

Unclassified

English - Or. English

27 May 2025

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Poland

-- 2024 --

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

JT03567177

Poland

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

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

1. Regulation of the Council of Ministers of July 22, 2024 on the manner and procedure for handling applications for waiver of fines and applications for reduction of fines¹.
2. Regulation of the Council of Ministers of June 10, 2024 on the exclusion of certain specialization and research and development agreements from the prohibition of competition-restricting agreements².

1.2. Other relevant measures, including new guidelines

1.2.1. Guidelines on collusion in the labour market

3. In response to growing concerns about anti-competitive practices in labour markets, the President of UOKiK has introduced in 2024 new guidelines addressing these issues. The guidelines aim to clarify the scope of competition laws concerning labour market practices, with a particular focus on no-poaching agreements, wage-fixing, and non-compete clauses. The guidelines are designed to inform businesses, especially HR departments, about potential legal risks and the severe penalties associated with such practices.
4. The guidelines describes what is the role of competition law on the labour market - restrictions on competition in labour cases have a negative impact on both the situation of employees and the economic growth rate.
5. The guidance is educational, helps to understand what practices (even informal) on the part of employers can be considered illegal, restricting competition on the labour market. Undertakings learn also what penalties they may face for collusion, participation in an agreement restricting competition, both for the company and its managers.
6. The publication helps employees and unions to find what tools are available to report potential infringement, eg. a whistleblower or a leniency program.
7. The document emphasizes that the essence of competition law is to ensure that market activities are undertaken within the framework of so-called "effective competition" between undertakings. The existence of effective competition promotes the receipt of better offers and products by consumers, the development of entrepreneurship, and subsequently the increase in the quality of life and economic development.
8. The document met with a wide response, not only from employers, but also from employees and the media. The e-version of the Guide in our native language was downloaded 3.5 thousand times, and the ENG version over 600 times.

¹ <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20240001127>

² <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20240000922>

1.2.2. New clarifications on investment control

9. In the area of merger and investment control, our efforts to reduce notification burdens and to make the supervisory system more predictable are particularly noteworthy. We updated our guidelines on reporting transactions in investment control. The document is a response to the expectations of external actors, primarily business and law firms. Among other things, the new guidelines address issues related to business contacts with the European Commission. The guidelines made it easier for undertakings to apply for approval of transactions and thus to cooperate with us.

1.2.3. New guidelines on concentration control

10. Moreover, we updated our guidelines on concentration control, as well. The updated document clarifies the rules for reporting extraterritorial transactions involving the creation of joint ventures. The effect of this revision of the guidelines is the reduction of the number of notified extraterritorial joint ventures.

1.2.4. New fine guidelines

11. In 2024, we decided to update and significantly revamp guidelines clarifying how fines for anti-competitive practices are imposed. An update to our guidelines was highly anticipated by undertakings, mostly because the current version of the document is adapted to the provisions laid down in the ECN+ Directive. The clarifications specify how such factors as duration of the violation, type of practice and its market effects impact the amount of the fine. The document also lists mitigating circumstances, such as cooperation with UOKiK in the course of the investigation, and aggravating circumstances, e.g. acting as the leader in a competition-restricting agreement. Among other improvements, our new guidelines provide more information on how we proceed with cases that involve entities that are part of complex capital groups and on parent companies. .

1.3. Government proposals for new legislation

Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022

12. The Council of Ministers has adopted a draft law amending certain laws to ensure the application of the provisions of European Union law improving the functioning of the internal market - Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022. The new regulations are intended to improve law enforcement and increase the protection of entrepreneurs against unfair market practices.

13. The most important developments:

- The President of UOKiK will have new powers over the digital market - the power to enforce regulations on digital markets, including investigating access gatekeepers.
- The President of UOKiK will cooperate with the European Commission, exchanging information on infringements in Poland. The President of UOKiK will also assist the EC in investigations in the digital market.
- The entrepreneurs will be able to more effectively pursue claims against Internet intermediary service providers and search engines that engage in unfair practices. The new regulations will enable organizations and associations to act on behalf of entrepreneurs in unfair competition cases.

- The President of UOKiK and the President of the Public Procurement Office will be responsible for performing tasks related to investigating foreign subsidies that distort the EU internal market.

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 authorities

14. In 2024, the President of UOKiK initiated 26 proceedings relating to practices restricting competition, 11 of which were antitrust proceedings (of which seven related to bid rigging) and 15 were preliminary proceedings. The President of the Office issued 13 decisions in this regard. 11 concerned prohibited agreements and 2 concerned abuse of dominant position. 5 of these adjudications concerned the restriction of competition when entrepreneurs bid for public contracts. In addition, on 76 occasions entrepreneurs received calls to voluntarily change their practices, so-called soft calls.

15. The total amount of fines imposed on entrepreneurs for competition-restricting practices was more than PLN 650 million and on managers more than PLN 4 million. The highest monetary sanctions imposed in a single decision on companies and managers amounted to almost PLN 408 million. They concerned price fixing and market sharing between KIA Poland and its car dealers. Due to the terms of the price fixing agreement, for a period of at least eight years, from 2013 to 2021, buyers of KIA cars could only buy a vehicle from a pre-determined dealer, with no possibility of receiving a cheaper offer from another dealer. Fines were imposed on 12 entrepreneurs and 5 individuals.

16. This was not the only decision of the President of UOKiK concerning the automotive market. Yet another decision concerned collusion between the importer of trucks Iveco Poland and distributors of these vehicles. The agreement was that the entrepreneurs agreed on areas where the local distributor had priority for customer service. The division of the market was supported by price arrangements. Financial penalties imposed on 11 entrepreneurs and 10 managers amounted to more than PLN 241 million.

17. The President of UOKiK also monitors the state of competition in digital markets. He launched a preliminary investigation after the changes introduced in Facebook by Meta Platforms Ireland. Contents of Polish publishers on the platform are displayed as a single link and not as before, as a visual preview of the material in question. The change could result in lower interest in journalistic content and reduce the number of views of the articles. In its preliminary investigation, UOKiK is looking into the practices of social media owners, in particular whether Meta may have abused its market position.

18. In 2024 we received 8 leniency applications.

19. We continued with our policy of keeping a steady and high number of dawn raids, and increasing their effectiveness by targeting more undertakings during each inspection. We also issued 2 decisions concerning failure to cooperate in the course of dawn raids, 4 decisions concerning not providing or providing false/misleading information.

20. Due to the growing public awareness of the activities of UOKiK, the number of anonymous notifications via whistleblower programme remains high - we received 14038 signals in 2024.

Courts

21. **14** of our decisions were upheld, **2** of our decisions were overturned and **3** were changed as to the penalty.

22. Regarding the more significant legal cases in 2024, the Court of Appeals issued a judgement concerning the appeals against our 2017 decision on a particleboards and fiberboards cartel. The agreement involved price-fixing and exchange of information. The agreement involved five undertakings.

23. The 2017 decision was challenged by the companies, and in the proceedings before the court of first instance, the undertakings' appeals were dismissed. The undertakings then filed appeals against this ruling. In December 2024, the Court of Appeals issued a judgment, rejecting the appeals. As a result, our 2017 decision became final, both in terms of the practices established and the amount of the imposed fines.

24. The Court of Appeals also issued a judgement concerning the case of an appeal against one of our RPM decisions from 2021. In the decision, we found that Spokey entered into an agreement with its distributors that restricted competition on the national retail market for sports equipment.

25. As a result of Spokey's appeal, the court of first instance reduced the fine. We appealed this ruling. The Court of Appeals fully agreed with us, restoring the fine to the amount specified in the original decision. The Court of Appeals emphasized that we had correctly calculated the fine and properly justified it. According to the Court of Appeals, the reduction of the fine by the court of first instance resulted in the fine not being sufficiently individualized, failing to meet the proportionality requirement, and not fulfilling its intended functions.

26. In 2024, a judgment was also issued in the case involving the appeals of DBK and WTC against our 2021 decision concerning a truck cartel. In the decision, we found that DBK and WTC (both belonging to the same undertaking) together with Wanicki divided the market for DAF trucks, purchased by end customers through public procurement. We imposed fines on all undertakings. DBK and WTC appealed the decision, while Wanicki, having opted for a settlement, did not file an appeal.

27. DBK filed a leniency application in this case. However, shortly before the decision was issued, we obtained evidence from Wanicki indicating that the companies continued the anti-competitive practice even after the submission of the leniency application. As a result, leniency was not granted in this case.

28. In April 2024, the court of first instance issued a ruling rejecting the appeals of the aforementioned companies in full.

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

29. One of the significant cases concluded in 2024 was **KIA** case. KIA Poland and the company's 11 dealers colluded on car prices and divided the market between them. Under the terms of the agreement, buyers of KIA cars for at least eight years, from 2013 to 2021, could only buy a vehicle from a top-down dealer, with no possibility of receiving a cheaper offer from another dealer. As a result of the collusion, buyers lost the opportunity to

purchase KIA vehicles from dealers of their choice at competitive prices. In the decision issued, we imposed a total of more than PLN 405 million in penalties on KIA Poland and eleven dealers. The highest penalty - over PLN 331 million - was given to KIA Poland. Fines were also given to five managers.

30. Another significant case concluded in 2024 was the **Iveco** case - cartel in the sale of Iveco trucks. The traders divided the market in an illegal manner, and also fixed the prices of the vehicles they sold. The decision issued relates to collusion between truck importer Iveco Poland and distributors of Iveco vehicles. The collusion lasted nearly 10 years, from at least June 2009 to May 2019. The undertakings primarily divided the market between them. The agreement was that Iveco Poland and the distributors agreed on areas where the local distributor had priority for customer service (sometimes referred to as “regionalization”). If a potential buyer from elsewhere requested an offer, the dealer directed him to a competing distributor or made him an unfavorable offer, thus discouraging him from using a distributor other than the one that had entered into market collusion. In addition to the areas designated to dealers, the importer also had its own territory, where it granted itself exclusive rights to sell certain types of trucks during a certain period. Iveco Poland kept the market divided by using rebates and periodic bonuses for sales performance. It pressured dealers to get them to give up selling vehicles to customers in other areas. Market division was supported by pricing arrangements. Undertakings exchanged information on prices included in offers to customers. We imposed more than PLN 238 million on Iveco Poland and 10 truck distributors. Fines totaling more than PLN 2.5 million were also given to 10 managers.

31. In 2024 we also closed our investigation in relation to Multibranch Enterprise **Atex**. The undertaking was imposing coal sales prices on his trading partners. As a result, they could not sell fuel more cheaply. The distributors were ostensibly bound to Atex by agency agreements, but in reality they were independent entities that should be free to set prices. We imposed a fine of almost PLN 2.5 million (PLN 2,448,959.22) on Atex for using practices that restrict competition.

32. In 2024 we also issued a commitment decision obligating **Dell** to revise its sales practices due to concerns that their existing system may have impeded competition. The investigation revealed that Dell’s method of registering transactions by authorized sellers potentially prevented other partners from offering competitive prices to the same customer, which could have constituted a prohibited market allocation scheme.

33. In 2024, we also closed our investigation in relation **Empire Brands**. The company has been fined by UOKiK approx. PLN 350,000 for colluding on prices with its counterparties. Empire Brands imposed resale prices for its pet food on trading partners in online stores and shopping platforms, violating both Polish and EU competition laws.

2.2. Mergers and acquisitions

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

34. There were 353 merger filings received between 1 January and 31 December 2024.

35. 308 mergers were cleared in phase I and 3 mergers were cleared in phase II. The UOKiK distinguishes between so-called “phase I” and “phase II” proceedings. An in-depth review is defined as one that takes place when a case is transferred to the phase II. Such transfer is initiated when the case is complex and requires market inquiry or preliminary assessment shows competition issues that need to be investigated. According to Article 96a

of the Act of Competition and Consumer Protection (hereafter: Competition Act), UOKiK may initiate phase II in cases:

- which are particularly complicated,
- in which it appears from the information contained in the notification of intent to concentrate or from other information, including information obtained by the President of the Office in the course of conducted proceedings, that there is reasonable probability of competition being impeded on the market as a result of the concentration, or
- where a market study is required.

36. In 2024, the average number of days that in-depth merger reviews lasted 372 days.

2.2.2. Summary of significant cases.

Wholesale electrical goods market.

37. German company FEAGA & Schmitt Elektrogroßhandel, has obtained conditional approval from the President of UOKiK to acquire control of TIM S.A., based in Wrocław (**DKK- 24/2024**). As part of the market survey that we conducted market study, we directed questions to 129 competitors of the merging companies. We asked wholesalers selling electrical goods primarily about data from 2021-2022, including, among other things, the value of sales, the distance over which 80 percent of sales were made, and the type of transportation by which orders were delivered during that period. In addition, we collected entrepreneurs' opinions on the planned concentration and its possible effects. The investigation showed that the activities of the merging entities may lead to a violation of competition in the regional market covering an area delimited by a distance of up to 80 km from the TIM wholesaler located in Zielona Góra, hence we made a decision to impose a condition involving the disposal of a portion of assets. According to the condition imposed, the acquirer must sell the store located in Zielona Góra, which belongs to TIM. The condition includes, among other things, the transfer to the new owner of the lease of the store's space, rights and obligations under employee contracts, accounting and business records, as well as the customer base of the Zielona Góra wholesaler. The investor should be independent of the two companies and ensure the continuation of the wholesale business. According to the condition imposed, the President of the OCCP will accept the proposal of potential investors. In addition, FEAGA & Schmitt Elektrogroßhandel will have to submit information to UOKiK on the performance of the imposed condition.

Ready-mix concrete production market

38. The company operating in the markets of cement production, concrete production and aggregate and stone extraction - Lafarge Cement S.A, has obtained conditional approval from the President of UOKiK to acquire part of the property of EUROBUD Chajewscy sp. Z o.o., based in Starogard Gdański (**DKK-27/2024**). The investigation confirmed the previous case law of the UOKiK that concrete producers compete with each other within a 25-kilometer radius of public roads. This is the area where the vast majority of sales of this product are concentrated. The UOKiK's analysis also showed that Lafarge Cement's acquisition of part of the Eurobud Chajewscy property could lead to a violation of competition in the local market in Piła, since the acquiring company would own the two main concrete plants in that market, and none of the competitors would have comparable strength there. The condition can be implemented in two variants. According to the first, Lafarge Cement is to divest itself of all rights to the ready-mix concrete plant in Piła. This means, among other things, the transfer of rights and obligations under the lease agreement

for the real estate on which the plant is located, as well as the sale of fixed assets and commodity equipment, primarily two silos together with foundation slabs. In the second option, Lafarge Cement will have to change the location of the said plant and transfer fixed assets and equipment to the new location, among other things, and then sell the plant. Importantly, the new location must be closer than 25 km from the plant currently owned by Eurobud Chajewscy in Piła.

Fuel market

39. The company ANWIM S.A., - franchisor of the Moya gas station chain, has obtained conditional approval from the President of UOKiK to acquire part of the property of Elbah II sp. z o.o. the owner of a station in the Silesian voivodeship, subject to the termination of a contract with one of its franchisees. (DKK-40/2024). The subject of the transaction is the purchase by Anwim of three gas stations owned by Elbah II, in three different cities. In the course of the proceedings, UOKiK examined the state of competition in local markets within a 2.5-kilometer and 5-kilometer radius of the acquired stations. The UOKiK's analysis showed that the activities of the participants in the concentration overlap in one of the cities, and competition could be restricted in parts of the city. For this reason, there will be no other players in these markets with comparable strength. Therefore, the termination of a contract with one of its franchisees should prevent such situation and would preserve competition in the local market.

Other markets related to fish production

40. The company Lisner Holding sp. z o.o. has obtained approval from the President of UOKiK to acquire control of Greenwich Investments sp. z o.o. and part of the property of Koral S.A. (DKK - 202/2024). Lisner Group is an international conglomerate engaged in the production of dairy and convenience foods. On the Polish market, Lisner Group produces processed foods, mainly in the form of products based on herring fillets, salads and sandwich pastes. The acquired entity specializes in the production of canned fish, but also produces and distributes fresh and smoked fish, ready meals (canned meat, lard, jellies) and fish pastes. As part of the proceedings, UOKiK conducted a survey among competitors and counterparties of the merger participants. Based on the results, we concluded that the concentration would not lead to a significant restriction of competition on the domestic markets for the marketing of prepared herring preparations, prepared preparations of small pelagic fish (excluding herring), fish salads, vegetable salads, fish pastes and the domestic market for contract manufacturing of chilled fish preparations. The concentration also has a conglomerate impact on the national markets for contract manufacturing of canned fish and vegetables; chilled salads; and chilled pastes. However, in its assessment, the concentration will not lead to a restriction of competition in the contracting production markets in question mainly because these markets are the orderer's markets and the contracting retail chains have significant countervailing bargaining power. In addition, these markets are characterized by moderate barriers to entry and there are no significant economies of scale or network effects.

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

41. UOKiK evaluates drafts of legal acts in terms of their impact on competition in the relevant markets and compliance with competition law. In this manner, UOKiK cooperates with government, parliament representatives and other public bodies.

42. In the field of enforcement, UOKiK cooperates with sector-specific regulators on regular basis.

4. Resources of competition authorities

4.1. Resources overall

43. As per the Budget Act of 2024 the planned budget for UOKiK was **PLN 173,306,000** giving an increase of **25,9 %** per cent compared to **PLN 137,680,284.00 in 2023**. However, due to the reasons listed below, the planned budget of 2024 needed to be increased to **PLN 175,896,305,77**:

- tasks related to Polish presidency of the Council of the EU, European Competition Day, Dark Patterns

4.1.1. Annual budget

Table 4.1. Annual budget in PLN and USD

UOKiK annual budget, according to the Budget Act, after changes	PLN 175 896 305,77	USD (31.12.2024) 42 888 985,12
Budget for competition law and policy	PLN 56 013 344,96	USD (31.12.2024) 13 657 794,05

4.1.2. Number of employees (person-years)*:

- Economists - 30
- Lawyers - 88
- other professionals – 16 (data scientist)
- support stuff – 8
- all staff combined – 142

44. *staff working on competition enforcement in 2024.

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

Enforcement against anticompetitive practices

45. There were **142** people working on competition enforcement at the Office. Of this total, **78** individuals were directly involved in dealing with cases concerning abuse of dominance and anticompetitive agreements under Articles 101 and 102 TFEU and their national counterparts.

Merger review and enforcement

46. There were **20** people at the Office who worked on merger review and enforcement.

Advocacy efforts

47. There were **27** people working on Advocacy efforts.

4.3. Period covered by the above information:

48. The above information concerns the period from 1 January to 31 December 2024.

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

49. In 2024, 17 market research studies were conducted, in which questionnaire were sent to over 500 entities. Four market studies (cement market, medical waste, media, mortgage loan) were completed.

5.1. Market study on medical waste

50. The President of UOKiK conducted a market study of the medical waste market. This initiative was prompted by reports of significant price increases in tenders organized by hospitals for medical waste collection and disposal services. The study aimed to define the market, including its geographical scope and barriers to entry, and to assess the national and local processing capacities, their utilization rates, market concentration, and price dynamics. The result is a report that also includes recommendations for legal and systemic changes.

51. UOKiK recommends policy changes, including the removal of regional disposal restrictions and the adoption of alternative disposal methods, which could lead to lower costs and greater market competition. These changes would also help reduce costs for hospitals, small businesses, and other waste producers.

5.2. Market study on Polish beer and hop market

52. The study focused on the operation of the domestic beer market and the raw materials used in its production, particularly the relationships between agricultural producers, intermediaries, and beer manufacturers. It also examined market concentration and price dynamics. The study targeted 16 selected breweries, including the largest beer producers in the country, as well as hop producers, processors, and intermediaries. The analysis covered the years 2019 to 2022, with additional trends from earlier years, including Poland's first full year in the EU.

53. The report also investigates the relationship between market participants, highlighting the structure of the hop and beer market in Poland, which typically involves growers, intermediaries, processors, and breweries. Domestic hop suppliers mainly work through long-term contracts with breweries, while intermediaries often operate without formal contracts.

54. Another issue identified was the growing power of retail networks and purchasing alliances, which pressure suppliers to lower prices despite rising production costs. Additionally, hop growers in Poland face challenges due to the relatively small scale of their operations compared to those in Germany and the Czech Republic. This limits their ability to increase added value and impact the market.

55. The report outlines several recommendations, including increasing the scale of hop plantations, using renewable energy sources and energy-efficient technologies to optimize production costs, supporting the craft beer segment, and promoting the international sale of Polish hop varieties and beers.