

CERHA HEMPEL CEE NEWSLETTER *Slovak Republic*

New competition act in Slovakia

With effect from 1 June 2021, the Slovak legislator adopted a new competition act repealing the former act with the intention of bringing this field of Slovak legislation into line with EU law and practical needs. The new act takes over the structure and basic principles of the former, but it introduces some important changes, the main details of which are set out below.

Change in the definition of undertaking

The first noteworthy change is in the meaning of the term “undertaking”, which has been redefined. The former act defined an undertaking as only subjects with legal personality, i.e. natural persons and legal entities, and joint ventures between them. According to the new act, undertaking means any entity carrying out economic activity regardless its legal form and whether it has legal personality or not; according to the new definition, a single undertaking may include multiple natural persons or legal entities linked to each other by relationships of control, contractually, personally, organizationally or where linked by equity, including joint ventures of undertakings. The new definition also allows the extension of liability for unlawful conduct to subjects other than the direct perpetrator, which are part of the same undertaking, such as, for example, parent companies.

New powers of the Slovak Antimonopoly Office

A notable change compared to the previous legislation is the introduction of new types of measures that can be imposed by the Slovak Antimonopoly Office.

The first type are interim measures, which may be issued before the authority adopts a definitive

decision on the case if there is reason to believe that there has been a breach of the ban on agreements restricting competition or an abuse of a dominant position, and there is a risk of serious and irreparable harm to competition. By means of the interim measure, the Slovak authority may impose on the addressee a duty to render a specific performance or to seize an asset, which has to be destroyed or be used for the purposes of evidence.

The second type are so-called “behavioural and structural measures”, aimed at terminating the breach of the ban on agreements restricting competition and an abuse of a dominant position. The measure may consist of an obligation to render a specific performance (behavioural measures), the obligation to cede some rights or property (structural measures), or the obligation to appoint an independent administrator tasked with monitoring the fulfilment of the measures imposed or with ensuring the fulfilment of measures.

For the purpose of transposing recent EU law, a new sanction consisting of fines for any delay in fulfilling obligations imposed by a decision of the Slovak authority has been introduced; the maximum fine that can be imposed is calculated as a portion of the worldwide turnover of the undertaking that has failed to comply with the Slovak authority’s decision, multiplied by the number of days of delay.

Reaction to the consequences of COVID-19 prevention measures

As a reaction to the experience with the COVID-19 pandemic, the new act allows the suspension of proceedings before the authority for the duration of the state of emergency, when it is declared. The limitation periods cease to run during the period in which proceedings are suspended.



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Furthermore, in connection with the recent prolonged state of emergency, the new act also provides for a change in the assessment of threshold requirements for the notification of a concentration. As a general rule taken over from the previous act, the fulfilment of the threshold requirements is assessed based on the turnover of the undertakings that are parties to the concentration in the accounting period preceding the period in which the concentration takes place. However, if during such a period a state of emergency was declared and the parties in such a period did not reach the thresholds established by the law, the

immediately preceding accounting period unaffected by the state of emergency is decisive for assessing the fulfilment of the threshold requirements.

For more information

JUDr. Jozef Bannert
Partner Slovakia
jozef.bannert@cerhahempel.sk
Tel: +421 2 20 64 85 80