coll., Act No. 70/2009 Coll., Act No. 165/2009 Coll., Act No. 400/2009 Coll., Act No. 403/2009 Coll., Act No. 505/2009 Coll., Act No. 557/2009 Coll., Act No. 570/2009 Coll., Act No. 37/2010 Coll., Act No. 372/2010 Coll., Act No. 403/2010 Coll., Act No. 547/2010 Coll., Act No. 392/2011 Coll., Act No. 287/2012 Coll., Act No. 60/2013 Coll., Act No. 311/2013 Coll., Act No. 313/2013 Coll., Act No. 335/2014 Coll., Act No. 172/2015 Coll., Act No. 339/2015 Coll., Act No. 358/2015 Coll., Act No. 392/2015 Coll., Act No. 171/2016 Coll., Act No. 272/2016 Coll., Act No. 378/2016 Coll., Act No. 138/2017 Coll., Act No. 238/2017 Coll., Act No. 112/2018 Coll., Act No. 313/2018 Coll., Act No. 30/2019 Coll., Act No. 134/2020 Coll. and Act No. 72/2021 Coll., shall be amendeded as follows:

1. In the last sentence of Section 1b, the words “and organisational” shall be deleted.
2. In Section 22(1), the words “The Government Office of the Slovak Republic” shall be followed by a comma and the words

“to the extent of acts not relating to the performance of tasks of the Deputy Prime Minister, who does not manage the Ministry,” shall be added, and, at the end, the following sentences shall be added: “The Office of the Deputy Prime Minister, who does not manage the Ministry, shall be headed by the State Secretary to the Deputy Prime Minister, who does not manage the Ministry; the State Secretary shall act on behalf of the Government Office of the Slovak Republic to the extent of acts related to the performance of tasks of the Deputy Prime Minister, who does not manage the Ministry. For the purposes of financial management and financial control under a special regulation, the State Secretary to the Deputy Prime Minister, who does not manage the Ministry, shall be considered the statutory body of a public administration body in relation to financial operations related to the performance of tasks of the Deputy Prime Minister, who does not manage the Ministry.”.

3. In Section 22(2) and (6), the last sentence, including the footnote to reference 1b, shall be deleted.
4. In Section 24, a new paragraph 6 shall be inserted after paragraph 5, as follows:

“(6) The Office of the Deputy Prime Minister, who does not manage the Ministry, shall be established in the Government Office of the Slovak Republic. The Office of the Deputy Prime Minister shall consist of at least such professional departments of the Government Office of the Slovak Republic that ensure the fulfilment of tasks of the Deputy Prime Minister, who does not manage the Ministry, under this Act or the Statute. The Office of the Deputy Prime Minister, who does not manage the Ministry, is a registered organisational unit for the purposes of assigning an identification number of the organisation.”.

The existing paragraphs 6 to 10 shall be renumbered as paragraphs 7 to 11.

5. In Section 24(11), the words “paragraphs 6 to 9” shall be replaced by the words “paragraphs 7 to 10”.
6. In Section 37, the following sentence shall be added at the end: “The second sentence shall apply *mutatis mutandis* to the Prime Minister and the Deputy Prime Minister, who does not manage the Ministry.”.

#### **Article IV**

This Act shall enter into force on 1 June 2021.

**Boris Kollár m. p.**

**Eduard Heger m. p.**

**Annex  
to Act No. 187/2021 Coll.**

#### **LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION**

Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (OJ L 11, 14.1.2019).

- 1) Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, Special Edition of OJ, Chapter 8/Vol.<sup>2</sup>), as amended.  
Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004).
- 2) For example, the Labour Code, Act No. 552/2003 Coll. on Execution of Work in Public Interest, as amended, Act No. 55/2017 Coll. on Civil Service and on Amendments to Certain Acts, as amended.
- 3) Article 219(1) to (3) of the Treaty on the Functioning of the European Union (OJ C 202, 7.6.2016), as amended.  
Article 12(1) of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on the European Union (OJ C 202, 7.6.2016), as amended.  
Section 28(2) of Act of the National Council of the Slovak Republic No. 566/1992 Coll. on National Bank of Slovakia, as amended by Act No. 659/2007 Coll.
- 4) For example, Act No. 483/2001 Coll. on Banks and on Amendments to Certain Acts, as amended, Act No. 215/2004 Coll. on Protection of Classified Information and on Amendments to Certain Acts, as amended, Act No. 351/2011 Coll. on Electronic Communications, as amended.
- 5) Article 35 of Regulation (EC) No. 1/2003, as amended.
- 6) Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (OJ L 256, 29.9.2009), Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102, 23.4.2010), Commission Regulation (EU) No 461/2010 of 27 May 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ L 129, 28.5.2010), Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements (OJ L 335, 18.12.2010), Commission Regulation (EU) No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements (OJ L 335, 18.12.2010).
- 7) For example, Sections 70 to 75k of the Commercial Code, Sections 40 to 43 of Act No. 7/2005 Coll. Bankruptcy and Restructuring and on Amendments of Certain Acts, as amended by Act No. 348/2011 Coll.
- 8) Section 14 of Act No. 111/1990 Coll. on State Enterprise, as amended.
- 9) For example, Sections 114 to 119 of the Act on Securities.
- 10) For example, the Act on Securities, Act No. 429/2002 Coll. on Stock Exchange, as amended.
- 11) For example, Regulation (EC) No. 1/2003, as amended, Regulation No. 139/2004.
- 12) Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in Discharge of Functions of Public Official, as amended.
- 13) For example, Act of the National Council of the Slovak Republic No. 18/1996 Coll. on

Prices, as amended.

14) Act No. 350/2016 Coll. on Certain Rules for the Enforcement of Claims for Damages Caused by Infringement of Competition Law, amending and supplementing Act No. 136/2001 Coll. on Protection of Competition and on Amendments to Act of the National Council of the Slovak Republic No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of Slovak Republic, as amended, as amended.

15) Act No. 215/2004 Coll., as amended.

16) Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Force, as amended.

17) Section 1, Section 55(1) and Section 69(5) of the Criminal Procedure Code.

18) Articles 13 to 15 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016).

19) Sections 430 to 437 of the Administrative Court Code.

20) Regulation (EC) No. 139/2004.

21) Articles 4 and 5 of Constitutional Act No. 227/2002 Coll. on State Security at Times of War, State of War, State of Emergency and State of Crisis, as amended.  
Section 8 of Act of the National Council of the Slovak Republic No. 42/1994 Coll. on Civil Protection of Population, as amended.

22) Act of the National Council of the Slovak Republic No. 145/1995 Coll. on Administrative Fees, as amended.

23) For example, Section 81(f) of the Labour Code.

24) Act No. 54/2019 Coll. on Protection of Whistleblowers and Amendments to Certain Acts, as amended.

25) Section 2(1)(b), (c), (e) and (l) and Section 76 of Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended.

26) Act No. 153/2001 Coll. on Prosecution, as amended.

27) For example, Act No. 343/2015 Coll. on Public Procurement and Amendments to Certain Acts, as amended.

28) For example, Act No. 153/2001 Coll., as amended, the Administrative Court Code.

29) Act No. 374/2014 Coll. on State Receivables and Amendments to Certain Acts, as amended.

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