



AUTORITETI I  
KONKURRENCËS

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# 2013 ANNUAL REPORT

AND

# MAIN GOALS FOR 2014

**Competition Authority**

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## INTRODUCTION BY THE COMMISSION CHAIR

Recent developments in the Albanian economy are an increasing proof of the remarks by the European Commission Vice President, who is also responsible for competition matters: “A strong competition policy is one of the best tools EU authorities should use to create better conditions for investors and innovators; increase productivity levels; and raise our competitiveness vis-à-vis our most dynamic global partners.” Furthermore, better functioning of markets is indispensable for increasing citizens’ well-being.

Stable economic growth involves the exiting of some undertakings from the market, while other, more efficient, innovative and productive, ones enter the market and expand by creating new activities; in other words, it opens new markets. Competition is one of the main factors encouraging companies to become more efficient so that they lead the race. In addition, competition enables more productive companies to take over from less efficient ones. Constant promotion of this market rule requires public policies that encourage economic growth by motivating companies to invest and develop.

Pursuant to the competition policy and law the Competition Authority creates the conditions for a better functioning market by fighting any anticompetitive practices emerging in the form of prohibited agreements and cartels; prohibiting abusive practices so that new entrants can challenge existing undertakings; promoting company mergers resulting in more competitive companies, and prohibiting those mergers that might result in dominant positions threatening competition; assessing laws and regulations in order to prevent competition restriction and distortion or any support for inefficient companies, and encouraging any government measures that promote competition and the general public interest. All this is exactly part of the day-to-day work of the Competition Institution.

The Competition Commission has not implemented the competition law and policy in a passive manner, only as a response to anticompetitive practices in certain industries, but it has also acted proactively, taking an integrated approach. Examples can be seen in the telecommunications, energy and financial industries, where it promotes the use of instruments that increase market transparency as one of the essential competition promotion tools.

The Competition Institution does not appraise cases or take decisions in a vacuum. Like the rest of public policies, the competition policy should take local economic and social conditions into consideration. In addition, over time the competition policy has been integrated into sector development policies increasingly more, through close cooperation with sector regulators, with a view to promoting and protecting competition *ex ante*.

Key Competition Institution work aspects are included in three basic concepts: opening up of markets, integration and cooperation, which are the key words that best describe the work of this institution.

## **I. MAIN DEVELOPMENTS IN COMPETITION LAW AND POLICY**

The constitutional framework stipulates that the economic system in the Republic of Albania "...is based on private and public property, as well as on a market economy and on freedom of economic activity." The legal framework, which has been enacted pursuant to the Constitution, including Law no. 9121 of 28 July 2003 "On Competition Protection," as amended, and the National Competition Policy, provides the tools to ensure the implementation of this constitutional principle. The Competition Authority is the responsible institution entrusted by the Law with free competition promotion and protection in the Albanian market. It operates pursuant to the Competition Law and Policy, in addition to public administration norms and best practices of European competition law and the Republic of Albania's obligations under the Stabilization and Association Agreement (SAA). Ensuring real and fair market competition requires rigorous implementation of the entire legal framework on industrial property ownership rights, consumer protection, and unfair competition provisions in the Civil Code, tax and customs rules, etc., guaranteeing equal and non-discriminatory treatment of market players.

### ***1.1 Competition Authority Activity Features***

In order to fulfil its statutory mission as specified in the Competition Law, the Competition Authority uses such legal tools as investigative proceedings to detect and penalize any anticompetitive practices. These practices appear in the form of prohibited agreements for fixing prices, sharing markets, and restricting or controlling production; abuse of a dominant position in the form of setting unfair prices, limiting production or services, treating customers in an unequal manner or setting additional conditions and obligations in contracts with third parties; etc. The Competition Authority is also responsible for controlling the concentration of undertakings which are involved in share purchase transactions among them, in order not to allow creation or strengthening of a dominant position in the respective markets. Promotion of free operation of market players, which is achieved through advocacy and efforts for increasing competition culture, is one of the goals of the Law.

In all respects, the Competition Protection Law has been approximated to a broad extent with the *Acquis Communautaire*, not only in substance, but also in terms of its implementation means and tools. These instruments are not used not only to assess the market players' behaviour, but also to prevent lack of competition and to promote market equality by assessing and providing recommendations on existing laws and regulations and draft laws and regulations developed by central and local authorities and other regulators. Efficient implementation of the law especially requires an assessment of those laws and regulations that are related to quantitative restrictions on the market or granting exclusive or special rights.

The Competition Authority activity pursuant to the Law aims at making the market as functioning as possible. From this perspective well-functioning markets involves both taking care of consumer wellbeing and making markets more competitive. This is exactly the philosophy underlying the Competition Commission decision-making process.

One of the competition policy and law features is inclusion, which has always characterized the Competition Institution activity, which is carried out in constant cooperation with the Parliament, central and local agencies, other regulators, businesses and their organizations and consumer protection associations.

## ***1.2 Summary of Main Developments***

2013 marked ten years of experience in the implementation of the Albanian Competition Law. Such experience has contributed to the growth and consolidation of the Competition Authority, which is the main overseer of market competition.

In the context of conducting its activity last year, the Competition Institution relied on the Republic of Albania Parliament Resolution on evaluating the Competition Authority 2012 activity, and the European Commission Progress Report, as well as operating pursuant to its basic law and secondary legislation. The Competition Authority goal for 2013 was to strengthen law enforcement through the use of instruments and increased efficiency of Competition Institution interventions for protecting free operation of market players.

A special aspect of the Competition Authority activity last year, in addition to the increased number of lodged **complaints**, was the increased number of those complaints that were referred to the Competition Protection Law. This fact is an indicator of increased business awareness of the competition law and increased confidence in the Competition Authority role; it is also one of the challenges for a more rapid and more professional treatment of those complaints by the Authority experts. Confidentiality is also a challenge. In 2013 the Authority received 16 complaints, of which four ones on prohibited agreements or concerted behaviour; eight ones on abuse of dominant position by one or more undertakings; one complaint on the revocation of a Commission decision, while three ones were not compatible with the scope of the Competition Protection Law.

The subject-matter of complaints from undertakings were mainly related to the liquefied petroleum gas (LPG) maritime loading-unloading market; electronic communication market; the electricity market; the public procurement; the insurance market; the urban public transport in the city of Tirana, through which operators stated their concerns on potential competition restrictions caused by other operators or groups of operators. Based on these complaints the Secretariat carried out monitoring and investigation proceedings pursuant to the principles laid down in the Code of Administrative Procedure and the legal framework on competition, and the Competition Commission discussed those complaints in detail before taking the relevant decisions.

During the period, the Competition Commission **took 42 decisions**: two decisions imposing fines (one in relation to anticompetitive practices and one in relation to failure to notify concentrations); 13 decisions granting authorisation for concentration; one decision issuing recommendations to public institutions and regulators in the framework of competition advocacy (excluding Competition Commission opinions not issued as decisions); three decisions on secondary legislation; two decisions on regulations in the area of competition law; and other decisions of a procedural nature (including decisions to initiate inquiries and in-depth

investigations). Four Commission decisions had a minority opinion; of them, three were related to concentration control, and one to a prohibited agreement. They were all published on the official website, together with the respective decisions.

In 2013 cases that had been carried over from 2012 continued to be treated. They included such markets as vegetal oil production, importing and wholesaling; cement production, importing and wholesaling; public urban transport in the city of Tirana; and mobile telephony retail market. In addition, monitoring and investigation proceedings were conducted in these markets: maritime loading-unloading of the liquefied petroleum gas; telecommunications; electricity; private security services public procurement; fuel production, importing and wholesaling; and mandatory motor vehicle insurance. The cases were initiated following complaints from undertakings in the relevant markets, which address their concerns in relation to the anticompetitive behaviour of undertakings wielding market power or other groups of undertakings.

The experience gained in the implementation of the Competition Protection Law shows that there has been an increase in the number of complaints of **prohibited agreements**, which is an indicator of increased understanding of competition law mainly among businesses and in the markets where the Competition Authority has conducted monitoring and investigations. But at the same time the difficulty of finding direct evidence that would provide proof of a prohibited agreement has increased. For these reasons, the Competition Authority has focused on increasing the degree of professionalism by implementing modern techniques of finding evidence of prohibited agreements, and increasing its administrative capacities to review cartels through economic and econometric analyses. This fact has been highlighted when reviewing cases in the cooking oil and cement markets.

Cases related to **abuse of a dominant position** have highlighted the importance and role of other regulators in regulated markets, such as the telecommunications and energy, or the importance of the state as a direct overseer of the observance of contractual obligations in services operated as a concession, such as the liquefied petroleum gas (LPG) maritime loading-unloading market.

In 2013, 13 concentration cases were reviewed in relation to acquisition of control, mergers or establishment of a new undertaking. The concentrations were reviewed in terms of any positive impact on the market from the perspective of consumers and increased market efficiency, and from the perspective of creating or strengthening a dominant position of the concentrated undertakings. The main concentrations occurred in the markets of electricity, construction, retail trade, etc., and in none of the reviewed cases there were any concerns of competition restriction in the form of creating or strengthening a dominant position.

Strengthened law implementation has always been considered as having a close relationship with the completion and enhancement of the **secondary implementation competition legislation**, aiming at approximating the Albanian legislation with the European competition law. The novelty in relation to the regulation adoption process in 2013 included the public consultations and organization of round tables with law firms which presented their comments and assessment as direct users of the Albanian competition law. The Competition

Authority developed and adopted the regulations envisaged in the National Stabilization and Association Agreement Implementation Plan, including the regulation on certain categories of agreements, decisions and concerted practices in the insurance sector and in the air transport, implementing Article 6 of the block exemption of agreements between undertakings operating in the respective sectors. In addition, the guide on horizontal agreement evaluation was adopted; it is a working manual for competition experts both in the Competition Institution and in third parties interested in the implementation of the law. The process of drafting and adopting those bylaws was also used as a tool to strengthen competition culture and advocacy in the surrounding environment.

The Competition Commission decisions' impact is related to the degree of their enforcement. The Competition Commission decisions taken against undertakings on grounds of proven noncompliance with the law in the form of abuse of a dominant position or participation in prohibited agreements and fines can be subject of **court review**. Last year, 27 cases were in the process of review in the three court instances; 16 cases were still pending in the beginning of 2014, while 11 cases were reviewed in 2013 with the following provisional results: five lost cases, five won cases, and one case was referred back to the Administration Court for review due to lack of jurisdiction.

With reference to 2013 statistics, which are given in more detail in the Annexes of this Report, a total of eight Competition Commission decisions were reviewed in first-instance courts, of which two sets of proceedings confirmed the Competition Commission decisions, three Competition Commission decisions were set aside, and three cases are still pending. In 2013 eight cases were being reviewed in the Court of Appeals, of which four were still pending in 2014 and four were completed. Of those four, two Competition Commission decisions were set aside, one decision was confirmed and a fourth one was referred to the Administrative Court for further review; the four cases pending at the end of 2013 are also expected to be referred to the Administrative Court, too. Eleven cases that were still pending from previous years were reviewed at the Supreme Court in 2013, of which one case was rejected which confirmed the Competition Commission decision on the mobile telephony market. The Competition Commission decision imposing a fine on a mobile telephony operator for failure to provide information during the investigative proceedings in December 2005 was reviewed after a recourse by the Authority; in that case the Supreme Court decided to return the case for retrial at the Appeal Court. Nine other cases are pending for review in 2014. The specific case mentioned above, which was lodged in 2008, illustrates the issue of the lengthy court proceedings in relation to reviewing Competition Commission decisions. This is one of the main concerns, as it relates to the impact of Competition Authority market interventions. In this respect, the beginning of the Administrative Court operations this year is a very important instrument, which will not only have an impact on shortening the duration of proceedings, but is also expected to significantly improve the level of expertise in the dealing with competition cases, which in turn will result in an increased quality of the assessments made by the competition institution and the decision-making of the Competition Commission.

The Competition Commission does not intervene in markets only through fines imposed on undertakings, but, in fulfilling its mission for free and effective

competition, it also uses the **advocacy** tool, through decisions giving recommendations to regulators of specific markets or other central institutions. Therefore, In order to increase the effectiveness of market interventions, the Competition Authority considers it as crucial to cooperate with other regulators and public institutions, in the context of which it does advocacy, which is the fourth pillar of the Law. To that end, the Authority further improved its communication instruments not only in the form of organizing joint round tables at expert level and decision-making board level but also meetings to share concerns or views with experts from other institutions. These communication tools aim at both providing recommendations and discussing any measures that can be taken in the short or long run, intended to improve the functioning of regulated markets. This practice has been used with the Electronic and Postal Communications Authority, the Financial Supervisory Authority, the Energy Regulatory Authority, and the Civil Aviation Authority.

Advocacy aspects are always considered in close relation to the aspects of increasing competition culture. For the first time last year almost all regulations and instructions were adopted only after going through the process of public consultation and publication on the official website of the Authority, and informing stakeholders through media releases in coherence with all final decisions taken by the Competition Commission. Participants in the round tables included not only business representatives but also law firms in an effort to ensure correct implementation of the Competition Protection Law.

The **strengthening of institutional capacities** of the Competition Institution was one of the priorities in 2013. It is one of the constant challenges of the Competition Authority in responding with more rapid and higher quality interventions to requests for competition protection and promotion among market players. In addition to constant training, another tool used is the revisiting by the Competition Secretariat staff of all cases after the process is completely over, i.e. the Commission has taken its decisions. This process is considered as an instrument that contributes to learning from those elements of the proceedings or the economic analysis or evidence collection that were not performed well. Thus learning from mistakes is one of the other tools that the Competition Institution is using.

The public profile of the Competition Authority was developed intensively in 2013 marking an increase in the culture and degree of understanding of the competition law and policy in Albania. A number of articles published on the printed media and reports in the visual media in relation to the Competition Commission decision-making, participation in conferences and workshops by representatives from the Authority, and presentations by experts in international conferences have had an impact on the increase of the public profile of the Competition Authority domestically and internationally.

This annual Report is organized into six main parts, beginning with main developments in the implementation of the competition law and policy, enforcement activities in the second part, grouped under the key pillars of the Law: abuse of dominant position, prohibited agreements, concentration control and court review; after which a third part describes the competition advocacy activity, followed by a fourth part on the international cooperation, mainly with the European Commission, a



fifth part on the administrative capacities responsible for law enforcement. The last part refers to the work priorities of the Competition Authority for 2014.

## **II. COMPETITION LAW IMPLEMENTATION**

The main activity of the Competition Authority in 2013 was in line with the Competition Protection Law. It used all the legal instruments available to strengthen the implementation of the law, especially along its three main pillars—prohibited agreements, abuse of dominant position and control of concentrations in the context of controlling and preventing the creation and strengthening of dominant positions in the market.

Monitoring of, and investigation into, market conditions begin on the basis of complaints from affected parties, upon the Authority's initiative, and whenever requested by the Parliament. A special feature of 2013 was that the proceedings were mainly initiated on the basis of complaints, which characterizes competition institutions with consolidated experience. The following section gives a brief description of the complaints that were lodged with the Authority in 2013, and an evaluation of them.

### ***II.1 Complaint handling***

In the past few years there has been an increase in the quantity and quality of complaints from market players and from consumers in relation to potential competition breaches in certain industries or markets. The complaint handling instrument has improved constantly in terms of shortening the time of preliminary evaluation.

In 2013 undertakings operating in various markets submitted 16 complaints to the Competition Authority, of which three did not fall in the scope of the Competition Protection Law, and ten complaints were evaluated and handled using the tools of monitoring, inquiry or in-depth investigation on the basis of analysis and secured evidence.

#### **II.1.1 Complaints included in the scope of the Law**

The complaints that were considered to fall in the scope of the Competition Protection Law mainly pertained to the markets of electronic communications, electricity, public procurement, liquefied petroleum gas maritime loading-unloading, insurance, etc.

What was new last year in relation to the stakeholders' complaints was better legal reasoning, in some cases even reinforced by the hiring of law firms engaged to defend the submitted complaints, which increased the professional degree of the subject-matters and the justification of the complaints.

What follows is a more detailed description of the complaints reviewed in 2013 by the relevant market:

- *Port services market (liquefied gas)*

### **Prima Gas Albania vs Romano Port**

The complaint was filed against the concession operator of the loading/unloading dock in Porto Romano (Romano Port SHA), claiming that the operator was not observing the rules on the operation of the port and had allowed the unloading of other ships further down in the queue, while the ship pertaining to Prima Gas Albania was still waiting. The complaint was followed up with monitoring and inquiry proceedings, with a one-year duration. Based on the collected facts and evidence on all loading/unloading cases performed by the concession operator in the period subject to investigation, and on the basis of an analysis of the behaviour of the undertaking with a dominant position (Romano Port SHA), the Competition Commission concluded that there were no signs of abuse of a dominant position by Romano Port SHA, in the meaning of Article 9 of the Law. The Competition Authority suggested that the state body authorized to supervise the concession agreement performance further detail the rules on the operation of the port.

- *Electronic communication market*

### **ENET sh.p.k vs Albtelecom Sh.a**

The complaint was on a dispute in relation to the interconnection agreement. Since interconnection dispute settlement in the electronic communications market is first governed by the respective regulator we contacted the Electronic and Postal Communications Authority (AKEP) for further information, which informed us about its Decision No. 2327 of 28.06.2013 whereby it started administrative proceedings on settling the dispute between ENET sh.p.k and Albtelecom Sh.a.

### **NISATEL sh.p.k. Vs Albtelecom Sh.a.**

The complainant claimed that Albtelecom had not complied with the technical conditions of the contract it had with it in relation to wholesale provision of broadband internet service, and that it had imposed additional conditions and committed abuse in the prices it had offered to Nisatel sh.p.k., thus committing abuse of its dominant position in the wholesale and retail market (vertical integration). After evaluating the complaint and carrying out the monitoring, based on an assessment of the facts and market conditions the Authority concluded that there were no competition restrictions, distortions or constraints in that market by Albtelecom.

### **Plus Communication**

Following the complaint of potentially abusive behaviour of Vodafone Albania Sh.a that it had filed in late 2012 Plus Communication applied for an extension of the investigation period to 2011 in late January 2013. The application was taken into consideration by the Competition Authority, as shown by the respective decision taken by the Competition Commission.

- *Public procurement of private security services*

### **Anakonda SHRSF and Taulantia SHRSF**

The undertakings submitted mutual complaints in relation to the personal and physical security procurement market in the region of Gjirokastra and the city of Saranda. Based on the complaints investigation proceedings were conducted; they did not find any direct or indirect evidence of collaboration among undertakings in the preparation of bids in the public procurement of private security services in the

region of Gjirokastra and the city of Saranda in the period subject to investigation. At the end of the preliminary inquiries the Authority concluded that there were no signs of potential competition restriction within the meaning of Article 4 of the Law.

The **National Union of Private Security Companies** denounced the alleged corruption in the tenders for private security services for Tirana University, Water and Sanitation and Polytechnic University in December 2013, which had not been published on time thus violating public procurement rules.

A review of the complaint showed that in a similar case the Competition Commission had taken its Decision No. 114 of 26 May 2009 whereby it had submitted a recommendation to the Public Procurement Authority, suggesting that, depending on the nature of the procured contract, such a contract be subdivided into lots and/or sublots so that a greater number of operators can participate in public procurement procedures and small and medium-sized undertakings are encouraged to participate. The conclusion was communicated to the complainant.

- *Mandatory insurance market*

### **ATLANTIK SHA**

In its complaint the undertaking alleged that some insurance companies operated at very low prices below any risk premiums approved by the Financial Supervisory Authority, and that the phenomenon was causing a serious irreparable damage to both insurance companies and consumers. This concern was forwarded to the respective regulator promptly, together with a request for information on the facts that could have been identified from the online sales, company business plans and the notice of the Competition Institution on dealing with this issue.

### **Insurance agents**

An insurance agent submitted an electronic complaint to the Competition Authority on 28 August 2013, alleging that three insurance companies belonging to the Vienna Insurance Group behaved in a concerted way and that those companies were owned by the same shareholder but acted independently and that the transaction was not real. When reviewing the application for a concentration authorization in that market the Competition Commission had taken a decision to monitor that market in order to address the concern (see Decision No. 199 of 15.09.2011). A monitoring of the decision-making processes at strategic and operational management levels showed that the companies applied independent operational management policies.

### **Individual**

An employee of an insurance company submitted an electronic complaint that was lodged at the Authority with number 480 in its log on 11 December 2013, alleging that there was a potential price fixing and secret agreements in the mandatory insurance market. The Competition Authority informed the complainant that it was reviewing the complaint under the investigation initiated by the Competition Authority Decision No. 297 of 18 November 2013 "On initiating the preliminary inquiry into the insurance market in relation to potential competition restrictions in the motor third party liability insurance".

- *Electricity Market*

### **Gen-I vs CEZ Shpërndarje**

The complaint from GEN-I was on concerns related to the annual procurement of electricity purchased to cover losses from CEZ Sh.a. In addition, several complaints were lodged, which were dealt with on an ongoing basis, in relation to the monthly electricity purchase tenders for the months of September, October, November and December 2013. The complainant claimed that "... the financial terms and conditions set by CEZ Shpërndarje result in a restriction of the number of participants in the procurement procedures, a situation which would limit the number of participants in the procurement procedure and lead to an advantage due to a dominant position through the setting of unfair trading conditions the consequence of which is distortion of free competition in the electricity market and harming of end users, who have to pay higher costs of the purchase of electricity...". The Competition Authority collected the necessary information from the parties involved in the process, and organized a hearing with CEZ Shpërndarje. The Authority cooperated with the Energy Regulatory Entity closely during the process of complaint review. Following the process, the Competition Commission took Decision No. 301 of 6 December 2013 whereby it decided to close the procedure of reviewing the complaint from GEN-I Tirana pertaining to the electricity wholesale market, concluding that CEZ Shpërndarje Sh.a. had acted in compliance with ERE Regulation on the standard rules and procedures on electricity procurement by OSSH.

#### *- Urban transportation market*

### **Gerard A sh.p.k vs National Urban Transportation Association**

This undertaking complained to the Competition Authority in its letters bearing log numbers 96 of 25 February 2013 and 96/2 of 1 April 2013 in relation to the issue of the transport subscription cards issued by the National Urban Transportation Association thus controlling the market in terms of the quantity of transport subscription cards they distributed and distorting the competition in the market. The complaint was handled in the framework of the investigation into that market, which is discussed further below in this report.

The **National Urban Transportation Association** complained to the Competition Authority against the City of Tirana in relation to the high planned number of monthly tickets for the new public transport operator Gerard A in Tirana.

The Competition Authority handled both complaints in the framework of the investigation into a potential competition restriction pursuant to Competition Commission No. 262 of 14 January 2013 on initiating the in-depth investigation into the urban transportation market in the city of Tirana. The investigation proceedings into that market were concluded by Commission decision no. 290 of 23 July 2013 On imposing fines to undertakings on grounds of restricting the competition in the monthly generic and student ticket market in relation to the public transportation in the city of Tirana.

### **II.1.2 Ankesa të tjera**

The Competition Authority played a proactive role also in the case of those complaints the subject-matter of which was not in line with the scope of the Competition Protection Law, and referred them to other relevant institution

depending on the issues in question, and informed the complainants on the fact that their complains were to be followed up by other responsible institutions.

- *On the application of VAT to advertising*

The Albanian Advertising Agencies Association submitted a request to review the advertising agencies' concern on the application of VAT under the new VAT Bill, which can radically change the entire chain of services subject to VAT in this industry where operators of the same market would apply different tax rates. In response to the complaint, the Competition Authority stated that it would make a preliminary assessment of the Draft Law Amending the VAT Law when it is made available by the Ministry of Finance.

- *Potable water market*

Blue Imperial sh.p.k submitted a complaint of unfair competition by other companies trading in bottled water under the "Selita" brand. After assessing the complaint, the complainant was informed by means of letter no. 416/1 of 8 November 2013 that their complaint did not fall in the scope of the Competition Protection Law.

- *Port services market*

The legal representative of EMS APO sh.p.k submitted a complaint whereby it informed the Competition Authority on 29 December 2013 of the unloading of a ship carrying iron, which had not been allowed to be unloaded in the Port of Durrës. The Competition Authority sent letter no. 498/1 of 15 January 2014 to the complainant informing the complainant on the complaint from the perspective of the Competition Protection Law, and requested a full copy of the concession contract with EMS Shipping & Trading GmbH.

## ***II.2. Prohibited Agreements***

Article 4 of the Law, like Article 101 of the Treaty on the Functioning of the European Union (TFEU), prohibits any agreements the goal or consequence of which is to prevent, restrict or distort market competition. This article has been approximated with the TFEU provisions completely, and there is no difference among competition obstruction, restriction or distortion. All those actions are considered illegal as they harm free and effective competition on the market.

The definition of agreements covers binding or nonbinding agreements of all forms concluded between undertakings, decisions or recommendations of associations of undertakings, and concerted practices of undertakings operating at the same level (horizontal agreements) or at different levels (vertical agreements). An agreement implies a consensus between two parties, restricting or likely to restrict their trading freedom by the setting of their form of market actions.

The form of agreements is not at all important from the perspective of the Competition Protection Law. Under the competition law, any types of discussion, be it formal or informal, implies an agreement. When competitors do not talk directly, but agree tacitly or through conclusive actions, that practice is covered by the notion of agreements. It is important to have an expressed will of the parties and their

intention for the action to have direct or indirect consequences on competition, while the form of expressing one's will and intention does not represent an essential element of the notion of agreement.

In 2013 the Competition Institution continued reviewing prohibited agreement cases based on complaints or on its own initiative in order to prevent any anticompetitive behaviour in the form of market division, price fixing, market and/or production limitation or imposing different conditions for identical transactions, which put some parties in an unfavourable competition position.

With the passing of time since the entry into force of the Competition Protection Law there has been an increase in the number of complaints of prohibited agreements because of increased understanding of competition mainly among businesses and in the markets where the Competition Authority has conducted monitoring and investigations. But at the same time the difficulty of finding direct evidence that would provide proof of a prohibited agreement has also increased.

For these reasons, the Competition Authority has focused on increasing the degree of professionalism by implementing modern techniques of finding evidence of prohibited agreements, and increasing its administrative capacities to review cartels through economic and econometric analyses.

The following have been the main investigation proceedings on prohibited agreements:

### **II.2.1 In-depth Investigation into the Urban Passenger Transport Market in the City of Tirana**

As already reported in the 2012 Report, based on the complaints submitted by Alba Trans and Gerard A, the Competition Commission took Decision No. 252 of 26 November 2012 whereby it decided to initiate an inquiry into the urban passenger transport market in the city of Tirana in order to determine whether there were any indications of competition restriction. Based on the evidence collected during the inquiry inspections, the Competition Commission took Decision No. 262 of 14 January 2013, whereby it decided to begin an in-depth investigation into the market of selling generic monthly passes and student passes used in the urban passenger lines in the city of Tirana.

The collected evidence showed that the undertakings operating in the market subject to investigation had significantly restricted the sales of student monthly tickets. In those conditions, given the risk of serious irreparable harm to competition, the Competition Commission adopted Decision No. 263 of 14 January 2013 "On taking provisional measures on the selling of student monthly tickets in the urban passenger transportation in the city of Tirana." The provisional measures required the immediate and prompt distribution and selling of the entire amount of monthly tickets for students by the undertakings under investigation as per the quantities specified by the City of Tirana, as of January 2013.

The direct evidence collected during the simultaneous inspections in the urban transport undertakings showed competition restriction through a prohibited agreement among undertakings, which was a violation of Article 4 of the Competition

Protection Law, as a serious breach with consequences for competition and consumers. Undertakings Ferlut Sh.a, Tirana Lines Sh.a, Alba Trans sh.p.k, Tirana Urban Trans Sh.a, Parku i Transportit Urban të Udhëtarëve sh.p.k and Otto-al sh.p.k had decided within National Urban Transportation Association to reach an agreement under which they did not sell more than 50% of the quantity of student monthly passes for 2007 and about 80% of the quantity of student monthly passes for 2008-2012. The evidence showed that Otto-al sh.p.k had not complied with the National Urban Transportation Association and had exited the respective market in June 2012. The decisions taken by the members of the National Urban Transportation Association to limit the quantity of student monthly tickets sold are direct evidence of an agreement reducing the decision-making independence of the parties.

The parties under investigation had the right to state their defence in the hearings organized by the Competition Commission, which were mainly related to the City's failure to meet their subsidy requests and the issues related to fake and irregular monthly tickets.

In conclusion, with a majority vote, the Competition Commission decided to take an administrative measure in the form of a heavy fine (totalling ALL 6,079,561) against undertakings Ferlut Sh.a, Tirana Lines Sh.a, Alba Trans sh.p.k, Tirana Urban Trans Sh.a, and Parku i Transportit Urban të Udhëtarëve (Passenger Urban Transportation Park) on grounds of violation of Article 4 of the Competition Law. In addition, the Competition Authority sent a letter to the City of Tirana asking it to address the issues encountered in the urban transportation market and adopt a clear and transparent methodology of monthly ticket allocation to operators and to take measures in relation to the accompanying elements of the generic and student monthly tickets.

### **II.2.2 In-depth Investigation into the Market of Production, Importing and Wholesale Selling of Bulk and Packaged 42.5 Cement**

In 2013 the Competition Authority continued the in-depth investigation into the market of production, importing and wholesale selling of bulk 42.5 cement, which had begun in 2012. Following completion of the in-depth investigation report, the Competition Commission organized hearings where the undertakings under investigation submitted their oral and written arguments in relation to the in-depth investigation report and the respective evidence.

The investigation did not find any direct evidence of collusion among the companies or any signs of communications. Based on the collected evidence and the facts submitted by the undertakings under investigation during the hearings it was found that the increased selling prices applied by producers and importers had resulted from individual competitive behaviours and strategies for adapting to the conditions of the market in the period subject to investigation and not from a concerted behaviour. Competition Commission Decision no. 291 of 23 July 2013 closed the in-depth investigation into the market of production, importing and wholesale selling of 42.5 bulk and packaged cement against undertakings Antea Cement Sh.a, Fushe-Kruje Cement Factory sh.p.k, Eurotech Cement sh.p.k, Elbasan Cement Factory sh.p.k and Colacem Albania sh.p.k.



Given the importance of that market, the Competition Authority has kept it under monitoring. The monitoring follows the same methodology that was also used in the investigation, in order to assess the behaviour of the five largest undertakings in the cement wholesale market. The following are analysed in the monitoring: the structure of the relevant markets and the determination of concentration indicators; import prices and the behaviour of the major undertakings in relation to the supply in the wholesale market and the dynamics of the wholesale prices.

### **II.2.3 In-depth Investigation into Personal and Physical Security Market**

As it was reported last year, following a complaint the Competition Commission decided in late December 2012 to initiate an inquiry into the market of private security procurement in the city of Korça.

The inquiry found that the documents that the undertakings had submitted in the public procurement procedures showed signs of collusion, which could amount to competition restriction under the Competition Protection Law. Based on the preliminary inquiry report findings, the Competition Commission adopted Decision No. 257 of 13 December 2012, whereby it decided to initiate an in-depth investigation into the security service procurement market in the city of Korça against undertakings Alben 2 Security Sh.p.k, E Security Sh.p.k, Vaso Security Sh.p.k, Security Vaso Sh.p.k, Ernisa S Sh.p.k, Nisa Security Sh.p.k, Hoxha Security Sh.p.k, Hoxha Sh.p.k and Korça Security Sh.p.k.

The Competition Authority treated the case from the perspective of possibility of using the cover pricing scheme by agreeing in advance who would submit the winning bid in a tender where they would all participate so that the lowest bid would win. Under the OECD methodology and in similar cases, bidders are part of a group and their bids are very close to the limit fund and very similar to each other, thus achieving the goal of the winning bid with the amount being very close to the procured limit fund.

After the completion of the in-depth investigation report, the Competition Commission organized a hearing with the entities under investigation giving them access to the in-depth investigation report and the investigation file. The Commission also gave them the possibility to submit their written and oral arguments to the Commission.

The investigation showed that in most of the procurement procedures there was broad participation by the undertakings under investigation or other undertakings as well. Undertakings with their head offices in other regions also participated.

In conclusion, the Competition Commission established evidence of communications among the undertakings under investigation, but those communications could not be proved to have led to bid rigging in the public procurement of private security services in the city of Korça in the reviewed cases, because the procured fund in the investigated cases varied from 75% to 95% of the limit fund, thus not falling in the typical cases with 99% procurement of the limit fund.

In conclusion, the Competition Commission took Decision No. 283 of 8 May 2013, whereby it decided to close the in-depth investigation into the security service procurement market in the city of Korça against undertakings Vaso Security Sh.p.k, Security Vaso Sh.p.k, Alben 2 Security Sh.p.k, E Security Sh.p.k, Ernisa S Sh.p.k, Nisa Security Sh.p.k, Korça Security Sh.p.k, Hoxha Sh.p.k and Hoxha Security Sh.p.k.

#### **II.2.4 Inquiry into Personal and Physical Security Market in the Region of Gjirokastra and the City of Saranda**

Following some concerns raised with the Competition Authority in relation to the potential competition restriction in the market of security services procurement in the Region of Gjirokastra and the City of Saranda, the Competition Commission took Decision No. 274 of 18 March 2013 whereby it opened an inquiry into the security services procurement market in the Region of Gjirokastra and City of Saranda in order to see whether there were any signs of competition restriction in the period under investigation from January till December 2012.

In order to assess the behaviour of undertakings in the security services procurement market the inquiry looked at the data received from the contracting authorities, as no evidence of collusion in the preparation of bids for public procurement was found in the raids at the security undertakings in the Region of Gjirokastra and the City of Saranda.

The evaluation of the entire documentation collected during the inspections conducted in the undertakings under investigation and the documentation submitted by the relevant contracting authorities did not produce any direct or indirect evidence of collusion among undertakings in preparing their bids for the public procurement in the security services market in the Region of Gjirokastra and the city of Saranda (for the period under investigation), which meant that there were no signs of a potential violation of Article 4 of Law No. 9121 of 28 July 2003 “On Competition Protection”.

In conclusion, the Competition Commission took Decision No. 287 of 4 June 2013 whereby it closed the inquiry into the personal and physical security market in the Region of Gjirokastra and the City of Saranda since there were no signs of competition restrictions pursuant to Article 4 of Law No. 9121 of 28 July 2003 “On Competition Protection,” as amended.

#### **II.2.5 In-depth Investigation into the Sunflower Oil Importing, Manufacturing and Wholesale Selling Market**

With its Decision No. 249 of 9 November 2012 On initiating the in-depth investigation into the sunflower oil importing, manufacturing and wholesale selling market, the Competition Commission began an in-depth investigation in order to establish whether there were any competition restrictions in that market. The case started following a complaint by a supermarket in relation to an announcement of an immediate increase in the price of the vegetal cooking oil by several undertakings.

The Competition Authority inspectors conducted dawn raids at the same time and day in the three undertakings—Erbiron Sh.p.k, Olim Sh.a and Crystal sh.p.k—to find

direct and indirect evidence of potential collusion among the competitors; however, no direct or indirect proof or evidence was found in the inspections. In these conditions, the economic analysis techniques were used in order to find any potential concerted behaviour among competitors in relation to direct or indirect selling price fixing, supply limitation, pace and amount of change to average wholesale prices relative to the purchase prices in the international market, and market and supply source division. In the context of an analysis of the competition in the market, the Secretariat requested information from those undertakings and cooperated with the Directorate General of Customs and the Institute of Statistics.

An analysis of the trend among the undertakings under investigation showed that the wholesale prices in some cases had failed to reflect the fall in prices, while promptly reacting to increased prices on international commodity markets; the pace of wholesale price increase for Olim and Erbiron was faster than that in the international market; and wholesale prices for Olim and Erbiron followed the same trend.

The econometric analysis showed that there was a positive correlation between the prices and that the products were close substitutes. The analysis showed that the functional relation between prices was linear in the case of the Olim oil relative to prices at a day's delay of the oil sold by Erbiron sh.p.k and the Crystal oil in the period under investigation (January-October 2012). So, the undertakings under investigation, Erbiron sh.p.k and Olim, showed similar trends in the price increase, which is an indications of low competition in the respective market, but that is not sufficient evidence of the existence of a prohibited agreement within the meaning of Law No. 9121 "On Competition Protection".

The in-depth investigation was sent to the undertakings under investigation, also giving them access to the investigation file. Pursuant to Article 39 of the Law, a hearing with the undertakings under investigation was organized on 9 April 2013 prior to taking a final decision.

The Competition Commission took Decision No. 284 of 13 May 2013 "On concluding the in-depth investigation into the sunflower cooking oil importing, producing and wholesale selling market against undertakings Erbiron sh.p.k, Olim Sh.a and Crystal sh.p.k., whereby it stated that the undertakings under investigation, Erbiron sh.p.k. and Olim Sh.a., in the period under investigation, showed similar price increase trends, which indicate a low level of competition in the respective market, but is not sufficient evidence of existence of a prohibited agreement within the meaning of Law No. 9121 "On Competition Protection".

The Decision instructed the Secretariat to continue monitoring the market of sunflower cooking oil importing, producing and wholesale selling, since the undertakings under investigation showed similar price increase trends.

#### **II.2.6. Inquiry into the insurance market**

The compulsory vehicle insurance has been subject to constant monitoring and various investigations in relation to market competition restriction, with several sanctions imposed on undertakings that were found to have violated the Competition

Protection Law and several recommendations on increasing competition in that market.

Based on some signals we received from insurance market operators, the Competition Authority Secretariat, upon a request from the Competition Commission, monitored the sales of compulsory motor third party liability insurance policies. The monitoring showed that since 1 November 2013 all agent had sold those policies through a system called MSHM, which was managed by a broker. The system data linked to an agent at a specific point in time did not offer all the companies licensed for the product in question but only a limited number of them, typically four or five companies. Meanwhile it is not clear what the number of all available companies is and how they are shown in the system, because in another agent, according to his statement, all insurance companies appeared. Based on the findings the Competition Commission took Decision No. 297 of 18 November 2013 whereby it initiated the preliminary inquiry into the insurance market in relation to the motor third party liability insurance.

The Secretariat carried out the investigation under the Competition Protection Law, the Procedure Code and the Rules on Investigative Proceedings. Following the procedures, other concerns in the market were identified; therefore, the Competition Commission decided in February 2014 to extend the period under investigation for that market in order to conduct a more complete investigation into that market. The investigation is in progress.

### ***II.3 Exemptions from the Prohibition of Agreements***

In 2013 the Competition Commission assessed the legal evaluation on the compatibility with the Law and Regulations of the Agreement of cooperation among the companies in the insurance market on the exchange of information on the compulsory motor insurance market.

The subject-matter of the Agreement was the establishment of collaborative relations among insurance companies with regard to the domestic MTPL product and the establishment of common risk premium tariffs based on collectively ascertained statistics or the number of claims; the establishment of common standard policy conditions; the common coverage of certain types of risks; the settlement of claims; the testing and acceptance of security devices; registers of, and information on, serious risks.

The parties to the Agreement stated that they were aware of the application of free and effective market competition principles, and stated their commitment not to impose restrictions that are in conflict with Article 4 of the Competition Protection Law, or market division or price fixing, but to, rather, base their business only on the laws and regulations enabling cooperation in the context of achieving the insurance financial system standards.

The Competition Commission took Decision No. 298 of 6 November 2013, where it stated that the scope and purpose of the Agreement of cooperation among the companies in the insurance market on the exchange of information on the compulsory motor third party liability insurance market are in line with Article 3 of the Regulation on the application of Article 6 of the Competition Protection Law to certain categories of agreements, decisions and practices in the insurance sector, and the Agreement meets the conditions for benefiting from an exemption from the

prohibition provided for in Article 4 (1) of Law No. 9121 of 28 July 2003 “On Competition Protection,” as amended. The Competition Commission approved the Agreement and requested the following commitments from its parties: sell compulsory insurance policies bearing the respective logos; add, in the “Obligations of the Parties” section, a text stating that the parties had the obligation to not disclose any information on the insurance policy price, level of profits, costs or any other elements affecting the setting of the final price of the insurance policy and any other information that can damage the market competition; the period of the agreement was set to be one year.

## ***II.4 Abuse of a Dominant Position***

The dominant position relates to a position enjoyed by an undertaking, which enables it to restrict or distort effective competition on the relevant market. The requirements for evaluating the dominant position are laid down in Article 8 of the Competition Protection Law. The analysis and assessment of the dominant position begins with the determination of the relevant market, in relation to which an undertaking’s market share is calculated. A dominant position is the one possessed by one or more undertakings, allowing them to be capable of acting, in terms of supply or demand, independently from other market players. The analysis also takes into consideration the power of the rest of competitors in the market, the buyers and the legal and economic barriers for new market entrants. An undertaking can have a dominant position individually, but two or more undertakings can have a dominant position jointly.

Under the antitrust principle, a dominant position is not prohibited; rather, it is the abuse of that position that is prohibited. Article 9 of the Law prohibits any abuse by one or more undertakings of their dominant position, which can be in the form of high and unfair prices, discriminatory prices or conditions, refusal to provide services, etc.

In 2013 the Authority completed the cases carried from 2012 and reviewed new cases on the basis of complaints lodged with the Competition Authority.

### **II.4.1. Investigation proceedings (inquiry and in-depth investigation) into the retail mobile telephony market**

As already reported last year, the Competition Authority received two complaints from Plus Communication Sh.a and Albanian Mobile Communication Sh.a against Vodafone Albania Sh.a, claiming that it had abused its dominant position in the mobile telephony market. In addition, that concern had also been raised by the Agency for Electronic and Postal Communications, in its report: “Analysis of the mobile telephony market: wholesale termination and access/origination markets: final document”.

Based on those concerns on the level of competition in the mobile telephony market, the Competition Commission took Decision No. 261 of 11 January 2013 whereby it decided to initiate an inquiry into the retail mobile telephony market in order to determine whether there were any indications of competition restriction.

The inquiry showed that Vodafone, which operated in the mobile telephony market, held the dominant position in the retail market, and that there were signs of potential abuse of its dominant position in the market. Based on the inquiry findings, the Competition Commission took Decision No. 275 of 25 March 2013 “On initiating the

in-depth investigation proceedings against Vodafone Albania SHA in the retail mobile telephony market”, later amended by Decision No. 280 of 22 April 2013 “On an amendment to Decision No. 275 of 25 March 2013 “On initiating the in-depth investigation proceedings against Vodafone Albania SHA in the retail mobile telephony market”, whereby it started an investigation against Vodafone Albania SHA.

During the proceedings, the undertaking subject to investigation applied for a revocation of the in-depth investigation decision, which was followed by the Competition Commission Decision No. 285 of 20 May 2013, which stated that the Commission decisions can only be revoked if certain statutory requirements are met and that an assessment of the application lodged by Vodafone and of the relevant arguments showed that those requirements were not met. It therefore decided to reaffirm the previous Decision and go on with the in-depth investigation proceedings. In the next step of the procedure, the Secretariat submitted to the Competition Commission its Report on the in-depth investigation into the retail mobile telephony market. The Report was also communicated to the undertaking under investigation. The analysis showed that Vodafone Albania had a dominant position in the retail mobile telephony market based on its revenues and the number of active SIM cards. In addition, when determining the dominant position the analysis included not only its market share but also the market power, access barriers, potential competition, competitors’ economic and financial power, consumers, buyers and competitors’ reaction power and other features in the retail market for 2011-2012.

The Competition Authority assessed the behaviour of the undertaking under investigation during the investigation period, especially its behaviour in terms of prices and competitors in the respective market, its Vodafone Card and Vodafone Club tariff plans, its day, weekly and monthly plan offers, its offers used to attract new subscribers through own number portability and the bonuses it offered to its distributors.

The analysis of the behaviour under investigation showed that the strategy that operator followed caused concerns with regard to competition in the respective market and negative effects on competition in the long run vis-à-vis smaller competitors through the application of price differentiation to on-net versus off-net calls. An analysis of similar cases shows that price differentiation of on-net versus off-net calls can be used by large operators as a tool to close off the market against smaller operators which might even risk exiting from the respective market, and that is a concern for the good functioning of the market in the longer run.

Vodafone publicly committed to equalize the tariffs within Vodafone Club and towards off the Vodafone network (terminating in landline, AMC, Eagle and Plus networks) in order to reduce to elimination the tariff differentiation for on-net and off-net calls.

In early 2014, after reviewing the Report and hearing the party subject to investigation, the Competition Commission came to the conclusion that Vodafone Albania behaviour was not abuse of its dominant position during the investigation period, but the strategy that the undertaking had implemented caused concerns with regard to competition in the longer run. Therefore it gave several recommendations to the market regulator. More specifically:

The Competition Commission decided to recommend that the Electronic and Postal Communications Authority should take interim and immediate measures, prior to the conclusion of the analysis of the retail mobile telephony market, in order to enforce the market regulation solutions for preventing market exits that would have a long-

term impact on competition; the Electronic and Postal Communications Authority should especially modify the BULRAIC model by significantly reducing the cost of termination for smaller operators towards larger operators in the market, in order to increase free and effective competition in the respective market; enforce the real reduction of the difference between off-net and on-net calls within and off specific tariff packages and plans for those operators holding a dominant position.

In addition, the Competition Commission recommended that the Electronic and Postal Communications Authority should carry out an analysis of the retail mobile telephony market to address the competition concerns in that market by taking specific regulatory measures for reducing the emphasized differentiation between on-net call tariffs and off-net call tariffs applied by Vodafone, and monitor the fulfilment of Vodafone Albania's public commitment to equalize the tariffs within Vodafone Club and towards off the Vodafone network (terminating in landline, AMC, Eagle and Plus networks) in order to reduce to elimination the tariff differentiation for on-net and off-net calls, as well as the units included in the optional national communications packages (weekly, monthly and annual offers and packages).

#### **II.4.2 Inquiry into the loading-and-unloading liquefied gas market in Porto-Romano Port**

Based on a complaint filed by an operator in the market of importing and wholesaling liquefied petroleum gas (LPG), the Competition Commission took Decision No. 277 of 3 April 2013 to initiate an inquiry into the market of loading-unloading LPG in the area of Porto Romano in order to determine whether there were any indications of competition restriction by the loading-unloading concession operator in that Port.

Based on the collected facts and evidence during the inquiry into the market of LPG maritime loading/unloading on all the cases performed by Romano Port SHA in the period subject to investigation, and on the basis of analysis of the behaviour of the undertaking with a dominant position (Romano Port SHA), the Competition Commission concluded that there were no signs of abuse of a dominant position by Romano Port SHA, within the meaning of Article 9 of Law No. 9121 of 28 July 2003 "On Competition Protection".

In conclusion the Competition Commission took Decision No. 289 of 4 July 2013 "On concluding the inquiry into the market of loading-unloading of liquefied petroleum gas in Porto-Romano port", since there were no indications of competition restriction, within the meaning of Article 9 of Law No. 9121 of 28 July 2003 "On Competition Protection," as amended.

#### **II.4.3 Inquiry into the Fuel Importing, Manufacturing and Wholesale Selling Market**

Based on some public concerns in relation to the level of competition in the fossil fuel importing and wholesale selling market, the Competition Authority Secretariat monitored the market and found significant changes in the market structures and increased degree of concentration. Based on the finding of the monitoring and with proposal from the Secretariat, Competition Commission Decision no. 292 of 16 September 2013 ordered an inquiry into the fuel importing, manufacturing and wholesale selling market to determine any potential competition restrictions. The investigation period was specified to be from January 2010 till August 2013.

For a more objective analysis of the behaviour of market operators, the Commission decided to extend the investigation period in order to look at the behaviour of undertakings after the exit from this market of undertaking Taçi Oil SHA in April 2013 and their behaviour after the expected fiscal changes in 2014.

## **II.5. Control of Concentrations**

Control of concentrations is one of the legal tools allowing the Competition Authority to prevent the strengthening or increase of market concentration, granting it the right to not authorize or authorize with conditions the execution of share purchase transactions between undertakings if those transactions result in significant strengthening of concentration in the respective market or effective competition restriction in that market. Article 13 of the Law prohibits those mergers that create or strengthen a dominant position. This means that there must be a causal relation between the merger and the dominant position that could be created. That relation is certainly lacking where the merger of undertakings aims at preventing the bankruptcy of a certain undertaking. In that case the concentration and/or merger is allowed and authorized.

The number of concentration notifications to the Authority and authorization applications submitted to the Competition Commission increased in 2013. The increase was due to the reduced turnover threshold for undertakings participating in concentrations that are subject to authorization by the Competition Commission. In the context of market oversight, the Competition Authority reviewed the entire National Registration Centre database and started to inform all those undertakings that met the legal requirements to apply for authorization with the Competition Commission.

### **II.5.1 Authorized concentrations**

In 2013, 13 concentration cases were reviewed in relation to acquisition of control, mergers or establishment of a new undertaking. The concentrations were reviewed from the perspective of creating or strengthening a dominant position of the concentrated undertakings, and in terms of any positive impact on the market from the perspective of consumers and increased market efficiency.

**i. Merger of two or more undertakings or parts thereof that are independent from each other.**

None of the concentrations approved by the Competition Commission was a merger of two undertakings.

**ii. Acquisition of (direct or indirect) control of one or more undertakings or parts thereof.**

**In the fuel importing and wholesale selling market**, the Competition Commission Decision No. 266 of 5 February 2013 authorized the concentration through the transfer of 70% of the shares in the initial capital of Vil Oil SHA from City Investment Holding SHA to shareholders Z.A.G and Z.A. A, because it did not create or strengthen a dominant position in the respective product market. This was the only



control procedure that was opened by the Competition Authority on its own initiative in 2012 and continued until February 2013. In that case the Competition Authority imposed a fine of ALL 100,000 on Vil Oil SHA for failure to notify the concentration (Decision No. 265 of 05.02.2013) since failure to notify is a misdemeanour under Article 73 of Law No. 9121 “On Competition Protection”.

**In 2013 in the market of chromium mining and processing and ferrochromium production** the Competition Commission decided with a majority of votes to authorize the concentration through the acquisition of single control of Albanian Chrome Sh.p.k. through the transfer of 100% of the shares from DCM DECO metal GmbH and DCM Beteiligungs GmbH to Balfin Sh.p.k. (Decision No. 264 of 05.02.2013). The analysis of competition found that the transaction parties operated in different markets, therefore there were no affected markets and the market structure following the concentration did not change.

**Air transportation market.** The concentration between Olympic Air S.A. and Aegean Airlines S.A. through acquisition of control of Olympic Air S.A. by Aegean Airlines S.A. in the form of acquiring 100% of its share from Marfin Investment Group S.A, which occurred in the Greek aviation market, affected the Albanian market, too, in terms of passenger air transportation services in the Tirana-Athens line. The concentration was authorized by the Competition Commission Decision No. 267 of 5 February 2013. The concentration was also authorized by the European Commission.

**In the retail trade market,** the Competition Commission Decision No. 268 of 8 February 2013 authorized the concentration through acquisition of control of Delhaize Albania Sh.p.k through the transfer of 100% of its shares from Lion Retail Holding s.a.r.l and Delhaize Serbia d.o.o to Balfin Sh.p.k. The concentration occurred in the retail trade in foodstuff products and consumer’s products.

After the abovementioned transaction, Balfin Group decided to transfer the Euromax business to the French company that had experience in the retail trade in foodstuff products and consumer products. With a majority of votes, the Competition Commission Decision No. 279 of 22 April 2013 authorized the concentration through acquisition of control of Euromax Sh.p.k through the transfer of 100% of its shares from Balfin Sh.p.k to CM Balkans B.V. The transaction did not indicate any signs of competition restriction in the market or a part thereof due to established or strengthened dominant position.

Another concentration occurred abroad, with an impact on the domestic market of tobacco processing and production. The concentration was by acquisition of Nefftekx World II B.V. control by Japan Tobacco International Netherlands B.V. through the transfer of 100% of its shares from Batata S.A. The concentration was authorized by Competition Commission Decision No. 271 of 26 February 2013, because the concentration would result in a negative impact on competition.

**In the cosmetics market** a concentration was notified. The concentration was carried out by acquisition of LR Global Holding GmbH by Bregal Fund III LP and Quadriga Capital Private Equity Fund IV LP. The Competition Commission authorized that concentration by Decision No. 272 of 26 February 2013.

In 2013 a concentration in the **construction market**, too, was notified. The concentration took place through acquisition of control of Investndërtim Tirana Sh.p.k by transferring 100% of its shares from GPL Construzioni Generali S.r.l to Investment Joti- Infsoft Group Sh.p.k, and was authorized by Competition Commission Decision No. 278 of 15 April 2013. The transaction did not indicate any signs of competition restriction in the market or a part thereof due to established or strengthened dominant position, because the involved undertakings operated mainly in different product markets.

In the context of privatizations in the **electricity market** the Government privatized hydropower plants Bistrica 1 and Bistrica 2 Sh.a pursuant to Law 93/2013 "On the ratification of the share purchase agreement on 100% of the shares in Hec Bistrica 1 Bistrica 2 Sh.a., concluded between the Ministry of Economy, Trade and Energy and Kurum International Sh.a, on 11 February 2013". The transaction was in the form of transferring 100% of its shares to Kurum International SHA, consisting of a concentration, and was authorized with a majority of votes by Competition Commission Decision No. 282 of 30 April 2013.

The hydropower plant **HEC Ulëz-Shkopet**, too, was privatized pursuant to Law 94/2013 "On the ratification of the share purchase agreement on 100% of the shares in Hec Ulëz-Shkopet SHA, concluded between the Ministry of Economy, Trade and Energy and Kurum International Sh.a, on 11 February 2013". That transaction, too, was in the form of acquiring single control of HEC Ulëz-Shkopet shares by transferring 100% of its shares to Kurum International SHA, and was authorized with a majority of votes by Competition Commission Decision No. 281 of 30 April 2013.

**In the international transportation market**, the concession operator Aeroporti Internacional të Tiranës (TIA, Tirana International Airport) decided to transfer its shares to a Canadian Fund. The concentration, which took place in the market of airport infrastructure services provided to airline companies, was through acquisition of indirect control of Tirana International Airport Sh.p.k and Hochtief Airport Retail Sh.p.k by the Public Sector Pension Investment Board by transferring 100% of the share capital to Hochtief Airport GmbH. The concentration did not indicate any signs of competition restriction in the market or a part thereof due to established or strengthened dominant position, and was therefore authorized by Competition Commission Decision No. 288 of 25 June 2013.

**In the internet and landline telephony service market, a concentration was carried out in 2013** through acquisition of control by AD-Trade of Primo Communications sh.p.k. by acquisition of 100% of its shares from Telekom Slovenia. In its Decision No. 294 of 28 October 2013, the Competition Commission decided to authorize the concentration through control acquisition. The transaction did not indicate any signs of competition restriction in the market or a part thereof due to established or strengthened dominant position.

**In the gaming and electronic casino market** a concentration involving Europa Kazino 2009 SHA was notified. Competition Commission Decision no. 299 of 6 December 2013 authorized the concentration through the purchase of 100% of the shares in Europa Kazino 2009 SHA by Mr. E. P., because that concentration did not

indicate any signs of competition restriction in the market or a part thereof due to established or strengthened dominant position.

iii. **Establishment of a joint venture performing all the functions of an autonomous economic entity**

No sustainable change in control due to the formation of a joint venture performing all the functions of an autonomous economic entity resulted from any concentrations authorized by the Competition Commission in 2013.

**II.5.2 Reviewed Cases not considered as Subject to Authorization by the Competition Commission.**

Under Article 6 of the Regulation on the implementation of undertaking concentration procedures, one transaction case was submitted to the Competition Authority in 2013. It was not considered to be subject to authorization by the Competition Commission.

The notified transaction involved the acquisition of control of Slovene Mercator d.d by the Croatian company Agrokor d.d.. To that end, the parties signed a purchase agreement on the shares in Poslovni Sistem Mercator d.d between the majority shareholders (as sellers) and Agrokor d.d (as the buyer) on 14 June 2013. After the transaction the Mercator Group will be entirely controlled by Agrokor d.d, which considers the transaction as a good investment opportunity. After the execution of the transaction Mercator d.d is controlled by Agrokor d.d, which pursuant to Article 10 (1) (a) of the Law is concentration. In addition, according to the financial data made available by the legal representative, the companies participating in the transaction met the turnover condition for the financial year 2012. However, since the transaction of acquiring control of Mercator d.d (Slovenia) by Agrokor d.d (Croatia) is a concentration occurring outside the Albanian market, it did not affect directly or indirectly the domestic market, and, therefore, pursuant to Article 56 of Law No. 9121, it was not subject to authorization by the Competition Commission.

**II.6 Market Monitoring**

Pursuant to the tasks laid down in the Competition Commission decisions on monitoring markets under investigation, or researching markets with a significant level of concentration, the Competition Authority conducts monitoring cases that are mainly part of the scope of its Market Research and Analysis Unit.

**II.6.1. Monitoring of the air transport market**

In the first half of 2013 the monitoring of the air passenger transport market was completed and the respective report was submitted for comments to the Civil Aviation Authority and the Authorized State Body, and expert meetings were organized with the respective institutions, the opinions of which were reflected in the report.

The main conclusions of the report were the following:

- The air passenger transport market consists of two basic services that are complementary to each other: airport services and airline services. Those services are regulated by the relevant regulatory authorities.

- Airport services are rendered to airline companies by Aeroporti Ndërkombëtar i Tiranës (Tirana International Airport), therefore TIA is the only operator in the airport service market, which means it has the dominant position in that market, and airline companies do not have any other options for such services. Low cost companies cannot enter the airline market in Albania because there are not any secondary or another low-cost airports in the country.

- “Nënë Tereza” Airport fees last changed in 2007. Under the Concession Law the fees have to change every three years; therefore, their revision is long overdue, since they had to be revised in 2010 and 2013.

- There is not a methodology or a regulation approved by the Authorized State Body with regard to the airport fees. The airport service market has a single operator, and since there are no other competitors the regulator should exert its influence on the regulation of fees by orienting them towards cost in order to prevent any abuse of the dominant position in the market.

### **II.6.2. Monitoring of the energy market**

In 2013 the electricity market was monitored, and the resulting report was sent for comments to the Energy Regulatory Entity, too. The report also included the implementation of the Competition Commission recommendations on the electricity market, the opinions of various stakeholders such as the Electricity Suppliers' Association, the Energy Secretariat assessment of the Albanian electricity market, etc. We think that a meeting at decision-making board level between both institutions is necessary in order to further clarify the situation in the electricity market.

### **II.6.3 Monitoring of the hydrocarbon (fuels and LPG) market**

Based on the high sensitivity that fuels have in terms of economic development and consumer spending, the fuel market was constantly monitored in 2013. The purpose of the monitoring was to identify any changes in the structure of the fuel market (10 ppm diesel and petrol), the changes in market prices to see whether there were any signs of competition restriction as a result of market behaviour coordination and/or any abuse of a dominant position (if any) of one or several active undertakings (collective dominance) in the respective market.

The monitoring methodology consisted of assessing concentration indicators, assessing import and wholesale price dynamics, and assessing large undertaking behaviour in relation to selling prices. Increased degree of concentration, constant trend of diesel and petrol prices in retail points of sale belonging to the undertakings related to the importing undertakings (which reflect the pricing policies applied by the importing undertakings) was among the main elements underlying the Secretary General's proposal to initiate an inquiry into the fuel market on grounds of potential violations of Articles 4 and 9 of Law No. 9121 of 28 July 2003 “On Competition Protection”. The market is still under inquiry.

### **II.6.4. Liquefied petroleum gas import and wholesale market**

The monitoring of the liquefied petroleum gas import and wholesale market has been part of the Secretariat's work for years. An analysis of competition indicators for the gas import market in 2012 showed that:

- The gas market structure demonstrates significant changes in the large share of the supply of gas that is imported by a single undertaking. The major undertaking holds 53% of the import market, which is larger than the other three undertakings, which

makes it an undertaking with a dominant position in the market. The rest of the undertakings demonstrate emphasized changes in their market shares, which shows that there is strong competition among them.

- The number of importing undertakings fell to 13 in 2012 from 19 in 2011.
- An analysis of price indicators showed that the gas wholesale prices applied by the four largest undertakings follow the average monthly gas purchase prices. The analysed undertakings did not apply the same prices. Retail prices did not reflect the established gas purchase price reductions.
- The depreciation of the local currency against the US dollar resulted in a 3.8% price increase.

Based on the above, the intention is for the monitoring of the gas market in the future to focus on an assessment of the gas selling intermediary structures, which were not included in the monitoring originally. The analysis of those structures has encountered difficulties due to lack of accurate data. The Directorate General of Taxation was asked to provide a list of taxpayers operating in the wholesale and retail liquefied gas market; however, the tax administration database assigns the same code to liquefied vendors as the rest of taxpayers selling other fuels, which has rendered it difficult to identify those undertakings that should be subject of the monitoring.

#### **II.6.5 Monitoring of the Financial Market Mainly in Relation to Agreements between Banks and Insurance Companies**

After some concerns raised by consumers, the Competition Authority Secretariat monitored the financial market in relation to the agreements between banks and insurance companies. The purpose of the monitoring was to assess the behaviour of banks and insurance companies with regard to their arrangements for life and collateral insurance, which could result in competition elimination or distortion in the market.

The behaviour of banks and insurance companies was assessed on the basis of an analysis of:

the rights and obligations of the parties as specified in the life and collateral insurance agreements between banks and insurance companies; the structure of the lending market and the collateral and life insurance provided by insurance companies; what banks benefited from insurance companies; and the market structure based on the revenues from collateral and life insurance service commissions. In addition, the Authority solicited the opinion of persons that have relations with banks or insurance companies.

The analysis of the respective market showed that the product market was specific for each bank providing collateral-secured lending services, and the competition was analysed in the context of the relations between each bank and insurance companies. The analysis focused on the fact whether banks restrict borrower's choices in selecting insurance companies for their collateral or life insurance, and whether banks were transparent and gave adequate information for the borrowers to make the right choice.

The analysis of each bank's behaviour towards borrowers in their role as property and life insurance intermediaries showed that:

- All banks stipulate in the loan agreements that borrowers have to take out collateral and life insurance for the entire loan repayment period.
- There is an obligation in the agreement for borrowers to keep to the same insurance company throughout the loan repayment period. Almost all agreements provide for prior consent to be given by the bank of the insurance companies to be selected by borrowers. For an efficient functioning of the market, it is necessary that customers be able to revise their previous decisions and choose the product that suits them best. In such situations insurance companies compete only until the agreement is signed, and competition benefits may be erased with any changes to the situation and circumstances in the market.
- A case of double standards was found, since banks took a more restrictive approach to individual borrowers in terms of selecting the insurance company, as compared with larger customers (corporations and SMEs). This behaviour shows lack of transparency vis-à-vis a category of more vulnerable customers, with a goal to make more revenues out of service commissions and making a larger profit for insurers. According to bank data, individual and micro customers account for about 40% of bank commission revenues from intermediary services in relation to insurance agreements, and all agreements are concluded with single insurance companies.
- In the agreements between insurance companies and banks, banks are treated as agents, and receive service fees from insurance companies for their services. The fact that banks generate revenues from the intermediary service under collateral and life insurance agreements might be sufficient reason for banks to channel their borrowing customers towards those insurance companies that pay them the highest service fees. The major banks in the lending market were found to also have the highest service fee rate in relation to insurance policies, with that fee reaching 24% of the premium.
- According to information received from the Albanian Financial Supervisory Authority, commercial banks are not licensed in operating as brokers, which might have also resulted in the lack of transparency in relation to the intermediation with insurance companies.
- Lenders' opinions on this issue confirmed that lenders had been side-lined in the selection of insurance companies, perhaps because of the indifference and lack of knowledge among some of the borrowers or lack of transparency by banks when informing their customers.

Based on the above, in the context of the efforts for increasing bank transparency, the Competition Commission recommended the following to the Financial Supervisory Authority and the Bank of Albania: after being granted authorization by the Bank of Albania commercial banks should apply with the Financial Supervisory Authority for a license to operate as intermediaries in insurance and reinsurance (in the form of brokerage companies) in the role of intermediaries arranging for insurance with insurance companies for their borrowing clients; commercial banks should be obliged to increase their transparency in terms of their intermediation for insurance and reinsurance services by clearly stating the conditions and premiums offered by the potential insurers for the type of insurance required by banks, and that information should be advertised clearly and coherently; commercial banks should not specify in the loan agreement the insurance company with which the collateral and asset is to be insured. Banks should allow borrowers to select themselves the insurance companies.

## ***II.7 Judicial Review of Competition Authority Cases***

Competition cases are increasingly receiving more attention in the European and international jurisprudence, with some of the European Court of Justice final judgments having become legislation to be referred to by competition authorities and other stakeholders when reviewing major cases in relation to prohibited agreements and abuse of dominant position.

The experience of judicial review of the Competition Authority decisions in Albania is still in its initial stages, and, therefore, in cooperation with European Union projects and OECD Centre in Hungary, efforts have been made through trainings for increasing the degree of knowledge and interpretation among judges in the relation to competition cases. The trainings took place in the School of Magistrates in Tirana, and were conducted by experts from the EU and the OECD Centre in Budapest. Several judges took part in them.

The judicial review of Competition Commission decisions in the case of fines marked progress in terms of increased legal protection for Commission decisions before the courts. In order to ensure Court affirmation of the Competition Commission decisions we have focused on the legal reasoning of competition restriction practices through abuse of a dominant position. In the process of judicial review the Competition Authority has cooperated with the State's Advocate institution in all court instances.

Pursuant to the Code of Civil Procedure, the Competition Authority has taken a proactive approach to following the enforcement of decisions that are considered as final after Court of Appeal enforcement orders. A more detailed presentation of all court cases is given in Annex No. 6.

An analysis of the judicial review shows that, in general, it takes a long time from issuance of a Competition Commission decision till the issuance of a final judgment by the Supreme Court. Out of six significant cases related to Competition Commission decisions on abuse of a dominant position and prohibited agreements, the full judicial review cycle has completed for only one, with the rest of the decisions being in progress in one of the instances of court review.

If we refer to the statistics, from 2005 (when the first Competition Commission decision imposing a penalty was appealed against at court) till end of 2013, 33 lawsuit applications were lodged with Tirana District Court. In statistical terms, 17 cases were won until the end of last year, with six lost cases and ten pending ones. Twenty-four cases were appealed against at the court of appeals, but 20 were accepted for judicial review. Until the end of 2013, of the cases submitted to that court, two were lost, two were won and four were still pending, which indicates that some cases were referred to the Administrative Court of Appeal. In the meantime, 14 cases were appealed at the Supreme Court, of which four were won, one was lost and nine are in progress. The abovementioned statistics are presented in detail in the Annex "Judicial Review of CC Decisions".

In addition, if we look at the 20 Competition Commission Decisions imposing fines, only some of them were made final (mainly in the Court of Appeal) and have been covered with enforcement orders, one of them was lost and 14 are in various instances of judicial review (with nine in the Supreme Court), excluding four cases

that have been transferred to the administrative court. These are the indicators related to the decisions issued by the Competition Commission, which intervenes ex post with the goal to ensure good functioning of markets. This is one of the obstacles to increasing the efficiency of market intervention by the Competition Institution. The Competition Commission decision imposing a fine on a mobile telephony operator for failure to provide information during the investigative proceedings in December 2005 was reviewed after a recourse by the Authority; in that case the Supreme Court decided to return the case for retrial at the Appeal Court. The specific case mentioned above, which was lodged in 2008, illustrates the issue of the lengthy court proceedings in relation to reviewing Competition Commission decisions. This is one of the main concerns, as it relates to the impact of Competition Authority market interventions.

In this respect, the beginning of the Administrative Court operations this year is a very important instrument, which will not only have an impact on shortening the duration of proceedings, but is also expected to significantly improve the level of expertise in dealing with competition cases, which in turn will result in an increased quality of the assessments made by the competition institution and the decision-making of the Competition Commission.

### **An illustrative analysis of judicial review cases**

#### *Case 1 – The court reaffirms the decision imposing a fine on mobile telephony companies*

In its Decision No. 59 of 9 November 2007 “On abuse of the dominant position in the mobile telephony market by companies AMC SHA and Vodafone SHA” the Competition Commission proved that AMC and Vodafone had abused with their dominant position and set unfair prices in the mobile telephony market in the period under investigation (2004-2006). Based on the found violations, AMC and Vodafone were imposed a fine of 2% of their annual turnovers, with ALL 211,552,000 and ALL 242,633,000 respectively.

Both companies appealed against the decision at Tirana District Court separately. In its part pertaining to AMC, Tirana District Court Judgment No. 172 of 19 January 2009 supported the Competition Commission conclusion. According to the Court Judgment the mobile telephony service fees in Albania were too high if compared with other geographic markets. Given the degree of analysis in order to carry out the tests specified by the EU, the Court concluded that AMC had abused with its dominant position in the market. As a result, the Court concluded that Competition Commission Decision no. 59 of 09.11.2007 had been just, based on the law and evidence and, as such, should be reaffirmed. The Court of Appeal, too, upheld the Tirana District Court judgment. The case is expected to be reviewed by the Supreme Court after the recourse taken by AMC.

#### *Case 2 – The first-instance court reaffirms, the court of appeal sets aside the decision on insurance*

Competition Commission Decision no. 246 of 9 October 2012 imposed a fine on grounds of competition restriction in the mandatory insurance market. The



aggregated fine was ALL 88,944,664. The analysis showed that the undertakings under investigation operating in the domestic MTPL insurance market provisionally increased and fixed the insurance premiums across domestic MTPL classes in 1-8 February 2012, with the exception of undertaking INSIG SHA in relation to class B 1/1. This behaviour represents a concerted practice, which under Article 3 (4) of the Competition Protection Law is considered as an agreement, and under Article 4 (1) (a) of the same Law is considered as a prohibited agreement, which is a serious violation of competition. The parties appealed the decision, and Tirana District Court Judgment No. 3877 of 12 April 2013 ruled against the application; however that judgment was set aside by Tirana Court of Appeal.

The undertakings lodged an appeal against the first-instance judgment with Tirana Court of Appeal, which ruled to change Tirana District Court judgment. The first-instance court accepted the Commission's reasoning on the existence of a concerted practice in the form of a prohibited agreement, and reaffirmed the administrative measure (fine) imposed on the insurance companies.

The Court of Appeal stated that *"The Competition Authority did not manage, in its decision-making, to prove that there had been any agreements whatsoever or any concerted behaviour that would harm free competition principles, as listed and specified in Article 4 of the Competition Law. Nor was it proven that the companies had set the same prices through whatever agreements."* The Competition Authority took a recourse at the Supreme Court against that judgment, with the argument that the Court of Appeal judgment had applied the substantial law wrongly and had misinterpreted the evidence, and should therefore be set aside. The Court's finding that no prohibited agreements were found in the investigation report was not true because the data collected in the inspections at the undertakings show that in 1-8 February 2012 insurance companies had increased and fixed the MTPL product price by selling it at the same premium even though they were different undertakings with different characteristics, which resulted in limited consumer choices. The Supreme Court is expected to announce the date of adjudication.

#### **d) Execution of decisions**

Pursuant to Article 80 of Law No. 9121 of 28 July 2003 "On Competition Protection", the Competition Authority has addressed Tirana Judicial Enforcement Office in relation to the execution of the following enforceable acts:

Competition Commission Decision no. 154 of 01.10.2011 (only for the part pertaining to undertakings "Classic" sh.p.k. and "Noti" sh.p.k.) On prohibiting the agreement between undertakings Classic sh.p.k, Hyundai sh.p.k., Noti sh.p.k. and Ultra Motors sh.p.k., and imposing a fine on them for competition restriction in the market of new vehicle procurement, for which an enforcement order was issued by Decision No. 2384 of 19 April 2013 of Tirana District Court.

Competition Commission Decision no. 216 of 01.03.2012 On imposing a fine on undertaking INTERSIG SHA, for which an enforcement order was issued by Decision No. 3763 of 14 June 2013 of Tirana District Court.

Competition Commission Decision no. 265 of 05.02.2013 On imposing a fine on Viloil Sh.A. for failing to notify the concentration carried out through acquisition of control of Vlliol Sh.a. in the form of transferring 70% of its initial share capital from City Investment Holding S.A. to shareholders Mr. Apostol Goçi and Mr. Albano Aliko, for which an enforcement order was issued by Decision No. 7677 of 20 December 2013 of Tirana District Court.

Pursuant to the Civil Procedure Code, the Competition Authority submitted all the required documentation to facilitate the execution of those enforceable acts by the Enforcement Office.

The cumulative statistical information on the execution of fines imposed by the Competition Commission is shown in Annex No. 2 (Execution of fines imposed by the Competition Commission, as of 31 December 2013).

## ***II.8 Legislation Approximation in the area of Competition***

The Competition Authority objectives include the execution of its institutional obligations in the context of the European integration process and the legal and regulatory approximation with the European Union *acquis communautaire*. Those obligations stem from the Stabilization and Association Agreement (SAA) between the EU and Albania, which governs their relations.

The Agreement foresees the adoption of the *acquis communautaire* in the domestic juridical system of Albania. Obligations for the Competition Authority under the SAA are provided for in Articles 71 and 72 of the SAA, which lay down obligations and responsibilities for the Competition Authority in the context of protecting free and effective competition against anticompetitive practices that might affect trade between the Community and Albania and the new role assigned to the Competition Authority in the case of exclusive or special rights granted in the territory of the Republic of Albania.

One of the main obligations of the Competition Authority is the approximation of the Albanian legislation with the EU competition law. In the context of achieving that goal, the Competition Authority continued the process of implementation legislation drafting in 2013, by approximating it completely with the EU law. Pursuant to Article 6 of Law No. 9121 of 28 July 2003 "On Competition Protection", as amended, our institution drafted regulations granting exemptions from prohibited agreements. The regulations include provisions in relation to those types of agreements that might have a real impact on the market, and provide for group exemptions subject to the nature of the agreement or the industry of the respective market. Each regulation provides specific criteria in relation to market shares, types of restrictions laid down in the agreements, or the efficiency benefits such agreements should bring about for them to be exempted.

The Regulation on the application of Article 6 of the Competition Protection Law to certain categories of agreements, decisions and practices in the insurance sector.<sup>1</sup> The purpose of the Regulation is to grant an exemption from prohibition for certain categories of agreements, decisions and concerted practices in the insurance sector. The regulation specifies the types of agreements that are exempted from prohibition, the respective market shares to be accounted for by those agreements for them to be classified into this category, the efficiency benefits they bring about, the potential negative and positive effects on the market, etc.

The Regulation on the application of Article 6 of the Competition Protection Law to certain categories of agreements and concerted practices in the air transport sector.<sup>2</sup> The purpose of the Regulation is to grant an exemption from prohibition for certain categories of agreements, decisions and concerted practices in the air transport sector. The regulation specifies its scope, and clarifies when such agreements and practices will not be considered as prohibited, or when an exemption will be given by a Competition Commission decision on the basis of the market shares, efficiency benefits, nature of agreements, etc.

Guidelines on the assessment of horizontal agreements.<sup>3</sup> The purpose of the revision and drafting of the guidelines was complete approximation of the Albanian legislation in the area of competition with the EU one, incorporating in it the spirit and new elements of the EU guidelines. The guidelines specify the principles for assessing agreements, decisions and concerted practices of undertakings (involved in horizontal cooperation), define the types of horizontal agreements, how the respective market is determined, how to assess whether an agreement is prohibited, any potential competition restrictions that could be brought about by such an agreement, the efficiency benefits of the concluded agreement, the necessity for such an agreement, the transfer of positive effects onto consumers, etc.

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<sup>1</sup> This is an adaptation of Commission Regulation (EU) No. 267/2010 of 24 March 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector.

<sup>2</sup> This is an adaptation of Council Regulation (EC) No 487/2009 of 25 May 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector (32009R0487)

<sup>3</sup> This is an adaptation of EU Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements (007252011XC0114(04))

### **III. COMPETITION ADVOCACY AND CULTURE**

Advocacy and dissemination of competition culture comprise the fourth pillar of work for the Competition Authority. In order to establish as competitive an environment as possible for the market shares to be acquired through merit and not support from state bodies or anticompetitive practices (abuse of the dominant position and prohibited agreements), the Competition Authority pays attention to increasing advocacy for the competition law and policy and increasing the degree of understanding of the law among market players and factors.

#### ***III.1 Assessment of regulations and draft regulations.***

The environment for the development of free and effective competition in the market is included in the scope of a number of central and local institutions, including ministries, regulators, municipalities, etc.

Pursuant to Article 69 of the Law, central and local government bodies have the obligation to request an assessment from the Authority of each draft regulation that is mainly related to the quantitative restrictions to market access and trading and the granting of exclusive rights.

It is a statutory obligation of the Authority to assess the degree of competition restriction or obstruction. Despite the proactive approach taken by the Authority, however, it has not always been possible to make an assessment of all draft acts due to the neglect demonstrated by the various institutions which are required to ask the Authority for its opinion before adopting acts restricting competition.

With support from the EU technical assistance project, the Competition Authority proposed and is already implementing a matrix of self-assessment of law and/or regulation impact on competition, which is a tool for all institutions so that they can make a preliminary self-assessment of the impact of an act in terms of potential market competition restrictions.

The following is a list of all laws and draft laws submitted for comments to the Competition Authority, for which legal assessments have been prepared.

- Draft Law amending Law No. 9947 of 7 July 2008 "On Industrial Property Rights";
- Draft template agreement on transmission services between the Transmission System Operator (OST) and qualified suppliers;
- Draft agreement of cooperation among the companies in the insurance market on the exchange of information on the compulsory motor third liability party insurance (MTPL) market;
- Draft rules on the allocation of interconnection capacities;
- Draft auction rules of the Southeast Europe Coordinated Auction Office (SEE CAO);
- Brokerage agreement between Star Broker Sh.a and Sigal Uniqa Group Austria Sh.a, and cooperation agreement between BKT and Star Broker;
- Assessment of telecommunication legislation in the course of investigating the respective market;
- Assessment of urban passenger transport legislation in the course of investigating the respective market;
- Assessment of Albanian Financial Supervisory Authority (AFSA) Board Decision No. 86 of 22 June 2012, on approving the general terms and conditions for border

insurance policies on vehicle owner's liability, in the course of monitoring the insurance market;

Legal assessment of Albanian Energy Regulatory Entity Decision No. 42 of 25 May 2009 on the standard electricity procurement rules and procedures applicable to OSSH Sh.a, in the course of reviewing the complaint submitted by Gen-I Sh.a.

### ***III.2. Giving Recommendations***

During monitoring and investigation proceedings, the Competition Authority analyses the factors affecting the good functioning of the respective markets, by identifying any promotional or restrictive impact that laws or regulations of various regulatory or central institutions. In overall, the Competition Commission recommendations have been presented in the respective report sections on the specific procedures by monitored or investigated markets, and in Annex No. 7 "Recommendations Issued by the Competition Commission in 2013". The following are the recommendations on those markets that have not been covered in the sections above.

#### **Mandatory insurance market**

The insurance market has been under constant oversight by the Competition Authority due to the competition concerns resulting from undertaking behaviour in the market and/or Financial Supervisory Authority regulatory decisions.

With its Decision No. 269 of 18 February 2013 On giving recommendations to the Financial Supervisory Authority in the area of border insurance policy market, the Competition Commission decided to recommend the Financial Supervisory Authority and the Albanian Insurance Bureau and all insurance companies to revise, within one month from entry into force of that decision, all special conditions in border insurance policies so that insurance companies could sell their border policies bearing their respective names individually.

The Competition Authority recommended that, prior to approving the general and special terms and conditions of insurance contracts to be marketed by insurance companies, the Financial Supervisory Authority and Albanian Insurance Bureau should ensure that the behaviour of insurance companies in the market is such that they individually specify and apply the selling prices of their border insurance against third party liability.

#### **Urban transport market**

After the completion of the urban transport market procedures, the Competition Authority, in its Letter no. 349 of 2 October 2013, recommended that the Municipality of Tirana conducted a study on the methodology of monthly pass distribution for each operator in line with the market developments, and on the completion of the monthly tickets with all identification and security elements.

In its Letter No. 9787/3 of 19 November 2013 the Municipality of Tirana informed the Competition Authority on the study conducted by the Transport Research Institute "On the regulation of the monthly pass distribution system in the city of Tirana". In addition, after receiving complaints from two operators and information from all the

operators, the Municipality informed that they would take a decision on the redistribution of the monthly passes.

Competition Authority Letter no. 349/2 of 24 October 2013 asked the Municipality of Tirana to submit, before its final decision, the monthly pass distribution methodology, which is also a legal obligation laid down in Articles 69 and 70 of the Competition Protection Law.

### ***III.3 Inter-Institutional Cooperation and Competition Law Implementation Guidelines***

In 2013 the Competition Authority continued to closely cooperate with the regulators of various sectors, in the context of promoting competition policy and increasing competition culture in all industries. Round discussion tables on the issues identified in the regulated markets were organized with the Financial Supervisory Authority, the Electronic and Postal Communications Authority, the Energy Regulatory Entity, the Public Procurement Agency, the Bank of Albania, etc., at both expert level and decision-making level.

The Competition Authority participated in discussions and consultations in various industries, in which it gave its specific views on competition in the respective industries. In addition, it cooperated closely with every regulator in the specific cases that were submitted for review to the Authority. The Authority consulted with, and respected the views of, other regulators, by also reflecting their views in the respective final decisions.

### ***III.4 Competition Culture – public and media relations***

Public relations are an important link in the Competition Authority activity, both as a fulfilment of its obligation for providing maximum transparency in its decision-making and its effectiveness, and as a means of increasing public confidence in the Competition Commission decisions. Transparent communications help improve the quality of the decision-making, and convey the spirit of the Institution correctly. In this respect, interactive communications with the public have been considered as very important.

The Competition Authority uses a series of communication channels to inform the public, with the goal to clearly explain its institutional activity objectives. They include:

- **Media relations:** In order to have as transparent a communication as possible, a series of tools are used, including the printed and visual media, which ensure real-time information on Competition Commission decisions and on the various markets and industries where the Authority intervenes in the context of restoring free and effective competition.
- **Public presentations:** Special attention is paid to the speeches, presentations and papers presented in various events organized by the Competition Authority or other institutions, presenting the activity of the Competition Authority.

- Publications: Publications provide extended and up-to-date information about various competition issues and cases, Competition Commission decisions, or the entire activity of the institution. Main publications include the Bulletin of Decisions for 2012; 2012 Annual Report and Goals for 2013.

Website: In 2013 complete transparency was ensured by publishing in real time all Competition Commission Decisions. Through press releases information was transmitted on the activity of the institution, various analyses and studies on the markets, various reports and publications. In addition, work was done for the website to be completed and updated with other information by making it more interactive and friendlier for its visitors. The website is also connected with social networks in order to increase the number of visitors and promote the Competition Authority activity.

## **IV. INTERNATIONAL COOPERATION**

In the framework of Albania's integration into the European Union, the Competition Authority deepened its cooperation with the European Commission, Member States and the institutions promoting the principles of free and effective competition in the country such as the International Competition Network (ICN), OECD, other countries in the region, etc.

### ***IV.1 Cooperation with European Commission***

Following the 2013 Stabilization and Association Report the Competition Authority analysed the recommendations in the Report under Chapter 5 "Competition Policy", and identified specific tasks and responsibilities laid down in the Report, to make them into a plan of administrative actions. Specific responsibilities for the implementation of those recommendations were assigned to the various sections and departments at the Authority.

As the institution coordinating Chapter 8 "Competition Policy", the Competition Authority has paid utmost attention to progress reporting on things occurring not only in the area of competition but also in the areas the Institution reports about. The Authority has cooperated closely with the members of the Inter-Institutional Working Group on Chapter 8 in order to reflect the current situation realistically and clearly as regards the legal framework, implementation activities, competition evaluation process and interventions in regulated markets, giving opinions on special and exclusive rights, etc.

The Competition Authority ensured presentation to the Ministry of European Integration of the paper on the Sub-Committee Internal Market and Competition under the Stabilization and Association Agreement in April 2013. The Competition Authority presented the results achieved in the process of approximating and implementing legislation in the area of competition and state aid.

According to the European Commission Report on Chapter 8 "Competition Policy", the Competition Authority had made some progress in the area of competition, with considerable progress with regard to competition protection and the area of competition in general.

### ***IV.2. Cooperation with OECD (RCC Budapest)***

Representatives from the Competition Authority staff participated in the workshop organized by OECD (RCC, Regional Competition Centre in Budapest) where Competition Authority inspectors presented our institution experience in relation to various topics and exchanged experience with representatives from homologue competition authorities. Discussed topics included prohibited agreements, concentrations and concentration analyses, competition culture, etc.



### ***IV.3. Cooperation with the International Competition Network (ICN) and Other Authorities in the Region***

The alignment of the competition legislation with European Union legal acts and the latest international trends has been one of the most important goals in the Competition Authority activity. The achievement of those goals has also benefited from the constant communication with homologue competition institutions. The active participation in events organized by international bodies and in the various regional initiatives has contributed to the reflection of best practices in the regulatory initiatives that the Competition Authority has taken.

In the framework of its institutional development strategy, the Competition Authority aims at intensifying its bilateral relations and the technical cooperation established with homologue competition institutions. In addition to further developing relations with them, our institution also aims at gaining specific experience in order to strengthen our institutional capacities.

#### ***IV.3.1. Cooperation with the International Competition Network (ICN) and the Region***

In 2013 the Competition Authority participated and was involved (like in previous years) in the work and events organized by ICN. Competition Authority staff representatives participated in the teleconferences and conferences organized by ICN, paying special importance to such participation. In addition, our institution completed several ICN questionnaires on competition law compliance in Albania and on our institution's activity in the context of enforcing competition rules in the country.

#### ***IV.3.2 Cooperation with the countries in the region***

The Competition Authority is an active member of the Western Balkans Network of Competition Authorities, and in the Sofia Competition Forum (SCF) with UNCTAD support, the European Union, and various countries interested in the initiative. The Competition Authority is one of its founding members (since 2012) and it has contributed actively in the plenary proceedings of that Forum and its working groups. In 2013 the Competition Authority was involved in the preparation of a study by that Forum in relation to the implementation of competition policy in the Western Balkans, which is expected to be finalized in 2014.

### ***IV.4. Cooperation with the United Nations Conference on Trade and Development (UNCTAD)***

The Competition Authority asked UNCTAD to carry out a peer review of its activity. The review was to be conducted by UNCTAD and its member states. The aim of doing this is to assess the situation, to prepare recommendations on improving the Competition Authority activity, and to identify the needs for support in order to improve our activity and other institutions that are related to the protection of free and effective competition.

The review will be carried out by competition policy experts, and will serve as a basis for the peer review in the annual session of the Intergovernmental Group of Experts).

The process offers a unique opportunity of reviewing and learning from the experience and challenges facing the various countries in the implementation of competition policy. The reports that are produced during this process in relation to the state of competition law and its implementation in the involved countries are impartial and are rigorously prepared by competition policy experts from both developed countries and developing ones with practical experience in the implementation of competition law.

The peer review is interactive and combines the exchange of experience with giving recommendations on potential improvements in terms of both competition law drafting and competition law implementation. It also provides the interested countries with technical assistance development if they are willing to implement the relevant recommendations.

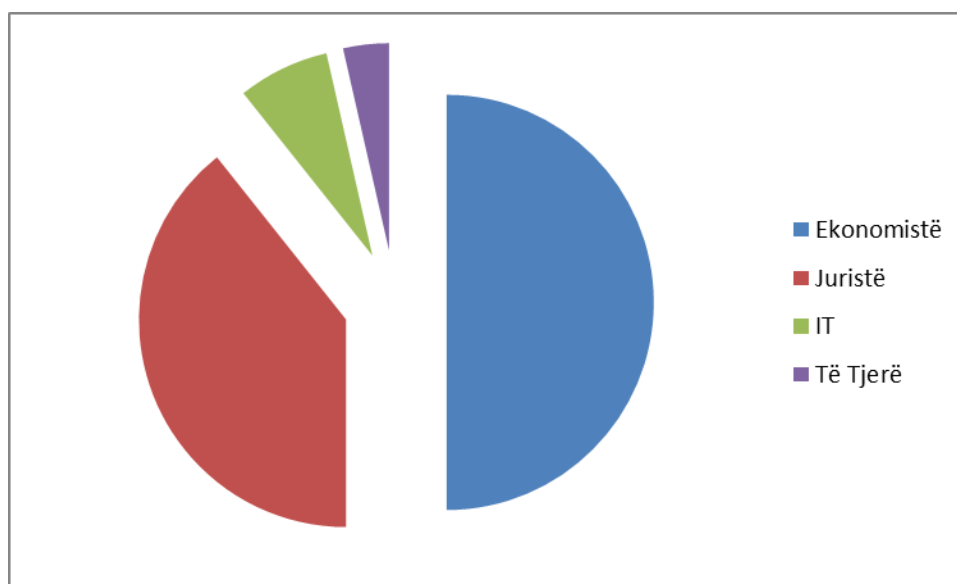
The process is going to be carried out in 2014, and is expected to be finalized in 2015.

## V. HUMAN RESOURCES

Administrative capacity building and strengthening is a constant challenge for new competition authorities, given the dynamic developments in legislation and the number of court review cases focusing on the main aspects of the law implementation, abuse of a dominant position, prohibited agreements and prohibition of concentrations resulting in establishment or strengthening of a dominant position.

### ***V.1 Competition Authority Organizational Structure and Functions***

The Competition Authority structure remained essentially the same in 2013, and is in accordance with the Parliament of Albania Decision no. 7 of 2 February 2012. The total number of staff is 35, of whom 24 are technical staff comprised of economists and lawyers (14 economists, nine lawyers, two IT experts and one foreign language linguist), in addition to an auxiliary member of staff.



**Table:** Expert composition of the Competition Authority, by training background.

### ***V.2 Organizational Structure***

The Competition Authority is made up by the Competition Commission, which is its decision-making body, and the Secretariat, which is its administrative and investigative body. Annex 8 – Competition Authority Structure – shows the organizational chart of the Competition Authority.

#### **Competition Commission:**

The Commission is composed of five members, who are nominally voted by the Parliament. The current Commission members include three economists and two lawyers. Three of the five members are holding their second term, which enables continuity in the institution's decision-making activity. Transparency, impartiality,

equality and objectivity have been the basic principles of the Commission operation and decision-making. Constant enhancement through debate and alternative views has characterized the Competition Commission activity in the context of enforcing the Competition Protection Law.

### **Cabinet**

The Cabinet is the unit that assists in the organization and good functioning of the Commission meetings, acts as a liaison office between the Commission and the Secretariat, organizes hearings, maintains relations with the Parliament, the media and internationally, takes care of competition advocacy and culture tools, etc.

### **Secretariat**

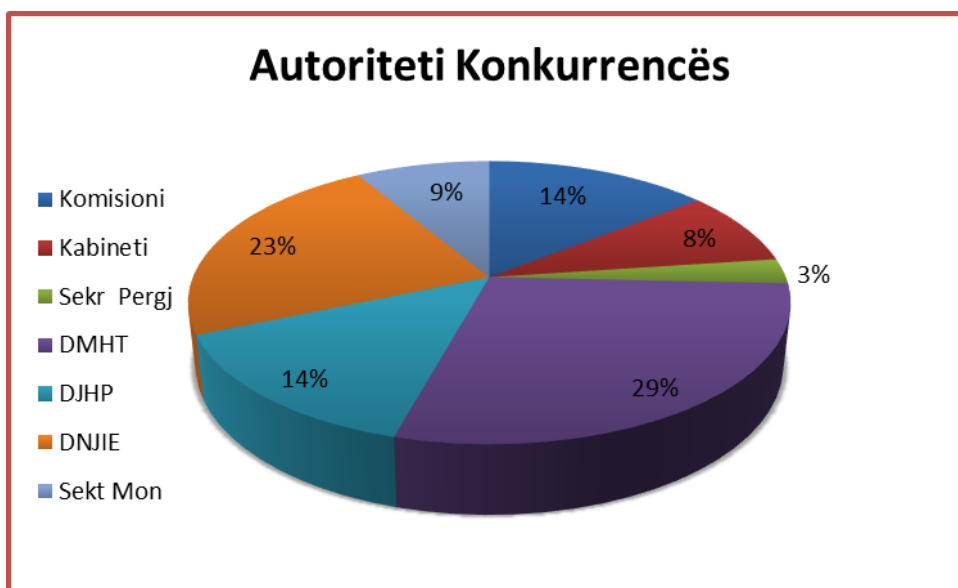
The Competition Authority Secretariat is the administrative body charged by the law with the monitoring and investigation activities to ensure free and effective competition in the market. The Secretariat has three Departments and an Analysis Unit.

The **Market Investigation and Supervision Department** does the surveillance and investigation of the market behaviour of undertakings pursuant to the Competition Protection Law and the National Competition Policy. The Department has three units corresponding to the three main pillars specified in the Law: the Abuse of a Dominant Position Unit, the Anti-Cartel Unit and the Merger Unit.

The **Legal, Investigation and Procedures Department** prepares the legal argumentation of the Secretariat's activity products, takes part in the investigation teams in cooperation with the Market Supervision Department, and represents the Authority in court proceedings to defend the Commission decisions in lawsuits initiated by affected parties.

The **Human Resources and European Integration Department** provides the necessary support for the normal operation of the Competition Authority in the fulfilment of its mission to protect free and effective competition in the market. The Department carries out competition law approximation with the EU law, manages human resources in line with the requirements and procedures laid down in Law no. 8549 of 11 November 1999 "Civil Servants' Status," and plans the development of capacities through training by using all possible resources such as OECD, ICN, RCC, ITAP, Tirana University, etc. Another line of action in the activity of the Department is the management of the Authority finances and having full responsibility for the preparation and management of budget funds in accordance with the legislation on the management of the Albanian State Budget.

The mission of the **Market Research and Analysis Unit** is to carry out monitoring exercises in various markets pursuant to the tasks laid down in the Competition Commission, in addition to monitoring the conditions in the market and carrying out economic analyses.



**Table:** Organizational division of the Competition Authority

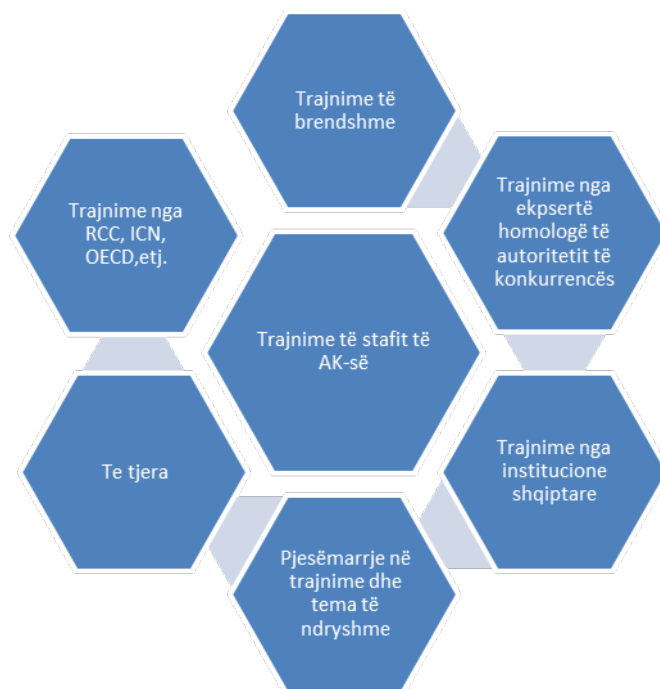
### ***V.3 Administrative Capacity Building***

Administrative capacity building and strengthening is a constant challenge for the Competition Authority. There is a total of 35 employees in our institution, with two commissioners holding a professorship, two commissioners being assistant professors, four member of staff in doctoral studies, 13 members of staff with master's degrees (two of them in progress) three members of staff holding master's degrees from schools abroad, and three members of staff having graduated abroad.

A great number of training events for the Competition Authority staff were conducted in 2013. About 53 days of training for Competition Authority inspectors and staff were conducted by homologue institution experts and—in Albania—by university professors, mainly in the area of econometric analysis. The trainings focused on the most important markets where the Competition Authority intervenes, horizontal allocation, abuse of dominant position, prohibited agreements, and concentration control.

In the framework of the cooperation with the OECD regional centre in Hungary, 20 calendar days of training with the technical staff were carried out, focusing on various competition issues. The technical staff also took part in all seminars or round tables that other regulators and institutions organized.

The following chart shows the process of capacity building:



#### ***V.4 Financial Management***

In 2013 the Competition Authority duly complied with the requirements of Law No. 119/2012 of 17 December 2012 "On 2013 State Budget". The management of material and cash assets was treated as an important field of work for the Competition Authority, in its efforts for due execution of all laws and regulations on the use of Budget funds.

The Finance Office plans and takes care of the good management of appropriated budget funds contributing to the activity of the institution. The Finance Office contributed to the achievement of the Institution objectives. 99.6% of the 2013 budget was executed. Annex 9 "Actual Budget of the Competition Authority, 2013" gives detailed information.

The 0.4-percent-execution gap mainly resulted from the funds left over from procurement procedures that were carried out in 2013

## **VI. PRIORITIES FOR 2014**

The strengthening of competition law and policy implementation requires action and cooperation of all players and factors that have an impact on, or are impacted by, a functioning market. This is the essence of the 10-year experience of the Competition Authority gained in the implementation of the competition law and policy.

The mission for a more functioning market economy is also the vision of the Competition Authority, which was further detailed into its priorities for 2014. The experience in the law implementation to date showed that: The enhancement of investigative tools through increased expertise of competition inspectors in order to enable direct evidence in cases of secret agreements among market players, and deepening of knowledge on the use of economic techniques and analysis for a more complete argumentation of abuse of dominant positions or for the realization of proof in absence of direct evidence of concerted behaviour among undertakings are a major priority for the Competition Authority, since they have a significant impact on the increase in market intervention efficiency.

### ***VI.1. Competition Law Implementation Strengthening***

Authority interventions are going to focus mainly on restoration of free and effective competition in the market through interventions in setting game rules in those markets where there might be competition restrictions resulting from prohibited agreements and abuse of a dominant position.

Constant monitoring of public or private undertakings, which have been granted by the state exclusive or special rights, and monopolies with granted rights in the area of general economic interest services is already a priority for the Competition Authority as of January this year.

The procedural and substantial treatment of complaints is going to be innovated this year, as a result of adaptations in the regulations in terms of complaint handling thus ensuring the anonymity (when requested) and fast and professional handling of those complaints that fall within the scope of the Competition Protection Law. However, the Competition Authority encourages any complaints from consumers, businesses or other market segments, with the commitment to follow them with other institutions if those complaints do not fall within the scope of the Competition Law.

The Competition Authority is going to complete within the statutory time-limits the investigations that were begun in 2013 and the newly initiated investigations in 2014, which are mainly related to the markets of fuels, mandatory insurance, excise-subject goods and products such as cigarettes, alcoholic beverages and energy drinks, etc., and is going to undertake investigations whenever market conditions give indications of competition obstruction, restriction or distortion resulting from market undertaking behaviour or laws and/or regulations.

Deepened cooperation with the regulators in the context of establishing the conditions for free and effective competition in the regulated markets is an important goal for the Competition Authority, for which we have already received the Parliament's support; the Parliament has asked executive bodies at all levels to cooperate with the Competition Authority in terms of giving information and constantly consulting in the process of drafting and adoption of laws and regulations.

## ***VI.2 Legislation Approximation***

Legislation approximation, mainly of the secondary legislation in the area of competition, remains a constant priority in the framework of the National Plan for the Implementation of SAA ("NPISAA"). For 2014 our plans include the approximation of the regulation on agreements in the maritime transport sector, the guidelines on vertical agreements, and the guidelines on the abuse of a dominant position.

In addition, we are going to continue with the reporting of our institution's activities to the Ministry of European Integration, covering legal initiatives, law enforcement and the entire activity of our institution. As a coordinator for Chapter 8 "Competition Policy", the Competition Authority is going to lead the preparation of the relevant materials under that chapter, collecting the appropriate information and novelties in the respective periods.

## ***VI.3. Development of a New Competition Policy Document***

The Competition Commission initiative to revise and reset the National Competition Policy priorities began to be materialized with the cooperation with the Strategy Development Unit at the Council of Ministers. In 2014 the Authority, in cooperation and consultation with the Parliamentary Economy and Finance Committee, the Council of Ministers, other regulators, the business community and consumer associations, will produce a new competition policy document.

The process of assessing competition law and policy implementation, which is going to be carried out by international experts in cooperation with UNCTAD, will serve as a tool to identify any issues to be taken duly in account in the development of the revised National Competition Policy. One aspect in this document will be the inclusion of the local government role for the good functioning of regional markets in the country, for which the Authority is going to cooperate with the relevant ministry.

## ***VI.4. Administrative Capacity Strengthening***

As it was noted at the start of this Chapter, administrative capacity strengthening is a constant key priority for the Competition Institution. The challenges that have been identified in the previous year, in relation to the collection of direct evidence on alleged prohibited agreements or concerted behaviour, also point to the future challenges. Coping with those challenges requires of competition inspectors to perfect investigative tools and techniques and increase their expertise on both investigation and economic analysis techniques, which would facilitate increased effectiveness in information collection.



On the tenth establishment anniversary of the Competition Authority, the International Scientific Conference “Competition and Economic Growth” was organized in the first week of March, with the participation of international personalities in the area of competition law. The Conference is also a good opportunity of sharing experience and information on the degree of understanding and implementation of competition law in the case of Albania with other personalities in the area of competition.

A series of trainings and seminars have also been planned for 2014, with support from EU, OECD, UNCTAD, ICN, etc., especially an EU-funded seminar under the TAIEX programme, with the topic of cartel detection and investigation without any direct evidence.

## VII. ANNEXES

### *Annex 1 – Statistical Data on Competition Commission Decisions*

Year	Total decision	Concentrations	Abuse of dominant position	Prohibited agreements	Exempted agreements	Regulations and guidelines	Recommendations to public institutions	Decisions imposing fines	Interim Measures	Other decisions
<b>2004</b>	13	2				6	1	-		4
<b>2005</b>	17	-				2	3	1		12
<b>2006</b>	14	4				-	1	1		9
<b>2007</b>	25	9	1	3		4	2	5		6
<b>2008</b>	29	11	1		1	4	5	-		7
<b>2009</b>	36	8	1	2	1	2	10	2		12
<b>2010</b>	34	6	3	2	-	7	5	2		11
<b>2011</b>	43	10	2	2	-	6	5	1		18
<b>2012</b>	48	9	2	2	1	5	5	7		24
<b>2013</b>	42	13	0	1	1	3	1	2	1	22
<b>Total</b>	<b>301</b>	<b>72</b>	<b>10</b>	<b>12</b>	<b>4</b>	<b>39</b>	<b>38</b>	<b>21</b>	<b>1</b>	<b>118</b>

*A total of 17 hearings, two round tables and one public consultation were conducted.*

**Annex 2: Execution of fines imposed by the Competition Commission,  
as of 31 December 2013**

<b>Fines imposed by CA</b>	<b>Amount (in ALL)</b>	<b>Share of total<sup>4</sup></b>
Total fines	<b>1,036,999,298</b>	100
Fines collection by Judicial Enforcement Services	<b>259,831,233</b>	25.05 %
Fines in the process of collection by Judicial Enforcement Services	<b>38,776,000</b>	3.75%
Fines for which no court order has been issued yet (no EO)	<b>738,392,065</b>	71.2%

**I. TOTAL FINES COLLECTED AND TRANSFERRED TO THE STATE BUDGET**

a) Year 2013 (Intersig)	<b>ALL 664,000</b>
b) Previous years	<b>ALL 259,167,233</b>
<b>Total collected fines:</b>	<b>ALL 259,831,233</b>

**II. FINES IN PROCESS OF COLLECTION BY JUDICIAL ENFORCEMENT SERVICES FOR 2013**

a. Albanian Airlines	ALL 2,600,000
b. Classic	ALL 25,712,000
c. Noti	ALL 2,994,000
d. K.Hallka	ALL 30,000
e. Bakeries in Vlora	ALL 240,000
f. Ultra Motors	ALL 1,517,000
g. Hyundai	ALL 5,383,000
h. Geci	ALL 100,000
i. VILOIL	ALL 100,000
j. Media vision	ALL 100,000
<b>Total</b>	<b>ALL 38,776,000</b>

**III. FINES IMPOSED IN 2013**

a) TIRANA LINES SHA	ALL 1,201,698 (424,080 + 777,618)
b) TIRANA URBAN TRANS SHA	ALL 2,130,772 (828,274 + 1,302,498)
c) FERLUT SHA	ALL 1,600,751 (337,133 + 1,263,618)
d) ALBA-TRANS SHPK	ALL 615,434
e) PARKU I TRANS. URBAN	ALL 530,906
f) VILOIL SHA	ALL 100,000
<b>Total</b>	<b>ALL 6,179,561</b>

<sup>4</sup> Percentages are rounded.

### **Annex 3: List of decisions coupled with enforcement orders**

<b>No.</b>	<b>Commission Decision</b>	<b>Court Enforcement Order</b>	<b>Debtor</b>
<b>1</b>	No. 59 of 9 November 2007 "Fine against AMC SHA and Vodafone SHA"	Decision No. 3359 of 9 November 2010 (only for the part pertaining to AMC)	AMC SHA
<b>2</b>	No. 66 of 18 December 2007 "Fine against undertakings operating in the concrete market"	Decision No. 3357 of 22 December 2010	Alban Tirana Co, Best Construction Alb, Beton Ekspres, Ferro Beton & Const, Halili, Ital – Beton Const, Kirchberger – Albania, Qarri - 02, Shkodra Beton
<b>3</b>	No. 67 of 24 December 2007 "Individual sanction against Mr Kajo Hallka"	Decision No. 3356 of 10 December 2010	Kajo Hallka
<b>4</b>	No. 123 of 8 September 2009 "Fine against Albanian Airlines MAK SHPK"	Decision No. 3355 of 12 November 2010	Albanian Airlines MAK SHPK
<b>5</b>	No. 229 of 3 July 2012 "Fine against GECI SHPK for failing to observe time-limit for concentration notification"	Decision No. 9771 of 29 October 2012	GECI SHPK
<b>6</b>	No. 154 of 1 October 2011 (only for the part pertaining to Hyundai Auto Albania sh.p.k.)	Decision No. 1611 of 10 February 2012	Hyundai Auto Albania sh.p.k.
<b>7</b>	No. 349 of 26 July 2012 "Fine against Media Vizion"	Decision No. 9772 of 9 October 2012	Media Vizion
<b>9</b>	Competition Commission Decision no. 154 of 1 October 2011 (only for the part pertaining to Ultra Motors sh.p.k.)	Decision No. 1612 of 27 February 2012	Ultra Motors sh.p.k
<b>10</b>	No. 154 of 1 October 2011 (only for the part pertaining to Classic sh.p.k and NOTI SHPK)	Decision No. 2384 of 19 April 2013	Classic sh.p.k and NOTI SHPK
<b>11</b>	No. 216 of 01.03.2012 On imposing a fine on undertaking INTERSIG SHA for inspection obstruction	Decision No. 3763 of 14 June 2013	INTERSIG SHA
<b>12</b>	No. 265 of 05.02.2013 On imposing a fine on Viloil Sh.a.	Decision No. 7677 of 20 December 2013	VILOIL SHA

### **Annex 4 - Notified and Authorized Concentrations**

<b>No.</b>	<b>Concentration case</b>	<b>Respective market</b>	<b>Decision No.</b>	<b>Authorization Date</b>	<b>Procedure</b>
1	Viloil Sh.a/City investment Holding Sh.a.	Fuel Market	265	05.02. 2013	First Phase/simplified notification form
2	Albanian Chrome Sh.p.k /DCM DECO metal GmbH / DCM Beteiligungs GmbH /Balfin Sh.p.k...	Chromium ore extraction and processing market	264	05.02.2013	First Phase/simplified notification form
3	Olympic Air S.A. / Aegean Airlines S.A., / Marfin Investment Group S.A	Passenger air transport market	267	05.02.2013	First Phase/simplified notification form
4	Lion Retail Holding s.a.r.l /Delhaize Serbia d.o.o / Balfin Sh.p.k.	Foodstuff retail market	268	08.02.2013	First Phase/simplified notification form
5	Euromax Sh.p.k / Balfin Sh.p.k /CM Balkans B.V	Foodstuff retail market	279	22.04.2013	First Phase/simplified notification form
6	Japan Tobacco International Netherlands B.V / Nefftekx World II B.V / Batata S.A	Tobacco Market	271	26.02.2013	First Phase/simplified notification form
7	Bregal Fund III LP / Quadriga Capital Private Equity Fund IV LP / LR Global Holding GmbH	Cosmetics Market	272	26.02.2013	Second Phase/complete notification form
8	Investndërtim Tirana Sh.p.k /GPL Construzioni Generali S.r.l / Investment Joti- Infosoft Group	Construction Market	278	15.04.2013	First Phase/simplified notification form
9	Hec Bistrica 1 Bistrica 2 Sh.a/ Kurum International Sh.a	Energy Market	282	30.04.2013	First Phase/simplified notification form
10.	HEC Ulëz-Shkopet / Kurum International Sh.a	Energy Market	281	30.04.2013	First Phase/simplified notification form
11.	Tirana International Airport Sh.p.k / Hochtief Airport Retail Sh.p.k / Public Sector Pension Investment Board	Airport infrastructure services market	288	25.06.2013	First Phase/simplified notification form
12.	AD-Trade /Primo Communications sh.p.k.	Internet and landline telephony market	294	28.10.2013	First Phase/simplified notification form
13.	Europa Kazino 2009	Gaming and electronic casino Market	299	06.12.2013	First Phase/simplified notification form

## ***Annex 5 Chapter 8: Competition policy<sup>5</sup>***

In the field of **anti-trust and mergers**, the Albanian Competition Authority (CA) adopted five bylaws, aligning with the *acquis*. In September 2012, CA reduced the filing fees by almost half for small businesses with an annual turnover of between €1.4 million and €7.1 million.

The authority adopted six decisions on prohibited agreements and two on abuse of dominant position, and authorised 14 mergers and acquisitions. It received 19 complaints, five more than the same period last year, due to enforcement activity and awareness.

CA concluded investigations in the field of compulsory third-party motor insurance and fined eight companies for fixing market prices. After conducting investigations, CA concluded that competition in maritime transport at Vlorë port, in sugar and rice imports and vegetable oil trade had not been restricted. It also started in-depth investigations into potential abuse of a dominant position in oils, cement, mobile telephony and Tirana road transport services.

The authority increased the number of fines from one in 2011 to seven in 2012 and the number of decisions issued from 43 in 2011 to 48 in 2012. As regards appeals cases, the authority won 15 out of 26 appeal cases brought before the First Instance Court and 11 of the 18 which went to the Appeal Court in 2012. In the first half of 2013, the authority won two and lost one case before the First Instance Court. Many court decisions are pending, which has resulted in considerable delays in the collection of 73% of the fines imposed. Further efforts are needed to increase the judiciary's knowledge of competition law.

The new CA structure still needs to be approved by parliament. Its administrative capacity was increased by employing two additional experts, bringing the number of employees to 36 including 24 experts. CA officials have received training in various fields of competition law. Further efforts are needed to increase officials' knowledge of econometric analysis and use of ICT.

### **Conclusion**

Limited progress has been made in the area of competition. The Competition Authority improved its overall performance and increased its administrative capacity.

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<sup>5</sup> Excerpt from the European Commission Progress Report, taken from the Albanian Ministry of European Integration: <http://WWW.mie.gov.al/>

## **Annex 6: Judicial review of Competition Commission decisions**

### **a) Cases before Tirana District Court**

1) “Alba Trans SHPK vs Autoriteti i Konkurrencës” with subject-matter: Appeal against Decision No. 290 of 23 July 2013 of the Competition Commission, for the part pertaining to the Plaintiff. Tirana District Court decided to accept the lawsuit application submitted by that undertaking. The Competition Authority appealed against the judgment before Tirana Court of Appeal.

2) “Ferlut vs Autoriteti i Konkurrencës” with subject-matter: Appeal against Decision No. 290 of 23 July 2013 of the Competition Commission, for the part pertaining to the Plaintiff;

3) “Tirana Urban Trans vs Autoriteti i Konkurrencës” with subject-matter: Appeal against Decision No. 290 of 23 July 2013 of the Competition Commission, for the part pertaining to the Plaintiff;

4) “Tirana Lines vs Autoriteti i Konkurrencës” with subject-matter: Appeal against Decision No. 290 of 23 July 2013 of the Competition Commission, for the part pertaining to the Plaintiff. The case was dismissed by Tirana Court. The Plaintiff did not appeal against that decision before Tirana Court of Appeal. The undertaking resubmitted the case, which is in review by Tirana District Court.

5) “NAZERI SHRSF & DEA SHRSF vs Autoriteti i Konkurrencës”, with subject-matter: Quashing Decision No. 240 of 26 July 2012 of the Competition Commission. Tirana District Court decided for the Plaintiff in this case. The Competition Authority appealed against the judgment before Tirana Court of Appeal.

6) Civil case: SIGAL UNIQA Group AUSTRIA Sh.a, Shoqëria e Sigurimeve SIGMA Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Atlantik Sh.a, Shoqëria e Sigurimeve Intersig Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Interbalkan Sh.a, Shoqëria e Sigurimeve Eurosig Sh.a, Shoqëria e Sigurimeve Insig Sh.a, Shoqëria e Sigurimeve Albsig Sh.a. Appeal against the administrative act in the form of Competition Authority Decision No. 246 of 09.10.2012 "On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a (Sigal), Sigma Vienna Insurance Group Sh.a (Sigma), Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a (Intersig), Interbalkan Sh.a, Alb - Siguracion Sh.a (Albsig), Instituti i Sigurimeve Sh.a (Insig) and Eurosig Sh.a.", only for the part pertaining to the Plaintiffs. Tirana District Court decided to dismiss the lawsuit application lodged by the undertakings, and reaffirm the CA decision. The undertakings appealed against the judgment before Tirana Court of Appeal, which is discussed below.

7) Civil case: Plaintiffs Eurogjici Security Sh.p.k, Eurogjici Security 1 Sh.p.k, Toni Security Sh.p.k, Sajmiri AL Sh.p.k, Nazeri 2000 Sh.p.k and Dea Security Sh.p.k", with subject-matter: Appeal against Decision No. 240 of 26 July 2012 of the Competition Commission on imposing a fine. Each of the plaintiffs lodged individual lawsuits against the Competition Authority. Tirana District Court decided for the Plaintiffs in those cases. The Competition Authority appealed against the judgment before Tirana Court of Appeal.

8) Civil case with Plaintiff: VODAFONE ALBANIA SHA; Defendant: High Inspectorate for Declaration and Audit of Assets (ILDKP); Third Party: Competition Authority; with subject-matter: Application to order ILDKP to issue an administrative act in relation to administrative proceedings on the verification, investigation and initiation of legal action in order to declare the invalidity and govern the effects resulting from Decision No. 258 of 21 December 2012; Decision No. 260 of 11 January 2013 and Decision No. 261 of 11 January 2013 of the Competition Commission. The case is still under judicial review in Tirana District Court.

### **b) Cases before Tirana Court of Appeal**

In 2013 eight cases were being reviewed in the Court of Appeals, of which four were still pending in 2014 and four were completed.

1) Civil case with Plaintiff: Romano Port SHA; defendant: Competition Authority; with subject-matter: Annulment of paragraphs 1, 2 and 3 of Decision No. 222 of 16 April 2012 of the Competition Commission. Suspension of enforcement of Decision No. 221 of 11 April 2012 of the Competition Commission pending completion of the adjudication of the case. Tirana District Court Judgment No. 10897 of 14.11.2012 decided to: “Dismiss the lawsuit application in this civil case.” That Tirana District Court judgment reaffirmed the lawfulness of Decision No. 221 of 11 April 2012 of the Competition Commission. Romano Port SHA appealed against the judgment before Tirana Court of Appeal. In relation to this case, Tirana Court of Appeal ruled that it did not have jurisdiction, pursuant to the Supreme Court Full Bench Decision No. 3 of 6 December 2013, and referred the case to the Administrative Court of Appeal.

2) Civil case: plaintiff: INTERSIG-VIENNA INSURANCE GROUP Sh.a.; Defendant: Competition Commission; with subject-matter: Application for quashing Decision No. 216 of 1 March 2012 of the Competition Commission. Suspension of enforcement of this decision pending final settlement of the case. Tirana District Court Judgment No. 11473 of 23.11.2012 decided to “Dismiss the lawsuit application.” In the judgment Tirana District Court confirmed the lawfulness of Decision No. 216 of 1 March 2012 of the Competition Commission. Plaintiff INTERSIG SHA appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to affirm the decision of Tirana District Court. Plaintiff INTERSIG SHA took recourse against the decision;

3) Civil case: SIGAL UNIQA Group AUSTRIA Sh.a, Shoqëria e Sigurimeve SIGMA Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Atlantik Sh.a, Shoqëria e Sigurimeve Intersig Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Interbalkan Sh.a, Shoqëria e Sigurimeve Eurosig Sh.a, Shoqëria e Sigurimeve Insig Sh.a, Shoqëria e Sigurimeve Albsig Sh.a. Appeal against the administrative act in the form of Competition Authority Decision No. 246 of 09.10.2012 "On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a (Sigal), Sigma Vienna Insurance Group Sh.a (Sigma), Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a (Intersig), Interbalkan Sh.a, Alb - Siguracion Sh.a (Albsig), Instituti i Sigurimeve Sh.a (Insig) and Eurosig Sh.a.", only for the part pertaining to the Plaintiffs. Tirana District Court decided to dismiss the lawsuit application lodged by the undertakings, and reaffirm the CA decision. The undertakings lodged an appeal against the first-instance judgment with Tirana Court of Appeal, which ruled to change Tirana District Court judgment. The Competition Authority took recourse to the Supreme Court against the Appeal's judgment. The adjudication date is yet to be set.

4) Case with plaintiffs: Insurance companies SIGAL UNIQA Group AUSTRIA Sh.a, Shoqëria e Sigurimeve SIGMA Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Atlantik Sh.a, Shoqëria e Sigurimeve Intersig Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Interbalkan Sh.a, Shoqëria e Sigurimeve Eurosig Sh.a, Shoqëria e Sigurimeve Insig Sh.a, Shoqëria e Sigurimeve Albsig Sh.a. Defendant: Competition Authority. Subject-matter: Application for injunction: suspension of execution of the administrative act in the form of Competition Authority Decision No. 246 of 09.10.2012 "On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a (Sigal), Sigma Vienna Insurance Group Sh.a (Sigma), Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a (Intersig), Interbalkan Sh.a, Alb - Siguracion Sh.a (Albsig), Instituti i Sigurimeve Sh.a (Insig) and Eurosig Sh.a.". Tirana District Court Judgment No. 736 of 14.11.2012 decided to: Grant the application for injunction and suspend the execution of Competition Authority Decision No. 246 of 9 October 2012 On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a, Sigma Vienna Insurance Group Sh.a, Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a, Interbalkan Sh.a, Alb - Siguracion Sh.a, Insig and Eurosig Sh.a. We appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to uphold the decision of Tirana District Court. The Competition Authority took recourse to the Supreme Court against the Appeal's judgment. The adjudication date is yet to be set.

5) Civil case: Plaintiffs Eurogjici Security Sh.p.k, Eurogjici Security 1 Sh.p.k, Toni Security Sh.p.k, Sajmiri AL Sh.p.k, Nazeri 2000 Sh.p.k and Dea Security Sh.p.k", with subject-matter: Appeal against Decision No. 240 of 26 July 2012 of the Competition Commission on imposing a fine. Each of the plaintiffs lodged individual lawsuits against the Competition Authority. Tirana District Court decided for the Plaintiffs in those cases. The Competition Authority lodged an appeal before the Court of Appeal against the judgment. The adjudication date is yet to be set.

6) “NAZERI” SHRSF & DEA SHRSF vs Autoriteti i Konkurrencës”, with subject-matter: Quashing Decision No. 240 of 26 July 2012 of the Competition Commission. Tirana District Court decided for the Plaintiff in this case. The Competition Authority lodged an appeal before the Court of Appeal against the judgment. The adjudication date is yet to be set.

7) “Alba Trans SHPK vs Autoriteti i Konkurrencës” with subject-matter: Appeal against Decision No. 290 of 23 July 2013 of the Competition Commission, for the part pertaining to the Plaintiff. Tirana District Court decided to accept the lawsuit application submitted by that undertaking. The Competition Authority lodged an appeal before the Court of Appeal against the judgment. The adjudication date is yet to be set.

8) Case with parties: “AMC SHA vs Autoriteti i Konkurrencës”; with subject-matter: Annulment of Competition Commission Decision no. 26-27 of 2 December 2005 and 12 December 2005. The case was adjudicated by the Supreme Court after the recourse used by the Competition Authority. The Supreme Court decided to return the case for re-adjudication to Tirana Court of Appeal. The date of adjudication is yet to be set.

### **c) Supreme Court**



In 2013 eleven cases were in process in the Supreme Court; in one case the Supreme Court decided to dismiss the application submitted by Vodafone Albania SHA, and confirm the Competition Authority decision and make it final; in one case (AMC SHA) the Supreme Court decided to return the case to the Court of Appeal; nine cases are pending in 2014.

1) Case with parties: “Vodafone Albania SHA vs Autoriteti i Konkurrencës”, with subject-matter: Application for invalidating Competition Commission Decision No. 59 of 9 November 2008. Tirana District Court decided to dismiss the lawsuit application, and confirm the lawfulness of Decision No. 216 of 1 March 2012 of the Competition Commission. Plaintiff VODAFONE ALBANIA SHA appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to affirm the decision of Tirana District Court. Vodafone Albania SHA lodged an application against the decision before the Supreme Court, which, after hearing it in camera, decided to dismiss the recourse.

2) Case with parties: “AMC SHA vs Autoriteti i Konkurrencës”, with subject matter: Application for invalidating Decision No. 59 of 9 November 2008 of the Competition Commission. Tirana District Court decided to dismiss the lawsuit application, and confirm the lawfulness of Decision. 216 of 1 March 2012 of the Competition Commission. Plaintiff AMC SHA appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to affirm the decision of Tirana District Court. The party took recourse to the Supreme Court against the Appeal’s judgment. The adjudication date is yet to be set.

3) Case with parties: “AMC SHA vs Autoriteti i Konkurrencës”; with subject-matter: Annulment of Competition Commission Decision no. 26-27 of 2 December 2005 and 12 December 2005. The case was adjudicated by the Supreme Court after the recourse used by the Competition Authority. The Supreme Court decided to return the case for re-adjudication to Tirana Court of Appeal. The date of adjudication is yet to be set.

4) Civil case: Plaintiff ARMO SHA, and defendant Competition Authority. The subject-matter of the case was: Appeal against Decision No. 150 of 20 July 2010 of the Competition Authority. Tirana Court of Appeal Judgment No. 2441 of 17.10.2012 decided to “Uphold Decision No. 5681 of 28 June 2011 of Tirana District Court. Tirana District Court Judgment No. 5681 of 28 June 2011 had decided to accept the lawsuit application and set aside Decision No. 150 of 20 July 2010 of the Competition Commission. Thus, despite our submissions in the appeal and in the hearing, Tirana Court of Appeal did not affirm the lawfulness of Decision No. 150 of 20 July 2010 of the Competition Commission. The Competition Authority took recourse to the Supreme Court against the Appeal’s judgment. The adjudication date is yet to be set.

5) Civil case: Plaintiffs Classic and Noti SHPK, defendant Competition Authority; with subject-matter: Application for setting aside Decision No. 154 of 1 October 2010 of the Competition Authority Commission on the fine imposed because of participation in bid rigging. Tirana Court of Appeal Judgment No. 2096 of 10 December 2012 decided to “Modify Decision No. 3171 of 3 April 2012 of Tirana District Court, and dismiss the lawsuit application lodged by NOTI and CLASSIC SHPK.” In the judgment Tirana Court of Appeal confirmed the lawfulness of Decision No. 154 of 1 October 2010 of the Competition Commission. The plaintiffs took recourse to the Supreme Court against the Appeal’s judgment. The adjudication date is yet to be set.

6) Civil case: Plaintiff Atlas SHA, and defendant Competition Authority, and third party Bloja SHA. Subject-matter: Application for setting aside Decision No. 125 of 8 October 2009 of the Competition Authority in relation to finding a prohibited agreement between Bloja SHA and Atlas SHA. Annulment of the imposed fine of ALL 27,848,563. Court of Appeal Judgment No. 979 of 20 April 2012 decided to “Uphold Decision No. 359 of 27 January 2011 of Tirana District Court.” Tirana District Court Judgment No. 359 of 27 January 2011 had decided to accept the lawsuit application and set aside Decision No. 125 of 8 October 2009 of the Competition Commission for the part pertaining only to Atlas SHA. The Competition Authority took recourse to the Supreme Court against the Appeal’s judgment. The adjudication date is yet to be set.

7) Civil case: Plaintiff Bloja SHA, and defendant Competition Authority, with subject-matter: Application for setting aside Decision No. 125 of 8 October 2009 of the Competition Authority in relation to finding a prohibited agreement between Bloja SHA and Atlas SHA, and annulment of the fine imposed on Bloja SHA. Tirana Court of Appeal Judgment No. 1709 of 28 June 2012 decided to Uphold Decision No. 3198 of 19 April 2010 of Tirana District Court. Tirana District Court Judgment No. 3198 of 19 April 2010 had decided to accept the lawsuit application and set aside Decision No. 125 of 8 October 2009 of the Competition Commission for the part pertaining to Bloja SHA. Through those decisions, neither court confirmed the lawfulness of Decision No. 125 of 8 October 2009, since they set it aside. The Competition Authority took recourse to the Supreme Court against the Appeal’s judgment. The adjudication date is yet to be set.

8) Civil case: plaintiff: INTERSIG-VIENNA INSURANCE GROUP Sh.a.; Defendant: Competition Commission; with subject-matter: Application for setting aside and annulling Decision No. 216 of 1 March 2012 of the Competition Commission. Suspension of enforcement of this decision pending final settlement of the case.

Tirana District Court Judgment No. 11473 of 23.11.2012 decided to "Dismiss the lawsuit application." In the judgment Tirana District Court confirmed the lawfulness of Decision No. 216 of 1 March 2012 of the Competition Commission. Plaintiff INTERSIG SHA appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to affirm the decision of Tirana District Court. Plaintiff INTERSIG SHA took recourse against the decision;

9) Civil case: Plaintiff Hyundai SHA, and defendant Competition Authority, with subject-matter: Application for setting aside Decision No. 154 of 1 October 2010 of the Competition Authority Commission on the fine imposed because of participation in bid rigging. Tirana District Court decided to dismiss the case. The plaintiff appealed against the judgment before Tirana Court of Appeal. After hearing the case, Tirana Court of Appeal decided to affirm the decision of Tirana District Court. Plaintiff HYUNDAI SHA took recourse against the decision;

10) Civil case: SIGAL UNIQA Group AUSTRIA Sh.a, Shoqëria e Sigurimeve SIGMA Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Atlantik Sh.a, Shoqëria e Sigurimeve Intersig Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Inter Albanian Sh.a, Shoqëria e Sigurimeve Eurosig Sh.a, Shoqëria e Sigurimeve Insig Sh.a, Shoqëria e Sigurimeve Albsig Sh.a. Appeal against the administrative act in the form of Competition Authority Decision No. 246 of 09.10.2012 "On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a (Sigal), Sigma Vienna Insurance Group Sh.a (Sigma), Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a (Intersig), Inter Albanian Sh.a, Alb - Siguracion Sh.a (Albsig), Instituti i Sigurimeve Sh.a (Insig) and Eurosig Sh.a.", only for the part pertaining to the Plaintiffs. Tirana District Court decided to dismiss the lawsuit application lodged by the undertakings, and reaffirm the CA decision. The undertakings lodged an appeal against the first-instance judgment with Tirana Court of Appeal, which ruled to change Tirana District Court judgment. The Competition Authority took recourse to the Supreme Court against the Appeal's judgment. The adjudication date is yet to be set.

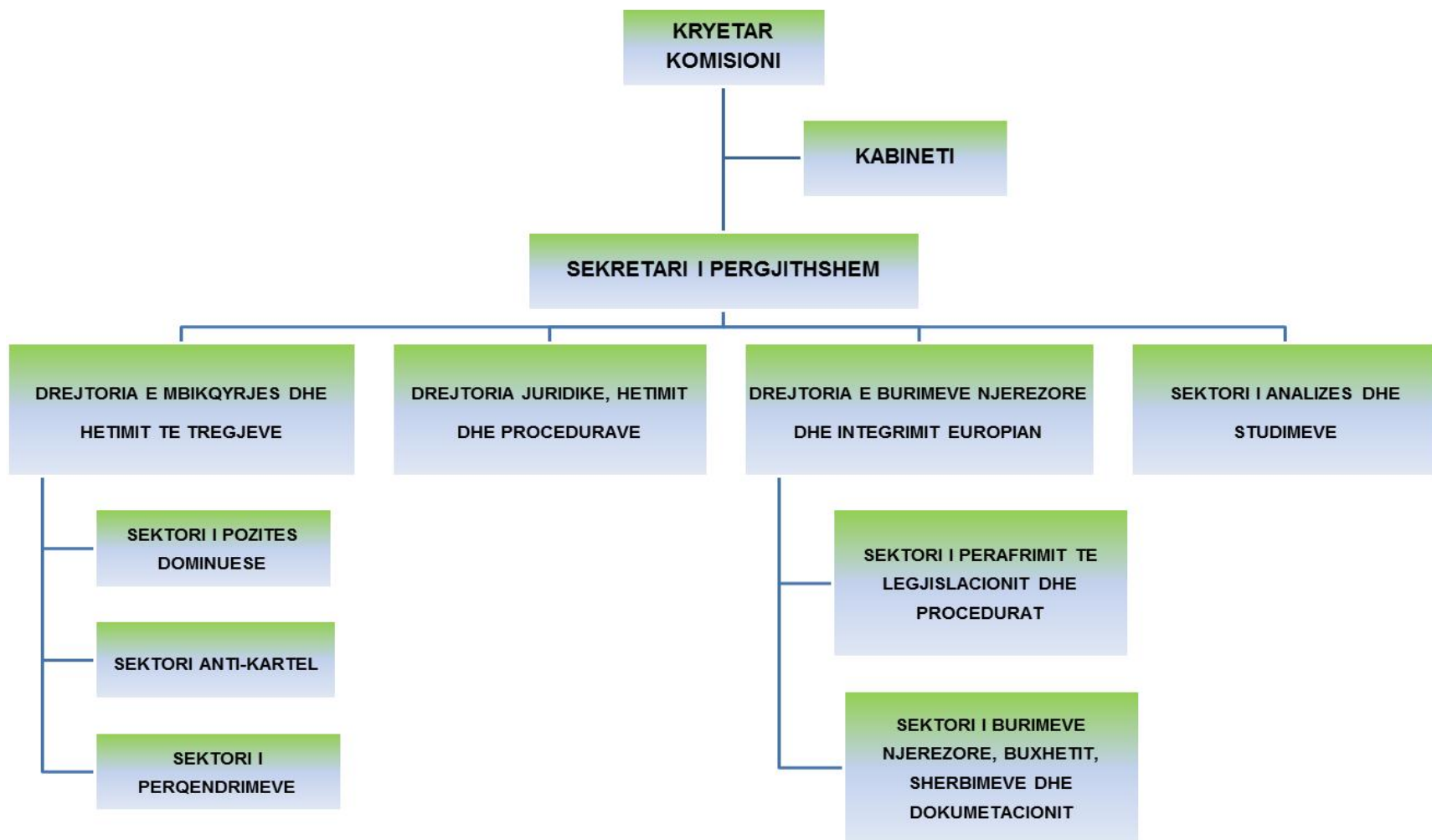
11) Case with plaintiffs: Insurance companies SIGAL UNIQA Group AUSTRIA Sh.a, Shoqëria e Sigurimeve SIGMA Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Atlantik Sh.a, Shoqëria e Sigurimeve Intersig Vienna Insurance Group Sh.a, Shoqëria e Sigurimeve Inter Albanian Sh.a, Shoqëria e Sigurimeve Eurosig Sh.a, Shoqëria e Sigurimeve Insig Sh.a, Shoqëria e Sigurimeve Albsig Sh.a. Defendant: Competition Authority. Subject-matter: Application for injunction: suspension of execution of the administrative act in the form of Competition Authority Decision No. 246 of 09.10.2012 "On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a (Sigal), Sigma Vienna Insurance Group Sh.a (Sigma), Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a (Intersig), Inter Albanian Sh.a, Alb - Siguracion Sh.a (Albsig), Instituti i Sigurimeve Sh.a (Insig) and Eurosig Sh.a.". Tirana District Court Judgment No. 736 of 14.11.2012 decided to: Grant the application for injunction and suspend the execution of Competition Authority Decision No. 246 of 9 October 2012 On concluding the investigation into the compulsory motor third party liability (MTPL) insurance market against, and imposing fines on grounds of competition restriction on, undertakings Sigal Uniqa Group Austria Sh.a, Sigma Vienna Insurance Group Sh.a, Atlantik Sh.a, Intersig Vienna Insurance Group Sh.a, Inter Albanian Sh.a, Alb - Siguracion Sh.a, Insig and Eurosig Sh.a. We appealed against the judgment before Tirana Court of Appeal, which, after reviewing the case, decided to affirm the decision of Tirana District Court. The Competition Authority took recourse to the Supreme Court against the Appeal's judgment. The adjudication date is yet to be set.

**Annex 7: Recommendations Issued by the Competition Commission in 2013**

No.	Decision	Competition Authority Recommendation	Response to the Recommendation
<u>1</u>	<p>Competition Commission Decision no. <b>269 of 18 February 2013</b>  “Recommendations to the Financial Supervisory Authority in relation to the border insurance market”</p>	<p>Competition Commission Decision no. <b>269 of 18 February 2013</b>  “Recommendations to the Financial Supervisory Authority in relation to the border insurance market” decided to  “1. <i>Recommend the Financial Supervisory Authority, the Albanian Insurance Bureau and all insurance undertakings to:</i></p> <ul style="list-style-type: none"> <li>• <b><i>Revise, within one month from entry into force of this decision, all special conditions in border insurance policies so that insurance companies could sell their border policies bearing their respective names individually.</i></b></li> </ul> <p>2. <i>Prior to approving the general and special terms and conditions of insurance contracts to be marketed by insurance companies, the Financial Supervisory Authority and Albanian Insurance Bureau should ensure that the behaviour of insurance companies in the market is such that they individually specify and apply the selling prices of their border insurance against third party liability.</i>”</p>	
<u>2.</u>	<p>Letter No. 327/4 of 04.12.2013  “Recommendations on the financial sector”.</p>	<p>The Competition Commission, after reviewing the monitoring report on the relations between banks and insurance companies, and Bank of Albania and Financial Supervisory Authority opinions, in order to increase the transparency and consumer choices in the area of banking insurance products, recommends: the Bank of Albania, the Financial Supervisory Authority and the Albanian Banks’ Association:</p> <ol style="list-style-type: none"> <li>1. <i>“After being granted authorization by the Bank of Albania commercial banks should apply with the Financial Supervisory Authority for a license to operate as intermediaries in insurance and reinsurance (in the form of brokerage companies) in the role of intermediaries arranging for insurance with insurance companies for their borrowing clients, in accordance with the</i></li> </ol>	

		<p><i>provisions of Law 9267 of 29 July 2013 “On the Activity of Insurance, Reinsurance and Intermediation in Insurance and Reinsurance”;</i></p> <p><i>2. Commercial banks should be obliged to increase their transparency in terms of their intermediation for insurance and reinsurance services by clearly stating the conditions and premiums offered by the potential insurers for the type of insurance required by banks. That information should be advertised clearly and coherently;</i></p> <p><i>3. Commercial banks should not specify in the loan agreement the insurance company with which the collateral and asset is to be insured. Banks should allow borrowers to select themselves the insurance companies.</i></p>	
<u>3</u>	Letter No. 349 of 2 October 2013 “CA Recommendations on the urban transportation market”	<p>Competition Commission Decision no. 290 of 23 July 2013 recommended Tirana Municipality to: “1. <i>conduct a study on the methodology of monthly pass distribution for each operator in line with the market developments.</i></p> <p><i>2. Complete the monthly tickets with all identification and security elements.”</i></p>	
<u>4</u>	Letter No. 308/15 of 3 December 2013 “Re the complaint by Gen-I vs. CEZ in relation to energy purchase procedures”	<p>After reviewing the monitoring report on energy purchase by CEZ Sh.a., the Competition Commission recommended ERE to: Develop the rules on the annual purchase of electricity and coverage of losses based on:</p> <p><b>a.</b> <i>Principles of process transparency, non-discrimination and equal treatment of competitors;</i></p> <p><b>b.</b> <i>Clarification of negotiation procedures between CEZ and bidders, after initial loss coverage energy purchase bids have been selected.</i></p>	

## Annex 8: Competition Authority Structure



**Annex 9: Competition Authority actual budget, 2013**

	<b>Approved</b>	<b>Actual</b>	<b>Difference</b>	<b>In %</b>
<b>Personnel expenses</b>	42,550,000	42,550,000	0	100%
<b>Social insurance contributions</b>	6,000,000	6,000,000	0	100%
<b>Supplies and services</b>				
<b>Emergency economic support</b>	7,058,000 80,000	7,006,580 80,000	51,420 0	99.2% 100%
<b>Investment</b>	5,000,000	4,822,445	177,555	96.4%
<b>Total:</b>	<b>60,688,000</b>	<b>60,459,025</b>	<b>228,975</b>	<b>99,6%</b>