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Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Czech Republic

-- 2022 --

This report is submitted by Czech Republic to the Competition Committee FOR INFORMATION.

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Czech Republic

1. Changes to Competition Law and Policy

1.1. Legislative Developments

1. In 2022, no substantial changes to the Czech competition law have been made.

1.2. Other Relevant Measures, Including New Guidelines

2. There have been no significant changes in the field of soft law issued by the Office for the Protection of Competition (hereinafter referred to as “the Office”) in 2022.

1.3. Proposals for New Legislation

3. The Office has again drafted and submitted to the Chamber of Deputies of the Parliament of the Czech Republic a legislative proposal of the amendment to the Act No. 143/2001 Coll., on the Protection of Competition (hereinafter referred to as “the Competition Act”), the purpose of which was mainly to transpose Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (hereinafter referred to as “the ECN+ Directive”).

4. Given that the amendment as originally drafted was not discussed by the previous Chamber of Deputies, the Office had to proceed to redrafting of the amendment. The final draft amendment includes, in addition to the previously proposed changes related to transposition of the ECN+ Directive, further modifications in order to improve and streamline the existing law. The changes concern, for example, new definitions, adjustments in the settlement procedure, the extension of leniency programme to vertical agreements, issues of international cooperation etc.

5. The amendment was discussed in the first reading in the Chamber of Deputies in January 2023, and it is expected to be finally approved within the course of this year.

2. Enforcement of Competition Law and Policy

6. In 2022, the Office initiated a total of 76 administrative proceedings and issued a total of 70 decisions in the field of competition law enforcement. For offences consisting in the infringement of the Competition Act, the first instance of the Office imposed fines exceeding CZK 436 million. The Office also conducted a record number of 32 unannounced inspections, during which it gathered evidence at the premises of undertakings.

Table 1. Complaints Received

Number of complaints received	
Concentrations between undertakings	1

Prohibited agreements	100
Anticompetitive conduct of public authorities	10
Abuse of dominant position	53
Others	4
Total	168
Number of administrative proceedings initiated	
Concentrations between undertakings	50
Prohibited agreements	20
Abuse of dominant position	0
Anticompetitive conduct of public authorities	1
Failure to cooperate during an inspection	5
Total	76
Number of decisions issued	
Concentrations between undertakings	52
Prohibited agreements	11
Abuse of dominant position	0
Anticompetitive conduct of public authorities	2
Failure to cooperate during an inspection	5
Total	70

2.1. Prohibited Agreements

7. The Office issued a total of 11 first-instance decisions concerning prohibited agreements in 2022, six of those on horizontal and five on vertical agreements. The imposed fines exceeded CZK 406 million. Twenty new proceedings have been initiated, which is the highest number in the history of the Office. A serious practice that became more widespread in 2022 was obstructing or disrupting unannounced inspections by inspected entities, which happened in five cases in 2022.

2.1.1. Description of Significant Cases

The Office Imposed Fines of CZK 280 Million on Undertakings Specialised in Issuing Food Stamps for Anti-Competitive Coordination of Terms of Trade

8. Parties to the proceedings: Sodexo Pass Česká republika a.s., Edenred CZ s.r.o., Up Česká republika s.r.o.

- First-instance fines: CZK 279,152,000
- (S0242/2018; an appeal has been filed)

9. In its first-instance decision, the Office imposed fines in the total amount of CZK 279,152,000 on Sodexo Pass Česká republika a.s., Edenred CZ s.r.o. and Up Česká republika s.r.o. for the conclusion of a cartel agreement. The Office declared the agreement illegal and invalid and banned it from future existence.

10. According to the decision, the undertakings Sodexo Pass Česká republika a.s., Edenred CZ s.r.o. and Up Česká republika s.r.o. (hereinafter "Sodexo", "Edenred " and

"Up") coordinated their terms and conditions towards retail chains between 2004 and 2018 regarding the maximum number of meal vouchers accepted per purchase. Their conduct thus distorted competition in the market for the issue, sale and purchase of paper meal vouchers and related services in the Czech Republic. This infringed not only the Competition Act, but also corresponding provisions of the Treaty on the Functioning of the European Union, as the agreement in question could have affected trade between Member States.

11. Since at least 2003, the parties to the proceedings have been trying (including through their Association of Voucher System Operators, and its predecessor) to introduce a term of trade under which no more than five food vouchers/purchases would be accepted in retail stores on the basis of a previous joint agreement. From April 2004 at the latest, the term of trade on limiting the number of meal vouchers accepted for payment of purchases to a maximum of five pieces was promoted in the most important retail chains, and compliance with this term was subsequently monitored by the Association and by individual issuers of meal vouchers. The motivation for the limitation of the number of meal vouchers was also an effort to eliminate criticism and to maintain the meal voucher system in the Czech Republic. The anti-competitive behaviour resulted primarily in the setting of identical terms of trade for all the undertakings mentioned and restrictions on the use of meal vouchers for consumers.

12. The undertaking Sodexo was fined CZK 132,271,000; Edenred CZK 101,940,000 and Up CZK 44,941,000 for the conduct described above.

13. In addition, the parties to the prohibited agreement shall comply with the remedies imposed within 60 days of the decision entering into force. In this context, they are obliged to inform their food retail partners of the prohibition and invalidity of the agreement, to publish this information on their websites for a minimum of one year and to modify all their contracts according to which their retail partner was not allowed to accept more than five meal vouchers per purchase.

14. The decision has been appealed.

For the First Time, the Office Took the Compliance Program into Account when Calculating the Fine

15. Parties to the proceedings: **Z - TRADE s. r. o.**

- First-instance fine: CZK 17,649,000
- (S0365/2020, settlement procedure used)

16. The Office imposed a fine of CZK 17,649,000 on the undertaking Z - TRADE s. r. o. for entering into prohibited agreements on direct resale price fixing. The fine was reduced by the Office because a party to the proceedings applied for a settlement. For the first time ever, when setting the amount of the fine, the Office also considered the fact that an undertaking had implemented a compliance programme. The party to the proceedings did not file an appeal and the decision is therefore final.

17. Z - TRADE s.r.o. (hereinafter referred to as "Z-TRADE") infringed both the Competition Act and the EU competition law by distorting competition in the supply of candles and "aroma products" of luxury brands (e.g. Yankee Candle, WoodWick and Millefiori Milano). The Office proved that Z-TRADE set fixed minimum retail prices to its customers for sales to final consumers between 20 December 2013 and 24 September 2020. Z-TRADE made the start and continuation of business with its customers conditional on compliance with the prices set by it, checked such compliance and personally, in writing

or by telephone urged the customers to increase prices to a level set by it. Sellers who wanted to sell below the set prices were threatened with sanctions in the form of termination of supply or cooperation, which has actually happened in several cases.

18. As a result of Z-TRADE's conduct, competition between individual retailers of the goods supplied by Z-TRADE was distorted. These retailers were restricted in their ability to offer customers goods at a lower price than that set by Z-TRADE. For a minimum of seven years, the price level of the goods in question was thus increased to the detriment of the end consumers.

19. The party to the proceedings pleaded its illegal conduct in the settlement procedure, for which the fine was reduced by 20%. The further fine reduction was applied due to the fact that the Office, for the first time ever, considered the fact that the undertaking had implemented a compliance programme (a programme to prevent infringement of the law or ethical standards by employees and the undertaking as a whole).

20. In the future, the Office reserves the possibility to apply a certain reduction of the fine if the party to the proceedings has a properly set up and functioning compliance programme or commits to its implementation. However, only undertakings who have applied for a leniency programme or settlement and whose management was not involved in the anticompetitive conduct will be eligible for such reduction.

The Office Fined the Undertaking Beryko for the Obstruction of Dawn Raid

21. Party to the proceedings: **Beryko s.r.o.**

- First-instance fine: CZK 22,500,000
- (V0031/2022; filed appeal was withdrawn)

22. In its first-instance decision, the Office imposed a fine of CZK 22,500,000 on Beryko s.r.o. for an infringement of the obligation to provide the Office with necessary assistance during the dawn raid.

23. At the beginning of 2022, the Office carried out an unannounced on-site inspection at Beryko's business premises for suspected anticompetitive behaviour in the distribution and sale of Xiaomi products in the Czech Republic. In course of the inspection, one of the company's executives refused to hand over and make available his mobile phone to the Office's inspectors, while the other executive handed over a mobile phone and a notebook for examination, but the content of these devices had been deleted or altered. In addition, a significant part of the content of the work email account of one of Beryko's employees was covertly deleted and, even after the explicit request, backups of the work email accounts of Beryko's employees were not made available to the Office's inspectors.

24. Throughout the course of the inspection, Beryko deliberately and purposefully took a number of steps to obstruct or significantly impede the Office's investigation, despite the repeated notifications of the consequences of such conduct.

25. When imposing the fine, the Office took into account the fact that this was deliberately obstructive behaviour with the intention of not allowing a proper examination of business records. Moreover, its gravity was significantly increased by the fact that it emanated from the executives and shareholders of the undertaking under investigation. The maximum amount of the fine imposed for this type of offence can be up to 1% of the undertaking's turnover, and in this case, it is close to this level.

26. Beryko appealed against the decision, however, the appeal was later withdrawn and the Chairman of the Office therefore terminated the appeal proceedings in the beginning of 2023.

2.2. Abuse of Dominant Position

27. In 2022, the Office did not issue any first-instance decision in this area.

2.3. Anticompetitive Conduct of Public Authorities

28. With regard to cases related to the infringement of Article 19a of the Competition Act, i.e. anticompetitive conduct of public authorities, two decision were issued in 2022. In both cases, the capital city of Prague was fined for illegal regulation of gambling games, lotteries and other similar games within its territory.

2.4. Concentrations Between Undertakings

29. In the area of merger control, the Office issued 52 decisions in 2022. In 50 of those, it approved concentrations in question, of which 43 was approved in so called simplified procedure. In two remaining cases, the Office imposed fines for early implementation of the concentration, using a settlement procedure.

2.5. Second-Instance Proceedings¹

30. A total of 19 appeals were filed against first-instance decisions of the Office in 2022. A total of 13 second-instance decisions were issued, of which seven were substantive and six procedural. In seven cases, the first-instance decision was confirmed, in two cases the first-instance decision was amended and in two cases, the original decision was annulled.

31. In the above-mentioned decisions, fines totalling CZK 176,859,000 were confirmed (or changed), the vast majority (more than CZK 174 million) in cases concerning prohibited agreements.

2.5.1. Description of a Significant Case

The Chairman of the Office Confirmed the Decision on Anti-Competitive Conduct of the Undertaking Garland

32. Party to the proceedings: GARLAND distributor, s.r.o.

- Final fine: CZK 95,461,000
- (R0003/2022)

33. The Chairman of the Office rejected the appeal and decided that the undertaking GARLAND had committed an infringement of the Competition Act by concluding and implementing prohibited agreements with its customers on direct fixing of minimum resale prices in the period from at least 18 June 2013 to 30 May 2019, i.e. for almost 6 years. The aim of these agreements was to exclude competition between GARLAND's distributors in the markets for garden technology, garden equipment and tools for home (hobby) use within the territory of the Czech Republic.

¹ The proceedings before the Office is two-instance procedure – a party to the proceedings may file an appeal against first-instance decision. The second instance is represented by the Chairman of the Office who decides on the appeal. The second-instance decision may be further challenged before an administrative court.

34. GARLAND itself initiated the conclusion of price agreements, insisted on their compliance and enforced them under the threat of sanctions, which consisted, for example, by blocking the customer's account in the ordering system. The enforcement of the price agreements by GARLAND also led customers to checking the non-compliance of other customers (their competitors) with the set retail prices and asking GARLAND for remedies, i.e. for ensuring unified (higher) retail prices.

35. The Office prohibited the performance of these agreements and, in addition to the fine, ordered GARLAND to inform all its customers of the prohibition and invalidity of the agreements.

36. In course of the appeal proceedings, the Chairman of the Office rejected the vast majority of the objections raised by the party to the proceedings concerning, for example, the existence of the illegal conduct; the evidence that vertical agreements were concluded; the definition of the relevant market and the market share of the party; the application of the institute of continuation of the infringement or the excessive amount of the fine. The Chairman only accepted the objection relating to the incorrect temporal definition of the infringement, stating that the last proven partial attack had already occurred on 30 May 2019 and there was nothing further in the file to indicate that it had lasted until the date of the administrative proceedings initiation, i.e. 6 June 2019.

37. In view of this modification of the infringement duration, the Chairman reduced the fine from the original CZK 96,751,000 to a final amount of CZK 95,461,000.

2.6. Judicial Review

38. The year 2022 was once again very successful year for the Office in terms of judicial review of its decisions. Out of 19 judgments of the Regional Court in Brno, the administrative action against the decision of the Office was dismissed in 18 cases. The Office did not lose a single case before the Supreme Administrative Court, as nine of a total of eleven judgments were in favour of the Office and two other cassation appeals were dismissed. There were brought 13 new administrative actions to the Regional Court in Brno and 16 cassation appeals to the Supreme Administrative Court.

39. In 2022, there were many judgments of both the Regional Court in Brno and the Supreme Administrative Court, which reviewed the proportionality and legality of the conducted dawn raids. The Office successfully defended all its inspections and none of them was declared illegal by the court, as claimed by the investigated undertakings. The courts have repeatedly confirmed that, even outside the administrative proceedings, the Office has relatively extensive investigative powers which enable it to carry out effective enforcement, which includes carrying out on-site inspections at the business and other premises of undertakings.

3. The Role of Competition Authority in the Formulation and Implementation of Other Policies

3.1. Significant Market Power

40. The supervision over unfair trading practices within the retail chains is within competence of the Office since 2010 on the basis of the Act. No. 395/2009 Coll., on significant market power in the sale of agricultural and food products and its misuse (hereinafter referred as to “Act on Significant Market Power”). The purpose of this legal framework is to regulate practices applied especially by retail chains towards food suppliers

within a specific environment in the food sector, which was characterised by a significant imbalance in the business relations between customers and their suppliers. This led to the application of unfair trading practices at the expense of weaker market players. Due to the low level of within the Czech retail market, it was not possible to respond to the situation by using standard competition tools. The main objectives of the Significant Market Power Act have been reduction in the occurrence of abusive trading practices, protection of a weaker party and normalization of customer-supplier relations in the field of food purchase for resale.

41. The fight against unfair trading practices is currently transferred to the European level as well, thanks to the EU regulation described below.

3.1.1. Legislative Developments

42. The year 2022 can be considered as a breakthrough period in terms of significant market power. After long preparations, the Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (hereinafter referred to as “the UTP Directive”) has been finally transposed to the Czech law in the form of an amendment to the Significant Market Power Act. This amendment, which came into force on 1 January 2023, represents a fundamental change in the concept of significant market power after several years. In addition, it extends the list of unfair trading practices and includes a substantial extension of the range of addresses of the Act.

Table 2. Decision-making activity in the field of significant market power in 2022

Decision-making activity in the field of significant market power in 2022	
Complaints received	14
Ex-officio investigations	11
Requests on the interpretation of the law received	12
Administrative proceedings initiated	0
Administrative proceedings finished	4
Cases solved by competition advocacy	3
Number of imposed fines	0

3.1.2. Description of a Significant Case

Hruška Retail Chain Shall Return CZK 39 Million to Food Suppliers after the Office's Intervention

43. Party to the proceedings: **Hruška, spol. s r. o.**

- Total fine: CZK 39,274,76
- (S0026/2019; S0200/2021)

44. The Office concluded two administrative proceedings in the field of significant market power against the retail chain HRUŠKA, spol. s r.o., after the undertaking proposed commitments to compensate more than seventy suppliers. The Office found the HRUŠKA chain had acted illegally while negotiating and performing full service with food suppliers. Based on these provisions, the chain could return food which was close to the date of expiry to the supplier or reduce its price through an accounting operation, with all costs borne by

the supplier. According to the Office, this conduct, which lasted from the second half of 2016 until mid-2021, had the potential to abuse significant market power as the undertaking HRUŠKA completely transferred the business risks and losses associated with the sale of food with an affected expiration period to its food suppliers.

45. In the administrative proceedings, HRUŠKA offered several commitments to remedy this defective state of play consisting, in particular, in the obligation to reimburse all the payments made, including VAT, to a total of 74 food suppliers under full service agreements within eight months from the decision coming into force. The total amount involved is almost CZK 34 million, excluding VAT, i.e. more than CZK 39 million, including VAT.

46. Within the commitments, the chain shall also undertake the removal of the full-service clauses from its contracts and shall submit a list of internal measures to the Office in order to ensure that the future contracts with food suppliers will not contain any provisions infringing the Significant Market Power Act. The undertaking HRUŠKA also had to notify its food suppliers of the Office's decision. As the chain's conduct was not qualified as serious, the Office accepted the commitments and, subject to their fulfilment, discontinued the administrative proceedings.

3.2. Public Procurement

47. The Office has been supervising public procurement procedures since January 1995, currently pursuant to the Act No. 134/2016 Coll., on Public Procurement (hereinafter referred to as “the Public Procurement Act”). The Czech legislation on the supervision in this area transposes the provisions of the European Union review Directives (namely, the Council Directives 92/13/EEC and 89/665/EEC, as amended by the European Parliament and Council Directive 2006/97/EC); these Directives regulate the specificities of the review procedure in public procurement and enhance the principles of transparency and non-discrimination in public procurement.

48. When supervising public procurement, the Office decides whether the contracting authority has acted in compliance with the Public Procurement Act when awarding a public contract (including a concession) or during special procedures. In addition, the Office imposes remedies, investigates administrative offences of contracting authorities and imposes fines. The Office also exercises supervision pursuant to the Act No. 194/2010 Coll., on Public Services in Passenger Transport (hereinafter referred to as “the Public Services in Passenger Transport Act”). The objective of the above-mentioned Acts is to ensure open and free competition among public procurement suppliers (or carriers applying for conclusion of a contract on public services in passenger transport within tender proceedings) and to ensure the selection of the most suitable bid in a transparent manner without discrimination of tenderers. Consequently, equal, transparent and non-discriminatory competitive environment brings savings in public budgets as well.

49. In 2022, the Office initiated 507 administrative proceedings (10.3% annual decrease) in the field of public procurement supervision. For administrative proceedings initiated *ex officio*, there was a decrease from 250 to 190 cases (24% decrease) compared to 2021. In 2022, the Office received 619 complaints, representing 2.4% decrease compared to 2021. There was also a minor decrease in number of decisions issued (551, decrease by 9% compared to 2021) and fines imposed.

50. In terms of the proportional representation, in 2022 the most frequently reviewed public contracts were, as usually, from the field of construction, healthcare and IT sector.

As regards the category of contracting authorities, public contracts awarded by municipalities, healthcare facilities, ministries and entities active in the field of transport and transport engineering were the most frequently reviewed ones.

51. The most common misconducts included:

- indefinite and/or ambiguous definition of tender qualification criteria or the excessiveness of tender qualification criteria defined by the contracting authority;
- excessive (discriminatory) qualification prerequisites;
- selection of a supplier which did not meet conditions necessary for the participation in the public contract.

Table 3. Decision-making activity in the field of public procurement in 2022

Decision-making activity in the field of public procurement in 2022	
Number of complaints received	619
Total number of initiated administrative proceedings	507
On a proposal	190
Ex officio	317
On a basis of inspection	1
Decisions	
Total number of the decisions issued in first instance	1,704
Decisions on the merits	551
Remedies/fines imposed	379
Misconduct of the contracting authority not found	74
Procedural grounds	98
Imposing interim measures	103
Dismissal of interim measures	18
Cancellation of interim measures	0
Other first-instance decisions	1032
Fines	
Total number of fines imposed	269
Total amount of fines imposed	CZK 11,857,500
Costs of proceedings	
Number of imposed costs of proceedings	96
Total amount of imposed costs of proceedings	CZK 1,720,000
Deposits	
Amount of deposit lodged	CZK 70,049,211.91
Deposit forfeited to the state budget	CZK 21,471,118.80

3.2.1. Second-Instance Proceedings

52. The number of appeals filed against first-instance decisions of the Office in the field of public procurement was 148 in 2022 (22.5% decrease, compared to 2021), and there were 165 issued decisions on appeal (21% decrease). The Chairman of the Office confirmed the first instance decision and dismissed the appeal in 58.8% of cases, and in 17.6% of cases cancelled the first instance decision and returned it back to re-examination, and in 18% of cases cancelled the first instance decision and terminated the administrative proceedings.

Table 4. Decision-making activity of the second instance in the field of public procurement in 2022

Decision-making activity of the second instance in the field of public procurement in 2022	
Number of appeals filed against the first-instance decisions	148
Number of proceedings initiated	148
Administrative proceedings pending as of 31/12/2022	19
Decisions	
Total number of the decisions on appeal	165
Decision of the first instance confirmed and appeal dismissed	97
Decision of the first instance cancelled and returned to re-examination	29
Decision of the first instance cancelled and administrative proceedings terminated	30
Decision of the first-instance cancelled and changed	1
Proceedings terminated	3
Appeal dismissed due to delay	2
Appeal dismissed for inadmissibility	2
Other first-instance decisions	1032
Number of appeals settled in autoremedy by the Chairman of the Office	1
Number of appeals settled in autoremedy by the first instance	0
Decisions of the first instance cancelled	0
Fines	
Total number of confirmed fines	25
Total amount of confirmed fines	CZK 4,415,000

3.3. State aid

53. Considering the field of State aid, the Office acts as a coordinating body performing central advisory, consultancy and monitoring activities in all areas, with the exception of the area of agriculture and fisheries, where the Ministry of Agriculture is the competent authority. The Office's exclusive role in the field of State aid consists primarily in cooperation with the State aid providers on preparation of State aid measure notifications to the European Commission. The Office also cooperates with the Commission and State aid providers in proceedings conducted by the Commission, both in proceedings concerning notified State aid and in cases of illegal State aid, misuse of State aid, existing

State aid schemes or where the Commission carries out an on-the-spot investigation within the territory of the Czech Republic.

54. The Office submits to the Commission, in accordance with the relevant provision of the EU law, an annual report on State aid granted in the previous calendar year within the territory of the Czech Republic. In the field of legislation, the Office represents the Czech Republic in the discussion and preparation of EU legislation in the field of State aid. Furthermore, the Office fulfils the role of the administrator of the central register of small-scale subsidies and also the role of the national coordinator of the European Commission's information system called the Transparency Award Module (TAM).

55. As regards the most important activities of the Office in this field, the year 2022 was still marked by crisis measures, this time mainly connected to the Russian aggression against Ukraine. The economic measures and countermeasures taken in this context have affected the entire internal market, in particular in the form of disruption of supply chains, reduction in demand, disruption of existing contracts or increases in electricity and gas prices. The European Commission therefore adopted on 23 March 2022 a *Communication - Temporary Crisis Framework for State Aid measures to support the economy following aggression against Ukraine by Russia*, in which it specified the criteria for assessing the compatibility of State aid measures taken by Member States in order to remedy the abovementioned economic impacts.

56. Other substantial legislative changes in this field, prepared or approved during 2022, include, for example, the revised *Framework for State aid for research and development and innovation*, the new *2022 guidelines on State aid for climate, environmental protection and energy*, the ongoing revision of the *General Block Exemption Regulation (GBER)*² or State aid related new *Regulation 2022/2560 on foreign subsidies distorting the internal market*.

4. Resources of Competition Authority in 2022

57. **Annual budget of the Office:** CZK 245,063,537 (approx. EUR 10,441,565)

Table 5. Human Resources

Total number of employees	241
Economists	59
Lawyers	136
Both economists and lawyers	11
Support staff	35
Human resources in the field of	
Enforcement against anticompetitive practices	51
Merger review and enforcement	7

² COMMISSION REGULATION (EU) No 651/2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

5. Summaries of or References to News Reports and Studies on Competition Policy Issues

5.1. Information Bulletin 1/2022 – The Office and the Czech EU Presidency

58. This bulletin contains details about the Czech Presidency of the Council of the EU, which took place in the second half of 2022, and about the role of the Office in the Presidency. The bulletin consists of five chapters – the short general introduction dealing with the concept of EU presidency, the chapter summarizing the priorities of the presidency trio and of the Czech Republic, the section which presents the role of presidency within the EU legislative procedure, the chapter introducing important pieces of EU legislation, which were in the legislative process during the Czech Presidency,³ and the final chapter focusing the Presidency events organised by the Office.

5.2. Information Bulletin 2/2022 – Anticompetitive Conduct of Public Authorities from the Point of View of the Office

59. In the end of 2022, the Office issued this bulletin focused on the interpretation of the Article 19 of the Competition Act, according to which public authorities may not favour or discriminate any undertakings.

60. In the bulletin, the Office analyses the current state of the legislation and explains what changes the proposed amendment should bring - for example, the possibility to terminate administrative proceedings on the basis of the acceptance of commitments proposed by a party to the proceedings shall be essential.

61. The vast majority of cases in this area have concerned generally binding municipal decrees regulating gambling. It is therefore not surprising that this issue is given considerable attention in the factsheet. The most important cases are described, as well as the judgments of administrative courts and decisions of the Czech Constitutional Court, which have confirmed the correctness of the decision-making practice of the Office. Last but not least, the Office indicates the measures that public authorities should avoid in order not to distort the competitive environment.

62. The bulletin contains other cases of anticompetitive conduct of public authorities dealt with by the Office as well.

³ These include the *Regulation on contestable and fair markets in the digital sector (Digital Markets Act)* and the *Regulation on foreign subsidies distorting the internal market*.