

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE****Annual Report on Competition Policy Developments in Slovenia****-- 2019 --****10-12 June 2019**

This report is submitted by Slovenia to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 10-12 June 2020.

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Slovenia

Background and Executive Summary

This annual report describes recent development in competition law and policy in Slovenia and summarizes the competition enforcement activities of the Slovenian Competition Protection Agency (hereinafter referred to as “CPA”) for the year 2019.

CPA is an authority with the powers of enforcing competition rules. It was established in 2013 by reorganization of the former Slovenian Competition Protection Office, which was a part of the Ministry of the Economy. The CPA is now organized as an independent administrative authority, which is responsible for the enforcement of antitrust, and merger control rules in Slovenia. If an anti-competitive practice also affects trade between EU member states, the CPA will apply articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU).

The long-term objective of the CPA is the promotion of effective competition in all sectors of national economy. This general objective is pursued primarily by decision-making activities and competition advocacy. In this respect, CPA has been dealing with 14 antitrust cases related to anticompetitive practices, including agreements and abuses of dominant positions. In 2019 CPA has issued 43 decisions; two issued decisions were related to anticompetitive agreements and concerted practices. Furthermore, in 2019, CPA dealt with several notified concentrations and issued 32 decisions.

Concerning the proposed or adopted changes to competition law and policies, further significant amendments to Slovenian antitrust and merger control proceedings are foreseen within the new version of Prevention of Restriction of Competition Act (Competition Act). The most important novelties being considered are: (i) the CPA will be allowed to impose a fine within the administrative antitrust proceeding and will no longer need to carry out a separate misdemeanor proceeding and (ii) simplified merger control proceeding will be available and concentrations with limited effect on the Slovenian market will no longer require a full notification in Slovenia.

CPA, in parallel with its legal competences, also performed activities aiming to raising competition culture of all market participants and therefore competition advocacy represents important role in the policy of the Agency. CPA has the objective of establishing closer ties with other public authorities as also representatives of Chamber of Commerce and Industry and various branch associations. In the framework of various consultations, the competences and areas of action of CPA were introduced, in order to better understand the scope of competition law and policy.

In the field of exchange of experiences at the international level, participation to several conferences and roundtables in EU competition authorities also enabled the staff of CPA to share and exchange experience in competition field.

Concerning the authority’s annual budget over the past few years, analysis shows that budget is gradually increasing; considering also the number of FTEs, the lion's share of the budget is still used for labor costs, leaving less room for more demanding market analysis projects and international cooperation.

1. Changes to competition law and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

1. There were no amendments to the Slovenian competition law in 2019.

1.2. Other relevant measures, including new guidelines

2. There were no other measures or guidelines adopted in 2019.

1.3. Government proposals for new legislation

3. The competent Ministry of Economic Development and Technology is contemplating significant amendments to Slovenian antitrust and merger control proceedings within the new version of Prevention of Restriction of Competition Act (Competition Act). Some important novelties are being considered, alongside other changes, namely: (i) the CPA will be allowed to impose a fine within the administrative antitrust proceeding and will no longer need to carry out a separate misdemeanor proceeding and (ii) simplified merger control proceeding will be available and concentrations with limited effect on the Slovenian market will no longer require a full notification in Slovenia.

4. Slovenia is one of the few EU member states, which legislated a two-phase proceeding for competition law infringements. The CPA must first establish an infringement in an administrative proceeding and only impose a fine later in a misdemeanor proceeding. Both proceedings are subject to separate appeals in front of different appellate courts.

5. This division enables the legal entities involved to benefit from all criminal procedural law guarantees and discuss separately the lawfulness of the alleged anti-competitive conduct and imposed fine. Proceedings are thereby prolonged and, in most cases, a significant amount of time passes between the CPA's infringement and fining decisions.

6. The renewed competition law introduces a new so-called 'administrative sanctioning proceeding', which combines both phases, while at the same time will allow the implicated legal entities to benefit fully from all criminal procedural law guarantees.

7. Filing for merger control clearance in Slovenia takes time, regardless of the merger's effects, as the current wording of the Competition Act provides no simplified notification form. Undertakings must submit a full notification form, regardless of the merger's effects. The draft of the new Competition Act introduces a simplified merger control procedure for concentrations, which do not have or have a minimal impact on effective competition in the relevant markets.

8. For now, it is unclear when the proposed amendments will be placed in the National Assembly's legislative proceeding and when the draft amendment will come into effect.

2. Enforcement of competition laws and policies

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of activities of competition authority

Activities of competition authority in administrative proceedings

9. Slovenian Competition Protection Agency (CPA) is the sole authority responsible for the enforcement of competition rules. It is organized as an independent public body led by a director and a five-member council.
10. The rules in Competition act on substantive matters are modeled on EC competition rules and apply to all sectors and all undertakings.
11. In the field of anticompetitive agreements and concerted practices, the statutory provision dealing with anticompetitive agreements is article 6 of the Competition Act. Slovenian competition law prohibits anticompetitive agreements, decisions and concerted practices, which have as their object or effect the prevention, restriction or distortion of competition on the territory of the Republic of Slovenia. Such agreements are null and void.
12. Application of 'object' and 'effect' concepts is in line with the practice developed by the European Commission and the EU courts. Slovenian competition law covers horizontal as well as vertical restrictive agreements. Its main wording corresponds to article 101 TFEU and lists the same examples of restrictive practices as article 101 TFEU such as price fixing, fixing of production, sales quotas and market sharing.
13. Efficiency enhancing agreements fall outside the scope of article 6(1) of the Competition Act. Where in an individual case a restriction of competition within the meaning of article 6(1) of the Competition Act has been proven, article 6(3) can be invoked as a defense. Article 6(3) of the Competition Act provides similar four cumulative conditions as article 101(3) TFEU in order to satisfy the exemption. The burden of proof rests on the undertaking invoking the benefit of the exception rule.
14. In addition, according to Article 7 of the Competition Act certain types of agreements of minor importance are not prohibited (the de minimis exemption). The thresholds are 10% (for horizontal agreements and mixed horizontal-vertical agreements) and 15% (for vertical agreements) of the aggregate market share, in combination with other undertakings in the group, on any of the relevant markets on the territory of the Republic of Slovenia. If competition on a relevant market is restricted by the cumulative effects of parallel or similar agreements between other undertakings, the mentioned market share thresholds are lowered to 5%. However, the article defines certain anticompetitive agreements for which the de minimis exemption does not apply even though the thresholds were not exceeded. These are 'hard-core' practices such as price fixing, limiting of production or sales or market sharing in cases of horizontal agreements and fixing of retail prices or granting territorial protection in vertical agreement cases.
15. Article 9 of Competition act, modeled on article 102 TFEU, prohibits the abuse of a dominant position on the market by one or more undertakings in the territory of the Republic of Slovenia, or in a substantial part of it. Article 9(4) of the Competition Act also lists the same examples of infringements as article 102(2) TFEU.

16. Dominance is defined as the ability of an undertaking to act, to a significant degree, independently of competitors, clients or consumers. In addition there is a legal presumption that the undertaking is dominant if its share of the Slovenian market exceeds the 40 per cent threshold and that undertakings are jointly dominant if their share on the Slovenian market exceeds 60 per cent. Determining dominance is assessed with regard not only the market share, CPA takes into consideration also financing options, legal or actual entry barriers, access to suppliers or the market and existing or potential competition.

17. Similar to the EU competition law, the abuse of a dominant position as such is not defined by the Competition Act. The Competition Act generally prohibits the abuse of a dominant position and lists four typical examples of abusive behavior, which show that the concept of abuse covers exploitative as well as exclusionary practices. The list of forms of abuse in article 9 of the Competition Act is not exhaustive. Therefore, the CPA is not excluded from dealing with other types of abusive practices.

18. As regards administrative proceedings, In 2019 CPA handled 12 cases related to anticompetitive agreements and concerted practices, tackling primarily with cases that were remanded back from the Court to CPA for reconsideration. Over 2019, CPA issued two decisions related to anticompetitive agreements and concerted practices. The cases concerned a waste management cartel and a restrictive agreement and price fixing case in the pharmacy market (See detailed description in 2.1.2).

19. Moreover, there were still a few opened cases that the Administrative Court or the Supreme Court returned to the CPA for reconsideration and re-evaluation.

Activities of competition authority in minor offences proceedings

20. The CPA is empowered not only to establish the infringement of the competition rules, but also to impose fines. In line with the existing Slovenian regulations, the CPA conducts two types of procedures: (i) an administrative procedure in which infringements of the Competition Act and articles 101 or 102 of TFEU are assessed and brought to an end and (ii) a minor offence procedure where fines are levied. For the minor offences procedure the provisions of the Minor Offences Act also apply. It is worth noting that Slovenia has a dual proceeding system. In the first phase, CPA establishes the infringement in the administrative procedure and only after this decision is final, CPA can initiate the second, a minor offence procedure and set the fine. For several years, CPA is seeking to amend the current legislation and consequently optimize the proceedings.

21. The CPA has powers to impose fines of up to 10 per cent of the infringing companies' worldwide turnover in minor offences proceedings. When setting a fine, the CPA takes into account the general provisions of the Minor Offences Act and, thus, all circumstances that may reduce or increase the sanction (mitigating and aggravating circumstances).

22. In the case of a breach of articles 6 or 9 of the Competition Act or articles 101 or 102 TFEU, CPA can impose a minor offence fine on a legal entity, entrepreneur or an individual who performs economic activity of up to 10 per cent of the annual turnover of the undertaking in the preceding business year. A fine of between €5,000 and €30,000 can also be imposed on the responsible person of a legal entity or the responsible person of an entrepreneur.

23. In 2019, CPA imposed the following fines in minor offence proceedings:

The infringer	Type of infringement	Fines imposed (in EUR)		Total amount of fines imposed (in EUR)
		Legal persons	Responsible persons	
UML - United Media Ltd.	Late notification of a concentration	3.700.000	6.500	3.712.500
AGROKOR d.d.	Failure to notify a concentration	53.900.000 EUR	5.000	53.905.000
UHY storitve	Late notification of a concentration	1.590	5.000	6.590
SKUPAJ		57.601.590	22.500	57.624.090

Summary of activities of Courts

24. Under the present Competition Act, there is no appeal in the administration procedure against the decisions and orders issued by the CPA. However, the parties and other participants to the procedure can file a lawsuit against the CPA's decisions (and orders) with the Administrative Court of the Republic of Slovenia and the revision against the judgment to the Supreme Court. A request for judicial protection has to be filed within 30 days from the issue of the decision or the order.

25. Pursuant to currently valid legislation, if the CPA determines that fines should be imposed to parties subject to a final decision in the administrative procedure, it can do so in a separate minor offence procedure. The parties can then file a case in the District Court of Ljubljana, seeking to have the fine overturned or reduced with the possibility of an appeal to the High Court and file extraordinary legal remedies with the Supreme Court.

26. In 2019, within the court review, the Administrative Court of the Republic of Slovenia decided on four cases, in which the legality of acts issued by the CPA was examined; the cases referred to the administrative procedure. Within the decisions, in all four judgments the Court upheld the application and remanded the cases back to the Agency for reconsideration.

27. Within the court review in 2019, the courts also decided on one case in minor offence procedure related to fines. According to the judgement, the courts refused the application for judicial protection in respect of the decision relating to the imposed fines. In so doing, the decision of the CPA concerning the offence became final.

2.1.2. Description of significant cases, including those with international implications.

Commitments proposed to the Chamber of Pharmacies due to setting prices

28. On 26 July 2019, CPA has adopted a decision that renders legally binding the commitments proposed by the CPA to the Slovenian Chamber of Pharmacy (hereinafter: Pharmacy Chamber). The acceptance of the commitments removed the situation, giving rise to the likelihood of an infringement of Article 6 of Slovenian competition law (decisions of an association of undertakings, which have as their object or effect to prevent, impede or distort competition in the territory of the Republic of Slovenia) by setting prices or other commercial terms on the market.

29. The CPA established that the Pharmacy Chamber, through adopted regulations, is said to have set prices for pharmaceutical services by preventing providers of pharmacy services activities to decide independently on the pricing of pharmacy services and

elements of final prices. The CPA concluded that the behavior of operators has an effect on the relevant market and that it gives rise to a number of negative consequences for consumers in terms of the same prices.

30. By accepting the commitments valid for a period of 6 years, the Pharmacy Chamber has undertaken to revoke all decisions of the board of directors of the Pharmacy Chamber concerning: (i) definition of the maximum level of points for the retail supply of prescription medicines in pharmacies and (ii) definition of the proportions of the value of a service from a point (so called norms for the valuation of pharmacy services or point norms) for the retail supply of prescription medicines for human use in pharmacies.

31. The Pharmacy Chamber has been further committed to the adoption of a new Act (Regulation) setting out how to establish the pricing of pharmaceutical services for the dispensing of medicinal products for human use. The Regulation shall contain a provision that will clearly and explicitly indicate that the prices of medicinal products are set freely without providing for any sanctions for providers of pharmacy services who do not comply with the provisions of the Regulation. In that context, the Pharmacy Chamber has undertaken to establish, in a compendium, the manner in which prices for pharmaceutical services are established for the issue of medicinal products to be issued only in the absence of a prescription.

32. The Pharmacy Chamber has also undertaken to organize, for all providers of pharmacy services, a free training on competition law rules, covering the general presentation of competition law, the specificity of pharmacy services and the presentation of the procedure leading to the acceptance of these commitments, as well as the relevant practices of the CPA. The Pharmacy Chamber shall report the CPA about the training courses and enable the CPA's representative to attend courses at any time, at the time of the commitments.

Waste management cartel

33. On 29 December 2019, CPA has concluded with the assessment of the cartel in the procedure initiated against four undertakings: Surovina, Dinos), Salomon and Recikel. Within the procedure, CPA found that all four undertakings have agreed to eliminate their local competitor Interseroh from the waste packaging management systems market in Slovenia, and to divide its market share amongst them.

34. The undertakings Salomon, Surovina and Dinos operate on the market of waste packaging service providers (e.g. collection, separation, transport, recovery and disposal of packaging waste). The undertakings Recikel, Surovina, Dinos and the affected competitor are operating in the market for the organization of packaging waste management systems in the Republic of Slovenia (the DROE market). The markets are interconnected as undertakings from the DROE market order services from undertakings operating in the market of waste packaging service providers.

35. Evidence showed that the parties to the procedure agreed that the undertakings Salomon, Surovina and Dinos would cease to perform services of handling non-urban waste packaging in Slovenia for Interseroh, in order to drive the competitor out of the market in the organization of waste packaging management systems, thereby seeking to remove the latter from the DROE market. The affected competitor demands these services largely from the undertakings Salomon, Surovina and Dinos.

36. The aim of the said cartel agreement was mainly to disable the affected competitor to provide the services of organizing packaging waste management systems due to a significant increase in its costs. Consequently, its customers on the DROE market would therefore switch to other companies engaged in the same services, in particular to Recikel, Surovina and Dinos. The parties to the procedure also agreed that Recikel, Surovina and Dinos would share the customers of the affected competitor in the DROE market amongst them and, to this end, exchanged the lists of customers of the affected competitor.

37. All of the above constitutes a prohibited agreement, which has as its object the prevention, restriction or distortion of competition in the territory of the Republic of Slovenia and in a significant part of the EU internal market, which could affect the trade between Member States. Such conduct violates the first paragraph of Article 6 of the Slovenian Competition Act and the first paragraph of Article 101 of the TFEU.

38. During the procedure, the CPA received a leniency application from one of the parties to the procedure. The applicant then cooperated with CPA in the procedure by disclosing the participation in the agreement under consideration and providing it with additional evidence proving the infringement in question.

39. The decision is not yet final since parties to the procedure have the right to judicial review before Administrative Court of the Republic of Slovenia. The fines will be set in a separate minor offence procedure.

2.2. Mergers and acquisitions

40. The authority over merger review is solely within the CPA. As a rule, mergers are reviewed solely on competition principles.

41. Merger control is regulated by the Prevention of the Restriction of Competition Act (Competition Act), which implemented Council Regulation (EC) No. 139/2004 (EC merger Regulation).

42. The concept of concentration, as provided in article 10 of the Competition Act, shows that a concentration is 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; the acquisition 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.

43. A concentration must be notified if (i) the combined aggregate annual turnover of all the companies concerned, including the affiliated companies, exceeded €35 million before tax in the Slovenian market in the preceding financial year; and (ii) the annual turnover of the target, including the affiliated companies, exceeded €1 million before tax in the Slovenian market in the preceding financial year; or (iii) in cases of joint ventures, the annual turnover of at least two companies concerned, including affiliated companies, exceeded €1 million before tax in the Slovenian market in the preceding financial year.

44. Regardless of the matched thresholds, the concentration does not need to be notified if it is subject to review of the EC Commission under the Regulation 139/2004/EC.

45. In 2019, CPA dealt with 39 notified concentrations and issued 32 decisions, all of them dealing with concentrations on the national level, which had no international implications. Apart from 26 approved concentrations, one concentration was cleared with

conditions and five cases were not subject to competition law¹. In 2019, there is particularly one decision of note, a concentration cleared with corrective measures (*Concentration - acquisition of joint control of several undertakings on the market of generation and wholesale trading of electricity*).

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws

Decisions on Concentrations	2012	2013	2014	2015	2016	2017	2018	2019
Cleared	17	18	22	15	28	22	26	26
Cleared with conditions	-	-	-	4	-	-	1	1
Prohibited	-	1	-	-	-	-	1	-
Prohibition on implementation	-	-	-	-	-	-	-	-
Not falling within the scope of Competition Act	12	1	6	3	4	6	4	5
TOTAL	25	18	25	25	23	34	26	32

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

46. While the CPA's core activity focuses on making decisions related to infringements of the provisions of Competition Act, it is also important to develop and raise awareness of the competitive environment of the general public. Competition culture and an understanding of the public benefit of competition is the backbone of a market economy. To this end, the CPA shall also seek to raise awareness among the institutional and business environment and consumers that the positive effects of competition are properly informed.

47. From this perspective, competition advocacy is an important tool in the promotion of competition principles and market methods. Successful advocacy may contribute to a higher quality of regulation or to accelerate deregulation processes in situations where new market conditions do not lead to increased competitiveness of the companies.

48. The tools to be used by the Agency shall in particular be a regular communication to the public via publications on the website and through other media, the publication of annual reports on the Agency's activities and the organization of workshops, seminars and conferences devoted to competition protection. Competition awareness has a particularly important role to play in the legislative process.

49. In 2019 CPA has, in the framework of inter-ministerial coordination, actively followed government proposals for new legislation. In 2019, the Agency participated in the preparation of the new Competition Act. This participation was in particular in the preparation of substantive changes to the provisions, which refer to the urgent need to introduce a so-called 'single procedure', which would increase the efficiency of the Agency's operations.

¹ Every potential concentration has to be notified if the thresholds from Article 42 of Competition Act are met. After examination, CPA can issue various decisions, i.e. a proposed concentration can be cleared, cleared with conditions, prohibited or, in case both - economic and legal conditions are not met - CPA issues a decision that the concentration is not falling within the scope of Competition Act.

50. One of successful activities of CPA is also legal protection in public procurement procedures. In 2019, the CPA made several requests for proper protection in public procurement procedures as an advocate of public interest. A number of key elements are set out below.

51. Within the procedure for the award of a public contract for the servicing, maintenance and repair of official vehicles, the Financial Administration of the Republic of Slovenia (FURS), has published on the public procurement portal as the contracting authority a public contract for the servicing, maintenance and repair of company cars, trademarks of Citroën, Opel, Skoda, Renault and Volkswagen.

52. When examining the tender documents, the CPA concluded that FURS as the contracting authority, in the context of the selection criteria relating to the tenderer's commercial and technical capacity, placed the requirement that the economic operator involved in the performance of the contract should be an authorized repairer for individual vehicles.

53. CPA issued an opinion that FURS as the contracting authority acted contrary to the public interest and infringed the principle of ensuring competition between tenderers and the principle of economy, efficiency and effectiveness. Consequently, in the procedure for the award of the public contract in question, the CPA submitted a request for a legal protection of the public interest in accordance with the relevant provisions of *Legal Protection in Public Procurement Procedures Act*.

54. The National Review Commission for Reviewing Public Procurement Award Procedures (DKOM) has fully upheld the CPA's audit request and decided to cancel the public procurement procedure in question in its entirety.

55. Within the procedure for the award of a public contract by Pošta Slovenije for "Maintenance of passenger cars and light-commercial vehicles for 4 years", similar conditions for participation have been set, i.e. requiring that maintenance work can only be carried out by authorized repairers. Again, CPA established that the tender documentation was in breach of the principle of ensuring competition between tenderers, as set in Article 5 of the Public Procurement Act. Consequently, Pošta Slovenije upheld the request for review and fully repealed the two procurement procedures.

56. Within the procurement procedure by the Chamber of Pharmacies of Slovenia for the award of a public contract "Supply of medicines for public pharmacy institutions for a period of 48 months", CPA established that tender specifications inter alia, divided the order into several lots, provided for regulated prices of medicines, limited the rebates and thus prevented tenderers from competing with the price.

57. Also in this case, CPA submitted a request for a legal protection of the public interest. DKOM upheld the CPA's audit request and annulled the public contract in question.

58. The competition culture activity of CPA encompasses various activities. In the field of exchange of experiences on the international level, CPA participated at various events. Participation to several conferences and roundtables in EU competition authorities also enabled the staff of CPA to share and exchange experience in competition field.

59. CPA has the objective of establishing closer ties with other public authorities as also representatives of Chamber of Commerce and Industry and various branch associations. In the framework of various consultations, the competences and areas of action of CPA were introduced, in order to better understand the scope of competition law and policy.

60. Among the priorities, the CPA will continue to prioritize the most serious infringements of restrictive agreements and abuse of a dominant position, paying particular attention to raising awareness among the public and market participants about competition policy, and will further strengthen awareness-raising activities on the opportunities offered by the leniency program. The CPA also intends to pursue the introduction of a single procedure, which remains to be one of the prime objectives.

4. Resources of the Slovenian Competition Protection Agency

4.1. Resources overall (current numbers and change over previous year):

4.1.1. Annual budget of Slovenian Competition Protection Agency in 2019

		Change over previous year
Approved budget in EUR	1.529.843	151.862
Approved budget in USD*	1.718.626	140.838

Note: *exchange rate Bank of Slovenia – ECB reference rates from 31 December 2019

Resources of CPA- detailed analysis

61. According to the provisions of Article 13a of the competition act, the Government shall grant approval regarding the Agency's program of work and the financial plan for the next year. If the Government does not grant approval by 15 December, the financial plan for the previous year shall apply pending approval.

62. In the first step, the CPA's annual budget is negotiated with the competent ministry as part of the CPA's working programme. When approved, the annual budget can in principle be publicly available.

63. CPA does not generate its own income and depends totally on the budgetary resources. According to the existing legislation, the fees or fines imposed on undertakings are part of the income of the general budget.

64. Detailed analysis of the authority's annual budget in the past few year's shows that the budget is gradually increasing; considering also the number of FTEs it is evident that the lion's share of budget is used for labor costs, leaving less room for more demanding market analysis projects and international cooperation. This development is mostly due to general budgetary and employment limitations and long lasting negotiations for the increased annual budget and increased employment rates with the competent ministry. However, over negotiations for the next two years budget, agreement was reached for the budget increase according to the current needs of the CPA.

BUDGET - CPA	2014	2015	2016	2017	2018	2019
Labour costs (salaries)	872.918	867.324	914.168	889.200	943.723	1.145.000
Material costs	199.306	228.758	220.705	234.278	279.048	375.043
Market analysis	-	-	-	-	-	-
Investment assets (equipment)	29.330	4.769	8.447	15.954	22.967	9.800
Budget spent on salaries (%)	79,3	78,8	80,0	78	75,8	74,8
TOTAL - €	1.101.554	1.100.850	1.143.320	1.139.432	1.245.740	1.529.843
TOTAL – US \$	1.206.752	1.228.659	1.321.907	1.311.030	1.426.372	1.718.626

4.1.2. Number of employees (person-years):

	2014	2015	2016	2017	2018	2019
FTEs employed	26	27	24	24	24	27

4.2. Human resources (person-years) applied to:

		Change over previous year
Lawyers	11	+ 1
Economists	11	+ 2
Other professionals	3	-
Support staff	2	-
All staff combined	27	+ 3

4.3. Period covered by the above information: 2019

5. Summaries of or references to new reports and studies on competition policy issues

5.1. Sector inquiry on multi-apartment building management market

65. Following the information and media reports on the difficulties involved with replacing managing agents, who manage multi-apartment buildings, excessive management costs and ousting small managing agents from the market, the CPA carried out a market research on the management of multi-apartment buildings. Such issues could indicate a restriction or distortion of competition in Slovenia.

66. According to the Law of Property Code and the Housing Act, in multi-apartment buildings with more than two unit owners and more than eight individual parts or units, the unit owners must choose a managing agent and conclude a management service agreement. A managing agent can be a legal or natural person, registered for real estate management, or a unit owner or community of owners. A managing agent's tasks may include implementing unit owner decisions; handling the regular maintenance and operation of common areas; managing reserve funds; and representing unit owners in managing businesses. Managing agents receive a monthly payment for their services. Unit owners may dismiss a managing agent at any time, however, with the majority vote.

67. In its research, the CPA considered the following issues allegedly present on the multi-apartment building management market: (i) difficulties in replacing existing managing agents and the potentially limited selection of agents on the market; (ii) concerns about the introduction of the trusted managing agent certificate, in particular whether this certificate represents an attempt to oust smaller managing agents from the market; and (iii) excessive management costs.

68. The report is based on a survey, which the CPA sent to 340 companies having the facility management registered as their main activity. The CPA received 129 responses, among which only 56 answers were relevant and complete.

69. The CPA found that companies concluded more than two-thirds of the management service agreements for a longer period (10 years or more), which indicates the market's considerable inflexibility. Moreover, managing agents often offer low managing prices that are unrealistic because they make profit from charging additional managing costs (like reserve fund management and coordination) and by outsourcing works to contractors (like painting, carpentry, plumbing, electrical installations and lift maintenance), where the managing agents act as intermediaries. As a result, management service offers can be misleading, and unit owners often do not receive complete or sufficient information.

70. The CPA emphasized in the report that the indicated price for management services costs can be misleading, as the additional services can significantly increase the final price and thus unit owners cannot evaluate the offers properly.

71. The CPA also assessed the effect of the trusted managing agent certificate, which can be obtained from the Chamber of Commerce and Industry of Slovenia. As this certificate is not a condition for providing management services and each managing agent or company decides freely if they want to obtain it, it does not restrict competition in the market, and it seems that for most managing agents the certificate is not an advantage.

72. Although the focus of the report was to discover competition law infringements present on the market for managing multi-apartment buildings, it also provides a definition of the potential relevant product and geographic market. This is important, as the CPA will likely consider this market definition in future antitrust cases and in notifications of concentrations.

73. The CPA estimates that the size of the market for managing multi-apartment buildings in Slovenia is approximately €47 million. However, almost one-third of companies operate multi-apartment buildings within 1 km to 20 km of the company's seat, whereby the vast majority of companies (77%) manage multi-apartment buildings located at a maximum distance of 40 km from the company's seat. This could indicate that there is no significant interregional competition and that the competition is present on narrower geographic market(s) only. Consequently, the CPA did not single out a managing agent with an outstanding market position on the entire Slovenian market.

74. Conversely, the CPA believes that smaller managing agents or companies are present on the market and represent an important source of competition to larger managing agents or companies.

75. Regardless of the above, the CPA believes that most of the issues could be resolved if the unit owners were more active, interested and coordinated when it comes to management and (everyday) business of multi-apartment buildings. As the unit owners are inexperienced and uninterested, they often appear to be the weaker party in relationship with the managing agent, despite their legal options. Although the law gives unit owners the right to dismiss and appoint new managing agents, in practice, this right is not exercised often as the unit owners cannot reconcile and reach a decision with the required majority.

76. The CPA also established that the Trusted Managing Agent certificate does not raise competition law concerns, as it is obtained voluntarily and does not represent a significant competitive advantage on the respective market.

77. On the basis of the data and information obtained, the CPA concluded while there are certain anomalies in the management of multi-apartment buildings, such issues currently do not indicate a breach of competition law. Some of these anomalies may qualify as unfair commercial practices; however, the CPA is not the competent authority for such allegations.