

REPUBLIC OF CROATIA
CROATIAN COMPETITION AGENCY

STATUTE OF THE CROATIAN COMPETITION AGENCY

Zagreb, December 2003

Pursuant to Article 30 paragraph 9 and Article 35 paragraph (1) item 4 of the Competition Act (Official Gazette, No 122/03) the Competition Council (hereinafter: the Council) at its session held on 4 December 2003 adopted the following

STATUTE

of the Croatian Competition Agency

I GENERAL PROVISIONS

Article 1

(1) The Croatian Competition Agency (hereinafter: the Agency) is a legal person with public authority which independently and autonomously performs the activities within its scope and powers regulated by the Competition Act (Official Gazette, No 112/2003) and the State Aid Act (Official Gazette, No 47/2003).

(2) The promoter of the Agency is the Croatian Parliament.

(3) For the performance of the activities regulated by the Acts under paragraph (1) hereof and this Statute the Agency is responsible to the Croatian Parliament.

Article 2

This Statute shall regulate the internal organization and operational framework of the Agency as well as other relevant issues, particularly its activities, management, professional secrecy, publicity of work and financing.

The Name

Article 3

(1) The name of the Agency shall be: Agencija za zaštitu tržišnog natjecanja.

(2) The abbreviated name of the Agency shall be: AZTN.

(3) The English name of the Agency shall be: Croatian Competition Agency.

(4) The abbreviated English name of the Agency shall be: CCA.

(5) The name of the Agency shall be on the signboard of the building where the Agency holds its seat.

The Seat

Article 4

(1) The seat of the Agency is in Zagreb.

(2) The Council may decide on the change of the seat of the Agency.

The Seal and the Stamp

Article 5

(1) The Agency shall have its seal. The seal shall be of a round shape, 38 millimetres in diameter. At the upper edge of the seal there shall be written in Croatian - *Republika Hrvatska (Republic of Croatia)*, at the lower edge there shall be the name of the Agency written in Croatian - *Agencija za zaštitu tržišnog natjecanja, Zagreb (Competition Agency, Zagreb)*, with the national coat of arms of the Republic of Croatia in the middle of the seal.

(2) In its office work the Agency shall use the receiving stamp of a rectangular shape. There shall be written in Croatian: *Agencija za zaštitu tržišnog natjecanja Republike Hrvatske, Zagreb (Croatian Competition Agency, Zagreb)*, including the space reserved for entering the classification number and the date of the receipt of the communication.

Article 6

(1) The seal with the national coat of arms of the Republic of Croatia shall be ordered, used and replaced in accordance with the provisions regulated by law.

(2) The President of the Council or the person appointed by the President of the Council shall be held responsible for keeping and the regularity of use of the seal.

II ACTIVITIES OF THE AGENCY

Article 7

The Agency performs administrative and professional activities concerning competition issues as well as authorisation, monitoring the implementation and recovery of general and individual state aid.

Administrative Activities

Article 8

The Agency shall perform its administrative activities pursuant to the provisions of the Competition Act and the State Aid Act, and it shall in particular:

- assess the compliance of the agreements with the Competition Act;
- decide on the exemption granted to certain categories of agreements;
- decide on abuse of a dominant position;
- assess the compatibility of concentrations;
- impose interim measures;
- annul, cancel or amend the decisions on exemption of a particular agreement;
- cancel or amend the decision on compatibility of concentrations;
- determine remedies and terms to restore effective competition concerning the implementation of prohibited concentrations;
- authorise, or refuse to authorise the draft act granting individual state aid;

- reject the request for authorizing the draft act granting individual state aid;
- repeal authorisation of the draft act granting individual state aid, and order recovery of the funds used on the basis of the granted state aid in question;
- determine the form, the contents and the method of collecting data and keeping records on state aid;
- pass other general and individual administrative acts pursuant to the Competition Act and the State Aid Act.

Professional activities

Article 9

The Agency shall perform professional activities pursuant to the provisions of the Competition Act and the State Aid Act, and in particular:

- issue expert opinions regarding the compliance of draft proposals and other legislation with the provisions of the Competition Act, as well as relating to other issues which may appreciably influence competition;
- issue expert opinions of the proposals regulating general state aid, as well as of the draft proposals and other legislation concerning state aid;
- give opinions relating to other state aid issues;
- define methodological principles for studies on competition;
- collect data and information from the undertakings relevant for market inquiry and defining the market position, irrespectively of the procedures carried out by the Agency;
- give proposals on promoting competition and supports the initiative for improving the state aid system;
- collect, process and record the data on state aid, and on usage and effects of state aid;
- facilitate international cooperation, referring to the realization of the international commitments undertaken by the Republic of Croatia and given to the authority of the Agency, i.e. cooperate with international competition and state aid authorities, and international organisations and institutions;
- cooperate with the body competent for state aid to agriculture and fisheries regarding the preparation of the annual report on state aid;
- cooperate with the bodies competent for the preparation of the state budget, regional and local self-government budgets, in accordance with the separate law;
- release the annual activities report and its official gazette;
- perform other activities relating to implementation of the Competition Act and the State Aid Act.

Annual Report

Article 10

(1) The Agency shall submit to the Croatian Parliament the annual report consisting of the data on:

- received requests and proceedings initiated relating to determining the distortion of free competition;
- established violations of competition rules;
- assessments of notified agreements, abuse of dominant position and concentrations of undertakings;
- measures imposed for protection of competition; and
- authorising, monitoring and recovery of general and individual state aid.

(2) The report referred to in paragraph (1) of this Statute shall also contain the general review of competition and state aid issues in the territory of the Republic of Croatia, opinions and proposals on the development of competition as well as proposals for improvement of the state aid system.

III MANAGING OF THE AGENCY

Competition Council

Article 11

- (1) The Competition Council is the managing body of the Agency; it consists of five members, one of whom is the President of the Council.
- (2) The president and other members of the Council shall be appointed and relieved from duty by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia.
- (3) The vice-president of the Council shall be elected from among other members on the proposal of the president of the Council by a majority of votes of the Council.

Terms of Appointment, Terms of Office and Conflict of Interest

Article 12

- (1) The president and the members of the Council may be appointed from any citizen of the Republic of Croatia who holds a university degree, ten years of work experience in the professional field concerned, and having specific knowledge in the field of competition law, company law, commercial law, finances and accountancy, microeconomics and other related areas of law and economics.
- (2) The president and the members of the Council shall be appointed for a five-year-term of office with the possibility of reappointment.
- (3) The president and the members of the Council shall perform their duties professionally.
- (4) The president and the members of the Council may not be state officials, persons who perform duty in any administrative body of a political party, members of supervisory boards and executive bodies of undertakings, or members in any kind of associations of legal or natural persons, which could lead to conflict of interest.

- (5) The president and the members of the Council are authorized to write and publish research or scientific papers and participate in expert or scientific conferences.
- (6) The president and the members of the Council are obliged to behave in a manner to protect the reputation of the Agency and not to challenge its independence and autonomy in decision making.
- (7) It is prohibited to influence the activities of the Council in any way that could challenge the independence of the Agency, and in particular to abuse its public authority and the media, as well as public speaking in general, with the intent to influence the activities of the Council.

Relief from Office

Article 13

- (1) At the proposal of the Government of the Republic of Croatia, the Croatian Parliament may relieve the president or the member of the Council from office before the end of the term:
 1. at their own request;
 2. if they are convicted of a criminal offence, which makes them unworthy to perform the duty of the president, i.e. the member of the Council;
 3. if they permanently lose the ability to perform the duties confirmed to them;
 4. if they, during their mandate, assume any of the duties referred to in Article 12 paragraph (4) of this Statute;
 5. if they, in performing their duty, violate the law.
- (2) On the existence of any reasons for relief from office of the president or the member of the Council before the end of the term, the Council shall notify the Government of the Republic of Croatia.
- (3) Before the decision on relief from office is made, the president or the member of the Council shall be given the opportunity to speak out about the reasons of the relief.

Decision Making

Article 14

- (1) The Council issues the decisions on all general and individual legislative acts at its sessions, with the consent of a majority of at least three votes, whereby no member of the Council may be abstaining.
- (2) Three members of the Council shall constitute a quorum and the president of the Council obligatorily attends the sessions, i.e. in the absence of the president the vice-president shall attend.

Activities of the Council

Article 15

- (1) The Council shall perform the following activities:

1. manage the activities of the Agency;
2. decide upon all issues within the competence of the Agency pursuant to the provisions of the Competition Act and the State Aid Act;
3. propose to the Government of the Republic of Croatia to issue the regulations pursuant to the provisions of the Competition Act and the State Aid Act, participate in drawing up of the draft laws and other act proposals relating to competition and state aid, and gives proposals on promoting the competition and state aid system;
4. draw up subsidiary legislation pursuant to the provisions of the Competition Act and the State Aid Act, as well as other bylaws necessary for their implementation;
5. make administrative decisions to be implemented at the conclusion of the proceedings before the Agency;
6. assess the compliance of draft laws and other relevant act proposals with the Competition Act, and issues opinions on draft acts authorising general or individual state aid and on draft laws and other regulations relating to state aid;
7. analyse and assess the state aid proposals and the state aid schemes within the annual and multi annual plans for authorisation of state aid;
8. monitor the implementation and effects of the state aid granted and order the recovery of the state aid granted or used contrary to the regulations;
9. determine competition rules and measures for protection of competition, measures for eliminating prevention, restriction or distortion of competition, and other measures with the aim of improving competition law and policy in the territory of the Republic of Croatia;
10. state opinions and expert advice on decisions and development of comparative practices in the field of competition law and policy and state aid;
11. upon request of the Croatian Parliament and the Government of the Republic of Croatia, give expert opinions on other issues relating to competition law and policy and state aid;
12. facilitate international cooperation, referring to the realization of the international commitments undertaken by the Republic of Croatia and given to the authority of the Agency, as well as relating to running the projects of international and European economic integrations, i.e. cooperate with international competition and state aid authorities and international organisations and institutions;
13. perform other activities relating to the implementation of the Competition Act and the State Aid Act.

(2) In performing the activities within its scope, the Council may establish expert advisory bodies that may assist in the decision making process.

President of the Council

Article 16

The President of the Council shall:

- represent and speak for the Agency and manage its activities;
- in managing the Agency, organize and run business activities of the Agency, supervise and be responsible for its expert performance;
- supervise the legality of the operations of the Agency and the timely performance of the activities with the view to ensuring effective performance;

- conclude and terminate work contracts with the employees of the Agency and decide on the rights and liabilities from the labour relation according to the general provisions on labour and the general acts of the Agency;
- decide on the assignments of the employees in the expert team of the Agency;
- promote professional training of the employees of the Agency;
- be in charge of regular usage of property and instruments of labour, and introduce measures for defining the employees' liability in accordance with the law and the general acts of the Council;
- propose the acts for adoption within the competence of the Council;
- propose investment maintenance and procurement, i.e. the sale of fixed assets in compliance with the financial plan;
- promote improvements in the performance of the Council;
- be liable for carrying out of the decisions of the Council;
- perform other activities regulated by the Competition Act and the State Aid Act, this Statute or other general acts, or by the decisions of the Council.

Vice-President of the Council

Article 17

In the absence of the president of the Council the vice-president shall perform his/her duties, whereas in the absence of the vice-president it shall be the person appointed by the president of the Council.

Article 18

The Council shall adopt the Standing Orders regulating the operating methods of the Council, the rights and liabilities of the president, vice-president and members of the Council.

IV INTERNAL ORGANIZATION OF THE AGENCY

Article 19

(1) The internal organization of the Agency shall be regulated by this Statute and the general acts adopted by the Agency pursuant to the Competition Act, the State Aid Act and this Statute.

(2) For the purpose of the undisturbed, rational and efficient performance of the activities, the Agency shall be organized consisting of the Council's Office and the Expert Team, whereby the later shall be organized within divisions, departments and sections.

(3) The Council's Office shall be managed by the President of the Council; the divisions shall be managed by the Division Directors, the departments by the Heads of the Departments, the sections as the constituent parts of the departments by the Heads of Sections.

Article 20

(1) The organizational units of the Agency are as follows:

1. The Office of the Competition Council
 - 1.1. Department of finance, general affairs and personnel
2. Competition Division
 - 2.1. Department of agreements and abuse of dominant position
 - 2.2. Concentrations department
3. State Aid Division
 - 3.1. Assessment of state aid department
 - 3.2. State aid system department
4. International Cooperation Division
 - 4.1. Department of bilateral and multilateral cooperation and the EU law
 - 4.2. Technical assistance department
5. Legal Affairs and Economic Analysis Division
 - 5.1. Legal affairs department
 - 5.2. Economic analysis department.

(2) The detailed internal organization of the expert team of the Agency, the number and the names of the organizational units together with the description of the tasks assigned to them, the number of employees accompanied by the duties assigned to them and professional skills necessary for their performance, the powers and liabilities of the employees regulated by law shall be laid down by the Ordinance on Internal organization of the Agency and the Job Systematization.

Article 21

The president of the Council, the members of the Council and the employees of the expert team of the Agency realize their rights and obligations from the labour relation in the Agency. The general labour regulations, general acts of the Agency and work contracts shall apply to the president and the members of the Council and the employees of the expert team of the Agency in realizing the rights and obligations from the labour relation.

Conflict of Interest

Article 22

(1) The persons employed in the expert teams and departments of the Agency may not be members of management or supervisory boards, or boards of undertakings, members of any other associations of legal or natural persons that could cast doubt on their impartiality while conducting proceedings before the Agency.

(2) Without prejudice to the provision laid down in paragraph (1) of this Article, it is allowed to be a member of and to participate in scientific associations, provided that this does not affect impartiality in conducting proceedings before the Agency.

V SECRETY OBLIGATION

Article 23

(1) An official secret shall be considered any documents and data, which are because of their nature and significance for the performance of activities, not allowed to be published, communicated or made accessible to non-competent persons, unless stated so by law or other legislation.

(2) What shall be considered an official secret shall be decided by the Council in compliance with the law.

(3) The president and the members of the Council as well as the employees of the Agency shall keep the official secret, irrespective of the way they came to know it, and the secrecy obligation shall also continue to be in effect after the expiry of their engagement with the Agency.

Article 24

(1) Under the term official secret shall be considered, in particular the following:

1. all which is defined to be an official secret by law or other regulations;
2. all which is defined to be an official or business secret on the basis of bylaw regulations or other regulations of the undertakings, or persons referred to in Articles 4 and 5 of the Competition Act;
3. all that undertakings, or persons referred to in Articles 4, and 5 of the Competition Act have defined as a business or official secret;
4. all correspondence with the European Commission and other authorities of the European Communities.

(2) Without prejudice to the provisions of paragraph (1) of this Article, data and documents which have been made accessible to the general public in any way, or decisions of managing or administrative bodies of the undertakings published to be available to the general public pursuant to particular regulations, shall not be considered an official secret.

VI PUBLICITY OF WORK

Article 25

The Agency shall ensure the publicity of work by cooperating with the media and informing other relevant institutions on its business activities and performance, pursuant to the decision of the president of the Council.

Article 26

(1) The Agency shall publish its decisions within the meaning of Article 59 paragraph (1) of the Competition Act and Article 17 of the State Aid Act, as well as the rulings, i.e. decisions of the Administrative Court in the matters concerning the claims against the decisions of the Agency in the Official Gazette *Narodne novine*.

(2) The Council may decide to publish particular decisions of the Agency, as well as the decisions of the Administrative Court referred to in paragraph (1) of this Article, also in the official gazette of the Agency, i.e. on its website.

(3) With the view to informing the public on the activities of the Agency, it shall periodically publish a separate publication, the official gazette of the Agency that shall be written in Croatian and English, as well as on the website of the Agency.

VII FINANCING OF THE AGENCY

Article 27

(1) The funds for the activities performed by the Agency are provided from the state budget of the Republic of Croatia.

(2) The Council draws up the financial plan of the Agency estimating the budgetary revenues and expenses of the Agency in one financial year.

(3) The financial plan shall be adopted at the latest 30 days before the expiry of the current budget year.

(4) The financial plan of the Agency may be modified during the year.

(5) The president of the Council shall be the order-issuing authority for the execution of the financial plan.

(6) The Republic of Croatia shall be found liable for the obligations of the Agency.

Article 28

The funds of the Agency shall be kept on the transfer account of the Agency in accordance with the provisions of the domestic payment system.

Keeping the business books

Article 29

The Agency shall keep the business books in compliance with the accountancy regulations.

VIII AMENDMENTS TO THE STATUTE

Article 30

(1) Amendments to the Statute may be proposed by the president of the Council and any member of the Council.

(2) Amendments to the Statute shall be adopted in the proceedings regulating the adoption of the Statute.

Interpretation of the Statute

Article 31

In case of ambiguity and disagreement in the application of the provisions of this Statute, the Council shall provide for its interpretation.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 32

The general acts of the Agency shall be brought in line with the provisions of the Statute within 90 days from the entry into force of the Statute.

Article 33

The Statute of the Agency for Protection of Market Competition (Official Gazette, No 65/97, 47/99) shall cease to be in effect on the day of the entry into force of this Statute.

Article 34

This Statute shall enter into force on the eighth day after the decision of the Croatian Parliament on its ratification has been published in the Official Gazette.

President of the Competition Council

Olgica Spevec

Class No: 011-02/2003-01/18
Urbroj: 580-02-03-03-1
Zagreb, 4 December 2003

This Statute was ratified by the Croatian Parliament at its session on _____.