

Proper, transparent and just prioritization policy as a challenge for national competition authorities and prioritization of the Slovak NCA

by

Ondrej Blažo*

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* Ondrej Blažo, Associate Professor, Comenius University in Bratislava, Faculty of Law, Institute of European Law; e-mail: Ondrej.blazo@flaw.uniba.sk; ORCID: 0000-0001-9721-8724

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Abstract

The paper tries to establish some limits of the framework for prioritization policy in order to show that the NCAs are still bound by certain principles for setting their prioritization policies and are not completely independent or autonomous. In this context, priority setting by the Slovak NCA, surveillance of this process and evaluation of its credibility is analysed. The power to prioritize cases became a part of the 'independence toolkit' of the ECN+ Directive and is linked to effective use of limited resources. Despite including prioritization into the elements of independence of NCAs, the ECN+ Directive gives no further requirements for the prioritisation of the performance of enforcement powers of NCAs. Decisions regarding prioritization of enforcement can allow a NCA to focus on the most serious infringements of competition law. On the other hand, they can be challenged due to lack of transparency, arbitrariness, disproportionality and because of unequal treatment. Hence the prioritization policy, as well as individual decisions, shall be embedded into the framework safeguarding proper enforcement and due process of law. The legal framework of the European Commission for the system of rejection of cases as well as limited judicial review can serve as an inspiration for NCAs. Although NCAs are not restricted in the selection of their priorities, some competition infringements shall be inevitably included in their priorities, such as cartels and bid rigging. The case of Slovakia and its NCA shows a relatively low level of accountability of the Antimonopoly Office of the Slovak Republic (AMO) to the parliament, and judicial as well as parliamentary control of the prioritization and case selection of the AMO is limited. The paper concludes that within the reform of the Slovak NCA, it will be insufficient to only grant the AMO guarantees of independence, including independence of priority setting, and that mechanisms of accountability and review shall be evolved.

Résumé

L'article cherche à définir certaines limites du cadre de la politique de priorisation afin de montrer que les ANC sont liées par certains principes pour établir leurs politiques de priorisation et ne sont pas complètement indépendantes ou autonomes. Dans ce contexte, la définition des priorités par l'ANC slovaque, la surveillance de ce processus et l'évaluation de sa crédibilité sont analysées. Le pouvoir de hiérarchiser les affaires fait partie de la stratégie d'indépendance fixée par la directive ECN+ et est lié à l'utilisation efficace de ressources. Bien que la hiérarchisation fasse partie des éléments de l'indépendance des ANC, la directive ECN+ ne prévoit pas d'autres conditions pour la politique de prioritarisation des ANC. Les décisions concernant la hiérarchisation des mesures d'application peuvent permettre à une ANC de se concentrer sur les infractions les plus graves au droit de la concurrence. D'autre part, elles peuvent être critiquées en raison de leur manque de transparence, de leur caractère arbitraire, de leur disproportionnalité et de l'inégalité de traitement. Par conséquent, la politique de hiérarchisation des

priorités doit être intégrée dans le cadre garantissant une application correcte et une procédure régulière de la loi. Le cadre juridique de la Commission européenne concernant le rejet des affaires ainsi que le contrôle judiciaire limité peut inspirer les ANC. Bien que les ANC ne soient pas limitées dans le choix de leurs priorités, certaines infractions à la concurrence doivent inévitablement être incluses dans leurs priorités, comme les ententes et les truquages d'offres. Le cas de la Slovaquie montre un niveau relativement faible de responsabilité de l'Office antimonopole de la République slovaque devant le Parlement, et le contrôle judiciaire et parlementaire de la définition des priorités et de la sélection des affaires de l'Office est limité. L'article conclut que dans le cadre de la réforme de l'ANC slovaque, il ne suffira pas de garantir l'indépendance de l'AMO, y comprise la fixation des priorités, mais qu'il faudra faire progresser les mécanismes de responsabilité et de contrôle.

Key words: Competition law; EU law; Slovakia; prioritization; parliamentary surveillance; rejection of complaints; credibility of NCA; accountability of NCA.

JEL: K22, K23, K42

I. Prioritization policy – introduction

The prioritization policy can be either a systematic strategy of a competition agency or a safeguard against overburdening the agency by a myriad of insignificant cases (Power, 2018, p. 87). A proper prioritization policy can increase the deterrent effect of sanctions and competition law itself, due to raising the probability of detection of a serious violation of competition rules (Ost, 2014, p. 176). Kovacic noted, that “despite their significance prioritization and project selection too often lack needed attention and structure” (2018, p. 10). Prioritization policy is not an aim in itself and is a vehicle for the achievement of socio-economic purposes of competition law (Jennings, 2015, p. 38), which can be themselves influenced by other policies than ‘pure competition’ law (Ezrachi, 2017). Moreover, a political context can be also determined for a prioritization policy (Malinauskaite, 2016; Martyniszyn & Bernatt, 2019).

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 market¹ (hereinafter; ECN+ Directive) brought a new impulse for designing and re-designing national competition authorities, including

¹ OJ L 11, 14.1.2019, p. 3–33.

their priority setting. This directive answered the call for a harmonization of enforcement tools (e.g. Bernatt et al., 2018) in the system of shared administration and enforcement of EU law (Scholten, 2019).

The ECN+ Directive defined several measures in order to improve the operability and effectiveness of national competition authorities (hereinafter; NCAs) outlining a basic institutional design of a national competition authority (Ferro, 2019). However, it does not prevent the establishment or creation of an integrated agency (for integration of agencies, see e.g. Cseres, 2013). The autonomy of the prioritization policy set by a NCA is one of them. The ECN+ Directive requires two-fold prioritization autonomy (Art. 4 par. 5):

First, ‘strategic prioritization’, that is, setting priorities for carrying out tasks for the application of Articles 101 and 102 TFEU.

Second, ‘procedural prioritization’, that is, the right to reject complaints on the grounds that the case is not an ‘enforcement priority’.

‘Strategic prioritization’ overlaps with the power to set ‘positive priorities’, that is, the power to launch proceedings without any formal notification or complaint; ‘procedural prioritization’ corresponds to the power to set ‘negative priorities’, that is, the power not to launch proceedings even in the case of a formal complaint (Wils, 2017, p. 38).

The power to prioritize cases became part of the ‘independence toolkit’ specified in the ECN+ Directive and is linked to effective use of limited resources. According to the Impact Assessment attached to the Draft ECN+ Directive, 15 NCAs had powers to set priorities in full and choose which cases to dedicate their scarce resources to (8 NCAs are obliged to investigate cases which are not a priority, and 15 NCAs cannot reject complaints which are not a priority without doing a detailed investigation on their substance) (European Commission, 2017, pt. 2.2.1).

Furthermore, the European Commission in its Impact Assessment found that “Stakeholders, notably businesses, report that the lack of the power of NCAs to set their priorities in full prevents them from focusing on infringements that cause the most harm to competition” (European Commission, 2017, pt. 2.2.1).

In fact, prioritization is not a new topic within the European Competition Network (hereinafter; ECN), in 2013 the ‘ECN Recommendation on the Power to set Priorities’ was introduced within the ECN.

Despite including prioritization into the elements of the independence of a NCA, the ECN+ Directive gives no further requirements for the prioritisation of the performance of enforcement powers of NCAs.

Decisions regarding prioritization of enforcement can, indeed, allow a NCA to focus on the most serious infringements of competition law. On the other hand, they can be challenged due to lack of transparency, arbitrariness, disproportionality and because of unequal treatment. Hence the prioritization

policy, as well as individual decisions, shall be embedded into the framework safeguarding the proper enforcement and due process of law.

The paper will aim to establish some limits or a framework for the prioritization policy in order to show that NCAs are still bound by certain principles for setting their prioritization policies and are not completely independent or autonomous. In this context, priority setting by the Slovak NCA, surveillance of this process and evaluation of its credibility will be analysed.

II. Independence of priority setting and supervision

It is apparent from the rationale of the ECN+ Directive that NCAs shall enjoy independence from other national authorities in order to enforce EU competition rules properly (Ferro, 2019, pp. 122–123). EU law itself provides two possible limits of the independence or autonomy of NCAs.

The first one is directly enshrined in the ECN+ Directive (Art. 4(2 (b))) which allows “a government of a Member State, where applicable, to issue general policy rules that are not related to sector inquiries or specific enforcement proceedings”. Such link to the prioritisation policy is also confirmed in Rec. 23 of the ECN+ Directive. However, Wils discussed the link between independence and the power to reject complaints; the possibility to reject complaints on priority grounds actually presents an independence risk and depends substantially on the presence or absence of other independence guarantees (2019).

The second one is stemming from judicial and democratic control of every public body.

The independence of competition authorities may raise questions of their democratic legitimacy. So called input legitimacy of ‘unelected’ independent authorities shall connect political decisions with the preferences of the people. Scholten suggest ‘safeguards’ and ‘accountability’ as two of the triad of elements that can confirm the democratic legitimacy of independent regulatory agencies (2015, p. 66). Bringing ‘independent’ to account before parliament, that is, the representatives of the people, can establish a ‘delegation-accountability chain’ (Scholten, 2012, p. 31).

It was confirmed by the Court of Justice of the EU (hereinafter; CJEU) that even authorities that shall be independent form political influence of a government, shall be still subject to judicial control and parliamentary control, since “the absence of any parliamentary influence over those authorities is inconceivable” (C-518/07 Commission/Germany², par. 43). Hence a parliament

² Judgment of 9 March 2010, Commission/Germany, C-518/07, EU:C:2010:125.

can, at least indirectly, influence the prioritisation policy of a NCA by assessing the effectiveness of the performance of the activities of a NCA (e.g. it can challenge some policy approaches of a NCA as inappropriate or insufficient).

The judicial review of decisions rejecting complaints can reduce risks of political influence (Wils, 2019); however, the courts have deterred themselves not to replace powers of the competition authority (Bernatt, 2016).

From the aim and wording of the ECN+ Directive and the ECN Recommendation on the Power to set Priorities, it is clear that they follow the same goal regarding prioritization – filter the workload in order to save resources for ‘priority’ cases. Although the ECN Recommendation gives more details for setting rules for prioritization policies, they are still too loose. For example, in comparison to the ECN+ Directive, the ENC Recommendation refers to the limited framework for judicial control over a rejection of complaints: “the framework of judicial review of decisions by the Authorities to reject non-priority complaints should, to the greatest extent possible, be designed in a way that preserves the prerogative of the Authorities to set and pursue enforcement priorities.” (European Competition Network, 2013, pp. 4, 6). Hence, the highest level of conformity with this recommendation is the complete exclusion of judicial control. However, ‘meaningful judicial oversight’ (Jennings, 2015, p. 38) cannot be excluded as a safeguard against abuse of power.

III. Inspiration by the European Commission

The institutional design as well as procedural rules of the European Commission and those of the NCAs represent different legal spheres and, in general, procedural rules of the European Commission as well as judicial review assessing Commission procedures are not directly applicable within the ambit of the NCAs. However, they can serve as certain inspiration. Hence, if the legal framework of a NCA aligns with the rules applicable for the European Commission, then practice and case-law can *per analogiam* serve as a guidance in the argumentation in judicial review.

The European Commission can, in fact, prioritize its cases under Article 7 of Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty³ since, if “on the basis of the information in its possession there are insufficient grounds for acting on a complaint”, it can reject a complaint (the regulation

³ OJ L 123, 27.4.2004, p. 18–24.

provides rules for informal and formal rejection). This power of the European Commission was confirmed by the case-law of the CJEU. The Commission, entrusted by Article 105(1) TFEU with the task of ensuring the application of the principles laid down in Articles 101 and 102 TFEU, is responsible for defining and implementing the orientation of EU competition policy. In order to perform that task effectively, it is entitled to attach differing degrees of priority to the complaints brought before it and has a broad discretion in that respect⁴. When, in the exercise of that broad discretion, the European Commission decides to assign differing degrees of priority to the examination of complaints submitted to it, it may not only decide on the order in which the complaints are to be examined but also reject a complaint on the ground that there is an insufficient EU interest in further investigating this case.⁵ In order to assess the EU interest in the further investigation of a case, the European Commission must take account of the circumstances of the case, and especially of the matters of fact and of law set out in the complaint referring to it. In particular, the Commission is required, after evaluating with all due care the matters of fact and of law put forward by the complainant, to weigh the significance of the alleged infringement as regards the functioning of the internal market against the probability of its being able to establish the existence of the infringement and the extent of the investigative measures required in order to fulfil, under the best possible conditions, its task of ensuring that Articles 101 and 102 TFEU are complied with.⁶

This discretion of the European Commission entails two consequences. First, EU law does not give a complainant the right to insist that the Commission take a final decision as to the existence or non-existence of the alleged infringement, and does not oblige the Commission to continue the proceedings, whatever the circumstances, right up to the stage of a final decision.⁷ Second, the judicial review of decisions rejecting complaints is limited and courts cannot substitute the European Commission's assessment of the EU interest⁸.

⁴ E.g. judgment of 4 March 1999, *Ufex and Others v Commission*, C-119/97 P, EU:C:1999:116, par. 88 and 89; judgment of 17 May 2001, *IECC v Commission*, C-449/98 P, EU:C:2001:275, par. 36; judgment of 30 May 2013, *Omnis Group v Commission*, T-74/11, EU:T:2013:283, par. 43.

⁵ Judgment of 15 December 2010, *CEAHR v Commission*, T-427/08, EU:T:2010:51, par. 27.

⁶ Judgment of 18 September 1992, *Automec v Commission*, T-24/90, EU:T:1992:97, par. 86; judgment of 15 December 2010, *CEAHR v Commission*, T-427/08, EU:T:2010:51, par. 158.

⁷ Judgment of 19 September 2013, *EFIM v Commission*, C-56/12 P, EU:C:2013:575, par. 57; judgment of 18 September 1992, *Automec v Commission*, T-24/90, EU:T:1992:97, par. 75; judgment of 30 May 2013, *Omnis Group v Commission*, T-74/11, EU:T:2013:283, par. 42.

⁸ Judgment of 15 December 2010, *CEAHR v Commission*, T-427/08, EU:T:2010:51, par. 65; judgment of 11 July 2013, *BVGD v Commission*, T-104/07 and T-339/08, EU:T:2013:366, par. 219.

However, discretion of the European Commission cannot lead to unfounded decisions and the European Commission has to assess properly and impartially matters of fact and legal arguments brought by the complainant, and the decision of the Commission has to rely on facts and arguments described therein. Such consistency and reasons of the decision of the European Commission are subject to judicial review.⁹

The abovementioned case-law of the CJEU can serve as an inspiration for national approaches towards the level of discretion of a competition authority as well as the limits of judicial review.

However, more precisely, the case-law of the CJEU allows the European Commission to reject a case if there is a lack of Union interest. In the light of judgment C-17/10 Toshiba¹⁰, it must be noted that a distinction remained between EU competition rules and national competition rules. The scope of EU competition law is limited by the TFEU, because it covers only infringements that have impact on the functioning of the internal market. On the other hand, national law as well as NCAs bear responsibility for the proper functioning of their respective national economies. Thus, while the European Commission can reject a case due to lack of Union interest, the possibilities of NCAs in this context are limited, because they still have to protect their national economy, notwithstanding an impediment of trade between the Member States. Moreover, the European Commission can reject a case due to lack of EU interest on the basis of an investigation by a NCA (Rusu, 2018, pp. 35–38). Notwithstanding Union interest, the ‘Automec test’¹¹ is operational for both the European Commission and NCAs: when deciding whether or not to start an investigation, the competition authority must weigh up the significance of the alleged infringement regarding the functioning of the Internal Market/national market, against the probability of establishing the existence of the infringement, and the extent of the necessary investigative measures.

IV. Prioritization and rule of law

Prioritization and rejection of complains can be challenged from the point of view of equality of treatment, transparency, fair and impartial treatment, that is, elements of the rule of law linked to the right for good administration (Lanza, 2008). It can be suggested that a sufficient mechanism must be

⁹ Judgment of 23 October 2017, *CEAHR v Commission*, T-712/14, EU:T:2017:748, par. 35–41.

¹⁰ Judgment of 14 February 2012, *Toshiba Corporation e.a.*, C-17/10, EU:C:2012:72.

¹¹ Judgment of 18 September 1992, *Automec v Commission*, T-24/90, EU:T:1992:97.

established in order not to frustrate these requirements of the rule of law. External control of a prioritization policy can, on the other hand, undermine the independence of a NCA. The effectiveness of judicial control can be doubtful in this context, because the courts are usually empowered to formally review legal aspects of the decision, and not subject-matter questions related to the expertise of the respective authority itself.

Again, strategic prioritization and procedural prioritization shall be distinguished. Strategic prioritization can easily fall under public surveillance, since it is usually published or included in annual reports. Furthermore, strategic prioritization is based on a professional assessment of the current conditions of the national and international economy. The competition authority and its representatives can be called to be accountable for their decisions regarding strategic prioritization, and the general setting of a prioritization policy cannot undermine requirements of the rule of law.

On the other hand, “procedural prioritization”, i.e. decisions in individual cases, if unpublished, cannot be identified and verified, particularly in jurisdictions where a complaint is not rejected by a decision but merely by a letter or when the authority is not obliged to inform the complainant at all.

Thus, in order to follow standards of the rule of law, a NCA shall establish a transparent and formalized procedure of accepting and rejecting complaints (statutory or soft law), including transparent statistic data on rejected complaints and reasons for the rejections in its annual reports. The rationale is the same as for a prioritization policy – taxpayer’s demand for ‘best value for money’: the competition authority as a public agency is financed by taxpayers who can claim both – proper enforcement of competition law as well as fair treatment of their own individual matters.

V. Mandatory priorities?

Although formally the NCAs shall have full autonomy in priority setting, there are some limits for such discretion stemming from economic theory of competition law itself. Cartels can be hardly excluded from ‘top priorities’ of a NCA. Second, prioritisation must inevitably follow the focus of the European Commission’s priorities in application of Articles 101 and 102 TFEU. Although the NCAs can be formally independent from the European Commission, they still have responsibility for the proper application of Articles 101 and 102 TFEU and any deviation or lenient approach to enforcement of EU law can be seen as the under-enforcement of EU law. The European Commission has, moreover, several measures how to compel a NCA to deal with a case:

the discussion within notification procedure under Regulation No 1/2003, peer pressure within the ECN as well as infringement procedure against the Member State.

There can be an argument that since the prioritization policy covers merely public enforcement, minor and non-priority cases can be still subject to private enforcement. However, the European system of private enforcement seems to be more favourable to follow-on actions and so a decision of a competition authority can be crucial for private enforcement itself. Although public enforcement of competition rules can foster private enforcement, in the *Agria Polska* case, the CJEU absolved competition authorities from the mandatory launch of an investigation in cases where private claims for damages were submitted: “As provided for by the second subparagraph of Article 19(1) TEU, it is for the Member States to provide remedies sufficient to ensure effective judicial protection for individual parties in the fields covered by EU law (see, to that effect, judgment of 27 February 2018, Associação Sindical dos Juízes Portugueses, C-64/16, EU:C:2018:117, paragraph 34), and not for the Commission to make up for any shortcomings in judicial protection at national level by opening an investigation requiring considerable resources where the likelihood of finding an infringement of Articles 101 and 102 TFEU is low.”¹²

Bid rigging cases are another candidate for being a quasi-mandatory priority of NCAs. Bid rigging is a specific case of anticompetitive behaviour which can cause, along with anti-trust sanctions, negative effects under public procurement law. In detail, an economic operator can be excluded from the process of the given public procurement, if the contracting authority can prove the existence of anti-competitive agreements. Moreover, such economic operator can be excluded from public procurement procedures in the future. In this context, the ability of the contracting authority to prove bid rigging is crucial. It is obvious that a decision of a competition authority is an effective proof of a violation of competition rules. Moreover, bid rigging can cause serious damage to public funds as well as financial interests of the European Union.

The importance of the investigation of bid rigging cases was also underlined by the CJEU in the *Vossloh Laeis* case. The CJEU viewed that “the existence of conduct restrictive of competition may be regarded as proved only after the adoption of such a decision, which legally classifies the facts to that effect”¹³. “As a consequence, the period of exclusion must be calculated not as from the participation in the cartel, but from the date on which the conduct was

¹² Judgment of 20 September 2018, *Agria Polska and Others v Commission*, C-373/17 P, EU:C:2018:756, par. 87.

¹³ Judgment of 28 October 2018, *Vossloh Laeis*, C-124/17, EU:C:2018:855, par. 39.

the subject of a finding of infringement by the competent authority.”¹⁴ It is, thus, indispensable for a NCA to pay special attention to bid rigging cases. The link to double interests of the Union – competition law for the proper functioning of internal market and financial interests (Kováčiková, 2018b) may lead to the conclusion that the fight against bid rigging shall be included into the priorities of a NCA.

VI. Case of Slovakia

1. General legislative framework for discretion

The Slovak legal order and practice of the Slovak NCA (Protimonopolný úrad Slovenskej republiky/Antimonopoly Office of the Slovak Republic) (hereinafter; AMO) will serve as a case-study of the abovementioned aspects of prioritization policies, including its coherence with the rest of the Slovak legal order and powers of similar national authorities (e.g. independent enforcement agencies, PPO).

The AMO is constituted as a body of central government and administrative body (central body of state administration) [§ 14(1) of the Act on Protection of Competition (hereinafter; APC)¹⁵]. The laws providing the operational framework for the AMO do not currently regulate its prioritisation policy. The APC does not provide exact policy-setting rules other than those that are stipulated in § 1 APC: “The purpose of this Act is to protect competition from any restriction and to create conditions for its further development to the benefit of consumers and regulating the powers and scope of activities of the Antimonopoly Office of the Slovak Republic (hereinafter referred to as “the Office”) in supervising compliance with the provisions of this Act.” Nevertheless, the objective of the action of the AMO is visible and every action of the AMO shall follow this objective stipulated in § 1 APC.

The AMO is obliged to provide an annual report on its activities to the Government of the Slovak Republic, the latter can also request the AMO to do so [§ 14(5) ATC]. The law does not specify any mandatory content of the report. However, the position of the AMO as a ‘central body of

¹⁴ Judgment of 28 October 2018, Vossloh Laeis, C-124/17, EU:C:2018:855, par. 41.

¹⁵ Act. No 136/2001 Coll on Protection of Competition and on Amendments and Supplements to Act of the Slovak National Council No. 347/1990 Coll. on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended as amended (*zákon č. 136/2001 Z.z. o ochrane hospodárskej súťaže a o zmene a doplnení zákona Slovenskej národnej rady č. 347/1990 Zb. o organizácii ministerstiev a ostatných ústredných orgánov štátnej správy Slovenskej republiky v znení neskorších predpisov*).

state administration' can determine its reporting policy as well as 'strategic prioritization'. Under § 39(1) of Act No 575/2001 Coll. on the Organization of Activities of the Government and the Organization of Central State Administration (hereinafter; AOG), the activities of central bodies of state administration are governed, coordinated and supervised by the Government through the heads of these bodies. Thus, the AOG can serve as a legal basis for shaping the 'strategic' prioritization policy of the AMO and the Government is allowed to assign duties to the AMO within the mission of the AMO. Such decisions of the Government are not subject to judicial review (§ 1aa AOG), and internal discussions during governmental meetings need not be published (more precisely, meetings are not public) (§ 1a AOG).

'Procedural' prioritization is also shaped by general administrative law since the proceedings and decision-making of the AMO is governed by both, special provision of the ATC and general provisions of the Administrative Code¹⁶. Under the Administrative Code, administrative bodies shall protect the interests of the state and the society [§ 3(1)] and "must deal with any matter subject to the proceedings in a diligent and responsible manner, to settle the matter in a timely manner and without undue delay and use the most suitable means which lead to the accurate settlement of the matter" [§ 3(4)]. Furthermore, administrative bodies shall ensure that decision-making on matters based on the same or similar facts is not unduly divergent [§ 3(5)].

The legislative framework on administrative proceedings in competition matters separated investigation (as a preliminary phase) and administrative proceeding (as a decision-making phase). In case of an agreement restricting competition, abuse of a dominant position and other forms of unlawful restrictions of competition, the proceedings shall always be initiated *ex officio* [§ 25(1) ATC] and the law failed to provide a procedural position to possible complainant. Alleged infringers are the only parties of administrative proceedings before the AMO. The rights of the person who submitted a written complaint regarding a possible infringement are quite limited. The only procedural right of such a person is the right to be informed in writing of further procedures regarding the matter within two months following the date of the receipt of the request of such person [§ 25(2) ATC].

Since the complainants are not parties to the proceeding, they cannot challenge the decision of the AMO, neither by appeal nor by action within the judicial review.

¹⁶ Act no 71/1967 Coll. on Administrative Proceeding (Administrative Code) as amended (*zákon č. 71/1967 Zb. o správnom konaní (správny poriadok)*).

2. Rejection of individual complaints – procedural safeguards

Neither the APC nor the Administrative Code provide rules on the formal rejection of complaints. As it was mentioned above, a complainant is merely informed within two months of the request on the course of the proceedings. The AMO does not issue any decision on the rejection of a complaint and, therefore, the complainant cannot appeal against such rejection. Furthermore, the AMO is not obliged to provide any reasons for the rejection of a complaint.

In the Slovak legal framework, three measures can be involved in case of an undue activity of an administrative body: a formal administrative complaint, a notice and protest of the prosecutor, and judicial review.

Although Slovak courts generally consider formal administrative complaints under the Act on Complaints¹⁷ as a effective remedies against a wrongful or unfair behaviour of administrative bodies, such a character cannot be attributed to the formal administrative complaint in every case. It was confirmed by the Constitutional Court of the Slovak Republic that ‘practical effectiveness of the remedy’ is relevant as well¹⁸. A formal administrative complaint can serve as a remedy against an unlawful encroachment into rights of the complainant or can point to certain failures, particularly violation of law (§ 3 of Act on Complaints). However, complaints are handled by the administrative body which is legally responsible for the given area of administration (§ 11 of the Act on Complaints). In the context of enforcement of competition law, the AMO is empowered to handle all complaints regarding enforcement or non-enforcement of competition rules. Therefore, a formal administrative complaint against a rejection of a complaint referring to an infringement of competition law is more theoretical than an effective safeguard against the arbitrariness of procedural prioritization and rejection of complaints. The only exemption from this ‘internal’ handling of formal administrative complaints can be invoked by the complaint directly against the chairperson of the AMO if he or she is directly involved in the measure at stake. Such a formal administrative complaint shall be handled by the Office of the Government [§ 11(2) Act on Complaints].

The prosecutor is, *inter alia*, empowered by § 22 of the Act on Public Prosecution¹⁹ to protest against administrative acts and issue a notice (warning). The prosecutor can, however, protest against decisions and measures of administrative bodies in cases of violations of law only [§ 23(1) of the Act on Public Prosecution]. Therefore, the prosecutor cannot challenge the margin

¹⁷ Act No 9/2010 Coll. on Complaints as amended (*zákon č. 9/2010 Z.z. o sťažnostiach*).

¹⁸ Finding of the Constitutional Court of the Slovak Republic of 1 December 2012, No III. ÚS 396/2018, ECLI:SK:USSR:2016:3.US.396.2015.1

¹⁹ Act No 152/2001 Coll. on Public Prosecution as amended.

of discretion of an administrative body if that margin is not misused contrary to the law. Similarly, a prosecutor's notice (warning) can be issued against an activity or the failure to act contrary to the law [§ 28(1) of the Act on Public Prosecution]. Thus, a prosecutor can in theory effectively employ the notice (warning) procedure only in cases when a rejection of a complaint is manifestly contrary to the mission of the AMO to protect competition. This situation is quite hypothetical because an individual can hardly provide enough evidence, data and assessment of the market situation to show that there is a manifest and undeniable violation of competition rules.

Within the judicial review, the Code of Administrative Court Procedure (hereinafter; CACP)²⁰ provides three basic types of actions: a general administrative action (§ 177 et seq. CACP), an action against the inactivity of the public administrative body (§ 242 et seq. CACP), an action against an intervention of the public administrative body (§ 252 et seq. CACP).

A party to administrative proceedings (or a person who should have been a party of administrative proceedings) can challenge a decision or measure of an administrative body via a general administrative action (§ 177 CACP). However, a complaint is not rejected by way of a decision, and any letter informing a complainant on the course of proceeding cannot be considered a 'measure of an administrative body' under § 3(1)(c) CACP because it is not issued within an administrative proceeding under § 3(1)(a) CACP (proceedings of an administrative body aimed to issue an individually addressed decision or normative act). Therefore, a complainant cannot use the general administrative action in order to challenge 'procedural' prioritization. Similarly, an action against an intervention of a public administrative body (§ 252 CACP) is not applicable because the rejection of a complaint is not a direct or factual encroachment onto an individual's right granted by law.

The scope of the action against an inactivity (§ 242 CACP) is limited only to failure to act within already commenced administrative proceeding. However, the public prosecutor is empowered to file an action against the failure to launch administrative proceedings *ex officio* [§ 242 (2) CACP]. An action against an inactivity can be successful only in case where there is a clear duty of the administrative body to act. "The inactivity of an administrative body must be contrary to exact legal provision that contains and order for the administrative body to proceed, act, employ certain procedural measures and to decide".²¹ The legal relevance of a 'complaint' in competition matters was explained by the Supreme Court of the Slovak Republic: "A notice provided by natural

²⁰ Act No 162/2015 Coll. Code of Administrative Court Procedure as amended (*zákon č. 162/2015 Z.z. Správny súdny poriadok*).

²¹ Finding of the Constitutional Court of the Slovak Republic of 2 June 2009, No. III ÚS 70/09.

person or juridical person [§ 25(2) APC] is not a motion for commencement of administrative proceeding. The court considers that such notice provides certain information regarding competition that need not be known to the Office in its ex officio investigation. [...] The court is not empowered [...] to decide that an administrative body shall initiate administrative proceeding in cases when the law explicitly provides such competence (commence an administrative proceeding) solely to an administrative body (principle of officiality).”²²

3. Prioritization policy of the AMO

A prioritization policy was outlined by the AMO in its strategy paper in 2012. The priorities were outlined in broad terms: (a) revealing and sanctioning of anticompetitive conducts with impact on large groups of consumers, (b) revealing and sanctioning of the most serious anticompetitive conducts (for example, price-fixing cartels), and (c) competition advocacy (Protimonopolný úrad Slovenskej republiky, 2012a, pp. 3–4). The rationale for prioritization was clearly focusing on “handling meaningful competition” and not to “spend its resources and taxpayers’ financials on sanctioning of conduct which constitute only ‘formal’ infringement of the Act without the real impact on consumers” (Protimonopolný úrad Slovenskej republiky, 2012b).

The AMO published its itemised prioritization policy in January 2015, in which it defined the areas of prioritisation: decision-making activity, market research and competition advocacy (Protimonopolný úrad Slovenskej republiky, 2015a, p. 3). The establishment of priorities determining whether the AMO will deal with an issue, or will proceed to solve a case, results from the following principal criteria: gravity (type gravity and factual gravity), importance of investigation, probability of success and strategic nature (Protimonopolný úrad Slovenskej republiky, 2015a, pp. 4–6).

‘Type gravity’ scales from very serious offences (horizontal agreements on prices, market allocation, actual restriction of production, bid rigging, exclusionary abuse of a dominant position, not notified mergers, failure to comply with a decision of the AMO), through serious offences to less serious offences (vertical agreements of minor importance, competition restrictions by public authorities of minor importance and other less serious competition law infringements). This scale is not very instructive because almost all offences are defined either as very serious or serious; what falls into the group of ‘less serious offences’ are offences tautologically described as a violation of minor

²² Ruling of the Supreme Court of the Slovak Republic of 4 August 2009. No. 5 Sžnč 3/2009.

importance. Furthermore, under the AMO's prioritization policy, priority will be given to very serious and serious offences (Protimonopolný úrad Slovenskej republiky, 2015a, p. 4).

Gravity of a violation of competition rules, together with the probability of success of the investigation, can form part of 'procedural prioritization'. Although it is not clear how the AMO will handle the 'probability of success' criterion within its prioritisation policy, it declares that it will take into account availability of relevant information and evidence and the possibility to obtain them, existence of precedence and assessment whether there is another authority able to effectively deal with the matter (Protimonopolný úrad Slovenskej republiky, 2015a, pp. 5–6).

'Strategic' prioritization can be linked to the following criteria of prioritization: importance of an investigation and strategic nature. Importance of an investigation includes nature of the industry, damage and existence of an action of private enforcement. Although there are currently no private enforcement cases closed after the introduction of private enforcement rules²³, public enforcement seems to be still important for private enforcement. Slovak courts appeared to be very cautious in dealing with stand-alone actions, and rejected claims on the basis of the lack of a prior decision of a competition authority²⁴.

The 'strategic nature' of the case can, nevertheless, override the prioritization assessment under the previous criteria and can lead to an investigation also of non-priority cases. The strategic importance of a case can stem from current goals and vision of the AMO, aim to build the credibility of the AMO, and the creation of a legal precedent as an interpretative rule (Protimonopolný úrad Slovenskej republiky, 2015a, p. 6).

The abovementioned factors appear to be criteria for the case-by-case assessment of competition issues, nevertheless, the AMO labels them as

²³ Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ L 349, 5.12.2014, p. 1–19), Act No 350/2016 Coll. laying down rules relating to the exercise of claims for compensation for harm caused by an infringement of competition law and amending Act No 136/2001 on the protection of economic competition and amending Slovak National Council Act No 347/1990 on the organisation of ministries and other central-government bodies of the Slovak Republic, as amended, as amended (*Zákon č. 350/2016 Z. z. o niektorých pravidlách uplatňovania nárokov na náhradu škody spôsobenej porušením práva hospodárskej súťaže a ktorým sa mení a dopĺňa zákon č. 136/2001 Z. z. o ochrane hospodárskej súťaže a o zmene a doplnení zákona Slovenskej národnej rady č. 347/1990 Zb. o organizácii ministerstiev a ostatných ústredných orgánov štátnej správy Slovenskej republiky v znení neskorších predpisov v znení neskorších predpisov*).

²⁴ E.g. judgment of the District Court Bratislava II (Okresný súd Bratislava II) of 6 September 2017, No 26CbHs/3/2013, ECLI:SK:OSBA2:2017:1213230629.3, par. 57–58.

“prioritization from a long-term perspective” (Protimonopolný úrad Slovenskej republiky, 2015a, p. 3). Along these ‘long-term’ priorities, the AMO defined also short-term priorities linked to (a) anti-competitive practices (cartels, bid rigging and not notified mergers) and (b) priority sectors (public passenger transport, the motor vehicle sectors, the food industry) (Protimonopolný úrad Slovenskej republiky, 2015a, pp. 7–9). Such a division of ‘long-term’ and ‘short-term’ priorities appears to be confusing. If fight against cartels is a mere ‘short-term’ priority, what is the ‘long-term’ priority. On the other hand, from the ‘long-term’ point of view, the AMO included price and segmentation horizontal agreements as very serious offences.

There has been no explicit update of AMO’s prioritization policy till 2020, however, in its later documents, the authority defines another set of priority sectors: e-Commerce, agriculture, food industry, information systems, information technologies, sectors affected by state regulations (utility companies, financial and insurance services, etc.) (Protimonopolný úrad Slovenskej republiky, 2018c, p. 46, 2018a, p. 2). The new prioritization policy of the AMO was published in April 2020 (Protimonopolný úrad Slovenskej republiky, 2020a) and apparently it reacted to the coronavirus pandemic by describing the abuse of the extraordinary situation (caused by the spread of COVID-19) as an aggravating factor as well as adding the health sector into sectoral priorities. The AMO envisaged establishing a ‘prioritization commission’ in order to prevent employees of the AMO from abusing the prioritization policy in favour of a given investigated undertaking (Protimonopolný úrad Slovenskej republiky, 2020a, p. 9). However, further details on this ‘commission’, its composition and position within the AMO’s structure were not given either in the prioritization policy or in the Organizational Order of the AMO.

4. Independence and credibility of the prioritization policy of the AMO – legal framework

The procedure for establishing and review of a prioritization policy cannot be found in either statutory and by-law rules or in the prioritization document themselves. In its ‘strategic prioritization’, the AMO does not refer to governmental decisions, and tasks ordered by the Government are not apparent from annual reports of the AMO submitted to the government (Protimonopolný úrad Slovenskej republiky, 2017a, 2018b, 2019a). Although indirect political influence cannot be excluded (Patakyová, 2019a, pp. 136, 138, 140), there is no current evidence of such actions. Nevertheless, lack of transparency, lack of any public hearings or precise rules for the selection of candidates during the appointment process of the chairperson of the AMO,

vice-chairperson of the AMO as well as members of the Council of the AMO (Patakyová, 2019a), do not contribute to the credibility of assertions on the absence of political influence. The fact that the chairperson of the AMO is appointed by the president on a proposal of the Government (Balog & Trellová, 2010, p. 806) can contribute to a certain level of independence and legitimacy of the chairperson of the AMO, due to the direct election of the President of the Republic (Patakyová, 2019a, p. 137). However, in history, there has never been any discord between the President of the Republic and the Government regarding the appointment of the chairperson of the AMO.

Responsibility for establishing, review and surveillance of the prioritization policy is not directly enshrined in the Organizational Order of the AMO (Protimonopolný úrad Slovenskej republiky, 2020). The only reference can be found within the powers and responsibilities of the vice-chairperson of the AMO, who is "...responsible for setting priority aims of the Office within the protection of economic competition and defining of the duties arising from such aims for subordinate employees..."²⁵. The powers of the chairperson of the AMO regarding the prioritization policy can be included in its power to approve a plan of the main tasks of the AMO and programme documents.²⁶ Together with their power to sign first-instance decisions [§ 15(3) APC], the vice-chairperson of the AMO is *dominus vitae necisque* of cases dealt with by the AMO. In this context, the vice-chairperson is not accountable to any person other than the chairperson of the AMO who appoints and dismisses him/her at his/her discretion.

Apart from regular and extraordinary reports to the Government [§ 15(4) APC] and execution of statutory powers of the Government [§ 39(1) AOG], there is no other tool for public accountability of the AMO for its activities. In this context, Cseres sees a link between the accountability of a NCA to the parliament and proper enforcement of competition law and the rule of law (2019, pp. 82–82). In Slovakia, indeed, there is both indirect and direct political surveillance by the parliament (the National Council of the Slovak Republic). Indirect surveillance of the AMO by the parliament relies on the overall control power of the parliament over the Government and the power of vote of non-confidence. The direct form of control has its constitutional basis in the right of the members of the parliament to interpellate members of the Government and heads of central bodies of state administration [Art. 80(1) of the Constitution of the Slovak Republic]. However, throughout history, there was only a single interpellation of the chairperson of the AMO in 2011 related to the age of retirement of the employees of the AMO (Národná rada Slovenskej republiky, 2011). Furthermore, the National Council of the Slovak Republic as well as its

²⁵ Art. 6(2)(b)(1) of the Organizational Order of the AMO.

²⁶ Art. 4(2)(c)(2) of the Organizational Order of the AMO.

committees can request any governmental body to submit a report (§ 128 of the Rules of Procedure of the National Council of the Slovak Republic²⁷), however, this power was not employed towards the AMO.

From the comparative point of view, the supervision of the AMO and its chairperson is quite weak, comparing to other 'market' regulators. For example, criteria for the appointment and dismissal of the chairperson of the Regulatory Authority for Electronic Communication and Postal Services (hereinafter; RA) is stipulated in law in detail, including his/her qualifications, as are incompatibility and conflict of interests rules (§ 3–6 of the Act on of the Regulatory Authority for Electronic Communication and Postal Services and Transport Authority, hereinafter; ARATA)²⁸. The chairperson of the RA is elected by the parliament [§ 3(1) ARATA]. The issue of conflict of interests of the chairperson and vice-chairperson of the RA is under the supervision of a special parliamentary committee (§ 6 ARATA). On the other hand, the parliamentary committee is not empowered to challenge the decisions of the chairperson of the RA. Similarly, the chairperson of the Office for Public Procurement is elected by the parliament after public hearings²⁹, a fact that can contribute to the independence of this official (Patakyová, 2019b, p. 212).

The National Council of the Slovak Republic also directly surveys the activities of some governmental bodies, such as the Slovak Information Service (civil intelligence service), the Military Intelligence Service and the National Security Authority (authority for the protection of classified information, cryptographic services and cyber security) (§ 60 of the Rules of Procedure of the National Council of the Slovak Republic).

Summing up, the AMO and its chairperson is closely linked to the Government, as compared to other market regulators, and there is no mandatory measure of democratic control by the parliament (the level of parliamentary supervision depends on activities of the members of the parliament themselves). If more independence is granted to the AMO after the transposition of the ECN+ Directive, more requirements for accountability and democratic control shall be introduced.

²⁷ Act of the National Council of the Slovak Republic No 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic (*zákon Národnej rady Slovenskej republiky č. 350/1996 Z.z. o rokovacom poriadku Národnej rady Slovenskej republiky*)

²⁸ Act No 402/2013 Coll. Act on of the Regulatory Authority for Electronic Communication and Postal Services and Transport Authority and on amendment certain laws (*zákon č. 402/2013 Z.z. o Úrade pre reguláciu elektronických komunikácií a poštových služieb a Dopravnom úrade a o zmene a doplnení niektorých zákonov*).

²⁹ Act No. 343/2015 Coll. on public procurement, as amended (*zákon č. 343/2015 Z.z. o verejnom obstarávaní*).

5. Reasonability of prioritisation and accountability to the general public

Promulgating a prioritization policy is not sufficient to ensure the reasonability and credibility of that prioritisation policy. First, if the AMO shows that it is really overburdened by non-significant cases, a prioritization policy appears reasonable. Second, the competition authority shall follow its own policy and confront its activities vis-à-vis the prioritization policy. Table 1 shows limited personal and financial sources of the AMO. In 2015, the number of its employees was raised by 15 former employees of the Ministry of Finance in charge of state aid. In 2016–2018, the budget of the AMO was raised due to investments supported by European structural funds. Hence, although the budget of the AMO is slightly increasing, the number of employees is decreasing. Table 2 shows the gap between investigation and enforcement activities depending on the types of offences – while in the case of cartels there is a substantial number of complaints as well as investigations and subsequent administrative procedures, in the case of abuse of a dominant position, the number of proceedings is relatively minimal. In such situation, more precise explanation of the ratio of rejected complaints would contribute to the credibility of the prioritization policy. Moreover, it is apparent neither from annual reports addressed to the general public nor from the reports addressed to the Government, what was the reason behind the rejection of complaints – prima facie lack of violation of competition law or the non-priority character of the case.

Following the prioritization policy can also contribute to its credibility. The AMO follows its aim to suppress bid rigging and the majority of cartel cases cover violations of competition rules within public procurement. In the period 2011–2019, the AMO closed 17 cartel cases imposing total fines of approximately 22 million EURO, while 12 of them were bid rigging cases (total fine approximately 8 million EURO) (Kováčiková, 2018a; Protimonopolný úrad Slovenskej republiky, 2012c, 2013, 2014, 2015b, 2016, 2017b, 2019b).

Regarding sectorial priorities, the AMO is performing a market analysis of the e-commerce sector (Protimonopolný úrad Slovenskej republiky, 2018c), and has analysed the food retail sector in the past.

Table 1³⁰

Year	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
No of employees (31.12.)	73	75	78	56	55	57	61	61	n.d.	73	73	n.d.	66	70
No of management staff	14	13	15	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
Expenditures. (in thousands)	3094	2782	2716	2035	2017	2097,6	2451	2145	2368	2494	2419	2833	1564	1311

Table 2³¹

	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004									
Complaints	cartels	41	58	86	94	n.d.	50	n.d.																
	vertical agreements	5	8	7	8	n.d.																		
	abuse of dominant position	46	61	42	78	29	56																	
	government	11	11	4	4	0	16																	
Investigations	cartels	40	60	47	24	9	19	n.d.																
	vertical agreements	3	1	3	5	12	5									42	76	69	87	40	28	41	45	
	abuse of dominant position	8	7	5	3	2	9									17	41	65	69	73	68	77	76	
	government	14	12	1	0	6	10									15	n.d.							
	mergers	2	5	3	7	19	6									4	0	5	19	12	8	20	n.d.	

³⁰ Data based on Annual reports of the AMO (Protimonopolný úrad Slovenskej republiky, 2005, 2006, 2015b, 2016, 2017b, 2019b, 2007, 2008, 2009, 2010, 2011, 2012c, 2013, 2014)..

³¹ Data based on Annual reports of the AMO (Protimonopolný úrad Slovenskej republiky, 2005, 2006, 2015b, 2016, 2017b, 2019b, 2007, 2008, 2009, 2010, 2011, 2012c, 2013, 2014).

Table 2 – continued

	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004
cartels	5	7	15	20	12	9		3	8	10	11	9	24	15	24
	0	2	8	6	1	0	6	3							
vertical agreements															
Abuse of dominant position	2	1	0	0	0	1	2	5	1	3	9	4	8	17	24
government	0	0	0	0	1	0	1	4	1	0	5	3			
mergers	34	28	29	30	26	17	30	37	60	49	71	85	51	65	103
cartels	4	3	9	10	5	5									
vertical agreements	0	3	6	0	1	0	2	9	3	7	5	5	17	15	21
abuse of dominant position	0	0	0	0	1	1	1	2	0	3	3	2	4	17	21
government	0	0	0	0	1	0	1	4	1	0	5	3			
mergers	31	25	30	23	22	16	26	33	52	44	83	83	68	80	79

6. Draft of a ‘new’ competition legislation

Due to the duty to transpose the ECN+ Directive, on 19 October 2020, the draft of a new Act on Protection of Competition was submitted (hereinafter; Draft APC 2020)³². In general, the Draft APC 2020 follows the outline of its predecessor and, at the same time, it introduces changes of substantive law required by the ECN+ Directive, in particular a broader definition of the notion of undertaking in order to better attribute parental liability. Regarding the prioritization policy, the Draft APC 2020 establishes the power of the AMO to “publish and update its prioritization policy on the webpage of the Office” [§ 16(1)(k) Draft APC 2020] and the right of the AMO to decline a complaint that does not represent a priority of law enforcement under § 1 and § 16(1)(k) of the act [§ 16(2) Draft APC 2020]. The Draft APC 2020 remains silent still on the adoption of prioritization policy and, in general, follows the legal framework of the APC. Hence, the Draft APC 2020 neither strengthens the independence of the AMO, its chairperson and members of the Council of the AMO, nor involves the Council of the AMO in the revision of policies of the AMO, nor does it establish a statutory link between the AMO and the parliament. It can be concluded that the Draft APC 2020 brings nothing significantly new regarding independence and credibility of the prioritization policy and its reasonability and accountability to the general public.

VII. Conclusions

The issue of prioritization policies was discussed by competition authorities and scholar even prior to the adoption of the ECN+ Directive. However, the ECN+ Directive gave a new impulse to such discussions since it opened the way for considerations on institutional redesigning of some of the NCAs. Independence of priority setting can be seen as one of the tokens of the independence of a NCA itself. Due to the necessity to safeguard the rule of law, an independent prioritization policy shall be accompanied by public accountability and proper democratic and judicial supervision in order to prevent the possibility of abuse of power.

Although the NCAs are not restricted in the selection of their priorities, some competition infringements shall be inevitably included in their priorities, such as cartels and bid rigging.

³² Proposal for the Act on Protection of Competition (*Návrh zákona o ochrane hospodárskej*), No of legislative procedure LP/2020/284.

The case of Slovakia shows a relatively low level of accountability of the AMO to the parliament; moreover, judicial as well as parliamentary control of the prioritization and case selection of the AMO is limited. The credibility of the prioritization policy and case selection is also undermined by the lack of transparency in the creation of the prioritization policy. Indeed, there cannot be an objection against priorities chosen by the AMO. However, setting of ‘non-priorities’ and the rejection of cases can be challenged due to the impossibility to rely on the political independence of the chairperson and vice-chairperson of the AMO, because of their non-transparent nomination procedure.

The AMO confirmed its goals and priorities in the area of cartels by prosecuting bid rigging cases. Moreover, it also referred to market analyses in priority sectors. On the other hand, a proper explanation of substantial rejections of complaints in abuse of dominance cases vis-à-vis the minimal amount of cases handled in this area requires a more profound explanation in annual reports in order to save the credibility of the prioritization policy.

Within then reform of the Slovak NCA, it will be insufficient to grant the AMO guarantees of independence, including independence of priority setting; mechanisms of accountability and review shall also be evolved. However, the Draft APC 2020 submitted in October 2020 gives little reason for optimism for a change in the near future.

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Act No. 402/2013 Coll. Act on the Regulatory Authority for Electronic Communication and Postal Services and Transport Authority and on amendment certain laws (*zákon č. 402/2013 Z.z. o Úrade pre reguláciu elektronických komunikácií a poštových služieb a Dopravnom úrade a o zmene a doplnení niektorých zákonov*).

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