Slovenia: Amendments to the Competition Act

On 10 May 2014, recent amendments to the Slovenian Competition Act (Prevention of Restriction of Competition Act: Uradni list RS, No. 36/08, 40/09, 26/11, 87/11, 57/12, 63/13 - ZS-K and 33/14) came into force. The main changes concern the adjustment of the powers of the Slovenian Competition Protection Agency (CPA) to conduct inspections. The new system foresees that the competent court must deliver an order authorising the inspection.

Under the previous rules, the CPA had the power to carry out inspections at the premises of undertakings subject to proceedings based on an inspection order issued by the Director of the CPA pursuant to Article 28(1) of the Competition Act. At the end of 2011, the Supreme Court referred to the Constitutional Court for a preliminary ruling on the constitutionality of the said provision, arguing that it infringed certain basic rights guaranteed by the Constitution, inter alia, the inviolability of business premises and the right to privacy in relation to correspondence and other means of communication.

In its judgment of 11 April 2013, the Constitutional Court found that Article 28(1) of the Competition Act infringed Article 37 of the Constitution on the privacy of communications. The Constitutional Court found that the regime at stake was unconstitutional since it allowed for the intrusion of private communications without the authorisation of the competent court. The ruling granted the Parliament one year to bring the Competition Act in line with the Constitution. The reform of the Competition Act was initiated after the judgment and during a transitory period of one year. In the meantime the Constitutional Court allowed the CPA to use the former regime with an inspection order from the CPA's Director.