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1. Introduction

1. The Commission on Protection of Competition (the Commission, CPC) is an independent state authority whose main task is to ensure the protection and create conditions for development of competition and free enterprise, including through the exercise of control on the legality of the budget spending through the public procurement system and the granting of concessions.

2. The powers of the Commission are set forth in the Law on Protection of Competition (LPC), the Public Procurement Act (PPA) and the Concessions Act (CA).

3. In pursuance of its powers pursuant to the LPC, the Commission adopts decisions with which it establishes the presence or absence of infringements constituting abuse of monopoly or dominant position, prohibited agreements or concerted practices and unfair competition. It carries out control on the concentration between undertakings and it can authorize, including conditionally, or prohibit its implementation. Some of the powers of the Commission are also preparation of sector analyses and implementation of competition advocacy, proposing to the competent executive authorities and local self-government to repeal or amend regulatory acts issued in infringement of the competition rules. The draft regulatory acts to be adopted accordingly are subject to analysis for their compliance with the LPC, for which purpose the Commission adopts opinions.

4. The CPC is also the authority that deals with appeals on the legality of all acts or omissions of contracting authorities and grantors in public procurement award procedures or granting of concessions. Pursuant to the Public Procurement Act and the Concessions Act, the CPC can stop a public procurement award procedure, respectively the granting of a concession, permit advance enforcement of decisions on selection of a contractor, in the presence of certain conditions as specified in the above mentioned acts, and impose financial penalties and fines in the cases provided by law.

5. The main priorities set by the Commission in 2016 **were primarily to increase the effectiveness of countering prohibited agreements and abuses of monopoly or dominant position.**

6. In this regard, the CPC prioritizes its capacity to monitor significant and sensitive sectors of the economy for the consumers and business. In total, three sector inquiries covering the fuel market, the insurance market and the pharmaceutical market were completed in 2016. As a result of the established data on the competitive environment of the investigated markets, 11 proceedings were initiated. They account for about 50% of the antitrust proceedings for the year and over 80% of the proceedings under Art. 15 of LPC. Chapter Six of LPC, which regulates sector inquiries, allows for developing a comprehensive vision of the regulatory environment and the business environment of certain markets as well as highlighting trends in development and competitive problems. CPC will continue to monitor national markets in 2017.

7. **In 2016 the Commission on Protection of Competition initiated a total of 989 proceedings, of which 160 under the Law on Protection of Competition, 825 under the Public Procurement Act and 4 under the Concessions Act.**

8. Out of the total number of proceedings under LPC, 23 were initiated on the grounds of Art. 38, para. 1, item 1 (by decision of the Commission), 132 under Art. 36, para. 1, 3, 5 and 6 and 8 of LPC - at the request or notification of interested parties, and 5 - by judgements of the Supreme Administrative Court (SAC), which returned files to the Commission for new consideration and issuance.

9. In the period covered by the report, the rulings and decisions adopted by the Commission were a **total of 1 143**. During the reporting period the Commission issued **1 070 decisions or rulings** whereby the Commission has completed the relevant proceedings under the LPC, PPA or CA, has made statements of objections or imposed fines on individuals for any infringement under LPC or for any failure to provide information, and the **rest** are acts with which the CPC has issued a decision on other issues within its competence, such as adoption of a decision to initiate proceedings, appointment of an expertise, rulings on a request for imposing interim measures under the LPC, etc.

10. By the decisions adopted in 2016, the Commission imposed fines and pecuniary sanctions of a total of **14 955 477.70 Bulgarian leva (BGN)**.

2. Prohibited agreements, decisions and concerted practices

2.1. Proceedings

11. In 2016, the Commission initiated **15 proceedings**¹, the subject of which was the establishment of the presence or absence of an infringement under Chapter Three Prohibited Agreements, Decisions and Concerted Practices of the LPC, with 12 of them initiated with decisions of the Commission pursuant to Art. 38, para. 1, item 1 of the LPC (on **its own initiative**), and the other **3** - at the request of persons whose interests are affected or threatened by an infringement of the LPC.

2.2. Commission's powers to collect information

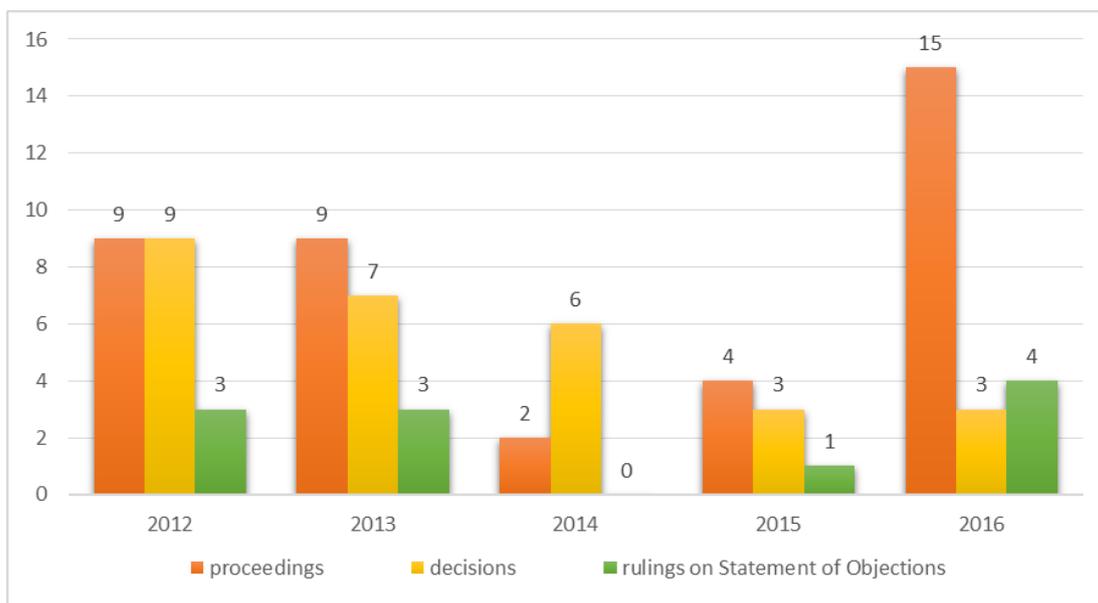
12. In 2016, the CPC performed a total of **12 inspections on spot** as a first procedural step in two of the newly initiated proceedings. The inspections on spot were carried out according to the procedural rules and upon exercise of the powers conferred on the CPC by the Law on Protection of Competition. During the inspections, the CPC took both paper and forensic evidence by using its forensic IT laboratory.

2.3. Decisions and rulings

13. In 2016 the Commission issued **3 decisions** on the application of Art. 15 of LPC on proceedings initiated in 2015.

14. During that period, on the grounds of Art. 74, para. 1, item 3 of LPC, by **4 rulings** the Commission made statements of objections for an infringement of Art. 15 of LPC.

¹ In one of the cases the proceedings were also initiated under Art. 21 of LPC, and, therefore, in this report the same is included in the total number of proceedings initiated under Chapter Four of LPC.

Figure 1. Proceedings and acts under Chapter Three of the LPC 2012-2016

15. As can be seen from the chart, in the 2016 reporting year, the number of proceedings increased many times over the previous period, mainly due to a number of steps taken to improve the process of work. The number of decisions issued keeps the trend from the previous year.

16. In 2016 by **2 decisions** on the grounds of Art. 60, para. 1, item 2 and item 3 of LPC, in conjunction with Art. 77, para. 1, item 1 and item 2 of LPC, the Commission established infringements of Art. 15, para. 1 of the LPC made by six companies, consisting in a prohibited agreement and/or concerted practice (cartel), which aims at preventing, restricting and distorting competition by fixing prices or price conditions and manipulating two separate tenders.

17. In the beginning of the year, by Judgement 2040 of 23 February 2016 the SAC finally upheld CPC's Decision No. 220 of 1 March 2012 whereby the Commission imposed pecuniary sanctions on Jupiter Travel AD (formerly Astral Holidays AD), Bulgarian VIP Travel OOD and Hornit OOD for an infringement under Art. 15, para. 1 of LPC in the form of a prohibited agreement and/or concerted practice aimed at preventing, restricting and distorting competition by manipulating the procedure for the conclusion of a framework agreement for the award of a centralised public procurement contract "Provision of airplane tickets for the carriage of passengers and baggage for business trips in Bulgaria and abroad", opened by Decision No. RMF-55 made on 17 September 2010 by the Minister of Finance as the Central Public Procurement Authority. The total estimated value of purchases for the entire duration of the framework agreement is 25 000 000 BGN. The SAC has left CPC's decision regarding two of the respondent companies (Bulgarian VIP Travel OOD and Hornit OOD) in force. The total amount of the sanctions imposed is about 100 000 BGN.

3. Abuse of monopoly and dominant position

3.1. Proceedings

18. In 2016 the Commission initiated a total of **13 proceedings**², the subject of which was the establishment of the presence or absence of any infringements committed under Chapter Four *Abuse of monopoly or dominant position* of LPC, **3** of which were initiated by Commission Decisions under Art. 38, para. 1 of LPC (on its own initiative), **7** - at the request of persons whose interests are affected or threatened by an infringement of the LPC, and **3** - by judgements of the Supreme Administrative Court, whereby the files were returned to the Commission for a new issuance thereof.

3.2. Decisions and rulings

19. In 2016 the Commission issued a total of **17 decisions** on the application of Art. 21 of LPC and/or Art. 102 of the Treaty on the Functioning of the European Union (TFEU) and **7 rulings** for statements of objections for an infringement of Art. 21 of the LPC were made.

Figure 2. Proceedings and acts under Chapter Four of LPC 2012-2016



20. In 2016 the number of initiated proceedings has increased compared to the previous year. The CPC continued to focus its attention mainly on markets where there is a single provider for a certain service that has the only possible infrastructure in a given territory and whose actions are most likely to affect the interests of consumers of those services. The number of decisions issued kept the trend of the previous year as a result of

² In one of the cases the proceedings were also initiated under Art. 15 of LPC, and, therefore, in this report the same is included in the total number of proceedings initiated under Chapter Three of LPC.

the fact that the Commission carried out in-depth investigations to fully and comprehensively clarify the circumstances underlying the investigations.

21. In 2016 by **2 decisions** on the grounds of Art. 77, para. 1, item 1, item 2 and item 4, in conjunction with Art. 60, para. 1, item 2, item 3 and item 12 of the LPC, the Commission found infringements under Chapter Four of the LPC.

4. Sector Inquiries

22. In 2016 by **3 decisions**, on the grounds of Art. 91, para. 5 in conjunction with Art. 60, para. 1, item 21 of the LPC, the Commission adopted sector inquiries of the competitive environment on the markets for the production and sale of petrol and diesel fuel in the Republic of Bulgaria; on the insurance market in the Republic of Bulgaria, and on the retail drug market in the Republic of Bulgaria for drugs included in the Positive Drug List intended for home treatment and paid in full or in part by the National Health Insurance Fund.

23. In relation to the sector inquiries made, the Commission informed the competent public authorities of the need to take appropriate measures to improve the competitive environment in the sectors concerned.

24. As a result of the investigations, the Commission initiated proceedings for establishment of infringements under Art. 15 LPC and Art. 101 TFEU as well as under Art. 21 LPC and Art. 102 TFEU.

25. By Decision No. 682 of 1 September 2016 the CPC completed a sector inquiry of the insurance market, in which clauses were established which indirectly restricted agents from making discounts of their own commission in favour of the users of insurance services. The ability of agents to make a discount of the cost of insurance at the expense of their fees is an essential element of competition between them and the factual prohibition restricting the pricing policy of agents may lead to resale price maintenance and consequently to distortion of effective competition. The sector inquiry led to the initiation of proceedings having as their scope the vertical restraints by insurance companies.

5. Control on concentrations between undertakings

5.1. Proceedings

26. In 2016 a total of **41** proceedings were initiated with the Commission, on the grounds of Art. 38, para. 1, item 6 – further to received notifications for authorization of concentration between undertakings under Art. 22, para. 1 of the LPC.

5.2. Decisions and rulings

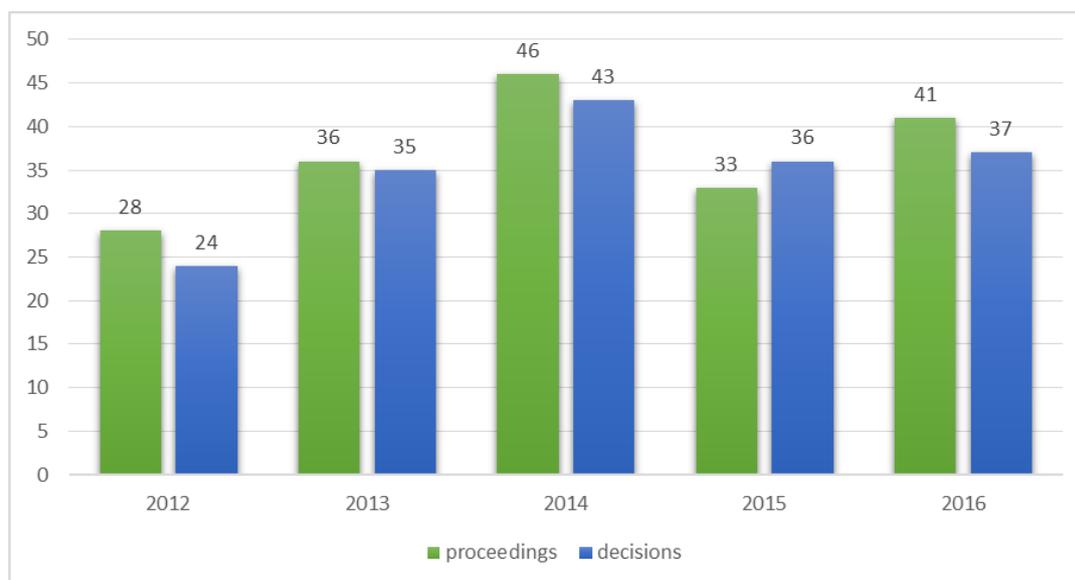
27. In 2016 the Commission issued a total of **37** decisions under Chapter Five of the LPC, **3** of which were under proceedings initiated at the end of 2015. Of which:

- the Commission authorised the concentration between undertakings - **25** decisions;
- the Commission stated that the transaction was not a concentration - **6** decisions;

- the Commission stated that the transaction did not fall under the prior notification obligation - **5** decisions;
- the Commission initiated an in-depth investigation under Art. 83 of the LPC - **1** decision.

28. The Commission made an assessment of the concentrations by applying the dominance test. The investigations made in the course of the initiated proceedings of the notified transactions did not establish the possibility of any significant effect on competition in the relevant market by creating or increasing the market power of the merging undertakings.

Figure 3. Proceedings and decisions under Chapter Five of LPC 2012-2016



29. As can be seen from the chart, in 2016 the number of proceedings initiated in the field of concentrations increased compared to the previous year and approached the 2014 levels. The number of decisions issued during the reporting year is comparable to that of the previous three years.

5.3. Economic sectors where concentrations on the national market took place in 2016³

30. The Commission has assessed and issued decisions to authorize concentrations between undertakings in different economic sectors: the financial sector (5 decisions); real estate rentals (3 decisions); construction (2 decisions); trade in white and black goods (3 decisions); one concentration in: healthcare; IT services; facility management services; production and sale of glass containers; RFID components; production and trading of metals; gambling; cosmetics; energy; plant protection preparations; transport; chemical industry.

³ Includes only the decisions authorising a concentration (25 in total).

5.4. Consultations conducted

31. In pursuance of the priority given to increase the effectiveness of the control on concentrations between undertakings, the Commission held a series of pre-notification meetings with companies planning to carry out a concentration within the meaning of Chapter Five of the LPC. The meetings were organised both on the initiative of the participants in the concentration and on the initiative of the CPC. Each submitted notification was subject to *ex-ante* control in order to eliminate the irregularities related to the lack of information and data under Art. 79, para. 1 of the LPC. The advisory process was particularly strengthened in the second half of the 2016 reporting year, during which time there were almost no proceedings initiated without drawing up a letter based on Art. 38, para. 2 of LPC to the notifier to provide the missing information. In each letter on the *ex-ante* control level, the CPC invited the notifier to hold a meeting explaining and discussing the issues concerning the control, the legal form and the relevant markets affected by the transaction. The CPC recognizes the usefulness of these meetings, especially in cases where the transaction is also subject to notification to other national competition authorities. In such transactions, it is particularly important to discuss issues related to the notification period, namely where and when the transaction in question will be notified, the information needed to assess the affected markets in the country and other important aspects. All these actions are indispensable to enable national competition authorities, in certain cases, to co-operate effectively in order to avoid conflicting decisions. Except within the pre-notification contacts and in the process of accelerated investigation, particularly in cases of receiving negative comments from interested third parties, the CPC requires that merging parties provide justification and arguments concerning the reasons for the expressed concerns about the effect on competition in the relevant market and if there is sufficient evidence of distortion of competition to exercise their right under Art. 81, para. 4 of LPC.

5.5. Example from the practice

32. **By Decision No. 333/18 May 2016**, the CPC authorised the Acibadem Sağlık Hizmetleri Ticaret AS, Turkey to acquire indirect sole control over Tokushukai-Sofia EOOD and City Hospitals and Clinics AD. Acibadem is part of the IHH Healthcare Berhad group, which holds leading market positions in Singapore, Malaysia and Turkey. To date, neither Acibadem, nor the IHH Healthcare Berhad group have a market presence in Bulgaria. After acquiring ownership of the two Bulgarian undertakings Tokushukai and City Hospitals, the buyer will enter the Bulgarian market. To the extent that Tokushukai and City Hospitals provide healthcare services, the CPC defines two product-geographic markets where the transaction is expected to have an impact on: market for hospital care and market for outpatient medical care.

33. In its analysis, the CPC concludes that after the transaction the united group will take, both at national and regional level, a leading market position based on the funds paid by the National Health Insurance Fund (NHIF) to medical institutions for the hospital medical care services provided thereby. For example, in case of a possible narrowing of the geographic boundaries of the hospital aid market reducing it to the territory of the City of Sofia, where there is a real overlap between Tokushukai and City Hospitals, the aggregate market share of the united group will be [10-20]%. For the 2014/2015 period, the leader on the regional market in Sofia was the Multi-profile Hospital for Active Treatment and Emergency Medicine (MBALSM) N I. Pirogov EAD with a share of approximately [10-20]%, followed directly by Tokuda Hospital Sofia AD

(with a share of approximately [5-10]%). The other larger hospitals have close market shares in the range of [0-5]% to [5-10]%. The CPC considers that the market share is only an initial indicator which in itself is not sufficient to lead to the establishment or strengthening of a dominant position. In this regard, the CPC examines the characteristics of the market and the way in which it operates. In this case, the market is highly fragmented at both national and regional levels. In addition to the high level of market fragmentation, the Commission recognizes as a major factor the fact that hospital care is subject to state regulation, including in relation to the prices of medical services. However, irrespective of their ultimate owner, hospitals have one major source of funding - the NHIF. Therefore, in the market analysis carried out, the Commission concludes that there is no real price competition between market participants in hospital care and they compete mainly with the quality of the services they offer. Barriers to entry into the hospital medical care market also do not imply limiting access for new entrants, despite the statutory and regulatory requirements for launching such an activity. The Commission also recognizes that, in view of the applicable legislation, patients from one geographical area of the country are not limited to being treated in another, and this free choice of a treatment hospital is applicable throughout the country. Patient mobility is also not hindered by the reimbursement of healthcare, which is covered by the Health Insurance Fund for the entire territory of the country. This is an additional argument that the participants in the transaction cannot be independent in their market behaviour after their unification under the control of Acibadem.

34. Concerning the market for provision of outpatient medical care services, the CPC also concludes that the planned concentration cannot harm competition at national or regional level. Insofar as NHIF funding for outpatient medical care is less important, there is price competition, which, along with the large number of market participants and overcoming barriers to entry, suggests that Tokushkai and City Hospitals could not be independent of their competitors and patients after their consolidation. As a result of all circumstances and arguments presented, and given all market factors assessed in their aggregate, the Commission unconditionally authorised the planned concentration. The decision has come into force.

6. Unfair competition

6.1. Proceedings

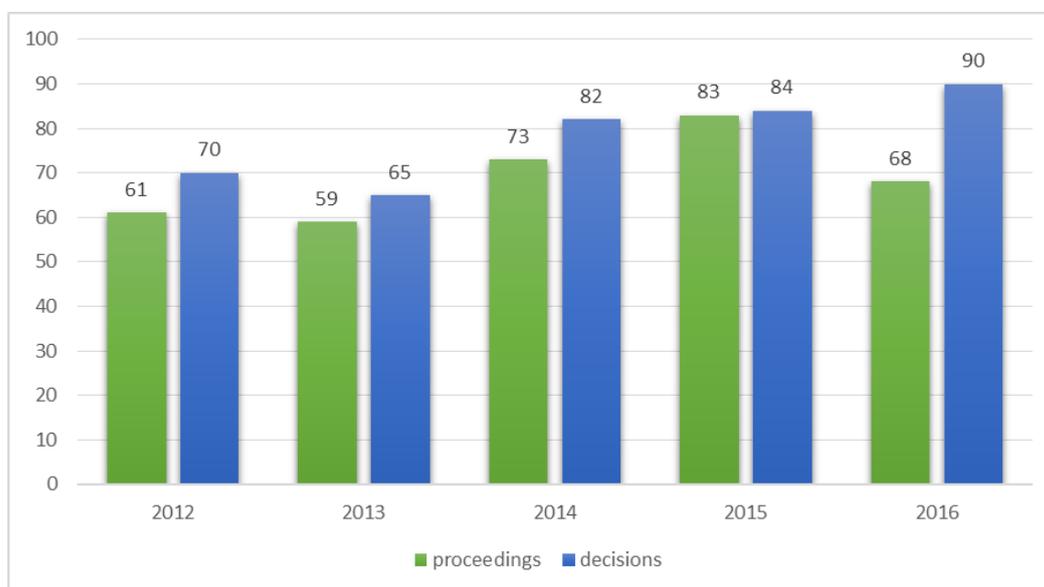
35. In 2016, a total of **68 proceedings** were initiated with the Commission to establish the existence or absence of infringements under Chapter Seven *Unfair Competition* (60 proceedings) and Chapter Seven "a" *Abuse of Stronger Bargaining Position* (8 proceedings) of LPC. **60** of them were initiated **at the request of persons** whose interests were affected or threatened by an infringement of the LPC, **6 - on the grounds of Art. 38, para. 1, item 1 of the LPC (on own initiative)** based on signals received from citizens and as a result of own market observations; and **2** - in connection with case files returned by SAC for a new issuance.

6.2. Decisions

36. During the same period, the Commission issued a total of **90⁴ decisions** regarding the implementation of Chapter Seven and Chapter Seven “a” of the LPC.

37. By 35 of the decisions issued, the Commission established a total of 58 committed infringements under Chapter Seven and Chapter Seven “a” of the LPC by the defendant companies, with 2 of them also establishing infringements of natural persons for assisting undertakings in infringements of the LPC, by 4 decisions the Commission imposed a pecuniary sanction and/or a fine for failure to fulfil the obligation to provide full, accurate and reliable information in a timely manner, and by 1 decision the CPC established failure to implement a Commission’s decision and imposed periodic pecuniary sanction.

Figure 4. Proceedings and decisions under Chapter Seven and Chapter Seven “a” of LPC 2012-2016



38. **For the period from 1 January 2016 to 31 December 2016** the number of issued decisions was slightly higher than in the previous four years.

6.3. Pecuniary sanctions and fines

39. By 40 decisions the Commission found infringements committed under Chapter Seven and Chapter Seven “a” of the LPC and to this end imposed pecuniary sanctions and/or fines in the total amount of **14 783 525.06 BGN**.

6.4. Practice

40. The most common infringements in the field of unfair competition established in 2016 were related to misconduct in conflict with the imitation prohibition under Art. 35 of the LPC, followed by misconduct in conflict with the general prohibition on unfair

⁴ One decision established 2 or more infringements.

competition under Art. 29 of the LPC and infringements of the prohibition on misleading advertising. In 2016 there were also a large number of decisions establishing infringements under Art. 31 of the LPC - misleading.

7. Competition advocacy

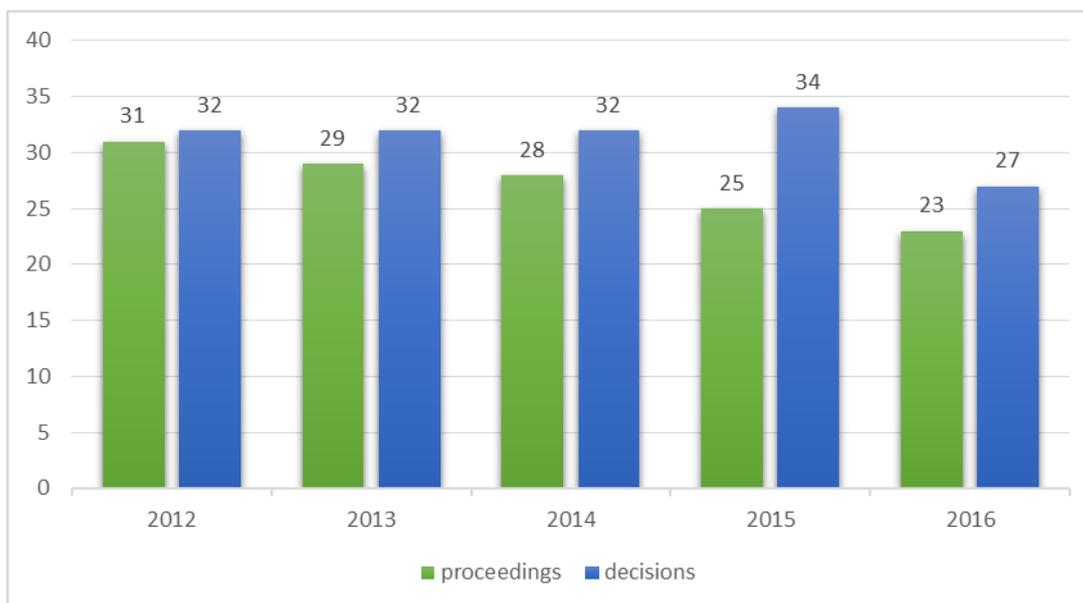
41. According to Art. 28 of the LPC in order to protect free enterprise and prevent restriction or distortion of competition, the CPC **assesses the compliance** of draft regulations or regulatory administrative acts and general administrative acts **with the provisions of LPC**; active regulations or regulatory administrative acts and general administrative acts; draft acts of associations of undertakings regulating the activities of their members.

7.1. Proceedings

42. A total of **23 proceedings** were initiated in 2016 where the CPC exercised its powers under Art. 28 of the LPC, as follows:

- **14** of the initiated proceedings were at the request of a state authority of which:
 - **12** for co-ordination of drafts of regulations, decisions, etc. with the LPC;
 - **2** for compliance with the competition rules of active regulations;
- **4** at the request of a legal entity claiming conflict of a draft or of an existing regulatory or administrative act with the rules set forth in LPC;
- **3** at the request of a legal entity claiming conflict of an administrative act or an internal act with the rules set forth in the LPC, which was terminated, as it did not fall within the scope of Art. 28 of the LPC.
- **2** on its own initiative.

Figure 5. Proceedings and decisions 2012-2016



43. In 2016 the number of initiated proceedings decreased slightly. The decrease in the number of requests to initiate proceedings in recent years may be due to the lack of an obligation for the other state authorities to make a preliminary assessment of the compliance with the competition rules using the “Guidelines for the assessment of compliance of regulatory and general administrative acts with competition rules” adopted by the CPC with Decision No. 1777/20 December 2011. The purpose of these Guidelines is to help state authorities, including executive and local government authorities, to identify possible anti-competitive effects while preparing a regulatory framework. The Guidelines provide criteria that can be easily assessed as to whether a draft regulation could lead to restriction of competition through a checklist for initial assessment of possible competition restrictions divided into four main groups in the form of questions. At the same time, the Guidelines could also serve as a reference point for those who consider their interests to be affected by any acts issued in conflict with the competition rules.

7.2. Decisions

44. In 2016 the Commission issued a total of **27 decisions** adopting opinions on drafts or active regulatory or administrative acts and establishing whether or not there was a conflict with the competition rules. **The CPC has made proposals for amendment to 18 draft general administrative acts and/or existing regulations**, as they create conditions for preventing, limiting or distorting competition.

8. Activity under the Public Procurement Act and the Concessions Act

8.1. Public Procurement Act

45. On 15 April 2016 the new Public Procurement Act came into effect transposing four EU Directives (Directive 2014/24/EC, Directive 2014/25/EC, Directive 2009/81/EC,

and Directive 2007/66/EC). In essence, there are no significant differences as to the types of acts, actions and omissions to be appealed and the terms and conditions of hearing appeals.

46. During the reporting period, **1 233 appeals under the PPA were submitted to the CPC, which are 319 more than the appeals filed in 2015.**

47. **The total number of proceedings initiated on case files was 825⁵, with 13 of them being initiated further to a judgement or a ruling** of the Supreme Administrative Court, which repealed an act of the CPC and the case file was returned for re-examination and issuance. In comparison 557 proceedings were initiated in 2015.

48. **An order was issued by the CPC's Chairperson on 401⁶ appeals, whereby proceedings were denied** on the grounds of Art. 121, para. 6 and para. 7 of the Public Procurement Act (repealed), and Art. 201, para. 1 of the PPA, depending on which of the two Acts was applicable at the time of the examination of the appeal.

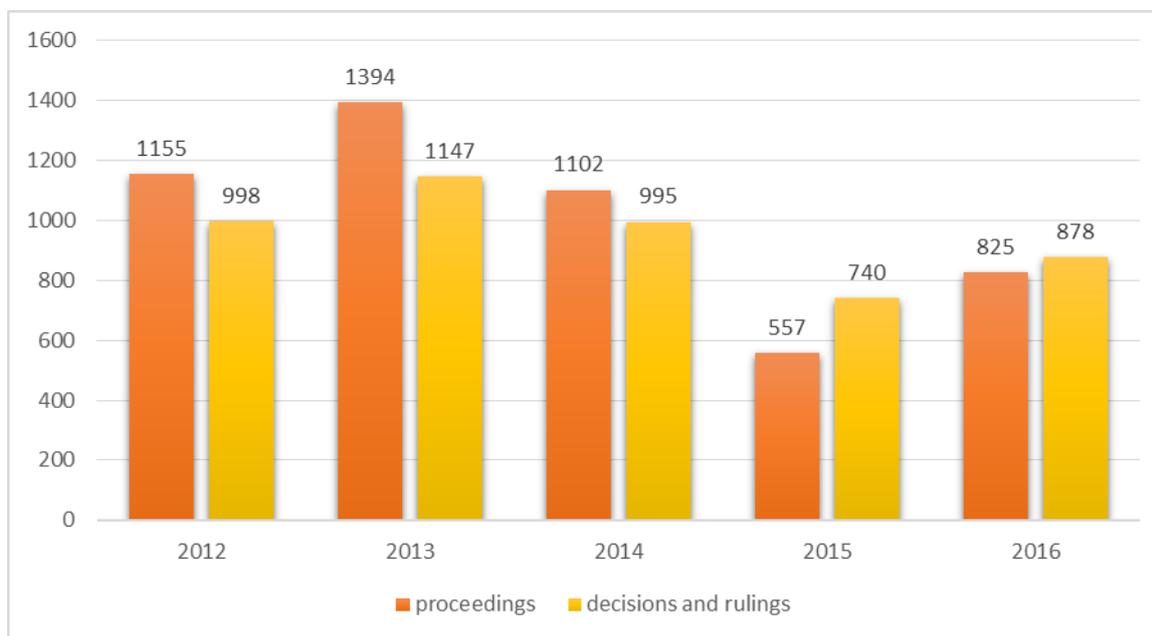
49. In 2016, the Commission issued a total of **878 acts (490 decisions and 388 rulings), which concluded proceedings initiated under the PPA.** It should be noted that in **104 cases** two or more proceedings on case files were merged due to the identity of the subject and for the purposes of procedural economy, and the CPC issued a joint decision or a ruling on them.

50. The decisions whereby the CPC dismissed an appeal were **293**; **52** decisions were issued by the CPC repealing as unlawful the decision to open a public contract award procedure; **139** were the decisions whereby the CPC cancelled the decision and returned the case file for the public contract award procedure to continue from the last lawful decision or action or for the procedure to be terminated. The CPC issued **1** decision declaring a decision of the contracting authority null and void.

51. Pursuant to the PPA the CPC has the power to impose **pecuniary sanctions on contracting authorities** for any breach of the provisions of the PPA established in the process of challenging the relevant matter before the CPC. For the period of 1 January 2016 to 31 December 2016, **5 decisions were issued under the Public Procurement Act imposing pecuniary sanctions in the total amount of 110 852.64 BGN.**

⁵ The number of proceedings initiated does not coincide with the difference between the total number of appeals and those that have been the subject of a denial injunction, as part of the proceedings were initiated on appeals lodged in 2015, and on part of the appeals lodged in the last days of 2016 proceedings were initiated in 2017.

⁶ Orders of the CPC Chairperson issued in 2016, but on appeals lodged at the end of 2015, are also included.

Figure 6. Proceedings and acts 2012-2016

52. After the sharp decrease in the number of appeals lodged to and, accordingly, of proceedings initiated with and acts issued by CPC under the PPA, in 2016, especially in the second half of the year, there was an increase in both the number of initiated proceedings and the number of decisions and rulings issued by the Commission. The reason for that increase is the revocation of the Tariff for the fees collected under Chapter Eleven of PPA by the CPC and SAC (adopted by Decree of the Council of Ministers No. 196/10 July 2014, promulgated in the SG, No. 58/2014, repealed in the SG, No. 21/2016), which provided for the state appeal fee to be determined as a percentage of the price of the public contract or lot being appealed. The new amount of the fees, which cannot be less than 850 BGN and higher than 4 500 BGN, is significantly lower than the amount established in the previous tariff and thus facilitates the access of interested parties to appeal.

53. The most frequently appealed instrument issued by a contracting authority in public contract award procedures was the decision on the ranking of the participants/tenderers and on the selection of a contractor. In the second half of the year, and in connection with the new PPA, a trend in increasing the number of appeals lodged against decisions on the opening of public contract award procedures was observed.

54. Most often the claims stated in the appeals and subsequently established by the CPC are related to the contracting authorities' discriminatory participation conditions and conditions in breach of the principle of proportionality, unlawful removal of tenderers and ranking of participants, incorrect application of the assessment methods or unsubstantiating the decision on the ranking of the participants and selection of a contractor.

8.2. Concessions Act

55. According to Art. 83, para. 1 of the Concessions Act (CA), any decision of the authorities under this Act, as well as the decisions of the Commission on the conducting

of the procedure under Art. 48, para. 1, items 2 and 3 are subject to appeal to CPC regarding their legality, including regarding the existence of any discriminatory requirements as to the selection criteria or any other discriminatory technical, economic or financial conditions in the notice, participation documentation or in any other document related to the concession award procedure. The Black Sea Coast Spatial Development Act provides for an opportunity to appeal the decision of the Council of Ministers to initiate a concession award procedure for a seaside beach under Art. 8e and the decision on the selected winner of the competition under Art. 8n, para. 2. Appeals are lodged as provided for by the Concessions Act.

56. During the reporting period CPC received **7 appeals**; on **4 of them proceedings were initiated and on 3 of them proceedings were denied to be initiated under Art. 85, para.6 of CA.**

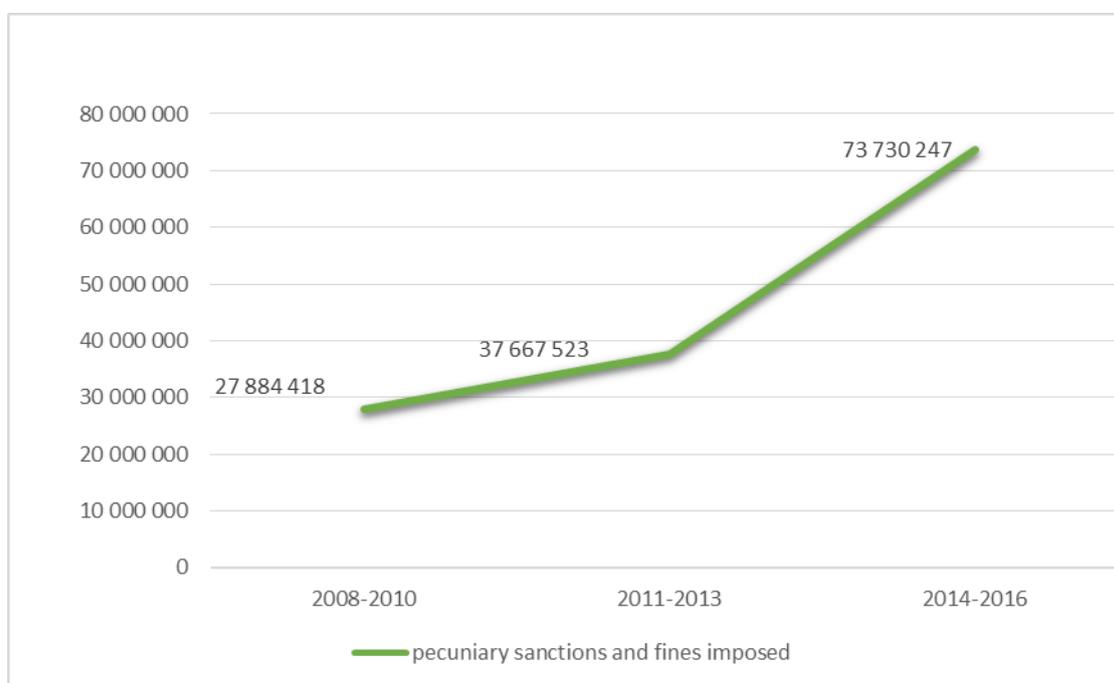
57. The total number of initiated proceedings was 5 (one of the proceedings was initiated after the case file was returned by the Supreme Administrative Court).

58. **During the reporting period CPC issued 4 decisions on the merits** (3 decisions were issue on proceedings initiated in 2015 and 1 on proceedings initiated in 2016).

9. Fines and pecuniary sanctions under LPC and PPA

59. In 2016 for infringements under PPA and LPC, as well as for any failure to submit, whether fully or partially, any information, the Commission imposed pecuniary sanctions and fines in the total amount of **14 955 477.70 BGN.**

Figure 7. Pecuniary sanctions and fines imposed (BGN)



60. As can be seen from the chart, there is a serious increase of over 36 million BGN or 96% in the amount of the imposed pecuniary sanctions and fines for infringements

committed in the 2014-2016 period compared to the 2011-2013 period, and of over 45 million BGN or 164% compared to the 2008-2010 period.

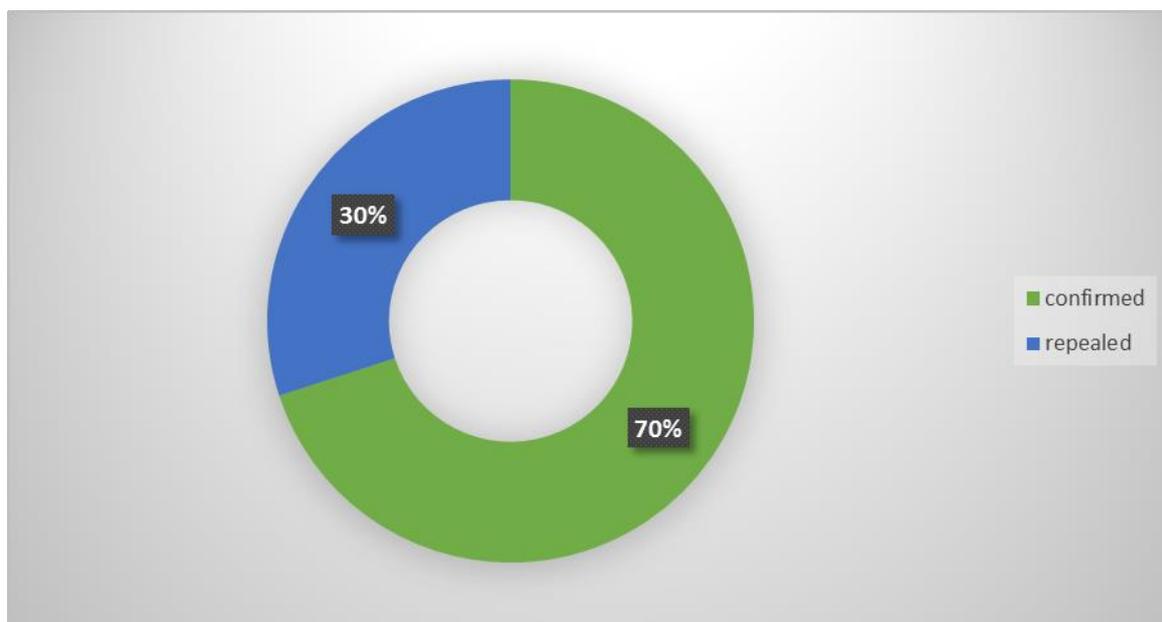
10. Commission's procedural representations activities at the Supreme Administrative Court

61. In **2016** a total of **77 appeals** were filed with the Supreme Administrative Court (SAC) against decisions and rulings issued by the Commission on Protection of Competition under the LPC.

62. In **2016** the Supreme Administrative Court issued **115** judicial acts on appeals against decisions and rulings issued by the Commission under the Law on Protection of Competition, and by **39** final judgements or rulings the SAC ruled as follows:

- **17** Commission's acts were left in full force and effect;
- **4** Commission's acts were partially left in force and effect;
- **9** Commission's acts were repealed;
- **6** Commission's acts were returned for re-examination by the Commission;
- **3** Commission's acts were returned for re-examination by three-member panels of SAC.

Figure 8. Judicial Control



11. European affairs

11.1. Participation in the European Competition Network

63. Bulgaria's full membership in the European Union (EU) requires of CPC to actively participate in the enforcement of EU competition rules in co-operation with the European Commission (EC) and the national competition authorities (NCAs) of the EU

Member States. Co-operation takes place mainly within the framework of the European Competition Network (ECN).

64. In 2016 CPC participated in a meeting of the Chairpersons of the competition authorities of ECN as well as in 11 meetings of horizontal working groups and sectoral subgroups (specialised by sectors of the economy) at ECN, exchanging ideas and experience on issues of interest to members of the network. The CPC also took part in the European Competition Day in Bratislava in November organised under the Slovak Presidency of the EU.

11.2. Participation in the organization of the European Competition Authorities

65. In 2016 CPC was involved in the activities of the other main European co-operation forum – the organization of the **European Competition Authorities** (ECA). A representative of the CPC participated in the annual meeting of the organization held in March 2016 in Leuven, Belgium.

11.3. Co-ordination on EU issues

66. In 2016 CPC, acting as the leading authority of Working Group No. 5 “Competition” of the Council on European Affairs, continued to fulfil its obligations under Decree No. 85 of 17 April 2007 on the Organization and Co-ordination of European Affairs. In order to implement measure No. 46 of the 2015 Action Plan with the measures stemming from Bulgaria’s EU membership, the Commission prepared a draft Law on Amendment and Supplement to the Law on Protection of Competition introducing the requirements of Directive 2014/104/EU 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. In November 2016 the draft was submitted for consideration by the National Assembly of the Republic of Bulgaria.

12. International co-operation

12.1. Participation in the International Competition Network

67. As a member of the International Competition Network (ICN) in 2016 the CPC continued its active participation in the Network’s working groups. The ICN addresses issues in the field of competition law and policy. The aim is to deepen the interaction between competition authorities and to achieve approximation of legislation and law enforcement. In April 2016 the CPC took part in the Annual ICN Conference in Singapore.

12.2. Co-operation in the Organization for Economic Co-operation and Development

68. In 2016 the CPC continued its active participation in the work of the Competition Committee and its working groups of the Organization for Economic Co-operation and Development (OECD). The Commission received observer status in these bodies in 2009.

69. CPC representatives participated in both annual OECD Competition Committee sessions as well as in the annual Global Competition Forum. For these meetings, the

Commission prepared and presented *3 reports on competition law and policy issues*, namely “Independence of Competition Authorities”, “Sanctions”, and “Disruptive Innovations”.

70. CPC experts also participated actively in the seminars of the OECD Regional Competition Centre in Budapest on the following topics: “Basic concepts of competition law” and “Competition and financial rules”.

12.3. Partnership with the United Nations Conference on Trade and Development

71. The CPC participated in the 15th meeting of the Intergovernmental Group of Experts on Competition Law and Policy organised by the United Nations Conference on Trade and Development (UNCTAD) in Geneva, Switzerland, on 19-21 October 2016.

12.4. Sofia Competition Forum

72. The Sofia Competition Forum (SCF) is a joint initiative of the Commission on Protection of Competition and the United Nations Conference on Trade and Development. The SCF, established in 2012, aims to deepen the co-operation and regional relations of the Western Balkan countries (Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia) and Georgia, assisting the countries of the region in adopting and enforcing legislation in the field of competition and, as a result, to increase the benefits for these countries of well-functioning markets.

73. Two seminars were organised within the project in 2016 to increase the knowledge of the competition authorities of the beneficiaries.

12.4.1. Eighth SCF Meeting, 10 June 2016

74. The seminar was opened by Mr Guillermo Valles, Director of International Trade in Goods and Services and Officer-in-charge of the Competition and Consumer Policies Branch at UNCTAD, as well as by Ms Maria Pavlova, Director of UN and Co-operation for Development at the Ministry of Foreign Affairs (MFA).

75. Representatives of UNCTAD, the Organization for Economic Co-operation and Development, DG Competition of the European Commission, the competition authorities of Austria, France, Germany, Italy, Japan, Portugal, Romania, Russia, Slovenia, Turkey and Ukraine, and project beneficiaries from the Western Balkans and Georgia took part in the seminar.

76. The keynote speech of the forum was delivered by the European Commissioner for competition, Ms Margrethe Vestager who outlined the main tools of competition law enforcement and the benefits of undertaking commitments, focusing on the electricity and gas markets.

77. The general topic of the event was “Remedies and commitments in competition cases” and during the morning plenary session, presentations were made by representatives of the competition authorities of Portugal, Italy, France, Germany, Japan, Russia and by the OECD.

78. During the second half of the seminar, the SCF beneficiaries (Albania, Bosnia and Herzegovina, Croatia, Georgia, Kosovo, Macedonia, Montenegro, Serbia) participated actively in presenting their experience and problems on the issues under discussion. The topics included in the agenda sparked a lively discussion where the project beneficiaries

had the opportunity to obtain knowledge from the invited speakers and to share the challenges they face in their own work in their home countries.

79. Within the SCF, the preliminary findings on the project on the “Comparative overview of SCF jurisdictions in the field of procedural fairness” were presented and there was a call for articles for the second issue of SCF Newsletter.

12.4.2. Ninth SCF Meeting, 11 November 2016

80. The Ninth Meeting of the Sofia Competition Forum was opened by Mr Juan Luis Crucelegui, Chief of Capacity Building and Advisory Services Section, UNCTAD Competition and Consumer Policies Branch, and Mr. Rumen Kamenov, Deputy Director of the UN and Co-operation for Development Directorate at MFA.

81. The seminar was attended by all SCF beneficiaries (Albania, Bosnia and Herzegovina, Croatia, Georgia, Kosovo, Macedonia, Montenegro, and Serbia), UNCTAD, OECD, the competition authorities of Italy, Russia, Japan, Turkey, Ukraine, the economic consulting companies Oxera and Compass Lexecon, and by Freshfields Bruckhaus Deringer law firm.

82. The general topic of the meeting was "Pricing abuses of dominance position in energy and telecommunications". Taking into account that cases of abuse of dominant position are common during the liberalization process in these sectors, this topic was interesting and useful to all SCF members. The topic was discussed at the morning plenary session, where representatives of the competition authorities of Italy, Russia and Japan, as well as a representative of the OECD Competition Division, shared their knowledge and experience. Recognising that the economic analysis was essential in cases of pricing abuse of dominant position, speakers from the leading economic consulting companies Oxera and Compass Lexecon took part in the meeting. A representative of the legal community, a lawyer from Freshfields Bruckhaus Deringer law firm, also shared his experience.

83. In the afternoon, the participants discussed the main topic of the meeting – pricing abuses of dominance in energy and telecommunications divided in two sessions according to the type of abuse – exclusionary and exploitative.

84. A report prepared by representatives of all SCF members on the project on “Comparative overview on procedural fairness” was presented and endorsed by all beneficiaries. This is the third overview in the SCF series of comparative studies following the general “Comparative overview of competition regimes” and the report on “Comparative overview on inspections on spot”.

85. At the end of the meeting the second issue of SCF Newsletter was presented.

13. Administrative capacity and financial activity

13.1. Human resources management

86. In 2016 the Commission on Protection of Competition underwent structural, organizational and personal changes. By decision of the 43rd National Assembly of 29 June 2016 (promulgated in SG No. 51 of 5 July 2016) a new Chairperson, Deputy Chairperson and Members of the Commission on Protection of Competition were elected. An amendment of the Commission’s Rules of Procedure (promulgated in State Gazette

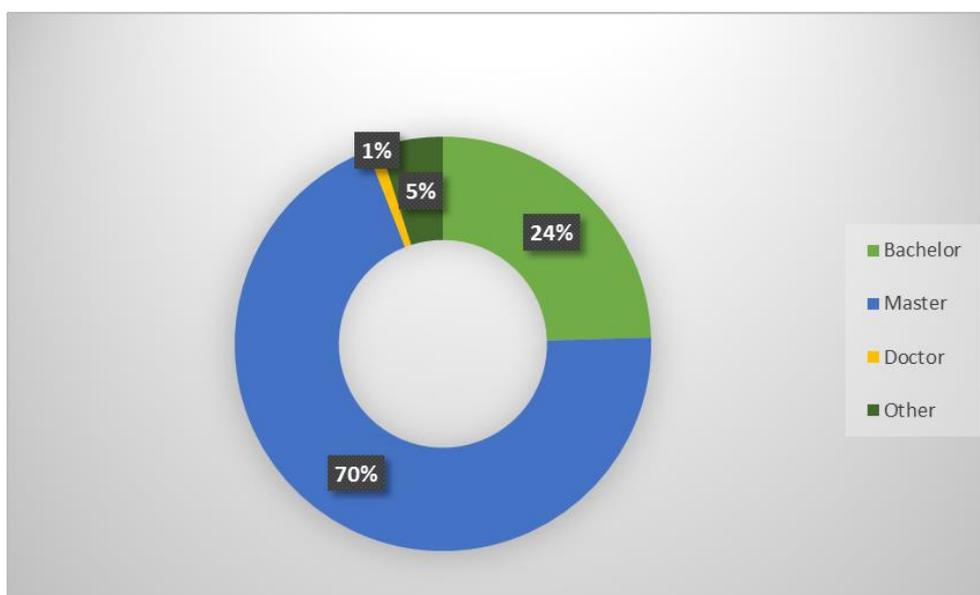
No. 59 of 29 July 2016) was adopted, which changed the obligations of certain structural units. New units in the specialised and general administration were set up by orders of the Chairperson for a better and more effective implementation of the statutory policies and activities.

87. The organizational structure and the size of the administration are set out in the Commission's Rules of Procedure. The total number of positions – 117, include: Chairperson, Deputy Chairperson, five Members of the Commission, Chief Secretary, Information Security Officer, General Administration – 22 employees, and specialised administration – 86 employees.

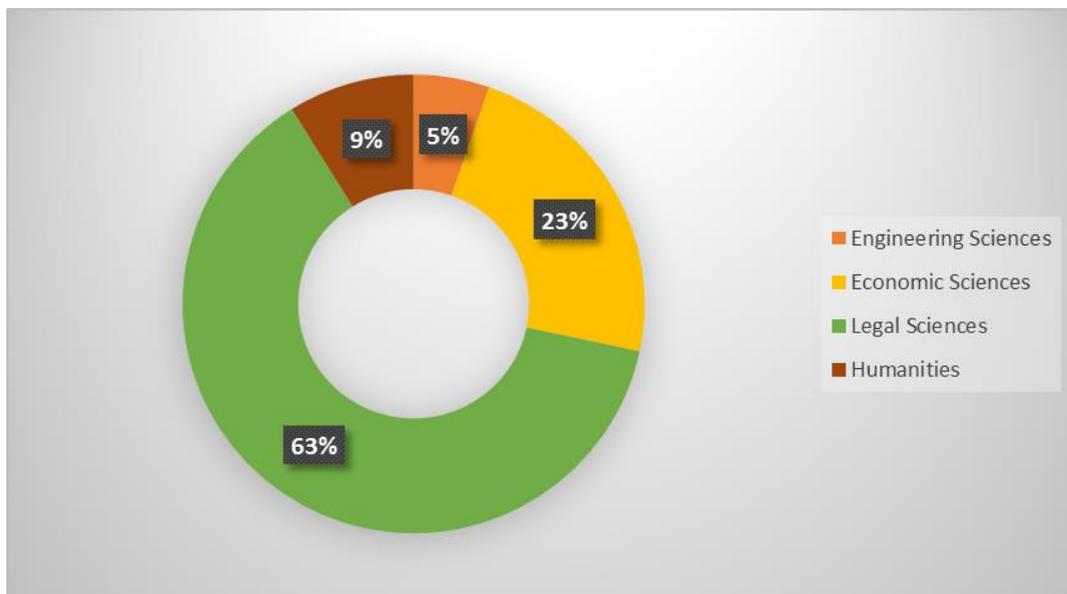
88. Highly qualified specialists work in the Commission, 95% of whom having a higher education degree and whose level of education meets CPC's objectives and tasks.

89. The division of employees by level of education is presented in the chart below:

Figure 9. Degree of Education



90. The division of employees by field of education is presented in the chart below:

Figure 10. Higher Education Fields

13.2. Financial activities

91. The Commission on Protection of Competition is an independent specialised state body on budget maintenance, a first-level administrator of budget credits.

92. The budget of the CPC was adopted with the Law for the State Budget of the Republic of Bulgaria for 2016 (promulgated in SG No. 96 of 9 December 2015) in the amount of 3 591 100 BGN (1 836 100 EUR⁷; 2 128 034 USD⁸).

93. As a result of adjustments, the budget expenses of the Commission on Protection of Competition in 2016 amount to 3 765 900 BGN (1 925 474 EUR; 2 231 618 USD).

⁷The exchange rate is fixed 1 EUR=1.95583 BGN

⁸The exchange rate for 6 November 2017 is 1 USD=1.68752 BGN