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THE PREVENTION OF RESTRICTION OF COMPETITION ACT (ZPOMK-1)

Unofficial consolidated text ¹

PART I GENERAL PROVISIONS

Article 1 (Content of the Act)

(1) This Act regulates restrictive practices, concentrations of undertakings, unfair competition, regulatory restrictions of competition and measures to prevent restrictive practices and concentrations that significantly impede effective competition, where they cause or might cause effects in the territory of the Republic of Slovenia, and individual rules on compensation for harm due to an infringement of competition law.

(2) This Act determines the authority responsible for the protection of competition, the competences of this authority and the proceedings conducted by this authority.

Article 2 (Transposition and implementation of European Union Legislation)

(1) This Act regulates the proceedings and the competences for the implementation of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition determined in Articles 81 and 82 of the Treaty (OJ L 1, 4. 1. 2003, p. 1, hereinafter: Regulation 1/2003/EC), and Council Regulation (EC) No

¹ This unofficial consolidated text of the Prevention of Restriction of Competition Act (hereinafter: ZPOMK-1) incorporates the changes introduced by:

- ZPOMK-1 [Official Gazette of the Republic of Slovenia], No 36/08 of 11 April 2008),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1A (OG RS, No 40/09),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1B (OG RS, No 26/11),
- the Act Amending the Prevention of Restriction of the Competition Act – ZPOMK-1C (OG RS, No 87/11),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1D (OG RS, No 57/12),
- the Decision establishing that the first sentence of paragraph (1) of Article 28 of ZPOMK-1 is inconsistent with the Constitution, the Decision establishing that Articles 54, 56, 57, 59 and 6a of ZPOMK-1 are not inconsistent with the Constitution (OG RS, No 39/13 of 6 May 2013),
- the Act Amending the Courts Act – ZS-K (OG RS, No 63/13 of 26 July 2013),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1E (OG RS, No 33/14),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1F (OG RS, No 76/15),
- the Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1G (OG RS, No 23/17).

139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29. 1. 2004, p. 1, hereinafter: Regulation 139/2004/EC).

(2) This Act transposes Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ L 349, 5.12.2014, p. 1) into the legislation of the Republic of Slovenia.

Article 3 (Definitions)

- (1) The terms used in this Act shall have the following meanings:
1. "undertaking" shall mean any entity that is engaged in economic activities, regardless of its legal and organisational form or ownership status. An undertaking shall also mean a group of undertakings that is not directly engaged in an economic activity but affects or may affect the behaviour on the market of undertakings referred to in the first sentence of this point;
 2. "economic activity" shall mean any activity that is performed on the market for payment.
 3. "parent undertaking" shall mean an undertaking that, directly or indirectly:
 - holds a majority of capital or business holdings in another undertaking;
 - holds a majority of voting rights in another undertaking;
 - has the right to appoint or dismiss a majority of the members of the management or supervisory board of another undertaking, or
 - has the right to manage the affairs of another undertaking on the basis of a business contract or other legal arrangement;
 4. "subsidiary" shall mean any undertaking in which another undertaking has the rights or influence referred to in the preceding point;
 5. "group companies" shall mean undertakings that are:
 - involved in an agreement or concentration;
 - their subsidiaries;
 - their parent undertakings;
 - subsidiaries referred to in the preceding indent, and
 - undertakings in which one or more undertakings referred to in the preceding indents jointly or in collaboration with one or more undertakings has or have the rights or powers referred to in the third point of this Article;
 6. "relevant market" shall mean a market defined by the relevant product/service market and the relevant geographic market;
 7. "relevant product/service market" shall mean a market that, as a rule, comprises all products or services that are regarded as interchangeable or substitutable by the consumer or the user given their characteristics, their prices or their intended use;
 8. "geographical reference market" shall mean a market that, as a rule, comprises an area in which competitors on the relevant product/service market compete in the sale or purchase of products or services, an area in which the conditions of competition are sufficiently homogeneous, and which can be distinguished from neighbouring areas because conditions of competition are appreciably different in those areas;
 9. "undertakings concerned by the concentration" shall mean undertakings that merge, undertakings that gain control of other undertakings, acquired undertakings and undertakings creating a joint venture;
 10. "annual turnover" shall mean net revenues from sales generated by an undertaking over a business year from the sale of products or the provision of services falling within ordinary activities;

11. "annual turnover of undertakings concerned by the concentration together with other undertakings in the group" shall mean the annual turnover generated by undertakings concerned by the concentration together with other undertakings in the group and shall not include net revenues from the sale of products and the provision of services between undertakings in the group. Where the concentration arises by acquiring control of a part of one or more undertakings, regardless of whether these parts have the status of a legal entity, only the turnover relating to the parts that are the subject of the concentration shall be taken into account with regard to the seller or sellers. Two or more transactions within the meaning of the preceding sentence that take place within a two-year period between the same persons or undertakings shall be deemed one and the same concentration arising on the date of the last transaction. If group companies, jointly or in collaboration with third undertakings, hold the rights referred to in the third point of this Article, the turnover of the joint undertaking shall be apportioned equally amongst the undertakings concerned.
12. "annual turnover generated on the market of the Republic of Slovenia" shall mean net revenues from the sale of products and the provision of services in the territory of the Republic of Slovenia;
13. "annual turnover of credit and financial institutions" shall comprise financial income from shares, financial income from loans granted and financial income from amounts receivable; The terms "credit institution" and "financial institution" used in this Act shall bear the same meaning as the terms used in the law governing banking;
14. "annual turnover of insurance undertakings" shall be the amount of gross premiums written, comprising all amounts received or receivable in respect of insurance contracts, including outgoing reinsurance premiums, after the deduction of taxes or contributions associated with insurance premiums;
15. "information" shall be all information, including confidential information, irrespective of the medium on which such information is recorded or stored;
16. "confidential information" shall mean business secrets, business correspondence concerning the economic activity of an undertaking, personal data and any other information that, under this Act or other regulations, is subject to special arrangements for its protection and to special conditions for accessing it. Information that is publicly accessible shall not be deemed confidential information;
17. "business secret" shall mean data whose disclosure would cause considerable damage and which are known to a restricted circle of persons;
18. "block exemptions" shall mean categories of agreements that meet the criteria referred to in paragraph (3) of Article 6 of this Act or paragraph (3) of Article 101 of the Treaty on the Functioning of the European Union;
19. "restrictive practices" shall mean restrictive agreements and any abuse of a dominant position;
20. "cartel" shall mean an agreement or concerted practice between two or more undertakings aimed at coordinating their competitive behaviour on the market or influencing the relevant parameters of competition through practices such as the fixing or coordination of purchase or selling prices or other trading conditions, including in relation to intellectual property rights, the allocation of production or sales quotas, the sharing of markets and purchasers, including bid-rigging, restrictions of imports or exports or anti-competitive actions against other competitor undertakings; "settlement submission" shall mean a voluntary presentation by, or on behalf of, an undertaking to the European Commission or to the authority designated by a Member State of the European Union in accordance with Article 35 of Regulation 1/2013/EC to be responsible for the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union (hereinafter: authority of another Member State), describing the undertaking's participation in an infringement of competition law and its responsibility for that infringement of competition law, which was drawn up specifically to enable the European Commission or the authority of another Member State to decide on the case sooner."

- (2) For the purposes of Chapter VI of this Act, the following definitions shall apply:
1. "infringement of competition law" shall mean the infringement of Articles 6 or 9 of this Act or Articles 101 or 102 of the Treaty on the Functioning of the European Union or the infringement of the provisions of a Member State of the European Union that determine the prohibition of restrictive agreements or the prohibition of the abuse of a dominant position within the meaning of Articles 101 or 102 of the Treaty on the Functioning of the European Union;
 2. "infringer" shall mean an undertaking that has committed an infringement of competition law;
 3. "the authority responsible for the protection of competition" shall mean the European Commission or the Slovenian Competition Protection Agency or the authority of another Member State;
 4. "infringement decision" shall mean a decision of the authority responsible for the protection of competition that finds an infringement of competition law or of a court that on the basis of an ordinary legal remedy is competent to review the decisions of the Slovenian Competition Protection Agency or of the authority of another Member State;
 5. "leniency programme" shall mean a programme concerning the application of Article 6 of this Act or Article 101 of the Treaty on the Functioning of the European Union on the basis of which a participant in a secret cartel, independently of the other undertakings involved in the cartel, cooperates with a procedure of the investigative authority or the authority responsible for the protection of competition, by voluntarily providing presentations regarding that participant's knowledge of, and role in, the cartel in return for which that participant receives, by a decision or the discontinuation of a procedure, immunity from, or a reduction in, fines for its involvement in the cartel;
 6. "leniency statement" shall mean an oral or written submission voluntarily provided by an undertaking or a person authorised thereby to the authority responsible for competition, describing knowledge of that undertaking or natural person of a cartel and describing its role therein, whose presentation was drawn up specifically for submission to the authority responsible for competition with a view to obtaining immunity or a reduction in fines under a leniency programme, not including pre-existing information;
 7. "pre-existing information" shall mean evidence that exists irrespective of the procedure of the authority responsible for competition, whether or not such information is in the file of the authority responsible for competition;
 8. "person granted immunity from a fine" shall mean an undertaking or a responsible person thereof to whom the authority responsible for competition has granted immunity from a fine under a leniency programme;
 9. "consensual dispute resolution" shall mean any mechanism enabling parties to reach an out-of-court resolution of a dispute concerning a compensation claim;
 10. "settlement" shall mean an agreement or decision reached through consensual dispute resolution;
 11. "direct purchaser" shall mean a natural or legal person who has acquired, directly from an infringer, the products or services that were the object of the infringement of competition law;
 12. "indirect purchaser" shall mean a natural or legal person who has acquired products or services that were the object of an infringement of competition law or products or services derived from such goods or services from a direct purchaser or a subsequent purchaser;
 13. "evidence" shall mean all means and objects admissible for proving facts in accordance with the Act regulating civil procedure, in particular, documents and all other media on which the information is stored;
 14. "third person" shall mean a natural person, an undertaking, a public authority or a holder of a public authorisation, except for the courts.

Article 4
(Scope of the Act)

(1) This Act shall apply to undertakings.

(2) In accordance with Regulation 1/2003/EC, this Act shall also apply to violations of the provisions of Articles 101 and 102 of the Treaty on the Functioning of the European Union (OJ C 326, 26. 10. 2012, hereinafter: the TFEU).

(3) This Act shall be without prejudice to the relationships between employers and employees.

Article 5
(The Public Agency of the Republic of Slovenia for Competition Protection)

(1) For the purpose of implementing the tasks and competences under this Act, the Public Agency of the Republic of Slovenia for Competition Protection (hereinafter: the Agency) shall be established by the Republic of Slovenia. The establisher's rights and obligations shall be exercised by the Government of the Republic of Slovenia (hereinafter: the Government).

(2) The issues relating to the organisation and operation of the Agency that are not regulated by this Act shall be governed by the provisions of the law regulating public agencies.

(3) The Agency shall be a legal person with the rights, obligations and responsibilities determined by this Act and by the law governing public agencies.

(4) The Agency shall be independent and autonomous in the implementation of its tasks. In conducting proceedings and issuing decisions on particular matters within its competence in accordance with this Act or another regulation, the Agency and members of its bodies shall not be bound by any guidelines and instructions provided by the State or other authorities. Guidelines for the Agency's work may only be issued to the Agency by the Government or the National Assembly of the Republic of Slovenia (hereinafter: the National Assembly). The guidelines are general in nature and may not interfere with the conduct of the proceedings or decision-making on individual cases.

(5) The number of employees of the Agency shall be determined by the Agency itself in accordance with the funds available within the financial plan for the current year.

(6) The Agency shall have Rules of Procedure and other general acts that specify the Agency's internal organisation and operations.

PART II
RESTRICTIVE PRACTICES

Article 6
(Prohibition of restrictive agreements)

(1) Agreements between undertakings, decisions by groups of undertakings and concerted practices of undertakings (hereinafter: agreements) that have as their object or effect the prevention, restriction or distortion of competition in the territory of the Republic of Slovenia shall be prohibited and shall be null and void.

- (2) The prohibition shall apply in particular to:
- direct or indirect fixing of purchase or selling prices or other trading conditions;
 - limiting or controlling production, sales, technical progress or investment;
 - applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations that, by their nature or according to commercial usage, have no connection with the subject of their contracts;
 - sharing markets or sources of supply.

(3) Paragraph (1) of this Article shall not apply to agreements that contribute to improving the production or distribution of goods or to promoting technical and economic progress, while allowing consumers a fair share of the resulting benefit. These agreements shall not:

- impose on the undertakings concerned restrictions that are not indispensable to the attainment of these objectives; and
- afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services that are the subject of the agreement.

(4) An undertaking invoking the preceding paragraph shall bear the burden of proving that the conditions referred to in the preceding paragraph have been fulfilled.

Article 7 **(Restrictions of minor importance)**

(1) Paragraph (1) of the preceding Article shall not apply to agreements of minor importance.

(2) Agreements of minor importance shall be agreements between undertakings whose aggregate market share, in combination with other undertakings in the group, on any of the relevant markets in the territory of the Republic of Slovenia to which the agreement pertains, does not exceed:

- 10% in the case of undertakings operating at the same level of production or trade ("horizontal agreements"),
- 15% in the case of undertakings operating at different levels of production or trade ("vertical agreements"),
- 10% in the case of mixed horizontal-vertical agreements or where it is difficult to determine whether an agreement is horizontal or vertical.

(3) If competition on a relevant market is restricted by the cumulative effects of parallel or similar agreements between other undertakings, the market share thresholds referred to in the preceding paragraph shall be decreased by 5%.

(4) Even if the thresholds referred to in paragraphs (2) or (3) of this Article are not met, paragraph (1) of this Article shall not apply to:

- a) horizontal agreements having as their object:
 - price fixing;
 - limiting production or sales, or
 - segmentation of markets or sources of supply;
- b) vertical agreements having as their object:
 - fixing retail prices, or
 - granting territorial protection to the participating undertakings or to third persons.

Article 8 (Block exemptions)

(1) For groups of agreements that meet the conditions referred to in paragraph (3) of Article 6 of this Act, the provisions of the Regulations of the European Commission or the Council of the European Union on the application of paragraph (3) of Article 101 of the TFEU shall apply *mutatis mutandis*, even if there is no indication of an effect on trade between EU Member States.

(2) The Government may specify by a decree other categories of agreements that meet the conditions referred to paragraph (3) of Article 6 of this Act.

(3) The Agency may withdraw the benefit of the block exemption if it finds that a particular agreement has certain effects that are incompatible with paragraph (3) of Article 6 of this Act or paragraph (3) of Article 101 of the TFEU.

Article 9 (Prohibition of abuse of a dominant position)

(1) The abuse of a dominant position on the market by one or more undertakings in the territory of the Republic of Slovenia or on a substantial part thereof shall be prohibited.

(2) An undertaking or several undertakings shall be deemed to have a dominant position when they can, to a significant degree, act independently of competitors, clients or consumers.

(3) In determining the dominant position, the Agency shall take into consideration in particular the market share, financial options, legal or actual entry barriers, access to suppliers or the market, and existing or potential competition.

(4) The abuse of a dominant position shall, in particular, consist in:

- directly or indirectly imposing unfair purchase or selling prices, or other unfair trading conditions;
- limiting production, markets or technical development to the prejudice of consumers;
- applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- making the conclusion of contracts subject to acceptance of supplementary obligations that, by their nature or according to commercial usage, have no connection with the subject of their contracts.

(5) An undertaking shall be deemed to have a dominant position if its share on the market of the Republic of Slovenia exceeds the 40% threshold.

(6) Two or more undertakings shall be deemed to have a dominant position if their share on the market of the Republic of Slovenia exceeds 60%.

PART III CONCENTRATION OF UNDERTAKINGS

Article 10 (Definition of a concentration)

(1) A concentration shall be deemed to arise where a change of control on a lasting basis results from:

- the merger of two or more previously independent undertakings or parts of undertakings, or
- the acquisition, by one or more natural persons already controlling at least one undertaking, or by one or more undertakings, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more other undertakings, or
- the creation of a joint venture by two or more independent undertakings, performing on a lasting basis all the functions of an autonomous economic entity.

(2) Control of a whole undertaking or a part thereof within the meaning of the preceding paragraph shall be constituted by rights, contracts or any other means that, either separately or in combination and having regard to the consideration of the facts or regulations involved, confer the possibility of exercising decisive influence on such an undertaking or part of an undertaking, in particular:

- ownership or the right to use all or part of the assets of an undertaking;
- rights or contracts that confer a decisive influence on the composition, voting or orders of the bodies of an undertaking.

(3) Control is acquired by persons or undertakings that:

- are holders of rights or entitled to rights under the contracts concerned; or
- while not being holders of such rights or entitled to rights under such contracts, have the power to exercise the rights deriving from contracts.

(4) A concentration shall not be deemed to arise when banks, insurance companies, savings institutions or other financial institutions, the normal activities of which include transactions and dealing in securities for their own account or for the account of others, hold on a temporary basis business assets that they have acquired in an undertaking with a view to reselling them, provided that they do not exercise voting rights in respect of those business assets with a view to determining the competitive behaviour of that undertaking or provided that they exercise such voting rights only with a view to preparing the disposal of these business assets and that any such disposal takes place within one year of the date of acquisition of these business assets. The period of one year may be extended by a decision of the Agency on request when the undertaking can show that the disposal was not reasonably possible within the prescribed period. No judicial protection shall be allowed against such decision.

Article 11 **(Assessment of concentration)**

(1) Concentrations that would significantly impede effective competition in the territory of the Republic of Slovenia or on a substantial part of it, in particular as a result of the creation or strengthening of a dominant position, shall be prohibited.

(2) The Agency shall assess concentrations primarily on the basis of the market position of the undertakings involved in the concentration, their financial options, market structure, alternatives available to suppliers and users, their access to sources of supply or markets, any legal or other barriers to entry, supply and demand trends for the relevant markets, the interests of intermediate and ultimate consumers, and the development of technical and economic progress, provided that it is to consumers' advantage and does not form an obstacle to competition.

(3) If the creation of a joint venture within the meaning of the third indent of paragraph (1) of the preceding Article has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be assessed in accordance with the criteria of Article 6 of this Act. If the Agency determines that the conditions referred to in paragraph (3) of Article 6 of this Act are not met, it shall issue a decision declaring the concentration incompatible with the rules on competition and shall prohibit such concentration.

PART IV THE AGENCY

Article 12 (Tasks and competences of the Agency)

(1) The Agency shall be competent to supervise the implementation of this Act and Articles 101 and 102 of the TFEU. The Agency shall monitor and analyse the conditions on the market to the extent necessary for the development of effective competition, conduct procedures and issue decisions in accordance with this Act, and submit its opinions to the National Assembly and the Government on general issues within its competence.

(2) The Agency shall act as a minor offence authority, passing decisions in cases of violation of the provisions of this Act and the provisions of Articles 101 and 102 of the TFEU in accordance with the law regulating minor offences, unless provided otherwise herein. Minor offence procedures shall be conducted by an authorised official of the Agency who meets the conditions under the law regulating minor offences. The Agency shall specify the conditions and method of conferring on and terminating the powers of the person considered the authorised official of the Agency to conduct minor offence proceedings.

(3) Notwithstanding the first and the preceding paragraphs of this Article, the Agency shall not be competent to supervise the implementation of Articles 63a and 63b of this Act.

(4) The Agency may bring an action for nullity before the competent court in the cases referred to in paragraph (1) of Article 6 and paragraph (3) of Article 44 of this Act.

Article 12a (Bodies of the Agency)

The Agency's bodies shall be the Agency Council (hereinafter: the Council) and the Director.

1. The Council

Article 12b (The structure and appointment of the Council members)

(1) The Council shall consist of five members, one of whom shall be the President of the Council.

(2) The Director shall be *ex-officio* President of the Council.

(3) The members of the Council shall be appointed by the National Assembly on the proposal of the Government.

(4) In proposing candidates for membership of the Council, the Government shall apply the criteria of the candidate's expertise and qualifications in the field of the Agency's work.

(5) The National Assembly shall vote on the proposed candidate for Council member within thirty days of the proposal being filed. The proposed candidate shall be appointed when a majority of all deputies vote for him or her. If the proposed candidate for Council member does not receive the required majority of all deputies' votes, the President of the National Assembly shall notify the Government thereof; the latter shall, within fourteen days, inform the President of the National Assembly of its decision regarding the subsequent proceedings for the election of the Council member.

Article 12c **(Term of office and conditions for Council members)**

(1) Members of the Council shall be appointed for a period of five years, and may be reappointed.

- (2) In order to be appointed a member of the Council, a person must:
- be a citizen of the Republic of Slovenia;
 - have an education acquired by completing a second Bologna cycle study programme), or a level of education that in accordance with the law corresponds to a second Bologna cycle education;
 - hold appropriate professional qualifications for the performance of the duties of a Council member;
 - have at least five years of work experience;
 - have not had criminal proceedings initiated against him or her for a criminal offence prosecuted *ex officio*;
 - have not been finally convicted of a criminal offence prosecuted *ex officio* and sentenced to imprisonment of more than six months and the execution of the sentence has not been conditionally suspended.

(3) A public employee who is a staff member of the Agency may also be appointed a member of the Council.

Article 12č **(Competences of the Council)**

- (1) The Council shall:
- adopt Rules of Procedure that specify the Agency's operations and other general acts of the Agency when so provided by law;
 - adopt annual reports on the work of the Agency, annual work programmes, financial plans, annual accounts and other acts imposed on the Agency by law;
 - for each individual case, appoint a panel authorised to act in minor offence proceedings;
 - decide on the exclusion of the Director, the chair or a member of a panel, in the decision-making procedure in individual cases;
 - decide on the exclusion of the authorised official in the decision-making procedure in individual cases;
 - conduct procedures for the early dismissal of Council members and the Director;

- perform other tasks within the competence of the Agency, unless the Act determines that another body of the Agency is competent for such.

(2) The Director, chair or a member of a panel may not participate in the decision-making procedure concerning their exclusion or early dismissal.

(3) In the decision-making procedure concerning exclusion, the law governing general administrative procedure shall apply.

Article 12d (Convening and decision-making of the Council)

(1) The Council shall adopt decisions in meetings convened by the President of the Council on his or her own initiative or at the request of at least two (2) members of the Council.

(2) The Council shall pass valid decisions if the majority of all members of the Council are present at the meeting. The Council shall, after consultation, adopt decisions by voting in the meeting. A decision shall be adopted if supported by a majority of all members of the Council present.

Article 12e (Incompatibility)

- (1) The following persons may not be Council members:
- officials in the executive branch of power;
 - officials in the legislative branch of power;
 - officials in the judicial branch of power;
 - officials in other state authorities and local communities;
 - members of executive and official bodies of political parties;
 - persons for whom this function might represent a conflict between their private interests and the public interests pursued by the Agency.

(2) The Council member shall align his or her position with the previous paragraph within one month of being appointed; failing this, the expiry of this deadline shall result in the expiry of the National Assembly's decision on the appointment.

Article 12f (Early dismissal)

- (1) A Council members shall be dismissed early:
- at his or her own request;
 - due to permanent loss of capacity to perform his or her work;
 - if he or she breaches the obligation to protect confidential information determined by this Act or any other law;
 - if he or she has committed a serious violation of the Rules of Procedure;
 - if it is found that he or she no longer meets the statutory conditions for appointment;
 - if he or she holds a position of incompatibility referred to in the preceding Article, or
 - if they fail to implement their tasks as Council members, provided by law or the Rules of Procedure, or if they perform their duty unconscientiously or unprofessionally.

(2) A member of the Council shall be dismissed early by the National Assembly on the proposal of the Government.

(3) The Council shall be responsible for the implementation of the early dismissal proceedings for Council members as determined by the Agency's Rules of Procedure. A member of the Council whose dismissal is proposed may not participate in the implementation of the early dismissal proceedings.

(4) An administrative dispute shall be allowed against a dismissal decision.

Article 12g
(Remuneration of members of the Council, panels and minor offence panels)

(1) Members of the Council, panels and minor offence panels shall be entitled to attendance fees and reimbursement of other costs (hereinafter: remuneration). The decree on meeting attendance fees and reimbursement of costs and expenses in public agencies shall apply, *mutatis mutandis*, to the remuneration of members of the Council and minor offence panels.

(2) Public employees who are staff members of the Agency shall perform their duties within the Council, panels and minor offence panels outside regular working hours.

3. The Director

Article 12h
(Appointment, term of office and conditions to be met by the Director)

(1) The Director shall be appointed by the National Assembly on the proposal of the Government. The minister responsible for the protection of competition shall propose to the Government a candidate for selection following an open competition.

(2) The Director shall be appointed for a period of five years and may be reappointed once following an open competition.

- (3) In order to be appointed Director, a person must:
- be a citizen of the Republic of Slovenia;
 - have an education acquired by completing a second Bologna cycle study programme in law or economics, or a level of education that in accordance with the law corresponds to a second Bologna cycle education in law or economics;
 - have at least ten years of work experience;
 - be an expert in competition protection and have national and/or international experience in this field (in particular work experience, published expert literature and other forms of expert work in the field of competition protection);
 - have passed the professional examination for conducting and decision-making in minor offence proceedings;
 - have command of at least one foreign language;
 - have not had criminal proceedings initiated against him or her for a criminal offence prosecuted *ex officio*; and
 - have not been finally convicted of a criminal offence prosecuted *ex officio* and sentenced to imprisonment of more than six months and the execution of the sentence has not been conditionally suspended.

(4) The Director shall comply with the condition referred to in the fifth indent of the preceding paragraph not later than within three months from the beginning of the term of office. Should the Director fail to comply with the condition referred to in the fifth indent of the

preceding paragraph within the deadline referred to in the preceding sentence, his or her term of office and the employment relationship shall terminate in accordance with the law.

(5) The conditions for appointment of the Director shall be determined by the act regulating the internal organisation and classification of work positions.

(6) Applications in the open competition shall be accompanied by a work and development programme for the Agency for the period of the next term of office.

(7) The National Assembly shall vote on the proposed candidate for Director within thirty days of the proposal being filed. The proposed candidate shall be appointed when a majority of all deputies vote for him or her. If the proposed candidate for Director does not receive the required majority of all deputies' votes, the President of the National Assembly shall notify the Government thereof; the Government shall, within fourteen days, inform the President of the National Assembly of its decision regarding the subsequent procedure for election of the Director.

Article 12i (Competences and responsibilities of the Director)

(1) The Director shall represent the Agency, manage its operations and organise its work.

(2) The Director must ensure that the Agency:

- carries out its powers and tasks under this or any other Act; and
- operates in accordance with this Act, and its Memorandum of Association and Rules of Procedure.

(3) The Director shall run the Agency, conduct procedures, grant authorisation to conduct procedures in cases within the competence of the Agency in accordance with this Act, and shall issue legal acts in individual cases within the competence of the Agency, unless the issuance of legal acts falls within the competence of the panel pursuant to this Act.

Article 12j (Incompatibility)

(1) The Director shall hold his or her position in the Agency on the basis of an employment contract concluded with the minister responsible for competition protection.

(2) The following persons may not be Director:

- an official in the executive branch of power;
- an official in the legislative branch of power;
- an official in the judicial branch of power;
- an official in other state authorities and local communities;
- a member of the executive or official body of a political party;
- a person for whom this function might represent a conflict between his or her private interests and the public interests pursued by the Agency.

(3) The Director shall align his or her position with the preceding paragraph within one month of being appointed; failing this, the expiry of this deadline shall result in the termination of the National Assembly's decision on the appointment.

Article 12k
(Early dismissal of the Director)

- (1) The Director shall be dismissed early:
- at his or her own request;
 - due to permanent loss of capacity to perform his or her work;
 - if he or she breaches the obligation to protect confidential information provided by this Act or any other law;
 - if he or she has committed a serious violation of the Rules of Procedure;
 - if it is found that he or she no longer meets the statutory conditions for appointment;
 - if he or she holds a position of incompatibility referred to in the preceding Article,
 - if he or she fails to implement his or her tasks as Director as determined by this Act, or if he or she performs his or her work unconscientiously or unprofessionally, or
 - if he/she fails to implement his/her tasks as Council members, provided by this Act or the Agency's Rules of Procedure, or if he/she performs his/her duty unconscientiously or unprofessionally.

(2) The Director shall be dismissed early by the National Assembly on the proposal of the Government.

(3) The Council shall be responsible for the implementation of early dismissal proceedings for the Director as provided by the Agency's Rules of Procedure. The Director may not participate in the implementation of the proceedings for his or her early dismissal.

(4) An administrative dispute shall be allowed against a dismissal decision.

(5) In the event of early dismissal of the Director, the Government shall, notwithstanding the provisions of this Act, appoint an Acting Director for a maximum period of six months.

Article 12l
(Participation of the Agency in the development of competition policy and in international relations)

(1) The Agency shall participate in the development of competition policy.

(2) The Agency shall establish bilateral relations and cooperate with international organisations in the field of competition protection. The Director shall inform the ministry responsible for competition protection of cooperation in this field within the European Union.

Article 12m
(Supervision of work and operation)

Supervision of the work and operation of the Agency, which shall be carried out by the ministry responsible for the protection of competition under the provisions of the law governing public agencies, shall not constitute a right of access to the files of individual cases dealt with.

4. The Agency's competence for decision-making in individual cases in administrative proceedings

Article 12n
(Authorities in the proceedings)

(1) The authorities regarding the decision-making procedure in individual cases in administrative proceedings shall be the panel and the chair of the panel.

(2) The President and members of the Council and the Agency employees performing individual actions in decision-making on individual cases within the competence of the Agency in accordance with this Act shall not be held responsible for the damage caused to their clients or other persons unless the damage is caused deliberately or by gross negligence.

Article 12o
(Competences and structure of the panel)

(1) The panel shall consist of all members of the Council, one of whom shall be the chair of the panel. The chair of the panel for decision-making in each case shall be appointed in the manner provided in the Agency's Rules of Procedure.

(2) The panel shall decide in administrative proceedings in individual cases within the competence of the Agency, in which acts are issued in accordance with this Act by which the proceedings before the Agency are concluded.

(3) Pending the issuance of a decision, the proceedings shall be conducted by a public employee who is a staff member of the Agency and who meets the conditions for conducting the proceedings and is authorised by the Director for this purpose. The public employee who conducted the proceedings shall submit a report in writing and a draft decision to the panel.

Article 12p
(Meeting held by panel)

(1) The panel shall, after consultation, adopt decisions by voting in a meeting, which shall not be public. The panel's meeting shall be convened by the chair of the panel on his or her own motion or at the request of the Director. The request must include a statement of reasons.

(2) The panel may pass valid decisions if the majority of all members of the panel are present at the meeting.

(3) The chair of the panel shall preside over the consultation and voting processes and cast the final vote.

(4) Members of the panel may not abstain from voting on issues put to a vote by the chair of the panel.

(5) A decision shall be deemed to have been passed if the majority of the panel members vote for it. In the case of a deadlock, the vote of the panel's chair shall be decisive.

Article 12r
(Minutes of consultation and voting)

(1) Consultation and voting shall be recorded in separate minutes.

(2) The minutes of consultation and voting shall comprise a description of the voting and the adopted act.

(3) Individual opinions that were not set down in the minutes shall be enclosed with the minutes of the consultation and voting.

(4) The minutes shall be signed by all members of the panel and by the recording clerk.

(5) The consultation and voting minutes shall be sealed in a special envelope. The minutes may only be inspected by competent courts deciding in the process of adjudication on judicial protection against the Agency's acts. In the event of such, the competent court shall seal the minutes in a separate envelope, on which it shall indicate that it has examined the minutes.

5. The Agency's competence for decision-making in minor offence proceedings.

Article 12s **(Decision-making in minor offence proceedings)**

(1) A panel consisting of three members (hereinafter: a minor offence panel) shall decide in minor offence proceedings in individual cases within the competence of the Agency, in which acts are issued by which the proceedings before the Agency are concluded. At the request of the Director, the Council shall appoint a minor offence panel on a case-by-case basis from among the Council members and public employees of the Agency in the manner provided for by the Agency's Rules of Procedure. The members of a minor offence panel shall meet the conditions provided by the law regulating minor offences. One of the members of the minor offence panel shall be the chair of the minor offence panel, who shall be appointed in the manner determined in the Agency's Rules of Procedure.

(2) The minor offence panel's meetings shall be convened by the chair of the minor offence panel. The minor offence panel shall, after consultation, adopt decisions by voting in a meeting, which shall not be public. The chair of the minor offence panel shall preside over the consultation and voting processes and cast the final vote.

(3) Pending the issuance of a decision, the proceedings shall be conducted by a public employee of the Agency who is authorised by the Director to conduct the proceedings and meets the conditions under the law governing minor offences. The public employee who conducted the proceedings shall submit a report in writing and a draft decision to the panel.

(4) Members of the minor offence panel may not abstain from voting on issues put to a vote by the chair of the minor offence panel.

(5) A decision shall be deemed to have been passed if the majority of the minor offence panel members vote for it.

(6) For the purpose of decision-making in minor offence proceedings, the provisions of paragraph (2) of Article 12n and the provisions of Article 12r of this Act shall apply.

Article 13 **(Funds for the operation of the Agency)**

- Funds for the operation of the Agency shall be:
- funds received from the national budget, allocated by the National Assembly on the Agency's proposal;
 - the reimbursement of expenses.

**Article a13a
(Tariff of the Agency)**

(1) The Agency shall establish a tariff to determine the amount of payment for the services performed by the Agency, in particular the reimbursement of expenses incurred by the Agency during procedures or due to procedures, as well as reimbursement for performing other tasks carried out by the Agency pursuant to this Act or any other law.

(2) The tariff set by the Agency, or amendments thereof, shall be published in *Uradni list Republike Slovenije*. Prior to publication, the Agency shall obtain the approval of the Government.

**Article b13a
(deleted)**

**Article 13a
(Obligation to protect confidential information)**

(1) Public employees of the Agency, persons appointed to the Agency's bodies and persons cooperating with the Agency in the implementation of tasks pursuant to this Act and coming into contact with confidential information shall treat such information as confidential, in compliance with the regulations governing the protection of such information. The obligation to protect confidential information shall continue to apply after the termination of the employment or other relationship on the basis of which a person cooperates with the Agency in the implementation of tasks pursuant to this Act.

(2) In accordance with the definition of the term 'processing of personal data' in the act governing personal data protection, the persons referred to in paragraph (1) of this Article may process personal data and collections of personal data that are necessary for the implementation of tasks under this Act.

(3) Information obtained in accordance with this Act may be used only for the purposes stipulated by this Act.

**Article 13b
(Disclosure of information)**

(1) The Agency may disclose information in its possession to administrative bodies, other state authorities and holders of public authorisations on the basis of a substantiated written request by the head thereof or his or her authorised person, clearly indicating the purpose of the request to carry out their statutory responsibilities.

- (2) The Agency shall also disclose information to:
1. the European Commission and authorities of EU Member States responsible for the protection of competition in accordance with the proceedings under Regulation 1/2003/EC;

2. the competent authorities of foreign countries when so determined by international treaties binding on the Republic of Slovenia.

(3) The Agency shall disclose to the competent authorities information required for the purpose of enforcement under this Act.

(4) Notwithstanding the provisions of the law regulating access to public information, the Agency shall refuse a person requesting access to public information access to information relating to the secrecy of the source and to information constituting a business secret of undertakings.

Article 14 (Cooperation with the Agency)

For the implementation of tasks under this Act, state authorities, local community authorities, holders of public authority and other persons and organisations with access to information required for decision-making shall provide the Agency, at its request, the required information free of charge.

PART V DECISION-MAKING PROCEEDINGS WITHIN THE AGENCY

Chapter 1 General provisions on the Agency's proceedings

Article 15 (Application of provisions relating to proceedings)

(1) The Agency shall decide on matters within its competence in accordance with this Act, following the procedures set out in this Act.

(2) Unless otherwise stipulated by this Act, the provisions of the law governing general administrative procedure shall apply to the decision-making proceedings of the Agency.

(3) There shall be no appeal against acts issued by the Agency.

Article 16 (Parties to proceedings)

(1) In proceedings before the Agency, the parties to the proceedings shall be the undertaking against which the proceedings have been initiated, and the person who has submitted notice of the concentration.

(2) A person submitting an initiative, complaint, communication or other document shall not be a party to the proceedings.

(3) A person claiming the right to be party to the proceedings in order to protect his legal interests shall lodge an application to participate in the proceedings within thirty days from the day of publication of the decision on the initiation of the proceedings on the website of the Agency.

(4) The application referred to in the preceding paragraph shall contain statements and evidence that demonstrate legal interest in participating in the proceedings.

(5) An application to be a party to proceedings shall be decided by the Agency. If a person fails to demonstrate a legal interest, the Agency shall issue a decision denying him the status of an intervenor.

Article 17 (Protection of confidential sources)

(1) At the request of a person who is the source of a report or the source of other information used by the Agency in implementing its competences, the Agency must protect the identity of such person if it is likely that the disclosure thereof may cause significant harm.

(2) A person requesting the protection of his or her identity must, upon producing documents, also produce a version of the documents that omits any information that could result in the disclosure of the source.

Article 18 (The right of parties to consult the case file)

(1) Parties shall have the right to consult the documents of the case file and make transcripts and photocopies at their own expense. The consultation, transcription and photocopying of documents shall be supervised by a designated official or done through the information system of the authority or an information system for the acceptance of applications, and the service of documents and notifications, in which a party authenticates itself using a qualified electronic signature. The consultation and transcription of documents may also be requested orally.

(2) If during the proceedings data from computerised records and other electronic information and records are used, these data shall be considered to be documents in the case file.

(3) In procedures concerning restrictive practices, the parties shall have the right to consult the case file documents after a decision on the initiation of the proceedings has been issued unless the Director of the Agency considers that this would be against the interests of the proceedings. In such cases, the Agency Director shall issue a decision postponing the right to consult the documents; however, not for longer than until the day of service of a summary of the relevant facts. No judicial protection shall be allowed against such decision.

(4) The right to consult the case file shall also be granted to an expert witness, to the extent necessary in order to render an expert report and opinion.

(5) Parties may not consult or make copies of the following:

- the Agency's internal documents relating to the case file, including correspondence between the Agency and the European Commission or the competition protection authorities of other EU Member States;
- confidential information;
- information relating to confidential sources;
- minutes of consultations and voting, and
- draft decisions.

(6) The burden of proving the existence of a business secret referred to in the second indent of the preceding paragraph shall be on the undertaking claiming such. At the request of the Agency, the undertaking shall produce a version of the document that omits the data referred to in the second indent of the preceding paragraph.

(7) The Agency may disclose information that constitutes a business secret to the undertaking against which the proceedings have been initiated and to the notifying party if it considers that its disclosure, due to the right to defence, might objectively prevail over the interests of protecting such information as a business secret. In this context, the Agency may postpone the review of information constituting a trade secret, but not for longer than until the day of service of the summary of the relevant facts.

Article 19 (Adversary principle)

In order to ensure the right to defence, a decision adopted by the Agency may not be based on facts and evidence in respect of which the undertaking against which the proceedings have been initiated and the notifying party have not been given the possibility to present pertinent information.

Article 20 (Service)

(1) If a person that is registered or is being registered in the register of companies cannot be served at the address specified in the register, the service shall be carried out by means of a public announcement on the Agency's notice board and on the e-government unified national portal, while notification of the method of service shall be left at the person's address.

(2) The service shall be deemed effected after fifteen days of the date of publishing the announcement on the notice board and the e-government portal.

(3) The addressee must be notified of the consequences referred to in the preceding paragraph in the notification of service.

Article 21 (Oral hearing)

In the proceedings, the Agency shall decide without an oral hearing unless the official conducting the proceedings considers that an oral hearing needs to be conducted in order to clarify or establish essential facts.

Article 22 (Decisions and orders)

(1) A decision shall contain a statement of reasons. The statement of reasons shall also contain an explanation of the decision taken, which may be contested in judicial protection proceedings against the decision pursuant to paragraph (3) of Article 55 of this Act.

(2) A decision issued in accordance with this Act shall state the reasons and, unless judicial protection against the decision is not allowed, the instruction on legal remedies.

(3) If a decision by which the proceedings are concluded contains confidential information on a party, other parties shall be served an edited version of the decision wherein all such information has been deleted from the statement of reasons.

(4) At the request of the Agency, a party shall, within the period specified by the Agency, produce a version of a decision by which the proceedings are completed and in which the confidential data are marked.

(5) The operative part of a decision that concludes the proceedings shall be published on the Agency's website.

(6) On its website, the Agency shall publish its final decisions adopted in administrative proceedings and minor offence proceedings, as well as final decisions by which the proceedings are concluded, with parts of the texts edited to ensure that confidential information is not disclosed.

Chapter 2 Proceedings concerning restrictive practices

Subchapter 1 General provisions

Article 23 (Initiation of proceedings *ex officio*)

The Agency may *ex officio* issue a decision on the initiation of proceedings when it learns of circumstances indicating that the provisions of Articles 6 or 9 of this Act, or Articles 101 or 102 of the TFEU have been violated.

Article 24 (Decision on the initiation of proceedings)

(1) A decision on the initiation of proceedings shall contain:

- a description of the act providing grounds for the initiation of the proceedings, and
- a specification of the provisions of the Act that have allegedly been violated; and
- a statement of the reasons for the initiation of the proceedings.

(2) No judicial protection shall be allowed against such decision.

(3) An extract of the decision on the initiation of the proceedings shall be published on the Agency's website.

(4) The extract of the decision shall contain:

- the names of the parties to which the decision applies;
- a brief statement of reasons for the initiation of the proceedings and of the provisions of this Act pursuant to which the proceedings have been initiated, and
- a request to persons to send to the Agency any information that could be relevant to the decision.

(5) Should the need arise to amend the proceedings to include another violation or another undertaking, the Agency shall issue a decision expanding the decision on the initiation of the proceedings. The preceding paragraphs shall apply *mutatis mutandis* to a decision expanding the decision on the initiation of the proceedings.

Article 25 (Single proceedings)

(1) In the case of the proceedings concerning an alleged violation of Articles 101 or 102 of the TFEU, the Agency shall also conduct proceedings concerning an alleged violation of the provisions of Article 6 or 9 of this Act (single proceedings).

(2) If, during the proceedings, it is determined that there are no grounds for conducting the proceedings pursuant to Articles 101 or 102 of the TFEU since trade between EU Member States has not been affected, the Agency shall issue a decision to terminate this part of the proceedings. No judicial protection shall be allowed against such decision.

Subchapter 2 Investigation of the sector or certain types of agreements

Article 26 (Investigation of sectors or types of agreements)

(1) When price rigidity or other circumstances indicate the possibility of the restriction or distortion of competition in the territory of the Republic of Slovenia, the Agency may conduct an investigation of an individual sector or certain types of agreements in several sectors (hereinafter: the investigation).

(2) In order to obtain data for the investigation, Articles 27 through 34 of this Act shall apply *mutatis mutandis*.

(3) The Agency may publish a report on the results of the investigation, excluding confidential information, and invite interested third parties to submit their comments.

(4) The Agency may use the information obtained in the course of conducting the investigation in procedures pursuant to the provisions of this Act.

Subchapter 3 (Inspection proceedings)

Article 27 (Request for information)

(1) In the course of supervising the implementation of the provisions of this Act, or of Articles 101 or 102 of the TFEU, the Agency may, prior to issuing a decision on the initiation of the proceedings, address a request for information to each undertaking, partners, members of management or supervisory boards and persons employed with the undertaking.

(2) The Agency may request information from an undertaking by a special decision, which shall include: the legal basis, the purpose of the request, a specification of the required information, an appropriate time limit within which the information must be

provided, and the notice on the fine for supplying incorrect, incomplete or misleading information, or for failing to provide information within the specified time limit. No judicial protection shall be allowed against such decision.

(3) An undertaking must submit all documents, but it is not obliged to admit violation of the provisions of this Act or Articles 101 or 102 of the TFEU.

(4) The Agency may issue a decision imposing on an undertaking a fine of up to EUR 50,000 if the undertaking to whom the Agency has addressed a request for information in the form of a decision, supplies the Agency with incorrect, incomplete or misleading information or does not supply information within the required time limit. The time limit for paying the fine may not be shorter than fifteen days and not longer than one month.

(5) At the same time as issuing the decision referred to in the preceding paragraph, the Agency shall issue a decision specifying a new time limit for the submission of information. No judicial protection shall be allowed against such decision. The Agency shall treat an undertaking that continues to refuse cooperation in the same manner as stipulated in the preceding paragraph until the sum of fines from individual orders reaches an amount of 1% of the annual turnover of the undertaking in the preceding business year.

(6) The orders referred to in paragraphs (4) and (5) of this Article shall constitute an instrument permitting enforcement. Enforcement shall be conducted by the tax authority in accordance with the proceedings determined for the enforcement of tax liabilities.

(7) The time limit for issuing a decision shall be suspended for the period in which a party is late in responding to a request for the submission of information.

Article 28 (Initiation of an inspection)

(1) The Agency shall conduct an inspection in an undertaking against which proceedings have been initiated on the basis of the following:

- an agreement with the undertaking and, if necessary, with the person whose data are being investigated, or
- a reasoned written order issued by the competent court, and in the presence of two adult witnesses.

(2) The inspection order shall be served on the undertaking against which the inspection is being conducted at the initiation of the inspection. The decision to initiate an inspection may be served jointly with the decision on the initiation of the proceedings.

(3) The court may issue the inspection order on the proposal of the Agency when there are reasonable grounds for suspicion that a party has violated or is violating the provisions of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU and it is likely that evidence relevant to the proceedings will be discovered during the inspection. When the subject of inspection are electronic devices and connected devices and data carriers, such as telephones, telefaxes, optical media, memory cards, other carriers of electronic data, and data on electronic devices the undertaking is storing with a provider of IT services, such as rental of servers and cloud services (hereinafter: the electronic device), the Agency shall also demonstrate to a reasonable degree that such electronic device is storing data relevant to the proceedings.

(4) The inspection order shall be issued by a judge of the Ljubljana District Court (*Okrožno sodišče v Ljubljani*) within forty-eight hours of receipt of the complete proposal from the Agency. The Agency's proposal shall comprise the following:

- the identification of premises, documents, and electronic devices that need to be examined;
- the reasons for the inspection;
- a description of the evidence or content of the data sought;
- a statement on the circumstances for the use of the investigative act and the manner of its execution.
- the time limit for carrying out the inspection.

(5) Matters subject to judicial protection proceedings shall be considered urgent cases under this Act and shall be subject to priority decision by the court.

Article 29 (Inspection)

(1) An inspection shall be conducted by employees of the Agency, whereby specific professional tasks may be carried out by specialised organisations, institutions or individuals (hereinafter: the authorised person) provided this is not in conflict with the public interest or the interests of the parties.

(2) Authorised persons may:

- access and examine premises, land and means of transport (hereinafter: the premises) at the registered office of the undertaking and at other locations at which the undertaking itself or another undertaking authorised by the undertaking concerned performs the activity and business for which there is the probability of violation of the provisions of this Act or Articles 101 or 102 of the TFEU;
- examine the books of account, contracts, papers, business correspondence, business records and other information relating to the business of the undertaking, irrespective of the medium on which they are stored (hereinafter: the business books and other documentation);
- take or obtain in any form copies of or extracts from business books and other documentation using photocopying devices and the computer equipment of the undertaking or the Agency. If, for technical reasons, it is not possible to make photocopies with photocopying devices or the computer equipment of the undertaking or the Agency, authorised persons may confiscate the business books and other documentation for the time required to make photocopies. An official note of this shall be made;
- seal any business premises and business books and other documentation for the period and to the extent necessary for the inspection;
- seize items and business books and other documentation for a period no longer than twenty business days;
- request any representative or member of staff of the undertaking (hereinafter: the representative) to give an oral or written explanation of facts or documents relating to the subject matter and purpose of the inspection and record it in the minutes. When the authorised person requests a written explanation, he or she shall also set a deadline for its submission;
- examine papers disclosing the identity of persons;
- perform other actions in line with the purpose of the inspection.

(3) If the items referred to in the fifth indent of the preceding paragraph are seized, the Agency must make a note in the inspection report as to where the items were found, describe them and issue a certificate of seizure. The provisions of the law on criminal

proceedings referring to the protection of electronic data shall apply, *mutatis mutandis*, to the protection of data on seized electronic devices and dealing with the forensic copies referred to in the third indent of the preceding paragraph.

(4) An undertaking shall allow authorised persons access to premises and business books and other documentation. Authorised persons may also conduct an inspection against the will of the undertaking.

(5) The person using the examined electronic device must allow the authorised person access to the device, submit encryption keys or passwords and explain how the device is used. The examination of electronic devices must be conducted with the minimum encroachment on the rights of persons who are not subject to supervision and so that the confidentiality of information is protected and no disproportionate damage is caused, by, if necessary, ongoing elimination of irrelevant data. If the electronic device is used by a person who justifiably expects privacy with regard to its use, that person has the right to be present during the examination of the content of the electronic device and shall be instructed so by the authorised person.

(6) An inspection shall, as a rule, be carried out between 6:00 and 22:00. Authorised persons must carry out the inspection in such a manner so as to cause minimum disturbance to the undertaking's operations.

(7) When business books or other documentation that could be relevant for the Agency to adopt a decision in accordance with this Act are seized in criminal or other proceedings during a house search or any other method, the Agency may request from the court or other authority a copy of the documentation, except when this would be contrary to the interests of criminal or other proceedings.

Article 30 (Conducting an inspection)

(1) Persons employed by the Agency shall prove their authorisation to conduct an inspection by producing an official identity card, and specialised organisations, institutions or individuals shall produce written authorisation from the Agency Director specifying the scope of the authority.

(2) An official identity card shall be issued by the minister responsible for the economy.

(3) The format of the official identity card and the proceedings for its issuance shall be prescribed by the minister responsible for the economy.

Article 31 (Obstructing an inspection)

(1) If an undertaking refuses to permit or interferes with the entry of an authorised person into the premises or denies access to business books or other documentation or obstructs or otherwise interferes with an inspection or where this is reasonably expected, the authorised person shall have the right to enter the premises or access business books and other documentation against the will of the undertaking with the assistance of the police. Any costs and damage arising from entry or access shall be borne by the undertaking.

(2) If an undertaking obstructs an authorised person in the exercise of the powers under paragraph (2) of Article 29 of this Act, the Agency may issue a decision imposing on

the undertaking a fine in the amount of 1% of its annual turnover in the preceding business year. The time limit for paying the fine may not be shorter than fifteen days and not longer than one month.

(3) If a natural person obstructs an authorised person in the exercise of the powers under paragraph (2) of Article 29 of this Act and, in compliance with paragraph (5) of this Article, it is not deemed that the inspection has been obstructed by the undertaking, the Agency may issue a decision imposing a fine in the amount of EUR 50,000. The time limit for paying the fine may not be shorter than fifteen days and not longer than one month.

(4) The decision referred to in paragraphs (2) and (3) of this Article shall constitute an instrument permitting enforcement. Enforcement shall be conducted by the tax authority in accordance with the proceedings determined for the enforcement of tax liabilities.

(5) An undertaking shall be deemed to be obstructing an inspection if the inspection is being obstructed by the members of its management or supervisory bodies, its employees, or by its external contractors.

Article 32 (Privileged communication)

(1) An inspection shall exclude letters, notifications and other means of communication between the undertaking against which the proceedings have been initiated and its attorney, to the extent that such communications pertain to the proceedings in question (hereinafter: privileged communication).

(2) If an undertaking or its attorney refuse to allow access to information by claiming that it is privileged communication, the authorized person shall verify whether the claim is manifestly unfounded. If the authorised person considers that the relevant communication is not privileged, the authorised person shall seal the document (or a copy thereof) in an envelope signed by both the undertaking and its attorney.

(3) The issue of whether asserting privileged communication is justified or not shall be decided by the Administrative Court of the Republic of Slovenia in Ljubljana (*Upravno sodišče Republike Slovenije v Ljubljani*) within fifteen days following the date the request is filed by the Agency. The Agency shall attach the sealed envelope to the request.

(4) If the Ljubljana Administrative Court of the Republic of Slovenia decides that the communication in question does not constitute privileged communication, it shall send the documents to the Agency; if it decides that it is privileged communication, it shall send them to the undertaking or its attorney. There shall be no legal remedy against this decision.

Article 33 (Inspection of other premises)

(1) If there are reasonable grounds to suspect that business books and other documentation relating to the subject matter of an inspection are being kept at the premises of an undertaking against which proceedings have not been initiated, or on residential premises of members of the management or supervisory bodies or of staff or other associates of the undertaking against which the proceedings have been initiated, the Agency shall obtain a court order to search the premises from a judge of the competent court in Ljubljana.

(2) The provisions of Articles 28 through 32 and Article 34 shall apply, *mutatis mutandis*, to conducting the inspection.

(3) During the inspection of residential premises two adult persons shall be present as witnesses.

Article 34 (Inspection report)

(1) The Agency shall draw up an inspection report after an inspection has been completed.

- (2) The inspection report shall contain:
- the place and date of the preparation of the report;
 - the name and the title of the authorised person that prepared the report;
 - a brief description of the course of the inspection;
 - a list of statements given by representatives or employees of the undertaking against which the inspection has been conducted, and
 - a list of documents and other items that the Agency obtained during the inspection.

(3) The inspection report shall be served on the undertaking against which the inspection has been conducted.

(4) The undertaking against which the inspection has been conducted may provide comments on the inspection report within fifteen days of its date of service.

Article 35 (Cooperation of the Agency in an inspection conducted by others)

- (1) Authorised persons may:
- at the request of the European Commission or the competition authority of another EU Member State, conduct an inspection in accordance with this Act, in which case no notice of initiation of an inspection shall be issued;
 - actively assist the officials and other persons authorised by the European Commission to conduct inspections in compliance with Article 20 of Regulation 1/2003/EC; the powers of authorised persons are specified in paragraph (2) of Article 20 of Regulation 1/2003/EC.

(2) The Agency may enable officials of the competition authority of another EU Member State, or of the European Commission, and other persons authorised by such authority to cooperate with authorised persons of the Agency in the conduct of an inspection in accordance with Article 22 of Regulation 1/2003/EC.

(3) In conducting an inspection pursuant to this Article, the police must provide assistance to the persons referred to in paragraphs (1) and (2) of this Article in accordance with paragraph (1) of Article 31 of this Act.

Article 36 (Summary of the relevant facts)

(1) A summary of the relevant facts shall include findings on the facts and evidence that are relevant for making a decision.

(2) Where the Agency intends to issue a decision establishing the existence of violation of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU, it must inform the parties of the summary of the relevant facts.

(3) If the summary of the relevant facts contains confidential information about the party, such information shall be deleted from the summary of the relevant facts prior to its service on other parties.

(4) The Agency shall set a reasonable time limit within which the parties may provide their comments on the summary of the relevant facts. The Agency shall have no obligation to consider comments on the summary of the relevant facts received after the expiry of this time limit.

(5) The time limit referred to in the preceding paragraph may not be longer than forty-five days.

Subchapter 4 Decisions of the Agency

Article 37 (Elimination of violations)

(1) The Agency may issue a decision establishing the existence of a violation of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU, and require the undertaking concerned to eliminate such violation.

(2) The same decision may impose on the undertaking the obligation to take reasonable measures to eliminate an violation and its consequences, in particular through the disposal of business or part of the undertaking's business, division of the undertaking or the disposal of shares in undertakings, the transfer of industrial property rights and other rights, the conclusion of licencing and other contracts that may be concluded in the course of operations between undertakings, or by ensuring access to infrastructure.

(3) Where the implementation of such measures is contingent on the consent or another action of the Agency, the Agency shall decide thereon by a decision. No judicial protection shall be allowed against such decision.

(4) The Agency shall adopt a decision referred to in paragraph (1) of this Article within two years after issuing a decision on the initiation of proceedings.

Article 38 (Interim measures)

(1) When there is a possibility of violation of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU and in cases of urgency due to the risk of serious and irreparable damage to the effectiveness of competition on the market, the Agency may by a decision institute interim measures.

(2) In the decision imposing interim measures the Agency shall specify the duration of such measures. The Agency may extend interim measures.

(3) An action against a decision on interim measures may be filed by the party within three days of its service on the party. The Court shall render a ruling on such an action without delay, and no later than within fifteen days of receiving the action.

Article 39 (Commitments)

(1) After issuing a decision on the initiation of proceedings, the undertaking against which the proceedings have been initiated may offer commitments with a view to eliminating the circumstances giving rise to the allegation of violation of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU. The undertaking against which the proceedings have been initiated may offer commitments not later than before the expiry of the time limit for providing comments on the summary of the relevant facts.

(2) If the offered commitments do not suffice to rectify the circumstances giving rise to the allegation of violation of Articles 6 or 9 or Articles 101 or 102 of the TFEU, the Agency shall notify the undertaking that offered the commitments of this in writing.

(3) The Agency may by a decision make such commitments binding. The Agency may set a time limit for which the commitments are binding.

(4) When the implementation of the commitments is contingent on the consent or another action of the Agency, the Agency shall decide thereon by a decision. No judicial protection shall be allowed against such decision.

(5) The Agency may, on request or *ex officio*, annul the decision referred to in paragraph (3) of this Article and reopen the proceedings where:

- there has been a material change in the factual circumstances on which the decision was based;
- the undertakings fail to meet their commitments; or
- the decision was based on incomplete, incorrect or misleading information provided by the parties.

(6) The Agency must adopt a decision referred to in paragraph (3) of this Article within two years after issuing a decision on the initiation of proceedings.

Article 40 (Termination of proceedings)

(1) If, in the course of proceedings, the Agency finds no violation of Articles 6 or 9 of this Act or Articles 101 or 102 of the TFEU or if specific circumstances indicate that the proceedings would not be justified, the Agency shall issue a decision terminating the proceedings.

(2) Where the European Commission initiates proceedings on grounds of violation of Articles 101 or 102 of the TFEU, or has already issued a decision on the same matter that is the subject of the proceedings before the Agency, the Agency shall issue a decision terminating the proceedings. No judicial protection shall be allowed against such decision.

(3) Where a competition authority of another EU Member State initiates proceedings on grounds of the violation of Articles 101 or 102 of the TFEU, or has issued a decision on the same matter that is the subject of the proceedings before the Agency, the Agency may issue a decision terminating the proceedings. No judicial protection shall be allowed against such decision.

Article 41 (Report)

The Agency may, by a request for information, require an undertaking to which the decision is addressed to provide a report on the fulfilment of the commitments, obligations and measures imposed on it by a decision.

Chapter 3 Proceedings in respect of concentrations

Article 42 (Obligation of notification)

- (1) The Agency must be notified of a concentration if:
- the total annual turnover of the undertakings involved in a concentration, together with other undertakings in the group, on the market of the Republic of Slovenia exceeded EUR 35 million in the preceding business year, and
 - the annual turnover of the acquired undertaking, together with other undertakings in the group, on the market of the Republic of Slovenia exceeded EUR 1 million in the preceding business year; or if, in the case referred to in the third indent of paragraph (1) of Article 10 of this Act, the annual turnover of at least two undertakings concerned in a concentration, together with other undertakings in the group, exceeded EUR 1 million in the preceding business year.

(2) Notwithstanding the achieved threshold referred to in the preceding paragraph, the Agency does not need to be notified of a concentration if it is to be assessed by the European Commission in accordance with Regulation 139/2004/EC.

(3) Even if the concentration does not reach the thresholds referred to in paragraph (1) of this Article, the Agency may, no later than fifteen days following the date on which the undertakings involved in the concentration notify the Agency of its implementation, invite the undertakings to notify the Agency of a concentration if they, together with other undertakings in the group, hold more than a 60% market share on the market of the Republic of Slovenia.

Article 43 (Notification of concentrations)

(1) The Agency shall be notified of a concentration prior to its implementation, but not later than thirty days after the conclusion of the contract, the announcement of the public bid, or the acquisition of a controlling interest. That period shall begin when the first of these events occurs.

(2) When the European Commission, following a request pursuant to Article 4 of Regulation 139/2004/EC, decides not to assess a concentration, the Agency shall be notified of the concentration no later than thirty days after the undertaking that is obliged to notify the Agency of the concentration in accordance with paragraph (5) of this Article has been informed of the decision of the European Commission.

(3) When, in accordance with Article 9 of Regulation 139/2004/EC, the European Commission notifies by means of a decision the undertakings that the concentration shall be assessed by the Agency, the Agency must be notified of the concentration within thirty days

of the service of the decision on the undertaking that is obliged to notify the Agency of the concentration in accordance with paragraph (5) of this Article.

(4) In the cases referred to in paragraph (3) of the preceding Article, the Agency must be notified of the concentration within thirty days of the service of the request on the undertaking that is obliged to notify the Agency of the concentration in accordance with paragraph (5) of this Article.

(5) The Agency shall be notified of a concentration that consists of a merger or the acquisition of joint control jointly by the undertakings involved in the merger, or by those acquiring joint control. In all other cases, such notification shall be effected by the person or undertaking acquiring control of the whole or parts of one or more undertakings.

(6) The undertakings shall notify the Agency of the concentration using a special form, the contents of which shall be stipulated by the Government by a decree.

Article 44 (Suspension of concentrations)

(1) Undertakings shall not exercise rights and obligations arising from a concentration that is subject to notification until a decision declaring that the concentration is compatible with the rules on competition has been issued.

(2) When the Agency, in compliance with paragraph (3) of Article 42 of this Act, requests undertakings to notify the Agency of the concentration, the undertakings shall cease to implement the concentration as of the date of the service of the request.

(3) Actions that are contrary to the preceding two paragraphs shall be void.

(4) In exceptional cases and on the proposal of an undertaking, the Agency may issue a decision permitting the implementation of a concentration within a specified scope and under specified conditions prior to issuing a decision, provided that the undertaking can demonstrate in its proposal that such implementation is essential to maintain the full value of the investment or to perform services of general interest. The Agency shall take into account in particular the effects of the suspension on one or more undertakings concerned by the concentration or on a third party and the threat to the effectiveness of competition posed by the concentration.

(5) The Agency shall issue a decision permitting or refusing the implementation of a concentration within fifteen business days of the date of receipt of the proposal referred to in the preceding paragraph.

(6) The prohibition of the implementation of a concentration referred to in paragraph (1) of this Article shall have no effect on:

- the implementation of a public bid pursuant to the law governing takeovers provided that the acquirer does not exercise voting rights or exercises them in accordance with the decision referred to in paragraph (4) of this Article;
- the validity of transactions in securities, including those convertible into other securities admitted to trading on the organised market, unless the buyer and seller know or ought to have known that the transaction was carried out in contravention of paragraph (1) of this Article.

Article 45 (Initiation of proceedings)

(1) Proceedings for the assessment of a concentration shall be initiated on the basis of a notification.

(2) The Agency shall initiate *ex officio* proceedings for the assessment of a concentration by issuing a decision on the initiation of the proceedings when a possibility is demonstrated that a concentration governed by the provisions of this Act has been implemented but the undertakings failed to notify it thereof.

(3) The Agency shall initiate *ex officio* proceedings for the elimination of the effects of concentration.

(4) Article 24 of this Act shall apply, *mutatis mutandis*, to a decision referred to in paragraphs (2) and (3) of this Article.

(5) In the course of proceedings for the assessment of a concentration referred to in paragraph (1) of this Article, the Agency may, *ex officio*, by a decision prohibit undertakings, competent authorities and holders of public authority from exercising voting, management, property and other rights and obligations arising from the concentration until a decision declaring the concentration compatible with the rules on competition has been issued. In the course of proceedings for the assessment of a concentration referred to in paragraph (2) of this Article, the Agency may, *ex officio*, by a decision establish that the concentration falls within the scope of the provisions of this Act and prohibit undertakings, competent authorities and holders of public authority from exercising voting, management, property and other rights and obligations arising from the concentration until a decision declaring the concentration compatible with the rules on competition has been issued.

Article 46 (Examination of a notification)

(1) The Agency shall examine a notification without delay. If the notification does not contain all the required elements specified on the special form referred to in paragraph (6) of Article 43 of this Act, the Agency shall invite the notifying party to correct the deficiencies and shall set a time limit for such correction. If the notifying party fails to correct the deficiencies within the time limit, it shall be deemed that the Agency has not been notified of the concentration.

(2) If the Agency concludes that a concentration it has been notified of does not fall within the scope of the provisions of this Act, it shall issue a decision thereon.

(3) If the Agency finds that the concentration, although falling within the scope of the provisions of this Act, does not raise serious doubts as to its compatibility with the rules on competition, it shall issue a decision that it shall not oppose it and shall declare the concentration compatible with the rules on competition.

(4) If the Agency finds that the concentration falls within the scope of the provisions of this Act and raises serious doubts as to its compatibility with the rules on competition, it shall decide to initiate proceedings.

(5) Article 24 of this Act shall apply, *mutatis mutandis*, to a decision referred to in the preceding paragraph.

(6) The Agency must issue the decision referred to in paragraphs (2) and (3) of this Article or the decision referred to in paragraph (4) of this Article within twenty-five business days of receipt of a complete notification.

(7) A decision referred to in paragraph (3) of this Article shall be deemed to cover restrictions directly related to and necessary for the execution and implementation of the concentration.

Article 47 (Request for information)

(1) Article 27 of this Act shall apply, *mutatis mutandis*, to a request for information.

(2) The deadline for issuing a decision on the initiation of the proceedings and decisions referred to in Articles 46 and 50 of this Act shall be suspended while a party is late in responding to a request for the submission of information.

Article 48 (Inspections)

(1) The provisions of Articles 28 through 34 shall apply, *mutatis mutandis*, when conducting an inspection.

(2) Authorised persons shall actively assist officials and other persons authorised by the European Commission to conduct an inspection in accordance with Article 13 of Regulation 139/2004/EC, which, in paragraph (2) of Article 13, also specifies the scope of the powers of authorised persons.

(3) Inspections may be conducted in undertakings involved in a concentration or undertakings likely to be involved in a concentration.

Article 49 (Summary of the relevant facts)

(1) When the Agency intends to issue a decision declaring a concentration incompatible with the rules on competition, it shall disclose to the notifying party the summary of the relevant facts.

(2) Article 36 of this Act shall apply, *mutatis mutandis*, to the summary of the relevant facts.

Article 50 (Decisions)

(1) Within sixty business days after a decision on the initiation of the proceedings has been issued, the Agency shall:

- issue a decision declaring the concentration compatible with the rules on competition if it finds that the concentration is not in contravention of this Act;
- issue a decision declaring the concentration incompatible with the rules on competition and prohibit it if it finds that the concentration is in contravention of this Act.

(2) The decision referred to in the first indent of the preceding paragraph shall be deemed to cover restrictions directly related to and necessary for the execution or implementation of the concentration.

Article 51
(Corrective measures)

(1) A notifying party may propose corrective measures to eliminate serious doubts as to the compatibility of a concentration with the rules on competition.

(2) The Agency shall take such corrective measures as it considers appropriate to remove serious doubts as to the compatibility of the concentration with the rules on competition, taking into consideration the nature, scope and likelihood of effective and timely implementation.

(3) If the Agency adopts corrective measures, it shall specify the following in the operative part of the decision referred to in paragraph (3) of Article 46 of this Act and the first indent of paragraph (1) of the preceding Article:

- corrective measures;
- obligations to ensure their implementation and supervision; and
- time limits for their implementation.

(4) When the implementation of corrective measures is contingent on the consent or another action of the Agency, the Agency shall decide thereon by a decision. No judicial protection shall be allowed against such decision.

(5) The time limit for issuing a decision on the initiation of the proceedings shall be extended by fifteen business days if corrective measures have been proposed by the notifying party.

(6) The Agency may, together with the request for information, require the notifying party to provide a report on the implementation of the corrective measures imposed by a decision.

Article 52
(Special cases of the annulment of a decision)

(1) The Agency may annul a decision declaring the concentration to be compatible with the rules on competition or a decision referred to in paragraph (2) of Article 46 of this Act and in the same decision decide on the compatibility of the concentration with the rules on competition if:

- the decision is based on incomplete, incorrect or misleading information supplied by one of the undertakings involved in the concentration; or
- an undertaking acts contrary to the obligations referred to in the second indent of paragraph (3) of the preceding Article.

(2) The decision referred to in the first indent of the preceding paragraph may be issued within three years from the date on which a decision declaring the concentration compatible with the rules on competition or the decision referred to in paragraph (2) of Article 46 of this Act has been issued and served, and in the case of a decision referred to in the second indent of the preceding paragraph, within two years after the time limit referred to in the third indent of paragraph (3) of the preceding Article has expired.

Article 53
(Measures to eliminate the effects of concentration)

(1) If a concentration prohibited by the Agency has been implemented, or if an undertaking has failed to implement the corrective measures specified in the decision

declaring the concentration compatible with the rules on competition, the Agency may impose measures on the undertakings involved in the concentration to restore the situation prevailing prior to the implementation of the concentration, in particular through the division of the undertaking or the disposal of all the shares acquired.

(2) When the restoration of the situation prevailing before the implementation of the concentration is not possible, the Agency may impose any other measure appropriate to achieve such a restoration as far as possible.

(3) When implementation of the measures referred to in paragraphs (1) and (2) of this Article is contingent on the consent or another action of the Agency, the Agency shall decide thereon by a decision. No judicial protection shall be allowed against such decision.

(4) The Agency may impose the measures referred to in paragraphs (1) and (2) of this Article by a decision declaring the concentration incompatible with the rules on competition or by a separate decision.

Chapter 4 Judicial protection

Article 54 (Judicial protection)

(1) Judicial protection against decisions adopted by the Agency shall be provided in the proceedings determined in this Act (hereinafter: judicial protection proceedings).

(2) The law governing administrative disputes shall apply, *mutatis mutandis*, to judicial protection proceedings initiated against decisions adopted by the Agency, unless otherwise provided by this Act.

Article 55 (The right to judicial protection against decisions and orders)

(1) Judicial protection proceedings may be initiated against decisions adopted by the Agency.

(2) Judicial protection proceedings may be initiated against orders of the Agency pursuant to this Act, unless expressly excluded.

(3) Notwithstanding the preceding paragraph, judicial protection proceedings against a decision may be applied to contest a decision against which judicial protection proceedings are not allowed in compliance with this Act, namely:

- a decision requesting information from an undertaking (Article 27 of this Act).

(4) Judicial protection proceedings shall be allowed against any decision that may be subject to appeal under the provisions of the law governing general administrative procedure.

(5) Matters subject to judicial protection proceedings shall be considered urgent cases under this Act and shall be subject to priority decision by the court.

**Article 56
(Ceased to apply)**

**Article 57
(New facts and evidence)**

The appellant may not introduce new facts or propose new evidence in judicial protection proceedings.

**Article 58
(Limits of the review)**

The court shall review a decision by the Agency within the limits of the claim and within the limits of the grounds stated in the claim, and shall, *ex officio*, devote attention to essential violations of the provisions of the proceedings in compliance with paragraph (3) of Article 27 of the Administrative Disputes Act (Uradni list RS, No 105/06).

**Article 59
(Session)**

As a rule, the court shall decide without a hearing.

**Article 60
(Inspection of the case files)**

Article 18 of this Act shall apply, *mutatis mutandis*, to the inspection of the case file before the court.

**Article 61
(Deleted)**

**Article 61a
(Publication of court decisions on the internet)**

In view of informing the public, the decisions issued by a court in judicial protection proceedings against the decisions of the Agency shall be published on the Agency's website; the confidential information contained in such decisions shall not be disclosed.

PART VI
INDIVIDUAL RULES ON COMPENSATION FOR HARM CAUSED BY AN INFRINGEMENT
OF COMPETITION LAW

**Article 62
(Compensation for harm caused by an infringement of competition law)**

(1) Any person who has suffered harm caused by an infringement of competition law (hereinafter: injured party) shall have the right to claim compensation for harm

(hereinafter: compensation) in accordance with the general rules of the Act regulating obligations, unless otherwise provided by this Act.

(2) The infringer that caused the harm shall be liable to pay to the injured person late payment interest from the time when the harm occurred until the time when compensation is paid irrespective of the date of the lodging of the compensation claim caused by the infringement of competition law (hereinafter: compensation claim).

Article 62a (Disclosure of evidence or information)

(1) The injured party may claim the disclosure of evidence or information from the infringer or from a third person whom he or she claims holds the evidence or information necessary for the compensation claim lodged before the court. The infringer may claim the disclosure of evidence or information from the injured party or a third person whom he or she claims holds evidence or information necessary for the defence against the compensation claim.

(2) The disclosure of evidence or information may be claimed if:

a) the facts and evidence available sufficiently support the plausibility of the claim for damages due to an infringement of competition law or that the infringement does not exist or it does not exist in the alleged amount,

b) the evidence or information is relevant due to an additional statement of facts or proof of the existence or non-existence of a claim for damages or the amount thereof, and

c) the evidence or information whose disclosure is sought is specifically and in detail described on the basis of facts and evidence known to the person requesting the disclosure of evidence or information under reasonable conditions.

(3) The disclosure of evidence or information shall be carried out so as to ensure proportionality between the legitimate interests of all parties, considering in particular:

a) if the justification of the existence or non-existence of the obligation to provide compensation for damage is sufficiently supported by the available facts and evidence,

b) if there are non-specific searches for information which is unlikely to be of relevance for the decision on the existence or non-existence of the claim for damages,

c) the scope and cost of disclosure, especially for any third persons,

č) whether the evidence whose disclosure is sought contains confidential information, especially concerning any third persons, and what arrangements are in place for protecting such confidential information.

(4) When disclosing information or evidence included in the file of the authority responsible for the protection of competition, in ensuring proportionality, in addition to the circumstances referred to in the preceding paragraph, the following shall be considered as well:

a) whether the claim has been formulated specifically with regard to the nature, subject-matter or contents of the evidence or information, rather than by a non-

specific application for the disclosure of evidence or information in relation to an individual case,

b) whether the evidence or information is relevant for the justification of the claim for damages,

c) whether due to efficient implementation of competition law the public interest in protecting the evidence and information included in the file of the authority responsible for the protection of competition is outweighed in connection with the disclosure of the evidence and information referred to in paragraph (8) of this Article,

č) whether due to efficient implementation of competition law the public interest in protecting the evidence and information included in the file of the authority responsible for the protection of competition is outweighed because the party may on its own achieve that the person referred to in paragraph (1) of this Article who is not the authority responsible for the protection of competition discloses the evidence or information, and

d) whether due to efficient implementation of competition law the public interest in protecting the evidence or information included in the file of the authority responsible for the protection of competition is outweighed with respect to the opinion of the authority responsible for the protection of competition regarding the proportionality of the request to disclose the evidence or information in accordance with paragraph (3) of Article 62č of this Act.

(5) When ensuring proportionality, the statement of an undertaking that it will incur material damage due to disclosure because of liability for damages due to an infringement of competition law shall not be taken into account.

(6) In the case of the existence of confidential information, it may be determined to whom evidence containing confidential information may be disclosed, and how to ensure the protection of confidential information, in particular by the following measures:

a) providing a non-confidential version of the evidence within a specified period of time in which the confidential parts of the text are deleted or a short and concise description of all deleted information is provided,

b) the evidence containing confidential information is made available but only on the premises of the person from whom the disclosure is requested,

c) only the expert, auditor, attorney of the applicant, external expert assistant of the applicant or expert witness shall be allowed to examine, transcribe or copy confidential information, whereby it shall be determined that the persons allowed to examine, transcribe or copy the confidential information shall protect such information and shall not disclose such information to the parties to the procedure or to third persons, but may use it for their own analyses and may refer to it in their own applications in such a manner that the confidential information shall not be disclosed to their clients or third persons. When adopting such ruling, the attorney is free from the obligation to disclose confidential information to his or her client, and the client may not request such disclosure.

(7) A person who has been requested to disclose evidence or information may refuse to disclose such if the evidence or information concerns the privileged communication referred to in Article 32 of this Act.

(8) The evidence or information included in the file of the authority responsible for the protection of competition relating to:

a) information prepared for the procedure before the authority responsible for the protection of competition,

b) information drawn up by the authority responsible for the protection of competition and sent to clients, or

c) settlement submissions that have been withdrawn,

shall not be disclosed unless the procedure before the authority responsible for the protection of competition has concluded.

(9) The evidence or information included in the file of the authority responsible for the protection of competition relating to:

a) the evidence referred to in the first, third, fourth and fifth indent of paragraph (5) of Article 18 of this Act,

b) leniency statements, or

c) settlement submissions

shall not be disclosed.

Article 62b (Decision on a compensation claim)

Unless otherwise provided by this Act, the Act regulating civil procedure shall apply when deciding on a compensation claim due to an infringement of competition law.

Article 62c (Joinder of claims)

When there are several civil procedures before different courts of first instance in the Republic of Slovenia for asserting claims deriving from the same infringement of competition law and where the same person is the opposing party in relation to different plaintiffs or defendants, the Supreme Court may join the claims for a common hearing on the proposal of the competent court or the party if by such the hearing is expedited or costs are reduced. The court may issue a joint judgement on all joint claims.

Article 62č (Disclosure of evidence or information in a civil procedure)

(1) If an injured party or infringer (hereinafter: the party) in litigation where a compensation claim due to an infringement of competition law is asserted proposes that the court require the opposing party or a third person to submit documents or disclose information that is a trade secret, the court shall grant the motion in accordance with the Act

regulating civil procedure under the conditions referred to in Article 62a and this Article of this Act.

(2) If, on reasonable grounds, the party cannot obtain the evidence or information from the opposing party or a third person, the court may, at the claim or motion of the party, require that the authority responsible for the protection of competition disclose the evidence or information.

(3) Before the court decides on the disclosure of evidence or information included in the file of the authority responsible for the protection of competition, the court shall inform the authority responsible for the protection of competition that has such evidence in its possession and the latter may give its opinion on the proportionality of the claim or motion.

(4) If the claim or motion for the disclosure of evidence or information concerns confidential information, the court may decide to whom the evidence or information may be disclosed, and on a special manner of protecting the confidential information, in particular by the measures referred to in paragraph (6) of Article 62a of this Act. The court shall inform the party and the person referred to in point c) of paragraph (6) of Article 62a of this Act to whom the confidential information was disclosed of the fine referred to in paragraph one of Article 62f of this Act and that the disclosure and unjustified acquisition of a trade secret are criminal offences.

(5) If the party objects to the disclosure of evidence or information due to the privileged communication referred to in paragraph (7) of Article 62a of this Act, the court shall decide on the merits of such claim.

(6) If the party objects to the disclosure of evidence or information because it refers to a leniency statement or settlement submission, the court shall, on the basis of a reasoned motion of the party or third person, verify whether the content of the leniency statement or settlement submission corresponds to its definition in accordance with point 6 of paragraph (2) of Article 3 of this Act and point 21 of paragraph (1) of Article 3 of this Act. The court may request the opinion of the authority responsible for the protection of competition holding such evidence. The court shall inform the person who gave the leniency statement or settlement submission of such motion, while he or she shall have right to give a statement on such.

(7) If the claim or motion for the disclosure of evidence or information partially relate to the disclosure of evidence or information referred to in paragraphs (8) or (9) of Article 62a of this Act, and partially to pre-existing information, the court shall grant the motion or claim in that part.

(8) The costs of the procedure for disclosing evidence or information shall first be covered by the party requesting disclosure. The party shall also refund the costs of the opponent. The party may request the refund of the costs of the disclosure of evidence or the information subsequently as part of the costs of litigation in civil proceedings for compensation based on success in litigation.

Article 62d

(Restrictions on the use of evidence or information acquired by means of access to the file of the authority responsible for the protection of competition)

(1) Leniency statements or settlement submissions acquired by means of access to the file of the authority responsible for competition shall not be submitted as evidence in

an action for damages due to an infringement of competition law, or state facts derived therefrom.

(2) The evidence or information referred to in paragraph (8) of Article 62a of this Act acquired by means of access to the file of the authority responsible for the protection of competition shall not be submitted as evidence in an action for damages due to an infringement of competition law or state facts derived therefrom unless the procedure before the authority responsible for the protection of competition has ended.

(3) Evidence or information acquired by means of access to the file of the authority responsible for the protection of competition, and for which paragraphs (1) and (2) of this Article do not apply, may in an action for damages due to an infringement of competition law only be stated or submitted by the party that acquired such evidence or information, or its legal successor, including the person to whom the compensation claim was transferred.

Article 62e (Consequences of failure to comply with the decision on the disclosure of evidence or information)

(1) If a party required to disclose evidence or information does not execute or refuses to execute the decision on the disclosure of evidence or information, and if the party destroys or hides relevant evidence or information, the court shall decide on the costs of proceedings in civil proceedings for damages at its discretion.

(2) If a third person does not execute or refuses to execute a final procedural decision on the disclosure of evidence or information, the court shall enforce the procedural decision on the disclosure of evidence or information ex officio in accordance with the rules on the procedure for the enforcement of claims.

Article 62f (Fines)

(1) If the court deciding on a compensation claim imposes measures for the protection of confidential information referred to in paragraph (6) of Article 62a of this Act, and the person to whom the information was disclosed does not execute the measure to protect confidential information or acts in contravention of the measure during civil proceedings for damages, the court may impose a fine on a natural person in an amount not exceeding EUR 5,000, and on a legal person, individual sole trader, attorney or attorney candidate in an amount from EUR 5,000 to 100,000.

(2) If a party or a third party destroys or hides relevant evidence or data at the time of the submission of the request or proposal to disclose the evidence or information to the decision of the court of disclosure, the court which decides on the claim may issue a fine of up to EUR 5,000.

(3) If the party or his or her legal representative acts in contravention of Article 62d of this Act, the court may impose a fine on a natural person in an amount not exceeding EUR 500, and on a legal person, individual sole trader or attorney or attorney candidate in an amount not exceeding EUR 5,000.

(4) The court shall impose a fine by a procedural decision. In the procedural decision the court shall determine a time limit by which the debtor must pay the fine. The time limit shall not be shorter than 15 days or longer than three months.

(5) An appeal against a procedural decision imposing a fine under this Article shall be allowed.

(6) If the fine has been imposed on an attorney or attorney candidate, the court shall notify the bar association.

(7) A fine imposed in accordance with the provisions of this Article shall not be an impediment to the imposition of a penalty or sanction for a criminal or minor offence.

Article 62g
(Effect of a decision of the authority responsible for the protection of competition)

(1) The court shall be bound by the final decision of the Agency on the infringement or by the final decision on the infringement issued in a judicial protection procedure against the decision of the Agency.

(2) If the existence of an infringement of competition law is determined by a final decision of an authority of another member state or a final decision of a court of another member state of the European Union that has jurisdiction to assess the decisions of the authority of another member state on the basis of an ordinary legal remedy, it shall be presumed that the infringers determined in the decision on infringement acted unlawfully, whereas evidence to the contrary is admissible.

(3) The obligations referred to in paragraph (1) and the preceding paragraph of this Article shall be without prejudice to the rights and obligations arising from Article 267 of the Treaty on the Functioning of the European Union.

Article 62h
(Special rules on joint and several liability for small and medium-sized enterprises)

(1) An infringer that employs fewer than 250 persons and has an annual turnover not exceeding EUR 50 million, or an annual balance sheet total not exceeding EUR 43 million, shall be liable only to its direct or indirect purchasers if it proves that:

a) its market share in the relevant market was below 5% at all times during the infringement of competition law, and

b) the application of the general rules of joint and several liability would irretrievably jeopardise its economic viability and cause its assets to lose all their value.

(2) An infringer referred to in the preceding paragraph shall be jointly and severally liable to other injured parties only where full compensation cannot be obtained from the other undertakings that were involved in the same infringement of competition law.

(3) The provision of paragraph (1) of this Article shall not apply if:

a) the infringer had a leading role in the infringement of competition law or coerced other undertakings to participate therein, or

b) a preliminary final administrative or judicial decision on the infringement of competition law was issued that does not concern the alleged infringement of competition law in the compensation claim.

Article 62i
(Special rules on joint and several liability for an infringer granted immunity from a fine)

(1) An infringer granted immunity from a fine shall be jointly and severally liable only to:

a) his or her direct or indirect purchaser or suppliers, and

b) other injured parties only where full compensation cannot be obtained from the other undertakings that were involved in the same infringement of competition law.

(2) The limitation period of a compensation claim due to an infringement of competition law caused by several persons together shall not run between an infringer granted immunity from a fine and an injured party who is not his or her direct or indirect purchaser or supplier from the day the injured party filed a compensation claim against other infringers, and shall resume the day after the injured party was unable to obtain full compensation from the other jointly and severally liable debtors. The time that has expired before the suspension of the limitation period shall be calculated in the limitation period.

(3) Notwithstanding the right of a jointly and severally liable debtor requesting reimbursement of what he or she paid for other jointly and severally liable debtors, the amount of payment of the jointly and severally liable debtors granted immunity from a fine shall not exceed the extent of the harm caused to his or her direct or indirect purchasers or suppliers.

(4) A jointly and severally liable debtor granted immunity from a fine shall repay the jointly and severally liable debtors that paid for the damage caused by the infringement of competition law and that was inflicted on injured parties who are not direct or indirect purchasers or suppliers of the infringers the reimbursement claim, which shall be awarded in an amount proportional to the liable debtor's share of responsibility for the damage.

Article 62j
(Statute of limitation)

(1) The limitation period for a claim for damages due to the infringement of competition law shall be five years since the infringement of competition law ended and since the plaintiff knew or could reasonably be expected to have known about:

a) the act of the infringer and the fact that the act represents an infringement of competition law,

b) the harm caused by the infringement of competition law, and

c) the infringer.

(2) In any case, the limitation period for a claim referred to in the preceding paragraph shall be ten years since the harm was caused. The limitation period shall not start until the infringement of competition law has ended.

(3) The limitation period for a claim for damages shall not run from the day the authority responsible for the protection of competition carries out an act for the purpose of conducting an investigation or a procedure due to an infringement of competition law, until the day when one year since the finality of the decision on the infringement or any other conclusion of the procedures has passed. The time that has expired before the suspension of the limitation period shall be calculated in the limitation period.

(4) The suspension of the limitation period referred to in the preceding paragraph shall influence the limitation period referred to in paragraphs (1) and (2) of this Article.

Article 62k (Special rules on awarding compensation)

(1) When awarding compensation at its discretion in accordance with the Act regulating civil procedure, the court may also take into account the part of the gain of the infringer acquired by means of the infringement of competition law.

(2) It shall be presumed that cartels cause harm unless the infringer proves otherwise.

(3) The court may request that the Agency inform the court of its opinion regarding the determination of the extent of harm no later than 30 days after the date of receipt of the request. If the Agency evaluates its help as appropriate, it shall inform the court of its opinion; otherwise it shall be deemed that the Agency has evaluated its help as inappropriate.

(4) The court may also ask an authority of another member state to give its opinion on the extent of harm determined.

(5) The Agency may, at the request of a court of another member state of the European Union, communicate an opinion on the extent of harm determined, if it deems its help to be appropriate.

Article 62l (Price difference in the supply chain)

(1) The price difference between what was actually paid and the price that would otherwise have applied in the absence of the infringement (hereinafter: the price difference), shall represent harm in the form of actual loss, where the amount of damages for actual loss at any level of the supply chain shall not exceed the price difference passed on to that level of the supply chain. When calculating the extent of actual loss, the reduction in the loss achieved by the injured party by means of cost reduction measures shall not be taken into account.

(2) Notwithstanding the full or partial passing on of a price difference to the next level of the supply chain, the injured party has the right to compensation for lost profit when the full or partial passing on of the price difference to the next level of the supply chain causes the injured party reduced sales or reduced purchases.

(3) The defendant may claim that the plaintiff has fully or partially passed on the price difference to the next level of the supply chain. The burden of proof regarding such shall rest with the defendant.

(4) In order to prove the merits of the objection referred to in the preceding paragraph, the defendant may suggest or request that the court require the plaintiff or a third person to disclose evidence or information.

(5) The provisions of this Article and Article 62m of this Act shall also apply *mutatis mutandis* when the infringement of competition law concerns direct or indirect supply to the infringer.

Article 62m **(Action for damages by indirect purchasers)**

(1) If the merits or the amount of a compensation claim depends on to what degree the price difference was passed on to a plaintiff who is an indirect buyer, the plaintiff is obliged to prove the existence and scope of the passing of the price difference on to the plaintiff. The plaintiff may by a reasoned proposal suggest or require that the court require the disclosure of evidence or data from the defendant or from a third person.

(2) In the case referred to in the preceding paragraph, it shall be assumed that the price difference is passed on to a plaintiff who is an indirect purchaser if he or she proves that:

- a) the defendant has infringed competition law,
- b) the price difference that was passed on to a direct purchaser of the defendant was caused by an infringement of competition law, and
- c) he or she purchased the goods or services that were the subject of the infringement of competition law or goods or services deriving from the goods and services that were the subject of the infringement or containing such goods or services.

(3) The preceding paragraph shall not apply if the defendant proves that the price difference was not fully or partially passed on to the plaintiff.

(4) When evaluating whether the defendant has succeeded in proving that the plaintiff fully or partially passed on the price difference and whether the plaintiff succeeded in proving that the price difference was passed on to him or her, the court shall also take into consideration:

- a) actions for damages in relation to the same infringement of competition law lodged by plaintiffs from other levels of the supply chain,
- b) final judgements issued on the basis of actions for damages referred to in the preceding point,
- c) relevant publicly accessible information deriving from cases of competition law enforcement under public law and that refer to the compensation claim.

(5) If it is established that the price difference was fully or partially passed on to the next level of the supply chain, and the amount of the difference in the price passed on cannot

be determined or could only be determined with disproportionate difficulties, the court may, at its discretion, evaluate which part of the price difference was passed on.

Article 62n
(Suspension of proceedings due to consensual dispute resolution)

The court may at any time, on the motion of parties who consent to an attempt at consensual dispute resolution regarding the compensation claim, suspend civil proceedings for the time of the duration of the consensual dispute resolution, but not for more than two years.

Article 62o
(Effect of concluded settlements on other actions for damages)

(1) An injured party who has concluded a settlement with one or more joint and several debtors has the right to claim from joint and several debtors that have not concluded a settlement only the amount of damages reduced by the share of each joint and several debtor with whom the injured party has concluded a settlement.

(2) Any remaining amount of damages of the injured party that has concluded a settlement may only be recovered from joint and several debtors that have not concluded a settlement. Joint and several debtors that have not concluded a settlement cannot claim a contribution for the remaining claim from a joint or several debtor that has concluded a settlement.

(3) Notwithstanding the preceding paragraph, the injured party may recover the remaining amount of the damages from a joint and several debtor that has concluded a settlement if the joint and several debtors that have not concluded a settlement cannot pay the remaining amount of damages unless otherwise agreed upon in the settlement between the joint and several debtor and the injured party.

(4) Injured parties that have not concluded a settlement may request compensation for harm from all joint and several debtors, taking into account the special rules on joint and several liability.

(5) When determining the amount of a reimbursement claim that a jointly and severally liable debtor may recover from any other joint and several debtor in accordance with his or her share of responsibility for the harm caused by the infringement of competition law, the court shall take due account of any damages paid by this joint and several debtor pursuant to a prior concluded settlement with other injured parties.

Part a VI a

COOPERATION AMONG THE COURTS AND AUTHORITIES FOR THE
PROTECTION OF COMPETITION

Article 63
(Cooperation among the courts, the European Commission and the Agency)

(1) The court shall notify the Agency of any court proceedings for the application of Article 6 or 9 of this Act or Article 101 or 102 of the TFEU.

(2) The court shall send a copy of the decision on the application of Article 6 or 9 of this Act or Article 101 or 102 of the Treaty on the Functioning of the European Union simultaneously with service on the parties.

(3) The court may ask the Agency to provide a written opinion regarding the application of Article 6 or 9 of this Act. The Agency may also, with the consent of the court, provide an opinion orally at the hearing.

(4) When the European Commission, in accordance with paragraph three of Article 15 of Regulation 1/2003/EC, provides a written opinion to ensure coherent application of Article 101 or 102 of the Treaty on the Functioning of the European Union, the court shall forward a copy of the written opinion to the Agency and to the parties to the proceedings.

(5) When the Agency, in accordance with paragraph three of Article 15 of Regulation 1/2003/EC, provides a written opinion on questions regarding the application of Article 101 or 102 of the Treaty on the Functioning of the European Union or, in accordance with paragraph three of this Act, a written opinion on the application of Article 6 or 9 of this Act, the court shall send a copy of the written opinion to the parties to the proceedings. If the Agency provides a written opinion on questions regarding the application of Article 101 or 102 of the Treaty on the Functioning of the European Union, the Agency shall also send a copy of the written opinion to the European Commission.

(6) If the court requests that the European Commission provide an opinion in accordance with paragraph one of Article 15 of Regulation 1/2003/EC, it shall inform the parties thereof and, after receiving the opinion of the European Commission, send a copy of the opinion to the Agency and the parties to the proceedings.

(7) The Agency or the European Commission may provide a written opinion referred to in paragraph four, five or the preceding paragraph of this Article and in paragraph three of Article 62č of this Act at any time until a decision is issued.

PART VI a UNFAIR COMPETITION

Article 63a (Unfair competition)

(1) Unfair competition practices shall be prohibited.

(2) Unfair competition shall mean unfair commercial practices carried out by undertakings in contravention of good business practices that cause or might cause harm to other undertakings.

(3) The following shall be deemed an act of unfair competition according to the preceding paragraph:

- providing information on another undertaking that is likely to harm the reputation and business of the other undertaking;
- selling of goods with markings or data creating or likely to create confusion as to the origin, method of production, quality or other characteristics of goods;

- acts directed at severing business relationships among other undertakings or at impeding or hampering such relationships;
- unjustified failure to honour a contract or terminating a contract with an undertaking in order to conclude an equivalent or similar contract with another undertaking;
- unjustified use of the name, company name, brand or any other designation of another undertaking, irrespective of the fact that the latter gave its consent, if such practice results in or might create confusion on the market;
- giving or promising gifts, financial and other benefits to another undertaking, its employees or persons working for another undertaking so that the donor would benefit to the detriment of such undertaking;
- unauthorised use of the services of a salesman, sales representative or agent of another undertaking;
- unlawful acquisition of confidential information of another undertaking or unjustified use of the confidential information of another undertaking.

Article 63b
(The rights of the party affected)

(1) If actions considered inadmissible in accordance with the preceding Article have caused damage to any party, such party shall have the right to claim compensation under the rules of the law of obligations.

(2) The affected party to the trade in goods or services in the market may request through a civil action the prohibition of any further actions of unfair competition, the destruction of the goods involved in the act of unfair competition, and restoration of the initial condition, when applicable.

(3) When an act of unfair competition has been perpetuated by the media or by similar means (e.g. leaflets, inscriptions in public places) or has affected a large number of parties, the party affected may request the publication of the court decision in the media.

PART VII
RESTRICTIONS OF THE MARKET BY MEANS OF REGULATORY INSTRUMENTS AND
ACTIONS

Article 64
(Prohibition)

(1) The Government, state authorities, local community authorities and holders of public authority may not restrict the free operation of undertakings in the market.

(2) For the purposes of this Act, restrictions of the free operation of undertakings in the market shall be deemed to be general and individual legal instruments that, in contravention of the Constitution and the law, restrict free trade in goods and services, free entry into the market or free operation in the market, or that prevent competition in any other manner.

Article 65
(Regulatory restrictions on free operation in the market)

(1) In the case of regulatory restrictions on the free operation of undertakings, the protection of the interests of undertakings shall be ensured in proceedings for assessing the compliance of regulations with the Constitution and law if such protection cannot be ensured in an administrative dispute.

(2) For the purposes of this Act, regulations that in accordance with the Constitution guarantee human rights and economic and social relations shall not be considered to restrict the free operation of undertakings in the market, in particular regulations determining:

- conditions for trade in goods and services, specifying the properties of goods or the method of the provision of services for sanitary, veterinary, phytopathological, environmental protection, safety at work, technical and similar reasons;
- price control measures in accordance with a specific law;
- the method of operation of undertakings with a view to protecting customers in accordance with a specific law;
- mandatory standards;
- the obligation of undertakings required by law to provide services to the public.

Article 66

(Restrictions on free operation in the market by individual instruments and actions)

(1) Restrictions on free operation by individual instruments and acts within the meaning of paragraph (2) of Article 64 of this Act shall in particular be deemed instruments and acts that:

- prevent an undertaking from carrying out its activity in a specific area or carry out a specific activity, although the undertaking concerned complies with the legally determined conditions;
- delay without good cause the proceedings for issuing a permit for an activity or other permits important for the operation of the undertaking in the market;
- indirectly or directly constitute discrimination among undertakings with respect to their registered offices;
- prohibit trade in goods and services outside the area of a local community;
- ensure a specific undertaking a privileged position in respect of operations in the market without good cause.

(2) If legal remedies against the instruments and acts referred to in the preceding paragraph are not ensured in administrative proceedings, the undertaking affected may initiate an administrative dispute.

Article 67

(Exceptionally permitted restrictions)

Notwithstanding Articles 65 and 66 of this Act, the Government may determine market restrictions in the following cases:

- if, as a result of a natural disaster, epidemic, state of emergency or similar circumstances, serious disturbances in the market and in supplies for the population, or disturbances in other fields have occurred or are likely to occur that represent a risk to the safety and health of the population;
- if significant disturbances in the market have occurred or are likely to occur due to a lack of goods indispensable for production or processing, or for the everyday life of the population;

- if there is a need to meet the demand for products, raw materials and reproduction materials that are of specific or strategic importance to the defence of the Republic of Slovenia.

Article 68

(Conditions for the application of exceptionally permitted restrictions)

The exceptionally permitted restrictions referred to in the preceding Article may be determined by the Government only if the reasons for introducing restrictions cannot be eliminated by measures in undertakings, import, or current economic policy measures.

Article 69

(Exceptionally permitted restrictive measures)

(1) As restrictions within the meaning of Article 67 of this Act, the Government may adopt the following measures:

- the prohibition of trade in specific goods, restrictions of trade in specific goods in terms of quantity and quality, or a determination of specific conditions for trade in specific goods or types of goods;
- imposing an obligation on certain undertakings to put into circulation specific quantities or types of goods, and to make them available or deliver them to specific users in accordance with a set order of priority;
- imposing the obligation on certain undertakings to create reserves of specific quantities and types of goods.

(2) Corresponding prohibitions or obligations may be prescribed for services.

(3) The Government shall cancel a restriction immediately after the reasons for which the restriction was prescribed cease to exist, or when the situation can be normalised by the introduction of other measures.

(4) If the Government fails to cancel the measures within six months of their adoption, it shall notify the National Assembly of the measures and report to it on the effects of these measures.

Article 70

(Mitigation of damage caused by exceptionally permitted restrictions)

(1) If an undertaking has suffered substantial damage due to the measures referred to in the preceding Article, the competent national body shall adopt measures to mitigate the damage in such a way that the consequences of the prescribed national measures for the undertaking are not substantially disproportionate in comparison with the consequences suffered by consumers, other undertakings, the state or local community under the circumstances referred to in Article 67.

(2) If the measures referred to in the preceding Article have inflicted substantially disproportionate damage on an undertaking and the measures referred to in the preceding paragraph have not been adopted, the undertaking may claim compensation for damage from the Republic of Slovenia.

Article 71 (Opinions of the Agency)

(1) With a view to ensuring effective competition in the territory of the Republic of Slovenia and in cases in which the provisions of the law or other regulations cause a restriction of competition or limit the proper functioning of the market and when this is not in the general public interest, and in the cases referred to in Article 66 of this Act, the Agency shall send the competent authorities an opinion on appropriate measures to eliminate or prevent the restriction of competition.

(2) The Agency shall publish information about the cases for which it has provided an opinion, where this is appropriate given the nature and significance of the restriction.

Article 72 (Consultation)

(1) The Agency shall submit an opinion on a proposed act or on decrees when it deems it necessary or when requested by a competent state authority.

(2) The Prime Minister or the competent minister may request that the Agency submit an opinion on proposed acts or decrees that have the following direct effects:

- the introduction of quantitative restrictions in implementing activities in the market or access to the market;
- the introduction of exclusive rights in certain economic fields;
- determining general conditions of operation.

PART VIII PENAL PROVISIONS

Article 73 (Fines for restrictive practices)

(1) A fine of up to 10% of the annual turnover of the undertaking in the preceding business year shall be imposed on a legal entity, sole proprietor or an individual who performs an economic activity when:

- they act in contravention of Article 6 of this Act or Article 101 of the TFEU,
- they abuse a dominant position in contravention of Article 9 of this Act or Article 102 of the TFEU,
- they act in contravention of an enforceable decision issued by the Agency pursuant to Articles 37, 38 or 39 of this Act.

(2) A fine of between EUR 5,000 and EUR 10,000 shall be imposed on the responsible person of a legal entity or the responsible person of a sole proprietor for the minor offence referred to in the preceding paragraph.

(3) If the nature of the minor offence referred to in the preceding paragraphs is particularly serious due to the amount of damage inflicted, or due to the amount of the illegally acquired pecuniary benefit, or due to the offender's criminal intent or intent to obtain an unlawful gain, a fine of between EUR 15,000 and EUR 30,000 shall be imposed on the responsible person of a legal entity or the responsible person of a sole proprietor.

Article 74 **(Fines in respect of concentrations)**

(1) A fine of up to 10% of the annual turnover of the undertaking involved in a concentration together with other undertakings in the group in the preceding business year shall be imposed on a legal person and a sole proprietor for a minor offence when:

- they fail to notify the Agency of a concentration governed by the provisions of this Act, or fail to notify it within the time limit referred to in Article 43 of this Act;
- in contravention of Article 44 of this Act, they implement rights or obligations arising from the concentration;
- they fail to implement corrective measures or obligations imposed by a decision declaring the concentration compatible with the rules on competition;
- they act in contravention of a decision declaring a concentration incompatible with the rules on competition;
- they act in contravention of an enforceable decision issued by the Agency pursuant to Article 53 of this Act.

(2) A fine of between EUR 5,000 and EUR 10,000 shall be imposed on the responsible person of a legal entity or the responsible person of a sole proprietor for the minor offence referred to in the preceding paragraph.

(3) A fine of between EUR 3,000 and EUR 5,000 shall be imposed on a natural person already controlling at least one undertaking for the minor offence referred to in paragraph (1) of this Article.

(4) If the nature of the minor offence referred to in the preceding paragraphs is particularly serious due to the amount of damage inflicted, or due to the amount of the illegally acquired pecuniary benefit, or due to the offender's criminal intent or intent to obtain an unlawful gain, a fine of between EUR 15,000 and EUR 30,000 shall be imposed on the responsible person of a legal entity or the responsible person of a sole proprietor, and a fine of between EUR 10,000 and EUR 15,000 on a natural person already controlling at least one undertaking.

Article 75 **(Statute of limitations)**

Proceedings for a minor offence referred to in Articles 73 and 74 of this Act shall not be permitted after the expiry of five years from the day on which the minor offence is committed; minor offence proceedings, however, may in no case be instituted after the expiry of a period equal to twice the limitation period stipulated by law in respect of minor offence proceedings.

Article 76 **(Discharge and reduction of a fine)**

(1) An offender involved in a cartel shall be granted the discharge of the fine provided that all the following conditions are met:

- the offender fully and completely discloses his or her participation in the alleged cartel;
- the offender is the first to submit information and evidence that, in the Agency's view, will enable an inspection in connection with the alleged cartel or the finding of an violation of Article 6 of this Act or Article 101 of the TFEU in connection with the alleged cartel;
- the offender cooperates with the Agency throughout the proceedings;

- the offender terminated his or her involvement in the alleged cartel immediately after the beginning of cooperation with the Agency in view of the discharge unless the Agency considers such termination to be contrary to the interests of the inspection.
- the offender did not coerce other undertakings to join the cartel or to remain in it.

(2) An offender that does not meet all the conditions referred to in the preceding paragraph and that is not granted a discharge may be eligible for a reduction in the fine provided that all the following conditions are met:

- the offender provides evidence of his or her participation in the alleged cartel that represents significant added value with respect to the evidence already in the Agency's possession;
- the offender cooperates with the Agency throughout the proceedings; and
- the offender terminated his or her involvement in the alleged cartel immediately after the beginning of his or her cooperation with the Agency in view of the discharge or reduction in a fine unless the Agency considers such termination to be contrary to the interests of the inspection.

(3) A reduction in a fine of 30% to 50% shall be granted to an offender who meets all the conditions referred to in the preceding paragraph and is the first to provide the evidence referred to in the first indent of paragraph (2) of this Article. A reduction in a fine of fine of 20% to 30% shall be granted to an offender who meets all the conditions referred to in paragraph (2) of this Article and is the second to provide the evidence referred to in the first indent of paragraph (2) of this Article. A reduction in a fine of up to 20% shall be granted to other offenders meeting all the conditions referred to in paragraph (2) of this Article and submitting the evidence referred to in the first indent of paragraph (2) of this Article.

(4) A fine expressed by a range may not be reduced below the minimum amount stipulated by this Act.

(5) The proceedings for the discharge or reduction of a fine referred to in the preceding paragraphs shall be determined by the Government by means of a decree.

Article 77 (Imposition of a fine)

The Agency may impose by fast-track proceedings a fine for a minor offence in any amount within the range stipulated by this Act.

Article 78 (Calculation of the annual turnover of a group of undertakings)

When the offence of a group of undertakings involves the activity of its members, the annual turnover of the group of undertakings in the preceding business year shall include the annual turnover of each member active in the market to which the minor offence refers.

TRANSITIONAL AND FINAL PROVISIONS

The Prevention of Restriction of Competition Act – ZPomK-1 (Uradni list RS, No 36/08) contains the following transitional and final provisions:

"PART IX
TRANSITIONAL AND FINAL PROVISIONS

Article 79
(Repealed regulations)

- (1) On the date of the entry into force of this Act, the following shall cease to apply:
- The Prevention of Restriction of Competition Act (Uradni list RS, Nos 56/99, 37/04 and 40/07);
 - The Decree on block exemptions (Uradni list RS, No 69/02, 109/02 and 6/03 – corrigendum);
 - The Decree on the concentration of companies notification form (Uradni list RS, No 4/00), and
 - Instructions on procedures and conditions for relevant market definitions (Uradni list RS, No 83/00).

(2) The regulation referred to in the third indent of the preceding paragraph shall apply pending a new regulation.

Article 80
(Amendment of another regulation)

On the day of entry into force of this Act, in paragraph (5) of Article 58 of the Media Act (Uradni list RS, No 110/06 – officially consolidated text, and 69/06 –ZOIPub) the text “and the opinion of the authority competent to protect competition” shall be deleted.

Article 81
(Conclusion of proceedings initiated prior to the entry into force of this Act)

(1) Concentration assessment proceedings that started prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations.

(2) Notwithstanding the preceding paragraph, the provisions of Articles 44 and 74 of this Act shall apply to proceedings for the assessment of a concentration initiated prior to the entry into force of this Act in respect of the suspension of a concentration. Undertakings involved in the assessment of concentration proceedings shall cease to implement the concentration pending a decision declaring the concentration compatible with the rules on competition. Judicial protection proceedings against a decision issued pursuant to Article 40 of the Prevention of Restriction of Competition Act (Uradni list RS, Nos 56/99, 37/04 and 40/07) shall be stayed.

(3) Persons at whose request the Office initiated proceedings prior to the entry into force of this Act shall keep the status of a party to proceedings.

(4) Judicial protection procedures against a decision of the Office issued prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations. Judicial protection proceedings against decisions pending until the entry into force of this Act shall continue pursuant to the provisions of this Act.

Article 82
(Time limits for issuing implementing regulations)

(1) The Government shall issue the decree referred to in paragraph (6) of Article 43 of this Act within one year of the entry into force of this Act.

(2) The minister responsible for the economy shall issue the rules laying down the general form of the official identity card and the procedure for issuing it pursuant to paragraph (3) of Article 30 of this Act within six months following the entry into force of this Act.

Article 83
(Identification in the course of inspection)

Pending the issuance of the official identity cards referred to in paragraph (2) of Article 30 of this Act, persons employed at the Office shall, in the course of an inspection, prove their identity by a written authorisation from the Director of the Office.

Article 84
(Entry into force)

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."

The Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1A (Uradni list RS, No 40/09) amends Article 81 of the Act such that it reads as follows:

"Article 81
(Conclusion of proceedings initiated prior to the entry into force of this Act)

(1) Concentration assessment proceedings that started prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations.

(2) Notwithstanding the preceding paragraph, the provisions of Article 44, paragraph (5) of Article 45 and Article 74 of this Act shall apply to proceedings for the assessment of a concentration initiated prior to the entry into force of this Act in respect of the suspension of a concentration. Undertakings involved in the assessment of concentration proceedings shall cease to implement the concentration pending a decision declaring the concentration compatible with the rules on competition. Judicial protection proceedings against a decision issued pursuant to Article 40 of the Prevention of Restriction of Competition Act (Uradni list RS, Nos 56/99, 37/04 and 40/07) shall be stayed.

(3) Persons at whose request the Office initiated proceedings prior to the entry into force of this Act shall keep the status of a party to proceedings.

(4) Judicial protection proceedings against a decision of the Office issued prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations. Judicial protection proceedings against decisions pending until the entry into force of this Act shall be continued in accordance with the provisions of this Act.";

and contains the following transitional and final provisions:

"TRANSITIONAL AND FINAL PROVISIONS

Article 19

The Government of the Republic of Slovenia shall issue the decree referred to in paragraph (5) of Article 76 herein within three months of the enactment of this Act.

Article 20

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*".

The Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11) amends Article 81 of the Act to read as follows:

"Article 81

(Conclusion of proceedings initiated prior to the entry into force of this Act)

(1) Concentration assessment proceedings that started prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations.

(2) Notwithstanding the preceding paragraph, the provisions of Article 44, paragraph (5) of Article 45 and Article 74 of this Act shall apply to proceedings for the assessment of concentrations initiated prior to the entry into force of this Act in respect of the suspension of a concentration. Undertakings involved in the assessment of concentration proceedings shall cease to implement the concentration pending a decision declaring the concentration compatible with the rules on competition. Judicial protection proceedings against a decision issued pursuant to Article 40 of the Prevention of Restriction of Competition Act (Uradni list RS, Nos 56/99, 37/04 and 40/07) shall be stayed.

(3) Persons at whose request the Agency initiated proceedings prior to the entry into force of this Act shall retain the status of a party to proceedings.

(4) Judicial protection proceedings against a decision of the Agency issued prior to the entry into force of this Act shall be concluded in accordance with the currently applicable regulations. Judicial protection proceedings against decisions pending until the entry into force of this Act shall be continued in accordance with the provisions of this Act.";

amends Article 83 to read as follows:

"Article 83

(Identification in the course of inspection)

Pending the issuance of the official identity cards referred to in paragraph (2) of Article 30 of this Act, persons employed by the Agency shall, in the course of an inspection, prove their identity by a written authorisation from the Director of the Agency.

and contains the following transitional and final provisions:

"TRANSITIONAL AND FINAL PROVISIONS

Article 9 (Establishment of the Agency)

The Government shall adopt the Agency's instruments of incorporation within three months of the entry into force of this Act.

(2) The members of the Agency's Council and the members of the Commission for the Protection of Competition shall be appointed not later than within six months of the entry into force of this Act. The first three members of the Commission for the Protection of Competition to be appointed from among the staff of the Agency engaged in the protection of competition shall be appointed by the National Assembly on the proposal of the Government from among the staff of the Competition Protection Office of the Republic of Slovenia (Urad Republike Slovenije za varstvo konkurence, hereinafter: the Office).

(3) The Government shall lodge a motion to register the Agency in the register of companies within one month of the date of appointment of the members of the Agency's Council and the members of the Commission for the Protection of Competition.

(4) The constitutive session of the Agency's Council shall be convened by its most senior member not later than within one month of the date of the registration of the Agency in the register of companies. At the constitutive session the Agency's Council shall:

- adopt all the regulations necessary for the operation of the Agency, in particular the Rules of Procedure laying down the rules governing the internal organisation and operations, and the regulation on the Agency's job organisation and classification, and
- propose an open competition for the position of the Agency's Director, which shall be published in *Uradni list RS*.

Article 10 (Acting Director of the Agency)

Pending the appointment of the Agency's Director, the Government of the Republic of Slovenia shall appoint an Acting Director who shall meet the requirements to be appointed the Agency's Director. The contract of employment of the Acting Director of the Agency shall be concluded with the Government.

Article 11 (Funds for the commencement of the operation of the Agency)

(1) The Government shall provide the Agency with all necessary premises, equipment and funds for the commencement of operation by transferring fixed assets and other necessary equipment and funds from the Office to enable the Agency to start performing the tasks and competences previously carried out by the Office; or in some other appropriate manner.

(2) The funds for the operation of the Agency shall be provided from the budget of the Republic of Slovenia.

Article 12
(Transfer of tasks and competences)

(1) Until the commencement of the operation of the Agency, the tasks and competences of the authority competent for the protection of competition shall be carried out by the Office in accordance with the currently applicable regulations.

(2) On the date the Agency commences to operate, the statutory duties and competences of the Office shall be transferred to the Agency and the Office shall cease to function as a body affiliated with the Ministry.

Article 13
(Commencement of operation of the Agency)

(1) The Agency shall commence to operate on 1 January 2012.

Article 14
(Transfer of employees)

For the purposes of carrying out the Agency's tasks, all public employees employed at the Office as of the date of its termination shall be transferred to the Agency.

Article 15
(Transfer of cases, archives, records and contracts, and the method of decision-making pending the appointment of the Commission for the Protection of Competition)

(1) The Agency shall assume all pending cases, archives and records that are kept by the Office.

(2) Pending the appointment of all members of the Commission for the Protection of Competition, the Agency shall carry out all administrative and offence proceedings in accordance with Article 13 of the Prevention of Restriction of Competition Act (Uradni list RS, Nos 36/08 and 40/09) by deciding in a panel composed of the Agency's Director as chairman and two members chosen by the Director from among the Agency's staff.

(3) The Agency shall assume all rights and obligations arising from contracts concluded between the Office and third parties.

Article 16
(Entry into force)

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."

The Act Amending the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1C (Uradni list RS, No 87/11) amends Article 10 of the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11) to read as follows:

"Article 10
(Acting Director of the Agency)

Pending the appointment of the Director of the Agency, the Government of the Republic of Slovenia shall appoint as Acting Director the current Director of the Office.";

amends Article 13 of the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11) to read as follows:

"Article 13
(Commencement of operation of the Agency)

(1) The Agency shall commence to operate on 1 January 2012.

(2) If the Agency fails to commence its operation within the time limit referred to in the preceding paragraph, it shall start to operate on the day following its entry in the register of companies.";

amends Article 15 of the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11) to read as follows:

"Article 15
(Transfer of cases, archives, records and contracts, and the method of decision-making pending the appointment of the Commission for the Protection of Competition)

(1) The Agency shall assume all pending cases, archives and records that are kept by the Office.

(2) The Agency shall assume all rights and obligations arising from contracts concluded between the Office and third parties."

and contains the following final provision:

"Article 4

This Act shall enter into force on the day following its publication in *Uradni list Republike Slovenije*."

The Act Amending the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1C (Uradni list RS, No 57/12) amends Article 9 of the Act Amending the

Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11) to read as follows:

"Article 9
(Establishment of the Agency)

(1) The Government shall adopt the Agency's instruments of incorporation within three months of the entry into force of this Act."

deletes Article 10 of the Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1B (Uradni list RS, No 26/11):

"Article 10
(deleted)";

and contains the following transitional and final provisions:

"TRANSITIONAL AND FINAL PROVISIONS

Article 22
(Acting Director)

Until the appointment of the Director of the Agency, the duties of the Director shall be carried out by the current Director of the Office. The Government shall authorise the minister responsible for the protection of competition to conclude an employment contract with the Acting Director of the Agency.

Article 23

(1) The Government shall harmonise the Decision establishing the Slovenian Competition Protection Agency (*Sklep o ustanovitvi Javne agencije Republike Slovenije za varstvo konkurence*, Uradni list RS, Nos 61/11 and 105/11) with the provisions of this Act not later than within three months of the entry into force of this Act.

(2) The term of office of the members of the Agency Council and the members of the Commission for the Protection of Competition who were appointed in accordance with the Act Amending the Prevention of Restriction of Competition Act (Uradni list RS, No 26/11) shall terminate on the day this Act enters into force.

(3) The members of the Council shall be appointed not later than within six months of the entry into force of this Act. Public employees of the Competition Protection Office of the Republic of Slovenia may also be appointed to the first Council.

(4) The Government shall lodge a motion to register the Agency in the register of companies within one month of the appointment of the Council.

(5) The constitutive session of the Council shall be convened by its most senior member not later than within one month of the date of registering the Agency in the register

of companies. At its constitutive session the Council shall adopt all acts necessary for the operation of the Agency.

Article 24

This Act shall enter into force on the day following its publication in *Uradni list Republike Slovenije*".

Decision establishing that the first sentence of the first paragraph of Article 28 of the Prevention of Restriction of Competition Act is inconsistent with the Constitution. The Decision establishing that Articles 54, 56, 57, 59, and 61 of the Prevention of Restriction of Competition Act are not inconsistent with the Constitution (Uradni list RS, No 39/13) determines the following:

"1. The first sentence of the first paragraph of Article 28 of the Prevention of Restriction of Competition Act (Uradni list RS Nos 36/08, 40/09, 26/11, 87/11, and 57/12) is inconsistent with the Constitution.

2. The National Assembly of the Republic of Slovenia must remedy the unconstitutionality referred to in the preceding paragraph within one year following the publication of this Decision in the Official Gazette of the Republic of Slovenia.

3. Until the established unconstitutionality is remedied, the first sentence of the first paragraph of Article 28 of the Prevention of Restriction of Competition Act shall apply.

4. Articles 54, 56, 57, 59, and 61 of the Prevention of Restriction of Competition Act are not inconsistent with the Constitution.

The Act Amending the Courts Act – ZS-K (Uradni list RS, No 63/13) contains the following final provision:

"Article 50

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*".

The Act Amending the Prevention of Restriction of Competition Act – ZPOMK-1K (Uradni list RS, No 33/14) contains the following final provision:

"FINAL PROVISION

Article 13

This Act shall enter into force on the day following its publication in *Uradni list Republike Slovenije*".

The Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1F (Uradni list RS, No 33/14) contains the following transitional and final provisions:

"TRANSITIONAL AND FINAL PROVISIONS

Article 4

(1) On the date of entry into force of this Act, the Protection of Competition Act (Uradni list RS, Nos 18/93, 56/99 – ZPOmK and 110/02 – ZVPot-A) shall cease to apply.

(2) Proceedings initiated on the basis of Article 28 of the Protection of Competition Act (Uradni list RS, Nos 18/93, 56/99 – ZPOmK and 110/02 – ZVPot-A) before the entry into force of this Act shall be stayed.

(3) Proceedings initiated on the basis of Articles 26 and 27 of the Protection of Competition Act (Uradni list RS, Nos 18/93, 56/99 – ZPOmK and 110/02 – ZVPot-A) shall be concluded according to the currently applicable regulations.

Article 5

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."

The Act Amending the Prevention of Restriction of Competition Act – ZPOmK-1G (Uradni list RS, No 23/17) contains the following transitional and final provisions:

"TRANSITIONAL AND FINAL PROVISIONS

Article 12

The Agency shall submit an annual report and the final annual accounts for 2016 in accordance with the currently applicable regulations.

Article 13

(1) The provisions of Articles 62a, 62c, 62č, 62d, 62e, 62f, and paragraph (4) of Article 62l of this Act shall be used in the civil proceedings for compensation due to infringements of competition law which started after 26 December 2014, and there has not yet been issued a decision of first instance, based on which the proceedings before the court of first instance has concluded.

(2) The provisions of Articles 62a, 62c, 62č, 62d, 62e, 62f, and paragraph (4) of Article 62l of this Act shall be used in the civil proceedings for compensation due to infringements of competition law if the action was brought to court after 26 December 2014 and the decision

of first instance, based on which the proceedings before the court of first instance has concluded has been annulled.

(3) The provisions of Articles 62a, 62c, 62č, 62d, 62e, 62f, and paragraph (4) of Article 62l of this Act shall not be used in the civil proceedings for compensation due to infringements of competition law if the action was brought to court before 26 December 2014 and the decision of first instance, based on which the proceedings before the court of first instance has concluded has been annulled after 26 December 2014.

(4) If a decision of first instance in the civil proceedings due to infringement of competition law, with which the proceedings before the court of first instance has concluded was issued before 26 December 2014, provisions of Articles 62a, 62c, 62č, 62d, 62e, 62f and paragraph (4) of Article 62l shall not be taken into account, and currently applicable regulations shall be used.

Article 14

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*."