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**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Slovak Republic

-- 2023 --

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

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## *Slovak Republic*

### **Executive Summary**

1. The Antimonopoly Office of the Slovak Republic (AMO, the Antimonopoly Office of the SR, the Office) is the independent central state administration body of the Slovak Republic (SR) for competition protection and state aid coordination.
2. AMO intervenes in the cases of cartels, abuse of dominant position, vertical agreements, it controls mergers, which meet notification criteria and assesses the conduct of state and local administration authorities if they restrict competition by their conduct. AMO ensures competition protection in the field of state aid as well.
3. AMO's competences in the field of competition protection flow out from the provisions of the Act No. 187/2021 Coll. on Protection of Competition and on Amendments and Supplements to Certain Acts (the Act on Protection of Competition, the Act). The Act transposed the Directive 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 (ECN+ Directive) into Slovak legal system.
4. Besides Slovak competition law, AMO applies also European competition law. At the same time, within the European Competition Network (ECN) it fulfils tasks resulting from the membership of the SR in the European Union (EU).
5. Within its competences set by the Act on Protection of Competition, AMO conducts mainly investigations on a relevant market, in administrative proceedings it decides on the infringements of the Act in the matter of agreements restricting competition, abuse of dominant position and restriction of competition by state and local administration authorities and it also performs mergers control, as well as it proposes measures to protect and promote competition.
6. In accordance with the Act No. 358/2015 Coll. on Adjustment of Certain Relations in State Aid and De Minimis Aid and on the Amendment and Supplements to Certain Acts (the Act on State Aid) AMO as a state aid coordinator ensures competition protection in the field of state aid de minimis aid.

### **1. Overview of Decision-Making Activities**

7. In 2023 AMO issued a total of 31 decisions regarding the infringements of competition rules and the merger control.
8. Out of the total number of decisions, AMO issued 27 decisions in the first-instance proceedings, of which it issued 23 decisions concerning the merger control and 4 decisions on agreements restricting competition.
9. The AMO's second-instance body – the Council of the Antimonopoly Office of the SR (Council of AMO) issued 4 decisions within reviewing AMO's decisions issued in the first-instance proceedings: 1 decision in the matter of abuse of dominant position, 1 decision in the matter of agreement restricting competition and 2 decisions regarding non-cooperation with AMO.

**Table 1. Overview of the number of decisions issued in 2023**

	Mergers	Abuse of dominant position	Agreements restricting competition	Imposition of a fine for non-cooperation with AMO	Total
First-instance	23	0	4	0	27
Second-instance	0	1	1	2	4
Total	23	1	5	2	31

10. The highest number of AMO's decisions were issued in the matter of mergers assessment – 23 decisions. Details can be found in the chapter 3.2 Mergers and acquisitions.

11. Another significant number of decisions related to the field of agreements restricting competition, with 4 decisions issued by AMO in the first-instance proceedings and 1 decision issued by the Council of AMO in the second-instance proceedings. In them, AMO decided on the infringement of competition rules, namely on cartel agreements concluded by undertakings in connection with public procurements (PP), public tenders or similar competitions. It sanctioned a total of 14 undertakings by fines in the total amount exceeding EUR 8 mil. It also decided to impose a ban on participation for 1 year or 3 years in PP in relation to 12 undertakings. AMO revealed the cartel agreements between undertakings in the fields of:

- construction and operation of electrical equipment,
- delivery of gastrotechnological equipment,
- delivery of bakery industry technologies and
- control and maintenance of the route of LV electric line.

12. While setting the amount of fines and the period of ban on participation in PP, AMO took into account the requests for participation in a leniency programme, as well as a settlement, which were submitted to it by some participants in the cartel agreements.

13. The AMO's first-instance decision on the abuse of dominant position by the organization LITA, Society of Authors, dated 2022 became the subject of review by the Council of AMO as well. The Council of AMO upheld the fine of almost EUR 58 000 for the infringement of competition rules in the field of public transmission.

14. Based on appeals received from participants to proceedings against the first-instance decisions, the Council of AMO reviewed also the AMO's first-instance decisions regarding various forms of non-cooperation with AMO and in 2 decisions it imposed a more than EUR 14-thousand fines on 2 undertakings – GAS FAMILIA, s.r.o., and PP & P Co., s.r.o.

15. The highest fine imposed was in the amount of EUR 21 mil. and by it AMO sanctioned an undertaking in the bakery segment for the infringement related to a failure to notify a merger and its implementation without previous AMO's approval. The decision has not come into force yet as the undertaking exercised the right to lodge an appeal to the AMO's second-instance body, which is the Council of AMO.

16. The total amount of fines that AMO or the Council of AMO imposed on undertakings for the infringements of the Act on Protection of Competition in 2023 exceeded EUR 29 mil. By their 8 decisions, they imposed the fines on a total of 18 undertakings, while 4 of the decisions came into force in the same year. Of the total amount of fines imposed for the infringements of competition rules, fines in the amount of EUR 81 226 were validly imposed on 6 undertakings.

## 2. Changes to Competition Laws and Policies

### 2.1. Summary of New Legal Provisions of Competition Law and Related Legislation

17. In 2023 AMO, as the gestor of implementation of Digital Markets Act (DMA) in the SR, initiated a comment procedure on the draft of legislation that implements the new rules into Slovak law system. According to these legislative changes, AMO within the SR will exercise some rights and obligations arising from the legislation's amendment to Member States and it will cooperate with the European Commission (EC) during the application of DMA. At the same time, it will have the competence to conduct investigations within Slovak market for the purposes of Article 38 Paragraph 7 of DMA, i. e. for the purposes of finding out whether gatekeepers comply with rules established.

## 3. Enforcement of Competition Laws And Policies

### 3.1. Action Against Anticompetitive Practices

#### 3.1.1. Summary of Activities of Competition Authority and Courts

18. AMO's competence relates, inter alia, to intervention against anticompetitive agreements between undertakings restricting competition, either in a horizontal direction (in the cases of cartel agreements) or in a vertical direction (in the cases of vertical agreements). For maintaining a fair competition it is also prohibited to abuse the position of an undertaking in dominant position on a relevant market. AMO can intervene also against the authorities of state, local or interest administration, if by their conduct clearly favour a certain undertaking or restrict competition in any other way. Furthermore, the Act on Protection of Competition sets obligations on undertakings, the compliance with which is necessary for AMO to achieve its goals and perform its tasks in competition protection and promotion.

#### *Cartel agreements*

19. In 2023 AMO's Division of Cartels received 35 complaints and initiated 35 investigations related to possible agreements restricting competition. It also conducted 13 other investigations, which it had started in previous years. At the same time, the division conducted 6 administrative proceedings. It issued 4 decisions in the matter of cartel agreements.

**Table 2. Overview of AMO's activities in the field of cartel agreements in 2023**

Total sum of:

Decisions issued	Administrative proceedings conducted	General investigations conducted	Complaints received
878	6	48	35

20. In connection with decision-making activity in the cases of infringements of competition rules, AMO draws attention to the possibility of using the leniency programme and the settlement institute, on the basis of which undertakings can obtain from AMO the reduction of sanction or a complete exemption from the sanction that AMO would otherwise impose on them. In the cases of prohibited cartel agreements, both mentioned institutes can be applied to the undertaking at the same time.

*Vertical agreements*

21. In 2023 AMO's Division of Abuse of Dominant Position and Vertical Agreements received 15 complaints concerning vertical agreements. Most of them, 9 complaints, related to the same matter, namely the possible infringement of competition rules in connection with broadcasting Czech TV stations in the territory of the SR and AMO conducted a general investigation in it (by a press release in 2024 AMO informed about the [conducted investigation](#)). AMO conducted totally 2 general investigations.

**Table 3. Overview of AMO's activities in the field of vertical agreements in 2023**

Total sum of:

General investigations conducted	Complaints received
2	15

*Abuse of dominant position*

22. Last year, AMO's Division of Abuse of Dominant Position and Vertical Agreements registered 35 new complaints concerning the abuse of dominant position, conducted 8 more detailed investigations and carried out 5 administrative proceedings.

**Table 4. Overview of AMO's activities in the field of abuse of dominant position in 2023**

Total sum of:

Administrative proceedings conducted	General investigations conducted	Complaints received
5	8	35

*Restriction of competition by state and local administration authorities.*

23. In relation to this form of unlawful restriction of competition, last year AMO's Division of Cartels received 9 complaints and conducted 9 more detailed investigations including 8 investigations initiated in previous years.

**Table 5. Overview of AMO's activities in the field of anticompetitive measures of state and local administration authorities in 2023**

Total sum of:

General investigations conducted	Complaints received
9	9

*Second-instance proceedings*

24. The Council of AMO is the Office's second-instance body. It reviews the procedure of the first-instance decisions, against which participants to proceedings lodged an appeal. The Council of AMO's decisions come into force when they are delivered to participants to the proceedings.

25. In 2023, the Council of AMO issued a total of 4 decisions, namely in the matter of abuse of dominant position (1 decision), an agreement restricting competition (1 decision) and the breaching of obligations set by the Act on Protection of Competition (2 decisions - in relation to the failure to submit required documentation, information within a time-limit set by AMO and non-cooperation with AMO's employees, insufficient cooperation and failure to allow the inspection to be properly carried out).

**Table 6. Overview of decisions issued within the second-instance proceedings in 2023**

Total sum of:

Decisions on agreements restricting competition	Decisions on the abuse of dominant position	Decisions on breaching obligations set by the Act
1	1	1

#### *Other forms of breaching obligations*

26. Undertakings must fulfil statutory obligations towards AMO, of which they are notified and for the breaching of which they may be fined. One of AMO's powers is to require the submission of complete and true information and documentation within a specified time-limit. Furthermore, AMO may sanction breaching of obligations related to the course of administrative proceedings by imposing an orderly fine, e. g. for a failure to appear at an oral hearing without serious reasons, a failure to fulfill an obligation to immediately notify AMO of any related change or fact, as well as for other complaints about AMO's procedure.

27. In 2023, in connection with breaching obligations set by the Act on Protection of Competition, the Council of AMO issued 2 decisions within the second-instance proceedings. They are valid and the Council of AMO imposed a fine in the total amount of more than EUR 72 thousands on 2 undertakings.

#### *Judicial review of decisions*

28. Decisions of the Council of AMO in connection with the AMO's first-instance decisions may become a subject to a judicial review.

29. According to the Code of Administrative Court Procedure a party to an administrative proceeding may file a lawsuit against the decision of the Council of AMO to the Administrative Court in Bratislava (SS BA) and against the judgment of SS BA file a cassation complaint to the Supreme Administrative Court of the SR (NSS SR).

30. Within the framework of judicial review of AMO's decisions and procedures, a total of 5 court decisions were issued in 2023. Out of them, SS BA decided in 2 cases and NSS SR decided in 3 cases.

31. In 2 cases, NSS SR returned the case to SS BA on the basis of cassation complaint of plaintiffs, in 1 case it returned the case to AMO or to the Council of AMO for a further proceeding.

32. SS BA decided in 2 cases. In 1 case, it annulled AMO's decision; AMO filed a cassation complaint. In another case (intervention lawsuit), it partially granted the plaintiff's proposal, while both the plaintiff and AMO filed cassation complaints.

### 3.1.2. Description of Significant Cases

#### *Cartel agreement in PP in relation to the construction and commissioning of an electrical equipment*

33. On 11 September 2023 AMO issued a decision imposing fines in the total amount of EUR 7 233 751 on 4 undertakings for concluding a cartel agreement, by which they infringed the Act on Protection of Competition (specifically the Article 4 Paragraph 1 in conjunction with the Article 4 Paragraph 4 Letters a), c) and f)). At the same time, AMO imposed a ban on participation in PP on 3 of the undertakings concerned for 3 years and on 1 undertaking for 1 year.

34. AMO initiated an investigation on the basis of a complaint from the Stop Corruption Foundation due to the suspicion of possible anti-competitive conduct by undertakings, grounded in the coordination of their procedure during submitting bids for PP. The PP was announced by Slovak Electricity Transmission System, Plc., and its subject was the supply of construction and assembly works, related goods and services necessary for the construction and commissioning of an electrical equipment.

35. Based on the results of investigation, [AMO initiated an administrative proceeding against 6 undertakings](#) in the matter of a possible agreement restricting competition, which was announced through a press release on AMO's website.

36. In the course of administrative proceeding, AMO obtained information and documentation based on which it came to the conclusion that 4 undertakings coordinated their procedure in the process of preparing and submitting bids for the public tender. It stopped the proceeding against the other 2 undertakings, as it was not proven that they had infringed the provisions of the Act on Protection of Competition.

37. AMO imposed a fine in a full amount and at the same time a ban on participation in PP for 3 years to 3 undertakings. It additionally reduced the fine for the fourth undertaking and at the same time banned him from participating in PP for 1 year, since the undertaking used the settlement institute as he admitted his participation in the infringement of the Act and took responsibility for it.

38. The AMO's first-instance body issued the decision in the given matter again, because the previously issued first-instance decision was annulled by the Council of AMO in January 2023 for the purpose of proper investigation and assessment of factual state and the matter was returned to it for a new discussion and decision.

39. The AMO's decision has not come into force yet, as the participants to the proceeding lodged an appeal against the decision within a statutory time-limit – the decision became the subject of review by the Council of AMO.

#### *Cartel agreement in PP related to providing the control and maintenance services of LV lines*

40. On 3 February 2023 AMO issued a decision imposing fines in the total amount of EUR 8 890 on 3 undertakings and prohibiting them to participate in PP during the period of 1 year for concluding a cartel agreement, which is prohibited by the Act on Protection of Competition (namely the Article 4 Paragraph 1 in connection with the Article 4 Paragraph 4 Letters a), c) and f) of the Act No. 136/2001 Coll. in the wording effective until 31 May 2021).

41. In the course of investigation and administrative proceeding, AMO obtained evidence, from which it emerged that the undertakings MA-RY s.r.o., Mgr. Marek Kočíš

and Štefan Rybovič coordinated their procedure during preparing and submitting bids for 2 PP and 1 commercial public tender of a public contracting authority Východoslovenská distribučná, a.s., in 2019 and 2020. All contracts related to the provision of services consisting of the control and maintenance of route of LV lines (low voltage power lines) in the territory of eastern Slovakia.

42. While applying for participation in competitions, these undertakings were not proceeding independently, but they were coordinating their procedure and in the same way they were proceeding in the process of preparing bids and submitting them to the public contracting authority. They submitted their bids so that a pre-arranged participant would win the individual parts of these contracts. They submitted other "non-winning bids" with the aim to create the appearance of competition, without a real interest in winning the given part of procurement or competition.

43. AMO evaluated this procedure of undertakings as a target agreement, which was grounded on the direct or indirect determining prices of goods, the market allocation and the coordination of undertakings in PP, commercial public tender or other similar competition, in relation to PP, commercial public tender or other similar competition. In the case of all 3 participants to the proceeding, AMO agreed on settlement negotiations, based on which AMO reduced a fine by 30 % to all 3 participants to the proceeding and imposed a prohibition of participation in PP for 1 year. Without the settlement, AMO would impose on the undertakings a 3-year prohibition.

44. The AMO's decision came into force on 9 February 2023.

*Possible abuse of dominant position in the field of providing services in connection with using bus stations*

45. On 24 February 2023 and 6 October 2023 AMO initiated, based on its own initiative, individual administrative proceedings in the matter of possible abuse of dominant position pursuant to the Act on Protection of Competition (the Article 5 Paragraph 3 Letter a) of the Act No. 187/2021 Coll.) against an undertaking operating in the field of providing services related to the use of bus stations in Žilina self-governing region (Žilina region). Pursuant to the aforementioned provision of the Act, the subject-matter of both administrative proceedings is possible imposing of unfair prices or other unfair trading conditions.

46. AMO initiated the administrative proceeding following an investigation, during which AMO had obtained information and documentation giving a rise to the suspicion that an undertaking operating in the field of providing services related to the use of bus stations in Žilina region could impose on bus carriers an unfairly high fee for the use of a bus station, charged for every bus connection.

47. Pursuant to the Article 42 Paragraph 1 of the Act, AMO shall impose a fine of up to 10 % of the worldwide turnover on the undertaking for the infringement of prohibition to abuse a dominant position for a previous accounting period.

48. The initiation of administrative proceeding does not mean that the parties to proceeding has infringed competition rules, nor does it prejudice conclusions that AMO may reach in its decision.

*Possible abuse of dominant position in the field of providing online intermediary services on discount portals in Slovakia*

49. On 8 March 2023 AMO initiated an administrative proceeding on its own initiative in the matter of possible abuse of dominant position pursuant to the Act on Protection of

Competition (the Article 5 Paragraph 3 of the Act No. 187/2021 Coll.) against an undertaking operating in the field of providing online intermediary services on discount portals in the territory of the SR.

50. AMO initiated the administrative proceeding following an investigation, during which AMO had obtained information and documentation giving rise to the suspicion that the undertaking Slevomat.cz at least since 2018 to the present could:

- limit the possibilities of business entities to promote and sell their products and services on a discount portal operated by him and simultaneously on competing online portals and
- limit the promotion and sale of products and services of business entities on other online portals at the same or lower price than the product or service promoted and sold on the discount portal operated by him.

51. In the course of aforementioned administrative proceeding, AMO addressed the public last year with a call for public consultation on the proposed obligations of the undertaking concerned, the compliance with which should eliminate AMO's preliminary identified competition concerns.

52. In this matter, AMO issued a commitment decision in 2024, which imposed the obligation on the undertaking to fulfill certain commitments.

#### *Decision on applying unfair prices in public transmission upheld*

53. On 19 October 2023 the Council of AMO upheld the AMO's first-instance decision of 23 February 2022 dismissing the appeal of organization LITA, Society of Authors (LITA).

54. In the administrative proceeding, AMO assessed the abuse of dominant position by LITA, which consisted in the application of unfair prices when providing licensing services to the users of author's works (literary, theatrical, dramatic, music-dramatic and other) in public transmission, through:

- TV receivers in the rooms of 1\* - 5\* hotels and boarding houses in the SR during 2015 – 2018 and in the rooms of 1\* - 5\* hotels in 2019,
- radios in the rooms of accommodation facilities in the SR during 2015 – 2019 in all categories listed in the price lists of license fees.

55. According to the Treaty on Functioning of the EU and the Act on Protection of Competition (the Act No. 136/2001 Coll.) such behaviour constitutes the abuse of dominant position on the market of providing licensing services in the field of collective rights management for the users of copyrighted works in public broadcasting via televisions and radios in the rooms of accommodation facilities in the SR and, according to the aforementioned contract and the Act, it is prohibited.

56. As a result of LITA's behaviour, the affected business entities operating in the field of accommodation services in the SR during the monitored period paid disproportionately high license fees for the broadcasting of author's works in hotels and accommodation facilities compared to the situation if LITA had not abused its dominant position.

57. LITA was fined by EUR 57 939.

58. The decision became valid and came into force on 27 October 2023.

## 4. Mergers and Acquisitions

### 4.1. Statistics

59. Mergers reaching certain turnover criteria set by the Act must be assessed by AMO. Therefore, it is necessary that merging parties meeting the notification criteria notify AMO of the merger before they start exercising rights and obligations arising from it.

60. In 2023, the AMO's Division of Concentrations led a total of 27 administrative proceedings in the matter of assessing mergers. From the mentioned total number of administrative proceedings, it initiated 23 administrative proceedings in 2023 and 4 administrative proceedings in previous years. At the same time, it terminated 22 administrative proceedings in 2023, and the conduction of 5 administrative proceedings continued in 2024.

61. In the field of merger control, in 2023 AMO issued a total of 23 decisions, of which 22 came into force. Out of the total number of decisions by:

- 17 decisions AMO approved mergers (in 8 cases of competitively unproblematic mergers, it applied the institute of issuing a decision without justification),
- 2 decisions AMO approved mergers along with imposing certain conditions and obligations related to the mergers,
- 2 decisions AMO stopped the administrative proceedings in the matter of mergers assessment,
- 1 decision AMO imposed a fine of EUR 21 million for breaching an obligation to notify a merger and the prohibition to exercise rights and obligations arising from the merger (it concerned an undertaking in the bakery segment) and
- 1 decision AMO decided to return an administrative fee.

62. Within pre-notification contacts, AMO dealt with 41 cases. Some of them subsequently resulted into administrative proceedings regarding the merger assessment, some cases were closed without subsequent proceedings on the merger, either based on the initiative of initiator of such negotiations or AMO's opinion that the matter in question was not a merger.

**Table 7. Overview of AMO's activities in the field of merger control in 2023**

Total sum of:

Decisions imposing a fine	Decisions on stopping a proceeding	Decisions approving a merger	Decisions on returning an administrative fee	Cases dealt within pre-notification	Administrative proceedings conducted
1	2	19	1	41	27

## 5. Summary of Significant Cases

### 5.1. Approval of merger in the field of wholesale and retail of food and non-food goods

63. On 15 August 2023 AMO approved a merger grounded in the acquisition of indirect exclusive control of the company TERNO real estate s.r.o. (TERNO) over the company KON-RAD spol. s.r.o. (KON-RAD).

64. The main business activity of both companies is wholesale and retail of food and non-food goods.

65. According to AMO's findings, the range of goods offered by both companies is similar, while they do not specialize in a certain type of it, they offer a very wide range of products, from chilled fresh food to frozen and dry food to non-food goods for everyday consumption. AMO considered the estimated joint share of companies after the merger on the market of wholesale of food and non-food goods in the SR. AMO also took into account only competitors with a similar focus and the narrower spatial definition of market than the territory of the SR is and it found out that, even with such a definition, there is a sufficient number of competitors with similar characteristics operating in the field of wholesale of food and non-food goods for daily consumption.

66. AMO subsequently focused on the horizontal operation of companies in the field of food and non-food retail. The company TERNO operates under the brand names "Terno", "Kraj", "Moja Samoška" and operates a total of 157 retail stores in western and central Slovakia, mostly in district towns. The company KON-RAD operates 3 stores in Bratislava, Senec and Modra. Both companies offer goods in their stores without specializing in specific products. The penetration between them on the market of retail sale of food and goods occurs only in the territory of municipalities of Bratislava (specifically, the Ružinov district) and Senec. AMO took into account the presence of a sufficient number of competing stores in both local markets, including the international networks of retail competitors with a significant Slovak market share, and also the fact that in the case of merging parties the stores do not specialize in a certain type of assortment.

67. AMO also examined the vertical relationship between the companies and with regard to the character of their activity there is primarily a vertical relationship from KON-RAD as a wholesaler to the customers of TERNO's stores.

68. AMO took into account the low market share of both on the wholesale and retail markets, the presence of sufficiently strong competitors at the supplier and customer levels, as well as the overall functioning of wholesale market, even through wholesale purchases directly from manufacturers. The presence of the so-called must have brands as exclusively distributed through the companies KON-RAD and Terno was not identified.

69. After evaluating documentation and information obtained, AMO came to the conclusion that the merger assessed is in accordance with the Act on Protection of

Competition (Article 11 Paragraph 1), as it will not significantly disrupt effective competition on the relevant market, especially as the result of creation or strengthening of dominant position.

70. The decision came into force on 1 September 2023.

## **5.2. Approval of merger in the field of providing pharmaceutical care along with the imposition of conditions and related obligations**

71. On 20 July 2023 AMO approved a merger grounded in the acquisition of indirect exclusive control of the undertaking PENTA INVESTMENTS LIMITED (Cyprus; Notifier, PIL) over the undertaking Apotheke Slovakia, a.s., (Bratislava). To ensure that the merger will not significantly disrupt effective competition, AMO imposed a condition and related obligations on the Notifier.

72. The merger was initially notified to AMO as the acquisition of indirect exclusive control of the Notifier over the company Apotheke Slovakia, and thus also over the companies operating 47 public pharmacies in various regions of the SR. On the basis of the notification, AMO initiated an administrative proceeding, in the course of which it conducted an extensive survey in the field of providing pharmaceutical care.

73. During the administrative proceeding AMO concluded that, as the result of merger, there will be significant obstacles to competition on the relevant market of providing pharmaceutical care in bricks pharmacies in some locations, where both merging parties have pharmacies. These are local markets defined by the territory of city/municipality of Spišská Belá, Gelnica, Liptovský Hrádok, Liptovský Mikuláš, Rimavská Sobota, Rožňava, Sereď, Šal'a and Topoľčany.

74. While evaluating the impacts of merger on these local markets, AMO took into account in particular the fact that the undertaking PIL represents the largest operator of pharmacies in the SR, is a fully integrated company and will have a high market share in these cities after the merger, either according to the number of pharmacies or sales achieved. AMO also took into account the location of pharmacies of merging parties on these places, the character of competitors and, in some cases, the fact that the undertaking PIL will have a significant distance from the nearest competitor after the merger. At the same time, AMO took into account that his biggest competitor, the BENU pharmacy chain, does not operate in some of the problematic local markets mentioned above.

75. In the course of administrative proceeding, the undertaking PIL decided to eliminate these competition concerns by abandoning the acquisition of part of pharmacies under the control of the acquired company Apotheke Slovakia. 11 pharmacies were excluded from the transaction. At the same time, the undertaking PIL submitted a proposal for the wording of a condition and related obligations, which consist in the prohibition of acquisition of exempted 11 pharmacies, regardless of the possible change of operator of the pharmacies or the change of addresses of the pharmacies in question. The duration of the condition and the obligations related to it is intended for a period of 5 years. During this time, AMO will check the fulfillment of the conditions by PIL.

76. After evaluating the documentation and information submitted, AMO came to the conclusion that the proposed change in the scope of acquired companies controlling Apotheke Slovakia pharmacies and at the same time the behavioural condition of the prohibition of acquisition of influence will ensure the effect of this structural exemption for a sufficiently long period. The assessed merger is, therefore, in accordance with the Act on Protection of Competition (Article 11 Paragraph 1).

77. The details of assessed merger were published in [AMO's press release](#). The wording of condition and obligations in public version can be accessed on AMO's website in the permanent section [Imposed conditions and relevant contacts](#). The public version of [decision \(PDF, 1,46 kB\)](#) is also available on AMO's website.

78. The decision entered into force on 20 July 2023.

### **5.3. Sanction for breaching the obligation to notify a merger and for breaching the prohibition to exercise rights and obligations arising from the merger**

79. On 29 June 2023 AMO issued a decision, deciding that an undertaking had violated the Act on Protection of Competition (namely Article 10 Paragraph 9 of the Act No. 136/2001 Coll. and also the Article 10 Paragraph 1 of the Act No. 187/2021 Coll.).

80. AMO's findings had revealed that the undertaking, operating in the bakery segment, had failed to notify AMO of a merger, by which it had acquired control over 2 competing bakeries and also it had exercised rights and obligations arising from the merger without obtaining AMO's approval for such an acquisition.

81. This had resulted in the violation of the Act on Protection of Competition, according to which undertakings are obliged to notify AMO of mergers that meet criteria of the size of entities affected (expressed by their turnover) set by the Act. The purpose of such a setting is to include under AMO's control the mergers, which, due to the economic power of merging parties, might affect competition in the territory of the SR.

82. Undertakings are also obliged to refrain from any exercise of rights and obligations arising from the merger until AMO decides on it. The merger control system is thus based on the principle of preventive ex ante control, the aim of which is to prevent the disruption of effective competition, and thus a merger can only be implemented after being assessed by a competition authority to be non-problematic.

83. The need to allow AMO to assess a merger is particularly important in the case of merger of direct competitors, which is considered to be the most closely monitored in the context of merger control in general. As the result of horizontal linking between competitors' activities without AMO's assessment of consequences for competition and deciding whether such a merger can be implemented, or under which conditions, there might come to reducing an effective competition, and therefore to the negative impact on the market and thus on consumers.

84. For both breaches, AMO imposed fines on the undertaking in accordance with the relevant provisions of the Acts, in the total amount of EUR 21 million.

85. The decision has not come into force, the party to the proceeding lodged an appeal against it within the statutory time-limit.

## **6. Role of Competition Authorities in the Formulation and the Implementation of Other Policies**

86. AMO also pays attention to the implementation of competition advocacy activities. They include e. g. sending comments on proposals submitted to inter-ministerial comment procedures, presenting initiative materials, providing opinions, direct addressing affected entities, as well as organizing professional seminars, conferences or communicating with the public and mass media representatives.

87. In the framework of inter-ministerial comment procedure in 2023, AMO sent comments on 52 materials, mainly from the point of view of competition protection. Out of the number, AMO sent fundamental comments on 8 proposals, recommendation comments on 40 proposals, and at the same time applied fundamental and recommendation comments on 4 proposals. Thus, AMO applied fundamental comments on 12 materials.

88. Within European competition legislation, already in 2022 the EU adopted the Digital Markets Act (DMA Regulation) to help creating fair conditions for all companies in the digital market in the EU, thereby improving competition in the digital sector. In 2023, AMO as the gestor of implementation of regulation, initiated a comment procedure on the draft of legislation that implements new rules into Slovak legal system. According to these legislative changes, AMO within the SR will exercise some of the rights and obligations arising from the legislation and cooperate with the European Commission in the application of the regulation. At the same time, AMO will have the competence to conduct investigations within the Slovak market for the purposes of Article 38 Par. 7 of DMA, i.e. for the purposes of determining whether gatekeepers comply with the rules set.

89. Last year, AMO informed the public about the outcomes of an investigation, which it had carried out in the food sector in the spring of 2023. In a detailed document, it explained its findings about the level of competition in the food industry and answered the public's ambiguities regarding whether the increase in food prices is due to the disproportionate margins of retail chains or whether the so-called anti-inflation guarantee could have led to illicit coordination between chains in order to increase retail food prices.

90. To support competitive environment for the benefit of consumers, AMO addressed the representatives of business sector or state administration authorities, e. g. regarding the improvement of conditions for the purchase of electronic highway vignettes, doubts regarding the conditions of planned auction for using frequencies by mobile operators or the monitoring of price and business conditions for the supply of electricity.

91. AMO focused considerable attention also on cooperation with competition authorities abroad, with which it exchanges knowledge, experience and best practices. It was strengthening an intensive bilateral cooperation especially with the partner competition authority in the Czech Republic (CR). Both authorities led expert discussions on current and common topics in own countries, as well as possibilities and tools for increasing the protection and support of competition. Moreover, the memorandum, which was signed last year by the representatives of several European competition authorities with the aim of supporting the enforcement of competition law and the development of competition policy contributes to the improvement of regional cooperation between 10 closest competition authorities in Europe.

92. AMO continued fulfilling tasks arising from the membership in the EU, especially in relation to international institutions of ECN - European Competition Network and OECD - Organization for Economic Cooperation and Development. During events such as conferences, meetings and expert negotiations at national and international level, AMO's representatives contributed with AMO's experience, opinions and attitudes towards solving competition law issues.

93. AMO organized a traditional international conference on current trends in competition law for the general public. The event was an opportunity to exchange opinions on developments in the field of competition and experience with competition law experts from institutions in Slovakia and other European countries. AMO's representatives led training activities aimed at raising the public awareness of AMO, the benefits of competition or the rules of state and de minimis aid, and at the same time they provided the public with space for consultation and questions.

94. Through various communication activities, AMO brought its work and significant outcomes closer to the professional and lay public. It issued 177 press releases related to competition protection and state aid coordination. It published them on its website, it also sent them to mass media representatives and other stakeholders. It also presented its activities and interesting news in numerous posts on social networks. AMO uses its profile on social networks X, LinkedIn, Instagram, Facebook and YouTube. It processed and provided 209 written answers or opinions to mass media representatives, mostly in Slovakia. It also provided answers to the representatives of professional magazines and other types of media abroad.

95. AMO considers the maintenance of long-term mutual cooperation with universities in Slovakia to be an important part of its work, and in terms of signed memoranda it cooperates more closely with the Faculty of Law of Comenius University in Bratislava, the Faculty of Law of the University of Trnava in Trnava and the University of Economics in Bratislava. Through a short-term internship at AMO or professional consultation with AMO's employees it allows students to increase their level of knowledge about AMO's activities, as well as gain practical experience, thanks to which they can more easily find their job after completing their university studies.

96. Cooperation with the authorities of state administration of the SR regarding common public interest in the sense of concluded memoranda and agreements on mutual cooperation is also beneficial.

## 7. Resources of Competition Authorities

### 7.1. Resources Overall

**Table 8. Annual budget**

	2023	Change over previous year
<b>Total expenses</b>	3 539 909,43	+ 168 thousands EUR + 183 thousands USD

**Table 9. Number of employees**

	2023	Change over previous year
Economists	18	-4
Lawyers	37	+5
Other professionals	11	-1
Support staff	9	-1
Total	75	+2

**8. Human Resources****Table 10. Human Resources**

	2023	Change over previous year
Enforcement against anticompetitive practices	18	-1
Merger review and enforcement	8	-1
Advocacy efforts	10	0
State aid	12	+2

**9. Period Covered by the Above Information**

Year 2023