

**136/2001 Coll.**

**ACT**

of 27 February 2001

**on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended as amended**

Amendment: 465/2002 Coll.  
Amendment: 204/2004 Coll.  
Amendment: 68/2005 Coll.  
Amendment: 165/2009 Coll.  
Amendment: 387/2011 Coll.  
Amendment: 151/2014 Coll.

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

## **Section I**

### **PART ONE BASIC PROVISIONS**

#### **Article 1 Purpose of the Act**

The purpose of this Act is to protect competition from any restriction and to create conditions for its further development to the benefit of consumers and regulating the powers and scope of activities of the Antimonopoly Office of the Slovak Republic (hereinafter referred to as "the Office") in supervising compliance with the provisions of this Act.

#### **Article 2 Scope of the Act**

(1) This Act shall apply to:

- a) undertakings,
- b) state administration authorities in the exercise of state administration, municipalities and self-governing regions in the exercise of self-governance and transferred state administration and professional self-governance bodies in the exercise of transferred state administration,
- c) other persons set by this Act.

(2) This Act shall apply to activities and conduct of undertakings that restrict or may restrict competition, except for restriction by undertakings providing services of general economic interest pursuant to special legislation, provided that the application of this Act effectually or legally prevents them from fulfilling their tasks pursuant to special legislation. 1)

(3) The provisions of Articles 22 to 41 shall also apply to the Office's procedure where the Office assesses activities and conduct of undertakings pursuant to special legislation. 1aa)

(4) This Act shall also apply to activities and actions that have taken place abroad, provided that they lead, or may lead, to restriction of competition in the domestic market.

(5) This Act, except Part Five, shall not apply to restrictions of competition that have effect on a foreign market only, unless an international treaty, by which the Slovak Republic is bound and which is published in the Collection of Laws of the Slovak Republic provides otherwise.

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- 1) For example, Articles 5 and 7 of Act No. 2/1991 Coll. on Collective Bargaining as amended.
  - 1aa) 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 establishing the European Community (OJ L 1, 4/1/2003).

### **Article 3** **Definitions of Certain Terms**

(1) For the purpose of this Act, undertaking means an entrepreneur pursuant to special legislation, 2), as well as natural person and a legal person, their associations, and associations of these associations, with respect to their activities and conduct that are related, or may be related to competition, regardless of whether or not these activities and conduct are aimed at making a profit.

(2) Relevant market means a geographical and temporal concurrence of the supply of and demand for products, performances, works and services (hereinafter referred to as „goods“) that are identical or substitutable with respect to the satisfaction of certain needs of users.

(3) A relevant product market shall comprise identical or substitutable goods that can satisfy a certain need of users. Substitutability of goods is assessed in particular in the view of their characteristics, price and their intended use.

(4) Relevant geographical market shall be defined as a territory in which the conditions for competition are sufficiently homogeneous and this territory can be separated from other territories with different conditions for competition.

(5) For the purpose of this Act the turnover means a total of revenues, yields or incomes from the sale of goods excluding indirect taxes, to which financial assistance granted to the undertaking shall be added. In case of association of undertakings the sum of the contributions of the members of this association of undertakings is added to the turnover of the association of undertakings besides the total calculated according to the previous sentence. Turnover of undertaking in foreign currency shall be converted into euro. The average of exchange reference rates set and announced by the European Central Bank or by the National Bank of Slovakia, 3) valid for the relevant account period shall be applied for conversion of foreign currency into euro.

(6) Financial aid granted to an undertaking means, for the purpose of this Act, any pecuniary aid granted to the undertaking from the public sources which concerns an activity performed by an undertaking and will be reflected in the price of its goods.

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2) Article 2 of the Commercial Code.

3) Article 28, paragraph 2 of the Act of the Slovak National Council No. 566/1992 Coll. on National Bank of Slovakia as amended.

Article 219, paragraphs 1 to 3 of the Treaty on the Functioning of the European Union in its valid wording (Official Journal of the European Communities C 326, 26. 10. 2012)

Article 12, par. 12.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to Treaty on the European Union and to Treaty on the Functioning of the European Union (OJ C 326, 26. 10. 2012).

## **PART TWO**

# **FORMS OF UNLAWFUL RESTRICTION OF COMPETITION AND CONCENTRATION**

### **Article 4**

#### **Agreement Restricting Competition**

(1) Agreement between undertakings and concerted practice, as well as decisions by associations of undertakings, which have as their object or effect the restriction of competition (hereinafter referred to as an "agreement restricting competition") shall be prohibited, unless this Act provides otherwise.

(2) Agreement between undertakings, concerted practice and decision by association of undertakings does not constitute an agreement restricting competition if its effect on competition is not appreciable. Agreement between undertakings, concerted practice and decision by the association of undertakings does not constitute an appreciable effect on competition if the market shares of undertakings being parties to the agreement, concerted practice or decision by the association of undertakings do not exceed the thresholds set by the Office in the generally binding legal regulation. If the agreement between undertakings, concerted practice or decision by the association of undertakings has the restriction of competition as its object, it does constitute an appreciable effect on competition.

(3) For the purpose of this Act:

- a) an agreement between undertakings means any oral or written expression of the will of the parties thereto, as well as any other expression of the will derived from their conduct;
- b) a concerted practice means any coordination between undertakings that does not have signs of the agreement between undertakings referred to in (a) and cannot be considered as a natural adaptation to the conduct of another undertaking;
- c) a decision by an association of undertakings is any legal act of the association's body, as well as a recommendation of the association's body.

(4) There shall be prohibited, in particular, agreement restricting competition which consists in:

- a) direct or indirect fixing of prices or any other trading conditions;
- b) commitment to limit or control production, sales, technical development, or investments;
- c) market allocation or allocation of sources of supply;
- d) commitment by the parties to the agreement that different conditions relating to an identical or comparable performance will be applied by them to individual undertakings thereby placing them at a competitive disadvantage;
- e) conditions stipulating that the conclusion of contracts that will require the parties to accept

supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contract; or  
f) coordination of undertakings in public procurement 4), in public tender 4a) or in other similar tendering procedure, in connection with public procurement, public tender or other similar tendering procedure.

(5) Prohibition pursuant to the paragraph 1 shall not apply to agreements restricting competition which simultaneously

- a) contribute to the improvement of production or distribution of goods or to promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefit;
- b) do not impose on parties to the agreements restricting competition such restrictions which are not indispensable to the attainment of the objectives pursuant to the subparagraph (a), and
- c) do not enable the parties to the agreement restricting competition to eliminate competition in respect of a substantial part of the products in question in the relevant market.

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4) Act No. 25/2006 Coll. on Public Procurement and on Amendments and Supplements to certain laws as amended.

4a) For example Articles 281 to 288 of the Commercial Code.

## **Article 5** **Block Exemptions**

(1) The prohibition pursuant to Article 4 shall not apply to categories of agreements restricting competition that may not affect trade between Member States of the European Union, which may have as their object or effect the restriction of competition in the domestic market and which meet the conditions for exemption from the prohibition pursuant to special legislation. 5a)

(2) The Office shall issue a decision that the exemption pursuant to the paragraph 1 does not apply to the agreement restricting competition effects of which are inconsistent with the Article 4 paragraph 5.

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5a) For example, Commission Regulation (EC) No. 772/2004 of 7 April 2004 on the application of Article 81(3) of the Treaty establishing the European Community to categories of technology transfer agreements (Special Issue of Official Journal of the European Communities, chapter 8/volume 3, Official Journal of the European Communities L 123, 27. 04. 2004), Commission Regulation (EC) No. 906/2009 of 28 September 2009 on the application of Article 81(3) of Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (Official Journal of European Communities L 256, 29. 09. 2009), Commission Regulation (EU) No. 267/2010 of 24 March 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector (Official Journal of the European Union, L 083, 30. 03. 2010), 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 (Official Journal of European Communities L 102, 23. 04. 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 (Official Journal of the European Communities L 129203, 28. 05. 2010), Commission Regulation (EC) 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 (Official Journal of the European Communities L 335, 18. 12. 2010), Commission Regulation (EU) No. 1218/2010 of 14 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 (Official Journal of European Communities L 335, 18. 12. 2010).

## **Article 6**

### **Common provisions on agreements restricting competition**

(1) If the party to the proceedings claims that the Article 4 paragraph 2 or 5 or the Article 5 applies to its conduct or activity, it is obliged to prove this fact to the Office.

(2) If the reason for prohibition pursuant to the Article 4 paragraph 1 is only related to part of an agreement between undertakings or decision by an association of undertakings, then only that particular part shall be prohibited, provided that it follows from the content of this agreement or the content of this decision by the association that the aforementioned part can be separated from the remaining content.

(3) Undertakings may ask the Office to issue an opinion on whether or not their draft agreement or draft decision by an association of undertakings constitutes an agreement restricting competition. For this purpose, the Office shall not assess a draft agreement between undertakings or a draft decision by an association of undertakings pursuant to the Article 4 paragraphs 2 and 5, nor pursuant to the Article 5. The Office shall issue an opinion within 30 working days following the day of delivery of the request; in complicated cases it shall issue an opinion within 60 working days.

(4) The Office shall assess within the same proceedings agreements restricting competition concluded between the undertakings which, for the purpose of such agreement restricting competition, operate on different level of production or distribution chain if the contents of these agreements restricting competition are identical in terms of their purpose and objective.

## **Article 7**

Repealed by Act No. 204/2004 Coll.

## **Article 8**

### **Abuse of Dominant Position**

(1) A dominant position in the relevant market is held by an undertaking or several undertakings that are not subject to substantial competition and which can behave independently as a result of their economic power.

(2) Abuse of a dominant position in the relevant market, may in particular, consist in:

- a) directly or indirectly applying unfair prices or other unfair trading conditions;
- b) limiting production, markets or technical development to the prejudice of consumers;
- c) applying dissimilar conditions to equivalent or comparable transactions with other undertakings, which places or may place them at a competitive disadvantage; or
- d) making the conclusion of contract subject to acceptance by the other party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

(3) Any abuse of a dominant position in the relevant market shall be prohibited.

## **Article 8a**

Repealed by Act No. 151/2014 Coll.

## **Article 9 Concentration**

- (1) For the purpose of this Act, concentration means the process of economic combining of undertakings on a lasting basis through:
- a) a merger or amalgamation of two or more previously independent undertakings; or
  - b) an acquisition of direct or indirect control by one or more undertakings over another undertaking or part of it or over more undertakings or parts of them.
- (2) For the purpose of this Act, a merger or amalgamation within the meaning of paragraph 1 (a) means a merger or amalgamation pursuant to special legislation, 6) as well as a merger or amalgamation whereby the undertakings concerned become economically combined, while retaining their legal independence, especially in the case of the existence of joint economic management.
- (3) For the purpose of this Act, part of an undertaking within the meaning of paragraph 1 (b) means the assets based on which turnover may be attained.
- (4) Control within the meaning of paragraph 1 (b) means the ability to exercise a controlling influence on the activities of an undertaking, especially by means of:
- a) ownership rights or other rights;
  - b) rights, contracts or other facts allowing the exercising of a controlling influence on the composition, voting or decisions of the undertaking's bodies.
- (5) Concentration within the meaning of paragraph 1 (b) shall also mean the establishment of a joint venture jointly controlled by two or more undertakings if the respective joint venture performs all functions of an independent economic entity on a lasting basis.
- (6) Within the proceedings regarding concentration according to paragraph 5, which is subject to control by the Office and is aimed at or may lead to coordination of competitive behaviour of undertakings, the Office shall assess such concentration according to Articles 4 and 5.
- (7) Provisions of this Act, regarding concentration, except Article 10, paragraph 7 refer also to intention of concentration notified to the Office pursuant to the Article 10, par. 10.
- (8) Concentration shall not be deemed to arise where:
- a) bank, branch of foreign bank, insurance company or other financial institutions, the normal activities of which include trading in securities on their own account or on the account of others, temporarily acquires securities with a view to reselling them, which enables it to acquire control over another undertaking or part of it or over several undertakings or parts of them, provided it does not exercise voting and other rights with a view to determining the competitive behaviour of that undertaking or if it exercises these voting rights only with a view to preparing for the sale of the undertaking or part of it or the sale of securities, provided that this sale is effected within one year of the date of acquisition of the securities and through this sale it loses control over this undertaking or part of it or over several undertakings or parts of them; based on an undertaking's request, the Office shall issue a decision through which the one-year period may be extended if it is proven that the sale of securities was not possible within this period;
  - b) temporary acquisition of control over the undertaking or part of it or over several undertakings or parts of them ensues from special legislation.<sup>8)</sup>
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- 6) Article 69 (3) of the Commercial Code.
- 8) For example, Articles 70 to 75 of the Commercial Code, Articles 40 to 43 of Act No. 7/2005 Coll. on Bankruptcy and restructuring as amended by the Act No. 348/2011 Coll.

## Article 10

(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 attained for the accounting period preceding the establishment of the concentration in the Slovak Republic and at least two of the undertakings concerned each attain the aggregate turnover of at least EUR 14 000 000 in the Slovak Republic for the accounting period preceding the establishment of the concentration; or

b) aggregate turnover attained for the accounting period preceding the establishment of the concentration in the Slovak Republic

1. if it is a matter of concentration pursuant to the article 9, par. 1, subparagraph a) at least by one of the undertakings concerned is EUR 14 000 000 and simultaneously the worldwide aggregate turnover for the accounting period preceding the establishment of the concentration attained by another undertaking concerned is at least EUR 46 000 000,

2. if it is a matter of concentration pursuant to the article 9, par. 1, subparagraph b) at least by one undertaking concerned which is acquired or part of it is acquired is at least EUR 14 000 000 and simultaneously the worldwide aggregate turnover for the accounting period preceding the establishment of the concentration attained by any undertaking concerned is at least EUR 46 000 000,

3. if it is a matter of concentration pursuant to the article 9, par. 5 at least by one of the undertakings concerned creating jointly controlled enterprise is at least EUR 14 000 000 and simultaneously the worldwide aggregate turnover for the accounting period preceding the establishment of the concentration attained by another undertaking concerned is at least EUR 46 000 000.

(2) The aggregate turnover of an undertaking concerned shall be a total of turnovers of:

a) the undertaking concerned;

b) undertaking in which the undertaking concerned directly or indirectly:

1. holds more than half of 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's affairs;

c) undertaking having the rights referred to in (b) in an undertaking concerned;

d) undertaking in which the undertaking referred to in (c) have the rights referred to in (b);

e) undertaking in which two or more undertakings referred to in (a) to (d) have joint rights referred to in (b).

(3) The aggregate turnover of an undertaking shall not include revenues, yields or incomes from the sale of goods between individual undertakings referred to in paragraph 2. In the case of concentration pursuant to the Article 9 paragraph 1 (b) the turnover of undertaking or of those parts which are subject to concentration is regarded.

(4) In the case of concentration pursuant to the Article 9 paragraph 1 (a) between several undertakings from which some belong to the same economic group, the aggregate turnovers pursuant to the paragraph 2 are summed in the case of parties to the concentration belonging to the same economic group in order to determine whether the concentration is subject to control by the Office pursuant to the paragraph 1. In the case of concentration pursuant to the Article 9 paragraph 1 (b) and undertakings concerned on the side of the acquired are several undertakings or their parts from which some belong to the same economic group, their combined turnovers pursuant to the paragraph 2 are summed in order to determine whether the concentration is subject to control by the Office pursuant to the paragraph 1. In order to determine whether the undertakings belong to the same economic group the Office examines relations of direct or indirect control pursuant to the Article 9, paragraph 4.

(5) Two or more concentrations that are established within two years between the same undertakings or between the undertakings from the same economic groups and are jointly subject to control pursuant to paragraph 1 shall be treated as one concentration that arose on the day of the last concentration.

(6) If the undertakings concerned jointly have the rights referred to in paragraph 2 (b), the calculation of the aggregate turnover shall not include the turnover resulting from the sale of goods between the joint venture and each of undertakings concerned or any other undertaking associated with any of

them according to paragraph 2 (b) to (e). The turnover from the sale of goods between the joint venture and other undertakings shall be equally apportioned among undertakings concerned.

(7) A concentration subject to control by the Office within the meaning of paragraph 1 shall be notified to the Office before the rights and obligations resulting from a concentration are executed and after:

- a) a contract is concluded;
- b) acceptance of a bid in a public tender is announced; 13)
- c) a state authority's decision is delivered to an undertaking; 14)
- d) announcement of an acquisition bid; 14a)
- e) day when the European Commission (hereinafter referred to as "Commission") informed an undertaking that the Office will deal with the matter; or
- f) day when another fact occurred based on which concentration has arisen.

(8) Notification of a concentration shall be jointly submitted by the undertakings concerned in the case of a merger or amalgamation of two or more independent undertakings; in the case of public tender, the notification shall be submitted by the selected bidder; in the case of a decision issued by a state authority on a merger or amalgamation of undertakings pursuant to special legislation 14), by the undertakings concerned jointly; in case of acquisition bid 14a) by a proposer of an acquisition bid; in other cases the notification shall be submitted by the undertaking or undertakings that acquire control over another undertaking, its part or over several undertakings or their parts.

(9) Notification of a concentration shall contain the requirements determined by the Office in the generally binding legal regulation. At the justified request of an undertaking notifying a concentration, the Office may reduce the amount of information required by the generally binding legal regulation. If the Office ascertains during the proceedings that the reduced amount of information does not suffice for making a decision on the matter, it may ask the undertaking to complete certain information or to file a complete notification of a concentration. The time limits referred to in Article 11 (1) or (2) shall be suspended between the day of sending the request to complete the notification of concentration and the submission of this information.

(10) Notification of a concentration shall be submitted to the Office also before a contract is concluded or before another legal fact founding merger, amalgamation, acquisition of control or establishment of a joint venture occurs, providing that it shall result in concentration being subject to control by the Office pursuant to the paragraph 1. Besides the requirements pursuant to the paragraph 9 such a notification must contain also written reasoning and written documents certifying facts essential for concentration.

(11) An undertaking may not exercise the rights and obligations resulting from a concentration before the decision on the concentration becomes legally effective.

(12) Prohibition pursuant to paragraph 11 shall not prejudice the right of a selected bidder in a public tender 13) to make its bid, provided that the acquirer does not exercise the voting right arising in connection with the implementation of the bid.

(13) Prohibition pursuant to paragraph 11 shall also not prejudice the realization of an acquisition bid or realization of more transactions with securities at the securities market 16a) through which a control pursuant to the Article 9 (1) (b) is acquired from various subjects under the conditions that

- a) such a concentration is immediately notified to the Office pursuant to the Article 7 and
- b) acquirer of the control does not exercise its voting rights connected with these securities or it only does so to maintain the full value of these investments based on the exemption granted by the Office pursuant to the Article 14.

(14) At the request of an undertaking, the Office may grant a derogation from the ban under paragraph 11 if there exist serious reasons for this. Request to grant a derogation must contain reasons why the undertaking requests for the derogation, scope in which the undertaking requests for the derogation and information and documents necessary for assessing the derogation with regard to the impacts on competition. The Office shall issue a decision on the granting of or non-granting of a derogation within 20 working days following the delivery of the request. The Office may ask the undertaking to provide more information in order to assess the granting of exemption derogation. Time limit for issuing the decision on derogation is suspended from the day of sending the request to complete the required

information until submission of this information. When deciding on the derogation, the Office shall also take into account the effects of suspension of the concentration on the undertakings concerned and third parties and the threat to competition posed by concentration. A derogation may be granted subject to conditions and obligations in order to ensure effective competition.

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13) Articles 281 to 288 of the Commercial Code.

14) Article 14 of Act 111/1990 Coll. on State Enterprises as amended by Act of the National Council of the Slovak Republic No. 317/1996 Coll.

14a) For example Article 114 and following of the Act No. 566/2001 Coll. on Securities and Investment Facilities and on Amendments and Supplements to Certain Laws (Act on Securities) as amended.

16a) For example Act No. 566/2001 Coll., Act No. 429/2002 Coll. on the Stock Exchange as amended.

## **Article 11**

(1) The Office shall issue a decision on concentration within 25 working days following the date of delivery of notification of concentration. This decision usually contains simplified reasoning with list of undertakings concerned, sector or relevant market in which undertakings concerned operate. In the case of decision with simplified reasoning the Office shall not send a statement before issuing a decision pursuant to the article 33.

(2) If the concentration requires in-depth analysis due to identification of competition concerns, the Office shall inform the party to the proceedings on this fact within the time limit pursuant to the par. 1. In such case the Office shall issue a decision on concentration within 90 working days following the date of delivery of the written notification to party to the proceedings.

(3) If the notification of concentration is not complete, the time limit for issuing the decision on concentration shall be suspended for the period between the day when the Office sends the request to complete the notification of concentration to the party to the proceedings and the delivery of complete notification of concentration from the party to the proceedings. The Office shall confirm the completeness of notification to the party to the proceedings based on documents submitted by it.

(4) If the Office ascertains during the administrative proceedings that the concentration notification included false information, it is required to immediately inform the party to the proceedings on this fact and a new time limit for issuing a decision on concentration shall begin on the day following the date of delivery of truthful information to the Office.

(5) If the Office asks the party to the proceedings to submit further information and documents which may substantially affect the decision on concentration, the time limit pursuant to the paragraphs 1 and 2 shall be suspended for the period between the day of delivery of request to the party to the concentration and the submission of information and documents. The Office is required to inform the party to the proceedings thereof in writing.

(6) Based on the reasoned request of party to the proceedings or with its consent the Office may extend the time limit pursuant to the article 1 and 2 before its expiration, even repeatedly by a total of 30 working days at a maximum.

(7) If the decision of the Office on concentration is annulled by the court or by the Office and the original notification became non-complete due to the change of market conditions or provided data which occurred in the course of time, the party to the proceedings shall immediately complete the original notification. If such changes did not occur the party to the proceedings shall confirm this fact to the Office immediately in writing. Time limits pursuant to the paragraphs 1 and 2 shall begin on the day following the date of delivery of complete information in the completed original notification or after delivery of confirmation by the party to the proceedings.

## **Article 12**

(1) The Office shall issue a decision approving a concentration if the concentration does not significantly distort effective competition in the relevant market, mainly due to the creation or strengthening of dominant position.

(2) The Office shall issue a decision approving a concentration pursuant to Article 9 (6) if the concentration complies with paragraph 1 and coordination of competitive behaviour is not prohibited according to Article 4 (1).

(3) The Office shall also issue a decision approving a concentration if the condition imposed in the decision ensures that the concentration complies with paragraph 1 or 2. In its decision, the Office may impose on the parties to the proceedings an obligation related to that condition, especially in order to ensure the fulfilment of the imposed condition, the achievement of its purpose, or control its fulfilment.

(4) The Office shall ask a party to the proceedings in writing to propose a condition and an obligation related to this condition according to paragraph 3 if the concentration raises concerns of non-compliance with paragraph 1 or 2, which the Office shall explain in its request. The Office shall not be bound by the proposed condition.

(5) The party to the proceedings is required to submit to the Office within 30 working days of delivery of the request a written proposal for a condition for ensuring compliance of the concentration with paragraph 1 or 2 and an obligation related to this condition. The Office shall not take into account any proposal submitted after the expiration of the time limit. In justified cases, the Office may extend this time limit prior to its expiration at the request of the party to the proceedings. Based on reasoned request by the party to the proceedings in the cases worth special consideration the Office may accept the proposal of conditions and obligations related to this condition submitted after the expiration of time determined for proposing conditions and obligations provided that the time limit for issuing the decision pursuant to the Article 11 paragraph 1 or 2 enables the proper examination of the proposal for conditions and obligations. The time limit referred to in Article 11 paragraph 1 or 2 shall be suspended during time limit for submitting conditions and obligations related to this condition. If the party to the proceedings describes the submitted proposal for the condition and the obligation related to this condition as final prior to the expiration of this time limit, the time limit referred to in Article 11 (1) or (2) shall begin on the date of delivery of the final proposal.

(6) In a decision pursuant to paragraph 3, the Office may decide that the parties to the proceedings must not exercise the rights and obligations resulting from the concentration until the imposed condition is fulfilled.

(7) The Office may test the proposal of condition and obligation related to this condition by direct addressing of natural and legal persons, by publishing or in other manner.

(8) Proposal of condition and obligation submitted pursuant to the paragraphs 4 and 5 may include also the obligation to appoint the independent trustee at the expenses of party to the proceedings and the way of his/her appointment. Trustee assists the Office in supervision over the fulfilment of condition and obligation by the party to the proceedings or he/she ensures the fulfilment of condition and obligation on behalf and at the expenses of the party to the proceedings. Performing his/her activities the trustee closely cooperates with the Office. Trustee should be independent from the undertakings concerned and undertakings belonging to the economic group of undertakings concerned and he/she shall not be in conflict of interest with regard to his/her relationship to the decided matter.

(9) The Office shall prohibit a concentration, which would significantly distort competition in the relevant market mainly due to the creation or strengthening of dominant position.

(10) The Office shall prohibit a concentration within the meaning of Article 9 (6) if the concentration would significantly distort competition in the relevant market mainly due to the creation or strengthening of dominant position or the coordination of competitive behaviour was inconsistent with the provisions of Article 4 (1).

(11) A decision referred to paragraphs 1 to 3 shall be deemed to cover competition restrictions that are directly related to a concentration and essential for implementing the concentration.

### **Article 12a Simplified Proceedings for Assessment of Concentration**

Repealed by Act No. 204/2004 Coll.

### **Article 12b**

Repealed by Act No. 204/2004 Coll.

### **Article 12c**

Repealed by Act No. 204/2004 Coll.

### **Article 12d**

Repealed by Act No. 204/2004 Coll.

### **Article 12e**

Repealed by Act No. 204/2004 Coll.

### **Article 12f**

Repealed by Act No. 204/2004 Coll.

### **Article 13**

(1) The Office shall repeal a decision according to Article 12 (3) *ex officio* and issue a decision according to Article 12 (1) to (3), (9) or (10) if the party to the proceedings fails to fulfil the condition imposed in the decision.

(2) The Office may revoke a decision according to Article 12 (1) to (3) or according to Article 32 (2) subparagraph c) *ex officio* and issue a decision according to Article 12 (1) to (3), (9) or (10) if:

- a) the party to the proceedings does not fulfil the obligation related to condition imposed in the decision, or;
- b) the decision is based on incomplete or false information provided by the undertaking concerned.

(3) The Office may modify a decision according to Article 12 (3) at the request of a party to the proceedings without being bound by the time limits according to Article 11 if:

- a) the situation in the relevant market has substantially changed and no longer justifies the fulfilment of the condition imposed on a party to the proceedings or the obligation related to the condition, or

b) prior to the expiration of the time limit set in the decision for the fulfilment of a condition or an obligation related to the condition, a party to the proceedings applies to extend this time limit because it is impossible to adhere to it for a serious reason.

### **Article 13a**

The Office may impose on the undertaking the obligation to restore the level of competition that existed prior to the establishment of the concentration, especially an obligation to divide a company or transfer rights, as well as another obligation aimed at ensuring the fulfilment of said obligation, if the Office finds out that:

- a) rights and obligations resulting from a concentration were exercised prior to the issuance of a decision prohibiting the concentration according to Article 12;
- b) rights and obligations resulting from a concentration were exercised contrary to the decision on its prohibition according to Article 12, or
- c) rights and obligations resulting from a concentration were exercised contrary to the condition imposed in the decision adopted according to Article 12 (3).

## **PART THREE THE OFFICE**

### **Article 14**

(1) The Office is a central body of state administration of the Slovak Republic 18) for the protection and promotion of competition.

(2) The Office shall exercise powers in the field of protection and promotion of competition entrusted to competition authorities pursuant to special legislation. 18a)

(3) The seat of the Office shall be located in Bratislava.

(4) The Office may establish permanent or temporary branch offices outside its seat.

(5) The Office shall submit the report on its activities to the Government of the Slovak Republic once a year and whenever the Government of the Slovak Republic requests to do so.

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18) Article 21 (b) of Act No. 575/2001 Coll.

18a) For example, Council Regulation (EC) No. 1/2003, Council Regulation (EC) No. 139/2004 of 20 January 2004 on the Control of Concentrations between Undertakings (OJ L 024, 29/01/2004).

### **Article 15 Chairperson of the Office**

(1) The Office shall be headed by the Chairperson. In the case of his or her absence, or if the office of Chairperson of the Office is vacant, the Office Vice-Chairperson shall substitute for the Chairperson.

The Office Vice-Chairperson shall also fulfil the tasks entrusted to him/her by the Chairperson of the Office.

(2) The Chairperson shall be appointed and dismissed by the President of the Slovak Republic on a proposal of the Government of the Slovak Republic. The term of office of the Chairperson of the Office shall be five years. 19) Any citizen who is eligible for being elected to the National Council of the Slovak Republic may be appointed Chairperson of the Office.

(3) The Vice-Chairperson shall be appointed and dismissed by the Chairperson of the Office. Vice-Chairperson or the person entitled by him/her shall sign the decisions of the Office issued in the first-instance proceedings. Vice-Chairperson is the civil servant pursuant to the special legislation. 19a)

(4) The same person may be appointed Chairperson of the Office for a maximum of two consecutive terms of office.

(5) The performance of the post of Office Chairperson shall be incompatible with the performance of office and activities pursuant to special legislation. 20)

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19) Article 22 (2) of Act No. 575/2001 Coll. as amended.

19a) Act No. 400/2009 Coll. on Civil Service and on amendments and supplements to certain laws as amended

20) Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in the Performance of Posts of Public Officials.

## Article 16

(1) The performance of the office of Chairperson of the Office shall end:

- a) at the end of his/her term of office;
- b) by resignation from office;
- c) by being dismissed from office;
- d) in the event of death.

(2) The Chairperson of the Office may resign from office by written notice to the President of the Slovak Republic. His/her term of office will end upon the appointment of a new Chairperson of the Office.

(3) The President of the Slovak Republic shall dismiss the Chairperson of the Office if:

- a) he/she has been sentenced by a final court ruling for an intentional criminal act or crime committed negligently that is directly related to the performance of office;
- b) his/her legal capacity has been terminated on the basis of a final court ruling;
- c) he/she has begun to perform an office or activity incompatible with the position of Chairperson of the Office within the meaning of Article 15 (5);
- d) he/she has not performed office for a period exceeding six consecutive months due to his/her own fault or if his/her health condition prevents him/her from doing so.

## Article 17

The Government of the Slovak Republic shall determine the salary of the Chairperson of the Office pursuant to special legislation. 21)

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21) Act No. 313/2001 Coll. on Public Service as amended.

## **Article 18**

### **Council of the Office**

(1) A Council of the Office (hereinafter referred to as the "Council") shall be established. The Council shall decide on appeals and review decisions by non-appellate proceedings. The Council shall also decide on the reopening of proceedings and on a prosecutor's protest in the cases where the head of a central body of state administration decides pursuant to special legislation. 22) The Council shall consist of the Council Chairperson and six members of the Council. The Chairperson of the Office is simultaneously the Chairperson of the Council.

(2) A person in employment relationship or in similar working relationship with the Office is not allowed to be a member of the Council. Member of the Council is entitled to receive remuneration for the performance of duties of member of the Council. Amount and details of remuneration shall be laid down by the generally binding legal regulation issued by the Office.

(3) Members of the Council shall be appointed and dismissed by the Government of the Slovak Republic at a proposal of the Chairperson of the Office.

(4) The term of office of the Member of the Council shall be five years. Members of the Council shall be appointed in such a way that the term of office will end for a maximum of three of them during the course of one calendar year.

(5) If the performance of the office of a Member of the Council member ends before the end of their term of office, a new Member of the Council may be appointed for the remainder of the respective term of office only.

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22) Article 63 (1) and Article 69 (2) of Act No. 71/1967 Coll. on Administrative Proceedings (Rules of Administrative Procedure).

## **Article 19**

(1) The Chairperson of the Office shall propose to the Government of the Slovak Republic at least three candidates for each position of a Member of the Council at least three months prior to the expiration of their term of office. The Government of the Slovak Republic shall appoint the Council members within two months of delivery of the list of candidates. The newly appointed Members of the Council shall assume office on the day following the expiration date of the term of office of the previously appointed Members of the Council.

(2) Any individual who is a national of the Slovak Republic, has a university degree, legal capacity and a clean criminal record may be appointed a Member of the Council.

(3) At least two Members of the Council must have a master degree in law and at least two Council members must have a master degree in economics.

## **Article 20**

(1) A session of the Council shall be convened and chaired by the Chairperson of the Council or in case of his/her absence or in case the office of the Chairperson of the Office is vacant, by the Vice-Chairperson of the Council.

(2) The Chairperson of the Council shall be elected by the Council from its members, as well as dismissed by an absolute majority of members present. If the Vice-Chairperson of the Council is not elected in the manner according to the first sentence, the Member of the Council with the highest amount of votes shall be the Vice-Chairperson of the Council. The Chairperson of the Council shall decide in the case of a tied vote.

(3) The Council has a quorum if the Chairperson of the Council or the Vice-Chairperson of the Council and at least four other Member of the Council, or the Chairperson of the Council, the Vice-Chairperson of the Council and at least three other Members of the Council are present. The adoption of a Council decision requires the consent of an absolute majority of the Council members present. In the event of a tied vote, the Council Chairperson or, in his/her absence or if the post of Chairperson of the Office is vacant, the Council Vice-Chairperson, shall have the casting vote.

(4) The Council shall make decisions by voting. The Council shall hold closed meetings.

(5) A written record on the Council's voting shall be kept; this record shall also contain dissenting opinion of the Member of the Council, the Chairperson of the Council or the Vice-Chairperson of the Council, if his/her opinion differs from the adopted decision. The written record on the voting shall be subject to secrecy.

(6) Decisions of the Council shall be signed by the Chairperson of the Council or, in his/her absence or if the post of Chairperson of the Office is vacant, by the Vice-Chairperson of the Council.

(7) A Member of the Council shall be excluded from a hearing and decision-making on a matter if, regarding his/her relation to the matter, parties to the proceedings or their representatives, there may exist doubts about this member's impartiality or if he/she has participated in proceedings regarding the same matter in a different instance.

## **Article 21**

(1) The performance of office of a Member of the Council shall end:

- a) at the end of his/her term of office;
- b) by resignation from office;
- c) by being recalled from office;
- d) in the event of death.

(2) Resignation from the position of Member of the Council shall be effective upon delivery of a written notice to the Prime Minister of the Slovak Republic. If a Member of the Council has resigned from his/her position, he/she shall remain in his/her position until a new Member of the Council is appointed.

(3) The Government of the Slovak Republic shall recall a Member of the Council at a proposal from the Chairperson of the Office if:

- a) he/she has been sentenced by a final court ruling for an intentional criminal act or crime committed negligently that is directly related to the performance of office;
- b) his/her legal capacity has been terminated on the basis of a final court ruling;
- c) he/she has not performed office for a period exceeding four consecutive months.

(4) If the performance of the office of the Member of the Council member who is the Vice-Chairperson of the Council ends, the Council shall elect a new Vice Chairperson of the Council once the newly appointed Council member takes up his/her post.

## **PART FOUR POWERS OF THE OFFICE**

### **Article 22**

(1) The Office shall:

- a) conduct investigation in particular sectors of the economy in order to obtain information on state of competition in the sector;
- b) conduct investigation to establish whether there is a reason to initiate the proceedings pursuant to this Act;
- c) conduct investigative actions and other actions of legal aid at the request of the competition authority of another state pursuant to special legislation 1aa) or pursuant to the international treaty by which is the Slovak Republic bound;
- d) issue a decision that an undertaking's conduct or activity is prohibited pursuant to this Act or special legislation; 22a) decide on imposing the obligation to refrain from such conduct and the obligation to remedy the unlawful state;
- e) issue a decision that this Act has been violated by a state administration authority in the exercise of state administration, by a municipality or self-governing region in the exercise of self-governance and transferred state administration, and professional self-governance body in the exercise of transferred state administration, decide on imposing the obligation to refrain from such conduct and the obligation to remedy the unlawful state of affairs;
- f) proceed and decide on all matters regarding the protection of competition ensuing from the provisions of this Act or special legislation; 18a)
- g) oversee the compliance with the decisions issued within the proceedings before the Office;
- h) issue an opinion according to special legislation; 22b)
- i) ensure international relations in the area of protection of competition at the level of authorities having jurisdiction over this area;
- j) submit an application to a court for approving an inspection for the Commission for the performance of its activities pursuant to special legislation; 18a)
- k) submit an application to the court for approving an inspection for the performance of its activities according to Article 22a paragraph 8;
- l) propose further measures for the protection and promotion of competition;
- m) issue an approval with the person of trustee or appoint the trustee according to Article 12 paragraph 8 and Article 38f paragraph 4.

(2) In connection with the performance of duties pursuant to this Act and special legislation, 1aa) the Office shall have the right to request undertakings, senior employees of an undertaking, statutory bodies of an undertaking, supervisory bodies of an undertaking or members of these bodies of an undertaking or other employees of an undertaking (hereafter referred to as "employees of an undertaking"), as well as other natural persons and legal persons to provide information and documents necessary for the Office's activities, regardless of the medium on which they are recorded, and make copies of and notes of these documents or request their officially certified translations into the Slovak language, request written or oral explanation with the possibility to make its audio record. These entities are obliged to provide the Office with this information and documents free of charge in the time limit stipulated by the Office; in case of classified information under the conditions set by the special legislation. 22c)

(3) When fulfilling the obligations pursuant to this Act or special legislation, 1aa), Office shall have the right to request the police department or the authorities involved in criminal proceedings to provide information acquired according to the special legislation, above all it shall have right of access to the files kept within the criminal proceedings, 23), make excerpts and notes from the files and make copies of files or their parts at its own expenses and use them for the purposes pursuant to this Act.

(4) On a basis of international treaty by which the Slovak Republic is bound or on the basis of consent of a person which has provided information or to which information refers, the Office shall provide information to the competition authorities of other states for the purposes necessary to apply the competition law in these states, including information protected pursuant to this Act or pursuant to the special legislation. The Office may provide information according to the first sentence only if reciprocity is ensured.

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22a) Article 101 and 102 of the Treaty on the Functioning of the European Union (Official Journal of the European Communities V 326, 26. 10. 2012)

22b) For example Act of the Slovak National Council of the Slovak Republic No. 18/1996 Coll. on Prices as amended.

22c) Act No. 215/2004 Coll. on Protection of Classified Information as amended.

23) Article 69 paragraph 4 of the Criminal Code.

## **Article 22a Inspections**

(1) In the performance of duties pursuant to this Act, employees of the Office and persons entrusted with the performance of duties falling within the Office's power (hereinafter referred to as "employees of the Office") shall have the right, on the basis of written authorisation (hereinafter referred to as "authorisation"), to enter any premises and means of transport of the undertaking, which are related to the activities or conduct of the undertaking, in order to conduct an inspection.

(2) The Vice-Chairperson of the Office shall authorise employees of the Office to perform an inspection within investigation and within the first-instance proceedings; the Chairperson of the Council shall authorise the employees of the Office within the proceedings before the Council. Authorisation shall contain name, surname and position of the person issuing an authorisation, indication of the undertaking in premises and means of transport of which the inspection will be conducted, time period of the inspection, subject and purpose of the inspection, name and surname of the employee of the Office authorised to conduct an inspection, instruction on rights and obligations of the undertaking whose premises and means of transport will be inspected, signature of the person issuing the authorisation, authorisation number and the Office's stamp.

(3) Conducting an inspection the employee of the Office shall prove his/her identity by the authorisation pursuant to the paragraph 2, copy of which he/she presents to the undertaking or any employee of undertaking in premises and means of transport of which the inspection will be performed.

(4) Minutes of the inspection shall be prepared by the employees of the Office. The inspection shall be deemed completed after signing the minutes. Inspection shall be deemed completed even if some of the persons present during the inspection refuse to sign the minutes; grounds for refusal shall be given in minutes. From the objective reasons the Office may interrupt the inspection for the necessary time, even repeatedly.

(5) In order to obtain documents and information stipulated in the Article 22 paragraph 2, employees of the Office shall have the right during the inspection and in the case of classified information in compliance with the conditions set by the special legislation 22c):

- a) to seal documents or media on which information is recorded, to seal the premises and their equipment, also means of transport for the period and to the extent necessary for the inspection;
- b) to take away documents and media on which information is recorded for the necessary time with the aim of making copies or gaining access to information if the Office is unable, primarily for technical reasons, to gain access to information or make copies of documents during the inspection;
- (c) to ensure the entry to the undertaking's premises and means of transport, to open closed premises and their equipment or otherwise provide access to documents and media on which information is recorded; the Office is entitled to invite other persons able to ensure overcoming the obstacle,
- (d) to ensure the access to all information which has been stored in any electronic form on data storage of the undertaking or which were created in any electronic form by the undertaking or which the undertaking may access in connection with its activity, including information which is stored in any electronic form on data storage of other entities and the undertaking may access them and use them for its activity; to ensure the access to these media the Office is entitled to invite other persons capable to ensure such access, but they are not entitled to access the information.

(6) Employees of the Office have the right to make copies of any information in documentary form, all computer data and information stored in any electronic form on data storage pursuant to the paragraph 5 subparagraph d).

- (7) For the purpose of conducting an inspection and in the course of inspection an undertaking is obliged to:
- a) allow the entry pursuant to paragraph 5 subparagraph c);
  - b) cooperate with employees of the Office, to provide necessary collaboration and to allow proper conduction of the inspection;
  - c) enable its employee to give explanation and to submit documents and information necessary for the Office regardless the medium on which it is recorded;
  - d) ensure the access to all documents, information and data in electronic form;
  - e) ensure that the seal is intact pursuant to the paragraph 5 subparagraph a).

(8) If a reasonable suspicion exists that the information or documents related to the activities or conduct of an undertaking based on which a serious restriction of competition may be proven, are located in the premises or means of transport other than those listed in paragraph 1, as well as in private premises or private means of transport of the present or former undertaking's employees, the Office may inspect these premises based on court's approval of the inspection issued at a proposal of the Office. 23a) The Office shall deliver the court's approval of the inspection to the person whose premises will be inspected at the beginning of the inspection. If the person whose premises will be inspected is not present, the Office shall leave the court's approval of the inspection, along with the copy of the minutes of the inspection, with the post Office within 24 hours after the inspection.

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

(10) Paragraphs 4 to 7 with the exception of sealing the premises and means of transport shall be used for conducting an inspection pursuant to paragraph 8.

(11) At the request of the Office the police department is required to provide protection and cooperation to the employees of the Office in the performance of duties according to this Act or, at the request of the Office, also to employees of other competition authorities responsible for the implementation of the provisions of special legislation 22a) if they participate in an inspection according to paragraph 1 or 8, or to employees of the Commission and persons authorised by the Commission when performing duties pursuant to special legislation.1aa)

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23a) Article 78a) of the Civil Procedure Code.

## **Article 23**

Provisions of this Act regulating proceedings and provisions of the general legislation on administrative proceedings 23b) except the provisions on the time limits, delivery, substitution, minutes and exclusion of employees or members of administrative body do not apply to the procedure of the Office pursuant to Article 22 paragraph 1 subparagraphs a) to c) and Article 22a. These provisions shall apply adequately.

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23b) Act No. 71/1967 Coll. on Administrative Proceedings (Rules of Administrative Procedure) as amended.

## **Article 24**

Repealed by Act No. 151/2014 Coll.

## **PART FIVE PROCEEDINGS**

### **Article 25**

(1) Proceedings shall be initiated *ex officio* or upon request of the party to the proceedings. In case of an agreement restricting competition, abuse of a dominant position and other forms of unlawful restriction of competition the proceeding shall be always initiated *ex officio*.

(2) The Office may initiate the proceedings *ex officio* also on the basis of a written complaint of a natural or a legal person. On the basis of a request submitted by a natural or a legal person filing a written complaint, the Office shall inform them in writing of further procedure regarding the matter within two months following the date of receipt of the request.

(3) Parties to the proceedings shall be following:

a) in the case of an agreement restricting competition, the parties to this agreement restricting competition;

b) in the case of abuse of a dominant position, the undertaking whose activities or conduct may constitute abuse of a dominant position;

c) in the case of concentration within the meaning of Article 9 (1) (a); the undertakings subject to a merger or amalgamation;

d) in the case of concentration within the meaning of Article 9 (1) (b), the undertaking or undertakings which acquire direct or indirect control over undertaking, its part or over several undertakings or their parts;

e) in the case of a possible violation of the provisions of Article 39, the state administration authority, municipality, self-governing region or professional self-governance body;

f) in the cases other than those specified in subparagraphs (a) to (e), those on whose rights, interests protected by law or obligations laid down by this Act a decision shall be made.

(4) In the proceedings on agreements restricting competition which create the system of sale or distribution of goods through the contracts concluded between the undertakings which for the purpose of the agreement restricting competition operate at a different level of production or distribution chain, the Office may restrict the range of parties to the proceedings only to the undertaking which is always one of the contract parties and which proposes the content or conditions of these contracts to other undertakings.

(5) During the course of the proceedings, the parties to the proceedings are required to immediately inform the Office of any change relating to the subject matter of the proceedings.

(6) The Office shall instruct the parties to the proceedings on their procedural rights and obligations, so that they do not suffer any harm in the proceedings as a result of their lack of legal knowledge; the Office is not required to do so if a party to the proceedings is represented by an attorney.

### **Article 26**

#### **Merged Proceedings and Exclusion of Matter for the Separate Proceedings**

(1) In the interest of cost-effectiveness of the proceedings, the Office may merge proceedings, which have already been initiated and which relate to each other or concern the same parties, into merged proceeding.

(2) If the Office has merged proceeding into a merged proceeding, it shall issue a decision within the time limit pertaining to the proceeding that began earlier.

(3) The Office may exclude a matter for separate proceedings if the matters are not suitable for merged proceedings or if the reasons for which the Office has merged the matters cease to exist.

(4) A decision on a merged proceeding and a decision on excluding a matter for separate proceeding may not be appealed.

## **Article 27 Third Parties**

(1) For the purpose of this Act, a third party shall be a natural or a legal person that is not a party to the proceedings, in particular a consumer, supplier, purchaser, or competitor to a party to the proceedings.

(2) If third parties request in writing that they want to comment on the subject matter of the proceedings and show interest in the matter, the Office shall inform them of the subject matter of the proceedings in appropriate extent and set a date by which they may express their comments.

(3) If third parties request in writing that they want to participate in an oral hearing and show interest in the matter, the Office may enable them to take part in the oral hearing and express their comments.

## **Article 28**

Repealed by Act No. 151/2014 Coll.

## **Article 29 Special Provisions on Delivery**

(1) The parties to the proceedings or their representatives are required to inform the Office without undue delay of any change in their residence, registered office, the person authorised to receive documents, or any other similar fact important for proper delivery of documents.

(2) A document shall be considered delivered, even if the post returns it as undeliverable, if the addressee is not present at the delivery location and the Office makes the delivery to the last known address announced to the Office, the Commercial Register or the Trade Licensing Register as the registered office of the legal person or, in the case of a natural person, as his/her place of business or permanent or temporary residence. The date on which the document is returned to the Office shall be considered the date of delivery.

(3) If delivery to a party to the proceedings is associated with difficulties or delays, or the party to the proceedings is based abroad, the Office may order this party to appoint a representative for receiving documents, to whom documents can be delivered with no difficulties or delays. If the party to the proceedings fails to do so, documents intended for this party shall be stored in the Office with the effect of actual delivery; the Office is required to inform the party to the proceedings thereof.

(4) If several parties to the proceedings file a joint proposal for the initiation of the proceedings, the Office may appoint for them a joint representative for delivery, unless they appoint such a representative themselves.

(5) If the provisions of the special legislation regulating electronic delivery, 24) could not be applied, Office’s documents might be delivered also in electronic form if the party to the proceedings or its representative submits a request to do so and inform the Office of the address for sending documents in an electronic form. A document shall be deemed delivered on the third day following the day of its sending, even if the addressee fails to pick it up, if it does not confirm its delivery earlier.

(6) Delivery pursuant to the paragraph 5 shall be precluded for the delivery of an announcement on initiation of the proceedings, summons to an oral hearing, statement before issuing a decision and for the delivery of decision.

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24) Act No. 305/2013 Coll. on the Electronic Form of Governance Conducted by Public Authorities and on amendments and supplements to other acts (e-Government Act).

**Article 30**  
**Time Limit for Issuing a Decision**

The Office shall issue a decision within six months following the date of the initiation of the proceedings. In complicated cases, the Chairperson of the Office may extend the time limit for issuing a decision before its expiry, also repeatedly, by a maximum of 24 months in total. If the Office is unable to make a decision within six months, it is required to notify the party to the proceedings thereof in writing and state the reasons. This time limit shall not apply to the issuance of a decision pursuant to Article 11 (1) or (2).

**Article 31**

(1) The Office may also issue a decision on suspension of the proceedings, except the matters determined by the general legislation on administrative proceedings, 23b):  
a) if competition authority of another state is already dealing with the same matter concerning a violation of the provisions of special legislation; 22a)  
b) in the case of concentration, until it is determined on the basis of special legislation 24a) who will deal with the matter.

(2) If the proceedings are suspended, the time limit according to this Act shall not be in effect, except for the period according to Article 38c (3), which shall begin on the date on which the violation occurred.

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24a) Commission Regulation (EC) No. 139/2004.

**Article 32**  
**Termination of the Proceedings**

(1) The Office may terminate the proceedings by issuing a decision if:  
a) one of the parties to the proceedings died or has ceased to exist without a successor;  
b) the claimant fails to comply with the Office's request to remedy deficiencies of the submission within a specified period and the Office instructed him/her on this consequence of not complying with the Office's request to remedy deficiencies of the submission;  
c) competition authority of another state is already dealing with or has decided on the same matter

concerning a violation of the provisions of special legislation. 22a)

(2) The Office shall terminate the proceedings by issuing a decision if:

- a) the only party to the proceedings died or has ceased to exist without a successor;
- b) the party to the proceedings has withdrawn his/her request for initiation of the proceedings;
- c) the reason for proceedings has not been provided or ceased to exist;
- d) it has been established during the initiated proceedings that a natural or legal person is not a party to the proceedings while so far having been the only party to the proceedings;
- e) the Office is already dealing with or has decided on the same matter;
- f) they involve a restriction of competition, which effects are only apparent in a foreign market, unless an international treaty published in the Collection of Laws of the Slovak Republic and binding on the Slovak Republic provides otherwise;
- g) it has not been proven within the proceedings that the party to the proceedings has violated the provisions of this Act;
- h) it has been established during the initiated proceedings that activities or other conduct which occurred abroad, do not and cannot lead to a restriction of competition in the domestic market;
- i) the Commission is already dealing with or has decided on the same matter according to special legislation; 5b)
- j) the Commission is already dealing with or has decided on the same concentration.

(3) The Office may also terminate part of the proceedings in accordance with paragraphs 1 and 2.

(4) A decision on termination of the proceedings according to paragraph 2 (a) and b) shall only be indicated in the file.

### **Article 33** **Statement Before Issuing a Decision**

Before issuing a final decision, the Office is required to invite the parties to the proceedings to express in oral or written form their views on the substance and method of the decision or propose an amendment thereto, as well as to inform them on the findings of the investigation, which the Office has reached on the basis of available information and documents.

### **Article 34** **Appeal**

(1) A decision issued within the first instance proceedings may be appealed within 15 days following the date of delivery of the decision.

(2) The provisions of Article 22, Article 22a, Article 25 (3) to (6), Articles 27 to 33, Articles 40 and 41 shall apply to appellate proceedings accordingly.

(3) A decision on termination of the proceedings according to Article 32 (2) (a), (b), (i) and (j) may not be appealed.

### **Article 35**

(1) The right to appeal may only be waived with respect to the authority that has issued the decision in the first instance, only after the decision has been announced.

(2) If an appeal has not been decided on, it may be withdrawn. If a party to the proceedings withdraws his/her appeal, it may not be resubmitted.

(3) If a party to the proceedings waives the right to appeal or withdraws his/her appeal, the decision will enter into force on the date of delivery of the waiver or withdrawal of the appeal to the authority that has issued the decision in the first instance.

### **Article 35a**

The provisions of Article 25 (3) to (6) and Articles 27 to 33 shall apply to the proceedings concerning the reopening of the proceedings and the review of a decision outside the appellate proceedings accordingly. The provisions of Article 25 (3) to (6), Articles 27 to 29, Articles 31 to 33 and Articles 40 and 41 shall apply to the proceedings concerning a prosecutor's protest accordingly.

### **Article 36 Execution of a Decision**

Execution of the Office's decision may be ordered no later than five years after the deadline for the fulfilment of the imposed obligation.

### **Article 37**

(1) Unless this Act provides otherwise, proceedings before the Office shall be conducted in accordance with general legislation on administrative proceedings. 25)

(2) With respect to administrative fees, the Office shall proceed according to special legislation. 26)

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25) Act No. 71/1967 Coll. as amended.

26) Act of the National Council of the Slovak Republic No. 145/1995 Coll. as amended.

## **PART SIX LIABILITY FOR ADMINISTRATIVE OFFENCES**

### **Article 38 Fines**

(1) For

- a) the violation of the prohibition of the agreement restricting competition;
  - b) the violation of the prohibition of abuse of a dominant position;
  - c) failure to notify a concentration prior to exercising the rights and obligations resulting from a concentration;
  - d) violation of the prohibition to exercise the rights and obligations resulting from a concentration unless the Office has granted an exemption pursuant to Article 10 (14), or
  - e) failure to comply with a decision of the Office,
- the Office shall impose on an undertaking a fine of up to 10% of its turnover pursuant to Article 3 paragraph 5 for the preceding accounting period unless Article 38d provides otherwise.

(2) For the violation of the prohibition pursuant to Article 39, the Office shall impose a fine of up to EUR 66 000 on a municipality, self-governing region or professional self-governance body.

(3) When imposing a fine pursuant to the paragraph 1 and 2, the Office shall consider the gravity and duration of the violation. When assessing the gravity of the violation, the Office shall consider its nature, possibly impact on the market and the size of the relevant market. In addition to these criteria, the Office shall also consider other facts with respect to imposing a fine, especially a repeated violation, refusal to cooperate with the Office, position of a leader or initiator of the violation, or failure to fulfil an agreement restricting competition in practice.

### **Article 38a**

(1) For the violation of the obligation to submit the requested documents or information to the Office within the specified deadline, for the submission of false or incomplete documents or information, or for not allowing the Office to examine them, the Office shall impose

- a) a fine of up to 1% of its turnover pursuant to the Article 3 (5) for the preceding accounting period on an undertaking or legal person who is not undertaking;
- b) a fine of up to EUR 1 650 on a natural person who is not undertaking.

(2) The Office shall impose on an undertaking whose premises or means of transport should have been or had been inspected for the violation of the obligation referred to in

- a) the Article 22a paragraph 7 subparagraph a) or subparagraph e) a fine of up to 5% of its turnover pursuant to the Article 3 paragraph 5 for the preceding accounting period;
- b) the Article 22a paragraph 7 subparagraphs b) to d) a fine of up to 1% of its turnover pursuant to the Article 3 paragraph 5 for the preceding accounting period.

(3) The Office shall impose on a natural person whose private premises or private means of transport should have been or had been inspected pursuant to the Article 22a paragraph 8, for the violation of the obligation referred to in

- a) the Article 22a paragraph 7 subparagraph a) or subparagraph e) a fine of up to EUR 80 000;
- b) the Article 22a paragraph 7 subparagraphs b) to d) a fine of up to EUR 25 000.

### **Article 38b**

The Office may impose a fine of up to EUR 3 300 for failure to attend, without significant reasons, a hearing, for failure to fulfil the obligation pursuant to the Article 25, paragraph 5 or the Article 29, paragraph 1 or for interfering with the progress of the proceedings otherwise.

### **Article 38c**

#### **Common Provisions on Fines**

(1) The preceding accounting period for the purpose of the Articles 38 and 38a shall be the accounting period for which the latest financial statement was drawn up.

(2) If an undertaking or legal person which is not an undertaking attained for the preceding accounting period pursuant to the article 3 paragraph 5 the turnover of up to EUR 330 or attained no turnover pursuant to the Article 3 paragraph 5 or its turnover pursuant to the Article 3 paragraph 5 is not able to be calculated, the Office shall impose a fine of up to EUR 330 000 for the infringements pursuant to the Article 38 paragraph 1 and Article 38a paragraphs 1 and 2, unless Article 38d provides otherwise.

(3) The Office may repeatedly impose fines referred to in the Article 38 paragraphs 1 and 2 and Article

38a paragraphs 1 to 3 with the exception of fine for violation of the obligation pursuant to the Article 22a paragraph 7 subparagraph e).

(4) The Office may impose fines pursuant to the Article 38 paragraphs 1 and 2, Articles 38a and 38b within four years from the initiation of proceedings, no later than eight years from the day of the violation of the provisions of this Act, violation of the provisions of special legislation 22a), the failure to fulfil a condition or the violation of an obligation or commitment imposed by a decision of the Office.

(5) Revenue from fines shall form state budget income.

## **Article 38d Leniency Programme**

(1) Based on the application by a party to an agreement restricting competition within the meaning of Article 4 paragraph 1 or within the meaning of the provisions of special legislation 27), parties of which operate on the same level of production or distribution chain, the Office shall not fine this party to the agreement if it is the first to provide on its own initiative

a) decisive evidence on such violation or was the first to apply for reservation of ranking and submits such evidence within the time limit set by the Office and fulfils the conditions for the participation in the leniency programme, or

b) information and evidence decisive for conducting an inspection pursuant to the Article 22a which should lead to acquisition of decisive evidence enabling to prove such violation, or was the first to apply for reservation of a place and submits such information and evidence within the deadline set by the Office and fulfils the conditions for the participation in the leniency programme.

(2) Based on the application by the party to an agreement restricting competition according to Article 4 paragraph 1 or according to the provisions of special legislation 27), parties of which operate on the same level of production or distribution chain, the Office may reduce a fine that it would otherwise impose pursuant to the Article 38 paragraph 1 by up to 50% if the party to the agreement on its own initiative provides the Office with the evidence of significant added value in addition to the evidence the Office already has at its disposal which, in combination with information and evidence already available to the Office, enable the Office to prove a violation of the prohibition pursuant to Article 4 paragraph 1 or special legislation; 27) and if this party to the agreement fulfils the conditions for the participation in the leniency programme.

(3) Condition for participation in the leniency programme based on application according to paragraph 1 is that the applicant

a) terminated its involvement in the agreement restricting competition at the time when it provided evidence according to paragraph 1 subparagraph a) or b) at the latest, except involvement in the agreement restricting competition based on Office's approval if it is necessary for preserving the integrity of inspections;

b) did not force another undertaking to take part in the agreement restricting competition;

c) provided the Office with all the evidence that comes into the applicant's possession and properly cooperated with the Office throughout the entire investigation and proceedings;

d) did not inform other parties to the agreement on submission of application and its content.

(4) Condition for participation in the leniency programme based on application according to paragraph 2 is that the applicant

a) terminated its involvement in the agreement restricting competition at the time when it provided evidence according to paragraph 2 at the latest, except involvement in the agreement restricting competition based on Office's approval if it is necessary for preserving the integrity of inspections;

b) provided the Office with all the evidence that comes into the applicant's possession and properly cooperated with the Office throughout the entire investigation and proceedings;

c) did not inform other parties to the agreement on submission of application and its content.

(5) The Office monitors the fulfilment of conditions for participation in the leniency programme according to paragraphs 3 and 4 since submission of the application until issuing the final decision in the matter.

(6) Conditions for participation in the leniency programme according to paragraphs 3 and 4 of all applicants belonging to one economic group which submit joint application are considered as fulfilled if each applicant fulfils these conditions. In order to determine whether the applicants belong to the same economic group the Office examines relations of direct or indirect control pursuant to the Article 9, paragraph 4.

(7) Details of submitting applications for using leniency programme, applications for reservation of ranking, particulars of these applications, conditions for participation in leniency programme and procedure of the Office following the application for using leniency programme shall be determined by the general legal regulation issued by the Office.

### **Article 38e Settlement**

If the facts established can sufficiently justify the conclusion that this Act or the special legislation 22a) were violated, except the violation for which the Office imposes a fine pursuant to the Article 38a and 38b, *ex officio* or based on a request of a party to the proceedings the Office may carry out the settlement discussions for the sake of procedural economy or with the aim to achieve prompt and efficient remedy in the market. If the party to the proceedings and the Office agree on conclusions of the settlement discussion and the party to the proceedings admits its participation in the violation and takes the liability for this participation the Office shall reduce the fine that it would otherwise be imposed pursuant to the Article 38 paragraphs 1 and 2. There is no legal claim of settlement. Details on conditions of fine reduction, course of settlement discussions and amount of fine reduction shall be determined by the general legal regulation issued by the Office.

### **Article 38f Commitments**

(1) The Office may terminate proceedings in the matter of violation of the prohibition of agreements restricting competition, prohibition of abuse of a dominant position or in the matter of other forms of unlawful restriction of competition by means of a decision imposing on a party to the proceedings the requirement to fulfil the commitments submitted by the party to the proceedings to the Office for the purpose of elimination of possible competition concerns. The Office may issue this decision for a specific time period. There is no legal claim of issuing such decision.

(2) A party to the proceedings may submit commitments no later than the expiry of the time period for responding to the statement before issuing a decision pursuant to the Article 33 expires and the Office shall disregard the commitments submitted later. The Office may test the submitted commitments through direct addressing of natural persons and legal persons, publishing or in other form.

(3) The Office may modify or reverse a decision referred to in paragraph 1 *ex officio* if

- a) the conditions that were decisive for issuing the decision substantially changed after the issuance of the decision;
- b) the party to the proceedings fails to comply with the commitments imposed by the Office's decision;

or

- c) information provided by the party to the proceedings, which was decisive for issuing the decision, was incomplete or false.

(4) Proposal of commitments submitted pursuant to the paragraph 1 may include also the obligation to appoint the independent trustee at the expenses of the party to the proceedings and the way of his/her appointment; provision of the Article 12, paragraph 8 shall apply accordingly.

## **Article 38g**

### **Reward for Submitting Evidence on Agreement Restricting Competition**

- (1) Informant is a natural person who
- a) is not an undertaking pursuant to this Act;
  - b) is not an employee of the undertaking applying for non-imposing a fine or reduction of fine pursuant to the Article 38d of this Act which application was submitted before the informant submitted an evidence according to this paragraph, and
  - c) was the first to provide the Office with information on agreement restricting competition pursuant to the Article 4 paragraph 1 or pursuant to the provisions of the special legislation 27) parties of which operate on the same level of a production or distribution chain, namely
    1. document in written or electronic form being the decisive evidence on such violation, or
    2. information and evidence decisive for conducting inspection pursuant to the Article 22a which should lead to acquisition of decisive evidence enabling to prove such violation.
- (2) Informant is entitled to reward if he/she asks for it and the provided evidence according to paragraph 1 subparagraph c) point 1 or point 2 was decisive for the decision on violation of the Act, decision of the Office became valid and is enforceable and the fine imposed by the decision of the Office was paid. If the decision was subject to the court's review 28), the informant is entitled to receive reward only after the court finally dismissed the action on examining the legality of the Office's decision and the fine imposed by the Office in decision was paid.
- (3) Reward for an informant represents 1% of the total of fines imposed on all parties to the agreement restricting competition in the decision of the Office, but not more than EUR 100 000; if the court 28) changes the amount of fine imposed by the Office, this changed fine represents the basis for reward calculation. If the fine has not been paid in the period of 100 days from the day when the decision of the Office became enforceable or on the day when the court's ruling on examining the legality of the decision of the Office by which the action on examining the legality of the decision of the Office was dismissed or by which the fine imposed by the Office was reduced, whichever of the foregoing occurs later, becomes valid, the informant is entitled to receive 50% of the reward which it would receive otherwise according to the first sentence, but not more than EUR 10 000.
- (4) The Office shall protect the identity of the informant if so requested.
- (5) Paragraph 1 shall not prejudice the provisions of the Article 38d paragraph 1.
- (6) Information on violation according to paragraph 1 is not considered a violation of the confidentiality obligation acknowledged by the special regulation 29) or contract.

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27) Article 101 of Treaty on the Functioning of the European Union in its valid wording (Official Journal of the European Union, C 326, 26. 10. 2012).

28) Second Chapter of the Fifth Part of the Civil Procedure Code.

29) For example Article 81 subparagraph f) of the Act No. 311/2001 Coll. Labour Code as amended.

## **PART SEVEN**

### **OTHER FORMS OF UNLAWFUL RESTRICTION OF COMPETITION**

## **Article 39**

State administration authorities in the exercise of state administration, municipalities and self-governing regions in the exercise of self-governance and transferred state administration, and professional self-governance bodies in the exercise of transferred state administration must not provide evident support giving advantage to certain undertakings or otherwise restrict competition.

## **PART EIGHT**

### **PROTECTION, ACCESS TO INFORMATION AND MAINTAINING CONFIDENTIALITY**

#### **Article 40**

(1) Parties to the proceedings and their representatives have the right of access to the files, make notes and copies from them, receive file copies or obtain information from files in other way, except minutes on voting. The Office may allow access the files, notes and copies from them, may allow providing file copies or may provide information from files also to other persons if they prove legitimacy of their request. The Office provides file copies for compensation of material costs associated with making copies, obtaining technical media and their shipping.

(2) The Office is obliged to take measures that the procedure according to paragraph 1 would not result in disclosure of confidential information, classified information, 30) bank secrecy, tax secrets, trade secrets, telecommunication secrets, post secrets or the confidentiality obligation stipulated or acknowledged by the Act would not be violated.

(3) Until sending the statement before issuing the decision, the parts of the file containing application for non-imposing a fine or for its reduction pursuant to the Article 38d, as well as other documents and information which have been provided to the Office in this connection and are stored outside the file at this stage of proceedings, shall be excluded from access to the file. They become part of a file following the sending of the statement before issuing the decision.

(4) The Office is obliged to inform the natural person and the legal person that it may indicate information or documents submitted to the Office which it considers subject to trade secret 31) or confidential information.

(5) Confidential information for the purpose of this Act is information which is neither trade secret, nor information protected pursuant to the special legislation, 32) is available only to the restricted group of persons and its disclosure would significantly harm the legally protected interest of person which has provided it or other person, including information submitted by the applicant for leniency programme, if its providing could endanger the application of procedure pursuant to the Article 38d.

(6) The Office may ask the natural person and legal person to provide written justification of indication of information and documents as trade secret or confidential information and to provide the Office with other wording of information and documents including description of protected information and documents which do not contain trade secret or confidential information. In notification of concentration pursuant to the Article 10 paragraph 7 or in notification of concentration pursuant to the Article 10 paragraph 10 the party to the proceedings is obliged to provide written justification of indication of information and documents as trade secret or confidential information and to provide separate version of notification without trade secret and confidential information including description of protected information and documents.

(7) If the Office, despite the justification according to paragraph 6, concludes that the submitted information and documents do not constitute trade secret or confidential information, it shall inform natural person or legal person in writing.

(8) The Office shall protect information and documents which constitute trade secret or confidential information. The Office shall enable the access to this information and documents only in cases deserving special consideration to the party to the proceedings or exclusively only to its representative if they constitute evidence on violation of this Act and are inevitable for purposes of benefit of counsel in the proceedings in which the access was granted, and information and documents submitted according to paragraph 6 are not sufficient for this purpose. For the purpose of the control of concentrations this provision shall apply adequately.

(9) The Office shall enable to access the information and documents which constitute trade secret or confidential information to the party to the proceedings according to paragraph 8, second sentence, only following the written consent of the person which has provided this information. If this person does not give consent, the information shall be made available exclusively to the representative of party to the proceedings. Employee of the undertaking which is party to the proceedings cannot be the representative of the party to the proceedings.

(10) With respect to the procedure according to paragraphs 8 and 9 the Office instructs the party to the proceedings or its representative in advance on confidentiality obligation with respect to facts it learned; the Office takes minutes on instruction and the party to the proceedings or its representative shall sign it. Confidentiality obligation of representative refers both to party to the proceedings which he represents and to other persons.

(11) The Office is obliged to disclose final decisions of the Office, notification of a concentration and if the nature of the matter does not exclude it, a notice on the initiation of proceedings regarding all other matters resulting from the provisions of this Act. For the purposes of disclosure according to this paragraph the data constituting trade secret, confidential information and information protected according to the special legislation 32) shall be excluded from the decision.

(12) Regarding the disclosure of a notification of concentration according to paragraph 11, the Office shall always disclose the parties to the concentration, the character of the concentration pursuant to Article 9 (1), and the industry in which the concentration has been established.

(13) The obligation of disclosure under paragraph 11 shall be considered met if the disclosure is made in the Commercial Bulletin and on the Office's official website.

## **Article 41**

(1) The Office may use information or documents obtained by the Office only for performance of duties according to this Act or special legislation. 18a)

(2) Employee of the Office and Member of the Council are required to maintain confidentiality on facts they learned with respect to performance of duties of the Office pursuant to the Article 22 of the Act, unless paragraph 3 provides otherwise. Confidentiality obligation lasts even after terminating the employment relationship or similar relationship or after terminating the post of a Member of the Council.

(3) It is not considered a violation of the confidentiality obligation by employees of the Office if information subject to the confidentiality obligation is provided to:

- a) a court for the purpose of civil proceedings and criminal proceedings;
- b) an authority involved in criminal proceedings for the purpose of criminal proceedings;
- c) the Criminal Police Service of the Police Corps and the Finance Police Service of the Police Corps for the purpose of performance of duties prescribed by special legislation; 33)
- d) the Prosecutor's Office for the purpose of performance of duties pursuant to special legislation; 34)
- e) the competition authority of another state based on an international treaty by which the Slovak Republic is bound, based on special legislation, 18a) or based on approval of the person which has provided information or which the information refers to.

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- 30) Article 2 subparagraph a) of the Act No. 215/2004 Coll.
  - 31) Article 17 of the Commercial Code.
  - 32) For example Act No. 483/2001 Coll. on Banks and on Amendments and Supplements to Certain Laws as amended, Act No. 215/2004 Coll., Act No. 351/2011 Coll. on Electronic Communications as amended.
  - 33) Article 17 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Corps as amended.
  - 34) Act No. 153/2001 Coll. on Prosecutor's Office as amended.

## **PART NINE CIVIL LAWSUITS RELATED TO UNLAWFUL RESTRICTION OF COMPETITION**

### **Article 42**

In the case of harm caused by the agreement restricting competition, the party to the agreement restricting competition which fulfilled the conditions for participation in leniency programme pursuant to the Article 38d paragraph 1 is not obliged to pay damages, if the damage could be paid by other parties to the same agreement restricting competition. Party to the agreement restricting competition which fulfilled the conditions for participation in leniency programme pursuant to the Article 38d paragraph 1 is excluded from the obligation to settle with other participants to the agreement restricting competition which paid damages. If the damage cannot be paid by other participants to the same agreement restricting competition, the party to the agreement restricting competition which fulfilled the conditions for participation in leniency programme pursuant to the Article 38d paragraph 1 is liable only for damages caused to its own direct or indirect customers or suppliers.

## **PART TEN COMMON, TRANSITIONAL AND FINAL PROVISIONS**

### **Article 43**

Repealed by Act No. 151/2014 Coll.

### **Article 44**

- (1) Legal relations that arose before the effective date of this Act shall be assessed pursuant to previous legislation.
- (2) Proceedings before the Office that have been initiated prior to the effective date of this Act shall be completed pursuant to previous legislation.
- (3) The first chairperson of the Office appointed pursuant to this Act shall submit to the Government of the Slovak Republic proposals for candidates for the posts of Council members within one month after

his/her appointment. The Government of the Slovak Republic shall appoint the first Council members within one month following the date of delivery of the list of candidates.

(4) Three members of the first Council shall be appointed for four years and two other members for three years.

(5) The time periods that began prior to the effective date of this Act shall be assessed pursuant to previous legislation until they expire.

(6) The provisions of this Act shall apply to the imposition of fines for the violation of the provisions of this Act, which occurred prior to the effective date of this Act, if they are more favourable for the undertaking.

(7) Decisions issued by the Office, against which a lawsuit was filed with the Supreme Court of the Slovak Republic requesting a review of their legality prior to the effective date of this Act shall be reviewed pursuant to previous legislation.

(8) Regarding a review of a decision issued in the first instance within the proceedings that have been initiated after the effective date of this Act on the basis of an appeal, a decision on the reopening of proceedings, a prosecutor's protest or a review of a decision outside the appellate proceedings, the Chairperson of the Office shall decide pursuant to this Act on the basis of a proposal from a special commission until all members of the Council are appointed.

#### **Article 44a**

#### **Transitional Provisions on Provisions Effective as of the Effective Date of the Treaty on the Slovak Republic's Accession to the European Union**

(1) Legal relations that arose prior to the effective date of the Treaty on the Slovak Republic's Accession to the European Union shall be governed by the provisions of this Act; the establishment of these legal relations shall be assessed pursuant to previous legislation.

(2) Proceedings before the Office that have been initiated prior to the effective date of this Act shall be completed pursuant to the provisions of this Act, unless this Act provides otherwise.

(3) Procedural acts conducted within the proceedings regarding the assessment of activities and conduct of undertakings according to Article 4 or 8 prior to the effective date of this Act shall also remain unchanged for the purpose of assessing the same activities and conduct of undertakings within proceedings according to the provisions of special legislation. 5b)

(4) An exemption from the prohibition of agreements restricting competition, granted to an undertaking on the basis of a decision issued by the Office pursuant to previous legislation, shall remain effective until the expiration of the time period for which it has been granted. The Office shall reverse a decision *ex officio* if it ascertains that an agreement restricting competition to which an exemption has been granted is contrary to special legislation 26a) or if the conditions decisive for issuing the decision have substantially changed.

(5) Undertakings are required to ensure compliance of their agreements restricting competition with special legislation 5a) in accordance with Article 6 (4) within six months of the effective date of this Act.

(6) The Office shall issue a decision on termination of the proceedings that have been initiated prior to the effective date of this Act, in which it is requested that the Office issue a decision that the prohibition of agreements restricting competition does not apply to an agreement restricting competition for the time period specified in the decision, as well as proceedings that have been initiated prior to the effective date of this Act, in which it is requested that the Office shall issue a decision on whether the respective activities and conduct constitute an agreement restricting competition. The Office shall also issue a decision on termination of the proceedings regarding concentrations, which have been initiated

prior to the effective date of this Act, if the respective concentration is not subject to control by the Office according to Article 10 (1), as well as proceedings regarding a possible violation of the prohibition pursuant to Article 4 if the prohibition pursuant to Article 6 (1) does not apply to an agreement restricting competition from the effective date of this Act.

(7) Simplified proceedings regarding the assessment of a concentration subject to control by the Office according to Article 10 (1), which have been initiated prior to the effective date of this Act, shall be completed pursuant to previous legislation.

(8) If the Office issued a final decision approving a concentration, which was subject to a condition, prior to the effective date of this Act, and the undertaking fails to comply with this condition after the effective date of this Act, the Office shall proceed according to the provisions of this Act.

(9) If the Office issued a final decision prohibiting a concentration prior to the effective date of this Act and the prohibition to exercise the rights and obligations resulting from this concentration was violated after the effective date of this Act, the Office shall proceed according to the provisions of this Act.

(10) If the Office issued a final decision prohibiting a concentration according to Article 12 (6) or (7), a violation of the prohibition to exercise the rights and duties resulting from the establishment of the concentration, which occurred prior to the effective date of this Act, shall be governed by previous legislation.

(11) The time periods that began prior to the effective date of this Act shall be assessed according to previous legislation until they expire.

(12) The imposition of fines for the violation of the provisions of previous legislation, which occurred prior to the effective date of this Act, shall be governed by the provisions of previous legislation.

#### **Article 44b**

#### **Transitional Provisions on Provisions Effective as of the 1 June 2009**

(1) Legal relations that arose prior 31 May 2009 shall be governed by the previous legislation.

(2) Proceedings before the Office that have been initiated prior to the effective date of this Act shall be completed pursuant to the previous legislation.

(3) Provisions of this Act shall be used to impose fines for violation of the previous legislation if they are more favourable to undertaking.

#### **Article 44c**

#### **Transitional Provisions on Provisions Effective as of the 1 January 2012**

(1) Legal relations that arose prior 31 December 2011 shall be governed by the previous legislation.

(2) Proceedings before the Office that have been initiated and are not closed prior 31 December 2011 shall be completed pursuant to the provisions of this Act effective until 1 January 2012, except the proceedings on enforcement of the decisions on imposing fines initiated and not closed until 31 December 2011, which shall be terminated.

(3) The Office shall terminate the proceedings on concentration initiated prior 1 January 2012 if the concentration is not subject to control by the Office pursuant to the article 10, par. 1 of this Act.

#### **Article 44d**

#### **Transitional Provisions on Provisions Effective as of the 1 July 2014**

- (1) Legal relations that arose prior 30 June 2014 shall be governed by the previous legislation.
- (2) Provisions of this Act effective since 1 July 2014 shall be used to impose fines for violation of the legislation effective until 30 June 2014 if they are more favourable to undertaking.
- (3) Proceedings before the Office that have been initiated and are not closed prior 30 June 2014 shall be completed pursuant to the provisions of this Act effective since 1 July 2014, except the proceedings on concentrations, which shall be completed pursuant to the legislation effective until 30 June 2014.
- (4) Chairperson of the Office shall submit to the Government of the Slovak Republic proposals for candidates for the post of new Council member until 1 August 2014. The newly appointed Council member shall assume office on the first day of month following the month he/she was appointed.
- (5) The Council shall elect from its members a Council Vice-Chairperson until 15 October 2014.

### **Article 45**

Act of the National Council of the Slovak Republic No. 188/1994 Coll. on Protection of Competition as amended by Act No. 240/1998 Coll. and Act No. 121/2000 Coll. shall be repealed.

### **Article 46**

1. Decree of the Antimonopoly Office of the Slovak Republic No. 204/2009 Coll. laying down details of particulars of a notification of concentration as amended by the Decree No. 402/2011 Coll. and Decree No. 32/2014 Coll.,
2. Decree of the Antimonopoly Office of the Slovak Republic No. 269/2004 Coll. laying down details of calculation of threshold as amended by the Decree No. 403/2011 Coll. shall be repealed.

## **Section II**

Act No. 99/1963 Coll. Civil Procedure Code as amended by the Act No. 36/1967 Coll., Act No. 158/1969 Coll., Act No. 49/1973 Coll., Act No. 20/1975 Coll., Act No. 133/1982 Coll., Act No. 180/1990 Coll., Act No. 328/1991 Coll., Act No. 519/1991 Coll., Act No. 263/1992 Coll., Act of the National Council of the Slovak Republic No. 5/1993 Coll., Act of the National Council of the Slovak Republic No. 46/1994 Coll., Act of the National Council of the Slovak Republic No. 190/1995 Coll., Act of the National Council of the Slovak Republic No. 232/1995 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 22/1996 Coll., Act of the National Council of the Slovak Republic No. 58/1996 Coll., finding of the Constitutional Court of the Slovak Republic No. 281/1996 Coll., Act No. 211/1997 Coll., finding of the Constitutional Court of the Slovak Republic No. 359/1997 Coll., Act No. 124/1998 Coll., Act No. 144/1998 Coll., Act No. 169/1998 Coll., Act No. 187/1998 Coll., Act No. 225/1998 Coll., Act No. 233/1998 Coll., Act No. 235/1998 Coll., finding of the Constitutional Court of the Slovak Republic No. 318/1998 Coll., Act No.

331/1998 Coll., Act No. 46/1999 Coll., finding of the Constitutional Court of the Slovak Republic No. 66/1999 Coll., finding of the Constitutional Court of the Slovak Republic No. 166/1999 Coll., finding of the Constitutional Court of the Slovak Republic No. 185/1999 Coll., Act No. 223/1999 Coll., Act No. 303/2001 Coll., Act No. 501/2001 Coll., Act No. 215/2002 Coll., Act No. 232/2002 Coll., Act No. 424/2002 Coll., Act No. 451/2002 Coll., Act No. 480/2002 Coll., finding of the Constitutional Court of the Slovak Republic No. 620/2002 Coll., finding of the Constitutional Court of the Slovak Republic No. 75/2003 Coll., Act No. 353/2003 Coll., Act No. 530/2003 Coll., Act No. 589/2003 Coll., Act No. 204/2004 Coll., Act No. 371/2004 Coll., Act No. 382/2004 Coll., Act No. 420/2004 Coll., Act No. 428/2004 Coll., Act No. 613/2004 Coll., Act No. 757/2004 Coll., Act No. 36/2005 Coll., Act No. 290/2005 Coll., Act No. 341/2005 Coll., Act No. 24/2007 Coll., Act No. 84/2007 Coll., Act No. 273/2007 Coll., Act No. 335/2007 Coll., Act No. 643/2007 Coll., Act No. 384/2008 Coll., Act No. 477/2008 Coll., Act No. 484/2008 Coll., Act No. 491/2008 Coll., Act No. 487/2009 Coll., Act No. 495/2009 Coll., Act No. 575/2009 Coll., Act No. 151/2010 Coll., Act No. 183/2011 Coll., Act No. 332/2011 Coll., Act No. 348/2011 Coll., Act No. 388/2011 Z. z, Act No. 335/2012 Coll., Act No. 64/2013 Coll., Act No. 75/2013 Coll., Act No. 180/2013 Coll. and Act No. 106/2014 Coll. shall be amended as follows:

In the Article 78a paragraph 1 in last sentence the word “proposal” shall be followed by the words “for conducting an inspection by the Commission” and the words “or by the Antimonopoly Office” shall be left out.

## **Section III**

Act No. 250/2007 Coll. on Protection of Consumer and on changes of the Act of the Slovak National Council No. 372/1990 Coll. on Offences as amended by the Act No. 397/2008 Coll., Act No. 318/2009 Coll., Act No. 575/2009 Coll., Act no. 508/2010 Coll., Act No. 301/2012 Coll., Act No. 132/2013 Coll., Act No. 437/2013 Coll., Act No. 102/2014 Coll. and Act No. 106/2014 Coll. shall be amended as follows:

Article 24 paragraph 8 reads as follows:

“(8) Repeated obstruction, distortion or hindering the performance of surveillance according to paragraph 3 is considered serious violation of obligation. 28a)”

Footnote 28a reads as follows:

“28a) For example Article 58 of the Act No. 455/1991 Coll. on Trade Licensing as amended.”

## **Section IV**

Act No. 102/2014 Coll. on Protection of Consumer Related to Selling or Providing Services Based on a Distance Contract, or a Contract Concluded outside Operational Premises of the Seller and on Amendments and Supplements to certain laws shall be amended as follows:

In the Article XIV the words “article I to III” shall be replaced by the words “article I, article II points 2 to 8, article III”, words “and 36” shall be followed by comma replacing word “and” and the end the following words shall be inserted “and article II point 1, which shall enter into force on 1 April 2015”.

## **Section V**

Chairman of the National Council of the Slovak Republic shall be authorised to promulgate in Collection of Laws of the Slovak Republic full wording of the Act of the National Council of the Slovak Republic No. 136/2001 Coll. on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended as amended by the changes and supplements realised by the Act No. 465/2002 Coll., Act no. 204/2004 Coll., Act No. 68/2005 Coll., Act No. 165/2009 Coll. and Act No. 387/2011 Coll. and by this Act.

## **Section VI**

This Act shall enter into force on 1 July 2014 except the Section III which shall enter into force on 14 June 2014 and Section IV which shall enter into force on 12 June 2014.