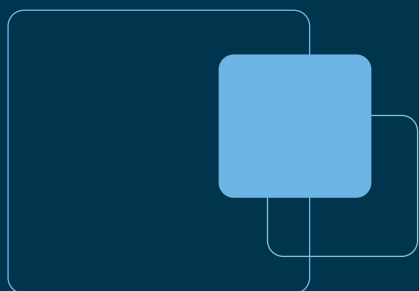
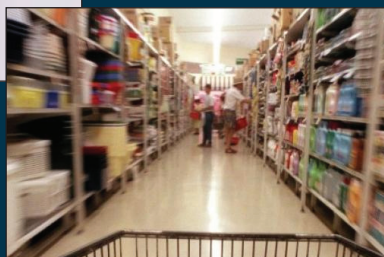




**COMPETITION  
COUNCIL**



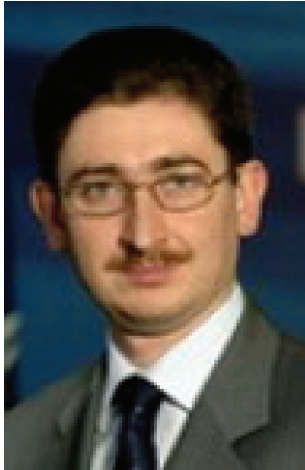
# **2013 ANNUAL REPORT**

# CONTENTS

<b>FOREWORD .....</b>	<b>3</b>
<b>THE ROLE OF THE COMPETITION COUNCIL .....</b>	<b>5</b>
<b>THE PLENUM OF THE COMPETITION COUNCIL .....</b>	<b>6</b>
<b>THE IMPACT OF THE COMPETITION COUNCIL'S ACTIVITY ON NATIONAL ECONOMY .....</b>	<b>7</b>
<b>CHAPTER 1. ENFORCEMENT OF THE COMPETITION RULES .....</b>	<b>14</b>
New investigations .....	15
Finalised investigations .....	17
Case studies .....	20
Investigations in progress .....	24
Dawn raids .....	26
Economic concentrations .....	26
Fines .....	27
Decisions .....	28
Fighting and preventing bid rigging .....	28
<b>CHAPTER 2. CASES SOLVED BY THE LEGAL COURTS .....</b>	<b>31</b>
Bid rigging within the tender organised by Transgaz .....	32
The insulin Case – the situation of the distributor Mediplus Exim SRL .....	34
<b>CHAPTER 3. ADAPTING THE LEGAL FRAMEWORK TO THE COMPETITION RULES .....</b>	<b>37</b>
Changing the law on compulsory home insurance against earthquakes, landslides and floods .....	38
The legislative proposal regarding the establishment and operation of industrial parks .....	40
<b>CHAPTER 4. STATE AID .....</b>	<b>42</b>
State aid cases finalised or “unblocked” in 2013 .....	44
Trends in State aid granting .....	47
The Impact “Study of the State aid for the undertakings operating in industrial parks in Romania” .....	49
The multiannual project: Impact Study - "Identification of the State aid measures granted for the Services of General Economic Interest in Romania " - heat supplying services in Romania .....	49
Preparing accessing EU funds in the 2014-2020 programming period 2014-2020 .....	50

<b>CHAPTER 5. COMBATING UNFAIR COMPETITION .....</b>	<b>52</b>
<b>CHAPTER 6. THE RAILWAY SUPERVISION COUNCIL (RSC) .....</b>	<b>56</b>
New legislation and new members of the RSC .....	57
Meetings of the RSC .....	57
Cooperation activities .....	58
RCS priorities for 2014 .....	59
<b>CHAPTER 7. INTERNATIONAL ACTIVITY .....</b>	<b>60</b>
ECN and European Affairs .....	61
Bilateral relations .....	62
Cooperation with international bodies in competition field .....	63
<b>CHAPTER 8. PROMOTING THE COMPETITION RULES .....</b>	<b>65</b>
Cooperation protocols with other institutions .....	66
Public consultation .....	66
Relation with mass-media .....	66
The Centre for studies on the competition law .....	68
Presentation of the 2012 Annual Report of the Competition Council .....	68
Launching of the Annual Report on Competition .....	69
<b>CHAPTER 9. ORGANISATION AND RESOURCES OF THE COMPETITION COUNCIL .....</b>	<b>70</b>
Organisation .....	71
Budget and budgetary execution .....	72
The projects carried out by the institution .....	74
Human resources .....	79
<b>CHAPTER 10. PRIORITIES FOR 2014 .....</b>	<b>85</b>
<b>CHAPTER 11. STATISTICS .....</b>	<b>88</b>
I. Enforcement of the competition legislation .....	89
II. Binding opinions, points of view, opinions and interventions concerning the issue / amendment of normative acts .....	94
III. Statistics on the Competition Council's court dossiers .....	107
IV. Formal opinions in the State aid field issued by the Competition Council in 2013 .....	110
V. Promoting actions .....	113
VI. Financial and human resources of the Competition Council .....	115

## FOREWORD



*In 2013, we managed to achieve a number of important objectives. We focused particularly on investigating the most severe forms of competition law infringement, namely cartels, including within public tendering procedures. Thus, approximately 60% of the cases triggered in 2013 have targeted such anti-competitive practices. We have also completed (with significant penalties) the cartel case on the market for waste management of electrical and electronic equipment and the bid rigging on the armament market.*

*The market monitoring activity was intensified, which has resulted in the initiation of a significant number of sector inquiries, targeting areas important to consumers, such as pharmaceuticals, electronic communications, healthcare or vehicle insurances. At the same time, we have completed the sector inquiries on card payment services, construction of roads and highways, distribution of movies in cinemas and beer market.*

*The conclusions of the sector inquiry on the market for card payment services have been the basis of discussion with market stakeholders – the Romanian Government – the Ministry of Public Finances, the National Bank of Romania, commercial banks and retailers - in order to reduce the fees for card payments. Limiting the fees will generate in some extent benefits for merchants, some of which will be passed on to consumers through lower sale prices.*

*Another very important objective we accomplished in 2013 is to increase the role of the economic analysis in both law infringement investigations as well as in monitoring of markets. Two of the most important examples are: the analysis carried out for the Auchan/Real merger case completed by undertaking commitments and the ex-post assessment of the effects of the takeover of Lidl over Plus. For the first time, in 2013, we have built and applied an aggregate index of competitive pressure for some economic sectors. The results were published in the "Competition Developments in Key Sectors Report" and were subject to public debate.*

*Regarding the law courts, the percentage of fines retained as definitive, as well as those retained as irrevocable, increased compared to the previous year. We have managed to achieve favourable results in important cases such as gasoline and telecom.*

*In the State aid field, the activity was more intense in 2013 compared to previous years mainly because the number of pre-notifications and notifications in progress with the European Commission grew. Following our actions, the European executive has authorized six measures of State aid for Romania, out of which we can mention: the establishment of new airlines with departure from regional airports, "The interconnector pipeline of national gas transport system of Romania with the national gas transport system of the Republic of Moldova" (Iași - Ungheni) or the development in Romania of the broadband communications infrastructure in disadvantaged areas in terms access.*

*Within the context of international affairs, we must mention the start of the examination process of the institution's activity and the competition policy in Romania (peer-review) by the OECD in order to demonstrate the ability of our country to be a member in the working structures with abilities in the competition field. The resulting report following the peer-review will be presented this year, and the conclusions and recommendations will be considered when implementing the institution's new reform project.*

*In 2014 we plan to complete certain major investigations on possible law infringements, such as the agreements between retailers and suppliers for setting the resale pricing in the food retail sector, the cartel on the elimination of competition in tenders for awarding advertising accounts of Romanian customers and the analysis of tenders for awarding drilling services. We also plan to complete the sector inquiry on the electricity market and the primary market for wood.*

*Meanwhile, we will continue to monitor markets and to evaluate the competitive situation in key economic sectors. From a legal perspective, a priority for 2014 is the legal framework on unfair competition.*

*In 2014, we will collaborate with the Government in the process of restructuring and preparation for privatization of State companies in order to ensure compliance with the State aid legislation. Along with authorities from other EU member states, the Competition Council will continue to be involved in the process started by the European Commission regarding the modernization of State aid rules (State Aid Modernization). The main objectives are the change of legislation, the simplification of State aid rules and the accountability of member states in terms of State aid monitoring.*

*In terms of administrative capacity improvement, the Competition Council has received specific advice from the World Bank within the EU-funded project "Improving the effectiveness of competition policy enforcement in correlation with sector policies." The implementation of the proposed measures is one of the requirements for granting a new loan (Development Policy Loan) from this international institution.*

*In the near future, we intend to focus more on the strategic reorientation of our activity which implies case analysis based on economic impact and increased involvement in cases that have a significant impact on the economy.*

*2014 will be an important year for the Competition Council, the major challenges being generated primarily by the liberalisation of the energy and natural gas markets, as well as by supporting businesses in the current economic and financial context. Through our actions, we aim to stimulate competition within the Romanian economy, thus ensuring the necessary conditions for the business environment to satisfy consumers' interests.*

**President of the Competition Council,  
Bogdan M. Chirițoiu**

# THE ROLE OF THE COMPETITION COUNCIL

The Competition Council is an autonomous administrative authority entrusted for this scope by the Competition Law<sup>1</sup>. The national competition authority enforces and ensures the observation of the **national<sup>2</sup> and Community<sup>3</sup> provisions on competition**. At the same time, the Competition Council has the role of **national contact authority on State aid<sup>4</sup>** between the European Commission, on one side, and the public institutions, the State aid grantors and beneficiaries, on the other side.

Starting with 2011, the Competition Council is also administrating the **Law on unlawful competition<sup>5</sup>**. Starting with the same year, the **Railway Supervision Council<sup>6</sup>** is functioning within the Competition Council.

**The role** of the Romanian competition authority is to guarantee the normal and fair functioning of the markets by enforcing efficiently the competition rules with the final goal of promoting consumers' interests.

**The mission** of the competition authority is to apply efficient measures for maintaining a functional competitive environment.

**The vision:** an efficient and dynamic market economy, based on recognising and respecting the competition values and principles, as factor of progress, durable development and welfare.

**The values** on which we ground our actions and which we promote are: independence, responsibility, professionalism, efficiency, and integrity.

The decisions of the authority are taken by **the Plenum of the Competition Council**, a collegial body, made up of seven members, as follows: a President, two Vice-Presidents and four Competition Councillors. They are appointed by the President of Romania at the proposal of the Consultative College<sup>7</sup>. The members of the Competition Council's Plenum do not represent the authority that appointed them and are independent in their decision-making.

---

<sup>1</sup> Competition Law no.21/1996, republished, with the subsequent amendments and completions.

<sup>2</sup> Provided by the Competition Law.

<sup>3</sup> Art.101 and 102 of the Treaty on the Functioning of the European Union.

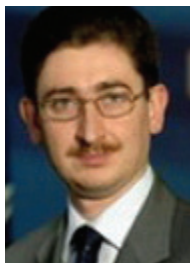
<sup>4</sup> According to the Competition Law and to the Government Emergency Ordinance no.117/2006 on the national procedures on the State aid field, approved with amendments and completions by Law no.137/2007.

<sup>5</sup> Law no.11/1991 on combating unlawful competition, with the subsequent amendments and completions.

<sup>6</sup> Government Emergency Ordinance no.21/2011 on certain measures for the organisation and functioning of the Railway Supervision Council, approved by Law no.188 of 30.10.2012.

<sup>7</sup> The Consultative College is a non-permanent body made up of representatives of academic and business environment and consumer protection associations or other high reputation individuals activating within the economic, legal or competition fields.

## THE PLENUM OF THE COMPETITION COUNCIL



**Bogdan M. Chirițoiu**  
*President*

The President of the Competition Council has a Ph.D. in economics and he is associate lecturer at the Bucharest University. Mr Bogdan Marius Chirițoiu was State counsellor within the Presidential Administration, the Departments of "Planning and political analysis" and "Economic and Social Policies", he was consultant on social policies at the United Nations Programme for Human Development, Bucharest, as well as consultant on European integration for the Romanian Government at the European Institute.



**Otilian Neagoe**  
*Vice-President*

Mr Otilian Neagoe has graduated the Bucharest University and is licensed in Psychology. He was senator within the Romanian Parliament, Prefect of Brașov County, as well as Vice-President of Brașov County Council. He was decorated with the Faithful Service National Order in rank of Knight.



**Dan Ionescu**  
*Competition Councillor*

Mr Dan Ionescu, licensed in economics, was the head of the Competition Office (function assimilated to State Secretary), director within the Ministry of Public Finance.



**László Gyerkó**  
*Competition Councillor*

Mr László Gyerkó was Vice-President of the Authority for State Assets Recovery and senator. He has a Bachelor's Degree in law and in economics, a master diploma in business law and he graduated the National Defence University (specialisation - security and good governance).



**Bujor-Bogdan Teodoriu**  
*Competition Councillor*

He graduated the Academy of Economic Studies, in Bucharest. He was programmer analyst in the national defence field and, for several years, he was scientific researcher in a Romanian research institute in the field of industrial development. He held several other public positions: Deputy (Romanian Parliament), Minister of Research and Technology, State Secretary (part of the Prime Minister's organisational structure and within the Ministry of Finances), Presidential Advisor for Economic Development. For 20 years he was the head of a non-for-profit organization focused on developing the SMEs sector. He was President of the Private Property Fund IV – Muntenia (the prior Financial Investments Company Muntenia). As a Deputy, in 1993 he had a personal parliamentary initiative (the "Law on the Protection of Competition"), which was the first draft law on competition after 1989.

# THE IMPACT OF THE COMPETITION COUNCIL'S ACTIVITY ON NATIONAL ECONOMY

## The Macroeconomic Framework

2013 was the third consecutive year of **economic growth** for Romania. The gross domestic product grew, in real terms, by 3.5% compared to 2012, significantly surpassing the official forecasts for this year<sup>8</sup>.

Graph no.1. Real GDP growth rate, 2009-2013



Data source: National Institute of Statistics

According to provisional data published by the National Institute of Statistics in March 2013, the largest input to GDP growth came from industry (+2.3%) and agriculture, forestry and fishing (+1.1%), followed by information and communication, real estate and by professional, scientific and technical activities, administrative services and support services, each with a +0.1% contribution.

The areas which had a negative contribution (-0.1% each) to last year's GDP growth were construction, wholesale and retail trade, repair of motor vehicles and motorcycles, transportation and storage, hotels and restaurants and financial intermediation and insurance.

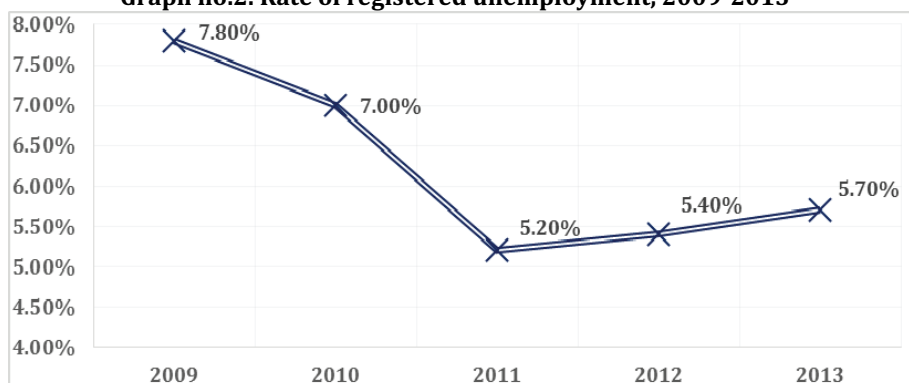
In terms of GDP use, the main growth driver was represented by net exports, while domestic demand remained weak last year.

<sup>8</sup> Real GDP grew by 1.3 pp compared with European Commission's autumn forecast.

For the next period, the European Commission expects further growth<sup>9</sup>, along with a gradual transition from growth driven by exports to growth driven by domestic demand dynamics.

Despite the economic recovery acceleration, the crisis is still being felt at labor market level. Although it was at a low level compared to the 2009-2010 period, the **rate of registered unemployment** increased by 0.3 pp in 2013 compared to previous year, reaching 5.7% by the end of the year

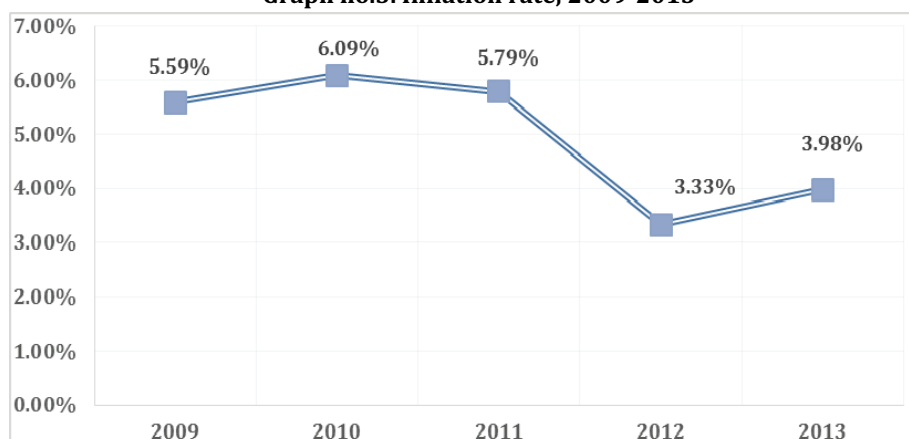
Graph no.2. Rate of registered unemployment, 2009-2013



Data source: National Institute of Statistics

The **average inflation rate** went up to 3.98% in 2013, but experienced a strong downward trend during the last months, reaching the lowest value of the last 24 years. This decrease was mainly a consequence of favourable supply shocks manifested during the year.

Graph no.3. Inflation rate, 2009-2013



Data source: National Institute of Statistics

The inflation decrease and the unfavourable evolution of domestic demand have led to successive reductions in **the monetary policy interest rate**. During the last year, it was reduced by 1.25 pp, from 5.25% to 4% respectively.

The national currency **exchange rate** against the Euro has shown a slight depreciation of the national currency (Leu) in 2013, with small oscillations, mainly in the second part of the year.

<sup>9</sup> Real GDP growth rates of 2.3% (in 2014) and 2.5% (in 2015).

Grafph no. 4. EUR/LEU exchange rate in 2013, daily data



Data source: National Bank of Romania

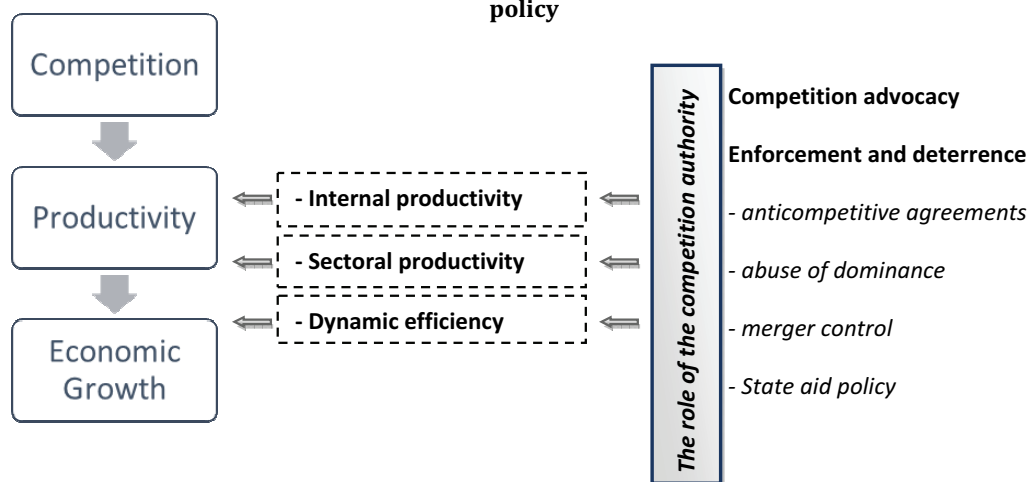
## The Impact of Competition Policy on the Economy

Romania still has a competitiveness and standard of living gap to recover compared to developed EU countries and the sustained and sustainable economic growth could represent the engine to power the whole society in this direction.

International reports measuring and comparing the competitiveness of national economies, place Romania in a developmental stage in which the efficient resource allocation is the development engine. In order to make the leap to a higher stage of development based on innovation, Romania needs a competition culture both in private and public environments.

Competition policy is based on the belief that maintaining a free and fair competitive environment has the effect of increasing material progress for the benefit of society, this progress being primarily represented by optimal resource allocation and increase in quality and variety of products and services.

**Figure no.1. The effects of competition on economic growth and the role of competition policy**



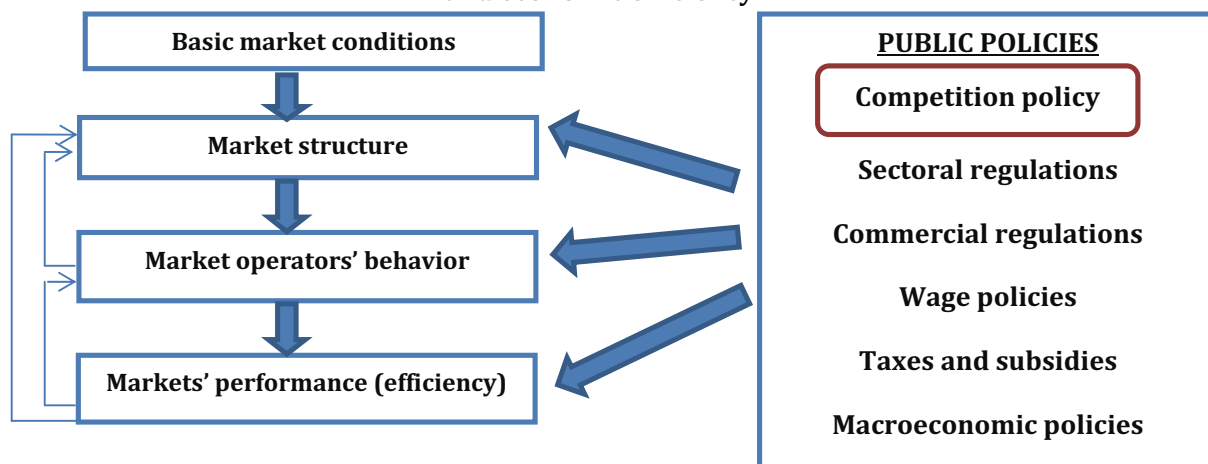
Competition is an important driver for productivity growth. The competition authority activity generates productivity growth through specific mechanisms impacting the macro level and propagating the benefits to consumers through lower prices, qualitative products and innovative products. The primary means by which competition leads to economic growth are:

- exerting pressure on companies to increase internal efficiency;
- providing advantage to efficient companies over the inefficient ones, as the latter will eventually come to be replaced by the former;
- because innovation leads to an increase of dynamic efficiency, competition can give companies incentives to invest and innovate. Dynamic efficiency involves development of new technologies or processes that can increase productivity. Beyond this, however, the relationship between competition and innovation is a complex one and depends on the type of competition as well as on the characteristics of the innovative process involved.

## The Impact of Public Policies on Markets

At microeconomic level, competition policy is one of the most important tools a State has to influence market dynamics, to increase their efficiency and to maintain the balance between the interest of both consumers and economic operators.

**Figure no.2. The role of public policies relative to market structure, economic behavior and economic efficiency**



Competition policy must be in balance and harmony with the other public policies, especially during this period when Romania needs to close the competitiveness gap from developed EU states, and especially needs to ensure the convergence with the living standards of these countries for its citizens.

**Given the fact that one of the short and medium term priorities of the State's macroeconomic policy is domestic demand stimulation as a driver of economic growth, the role of the Competition Council in protecting the consumers' interest by maintaining an adequate level of competition is of strategic importance. The national competition authority also contributes to the long term objective of structural reforms by increasing the national economy competitiveness through elimination of ineffective sources.**

## Economic sectors under the analysis of the Competition Council in 2013

The impact of competition policy on the economic environment has two major dimensions, namely increasing the economic efficiency as a whole, with direct benefits for consumers, and increasing the competitiveness of markets. In 2013, the activity of the national competition authority was focused on maintaining the proper intensity of competition policy in connection with the national economic recovery process marked by GDP growth acceleration and inflation decrease. Monitoring the key sectors with major influence on consumers and on the economic environment, in general, remains a priority of the Competition Council together with the development of modern tools designed for the analysis of competitive mechanisms.

Anticompetitive practices, whether agreements or abuse of dominant position, infringement of merger rules or anti-competitive actions of public administration, affect the normal functioning of markets and have negative effects on both the national economy and consumers. Thus, the Competition Council intervenes in a corrective manner. In terms of investigations of possible competition law infringement, the main sectors in which the Competition Council has initiated proceedings in 2013 were the **road construction sector**, the **milk sector** and the **cinematographic sector**. The practices being investigated and the targeted markets were: a possible cartel and anticompetitive acts of public administration on the market of road construction in Braşov, Sibiu, Mureş, Covasna and Harghita, a possible cartel in the market of road construction in Timiş, Caraş-Severin, Arad, Hunedoara, Gorj and Mehedinţi, a possible rigged tender for the supply of dairy products "Roll and Milk Programme" in Harghita county, a possible cartel in the market for processing and distribution of milk and dairy derived products, a possible cartel regarding the distribution of films to cinemas and a possible anticompetitive price-fixing vertical agreement concerning the exhibiting of movies in theatres.

The completed investigations where the Competition Council has found competition law infringements were: the rigged bidding on the market for weapons and optical equipment, the anticompetitive actions of public administration on the market for primary distribution of ear tags, the anticompetitive vertical agreements on the distribution market of adhesives and mortar for polystyrene, on the lotto games market and on the market of devices for processing dental products, the cartel and the anticompetitive actions of public administration in the market for management of waste electrical and electronic equipment and on the new electrical and electronics distribution market, the implementation of a merger in civil engineering before notification and approval by the Competition Council.

Mergers can generate beneficial economic effects, for example, efficiency increase and economies of scale that allow the offering of products and services at a higher quality level and at reasonable prices for consumers. In other cases, these operations can raise significant impediment of effective competition in the market, particularly as a result of the creation or strengthening of a dominant position.

In 2013, the main economic sectors in which the Competition Council has reviewed and approved mergers were the **food**, **financial** and **energy** sectors. Some examples of mergers

in these sectors are: **food sector** – SC Real Hypermarket România SRL takeover by SC Auchan România SA, taking over some assets of SC Cargill Oils SA by SC Expur SA or the indirect takeover of SC Zahărul Luduș and SC Zaharcom SRL by Tereos Participations SAS; **financial sector** - the acquisition of asset and liabilities pertaining to the Bank of Cyprus Public Company Limited Nicosia – Romanian branch by Marfin Bank România SA (in this case, as a result of the urgency of the operation, the Competition Council decided to allow its implementation prior to its authorisation), the acquisition of assets by Societatea de Asigurare Reasigurare Astra SA from Axa Life Insurance SA, purchase of the leasing portfolio of ING Lease România IFN SA by Raiffeisen Leasing IFN SA; **energy sector** - merger by absorption of SC Complexul Energetic Hunedoara SA by Societatea Națională a Huilei Petroșani and of SC Complexul Energetic Oltenia SA by SC Termo Craiova SRL.

The State aid policy is part of the competition policy and plays a key role in supporting the transition to a sustainable economy, taking into account future generations. The national State aid policy aims at both the convergence of Romania's economic development goals with those set out in Community Action Plan and the efficient grounding of governmental decisions regarding public funds allocation.

From the State aid perspective, an important sector which has been targeted by the European Commission's decision was **air transport**. Following intensive cooperation between the Competition Council and the County Councils of Cluj, Dolj, Bihor and Sibiu, in 2012 – 2013 four State aid schemes have been notified and authorized by the European Commission, all aimed at establishing new airlines routes departing from Avram Iancu Cluj International Airport, Craiova Airport, Oradea Airport and Sibiu International Airport. The expected traffic growth in these four airports is estimated at 34%, 70%, 220% and 295% respectively.

In the **communications sector**, the respective line ministry plans to develop broadband infrastructure in disadvantaged areas by providing financing from EU funds (Ro-Net Project). As a result of the collaboration between experts of the Competition Council and representatives of the Ministry, and after a favourable review from the Romanian competition authority, the case was notified to the European Commission. In December 2013, Ro-Net Project was authorized.

The **energy sector** was also subject to the Competition Council's State aid activity. In 2013, the Competition Council has issued opinions on State aid measures regarding the energy production from renewable sources and the expansion and modernization of the electricity and natural gas transmission. After receiving specialized assistance, the Romanian authorities asked the European Commission to divide the "Gas interconnection pipeline Romania (Iași) - Republic of Moldova (Ungheni)" Project into two parts: construction stage and operational phase. The proposal was accepted by the Community forum. Thus, significant delays were avoided and the pipeline's construction started, which would have otherwise been blocked generating loss of EU funds.

The **railway transport** sector was analysed by the Competition Council in 2013 as well, both as a result of the Railway Supervisory Board activity within the Romanian competition authority and as a consequence of CFR Marfă privatization attempt. Seven interventions were conducted for amending existing legislation or draft normative acts with anticompetitive effects. The

**insurance sector** is a best practice example in terms of design and approval of normative acts in Parliament in which the Competition Council's comments have been taken into account, such as the case of legislation change on compulsory house insurance against earthquakes, landslides and floods.

Sector inquiries are a proactive market monitoring tool, a comprehensive analysis that evaluates the state of competition on a national market or on a sector. Competition authority mainly uses sector inquiry for prevention, because it provides the competition authority visibility and enables the awareness of competition rules in the investigated market. Thus, it is an important element of competition advocacy in key sectors. Conducting sector inquiries can be useful not only for the competition authority but also for other institutions or authorities that can find answers to different problems they may face in a particular sector.

In 2013, the Competition Council has initiated such analyses in the following sectors: **liberal professions (insolvency practitioners), pharmaceuticals, communications, wood sector, healthcare services and auto insurance**. The authority also completed sector inquiries on the **market for distribution of movies in cinemas, road and highway construction, banking card payment services** and the **beer market**. As a result of two such inquiries, the Competition Council has identified indication of possible infringement of the competition law in six cases for which it initiated specific procedures.

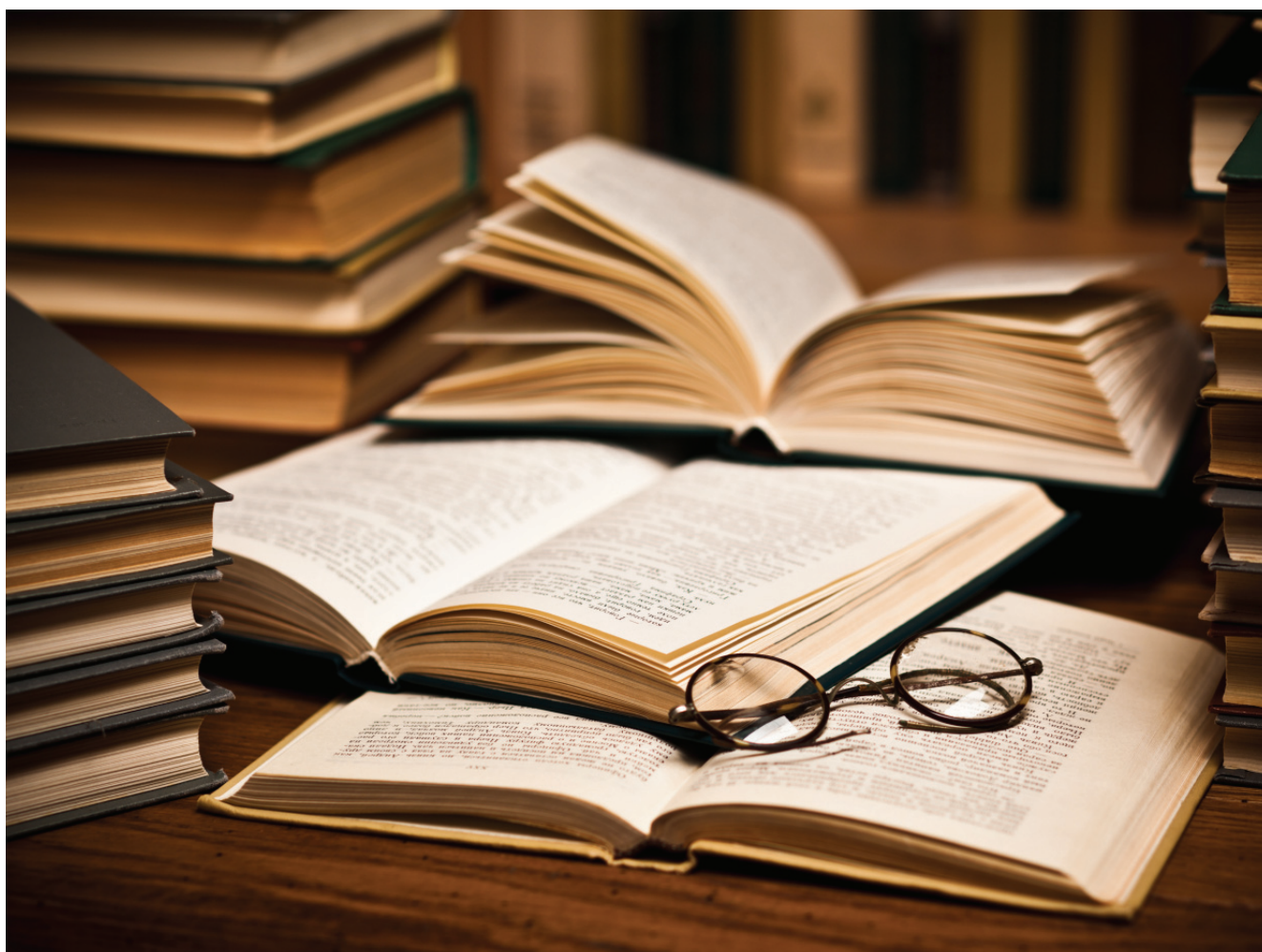
Monitoring economic sectors in order to detect competition problems is a permanent concern of the Competition Council. In the 2013 "Competition Developments in Key Sectors" Report, the following sectors were analysed: **the sector of liberal professions of economic profile, the food retail sector, the automotive industry**, the banking sector and the natural gas industry. In addition, for the first time, the Competition Council has proposed a computational method for an aggregate index of competitive pressure which aims to measure the propensity for competition of markets or industries in the national economy. The report included results from 21 industries.

Competition Council's activity in 2013 reflects the impact competition policy has on the national economic environment and the role it plays among public policies.

The 2013 activity report highlights the capacity the institution has in adapting itself to competitive issues of each sector by using proper tools for each specific market. From this point of view, the Competition Council has fulfilled its mission by implementing the competition policy in Romania through all available legal instruments: investigations of possible competition law infringements, merger control, sector inquiries, approval of legislative projects and State aids, and specific supervision methods in the railway field.

# CHAPTER 1

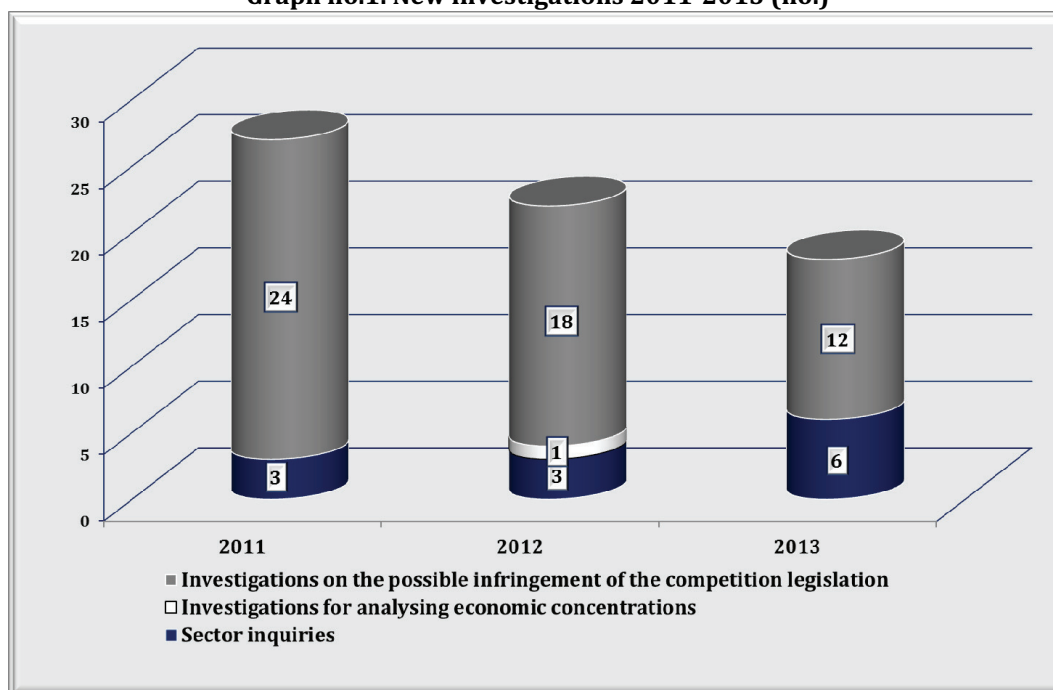
## *ENFORCEMENT OF THE COMPETITION RULES*



## New investigations

In 2013, the Competition Council initiated **18 investigations**, out of which 12 are concerning possible infringements of the Competition Law, and 6 are envisaging certain economic sectors (sector inquiries).

Graph no.1. New investigations 2011-2013 (no.)



The number of the investigations initiated in 2013 has diminished by 22% compared to 2012 and by 50% compared to 2011. This development indicates that the competition authority stressed its efforts on completing on-going cases.

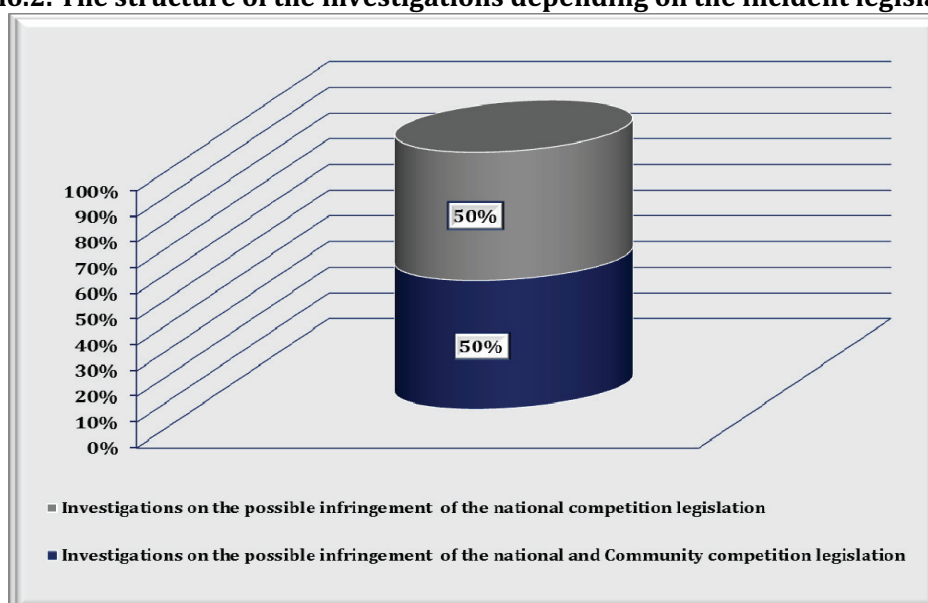
Out of the **12 investigations concerning possible competition law infringements** initiated in 2013, around 67 % have been opened ex-officio following the analysis of the competition authority.

Most investigations envisage the construction of roads, the dairy sector and the cinema field (16% of the total number of investigations for each sector).

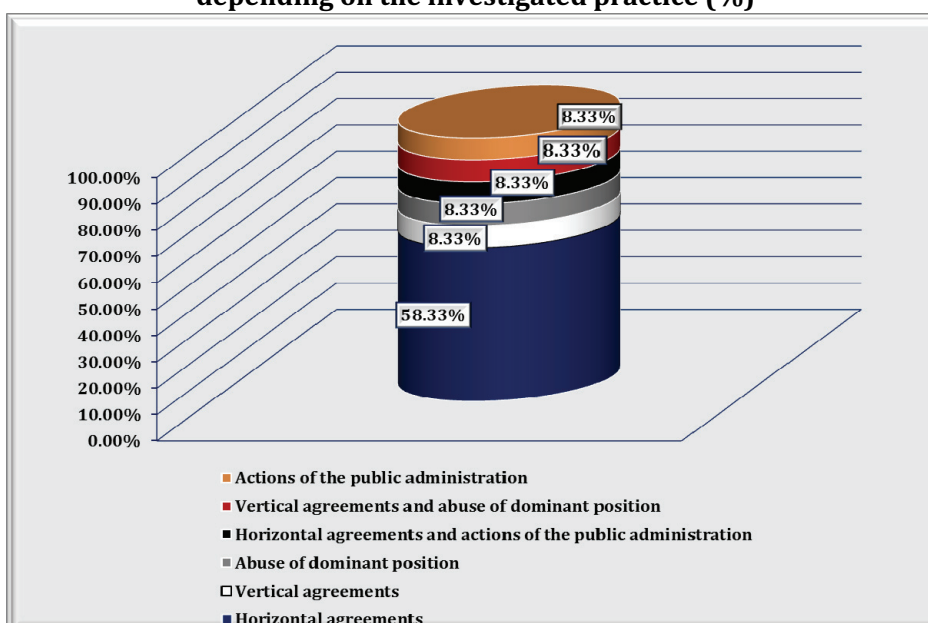
Considering the type of the investigated practiced, most investigations are focused on horizontal agreements (58%).

The structure of these investigations, based on the incident competition legislation and on the investigated practice, is presented by the following graphs:

Graph no.2. The structure of the investigations depending on the incident legislation (%)



Graph no.3. The structure of the investigations depending on the investigated practice (%)



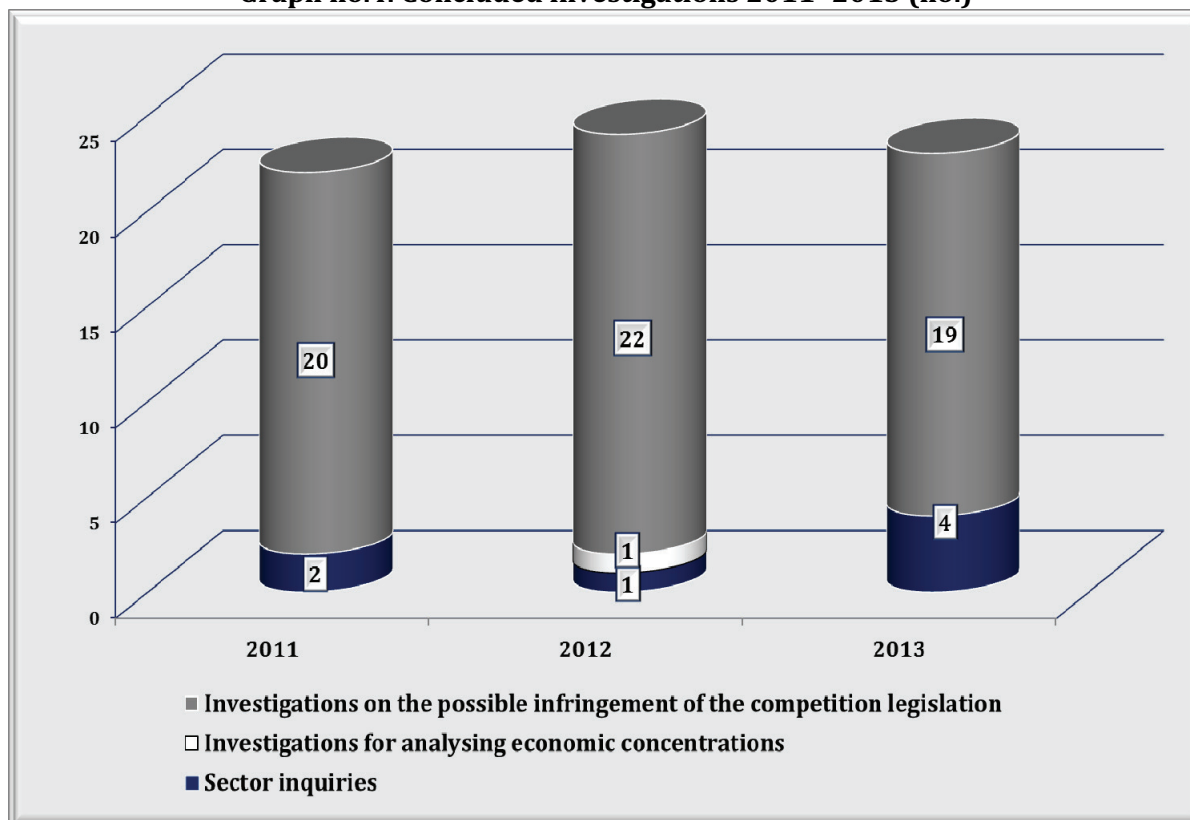
The **6 sector inquiries** initiated in 2013 are envisaging:

- the services provided by insolvency practitioners;
- the pharmaceutical products;
- the electronic communications and the access to the specific infrastructure;
- the wood market;
- the medical assistance;
- the auto insurances.

## Finalised investigations

A total of **23 investigations** have been concluded in 2013, with one investigation less than in 2012, and with one more compared to 2011. Out of the 23 investigations, 19 have envisaged possible infringements of the competition legislation and four were sector inquiries.

**Graph no.4. Concluded investigations 2011- 2013 (no.)**

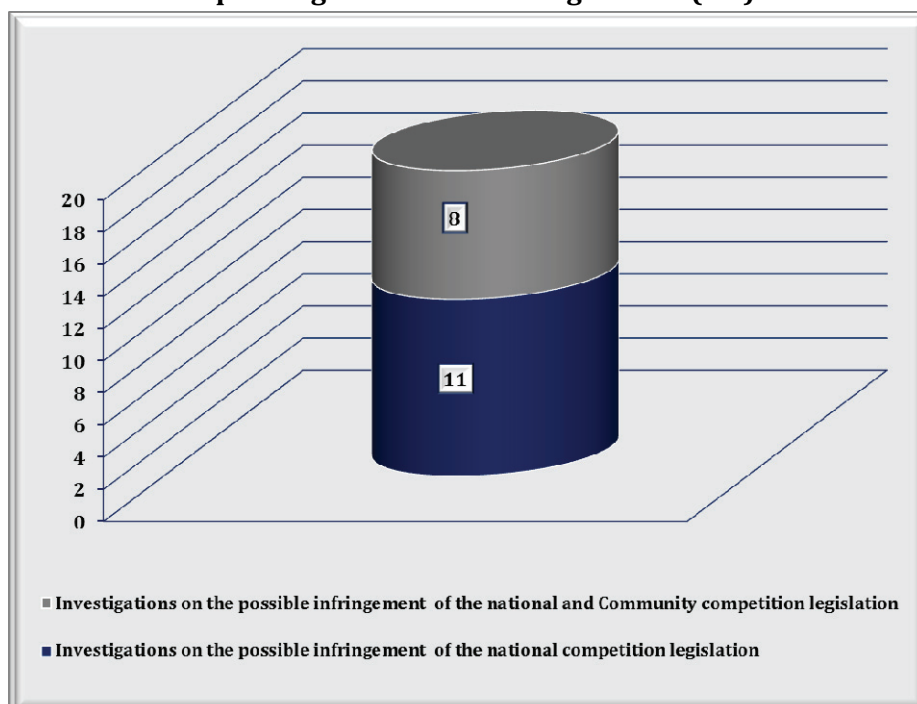


The number of finalised investigations envisaging possible infringements of the competition legislation decreased by 16% compared to 2012, and by 5% compared to 2011. The number of the sector inquiries finalised in 2013 increased by four times compared to 2012 and doubled compared to 2011.

Taking into account the total number of the investigations on-going at the end of 2013, as well as the ones initiated during this year (cases on the possible infringement of the competition legislation and sector inquiries), results that **the Romanian competition authority has finalised 24% of the cases under analysis.**

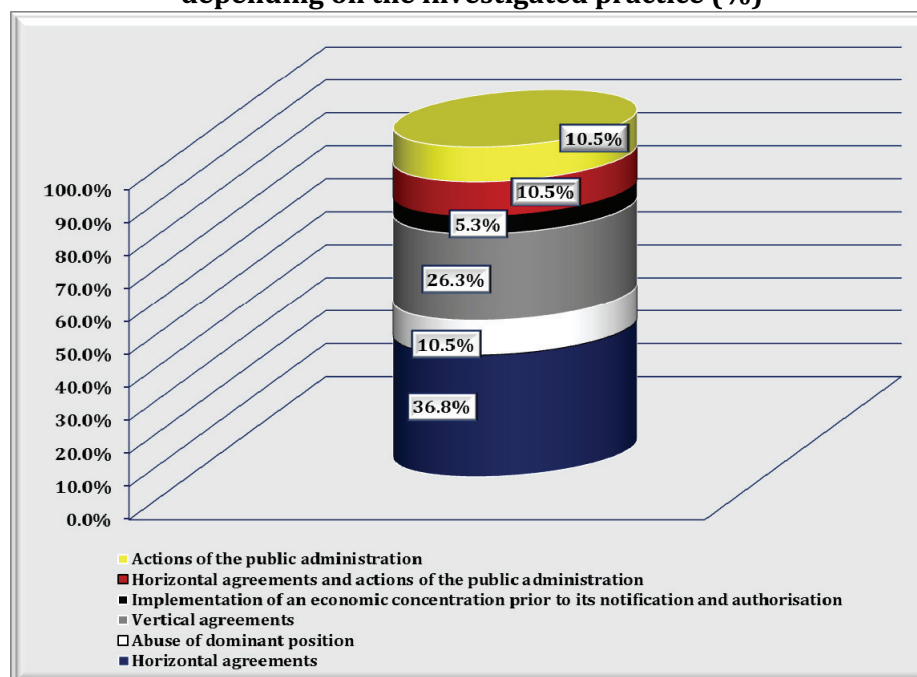
The situation of the investigations on the possible infringement of the competition law completed in 2013, depending on the incident competition legislation and on the investigated practice, is presented below:

**Graph no.5. The structure of the concluded investigations depending on the incident legislation (no.)**



The percent of the investigations concerning possible infringements of the competition rules that have targeted both the national and the Community legislation was of 42%.

**Graph no.6. The structure of the concluded investigations, depending on the investigated practice (%)**



Out of the total investigations on the possible infringement of the competition rules, 7 investigations have been completed by imposing fines: 3 investigations have envisaged vertical

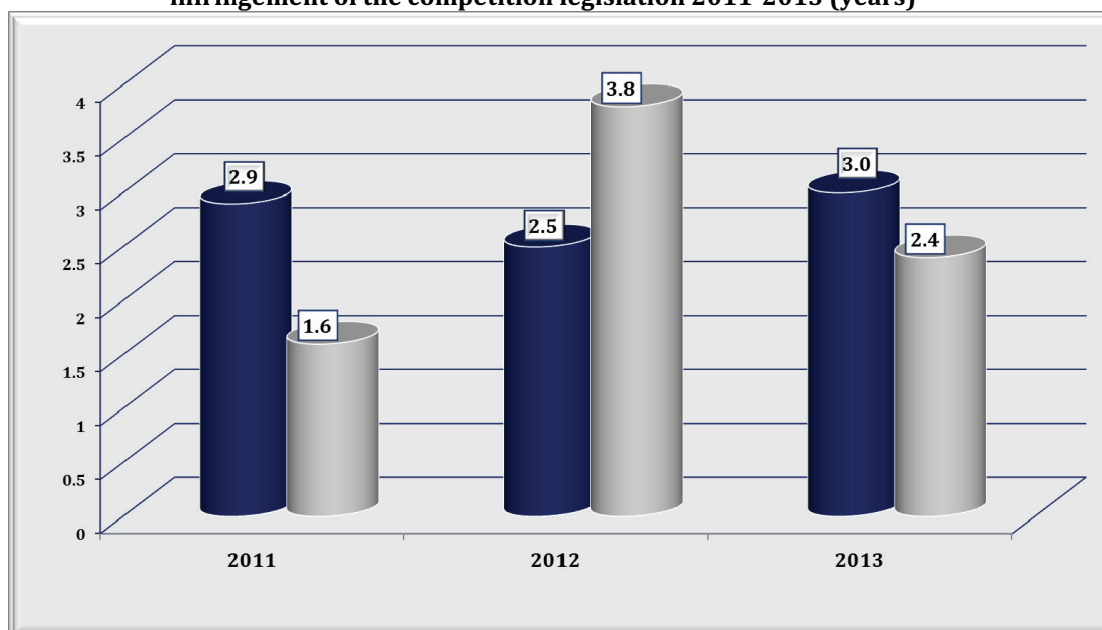
anticompetitive agreements, two investigations envisaged horizontal anticompetitive agreements and actions of the public administration, one investigation envisaged horizontal anticompetitive agreements and one investigation analysed the implementation of an economic concentration prior to a decision of the Competition Council.

An investigation was finalised by establishing the existence of anticompetitive actions of the public administration (in such cases, no fines can be imposed), and the remaining 11 investigations (58%) were closed because the evidences identified were insufficient for proving an infringement of the law.

The road construction sector was the economic sector subject to the most investigations on the possible infringement of the competition legislation (21% of the investigations).

**The average duration** of the cases on the possible infringement of the competition rules concluded in 2013 has been of 3 years. Compared to 2011 and 2012, the situation is presented by the following graph.

**Graph no.7. The average duration of the concluded investigations on the possible infringement of the competition legislation 2011-2013 (years)**



In 2013, **the average period for finalising the cases on the possible infringement of the competition rules** has increased by half a year compared to 2012, and by almost one month compared to 2011.

Based on the nature of the anticompetitive practice, the average duration of the investigations completed in 2013 has varied as follows: 4.9 years - horizontal agreements and actions of the public administration, 4.8 years – abuse of dominant position, 3.1 years - vertical agreements, 2.4 years - horizontal agreements, 1.7 years - actions of the public administration. The investigation on the notification failure/implementation of an economic concentration prior to its notification lasted 1.7 years.

The following sector inquiries were finalised: the distribution of films to cinemas, the construction of roads and highways, the bank payment services by cards and the beer market. The average duration of the sector inquiries finalised in 2013 has decreased by 1.4 years compared to 2012 and has increased by 0.8 years compared to 2011.

## Case studies

### ***Prohibited agreements between competitors and anticompetitive actions of the public administration: management market of waste electrical and electronic equipment***

By Decision no.52/2013, the Competition Council found a violation of the national and Community competition law by fourteen members of ROREC and ECOTIC. The Competition Council applied a total penalty of approximately EUR 12.7 million (RON 56.487.840). It was also established that the Commission of Assessment and Authorization of Collective Organizations infringed the national competition law.

The investigation resulted from the conjunction, in 2010, of two investigations initiated by the Competition Council after certain complaints. It covered three anticompetitive acts which had affected waste management market of electrical and electronic equipment: two cartels and certain actions of the public administration.

The entities involved are members of ROREC and ECOTIC associations. The ROREC association is a collective organization, a non-profit entity, grouping the main manufacturers and importers of household appliances in Romania, holding over 70% of the market. The ECOTIC association is also a collective organization, a non-profit entity, established in order to take over manufacturers' responsibilities concerning the collection, reutilization, recycling and valorisation of the electrical and electronic equipment wastes. ECOTIC brings together the leading manufacturers and importers of electronic and IT products in Romania.

Eight members of ROREC were fined with EUR 10.8 million (RON 47.881.380) for common discount fixing (15% for large household appliances and 20% for small household appliances) and for controlling their product sales within buy-back campaigns during 2008-2009, by allocating the appropriate budget proportionally to the pre-existing market shares of association's members. In this way, they did not intend to maximize the number of collected waste, but they maintained the market shares of the companies by granting discounts. Six members of ECOTIC were fined with EUR 1.9 million (RON 8.606.461) for establishing an anticompetitive agreement by creating a mechanism similar to that of ROREC within buy-back campaigns initiated in February 2009.

The third anticompetitive act was committed by the Commission of Assessment and Authorization of Collective Organizations which, at the moment of issuing the operating license, prohibited only the ECOTIC association from using certain funds for sustaining the sales of new electrical and electronic equipment (by applying discounts) and for sustaining marketing campaigns of those equipment manufacturers. Thus, ROREC continued to finance the buy-back campaigns, while the authorities prohibited ECOTIC from financing, which distorted the competition on waste management market of electrical and electronic equipment.

After publication, the decision will be found at  
[www.competition.ro/official\\_documents/competition/decisions](http://www.competition.ro/official_documents/competition/decisions).

***Vertical anticompetitive agreements: the gambling market***

Through Decision no.53/2013, the Competition Council found a violation of the national and Community competition law by four enterprises, applying a total penalty of approximately EUR 3.76 million (RON 16.85 million) as follows: the CN Loteria Română SA – RON 9.018.141 (representing 0.9% of turnover in the previous fiscal year), Intralot SA Integrated Lottery Systems and Services – lei 5.541.874, Intracom SA Holdings – RON 1.779.528 and Lotrom SA – RON 512.469 (each penalty representing 6.3% of turnover in the previous fiscal year).

The investigation was disjointed in 2013 from an investigation opened at the Competition Council's initiative in 2012. This investigation analysed the conclusion of a vertical anticompetitive agreement between the CN Loteria Română SA (Romanian Lottery National Company) and other three undertakings.

The competition authority found that the four companies had made an agreement on implementing the video lottery program in Romania by establishing a non-compete obligation clause within the Supplier Credit Contract. The non-compete provision stated that, during the contract period, 2003-2013, the Romanian Lottery was not allowed to carry out another video-lottery program or a similar one in cooperation with other undertakings.

Although several other undertakings presented certain offers concerning the implementation of other video-lottery programs, the non-compete clause foreseen in the contract that had been concluded by the four entities led to the restriction of competition both on the exploitation market of electronic machineries in Romania and on the related production and trade equipment markets.

After publication, the decision will be consulted at:  
[www.competition.ro/official\\_documents/competition/decisions](http://www.competition.ro/official_documents/competition/decisions).

***Infringement of rules concerning the authorization of economic concentrations:  
the civil construction market***

By Decision no.51/2013 of the Competition Council, Mr George Becali was sanctioned with a fine of about EUR 41 thousand (RON 183.526), representing 0.9 % of the total turnover in the previous fiscal year.

In 2012, the Competition Council initiated an ex-officio investigation concerning the possible infringement of the Competition Law by Mr George Becali who had implemented an economic concentration prior to the notification and issue of a decision from the Competition Council.

Through several successive transactions dating from 2008, Mr George Becali acquired the majority of the capital of ARCOM SA Bucharest (71.53%), thus acquiring the sole direct control over the undertaking and the indirect control over the entities being controlled by ARCOM SA.

The operation represented an economic concentration, within the meaning of the Competition Law. According to it, the acquirer had an obligation to notify the Competition Council before the implementation of the merger (by means of specific measures, such as: the exercise of voting rights in order to influence the entity's activity; the conclusion of contracts; the assets sale; the corporate restructuring etc.). Following the investigation, the Competition Council found that Mr George Becali had exercised his voting rights related to his participation at the Shareholders' Extraordinary/Ordinary Meetings, without having notified the economic concentration. Moreover, Mr Becali did not obtain a decision from the competition authority concerning the compatibility of the operation within a normal competitive environment. Thus, he infringed the merger control rules.

Given the fact that the operation had not been notified prior to the starting point of the investigation or during the investigation, the analysis of its compatibility with a normal competitive environment was conducted during the investigation. The conclusion was that the operation does not raise significant impediments to the effective competition on the relevant market, especially as a result of the creation or consolidation of a dominant position.

After publication, the decision can be consulted at:

[www.competition.ro/official\\_documents/competition/decisions](http://www.competition.ro/official_documents/competition/decisions).

### ***The sector inquiry on the film distribution market to cinemas in Romania***

The main concern of the Romanian competition authority determining the initiation of the investigation in 2012 consisted in the fact that, according to the data received during 2011, certain film distributors had refused the collaboration with certain cinemas. They did not distribute to the respective cinemas copies of their movies during the first running period from the national launch. This situation only concerned movies launched exclusively in cinemas.

In order to collect data and information on the functioning of the market, questionnaires were sent to the main film distributors and to cinema operators. The National Centre of Cinematography was also consulted during the investigation, as it is the specialized institution of the central public administration in the cinematography field.

The main conclusions resulting from the investigation were the following:

- **The market of film distribution to cinemas is a highly concentrated market.** Although this market decreased in 2011 compared with the previous year, the concentration degree of the film distribution market remains a high one. The concentration ratio is also high, with five large distributors holding 98.5% of the revenues recorded in 2010 and 2011.
- **The local distributor establishes all the elements related to the launch and promotion of the film on the national territory in agreement with the licensor.** Although there is a permanent consultation between the two parties involved, **the licensor is the one having the last word.** In addition, throughout the license period, the licensor has the possibility to verify the distributor by means of periodic mandatory reports. Such contractual conditions are often met at the international level, being a common feature of the film industry.
- **In its relationship with the cinema operator taking into account the foreseen potential of the film, the technical features of every cinema and cost recovery, the**

**distributor establishes the number of copies in agreement with the operator.** The terms under which the distributor's film will be broadcast by cinema operators are established after negotiation and set in a contract. **Films are not assigned to operators under an exclusive regime.**

- **The selection of operators that will receive a certain title of film to be broadcast within their cinemas is made according to the meeting of certain criteria related to technical equipment, location and history of their collaboration. The profitability analysis has a decisive role in such a case.**
- **Following the investigation, the Competition Council did not confirm the worries concerning the possible excesses of vertical integrated companies in their relation with trade partners.** Three of the top five major distributors are vertically integrated (they are engaged in manufacturing and/or distribution as well as in cinema operation).
- **The distribution of Romanian and European films is less accepted in multiscreen cinemas.**

Following this sector inquiry, the Competition Council analyses **the potential infringement of competition law** by means of horizontal anticompetitive practices on the market of film distribution to cinemas and a possible vertical anticompetitive agreement on the film operation market.

The sector inquiry report as well as the conclusion drawn after the public consultation can be consulted at: [www.competition.ro/latest\\_publications](http://www.competition.ro/latest_publications).

### ***The sector inquiry on the construction market of roads and highways***

The investigation was initiated in 2010 and it had as objective to identify the market functioning mechanisms. Its purpose consisted in discovering and correcting the eventual competition issues.

During the investigation, the Competition Council requested information from the companies activating within the sector as well as from the administrators of the public road network. The analysis included the market of the materials used for construction works, the design services market and that of technical consultancy related to the road construction market.

The key findings of the investigation were the following:

- At national level, the road construction market **is a low concentrated market**. During 2007 – 2011, around 640 companies were active on that market.
- However, in some areas of Romania, the authorities identified **certain competition specific conditions**: there is certain rigidity and even a reduction of the supply; fewer entries of new players on the market; an increasing trend of the market concentration degree; high market shares of the top five market players.
- **Joint ventures between companies** created for bid participation and for work execution are very frequent and they do represent a common feature of the market. Although they are legal according to the law on public procurement, in terms of competition, they **can lead to market malfunction**, as they promote the exchange of sensitive information between market participants and limit their ability to compete with one another or with third parties according to their quality of independent undertakings.

- Although legal, **the addenda to the original contract** according to which the winner of the bid executes the work at a value that exceeds the other offers submitted by some of its competitors may be regarded as a **market malfunction**; in these cases, the winner negotiates directly with the contracting authority the new value of the work. This value will no longer be the result of a competitive tendering manifested during a bid procedure.
- **The execution deadlines** have been exceeded for most sections of the highways constructed in Romania with more than 365 days.
- The simultaneous implementation of **a series of road construction contracts** without really having the necessary resources may lead to market malfunctions by delaying the term of execution and, implicitly, by increasing the costs.
- Certain **upstream** markets to the market of road and highways construction (for example, the production and commercialization of mineral aggregates, road bitumen or steel) have been identified as being characterized by a number of economic factors that **promote the emergence of anticompetitive agreements** (stable demand, product homogeneity, symmetric costs, market entrance barriers, the economic power of the buyer/seller, etc.).

During the sector inquiry, the Competition Council initiated **four investigations concerning the potential anticompetitive agreements**.

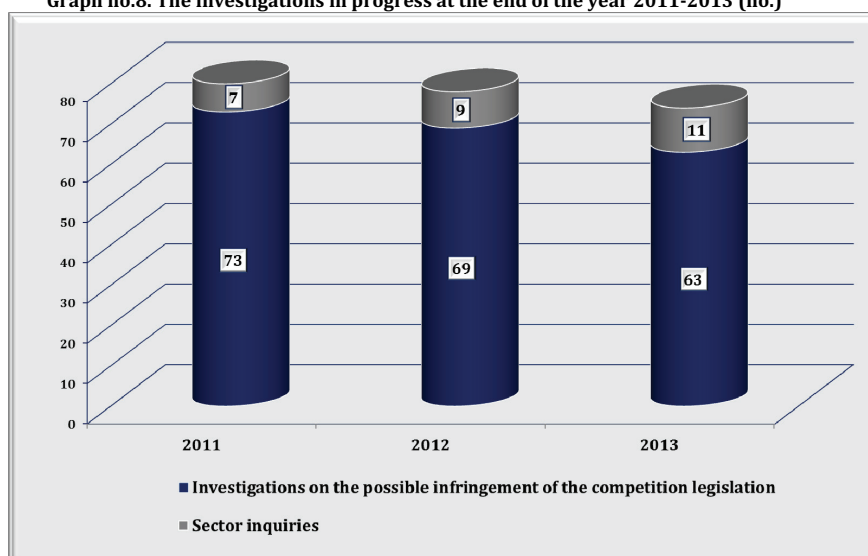
The sector inquiry report as well as the conclusion drawn after the public consultation can be consulted at: [www.competition.ro/latest\\_publications](http://www.competition.ro/latest_publications).

## Investigations in progress

**63 investigations on the possible infringement of competition law**, out of which 26 investigations older than 3 years, and **11 sector inquiries** were in progress at the end of 2013.

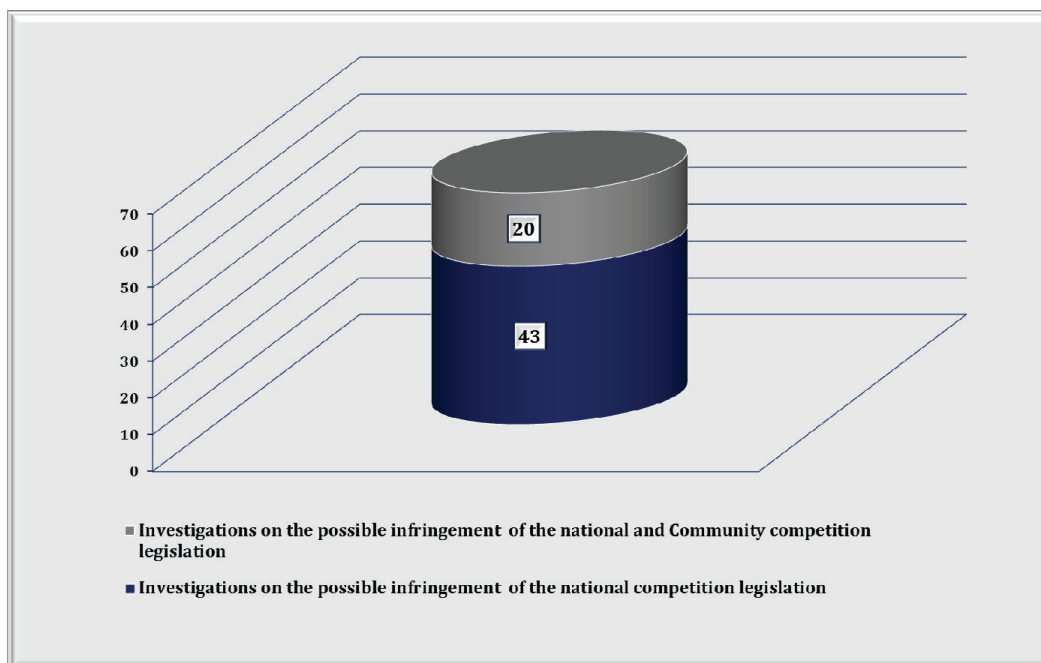
During the last three years, there was a constant decrease of the number of the total investigations still in progress at the end of each year, including in the case of the ones concerning the possible infringement of the competition legislation, while the number of the sector inquiries has followed an opposite trend.

Graph no.8. The investigations in progress at the end of the year 2011-2013 (no.)

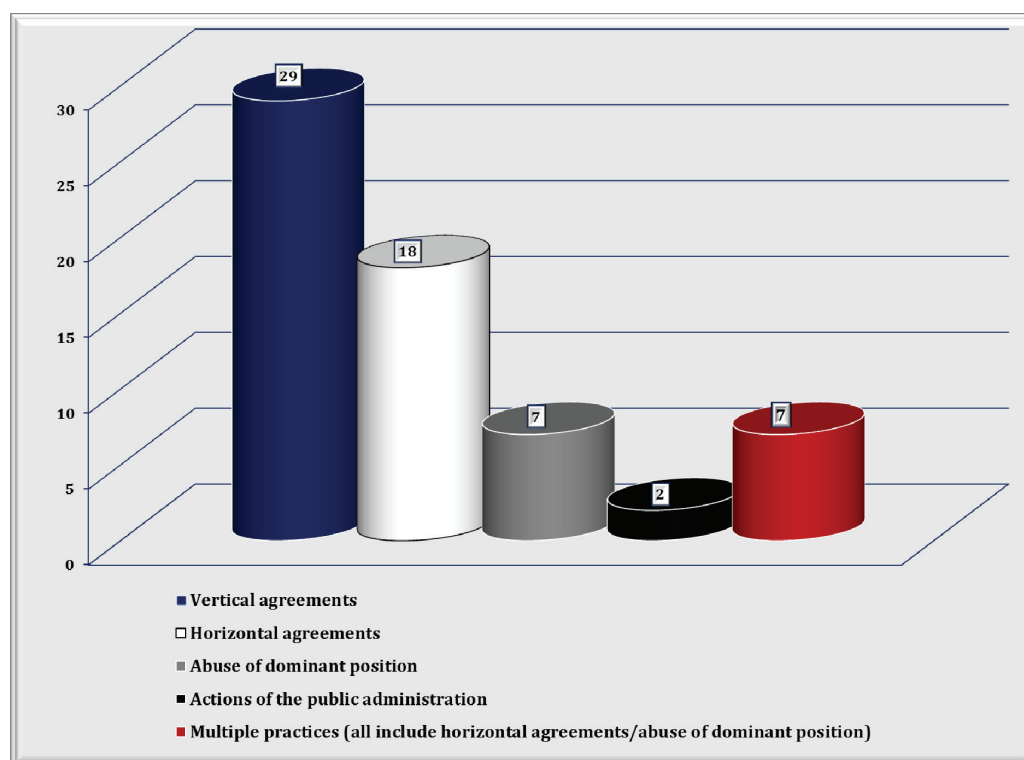


The situation of the investigations on the possible infringement of the competition legislation in progress at the end of 2013, according to the incident legislation and to the investigated practice, is presented by the following two graphs.

**Graph no.9. The investigations in progress at the end of 2013, according to the incident legislation (no.)**



**Graph. no.10. The investigations in progress at the end of 2013, according to the investigated practice (no.)**



At the end of 2013, the average duration of the investigations still in progress on the possible infringement of the competition rules was of 2.8 years, longer by 0.4 years compared to 2012 and by 0.9 years compared to 2011.

Based on the nature of the possible anticompetitive practice, the average durations of the investigations was the following: 3.8 years – vertical agreements; multiple object – 3.3 years; 1.9 years – abuse of dominant position; 1.8 years – horizontal agreements; 1 year – actions of the public administration.

The average duration of the sector inquiries still in progress at the end of 2013 was of 1.6 years, shorter by 0.2 years compared to 2012 and longer by 0.2 years compared to 2011.

## Dawn raids

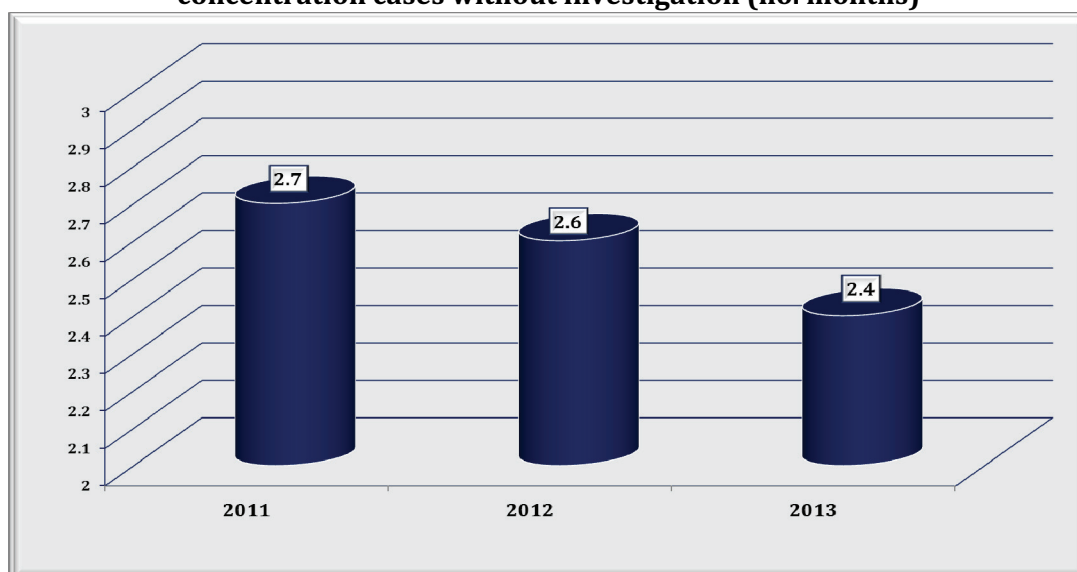
During 2013, 80 headquarters/working points owned by 80 undertakings **were inspected** within 12 investigations.

## Economic concentrations

During 2013, following their notification, 47 economic concentrations were approved, with **authorisation taxes amounting to RON 2,157,576 lei (EUR 488,250)**. All the economic concentrations were authorised without conducting an investigation.

**The average duration** of the economic concentration cases concluded in 2013 has been of around 2.4 months. In the last three years, their average duration registered a slight decreasing trend.

**Graph. no.11. The average duration of the economic concentration cases without investigation (no. months)**



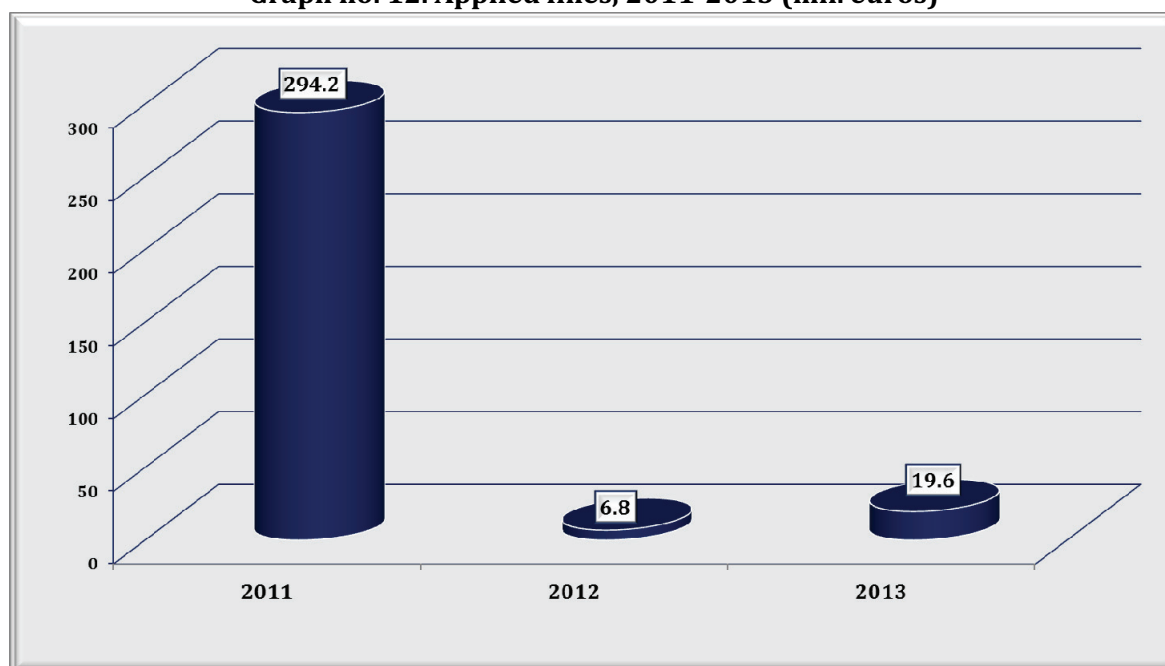
It is worth mentioning that in 2013, 32% of the economic concentration cases have been analysed through the **simplified procedure**.

## Fines

The value of the fines applied by the Competition Council in 2013 **has been of RON 86,778,562 (EUR 19,637,602<sup>10</sup>)**. 35 undertakings have been sanctioned for anticompetitive practices; one undertaking was fined for failing to supply information and one natural person was fined for implementing an economic concentration prior to its notification and authorisation by the Competition Council.

Compared to 2012, the value of the fines has increased by 187%, and compared to 2011 it is 15 times smaller. The significant high level of the fines applied in 2011 is explained by the fact that that year the Competition Council has finalised with fines cases involving firms with very large turnovers, such as the fuel cartel or the abuse of dominance cases involving Orange and Vodafone.

**Graph no. 12. Applied fines, 2011-2013 (mil. euros)**



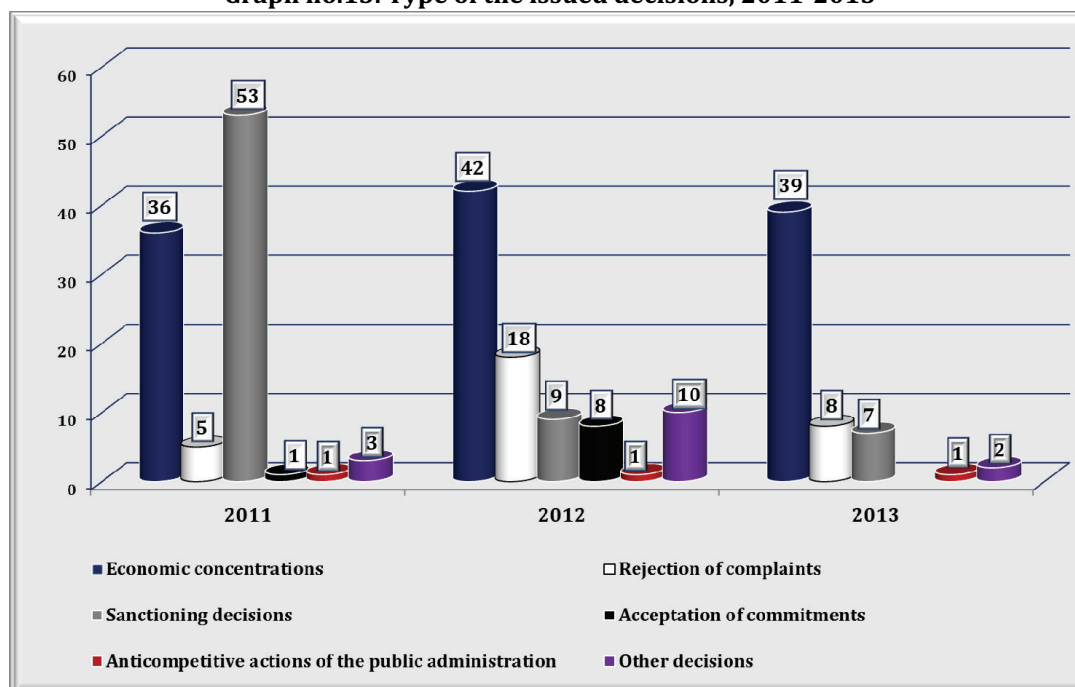
Depending of the type of law infringement, 79.5 % of the total sanctions were applied for horizontal agreements, 19.9% for vertical agreements, 0.2% for implementing an economic concentration prior to its notification and authorisation by the Competition Council, and 0.004% represented comminatory fines applied in 2012 for failure to supply information within a sector inquiry.

<sup>10</sup> Calculated at the 2013 average course RON/EUR , according to the National Bank of Romania.

## Decisions

The number of the decisions issued by the Competition Council in 2013 was of 57. The majority were for authorising economic concentrations (68%) and for rejecting certain complaints on anticompetitive practices and anticompetitive actions of the public administration (14%). The evolution of the number of decisions issued by the Competition Council during 2011-2013, based on their type, is presented by the following graph:

Graph no.13. Type of the issued decisions, 2011-2013



In 2013, the number of the decisions on economic concentrations has decreased by 7% compared to 2012, but it was over the level of 2011 by 8%. The decisions for rejecting complaints has decreased by 56% compared to 2012, but are more by 60% compared to 2011. At the same time, the number of the sanctioning decisions has decreased by 22% to 2012, and are by eight times fewer than in 2011.

Detailed information on the implementation of the competition legislation in 2012 is presented within the [Statistics](#).

## Fighting and preventing bid rigging

Fighting and preventing bid rigging represented an important component of the Competition Council's activity throughout 2012.

Bid rigging (or collusive tendering) is an agreement between competing undertakings in order to raise prices or lower the quality of goods or services for those customers who wish to

purchase products or services through a tender. The competitive process can achieve lower prices or better quality and innovation only when companies genuinely compete (i.e., set their terms and conditions honestly and independently).

In 2013, the Division of the Competition Council specialized in bid rigging opened two bid rigging investigations on some public procurement procedures (representing 17% of the total number of investigations on the possible infringement of the competition law).

During the same period, **five investigations were completed** (representing 26% of the total number of investigations on the possible infringement of the competition law): one investigation was completed by imposing fines, whereas, for the other four, the evidences identified were insufficient for proving an infringement of the law, so as to justify the imposition of fines or of certain measures.

Following the investigation where the Competition Council found an infringement of the competition legislation, **4 undertakings were sanctioned with a total of RON 12.5 million (EUR 2.8 million)**, representing 14% of the total amount of fines imposed by the Competition Council in 2013. The average length of completed bid rigging investigations in 2013 was 2.1 years.

### The Bid Rigging Module (BRM)

The Bid Rigging Module (BRM) was established in 2010 in order to ensure a normal competitive environment on the public acquisitions market, by means of a rapid exchange of information among the experts looking for identifying bid rigging.

Besides the experts of the Competition Council, BRM involves representatives of the following institutions:

- The National Authority for Regulating and Monitoring the Public Procurement (ANRMAP);
- The Unit for Coordination and Verification of Public Procurement (UCVAP);
- The National Council for Complaints Solving (CNSC);
- The Control Body of the Prime Minister;
- The Court of Auditors;
- The Public Ministry – the Prosecutor of the High Court of Cassation and Justice;
- The Anti-Fraud Department (DLAF).

During 2013, the Competition Council has taking the first steps for co-opting the National Centre for the Management of the Information Society (CNMSI) as a collaboration partner. The role of this centre consists in managing and operating the Electronic System of Public Procurement in Romania.

The main activities carried out by BRM during 2013 were the following ones:

- The analysis of the control reports sent by ANRMAP, CNSC, Romanian Court of Auditors and UCVAP for identifying potential anticompetitive practices within certain public procurement procedures organized by the contracting authorities being subject to control;
- As a result of the analysis of the control report issued by the Romanian Court of Auditors and with the support of the respective institution the Competition Council started an

investigation concerning a potential participation of some undertakings in a bid rigging within the public procurement tender organized by the Agency of Payments and Interventions in Agriculture (APIA) for assigning the contract for the extension of APIA's IT system services;

- As a result of the sector inquiry completed by the Competition Council on Romanian road and highways construction market, the authorities discussed with ANRMAP's representatives for clarifying certain particular issues met during the public procurement procedures developed on this market;
- The participation at the debate organized by the Institute for Public Policy on "Sustainable Public Procurement for increasing investment effectiveness in Romania";
- The organization of a workshop together with the Department for Investigating the Organized Crime and Terrorism (D.I.I.C.O.T.), a directorate belonging to the Prosecutor's Office attached to the High Court of Cassation and Justice; the workshop discussed the amendments to the Code of Penal Procedure;
- The Competition Council issued a favourable binding opinion on the draft of the law concerning the public-private partnership.

### **Case Study: *Bid Riggs for assigning contracts in the weaponry field***

Through Decision no.44/2013, the Competition Council ascertained the infringement of the national and Community competition law and decided to sanction four undertakings for the concerted practice of participating in bid rigging within the procurement procedures for the acquisition of the following products: "infantry weapons" and "optical apparatus". The total amount of fines applied by the Competition Council was of approximately EUR 2.8 million.

The investigation was initiated in 2009 as a result of the information provided by the Department of Prevention and Investigation of Corruption and Fraud belonging to the National Defence Ministry. This investigation involved the potential infringement of the national and Community competition law by the Romanian undertaking S.C. Transcarpat Sportours International S.R.L., as well as by J.P. Sauer & Sohn GmbH from Germany, San Swiss Arms AG and Brugger & Thomet AG from Switzerland.

The above mentioned undertakings had participated in bid rigging of tenders organized during 2005, 2006 and 2007 by the Department for Armaments of a military unit within the National Defence Ministry. The bids had as object the acquisition of the following products: "infantry weapons" and "optical apparatus".

The evidence found had a circumstantial nature and presented the way/the circumstances in which the offers of three participants were drawn up by a fourth entity, S.C. Transcarpat Sportours International SRL. The latter company substituted to the other parties who had accepted, even tacitly or by negligence, that their offers (including the confidential/sensitive information concerning the products and prices tendered) to be edited by S.C. Transcarpat Sportours International S.R.L.

After publication, the decision will be found at

[www.competition.ro/official\\_documents/competition/decisions](http://www.competition.ro/official_documents/competition/decisions).

# CHAPTER 2

## *CASES SOLVED BY THE LEGAL COURTS*



In 2013, the percentage of irrevocable court decisions favourable to the Competition Council was about 93%, decreasing by 1 percentage point compared with 2012 and increasing by 5 percentage points compared with 2011. The percentage of definitive decisions favourable to the Competition Council was about 82%, decreasing by 12 percentage points compared with 2012 and by 7 percentage points compared with 2011.

Some examples of the most important cases instrumented in court during 2013, where the courts took definitive/irrevocable decisions are the following: the cartel concerning the market withdrawal of Eco Premium fuel, finalized by the Competition Council in 2011 (for the contestations submitted by ENI, MOL, OMV-Petrom, Lukoil, OMV Petrom Marketing, Rompetrol); the abuses of market dominant position of Orange and Vodafone, finalized by the Romanian competition authority in 2011; the cartel on the mandatory private pensions market - the 2nd Pillar, completed in 2010 (for the contestations submitted by Allianz and Generali); the vertical anticompetitive agreement on the insulin market, completed in 2008 (for the contestation submitted by Mediplus); the vertical agreement on pharmaceutical distributors market, the file where the anticompetitive was recognized, completed in 2011 (for the contestation submitted by Baxter), as well as the cases where the legal privilege was invoked (Alpiq Romindustrie, Alpiq Romenergie, Energy Holding).

Regarding the percentage of irrevocable fines, this was about 64%, increased by 12 percentage points compared with 2012 and decreased by 13 percentage points compared with 2011. The percentage of the definitively maintained fines was about 86%, increased by 5 percentage points compared with 2012 and decreased by 13 percentage points compared with 2011.

Data concerning the Competition Council's files processed in court can be found in the [Statistics](#) section.

The following cases involve certain actions for annulment, definitively solved in 2013 by the Bucharest Court of Appeal and irrevocably solved by the High Court of Cassation and Justice.

### **Bid rigging within the tender organised by Transgaz**

By Decision no.71/14.11.2012, the Competition Council detected the violation of Competition Law as well as of the Treaty on the functioning of the European Union by SC Condmag SA and SC Inspec SA<sup>11</sup>. The two companies concluded an anticompetitive agreement by participating in bid rigging within the public procurement procedure organized by Transgaz in 2009, for assigning the contract „Butimanu-Brazi gas connection for the gas supply of Brazi cogeneration station”.

---

<sup>11</sup> Hereinafter referred to as Condmag and Inspec.

The bid rigging consisted in the exchange of sensitive commercial information, having a confidential character, such as the offers' financial costs, the level of indirect expenses and profit, the yard organization, the average hourly base rates, as well as all the other assessment factors: the warranty works, the time intervention in service activity and payment deadline. All these were meant to allow Inspec to win the public procurement procedure.

The fundament for the Competition Council's decision concerning the detection and sanctioning of the collusive tendering consisted in a complex set of evidence based on a working document and two e-mails proving the exchange of sensitive data between the above mentioned undertakings.

The probative value of those documents was contested by Condmag and Inspec before the Bucharest Court of Appeal, the court maintaining Decision no.71/2012.

### **Condmag's action for annulment**

Condmag formulated an action for the annulment of Decision no.71/2012 requesting mainly the annulment of the decision from the perspective of the features regarding it directly and, in subsidiaries, the annulment of the applied fine<sup>12</sup> or, at least, the fine's reduction.

As the primary reason for the annulment of the competition authority decision, Condmag claimed a lack of evidence concerning the collusive tendering. The defence was focused on the fact that it had been no correlation of offers between Condmag and Inspec, namely the exchange of sensitive information, having a confidential character which would have allowed Inspec to win the public procurement auction. Essentially, in accordance with Condmag's opinion, the documents on which were based the findings of the decision did not achieve the standard of the necessary evidence for proving that the collusion had taken place and that it had been able to restrict competition.

### **Relevant reasons retained within the decision of the Bucharest Court of Appeal**

The working paper contested by Condmag was found in Inspec's possession. This document contained handwritten mentions and presented, for example, the prices proposed by the competitor Condmag for each equipment type which was necessary for the works at the objective "Brazi gas measuring station". Concretely, the contested working paper beard evidence that Inspec had been in the possession of some information on competing offer, in the context of the investigated procurement procedure, information that would not have had to be normally accessible.

Noting its working paper character, the company retained that there were irrelevant features such as the lack of document's author identification or the fact that the act had not been dated. The legal court confirmed that such a document had evidential value in the context of the entire set of evidences that served as basis for the decision of the Competition Council. The court retained that the document's relevance was given by its intrinsic character which attached it undoubtedly to the investigated procurement tender.

---

<sup>12</sup> In the amount of lei 4.548.658, representing 4% of the total turnover recorded in 2011.

In the context of working paper assessment, whose probative value was rejected by Condmag, the legal court, in accordance with the jurisprudence of the European Union Court of Justice, confirmed that the competition authority had the right to exercise evidence discretion, the only relevant criterion being its credibility. As far as the document contained information that was in conjunction with those in the other evidentiary acts and with the bids submitted by the two competitors, the document proves its credibility.

This credibility was not affected by the fact that the prices of construction elements and of assembly costs did not fully coincide with the actual offers. The only selected candidates were the two enterprises and consequently, there was no impediment for offers' value to rise (however, this did happen), given that there was no other real competitive pressure which would have been exercised by a competitor with an autonomous conduct.

Regarding other two rejected documents belonging to the evidentiary material, the court retained that, during the tender, Condmag sent to its competitor two e-mails containing confidential information from the preliminary offer. By means of these actions, Condmag provided its competitor with different types of tender in which the company could have reduced the transportation and supply rate or negotiated the level of some assessment factors.

The contents of those electronic communications as well as the corroboration with the other direct evidence of the collusion entitled the court to retain that Condmag's statement was not credible. Condmag tried to sustain that the e-mails had been sent by mistake. However, the court retained that the lack of evidence concerning Inspet's reception of the electronic communication, did not represent a decisive foundation in establishing the probative value of the two electronic documents.

As a result of the analysis of the contested documents, the Bucharest Court of Appeal retained, in principle, that the evidence had to be seen in the overall context of the investigated collusion and not in their individuality.

Through the relevant issues presented, the court decided to maintain Decision no.71/2012, concluding that the set of evidence meets the evidence standard in the field. The court considered that there was brought sufficient, clear and consistent evidence concerning Condmag's violation of the competition rules.

At present, the case is pending before the High Court of Cassation and Justice, Condmag formulating an appeal against the above mentioned decision of the Bucharest Court of Appeal.

## **The insulin Case – the situation of the distributor Mediplus Exim SRL**

By Decision no.15/2008, the Competition Council detected the violation of the competition law by the producer Eli Lilly Export SA as well as by its distributors, SC A&A Medical SRL, SC Relad Pharma SRL and SC Mediplus Exim SRL<sup>13</sup>.

<sup>13</sup> Hereinafter referred to as Eli Lilly, A&A, Relad and Mediplus

The competition authority found out that, on the one hand, the manufacturer Eli Lilly and its distributors A&A, and Relad and Mediplus, on the other hand, have concluded an anticompetitive agreement. The anticompetitive agreement had as objective the sharing of product portfolio for diabetes belonging to Eli Lilly, in the context of the national tender organized by the Ministry of Public Health and the National Health Insurance House in 2003 for the acquisition of human insulin necessary for Diabetes National Programme. The collusion intervened as well in the case of the electronic tenders organized by hospitals for acquiring human insulin outside the Diabetes National Program (during 2003-2005). The agreement concerning the diabetes portfolio sharing had as a result the elimination of the competition between the three mentioned distributors concerning the human insulin and their analogues belonging to the manufacturer Eli Lilly.

In order to prove the existence of the collusive agreement, the competition authority started from an internal document of Eli Lilly, entitled „Overview”, which included a description of the situation on the insulin market before the national tender, dating from May 2003. The act also included a presentation of the specific terms of the Diabetes National Programme, scenarios concerning the participation of Eli Lilly’s distributors in the national auction and their favourite scenarios. The probative value of the document „Overview”, which, together with the other evidence constituted the basis for the competition authority’s decision, was rejected by the parties involved in the agreement, including Mediplus.

### **The development in court of the cases that had as subjects actions for the annulment of Decision no.15/2008**

In terms of the cases that dealt with solving actions for annulment formulated by the manufacturer Eli Lilly and its distributors A&A and Relad, the Bucharest Court of Appeal as well as the High Court of Cassation and Justice maintained the competition authority’s decision considering that sufficient evidence was found on the named agreement. Moreover, the two instances noticed that the contravention had been adequately sanctioned.

At its turn, the distributor Mediplus formulated action for annulment before the Bucharest Court of Appeal. Subsequently, as a result of the appeal formulated by the Competition Council, the Bucharest Court of Appeal’s decision was amended to maintain the Decision no.15/2008, including the case of the distributor Mediplus.

As well as for the cases in which were judged the actions for annulment formulated by the other two distributors, the High Court of Cassation and Justice considered that it was also appropriate for Mediplus, to retain some extenuating circumstances such as the agreement’s favouring by the conduct of the Ministry of Public Health and the fact that Mediplus had not hold the quality of collusion’s initiator. These circumstances determined the Court of Appeal to diminish the fine that was applied.

### **Relevant reasons retained in the decision of the High Court of Cassation and Justice related to the Mediplus case**

Admitting the action and cancelling the Competition Council's Decision no.15/2008 concerning the distributor Mediplus, the Bucharest Court of Appeal found essentially that the facts retained by the competition authority were not supported by the furnished evidence.

The conclusion of the first court was appreciated as being erroneous by the High Court of Cassation and Justice. The latter appreciated that the participation of the three distributors, including Mediplus, was not the result of an independent decision, but the result of some coordinated actions having as purpose or as a result the elimination of intra-brand competition. The investigation issued by the Competition Council made evident the existence of an anticompetitive agreement between the manufacturer Eli Lilly and its three distributors. This collusion gave birth to a system of exclusivity on products that worked and had as effect the reducing of intra-brand competition.

By means of this anticompetitive agreement, the manufacturer Eli Lilly allocated to its distributor A&A the range of human insulin named Humulin, to the distributor Relad the range of human insulin analogues Humalog and to the distributor Mediplus the oral antidiabetic Actos.

Contrary to the opinion of the first court, the High Court of Cassation and Justice retained that we could not reject the probative value of the „Overview” document. This act provided relevant information on the fact that, among the possible scenarios concerning the way by which Eli Lilly could have participated, by means of its distributors, in the auction organized by the Ministry of Public Health, the favourite scenario had supposed the product sharing between the three distributors (on the basis of the named scenario, the companies had really actioned on the market).

According to the High Court of Cassation and Justice, the first court retained without reason that Mediplus had been in a particular situation, given that the manufacturer did not demonstrate this fact. Moreover, the court also noticed that, for Mediplus, the instance could not have applied the conclusions taken in the case Bayer-Adalat. The Competition Council demonstrated that the distributors had had a direct interest on portfolio sharing of Eli Lilly products.

# CHAPTER 3

## *ADAPTING THE LEGAL FRAMEWORK TO THE COMPETITION RULES*



Adoption and implementation of regulations that maintain or develop barriers to free market competition or favour anti-competitive behaviour of undertakings have an adverse effect on economic development and on consumer welfare.

For these reasons, the Competition Council acts to make the legislative framework compatible with the competition norms, by:

- Issuing binding opinions and views on draft legislation with potential anti-competitive effects;
- On its own initiative, intervening to change anti-competitive provisions of the regulations in place or of those still in the planning stage.

In 2013, the Competition Council has issued 15 opinions on draft laws, including 9 favourable and 6 favourable with conditions. For all documents. Where the draft laws were approved, **the conditions imposed by the Competition Council have been met.**

The Competition Council also formulated 41 points of view and 77 opinions and completed 7 interventions to amend existing legislation or draft legislation with anti-competitive effects.

The list of these steps, and the known stage they are into are presented in the [Statistics](#) section. We present below some results of the Competition Council in this area.

## Changing the law on compulsory home insurance against earthquakes, landslides and floods

The commission for economic policy, reform and privatization of the Chamber of Deputies (hereinafter the Economic Commission) has requested the Competition Council's opinion regarding the proposed changes to Law no. 260/2008 regarding compulsory home insurance against earthquakes, landslides and floods.

Prior to this, consultations were held between the two institutions and other stakeholders, including the Insurance Supervisory Commission (now the Authority of Financial Supervision - ASF) to identify the legislative solutions appropriate for this regulation.

Pool insurance against natural disasters (PAID) manages the compulsory housing insurance against the risk of natural disaster, i.e. earthquakes, landslides or flooding, being under the supervision of ASF.

PAID was formed as an insurance – reinsurance company in November 2009. It manages the compulsory housing insurance system, which covers three basic risks – earthquakes, floods and landslides.

The compulsory housing insurance (PAD) covers three natural catastrophe risks – earthquakes, floods and landslides – for an insured amount of 10,000 euros or 20,000 euros, depending on construction type. The insurance premiums are in amount of 20 euros for type A buildings and 10 euros for type B. Premium amounts may be amended by decision of the ASF.

In November 2010, the law on compulsory housing insurance was amended by Parliament. Homeowners which have concluded optional insurance contracts that cover the risks set out in the Law on compulsory housing insurance are not required to enter into separate contracts for compulsory housing insurance. Consequently, insurance companies, including PAID shareholders, have launched similar products to PAD on the voluntary housing insurance market, which resulted in a steady and continuous reduction of PAID portfolio. In the first seven months of 2012, the PAID portfolio fell by almost 330,000 contracts, reaching 246,003 contracts.

We mention that in 2012 various legislative proposals were formulated to amend the law on compulsory housing insurance. One of the proposals to amend this law basically implied that voluntary insurance could only be made with PAID member companies. This would have restricted the freedom of the insured to choose the supplier of the voluntary housing insurance, which would have led to reduced competition among insurers for such insurance, namely the reduction of competition precisely on the market that allows free expression of competition between insurers. The Competition Council noted the Romanian Government (the Department for Relations with the Parliament) that such a provision is likely to lead to a distortion of the competitive environment in the housing insurance market in Romania.

To meet the objective of establishing the system of compulsory housing insurance without prejudice to the competitive environment and consumer welfare, the Competition Council has presented the law-maker during consultations different possible options in order to eliminate anti-competitive provisions.

Among the relevant proposals was also found the request to amend the provisions according to which **"The individuals and legal entities who have signed a voluntary housing insurance with a PAID-member company, which covers all risks set out in the compulsory insurance, are not subject to this law."**

Such a provision would make the law inapplicable precisely for those insurers who are shareholders of the insurance company that manages the system of mandatory housing insurance. Basically, only PAID members would have been able to issue voluntary insurance to replace compulsory insurance, without sending to PAID the related premium for the compulsory insurance. The proposed amendment established a differentiated treatment between companies that are competing in the voluntary housing insurance market, providing a competitive advantage to insurance companies that are members of PAID. Given all this, it was necessary to repeal those provisions.

In June 2013, the law was passed by the Chamber of Deputies, maintaining the solution of the Competition Council: **the possibility of issuing PAD by all insurers licensed to underwrite catastrophe risks.**

The institutional collaboration in the interest of competition and consumers between the Competition Commission and the Economic Policy Reform and Privatization Committee in the Chamber of Deputies is an example of good practice in the development and adoption of regulations. The final form of the project was made in consultation with the Competition Council, and was passed with the observations of the competition authority

## **The legislative proposal regarding the establishment and operation of industrial parks**

The Romanian Government, through the Department for Relations with the Parliament, has requested the opinion of the Competition Council on the legislative proposal regarding the establishment and operation of industrial parks, in order to formulate its own position regarding the draft bill. Subsequently, this position was sent to the Romanian Parliament, the developer of this regulation.

Following the analysis in terms of the incidence of national and EU competition and State aid legislation, the Competition Council has made the following observations:

- reformulation and completion of an article with the following wording "non-involvement of park manager in abusive practices which exploit park residents", an observation which was accepted;

According to the provisions of the legislative proposal, the administrator of the industrial park is a company that collects from park residents the rent, the individual maintenance expenses, the common maintenance expenses as well as the price of the provided utilities.

Services related to the management of the industrial park can be provided either directly by the park administrator, or by other companies selected by the administrator. Thus, residents of industrial parks will end up paying for certain activities carried out by the administrator of the park, at a value set by the administrator, or, when it is the case, will pay the value of activities provided by companies selected by the park administrator.

Such a situation would provide the administrator a framework to adopt an exploitative and abusive conduct when residents of the park do not have alternatives under equivalent conditions.

- reformulation of another article, so that not only the park administrator, but also park residents to be listed as potential beneficiaries of the facilities, an observation which was accepted;
- an observation that green-field investments should not be excluded from the scope of the regulation was also accepted;

It was apparent in the legislative proposal, without being explicitly mentioned, that granting the title of industrial park, and therefore the facilities, was limited only to land that already has built infrastructure, which seems to exclude green-field investments. Considering the contribution of these types of investments to achieve the objectives set by the legislative proposal (boosting

direct investment, regional development, creating jobs, etc.), the Competition Council considered it appropriate to request a review of the draft legislation, so that green-field investments are not excluded.

Government's point of view, communicated to the Parliament, included the observations of the Competition Council and Law no.186/2013 was passed including these observations.

# CHAPTER 4

## STATE AID



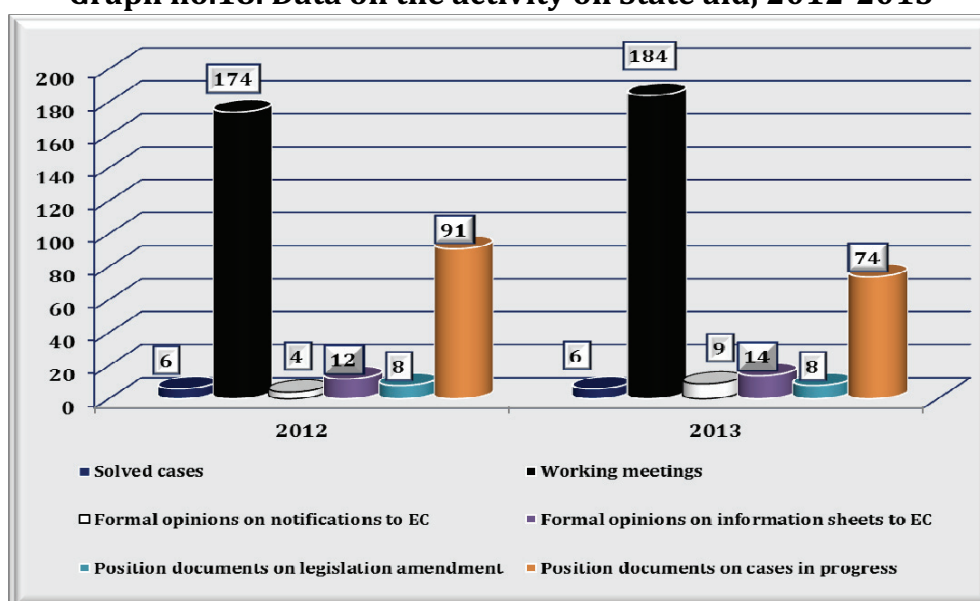
As contact authority on State aid in the relation with the European Commission, the Competition Council ensures the application and the observance of the State aid rules by the public authorities and private environment, as well as an efficient communication with the Community body.

The activity in the State aid field of the Romanian competition authority in 2013 can be presented synthetically as follows:

- specialised consultancy granted through 184 working meetings with the State aid suppliers, 117 written opinions concerning draft normative/administrative acts and other 226 written opinions/clarifications;
- 23 formal opinions concerning State aid notifications/information sheets on State aids exempted from the notification obligation;
- the pre-notification of 12 State aid measures;
- nine official notification of State aid measures;
- 6 cases resolved (State aid measures authorised by the European Commission);
- organisation and participation within meetings of the Inter-Ministerial Council for the Application of the State aid Policy;
- elaboration of the State aid Inventory and of the State aid Scoreboard, the last one being submitted to the European Commission;
- elaboration of the Annual report on the State aid field and of the half-year reports to the Government on the State aid field carried by the Competition Council;
- 74 answers/positions at the request of European Commission (on-going investigations and informal cases);
- participation at 16 consultations with the European Commission.

In order to have an overview of the activity of the Competition Council in the field of State aid, below, are plotted and the main results achieved in 2013, compared to the year 2012:

**Graph no.18. Data on the activity on State aid, 2012-2013**



During 2013, the European Commission issued six decisions on State aids notified by Romania in the following cases:

- the start-up aid to airlines departing from Sibiu Airport;
- the start-up aid to airlines departing from Oradea Airport;
- the prolongation of the regional map 2007-2013;
- the prolongation of the authorized State aid scheme N 578/2009 (Processing of agricultural and forestry products into non-agricultural products) until 30.06.2014 inclusively;
- the prolongation of the authorized State aid scheme N 103/2008 (Regional development by direct investment) until 30.06.2014 inclusively;
- the State aid scheme for the construction of a national broadband infrastructure within the Romanian deprived areas financed by Structural funds (the Ro-NET Project).

The European Commission's decisions on State aid relevant for Romania can be found at: [www.stateaid.ro/decisions/decisions](http://www.stateaid.ro/decisions/decisions) of the European Commission, and the list of the formal opinions is presented within the [Statistics](#) section

## State aid cases finalised or “unblocked” in 2013

### State aid for the establishment of new airlines with departure from regional airports

The development of regional airports in Romania depends, decisively, by their ability to attract new passengers and airline operators. From the point of view of air operators, airlines establishment of new regional airports linking various destinations in the European Union involves major initial administrative expenses, and related to the promotion of new routes. Therefore, the European Commission gave member states the possibility of partial subsidization of these categories of expenditure. The aid must be digressive and limited in time.

As a result of intensive collaboration between the Competition Council and the County Cluj, Dolj, Bihor and Sibiu, **four aid schemes aimed at establishing new airlines** with departure from Avram Iancu International Airport Cluj, Craiova Airport, Oradea Airport and Sibiu International Airport **have been notified and authorized by the European Commission in 2012-2013**. The average duration for obtaining authorization decisions was about two months.

Thus, on the 5th April 2012, was notified the aid scheme for setting up new airlines departing from Avram Iancu International Airport, Cluj-Napoca. European Commission authorized the aid on June 5th 2012. Through the scheme is envisaged that a 5.23 million euro State aid will be granted in the period June 2012 - December 2016, actually paid until December 2020. Expected growth in airport traffic is about 400,000 passengers / year (about 34%).

On the 28th of June 2012, was notified the aid scheme for setting up new airlines departing from Craiova Airport. The European Commission authorized the aid on the 16th of October 2012. Through this scheme, is envisaged to be granted a 1.372 million euro State aid in the period December 2012 - December 2016, actually paid until December 2018. The expected growth in traffic at the airport is about 62,000 passengers/year (about 70%).

On the 20th of March 2013, the aid scheme for setting up new airlines departing from Sibiu International Airport was notified. The European Commission authorized the aid on the 22th of May 2013. Through this scheme is envisaged to be granted a State aid of about 2.88 million euro in the period January 2013 - December 2017, actually paid until December 2020. The expected growth in airport traffic is about 378,000 passengers/year (about 220%).

Furthermore, on the 2nd February 2013, was notified the aid scheme for setting up new airlines departing from Oradea Airport. The European Commission authorized the aid on the 27th of May 2013. Through the scheme is envisaged to be granted a 2.475 million euro State aid in the period January 2013 - December 2017, actually paid until December 2020. The expected growth in airport traffic is about 118,000 passengers/year (about 295%).

### **The Project regarding the development in Romania of the broadband communications infrastructure in disadvantaged areas in terms access**

The Ministry for Information Society (MIS) plans to develop the broadband communications infrastructure in disadvantaged areas in terms of access (where there is no broadband communications operator and no intention to invest over the next three years), by providing funding from Community funds through the Programme "Increase of Economic Competitiveness" (84 million euro) (the Ro-Net project).

The consultations on the pre-notification document were developed in four stages, each making changes on how the establishment and operation of the network will be made, but also on its property.

Thus, the transition was made from the infrastructure that was planned to remain public property (April 2009 - January 2010), to the construction of infrastructure by the State and giving it to private property operators, following a public tender (January 2011 - March 2011), to the establishment of a **Service of General Economic Interest** (SGEI), in favour of an entity within MIS, which would be commercially managed the broadband network (April 2011) and, finally, to establishing a public property network, whose design, construction and operation is to be assigned through a single auction to operators, which, with that budget would cover most areas (May 2011 - December 2013).

The Competition Council granted to the Ministry assistance in every phase of the project, in order to be framed on the most favourable regulation, to identify optimal solutions for solving the problems encountered, to develop the needed materials for obtaining the European Commission approval and to expeditiously answer to the many questions sent by the European Forum to the Romanian authorities because any delay could lead to the failing of the project implementation and, consequently, the loss of 64 million euro from EU funds allocated to it.

As a result of the collaboration between Competition Council's experts and representatives of MIS, on 10th March 2013, the Romanian authorities were invited to formally notify the case to the European Commission.

The project was officially notified to the European Commission on the 23th of October 2013, after a favourable opinion of the Competition Council and on the 18th of December 2013 the European Commission issued a decision authorizing Ro-Net Project.

**The investment project "The interconnector pipeline of national gas transport system of Romania with the national gas transport system of the Republic of Moldova" (Iași - Ungheni)**

In January 2013, the National Agency for Mineral Resources (NAMR) requested the opinion of the Competition Council on the State aid implications of Government Decision no. 566/2012 regarding the approval of the technical-economic indicators of the investment objective *"The interconnector pipeline of national gas transport system of Romania with the national gas transport system of the Republic of Moldova on Iași – Ungheni path"*.

At the same time, the Authority of the Cross Border Program Management RO - MD sent to the European Commission, together with documentation of the project, a justification that is not a State aid issue.

In April 2013, the European Commission requested from the Romanian authorities information on the possible approach of the project in terms of specific State aid legislation, respectively if the Romanian evaluated the potential involvement of elements of State aid in this case and if the possibility of notification or pre-notification is taken into consideration.

With the help of Competition Council, the Romanian authorities have developed a response, which argued that the auction will be held both in the construction phase and the management assignment phase and the fee is set by oil law at 10% from the gross income obtained.

In response, the European Commission pointed out that it does not share the Romanian authorities opinion, according to which there are not State aid elements, because the fee is not fixed in proportion to the amount of investment and duration of its use, and the auction does not make sense if the price is set by law. In conclusion, the EU executive called pre notification measure.

The Competition Council provided specialized assistance to NAMR for the development of the response materials, advising Romanian authorities to comply with both national legislation on oil field and Community legislation of State aid, to develop an auction with a starting price represented by the fee established by the Petroleum Law.

Also, at the suggestion of the Competition Council, in the discussions with the European Commission, the Romanian authorities requested the division of the project in two parts : the construction phase and the effective infrastructure operation phase, suggestion that was accepted by the community forum. Because of this division, the significant delays that would have occurred as a result of not starting the work until the European Commission's analysis (a minimum term of 6 months) have been avoided and the construction of the pipeline could begin, which would otherwise be blocked and would have led to loss of the EU funds involved.

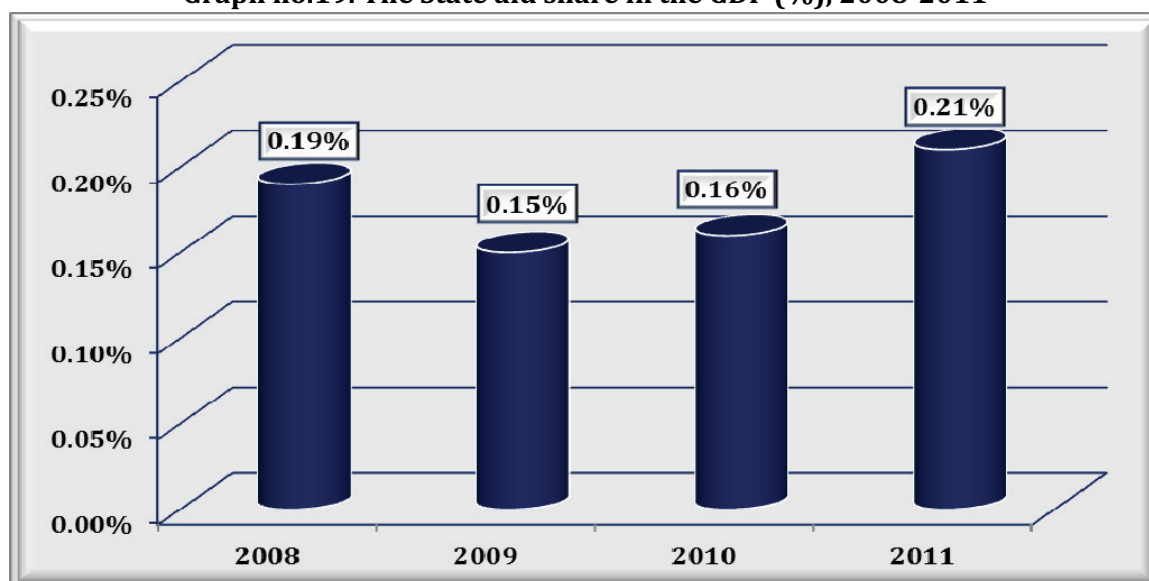
## Trends in State aid granting

In May 2013, the Competition Council published the Annual report on the State aids granted in Romania. The document presents the level, structure and the trends in granting State aids in our country during 2009-2011, based on the data and information submitted by all State aid grantors, local and central authorities, as well as by the organizations managing the State's and local communities' resources

In 2009, the National State Aid (less agriculture, fisheries, transport, compensations for services of general economic interest (SGEIs), de minimis aids, and State aid awarded under the Temporary Framework for Crisis ), expressed in Lei, in 2008 constant prices (2008 being considered as the basis year), has recorded the lowest value (level, amount) of the analyzed period, and of the entire post accession period.

In terms of the share in the gross domestic product (GDP), the evolution is shown by the graph below.

**Graph no.19. The State aid share in the GDP (%), 2008-2011**

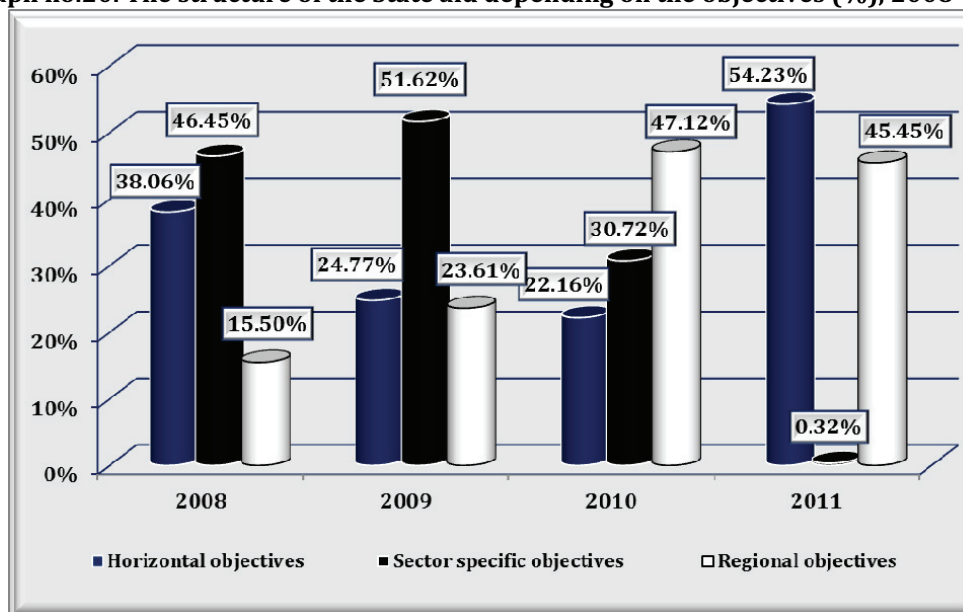


In 2009-2011, the percentage of the National State Aid in the Romanian GDP recorded an increase (from 0.15% in 2009 to 0.21% in 2011), this being due especially to State aids granted for regional and environmental objectives.

**A comparison with the other EU Member States shows** that in 2011 Romania has awarded State aids of about 7 times lower than the average of the EU-27; State aids granted in Romania during this year represented 0.53% of the total State aids awarded at the level of the whole EU. For comparison, could be mentioned the fact that aids granted in France represented about 20% of the total aids awarded at the EU level, while the share of those granted in Germany was of 23.5% of the same total. As concerns the level of the National State Aid, Romania stands on one of the last places among those EU MS having a level of real GDP per capita similar to that recorded in our country (e.g. Poland, Hungary, Czech Republic, Slovenia, Bulgaria).

In terms of the percentage in the GDP recorded by different State aid objectives, the report highlighted the following evolution:

**Graph no.20. The structure of the State aid depending on the objectives (%), 2008-2011**



The share of State aid awarded for sectoral objectives decreased significantly in 2011 (reaching 0.32% of the total granted State aids, compared to the level in 2009 – 51.62%), this situation being explained by the failure to give aid to the coal industry.

In 2011, the share of State aids having regional development as main objective, in the National State Aid, has been maintained at a high level (of over 45%) – this level being mainly due to the fact that Romanian authorities have promoted a large number of notified State aid schemes or a large number of State aid schemes exempted from the obligation to notify the European Commission.

The European Commission encourages Member States to promote State aid granted to horizontal objectives, these being considered as less harmful to the competitive environment; in 2009 and 2010, their weight in the total National State Aid was low (24.77%, respectively, 22.16%), being lower than the one recorded in 2008 (38.06%); in 2011, these aids has recorded a „spectacular” increase, attaining a high percentage in the National State Aid (54.23%) – especially due to the aids for environmental protection.

As for the structure of National State Aid by **granting tools** (financial instruments), it should be mentioned that the high share of the „Budgetary Expenditure” was maintained in 2011, in the detrimental of State aid having the nature of „State Revenues Renouncement”; the percentage of Budgetary Expenditure in the National State Aid has been maintained, in 2009-2011, at almost 98%, compared to the level of same indicator in 2008 (about 94.36%).

State aid grantors understood that State aids having the nature of Abandoning State Incomes are much less transparent than the amounts granted directly to State aid beneficiaries and much more harmful for the normal competitive environment.

The Report can be accessed at [www.stateaid.ro/State aid reports](http://www.stateaid.ro/State%20aid%20reports).

## **The Impact “Study of the State aid for the undertakings operating in industrial parks in Romania”**

In 2013, the Competition Council developed an impact study which aimed the effectiveness of state aid measures adopted following the granting of State aids in industrial parks in Romania, called **"The Impact of the State aid for the undertakings operating in industrial parks in Romania"**.

Parks are a useful tool for attracting investments, creating jobs and promoting innovation. Through them, can be supported start-ups, but can also be created an environment where local and international companies can interact with mutually beneficial results.

Industrial parks can become centres of growth, with positive effects for the region in which they are established, and for communities located in their neighbourhood. Given the large number of industrial parks in Romania and the existence, since 2000, of legal acts approving state aid measures in favour of the companies from industrial parks, Competition Council decided to conduct a study on the effects of the implemented support measures.

This study is the result of the monitoring activities undertaken by the Competition Council.

## **The multiannual project: Impact Study - "Identification of the State aid measures granted for the Services of General Economic Interest in Romania" - heat supplying services in Romania**

The objectives of the multiannual project are to identify the Services of General Economic Interest (SGEI) in Romania and the economic activities held within those, to quantify the State aid granted to providers of such services, to detect the possible overcompensation and the evolution of the number of clients of this services.

The expected results are strengthening of the development policies and strategy in the field, by the Competition Council involvement in the actions of follow-up and evaluation of support measures implemented by the Romanian authorities in the field of interest.

The results of this study will be used to improve the Governmental policies of protecting the clients of the companies providing SGEI and development of market entry opportunities for other companies in order to increase competition.

In the first phase of the project, the following main actions were achieved:

- the inventory of existing on the aids granted for services of general economic interest, respectively the State aids granted for the heat production, in order to establish the necessary information that will be required from suppliers and/or state aid beneficiary companies;
- collection of data and information;

- the conclusion of a protocol with the Romanian Academy - National Institute of Economic Research - Costin C. Kirițescu, in order to elaborate a procedure for achieving impact studies in the field of State aid in Romania.

As a result of the activities undertaken in the project, a series of results were achieved. Thus, all companies active in the production, transport and distribution of thermal energy, and the aid suppliers from the local government have been identified.

Following the centralization of the responses received from all interviewed parties, an overview will be obtained in respect to the state of each of the individual companies, of their economic and financial situation and the measures to be undertaken in the future to streamline and modernize of these national interest public services.

Also, the value of the State aid granted during 2007 - 2013 has been identified, and, by completing the study, will to be determined which was the impact of these aids on public service and if this activity, in the future, can be achieved without these support measures.

Other producers of heat that have received grants from local authorities have also been identified and we will analyse their current economic situation

The impact study, that will be completed in the year 2014 in the field of production transport and distribution of thermal energy, is the first of this kind conducted by a public authority and is of great importance in order to identify the problems which this sector faces and evaluate the impact of state aid granted in this sector.

Therefore, the results to be obtained in the multiannual project will be used to improve government policy in the public services of national general economic interest by granting state aid.

By compiling this national study, the Competition Council seeks to identify the economic and social effects caused by the support measures implemented by public authorities, the purpose being mentioned among the objectives of the State aid Community provisions, that condition granting of State aids by the occurrence of a positive impact on economic and social environment.

## **Preparing accessing EU funds in the 2014-2020 programming period**

Accessing European funds in the current multiannual financial programming cycle depends on the fulfilment of ex- ante conditionality, among them being also found an adequate record system which allows monitoring state aid spending, to ensure compliance with state aid rules, and, in particular, to avoid any violation of the rule of State aid cumulation.

The Competition Council submitted to the of Managing Authority for the Operational Programme Technical Assistance (MA PTA) a financing application from Community funding of the project "Creation of a mechanism to ensure better monitoring and control of State aid granted in

Romania". The overall objective is to ensure more effective enforcement in Romania of the European Union law in the area of management and control of state aid granted from the national funds and structural instruments and will be done by creating a mechanism to ensure better monitoring and control of state aids granted from the national funds and structural instruments.

Among the institutions that will use in current activity (users) the REGAS database: the aid providers , Competition Council and also the Certifying and Paying Authority, Audit Authority, Anti-Fraud Department , European Commission, European Court of Auditors and / or any other body empowered to check the use of non-reimbursable financing.

The project will be implemented during 2014-2015.

# CHAPTER 5

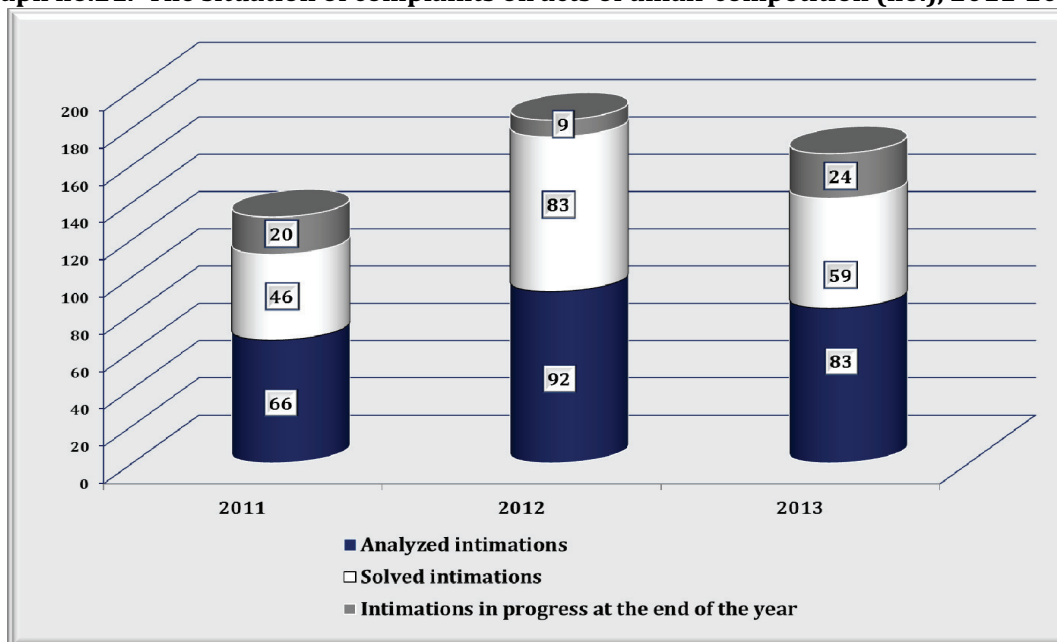
## *COMBATING UNFAIR COMPETITION*



In 2013, the Competition Council has investigated a number of 83 intimations. Thorough researches were carried out for 17 of them. Of the 83 cases analysed, 59 were resolved. At the end of 2013, 24 intimations remained under analysis, for 17 of them being carried out thorough researches.

The comparative situation in the last three years is shown in the chart below:

**Graph no.21. The situation of complaints on acts of unfair competition (no.), 2011-2013**



In -depth research during 2013 was conducted for:

- 9 possible deeds on deflecting the clients of a merchant by using links established with the customers during a position previously held by the merchant;
- 3 possible deeds on communicating or publicly spreading by a merchant of statements about his own undertaking or its activities, designed to mislead and to create a favourable situation to the detriment of competitors, as well as spreading false statements about a competitor, its goods or services, statements detrimental to the good of the firm competitive;
- 5 possible deeds on the dismissal or the attraction of the employees of a merchant with the sole purpose of setting up a competing undertaking to capture the customers of that merchant or the inveiglement of a merchant employees with the sole purpose of disorganizing its activity.

Below, there are presented a few case studies that deal with two types of unfair competition practices which have been investigated throughout the thorough researches conducted by the competition authority in 2013.

### **Communication or dissemination of statements designed to mislead/hijacking a merchant customers**

In March 2013, an undertaking has submitted a complaint with the Competition Council regarding possible acts of unfair competition committed by two competing companies that operate on the market of automated data, correspondence and documents processing services and preparing them for distribution in correspondence form.

The complaining undertaking considered that, with the purpose of denigrating and destabilization its business, the defendant companies have taken steps to different authorities, criticizing the concept of "hybrid mail" and its application by the complaining undertaking in association with a provider of mailing services undertaking.

Competition Council's analysis on the evolution of complaining undertaking's turnover registered in the period 2011 – 2012, has not revealed that the alleged false statements communicated/disseminated by defendants, has produced damages. The complainant has not presented sufficient evidence to competition authority showing a causal link between the evolution of the volume of monthly mail for the period December 2011 - March 2013 and the alleged false statements.

From the information provided to the Competition Council, it have not identified previously established commercial relations between the complainant and the defendant companies, and, consequently, nor established links with customers allegedly seized under any functions previously held by the defendant or by any representatives of these in this society. Thus, an essential condition for the existence of the offense of deflecting the clients of the complainant by using the links established with the clients in the positions previously held, could not be confirmed.

Thus, the analysis conducted by the competition authority did not result in any evidence to support the facts claimed.

### **Hijacking a merchant customers**

An undertaking notified the Competition Council regarding possible acts of unfair competition committed by a competitor that operates on the market of transport of good by rail and by an individual who has served as a director and was associated in the complainant undertaking. During the period in which the individual was administrator at the complainant undertaking, he had information on the firm's clients and has established links with them. Subsequently, the individual established a new undertaking with the same activity as that of the complainant.

Information provided to the competition authority by the parties revealed that in March 2005, so-called SV established, as majority shareholder, a new undertaking, and in January 2007 transferred the shares held in the complainant and resigned from administrator position. In February 2009, client X notified unilateral termination of service contracts concluded with the

complainant. During period 2005-2009, client X has conducted rail transport with four operators which were performing this activity, including the complainant and the undertaking established the SV.

The analysis of the provided information revealed that, at the time of termination of the service contract concluded with the complainant, client X was carrying out business relations with both companies, the contracts signed in 2010 with the undertaking established by SV being a continuation of the collaboration with it. Given that so called SV stopped the cooperation with the complainant in 2007, and the facts reported concerns the history of commercial relations conducted by the undertaking established by SV and client X, we find that it cannot be established a direct causal link between the alleged act of misappropriation of client X and the links with it established by so called SV within the position previously held to the complainant.

Based on the evidence in the case file, the competition authority considered that the complainant had not proved the existence of their clientele and its effective diversion and not proven a connection established by the former employee with that clientele, within his previously held position in this undertaking, thereby the denounced facts do not have the constitutive elements of the offense.

# CHAPTER 6

## *THE RAILWAY SUPERVISION COUNCIL (RSC)*



## New legislation and new members of the RSC

The **New Regulation regarding the organization and functioning of the RSC**, which was developed and adopted in 2012, and which sets out the precise procedural rules on the RSC organisation and the manner of fulfilling its duties within the Competition Council, was published during 2013, in the Official Gazette of Romania, thus entering into force

As a result of the resignation of a RSC member, by [Order of the President of the Competition Council no.543 of 30.09.2013](#)<sup>15</sup>, was established the new structure of the RSC board, as follows:

- President: Otilian Neagoe, Vice-President of the Competition Council;
- Members:
  - Bogdan - Bujor Teodoriu, Competition Councillor within the Competition Council;
  - Vasile Şeclăman, Secretary General within the Competition Council;
  - Anca-Andreea Atomi, competition inspector within the Competition Council;
  - Mihaela Marinescu, competition inspector within the Competition Council.

## Meetings of the RSC

In the first semester of 2013, the RSC **continued the series of meetings** with the main actors in this field: operators of passengers and freight rail, the rail infrastructure manager and the representatives of CENAFER (National Centre for Rail Training and Qualification) and of the ATFER (Association of Romanian Rail Transporters). On these occasions a number of issues faced in the railway industry have been raised: in the absence of funds allocated for maintenance and repairs, the rail infrastructure has deteriorated in the recent years, leading to a poor quality of services, especially in terms of speed and punctuality. Currently, the rail transport operators are affected, the completeness of this market is substantially reduced in comparison with other modes of transport, particularly in relation to the road sector.

In the context of the privatization of CFR Marfă, in January, the RSC Secretariat has prepared **a comparative analysis of the privatization of rail freight in different countries of the European Union**.

At the end of the first semester of 2013, the RSC completed the **Study on rail freight market in Romania**. The objective of this study was the to deepen the knowledge of rail freight rail market and to identify possible problems in this area. The main objectives for the development of rail freight in line with European trends and regional rail were identified, as follows:

- the increase of the development of a strong role of the railways in the Romanian society and economy;
- the increase of the customer confidence in the transportation system reflected by rising the freight volumes;

---

<sup>15</sup> Official Gazette no. 120 of 04.03.2013

- the increase of the industrial competitiveness and innovation;
- the development of the professional skills of workers in the rail freight sector.

Taking into account the analysis performed on the rail freight market in Romania and the trends in the sector, certain measures have resulted that are to be taken in order to improve the rail freight sector:

- achieving significant investment for the rehabilitation and the maintenance of the rail infrastructure;
- upgrading the ITU (intermodal transport units) storage platforms, the crane taxiways, the terminal access routes, equipping the terminals and for proper handling and thus re-launching the intermodal transport;
- upgrading and/or constructing the intermodal terminals and the related infrastructure.

Within the RSC meeting held in July, the Traffic Director of CFR SA presented a **report on the allocation of infrastructure capacity**, as well as on the compatibility of the CFR network document and the criteria provided for in with the applicable law and European standards.

In August, the RSC members met with the representatives of the Federation of Trade Unions of Railway Transport of Romania (FSTR) to clarify **certain aspects noticed to the RSC**.

In September, the RSC approved the initiation of a market **study of the rail passenger transport**. The objective of this study is to achieve a detailed analysis of the most important issues facing the passenger market and access to infrastructure in Romania and other European countries.

Within the October meeting, certain issues related to **the complaint of CFR Călători**, analysed by the RSC, were discussed. In addition, the main chapters of the market research in the field of rail travel were established and approved.

During December, **the Framework contract for the access to rail infrastructure during 2014** was analysed together with the representatives of CFR SA.

## Cooperation activities

### At the national level

- In February, a RSC delegation attended the meeting focused on the Infrastructure development - priority rail policy, organized by the Club Railway and by the Railway Industry Association of Romania. The event was held during 20-21 February in Sibiu, bringing together representatives of the European Commission, the national infrastructure manager, private administrators, private organizations and industry profile. The topics discussed were the prioritization of the railway infrastructure projects, the new organizational policies and the development objectives achieved in the last two years by the authorities responsible for managing the national railway infrastructure.
- A RSC delegation attended during 24-25 of April the conference Intermodal Romania - rail freight opportunities, organised in Constanta by the Railway Club. The topics discussed were: the market development strategies freight, the rail freight, the rolling stock fleet.

## At the international level

- A RSC representative participated within the Working group of the rail regulators concerning the rail freight corridors, organized by the European Commission, DG MOVE on February 15, 2013 in Brussels;
- During 14-15 of March, a representative of RSC attended the first meeting of the European Network of Railway Regulatory Bodies . The meeting was organized by the European Commission - DG MOVE in Brussels, Belgiumn.
- During 6 and 7 of June, a RSC delegation attended the Railway Summit of Moldova, organized in Chisinău by the Railway Club. The event brought together representatives of the infrastructure managers and of the rail freight and passengers operators from Europe and Asia, the countries of the Eastern Partnership, of the European Commission and of ministries and other international organizations that support the development of rail transport.
- In the period 11 – 12 of September, two RSC representatives attended the Working meeting of the regulatory bodies within the Railway Corridor 7 on rail freight, held in Budapest, Hungary. As a result of attending this working meeting, based on the mandated participation of the RSC delegation, it was decided on the Cooperation Agreement to be concluded between the Member States regulators of the freight corridor seven (the Czech Republic, Austria, Slovakia Hungary, Romania, Bulgaria and Greece).
- Railway regulatory bodies cooperate including on issues related to costs, so as to facilitate the development of common principles and practices. In this context, RSC sent to the representatives of DG Move the responses to the questionnaire on how to calculate the direct costs of providing access to the rail infrastructure.
- During 2 - 3 of July, a RSC delegation attended the second ENRB (European Network of Rail Regulatory Bodies) meeting in France, Le Mans and during 25 and 26 of November the third meeting of ENRB in Brussels, Belgium.

## RCS priorities for 2014

For 2014, RSC proposes to conduct a **study on the market of rail passenger transport** based on the reports on the relevant indicators for monitoring the progress in rail services markets. The members of the RSC will continue the series of meetings with key actors in the field of railway transport: the freight and passengers operators, the leadership of CFR infrastructure, the AFER representatives, and those of ATFER and CENAFER.

The RSC representatives will also attend **national events, conferences and seminars** dedicated to the rail transport.

In the external relations filed, RSC will further **develop and strengthen the relationships with similar bodies from the European Union**. The RSC representatives will continue to participate in the working groups of the regulation bodies, organised by the European Commission and will be involved in the consultation process and exchange of information for promoting the best practices that can be adopted in Romania.

# CHAPTER 7

## *INTERNATIONAL ACTIVITY*



The main international activities of the Competition Council were :

- ECN (European Competition Network<sup>16</sup> ) and European Affairs;
- Bilateral relations;
- Actions in cooperation with international organizations (OECD, ICN, UNCTAD and ECA).

## ECN and European Affairs

In 2013, **the ECN recommendations were adopted and published on DG Comp website to provide competition authorities of EU Member States with the adequate tools to enforce competition policy**. The recommendations allow the alignment to common standards in the field of investigation and decision making powers while pursuing to advocate the national bodies involved in shaping the legal framework. Enforcement of these powers, in accordance with the given provisions, complies with criteria of proportionality, legal certainty, principles of fundamental rights, containing those enshrined in the European Union Charter of Fundamental Rights as well in the European Convention of Human Rights.

In synthesis, these documents regard **effective means to comply with inspections, prioritization of cases, assistance in inspections, interim measures, structural remedies, commitments, Forensic IT techniques**.<sup>17</sup> The project on sanctions and effective means to comply with inspections and RFIs, initially coordinated by the Competition Council and the Poland competition authority was finalised in 2013. The conclusions and recommendations of the project were conveyed within ECN.

Apart from the ongoing activities in antitrust field, the European Commission launched public **consultation on simplified procedure to analyse merger notifications and, respectively, on effective merger control while extending the scope of the EU Merger Regulation to the acquisition of non-controlling minority shareholdings**. The draft papers of the European Commission were analysed by the Competition Council and debated in ECN working groups.

Likewise, the Competition Council replied in the public consultation organized by DG Internal Market and Services on the **Green Paper regarding unfair practices**, the document of reply being published on DG Market website<sup>18</sup>.

---

<sup>16</sup> ECN is the mechanism of cooperation between the competition authorities of the EU Member States and the European Commission designed to ensure the uniform application of the Community provisions on competition. Moreover, it is the framework for elaborating common position papers, for exchanging information or for coordinating the investigations initiated under the Treaty on the Functioning of the European Union.

<sup>17</sup> <http://ec.europa.eu/competition/ecn/documents.html>.

<sup>18</sup> [http://ec.europa.eu/internal\\_market/consultations/2013/unfair-trading-practices/contributions\\_en.htm](http://ec.europa.eu/internal_market/consultations/2013/unfair-trading-practices/contributions_en.htm).

In the field of **actions for damages**, the Competition Council contributed to the drawing up of mandates sent to the Permanent Representation of Romania to the European Union as supportive documents for debates in Competitiveness Council and COREPER on the draft Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union

In the European Affaires area, the competition authority was active in the weekly meetings of coordination organized by the Ministry of Foreign Affairs to enforce the EU law.

Moreover, within the **ECN activities of exchange of information**, the Romanian competition authority answered to 5 requests used in the case assessment and it replied in its turn to 17 requests formulated by other EU competition authorities. Likewise, in the consultation procedure with the European Commission, in accordance with Regulation 1/2003, 10 information fiches were completed in antitrust cases. With respect to merger field, statistically, the competition authority looked into 275 notification of merger cases sent by Commission to evaluate the effects on the Romanian market.

In 2013, the competition authority continued its activity **as editor and correspondent** for the ECN Newsletter and, respectively, ECN Brief.

## Bilateral relations

The Competition Council continued to develop the bilateral relations with the competition authorities from Europe (Serbia, Croatia, Austria, Moldova, etc), through **participation as lector in a series of events**, including TAIEX workshops, the last representing a tool of technical assistance and exchange of information put in place by the European Commission. In these meetings, the competition authority made presentations with the recent developments in energy, pharmaceutical, food retail and motor vehicle spare parts sectors.

In July 2013, on occasion of the **visit in Kazakhstan** of the Romanian official delegation, headed by Mr. Victor Ponta, the Prime Minister, the Competition Council President signed a **memorandum of cooperation with the competition authority of this country**, laying down the basis for exchange of experience on leniency policy, merger control, competition assessment in retail sector, within the actions that would take place in 2014.

In October 2013, the study **visit on state aid of representatives of State Aid General Directorate, Turkey** took place. The scope of the visit was rendered by the empirical and theoretical information received by the Turkish officials with regard to the enforcement of EU state aid rules.

In the framework of bilateral cooperation, we mention the work **visit of the representatives of the competition authorities from Hungary, Moldova, Serbia and Kazakhstan**, in which exchange of experience on common issues took place.

In the follow up of the process to exchange experience with the **competition authority of Moldova** in 2013, **2 bilateral meetings** were organized, to discuss the latest EU developments of the reform on modernization of state aid rules. Also, practical examples of cooperation with state aid grantors at regional level as well as the functioning of the National State Aid Network (Romanian acronym: RENAS). Having in view the recent adoption of state aid regime in Moldova, several meetings with state aid grantors took place to share from the Romanian experience on evaluation of state aid measures.

## Cooperation with international bodies in competition field

The Competition Council has deployed intensive efforts towards the Competition Committee' structures of the **Organization for Cooperation and Economic Development (OECD)** but also at the national level (Ministry of Foreign Affairs and the Ministry of Public Finance) for the identification of funds, as well as the ways in which it could be held in 2013, a thorough evaluation exercise (**Peer-Review**) of the competition law and policy in Romania under the aegis of the OECD so that Romania, represented by the Competition Council would become a member of this Committee.

Thus, on July 24, the Romanian Government approved the Memorandum having as subject: ***The participation of the Competition Council at the OECD Peer-Review in competition field within the period 2013-2014.***

In the process of examining the competition law and policy in Romania by the responsible bodies of the OECD in competition field, the Romanian competition authority has prepared and submitted to the Rapporteur appointed by the OECD a number of materials, answers to numerous requests for information, including a comprehensive questionnaire in order to identify the progress made by the Competition Council in terms of its administrative capacity, implementation and promotion of competition rules in a number of important sectors of the Romanian economy, inter-institutional and international cooperation with a view to accomplishing its mission.

The working mission of the OECD Rapporteur in Bucharest took place as well within 23-27 September 2013. On this occasion, Competition Council facilitated a series of working meetings of the OECD Rapporteur with the representatives of the Government, the regulatory authorities, the Romanian Parliament, business, legal and academic environment.

The results of the **Peer-review** are going to be presented within the period 27-28 February 2014, on the occasion of the OECD Global Competition Forum from Paris.

In the framework of the cooperation with the OECD, significant results were also achieved through the participation of the Competition Council's staff in the activities of the **OECD Regional Centre** based in Budapest. Within these activities, presentations and interventions were delivered in four seminars on topics such as discriminatory practices, complex merger cases, investigation procedure in cartel cases and intellectual property rights.

In 2013, as a member of the **International Competition Network (ICN)**, the Competition Council has participated in the activities carried out within the working groups of this body. The representatives of the Romanian competition authority delivered two presentations within the events held in Warsaw on the occasion of the ICN Annual Conference:

- “*Levelling the playing field in Romania*” within the Pre-ICN Forum entitled **Making markets work for development: a reform agenda on competition**, organized by World Bank;
- “*Challenges of the antitrust policy in the Eastern Europe*” on the occasion of the roundtable **Improving antitrust compliance and Looking East**, organized by the International Chamber of Commerce.

In May 2013, the Competition Council held in Bucharest, **the plenary of the Network of Competition Authorities (ECA)** which is an annual meeting of the EU competition authorities and the European Free Trade Association. The meeting was divided into five panels on:

- Competition and regulation in the medical services field;
- Competition rules in the digital economy;
- Transparency of a competition authority’s activity ;
- Minority shareholding;
- Issues concerning the next ECA reunion.

The representative of DG COMP, Mr. Alexander Italianer, general director, delivered a presentation on the European Commission’s priorities in competition field. The heads of the competition authorities had the opportunity to briefly present the recent evolutions at national level concerning the legislative aspects, case-law and management.

The Competition Council continued to get involved in the activity of the Intergovernmental Group of experts in competition field under the aegis of **the United Nations Conference for Commerce and Trade (UNCTAD)**. On this occasion, a presentation on “Advocacy to policy and law makers” was delivered by the Competition Council within the Euro-Mediterranean Forum in competition field.

# CHAPTER 8

## *PROMOTING THE COMPETITION RULES*



Promoting the competition rules refers, mainly, to strengthen the cooperation with other institutions and to increase the confidence of all stakeholders in the competition benefits (ministries and State institutions, undertakings, magistrates, professional organizations and trade unions, NGOs, consumers, etc.). The promotion of the competition rules is achieved by attending and by lecturing meetings with specific target groups, organized both in Bucharest and at local level: the business environment, the local public administration, the regulators of certain markets or other competition authorities in the region.

### Cooperation protocols with other institutions

In 2013, the Competition Council concluded a protocol of cooperation with the National Agency for Fiscal Administration.

The objectives of the protocol envisage:

- Cooperation between the two institutions with a view to enforce the budgetary debts resulting from the application of the sanctions by the Competition Council;
- Reinforcing the exchange of information necessary to the parties in order to fulfil their obligations, according to the law.

### Public consultation

In 2013, Competition Council submitted to public consultation the sector investigations reports regarding the film distribution to the Romanian cinemas, the card payment services and the constructions works of roads and highways by means of their publication on the institution's website for a 30-day-period.

At the end of this process, the competition authority had the possibility to include in the reports the feasible observations received from the all interested parties.

### Relation with mass-media

In 2013, the Competition Council has participated in a number of 38 events where press representatives have participated in, out of which 6 were organized by the Romanian competition authority.

In 2013, the number of appearances in central press with reference to the Competition Council's activity was 2,970 times, out of which 1,200 in written press, 554 at radio and 1,216 at TV. Out of these referrals, 16 were unfavourable (0,5% of the total), the rest being neutral or favourable. The number of references increased by 7% compared to 2012 and decreased by 16% compared to 2011.

In 2013, the number of unfavourable references decreased by 0.1 pp compared to 2012 and by 4.5 pp compared to 2011.

The main subjects debated in mass-media in 2013 were the following;

- CFR Marfă privatization - over 40% of total;
- the report on the market of construction of roads and highways;
- the inner-banking commissions applied in Romania;
- the taking over of Real stores by French Group Auchan;
- the bread price;
- the investigation on the grain market.

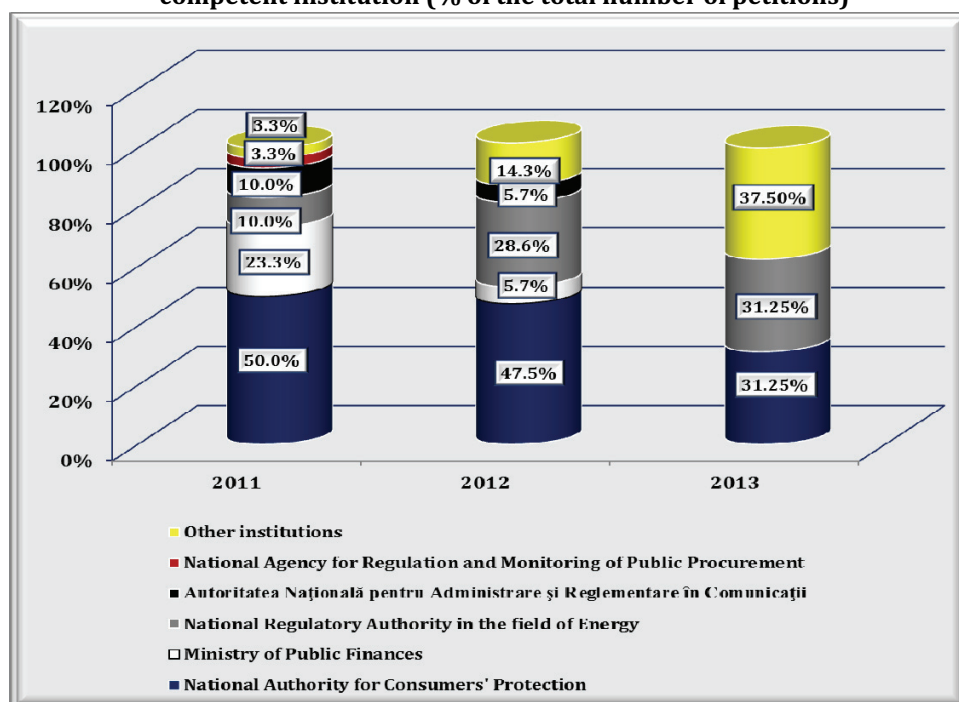
There were sent 33 press releases, with 18% less compared to 2012 and with 34% less compared to 2011.

During 2013, there were also answered to a number of 34 public information requests, with 80% more compared to 2012 and with 55% compared to 2011.

The number of complaints that have been diverted to other institutions and authorities because they were not of Competition Council's competences were 16 and have decreased by 54 % compared to 2012 and by 47% compared to 2011. This evolution shows that the promoting activity carried out in the last three years had as effect the increase of public awareness on the authority's competences.

The evolution of these documents structure depending on the competent institution/authority in the period 2011-2013 is presented in the chart below.

**Graph. no.22. The structure of the petitions forwarded to other institutions based on the competent institution (% of the total number of petitions)**



The official website of the institution ([www.competition.ro](http://www.competition.ro)) was accessed by 138,000 times (with 16% more compared to 2012), 39.49 % (more with 0.5 pp compared to 2012) of them accessing the site for the first time. The page of State Aid Network ([www.stateaid.ro](http://www.stateaid.ro)) contributed to the accomplishment of its role as national contact point in the State aid field. It has been accessed 31,116 times (with 30% more compared to 2012). The website dedicated to Leniency Module ([www.clementa.ro](http://www.clementa.ro)) was accessed 2,535 times (with 8% less compared to 2012), 74% of them (more with 2 pp compared to 2012) visiting the site for the first time. The special page dedicated to the Railway Supervision Council ([www.consiliulferoviar.ro](http://www.consiliulferoviar.ro)) has been accessed 1,584 times (with 4% more compared to 2012), 67% of them (more with 6 pp compared to 2012) visiting the site for the first time.

The evolution of media appearances, press releases, press conferences, the number of requests for information of public interest and the petitions/applications submitted to competent institutions are presented in the [Statistics](#) section.

## The Centre for studies on the competition law

[The Centre of studies on the competition law](#) is a research unit, unincorporated, within the Faculty of Law, University of Bucharest.

The Centre was set up in 2011 based on an agreement concluded between the Competition Council and the Law Faculty, within the University of Bucharest. It aims to promote research in the field of competition law analyzing key aspects of the law and enforcement in this technical area of the law which is essential for economy.

In this regard, the Centre organizes seminars, debates, conferences and symposiums where participates besides the Romanian and foreign specialists as well as students. In 2013, the topics discussed within the meetings were the following: "The Leniency program of the European Union in the light of recent cartel cases " and "Current issues of competition law enforcement on horizontal cooperation agreements".

## Presentation of the 2012 Annual Report of the Competition Council

The 2012 Annual Report of the Competition Council was launched within the international event named "Achievements and perspectives of competition on the Romanian market" organized on 30 May 2013.

On this occasion and in collaboration with AmCham Romania there was organized a roundtable "*Pro-competitive legislation for a predictable business environment*". The purpose of this session was to identify ways to enhance cooperation with Parliament, government and business environment within the legislative process.



At the same day took place a roundtable "Developments of competition in Romanian food retail". A constructive dialogue on opportunities and challenges in the food retail sector took place among leading players in the public and private system and academics.

The events have benefited from the remarkable presence of Mr. Alexander Italianer, Director General, DG Competition, European Commission, Mr. Bruno Lasserre, President of the French Competition Authority, Mr. Alberto Heimler, Chairman of the Working group on competition and regulation within the OECD Competition Committee and Mr Paul Csiszar, Director of Industry and Agriculture Unit within DG Competition, European Commission.

The Report can be accessed at the address: [www.competition.ro/publications/annual-reports](http://www.competition.ro/publications/annual-reports).

## Launching of the Annual Report on Competition

The event "Competition in key sectors of the Romanian economy" took place on November 7, 2013. On this occasion, the Competition Council launched for public debate the 2013 **Report on competition in key sectors of the national economy**.

The report focused on five sectors, namely, banking, automotive sector, the liberal economic professions, food retail, and natural gas.

The event was attended by valuable national and international lecturers that discussed issues on competition on the payment cards market and sanctions to deter cartels in order to promote consumers' interests.

The Report can be accessed at the address:  
[www.competition.ro/publications/latest-publications](http://www.competition.ro/publications/latest-publications).



# CHAPTER 9

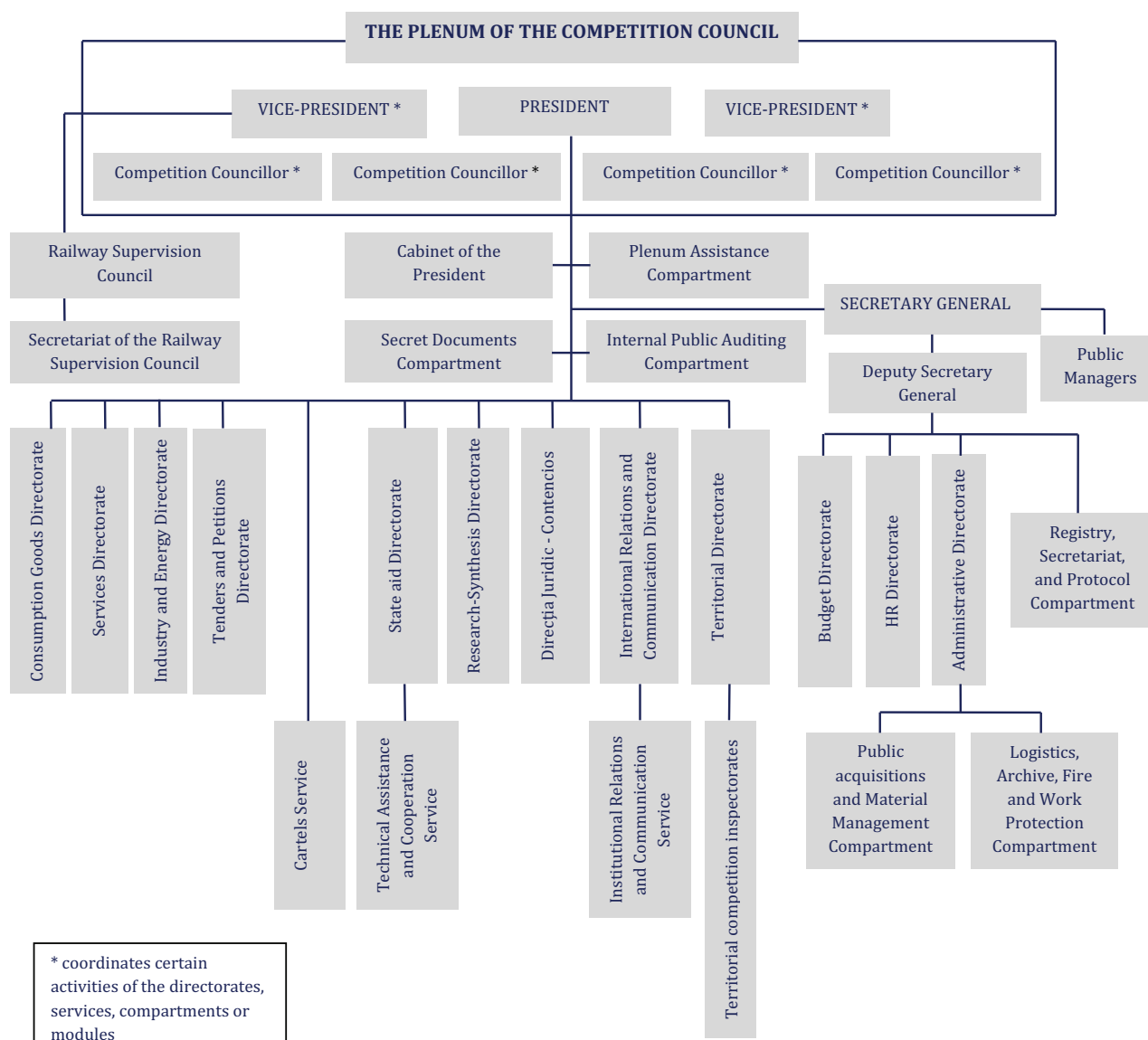
## *ORGANISATION AND RESOURCES OF THE COMPETITION COUNCIL*



## Organisation

According to the Regulation on the organisation, functioning and procedure of the Competition Council adopted in 2012, the organizational chart of the institution is the following one:

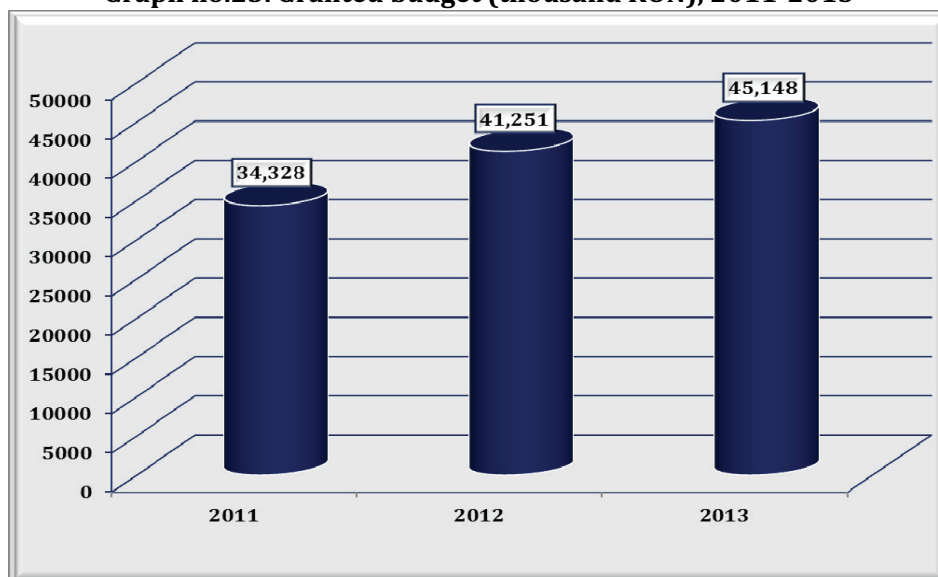
**Figure no. 3. The organizational chart of the Competition Council**



## Budget and budgetary execution

In 2013, the budget of the Competition Council was of RON 45,148 thousands. The comparative situation with 2011 and 2012 is presented in the graph below.

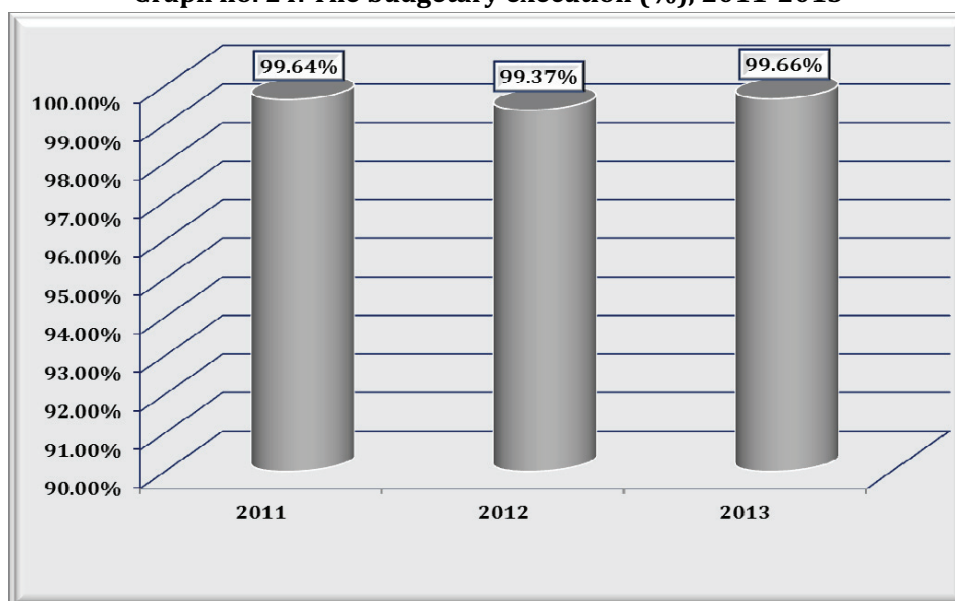
**Graph no.23. Granted budget (thousand RON), 2011-2013**



The budget was by 9.4% higher than in 2012, respectively by 31.5% then in 2011. We mention that most of this increase is a result of the budgetary funds granted for the two projects with external financing. The two projects represented 11.1% of the total budget granted to the Competition Council in 2013, respectively RON 5,024 thousands.

Considering the above mentioned, the budgetary execution in 2013 was 99.37%, without taking into account the projects with non-refundable external financing

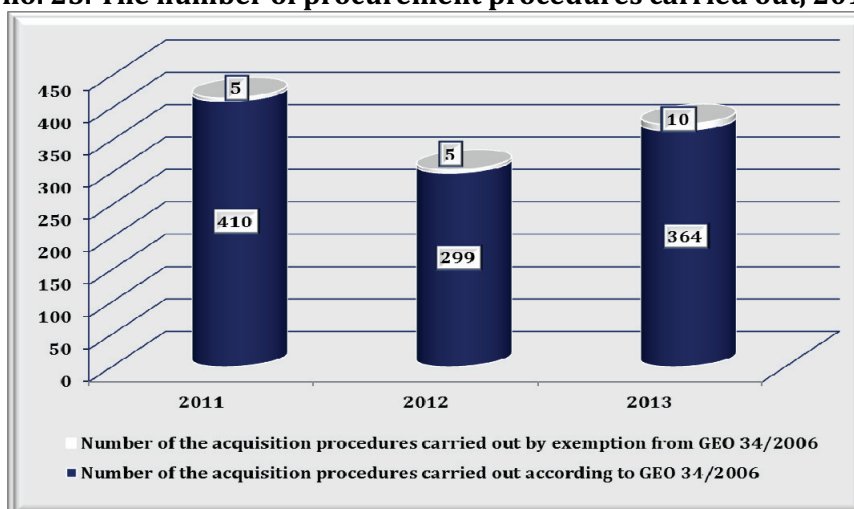
**Graph no. 24. The budgetary execution (%), 2011-2013**



The Competition Council carried out 364 procurement procedures during 2013, in amount of RON 3,653,750. Ten of this total number of procedures were carried out by exception from the specific legislation in the field, namely *GEO no.34/2006 on the assignment of public procurement contracts, public works concession contracts, and services concession contracts (GEO no.34/2006)* envisaging the contracting of utilities, of the mandatory motor vehicle insurances, postal services etc. Compared with 2012, the number of public procurement procedures increased by 20% and decreased by 12% compared to 2011.

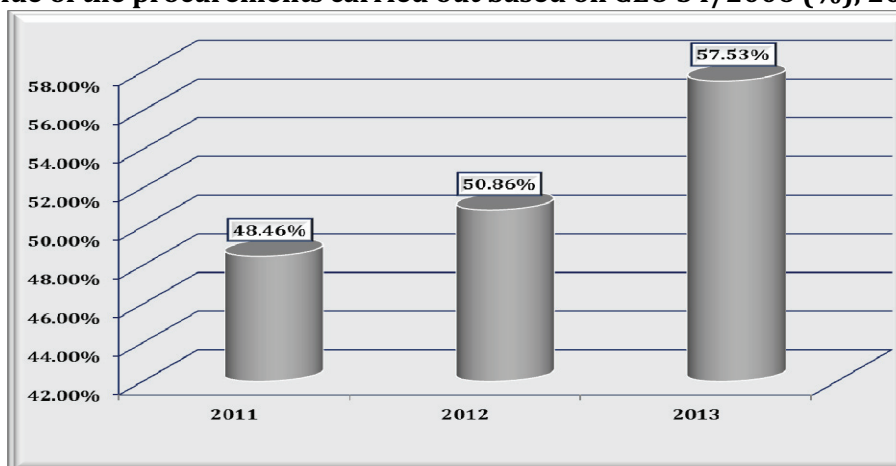
The evolution in the last three years in this field is presented by the graph below.

**Graph no. 25. The number of procurement procedures carried out, 2011-2013**



Considering the number of procedures carried out based on the specific public procurement legislation, 57.53% were conducted through SEAP (Public Acquisitions Electronic System). Considering their value, by this system were contracted 57.53% of the total value of the goods and services acquired in 2012 based on GEO 34/2006 (from State funds). Please note that this percentage is due to the fact that, for purchases made from external non-reimbursable funds, the final stage of the electronic auction could not be applied, whereas all purchases have targeted consultancy services.

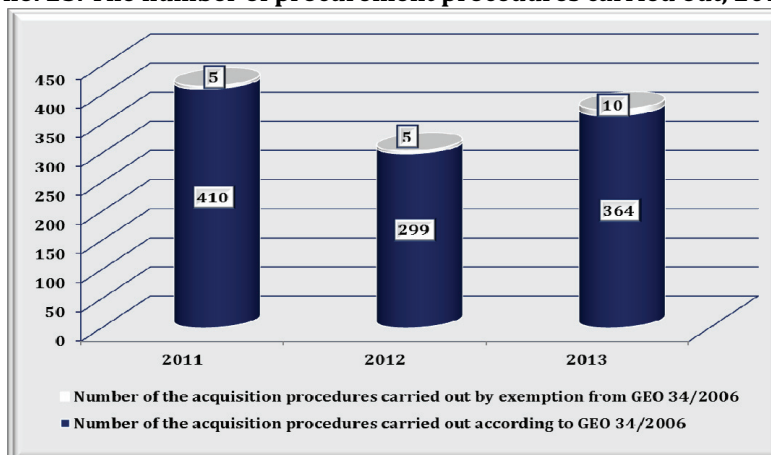
**Graph no. 26. The weight of the value of the procurements carried out by SEAP in the total value of the procurements carried out based on GEO 34/2006 (%), 2011-2013**



## The projects carried out by the institution

In 2013, the Competition Council organized a part of its activity based on 15 projects. The budget spend in this regard was of RON 10,253.6 thousands, representing around 22,7% of the institution budget.

**Graph no. 25. The number of procurement procedures carried out, 2011-2013**

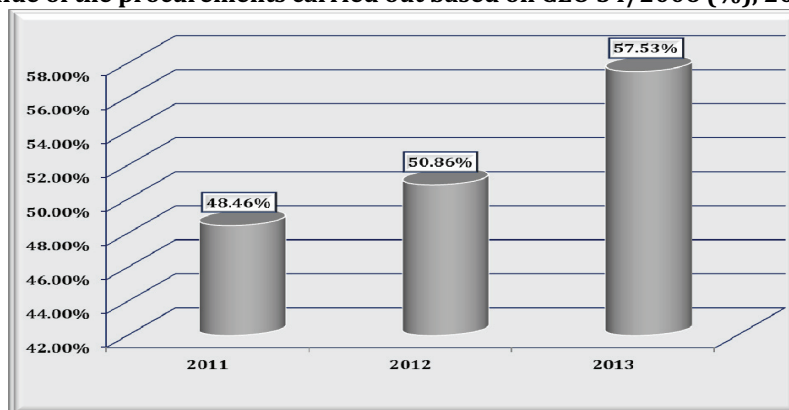


The percentage of the total budget of the Competition Council allocated for the projects decreased by 6 percentage points compared to 2012 and by 12 percentage points compared to 2011. The decrease of the percentage allocated for the projects in 2013 compared to 2012 and 2011 is due to the implication of the institution as a partner in the projects financed by European funds.

The distribution of the resources allocated for the running of the projects determined the move of the accent from the projects financed from the national budget to the others financed by European funds. From the point of view of the value, in 2013, the budget for these projects was lower by 5% compared with 2012 and by 15% compared to 2011.

Regarding the accomplishment level of these projects (budgetary execution and the achievement of the qualitative indicators), in 2013 it achieved the level of 99%, higher by 7 percentage points compared to 2012, and by 9 percentage points compared with 2011.

**Graph no. 26. The weight of the value of the procurements carried out by SEAP in the total value of the procurements carried out based on GEO 34/2006 (%), 2011-2013**



Below are described the main objectives of the projects carried out by the Competition Council in 2012.

### Core business

In this category were included 7 projects that aim the following areas: State aid, competition, European affairs, enforcement of the competition legislation, the supervision in the railway field. Concerning the **State aid**, the project aimed the following:

- carrying out a study for identifying the Services of General Interest Economic entrusted to Romania and of the economic activities carried on within them, quantifying the State aid granted to the providers of such services, detecting any overcompensation and identifying the evolution of the number of the clients of such services,
- the interactive application ReNAS to be functional and accessed by a minimum of 100 users within the Competition Council and the State aid supplying institutions from Romania din Consiliul Concurenței și instituțiile furnizoare de ajutor de stat din România;
- the web page <http://www.ajutordestat.ro> to be functional and updated permanently, and to be accessed by a minimum of 10,000 users;
- creating at least 2 new facilities for the users of the webpage [www.ajutordestat.ro](http://www.ajutordestat.ro);
- the elaboration and dissemination of at least 6 newsletters
- the organization of minimum 4 training sessions;
- the organization of minimum 3 inter-ministerial meetings;
- the elaboration and dissemination of at least 150 clarifications concerning State aid cases;
- to attend minimum 20 bilateral or multilateral reunions organised by the European Commission and the European Council;
- to elaborate at least 10 formal opinions on the notifications and information sheets transmitted to the European Commission;
- granting technical assistance for drafting at east 10 de minimis and State aid schemes.

Regarding the **competition** field, the priorities were the following:

- presenting the markets where the Romanian business environment is active on;
- assessing the concentration of each market;
- the evolution of the market concentration in 2012 compared to the previous years;
- the top of the undertakings activating on the national market based on their turnover;
- the top of the counties based on their turnover (the weight of their turnover in the national turnover);
- the top of the development regions based on their turnover (the weight of their turnover in the national turnover);
- the situation of the undertakings operating within the competition sensible sectors;
- calculating the weight of the competition sensible sectors in the total national market;
- identifying the evolution of the competition sensible sectors in 2012 compared to the previous years;
- to analyse comparatively the economic and financial indexes in 2012 compared to their level in 2011;
- to finalise 9 investigations on the possible infringement of the Competition Law (by drafting the investigation report);
- to finalise 3 sector inquiries in 2013 (by drafting the investigation report);

- to open one sector inquiry during 2013;
- to finalise certain investigations initiated during 2012 scheduled to be completed in term of 18 months from their initiation.

For **improving the enforcement of the competition legislation**, the objectives focused on the following:

- the organisation of round tables targeted on judges, so as to improve their knowledge on the application of the competition rules and for a better grounding of the courts' decisions in the competition field;
- to continue to improve the knowledge on the Community competition law by attending training programmes organised by the Academy of European Law in Trier;
- to facilitate the knowledge of the national and European legal framework, as well as of the national case law, by acquiring a legislative program so as to help the exercise of the powers of the Competition Council staff.

Concerning the field of **European affairs and international relations**, the aim was to:

- disseminate and report the cases investigated by the Competition Council under the Community competition law, using the specific ECN tools;
- disseminate within the Competition Council the cases investigated by other national authorities under the Community competition law which may be of interest to the Competition Council
- use in investigating the Competition Council cases the knowledge gained within the ECN and the training internships at the European Commission;
- make regular information on the practice of the European Commission and of other national competition authorities, as well as on the most recent approaches at the European level in the field of competition and State aid policy;
- identify the economic concentration cases of a Community dimension with relevance for Romania and to cooperate with the European Commission and other national competition authorities for avoiding or limiting any possible negative effects on the Romanian market;
- present the Competition Council views on European Affairs within reunions of the Ministry of Foreign Affairs;
- promote at the international/bilateral level certain aspects/cases/best practices of the Competition Council, including by exchanging experience;
- increase the expertise of the Competition Council by attending specific training sessions (OECD Regional Competition Centre Budapest, IT Forensic);
- increase the involvement of the Competition Council representatives within the activities of the OECD Budapest Regional Centre, as lecturers in all the actions where the Competition Council has shared its experience;
- open the accession negotiations of Romania to OECD;
- contribute to the convergence of competition law enforcement in the Black Sea –Caspian Sea and Balkans regions.

Regarding the **efficient management of the supervision activity in the railway field**, the aim was to:

- organise working meetings with public and private operators, as well as with the organisations involved in the railway field (ATFER, AFER, CENAFER);

- enhance the active participation of the delegates at the events organized by other parties involved in the activities taking place in the field of rail transport (seminars, conferences and symposiums in national and international);
- elaborate market studies focused on the railway passenger transport and the railway freight transport;
- elaborate certain points of view/observations within the working groups of the Railway Regulation Bodies Network concerning the manner of drafting/amending regulations, directives, etc.;
- to draft and publish the annual report on the website [www.consiliulferoviar.ro](http://www.consiliulferoviar.ro).

## Strategic

In this category were included 5 projects aiming at increasing the performance of the employees, at consolidating the economic component of the competition policy, at strengthening the institutional relations and the collaboration with the academic environment, by:

- acquiring training services and training of 100 persons in the fields recommended following the evaluation reports;
- procuring newspapers, on-line subscriptions and books;
- using the competition assessment indexes and of the competition index within the annual analysis of the competition in key sectors;
- involving the economic analysis team by granting support in 5 cases, at least;
- attending a micro economy course by the Competition Council employees (an average 30 persons per daily session);
- drafting an internal course focused on micro economy theory to be available for the institution personnel;
- applying newly created methodologies in 3 cases, at least
- opening the institutions towards the academic environment and the students;
- initiating and carrying out a career orientation programme program for PhD candidates, students and master students which graduated the Academy of Economic Studies;
- elaborating in partnership of analyses, impact studies and scientific researches in the domains of competence of the Competition Council;
- attending actively and continuously the preparing Government meetings;
- a continuous and preventive dialogue with the public authorities;
- promoting the events;
- a differentiated approach of each contacted group, based on its specificity and the data available about them;
- organising events in partnership with established entities in the field.

## Logistical

For consolidating the administrative capacity of the institution a project was implemented targeting the acquisition of certain facilities for a better running of the institution at the local level.

## Visibility

The projects from this section envisaged to promote the competition rules, the institution's results and to increase its visibility within and outside the national borders.

Promoting the competition rules is achieved by organising meetings (round tables/seminars/debaters) focused on certain target groups: the business environment, the local public administration, market regulators.

The promotion of the actions and of the results of the institution was done through two conferences (the conference for presenting the annual report and the one for launching the report on the competition in Romania) and publications (annual report, the newsletter of the institution, the report on the competition in Romania).

## World Bank assistance

The Competition Council is partner of the General Secretariat of the Government, as beneficiaries of a financing contract for the project "*Improving the Efficiency of Competition Policy Enforcement in Conjunction with Sector Specific Policies*" through the Operational Programme "Development of the Administrative Capacity" (OP DAC).

The project is financed from the European Social Fund and from the State budget. The project is going to be implemented during 24 months from the signing of the financing contract, namely from May 2012 until May 2014.

The **general objective** of the project is to support the partnership between the General Secretariat of the Government and the Competition Council in order to promote the competition principles in the Romanian administration. The project responds to the general objective of the OP DAC as to help the development of the public administration in the social and economic benefit of the Romanian society.

### Specific objectives:

- improving the national regulation framework and increasing the level of the convergence with the UE legislation;
- increasing the role of the Competition Council in developing the competition policies and principles;
- increasing the knowledgebase related to the best European practices in the competition field;
- supporting the business process and working procedures through the ITC instruments;
- strengthening the administrative capacity of the Romanian competition authority.

**The aim** of the project is to obtain structural and process improvements in the public policy management within the central public administration.

The implementation of this project shall ensure the coordination in real time of the sector specific policies and of the competition policies. According to an agreement signed in 2012, the World Bank provides technical assistance to the Competition Council in implementing the project OP DAC with activities grouped on four components, as follows:

- Component 1: Review of the legal and regulatory framework governing the market competition;
- Component 2: Strengthening the advocacy activities in the field of competition in public and governmental bodies;
- Component 3: Implement a new business architecture of the Romanian Competition Council;
- Component 4: Human resources capacity building.

### **An integrated IT system interoperable with databases of the central public administration that ensures monitoring of the competitive environment**

In 2013 started the implementation of the project *“An integrated IT system interoperable with databases of the central public administration that ensures monitoring of the competitive environment”*, financed through the 2007-2013 Sectoral Operational Programme Increasing Economic Competitiveness.

It involves the development of a high performance hardware structure supporting an integrated IT system for the interoperability of the ITC systems of Competition Council with the ITC systems of the National Trade Register Office, of the National Agency for Fiscal Administration, of the National Authority for Regulating and Monitoring Public Procurement, the Ministry of Communications and Information Society/Electronic System for Public Procurement.

At the same time, an internal portal will be developed and the existing on-line services portal available for citizens/ business environment/public administration will be extended extending. At the same time an intelligent reporting system will be created in order to support the decision making process within the Competition Council.

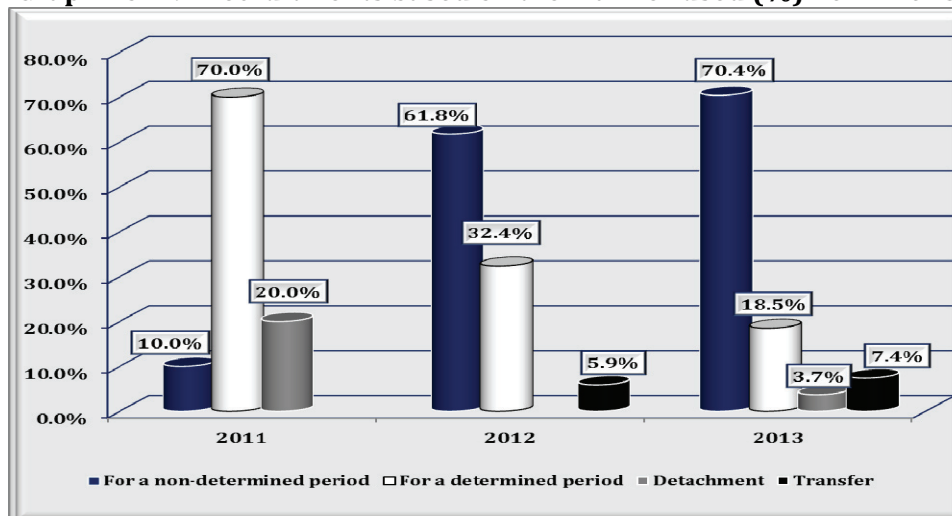
### **Securing the national interest cyber infrastructure of the public institutions**

Starting with 2013, the Competition Council is involved in the project *“Securing the national interest cyber infrastructure of the public institutions”*. The project is managed by the Cyberint Centre National, the Institute of Advanced Technologies within the Romanian Intelligence Service.

### **Human resources**

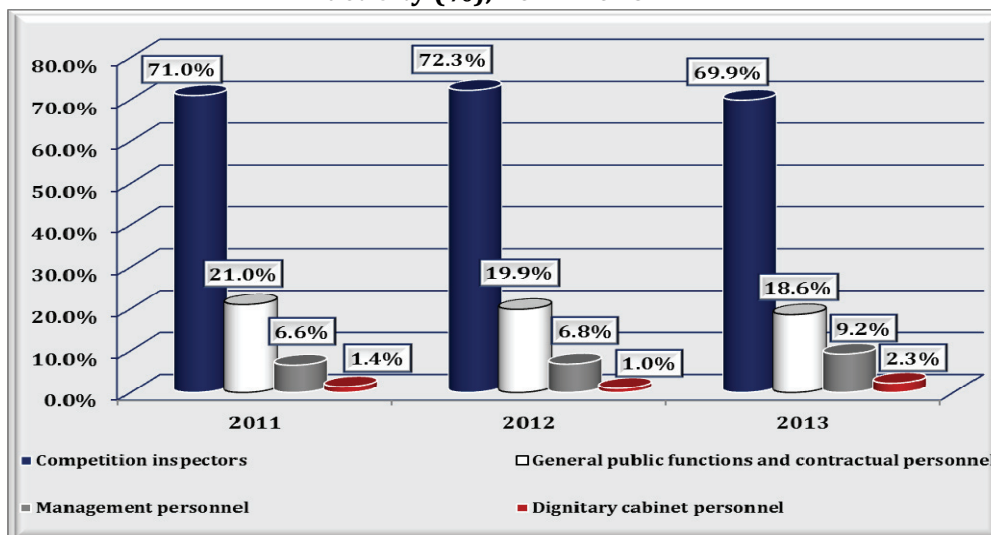
In 2013, the personnel of the Romanian competition authority was made up from 306 employees, increasing by 4% compared to 2012, and by 7% compared to 2011.

In 2013, the Competition Council recruited a total of 27 employees for a non-determined/determined period/by detachment/ transfer. The evolution in the last three years of the means used to recruit temporary/permanent personnel is presented by the graph below.

**Graph no. 29. Recruitments based on the manner used (%) 2011-2013**

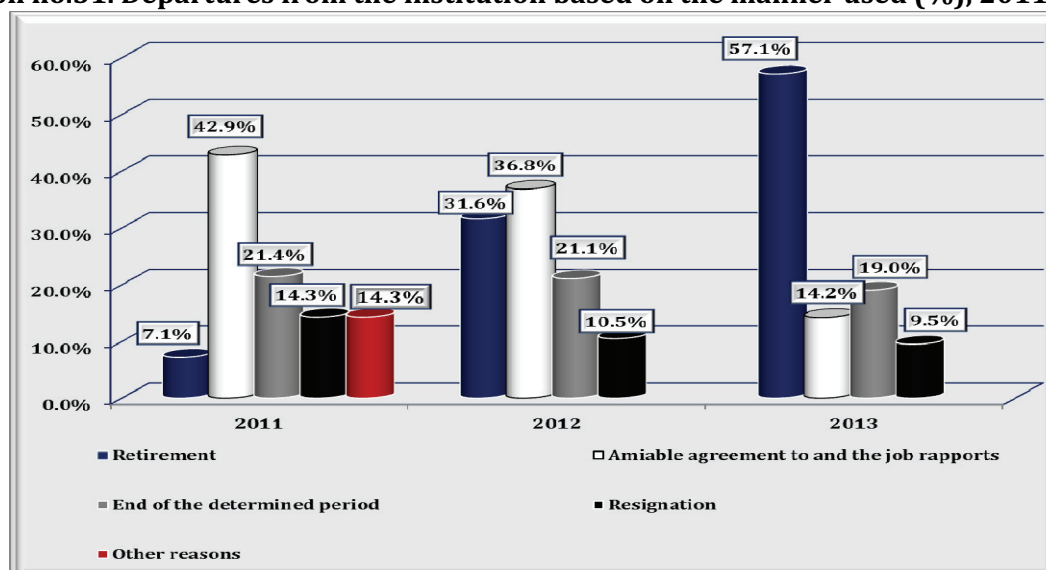
Considering the type of activities performed, the Competition Council personnel is structured in four categories: competition inspectors, personnel with general public functions and contractual personnel, dignitary cabinet personnel and management personnel.

From the point of view of the share of the personnel categories, the first place is occupied by the competition inspectors, representing over 70% of the total personnel. The evolution of the share of the personnel during 2011-2013 is presented in the graph below.

**Graph no. 30. The structure of the personnel based on the nature of the carried out activity (%), 2011-2013**

As regards the departures of the personnel of the Competition Council, the majority of the cases (around 57%) were retirements of the holders of the respective jobs, followed by the amiable end the service rapports (around 19%). The evolution in the past three years of the weight of the different types of personnel departures is presented by the graph below.

Graph no.31. Departures from the institution based on the manner used (%), 2011-2013

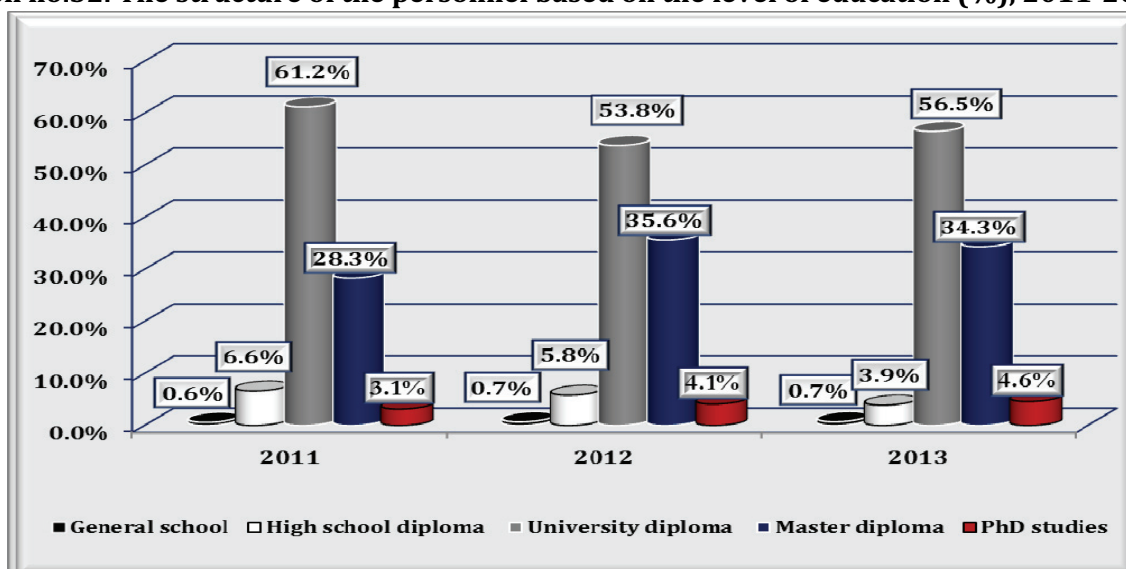


As regards the age of the employees, the most of the competition inspectors are in the category 30-40 years old (43.5%), in the case of competition inspectors registering the largest weight of this age category (48.1%).

Within the Competition Council, in 2013, the women represented 57.5% of the total number of employees, similar to 2011-2012.

The majority of the Competition Council employees (around 57%) have at least one university diploma, being followed by those which graduated master courses (around 36%).

Graph no.32. The structure of the personnel based on the level of education (%), 2011-2013



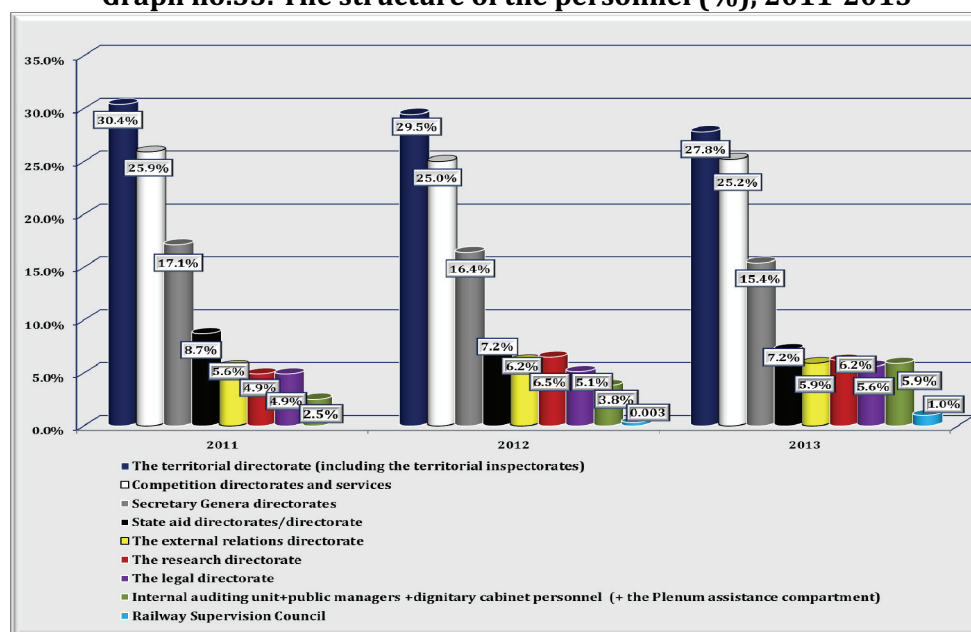
In respect to the professional areas of expertise, the majority of the employees are economists, followed by the ones with legal studies. The evolution of this structure during 2011-2013 is represented in the table below.

**Table no.1. Professional specialisation of the personnel (%), 2011-2013**

Professional training	The weight in the total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Economists	59.4	65.5	43.3	75.0	52.6
Jurists	16.4	19.2	3.4	-	31.6
Economists and jurists	1.0	1.5	-	-	-
Economists and other specialization	1.4	2.0	-	-	-
Jurists and other specialization	0.8	1.0	-	-	-
Another professional specialization	13.6	10.8	18.3	25.0	15.8
Medium and general studies	7.4	-	35	-	-
<b>2012</b>					
Economists	58.6	62.1	48.3	66.7	50.0
Jurists	15.8	18.0	3.4	-	30.0
Economists and jurists	2.1	2.8	-	-	-
Economists and other specialization	0.7	0.9	-	-	-
Jurists and other specialization	1.4	1.9	-	-	-
Another professional specialization	15.1	14.2	15.5	33.3	20.0
Medium and general studies	6.5	-	32.8	-	-
<b>2013</b>					
Economists	58.5	63.6	49.1	14.3	50.0
Jurists	19.0	21.5	10.5	14.3	17.9
Economists and jurists	1.6	1.4	-	-	7.1
Economists and other specialization	0.7	0.5	-	-	3.6
Jurists and other specialization	0.7	0.9	-	-	-
Another professional specialization	15.0	12.1	21.1	28.6	21.4
Medium and general studies	4.6	0.0	19.3	42.9	0.0

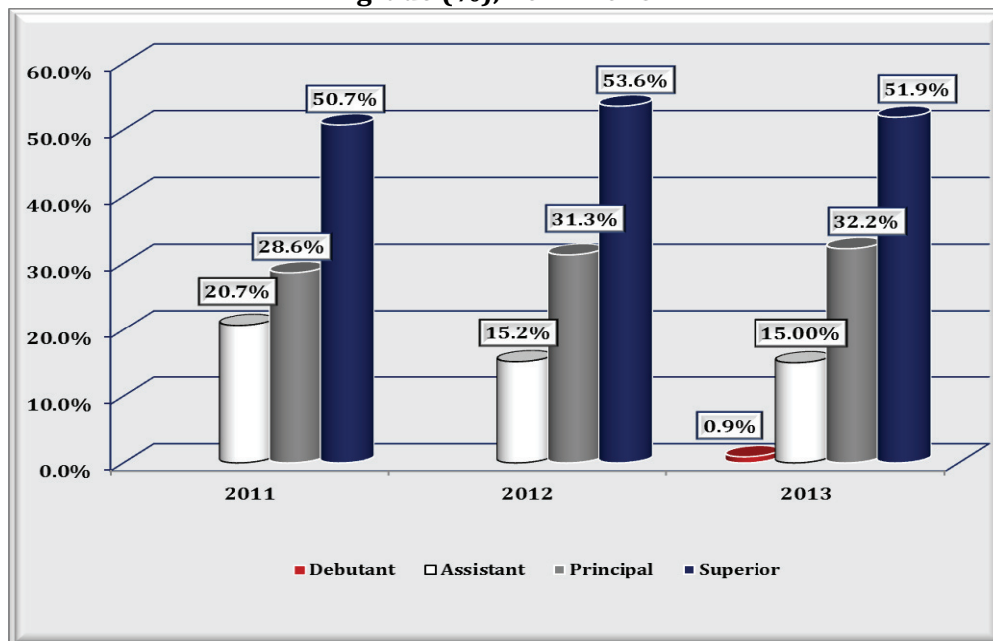
The largest share was recorded by the personnel from the territorial directorate (27.8%), followed by the competition directorates (25.2%), and by the general secretariat (15.4%). The evolution of this personnel repartition is presented in the following graph.

**Graph no.33. The structure of the personnel (%), 2011-2013**



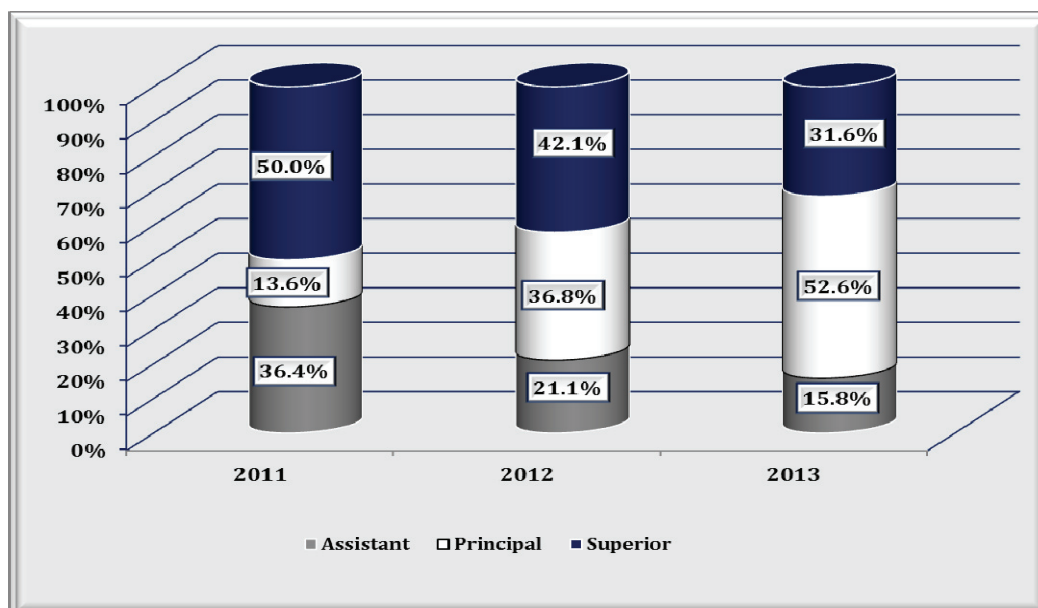
Most of the competition inspectors have the professional grade of superior. Compared to the period 2011-2013, in 2013, the Competition Council have had also debutant competition inspectors.

**Graph no. 34. The repartition of the competition inspectors based on the professional grade (%), 2011-2013**



In the case of the employees with general public functions, the dominant category is also represented by the one with the professional grade of superior, in the last 3 years the weight of this category registering a decreasing trend.

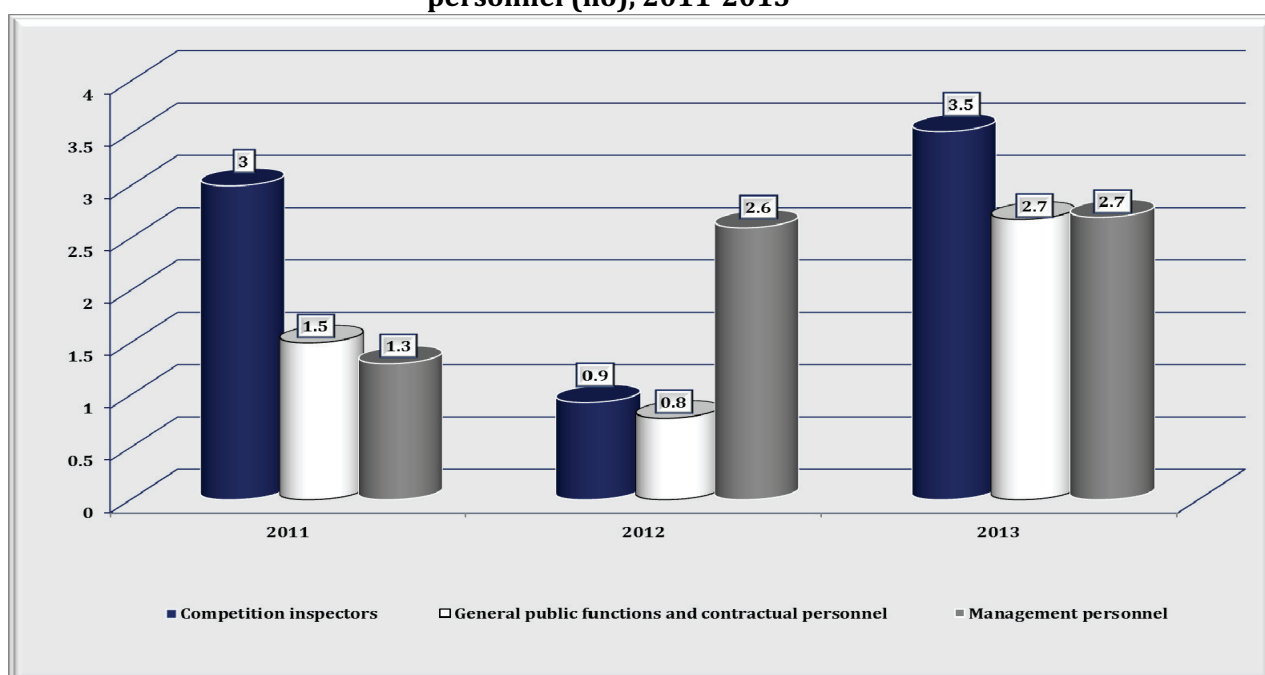
**Graph no.35. The repartition of the personnel holding general public functions based on the professional grade (%), 2011-2013**



Regarding the professional training, in 2013, the personnel of the Competition Council graduated 17 training courses (including through the project by which the Romanian competition authority is benefitting from the assistance of the World bank), of around RON 84,407, in areas such as: economic analysis in enforcing the competition legislation, Forensic investigative and analysis techniques, human resources and performance management, institutional ethics and integrity, the change management.

Around 36% of the competition authority's personnel benefited from these courses, increasing by 7 percentage points compared to 2011 and 2011. The evolution of the average number of the professional training days, during 2011-2013 is presented in the graph below.

**Graph no.36. The average number of the professional training days for each category of personnel (no), 2011-2013**



Detailed information on the human and financial resources of the Competition Council is presented in the [Statistics](#) section.

# CHAPTER 10

## *PRIORITIES FOR 2014*



According to the 2010-2014 strategy of the institution, the Competition Council has fixed for 2014 a series of priorities which are taking into account the characteristics of the Romanian market and its trends.

***In the field of competition***, the main priority is to obtain performances at the level of the other EU competition authorities. This will be achieved by:

- increasing the efforts for identifying and sanctioning the infringements of the competition rules: certain investigations and sector inquiries in essential fields will be finalised:
  - ♦ consumption goods (the anticompetitive agreements between the suppliers and retailers in the alimentary retail);
  - ♦ media (the possible agreement concerning the elimination from the tenders for awarding the advertising accounts of the Romanian clients);
  - ♦ drilling services (possible anticompetitive deeds within certain tenders for awarding these services);
  - ♦ the milk sector (possible bid rigging agreement between certain companies within the tender organised by Giurgiu County Council for awarding the contracts of “supply of dairy products for schoolers and pupils);
- continuing to monitor the functioning of markets and assessing the competitive environment by undertaking sector inquiries – an example is the analysis of the management of the surface water sources and of the effects over certain downstream markets (electricity and irrigations).

On ***State aid***, the priorities of the competition authority for 2014 are mainly envisaging the observance of the obligations of Romania as EU Member State, as well as:

- the continuation of the cooperation with the International Monetary Fund, the European Union and the World Bank in order to ensure the observance of the legislation in the field in the restructuring and privatisation process of certain State-owned companies, such as the Romanian National Poste, CFR Marfă (the National Freight Company), Oltchim etc.;
- the active participation alongside the other EU Member States at the modernisation of the State aid rules, a process initiated by the European Union

From the legislative perspective, an important role will be played by the ***promotion of the legal framework on the unlawful competition***, so as to make it compatible with the European specific regulations.

The observance of the Competition Council’s attributions on ***issuing binding opinions on normative acts*** will be another priority in the 2013 activity of the authority, concretised in:

- developing the “competition and State aid filter” in the regulation impact analysis;
- advocacy actions for ensuring the observance of the binding opinions issued for the amendment of the anticompetitive normative acts in force.

In the field of **international relations**, an important objective is to finalise successfully the process of examining the Romanian competition policy (peer-review) by OECD, so as the Competition Council to demonstrate it meets the requirements of member of the Competition Committee of this international body.

From the point of view of improving the **administrative capacity** in 2014, the implementation of the projects carried out with the external partners will be continued: Improving the *Efficiency of Competition Policy Enforcement in Conjunction with Sector Specific Policies*, financed through the Operational Programme Development of the Administrative Capacity, An integrated IT system interoperable with databases of the central public administration that ensures monitoring of the competitive environment, financed through the 2007-2013 Sectoral Operational Programme Increasing Economic Competitiveness and Securing the national interest cyber infrastructure of the public institutions.

*Also, we intend to support the **liberalization of the electric energy market**, aimed at increasing the competition and transparency in this area fundamental to the good functioning of the economy.*

# CHAPTER 11

## STATISTICS



## I. Enforcement of the competition legislation

Table no.2. Investigations on the possible infringement of the competition legislation initiated in 2013

No.	Manner of initiation	Type of anticompetitive practice	Incident competition legislation	Relevant market
1	<i>ex-officio</i>	horizontal agreement	national	road construction in Timiș, Caraș-Severin, Arad, Hunedoara, Gorj and Mehedinți
2		horizontal agreement	national	processing and distribution of milk and dairy products
3		horizontal agreement	national	services for the extension of APIA's (Agency of Payments and Interventions in Agriculture) informatics system services acquired by public procurement tender organized by the APIA
4		horizontal agreement	national	supplying dairy products within the "Roll and milk Programme" in Harghita county, procured by public tender organized by Harghita County Council
5		horizontal agreement	national and Community	trading of cereals and related services
6		horizontal agreement	national and Community	the distribution of films to cinemas
7		horizontal agreement and acts of the public administration	national	construction in Brașov, Sibiu, Mureș, Covasna and Harghita
8		vertical agreement	national	exhibiting movies in cinemas
9	complaint	horizontal agreement	national and Community	automatic processing of data, documents and correspondence, and their preparation for distribution under the form of correspondence
10		abuse of dominant position	national and Community	Supply of drugs under the trademarks of Avodart and Seretide
11		vertical agreement and abuse of dominant position	national and Community	electric current measuring transducers for power analysers
12		acts of the public administration	national	production and trading of electricity and the green certificates field

Table no. 3. Sector inquiries initiated in 2013

No.	Sector
1	services provided by insolvency practitioners
2	pharmaceutical products
3	electronic communications and access to the specific infrastructure
4	the wood market
5	medical assistance
6	the auto insurances

Table no. 4. Investigations on the possible infringement of the competition legislation in 2013

No.	Year of initiation	Manner of initiation e	Type of anticompetitive practice	Incident competition legislation	Relevant market	Manner of conclusion
1	2008	ex-officio	horizontal agreement	national and Community	banking and inner-banking services	No sufficient evidences were discovered concerning the infringement of the Competition Law.
2	2009		vertical agreement	national	the distribution of adhesives, and mortars for polystyrene	SC Gabbro SRL and its distributors ,SC Calcria Com SRL, SC Garsimo Com SRL, SC Govora Com SRL, SC Govora Com Construct Center SRL, SC Memorex SRL, SC Recobol SRL and SC Stefano Com Impex SRL were fined with a total of RON 308,149.
3	2009		horizontal agreement	national and Community	the tender for procuring armaments and optical equipment	S.C. Transcarpat Sportours International S.R.L. from Romania, J.P. Sauer & Sohn GmbH from Germany, San Swiss Arms AG from Switzerland and Brugger & Thomet AG from Switzerland were fined with RON 28,555,893 lei for bid rigging within the tenders organised during 2005-2007 by the Armament Department e of a military unit within the Ministry of Defence.
4	2010		vertical agreement	national	the distribution of the household water heating boilers and the related accessories necessary for installing household water heating boilers	No sufficient evidences were discovered concerning the infringement of the Competition Law.
5	2012		horizontal agreement	national	the maintenance works and management of certain streets in Bucharest during December 2010 – April 2011.	No sufficient evidences were discovered concerning the infringement of the Competition Law.
6	2012		horizontal agreement	national	The rehabilitation works of the county roads awarded by public tender organised by the Teleorman County Council	No sufficient evidences were discovered concerning the infringement of the Competition Law.
7	2012		horizontal agreement	national	the multiannual road maintenance works and services during the summer and the winter in the period 2008-2011	No sufficient evidences were discovered concerning the infringement of the Competition Law.
8	2012		horizontal agreement	national	The public tenders for awarding certain modernisation works of the roads from Ilfov County	No sufficient evidences were discovered concerning the infringement of the Competition Law..
9	2012		vertical agreement	national and Community	lottery games	The Romanian Lottery National Company, SC Intralot SA, Integrated Lottery Systems and Services, SC Intracom SA Holdings and SC Lotrom SA were fined with a total of RON 16,852,012.

No.	Year of initiation	Manner of initiation e	Type of anticompetitive practice	Incident competition legislation	Relevant market	Manner of conclusion
10	2012		the implementation of an economic concentration prior to its notification and authorisation	national	civil constructions	Mr George Becali was fined with RON 183,526 lei for the implementation of an economic concentration prior to its notification and authorisation.
11	2006	complaint	abuse of dominant position	national	the supply and distribution of natural gas	No sufficient evidences were discovered concerning the infringement of the Competition Law.
12	2008		vertical agreement	national	the antibacterial drugs for systemic use	No sufficient evidences were discovered concerning the infringement of the Competition Law.
13	2011		horizontal agreement	national and Community	meal tickets	No sufficient evidences were discovered concerning the infringement of the Competition Law.
14	2011		abuse of dominant position	national and Community	pharmaceutics	No sufficient evidences were discovered concerning the infringement of the Competition Law.
15	2011		acts of the public administration	national	first distribution of ear tags in Romania	It was found that ANSVSA infringed the Competition Law by and it was forbidden to authorize the undertaking IQM, and any other company from the IQM group of undertakings with activity on the primary supply of ear tags in Romania until the termination of the IQM 's status of national operator of SNIIA.
16	2011		vertical agreement	national and Community	apparatus for processing the products for dental technical services	Vita Zahnfabrik H.Rauter GmbH&Co.KG Germania ,SC Dentotal Protect SRL, SC Helios Medical & Dental SRL, SC Tehnodent Poka SRL and SC West Dental The-med SRL were fined with a total of RON 456,237.
17	2012		acts of the public administration	national	audio-visual programs retransmitting	No sufficient evidences were discovered concerning the infringement of the Competition Law. Certain recommendations were formulated for the National Audio-visual Council <sup>19</sup>

<sup>19</sup> 1. To comply with all criteria of transparency, proportionality, to stimulate efficient investment in infrastructure to, and to review periodically the must carry list (so as to update them in terms of technological and market development in order to ensure that they continue to be proportionate to the objectives pursued - which in turn they must be clearly defined ). The must-carry status should be granted only to television channels whose overall content is able to meet a strong cumulative interest (e.g. - public channels, television services whose relay binding is established by international agreements to which Romania is party to). However the fact remains that this status may be granted only if private channels deemed strictly necessary to achieve the objective of general interest (cultural channels, information, etc.) and insofar as they achieve the appropriate audience of allowances. In addition, the number of channels should be reduced to a reasonable level. With the revision of their number, the must-carry principle should be taken on the basis of technological neutrality (cable, DTH , digital terrestrial television, etc. ).

2. The must-carry status for broadcasters should be granted following a competitive procedure. Following this procedure, the National Audio-visual Council will ensure, in a transparent manner, the observance of the predefined criteria and specifications stipulated by all broadcasters interested to obtain the must-carry status.

No.	Year of initiation		Manner of initiation e	Type of anticompetitive practice	Incident competition legislation	Relevant market	Manner of conclusion
18	2007	connected in 2010		horizontal agreement and acts of the public administration	national and Community	management of electrical and electronic wastes and marketing of new electrical and electronic equipment market	8 compaies members of ROREC (SC Arctic SA, SC BSH Electrocasnice SRL, SC Candy Hoover România SRL, SC Electrolux România SA, SC Gorenje România SRL, Indesit Company Magyarorszag Kft, SC Philips România SRL and SC Whirlpool România SRL) were fined in total with RON 47,881,380 and 6 companies member of ECOTIC (SC Agis Computer SRL, SC CG&GC Intelligent Technology SA, SC Gemini SP SRL, SC Maguay Impex SRL: Panasonic Marketing Europe GmbH Wiesbaden Germania and SC Scop Computers SA) were fined in total with RON 8,606,461. Moreover, it was established that It was also established that the Commission of assessment and authorization of collective organizations infringed the national competition law.
19	2010			horizontal agreement	national and Community	waste management services market of electrical and electronic equipment from Romania	

Table no. 5. Sector inquiries concluded in 2013

Nr crt.	Sector
1	the distribution of films to cinemas
2	the banking payment services by card
3	the construction market of roads and highways
4	the beer market

The decisions concluding the investigations on the possible infringement of the competition legislation, as well as the reports of the sector inquiries of the Competition Council can be accessed on the website of the institution, [www.competition.ro](http://www.competition.ro).

Table no. 6. Decisions issued by the Competition Council in 2013

Type of decision	Total
<b>Decisions issued, out of which:</b>	<b>57</b>
<b>A. Decisions concerning economic concentrations</b>	<b>39</b>
- non-objection	37
- derogation concerning its implementation	1
- recalculation of the authorising tax	1
<b>B. Rejection of complaints, out of which:</b>	<b>8</b>
- abuse of dominant position	3
- actions of the public administration	2
- horizontal agreements	2
- vertical agreements	1
<b>C. Sanctioning decisions, out of which</b>	<b>7</b>
- vertical agreements	3
- horizontal agreements	1
- horizontal agreements (and proving anticompetitive actions of the public administration)	1
- the implementation of an economic concentration prior to its notification and authorisation (and non-objection concerning an economic concentration)	1
- ceasing the application of comminatory fines	1
<b>D. Anticompetitive actions of the public administration</b>	<b>1</b>
<b>E. Decisions for correcting material errors</b>	<b>2</b>

The decisions of the Competition Council can be accessed on the institution's site, at:  
[www.competition.ro/official\\_documents/competition/decisions.](http://www.competition.ro/official_documents/competition/decisions)

## II. Binding opinions, points of view, opinions and interventions concerning the issue/amendment of normative acts

- Favourable binding opinion on the draft Government Decision approving the Methodological Norms regarding the calculation and collection as well as the payment terms associated to land reclamation fee – *the draft normative act became GD 1080/2013;*
- Favourable binding opinion on the draft Government Emergency Ordinance amending and supplementing certain acts in privatization - *the draft normative act became GEO nr.7/2013;*
- Favourable binding opinion on the draft law on public-private partnership - *the draft law is in the process of parliamentary review;*
- Favourable binding opinion on the draft Government Decision approving the main elements of the shares purchase agreement between the Romanian State through the Ministry of Transports as seller, and SC Grup Feroviar Român SA, as buyer, concerning the transfer of the ownership of a block of shares representing 51% of the capital of SNTRM, "CFR Marfa" SA – *the draft normative acts became GD 526/2013;*
- Favourable binding opinion on the draft Government Decision amending and supplementing Government Decision no.761/2012 regarding the approval of the privatization strategy of the Romanian Post National Company – *the draft regulation became GD 696/2013;*
- Favourable binding opinion on the draft Government Ordinance on setting the tax on additional income resulting from the deregulation of the prices from natural gas sector - *the draft regulation became GO 7/2013;*
- Favourable binding opinion on the draft Government Emergency Ordinance amending and supplementing Law no.220/2008 on establishing the promotion system for the energy production from renewable energy - *the draft regulation became GEO 57/2013;*
- Favourable binding opinion on the draft GD on radio equipment and electronic communication terminal equipment and the mutual recognition of their conformity - *this draft regulation has not been approved;*
- Favourable binding opinion on the draft Government Emergency Ordinance on certain provisions relating to the acquisition by individuals of ferrous and non-ferrous scrap metal;
- Favourable binding opinion, with comments, on the draft GD for completing GD no. 835/2007 on Ministry of Public Health authorization to finance the purchase of a high-performance information system, from their own income, and to repeal certain provisions

of GD no. 1079/2000 regarding authorizing Ministry of Public Finances to guarantee an external credit for Ministry of Health, in order to finance the purchase of the high-performance information system – *the Competition Council's observations were accepted;*

- Favourable binding opinion, with comments, on the draft GEO amending the GEO no.77/2009 regarding the organization and operation of gambling - *the draft regulation has not been approved in 2013;*
- Favourable binding opinion, with comments, on the draft law on social economy, initiator Ministry of Labour – *the comments of the Competition Council were accepted;*
- Favourable binding opinion, with comments, on the draft OUG, amending and supplementing Law no.95/2006 on healthcare reform and to change some laws – *the draft regulation has not been submitted for approval in 2013, subsequently, the Competition Council has approved a new draft OUG amending and supplementing Law no.95/2006, which resumed earlier draft, which took into account the comments of the Competition Council; project became GO 2/2014;*
- Favourable binding opinion, with comments, on the Draft City Council Decision, for approving the amendment of the Regulation of heat supply in Oradea – *the comments of the Competition Council were accepted by the initiator through Oradea Local Council Decision no. 864/2013;*
- Favourable binding opinion, with comments, on the approval of the "Feasibility Study - establishing heating unit zones in Oradea" and on the approval of the heating unit zones delimitation in Oradea - *the comments of the Competition Council were accepted by the initiator through Oradea Local Council Decision no.863/2013;*
- Favourable point of view on the draft OUG for prolongation of the route licenses and county public transportation programs - *the draft regulation became GEO 30/2013;*
- Favourable point of view, with comments, on the draft law on some measures necessary for the work of development of NABUCCO natural gas pipeline - *the draft regulation became law 169/2013;*
- Favourable point of view, with comments, on the draft Order approving the list of international common names for medicinal products with increased risk of discontinuity in the supply, of which benefit the insured persons in the health insurance system and a measure to ensure these in the Romanian market – *the draft regulatory act became Order 456/2013;*
- Point of view on the draft law amending and completing the Mining Law no. 85/2003 - *the draft law was rejected by Parliament;*
- Point of view, with comments, on the Memorandum on privatization of SN Plafar SA;

- Favourable point of view on the Order no. 332/2013 regarding the approval of the closing conditions of the conventions between commercial banks and APIA, in order them to finance the current activities conducted by beneficiaries of direct payments made through;
- Favourable point of view on the draft OUG on paying the amounts provided by court decisions made on receivables held against AAAS - other than those on labor rights established by enforceable titles;
- Favourable point of view on the memorandum with the subject "Combating undeclared work phenomenon", in the works executed under public procurement contracts;
- Point of view on the draft Order approving the conditions for granting support measures for investment in industrial parks - *the draft regulatory act became Order 2980/2013*;
- Favourable point of view on the draft GD on determining the amount of the license fee for extending the period of validity of licenses to use radio frequencies granted in the 3400-3600 MHz band - *the draft regulation became GD 1155/2013*;
- Favourable point of view , with comments, on the draft OUG on procedures for pre - insolvency and insolvency - the draft law was declared unconstitutional, was subsequently resubmitted to the Government for approval and submitted to Parliament in the form of law, which is in the parliamentary debate, the Competition Council observations were partly accepted;
- Favourable point of view on the draft law amending the Law no.346/2006 on the organization and functioning of the Ministry of National Defence;
- Favourable point of view, with comments on the draft law on the establishment of measures to decentralize certain competences exercised by certain ministries and specialized agencies of the central public administration and some public administration reform measures, according to Law no. 52/2003 on decisional transparency in public administration - *the draft law was declared unconstitutional*;
- Point of view, with comments, on the draft law amending and completing GEO no. 84/2003 for the establishment of RNCMNR by reorganizing RA National Road Administration from Romania - *the draft law is pending in the Senate standing committee*;
- Favourable point of view, with comments, on the draft GEO on capital repayments for a share of the credit granted by U.S. Government under CCC Program – public law no. 480/1992 of interest and other external costs related to this quota - party - *the draft law has not been submitted for approval*;
- Favourable point of view, with comments, on the Memorandum on : Measures proposed to continue the preparation and implementation of privatization SNTRM , "CFR Marfa " - SA;

- Favourable point of view, with comments, on the draft GEO establishing certain measures to regulate agricultural products market – *the draft GEO was transformed into a draft law, the observations of the Competition Council were accepted, the draft regulation is pending in the Senate standing committees;*
- Point of view on the draft GEO on the establishment, organization and functioning of the National Gambling and amending GEO no.77/2009 on the organization and operation of gambling - *the draft law became GEO no. 20/2013, approved by the Law no. 227/2013;*
- Point of view, with comments on the governmental decision draft amending paragraph 2 section 9 of the Annex to GD 526/2013 for the approval of the main elements of the contract of sale - purchase of shares between the Romanian State, through the Ministry of Transport, as seller and SC Grup Feroviar Român SA, as a buyer, concerning the transfer of ownership of a block of shares representing 51% of the capital of SNTRM „CFR Marfă” SA - Competition Council comments were not taken into account; the GD draft was not subject to the approval of the Government;
- Point of view, with comments on the draft Order for the approval of Rules of law authorizing driving schools and driving instructors, Rules of law attesting road legislation professors and driving instructors, the Methodology for organizing theoretical and practical training courses in order to obtain driving license, the Schooling Curriculum, as well as the conditions and obligations with regard to theoretical and practical training courses in order to obtain driving license - *Competition Council comments were not taken into account; the draft law has become Order 733/2013;*
- Favourable point of view on the draft Law on amending and supplementing certain consumer protection laws;
- Point of view on the GD draft on electromagnetic compatibility - *this draft law has not been approved;*
- Point of view, with comments on the GD draft on Framework Procedure regarding the organization, execution and assignment of concession contracts delegating management services of public utilities;
- Favourable point of view, with comments on the Government Decision draft approving the values of total annual installed capacities in power plants producing energy from renewable sources in order to accredit groups/power plants that benefit from green certificate promotion system;
- Favourable point of view, with comments on the Government Decision draft approving the technical-economic indicators of the investment objective „Opening and exploitation of uranium ore Primatar I, Primatar II, Bradu, Prisecani and Zone III ", Neamț County;
- Favourable point of view on the Ordinance draft on the establishment of special tax measures of the activities of natural monopolies in the electricity and natural gas industries;

- Point of view, with comments and recommendations, on the National Audio-visual Council request with regard to the Decision draft on the procedure for granting, modifying, extension of validity and waiver of license or audio-visual authorization, except for digital terrestrial broadcasting and conditions for local broadcasting, as well as for retransmission or acquisition of programs from other broadcasters - *Competition Council comments were not taken into account*;
- Opinion on the Ordinance draft on Credit Guarantee Program for SMEs - *the draft law became OUG 92/2013*;
- Opinion on the Ordinance draft to amend the Emergency Ordinance no. 9/2010 on the approval of the Support Program for beneficiaries of projects in priority areas for the Romanian economy, financed by EU structural instruments allocated to Romania, with subsequent amendments;
- Favourable point of view on the legislative proposal establishing contractual relations in the milk and milk products sector, as well as recognition of producer organizations in the milk and milk products sector – *the legislative proposal became Law no. 297/2013*;
- Point of view on the legislative proposal regarding the establishment and operation of industrial parks - the proposal was approved in compliance with the Competition Council observations and became Law no. 186/2013;
- Point of view on the legislative proposal for amending the Law no. 260/2008 on compulsory home insurance against earthquakes, landslides and floods - *the proposal was approved in compliance with the Competition Council observations and became Law no. 243/2013*;
- Favourable point of view on the legislative proposal regulating the legal status of companies whose shares are traded on RASDAQ unlisted securities market – *the Law draft is to be adopted by the Chamber of Deputies*;
- Point of view, with comments, on the legislative proposal on the establishment and operation of business infrastructure - *the view of the Government maintained the Competition Council observations, the law being withdrawn by the initiator*;
- Point of view, with comments, on the legislative proposal regarding the obligation of the state to ensure the differences in price increases for utility bills for businesses - *the proposal was rejected by the Senate*;
- Point of view, with comments on the proposed legislation on the protection of entrepreneurs in Romania - *the opinion of the Government maintained the observations made by the Competition Council; the proposal was rejected by the Senate, in its capacity as decisional chamber*;

- Point of view on the legislative proposal on the social economy (legislative proposal at the initiative of the Parliament) - *the opinion of the Government upheld the observations made by the Competition Council; the proposal is to be adopted by the Senate;*
- Point of view, with comments, on the legislative proposal for the establishment of the Regional Company of the Apuseni Mountains - *the proposal is to be adopted by the Senate;*
- Point of view, with comments, on the legislative proposal for the establishment of the Administration of State Monopolies – *then proposal is pending in the Senate committees;*
- Point of view on the legislative proposal amending and supplementing the Emergency Ordinance no.20/1994 on measures to mitigate the seismic risk of the existing buildings - *the proposal is pending in the Senate committees, in its capacity as the first notified room;*
- Point of view on the Government Decision draft approving the Regulation of organization and functioning of the Land Development Agency – *the draft was not adopted;*
- Favourable opinion on the Order draft approving tariffs for checking medical specialist units and/or psychological units in order to obtain the Ministry of Transports agreement to examine the personnel involved in transport safety, as well as the annual visa - *the draft became Order no. 1261/2013;*
- Favourable opinion on the Ordinance draft regarding the establishment of special tax measures of the activities of natural monopolies in the electricity and natural gas sectors - *the project became Ordinance no. 5/2013;*
- Favourable opinion on the Ordinance draft on regulating measures to reduce arrears in the economy, as well as other financial measures in 2013 – *the draft became Emergency Ordinance no. 3/2013 approved by Law no. 140/2013;*
- Favourable point of view, with comments, on the Ordinance draft on postal services – *the Competition Council observations were taken into account; the project became Emergency Ordinance no. 13/2013;*
- Favourable opinion on the Ordinance draft on social protection for people made redundant through collective redundancies following the restructuring and reorganization of national societies, autonomous administrations, national companies and State owned companies, as well as companies and autonomous administrations subordinated to public administration authorities - *the draft became Emergency Ordinance no.36/2013 approved by Law no. 259/2013;*
- Favourable opinion on the Ordinance draft on the Authority for State Assets Recovery takeover of the National Company of Precious and Non-ferrous Metals REMIN SA Baia Mare debt administered by the National Agency for Tax Administration through the competent fiscal body - *the project became Emergency Ordinance no. 39/2013;*

- Favourable opinion on the law draft on industrial emissions - *the draft became Law no. 278/2013;*
- Favourable opinion on the Government Decision draft on the adoption of measures for the safety of power supply - *the draft became GD no. 138/2013;*
- Favourable opinion on the law draft on social economy at the initiative of the Ministry of Labour, Family and Social Protection – *the observations were taken into account according to the letter sent by the initiator; the Competition Council confirmed the favourable opinion, following the induction of comments;*
- Favourable opinion on the draft GEO on certain measures concerning SC Romfilatelie SA;
- Favourable opinion on the draft GEO amending and completing Law no.220/2008 for the system promoting the renewable energy production - *the project became GEO 57/2013, approved by Law 134/2013;*
- Favourable opinion on the draft Government Decision approving measures to reduce the number of green certificates referred to in article 6 para 2 let. a, c and f of Law no.220/2008 for the system promoting renewable energy production - *the project became GD 994/2013;*
- Favourable opinion on the draft Government Ordinance to amend GEO no.61/2011 concerning certain measures regulating the financing of airport specific autonomous regions of particular local interest;
- Favourable opinion on the draft Government Decision on the minimis aid for investments by SMEs - *the project became GD 274/2013;*
- Favourable opinion on the draft GD amending and completing GD no.780/2006 regarding the establishment of scheme for trading greenhouse gas emissions certificates - *the project became GD 204/2013;*
- Favourable opinion on the draft GEO for completing GO no.74/2009 on managing the EU funds from the European Agricultural Guarantee Fund, the European Agricultural Fund for Rural Development and the European Fund - *the project became GEO 37/2013;*
- Favourable opinion on the draft GD amending and completing GD no.974/2004 approving the Norms for surveying, health inspection and monitoring of drinking water quality and of the Sanitary authorization procedure for the production and distribution of drinking water - *the project became GD 342/2013,*
- Favourable opinion on the draft GEO amending and completing GEO no.115/2011 establishing the institutional framework and authorization of the Government, through the Ministry of Public Finances, to tender the greenhouse gas emissions certificates attributed to Romania within the EU – *the project became GEO 17/2013;*

- Favourable opinion on the draft Government Decision on the approval of the National intervention plan for disease prevention in the case of the general population as result of mass epidemics and pandemics, of the entrusting of the service of general economic interest in the case of certain activities of the National Institute "Cantacuzino" and of the supplementing the budget of the Ministry of Health from the Government fund reserve provided for by the 2013 State - the project became GD 320/2013,
- Favourable opinion on the draft GEO on certain measures for the development of family farms - the project became GEO 43/2013;
- Favourable opinion, with comments on the Draft Law for approving the Memorandum of Understanding signed on 15 February 2013 between the Romanian and The Rompetrol Group NV - the law was declared unconstitutional;
- Favourable opinion on the draft GEO for regulating certain financial tax measures - CFR Marfă – *the project became GEO 32/2013*;
- Favourable opinion on the draft Memorandum approving the the Supplementary Protocol to the Agreement on air transport between the Government of Romania and the Government of Qatar;
- Favourable opinion on the draft GEO amending and completing GEO no.196/2005 regarding the Environment Fund– *the project became GO 31/2013*;
- Favourable opinion on the draft GEO amending and completing law no.46/2008 on the Forest Code - *the project is under parliamentary debates*;
- Favourable opinion on the draft GD amending GD no.1304/2010 approving the funding of the decantation ponds from the mining sector from the Environmental Fund of closure;
- Favourable opinion on the draft law on certain measures related to the exploitation of gold and silver at Roșia Montană and to the stimulation and facilitation of the development of mining activities in Romania - *the draft law was rejected by the Parliament*;
- Favourable opinion, with comments on the draft GEO amending and completing Law no.346/2004 on the stimulation of SMEs – *the observations of the Competition Council were accepted, the draft law was transformed into a draft law, which is currently in the attention of the Senate, the first notified Chamber*;
- Favourable opinion on the draft GD completing the 1st Annex of GD no.717/2009 on the approval of the implementation of the programme "FIRST HOUSE" - *the project became GD 615/2013*;
- Favourable opinion on the draft GEO for reducing budgetary arrears of the economic operators activating in the defence industry – *its approval by the Government has been delayed – the draft normative act is still the subject of inter-institutional consultation*;

- Favourable opinion on the draft Law on the establishment and maintenance of a minimum level of oil and or petroleum products – *the draft regulation became Law 360/2013;*
- Favourable opinion on the draft GEO regulating certain budgetary measures;
- Opinion on the draft Government Decision approving the Methodological Norms for granting, use and control of the State aid for compensations representing the timber the owners did not harvested due to the protection established by forest management plans required to cover the costs claimed for sustainable management forests in Natura 2000 sites of community importance – the draft law was approved in the year 2013;
- Favourable opinion, with comments on the draft GEO approving special measures for the clearing and settlement of mutual claims arising from the contract of sale and purchase of shares signed between AAAS and Ford Motor Company – *the Ministry of Justice has conditioned approval for taking observations from the Competition Council, the project became GEO 90/2013, approved by Law 7/2014;*
- Favourable opinion, with comments on the draft GEO on regulating certain financial tax measures for Complex energetic Hunedoara SA – *the draft regulation became GEO 104/2013;*
- Favourable opinion, with comments on the draft Law amending and completing Law no.346/2004 on the stimulation of SMEs – *the Competition Council observations were accepted, the draft regulation is being analysed by the standing committees of the Senate;*
- Favourable opinion, with comments on the Memorandum on the “Approval steps required for relaying the Sebeş weather station”;
- Favourable opinion on the draft Government Decision approving the Methodological Norms for the application of GEO no.92/2013 regarding the Programme for approving the loan guarantees for SMEs - the draft regulation became GD 936/2013;
- Favourable opinion, with recommendations on the draft Government Decision approving the project, “Demonstrative nuclear reactor cooled by lead – ALFRED”;
- Favourable opinion, with comments on the draft Government Decision regarding the approval of the National Security industry - the draft regulation became GD 1157/2013;
- Favourable opinion on the draft Government Decision amending and completing GD 935/2011 on the promotion of biofuels and bio liquids, as well as for amending and completing GD 928/2012 laying down the conditions for the placing on the market of petrol and diesel fuels and introducing a mechanism monitoring and reducing the greenhouse gas emissions - the draft regulation became GD 1121/2013;
- Favourable opinion, with comments on the draft Law on the establishment of autonomous regime “Administration of the Siret – Bărăgan Channel” - *the draft regulation is being analysed by the standing committees of the Senate;*

- Favourable opinion on the draft Government Decision amending and supplementing GD no.475/2007 regarding the approval of the 2nd National Plan for Research, Development and Innovation, 2007-2013 - *the draft regulation became GD 1123/2014;*
- Favourable opinion, with comments on the Memorandum on: granting a special mandate to AAAS for approving the terms of sale of OLTCHIM SPV SRL shares (the viable flow of SC Oltchim SA);
- Favourable opinion, with comments on the draft Order for completing Order no.456/2013 approving the list of international common names for medicinal products with increased risk of discontinuity in the supply in the favor of the persons insured in the health insurance system and for a certain measure design to ensure their supply on the Romania market - *the draft regulation became Order 1554/2013;*
- Favourable opinion with comments on the proposed legislation for the abolition of the undercover companies, NGOs and foundations - *the proposal was rejected by the Senate and it is being analysed by the commissions of the Chamber of Deputies;*
- Favourable opinion, with comments on the legislative proposal amending and completing Law no.72/2007 on stimulating the employment of pupils and students - *the proposal was not supported by the Government and was rejected by the Senate;*
- Favourable opinion, with comments on the draft Government Decision approving the privatization strategy of CFR Marfă and the mandate of the Ministry of Transport for its implementation;
- Favourable opinion, with comments on the draft GEO on the reorganization of the health network of the Ministry of Transport and for amending and completing certain healthcare normative acts - *the draft regulation became GEO 8/2013;*
- Favourable opinion, with comments on the draft GEO regarding the takeover by AAAS of the debts to be collected of certain company in insolvency which are managed by National Authority of Fiscal Administration, in order to strengthen the position of the creditor;
- Favourable opinion on the draft GEO on the reduction of arrears in the field of rail passenger transport;
- Favourable opinion, with observations relating to the simplified procedure for granting payment rescheduling according to GEO no.29/2011 - *the draft regulation has not been approved during 2013;*
- Favourable opinion, with comments on the draft GEO regarding the approval of removing certain quantities of fuel from the State reserves in the form of loan in favour of certain operators - the observations were accepted , but the draft regulation was not approved during 2013;

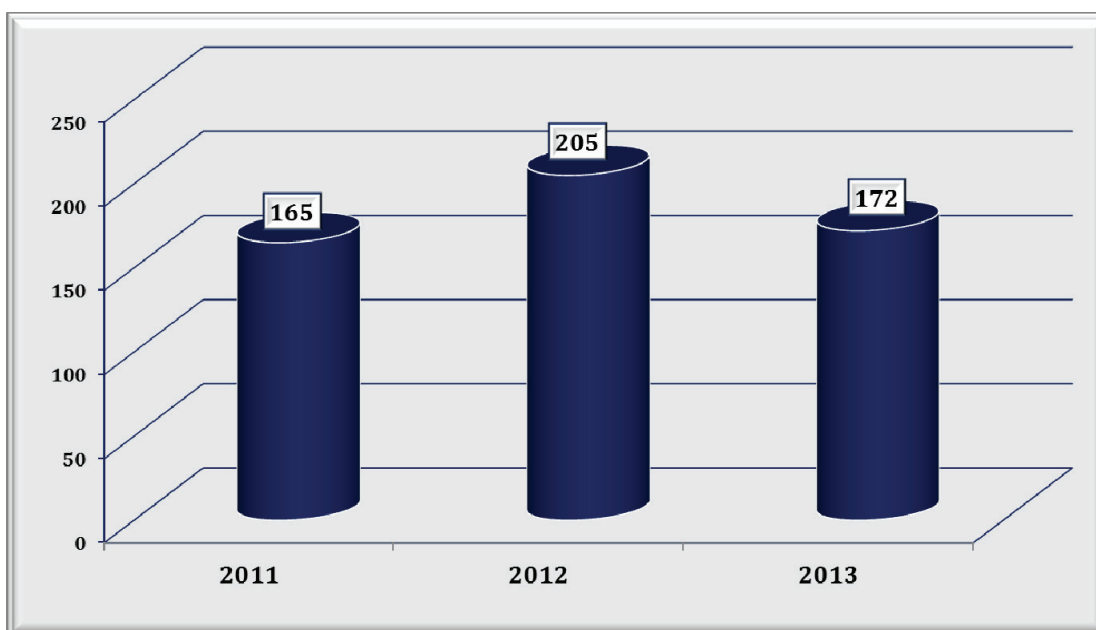
- Favourable opinion, with comments on the draft GEO regarding the conversion into shares of amounts owed to the State by the Romanian Post National Company - *Competition Council comments were introduced to the project GD by completing the GD regarding the privatization strategy of the Romanian Post , the project was not approved during 2013*
- Favourable opinion, with comments on the draft GEO regarding the conversion into shares of certain debts owed to the State by the Romanian National Post Company – *the comments of the Competition Council were introduced to the draft GD completing the GD regarding the privatization strategy of the Romanian Post , the draft regulation was not approved during 2013;*
- Favourable opinion on the draft GEO completing Law no.95/2006 on the healthcare reform and completing GEO no.96/2012 establishing certain measures to reorganize the central administration and for the amendment of certain laws - the comments of the Competition Council were accepted;
- Favourable opinion, with comments on the draft Government Decision approving regulation for the organisation and functioning of the Land Development Agency;
- Favourable opinion, with comments on the draft Government Decision approving the Methodological norms on the calculation, collection and payment terms related to land reclamation fee;
- Favourable opinion on the draft Law on the establishment and maintenance of minimum stocks of crude oil and petroleum products (520/2013);
- Favourable opinion on the "Memorandum SC Cuprumin SA Abrud";
- Favourable opinion on the draft GEO amending and completing Government Emergency Ordinance no.23/2009 on the establishment of the Romanian Fund for co- guarantees;
- Opinion on the draft Law on direct State support for producer associations that own and operate noble wine vineyards and encourage the sale of wine production;
- Favourable opinion on the draft Government Decision on the approval of the State aid facilitating the closure of uncompetitive coal mines of the undertaking Societatea de Încidere Mine Valea Jiului SA Petroșani during 2013 - *the draft regulation became GD 126/2013;*
- Favourable opinion on the draft Government Decision regarding Romania's participation in the joint research monitoring of water quality of the Danube in 2013 - *the draft regulation became GD 288/2013;*
- Opinion on the draft Government Decision for the approval of the Strategic development of airport infrastructure of the "International Airport Bucharest Băneasa - Aurel Vlaicu" for the period 2012 – 2016;

- Opinion with comments on the proposed legislation on the payment exemption of the from accessories tax debts;
- Opinion on the draft GEO regarding the further privatization of SNTFM CFR Marfă SA;
- Opinion on the statement concerning the fiscal measures needed to boost tourism, holiday vouchers, the application of VAT in tourism and the incoming bonus;
- Opinion on the draft GEO on regulating the legal regime of the heavy water taken by SN Nuclearelectrica SA through allocations from the State budget during 2006-2011 - *the draft regulation became GEO 56/2013*;
- Opinion on the "Memorandum of agreement for the extinction of certain obligations arising from the sale of shares of SC Automobile Craiova SA";
- Favourable opinion on the draft Government Decision approving the free allocation mechanism of greenhouse gas emissions certificates to the producers of electricity in the period 2013-2020, including the National Investment Plan - *the draft regulation became GD 1096/2013*;
- Favourable opinion on the draft Order of the Minister of Environment and Climate Change amending and completing the Funding programme of the Guide on increasing the energy production from renewable sources, approved by Ministry of Environment and Forests no.714/2010 - the draft regulation became Order 2631/2013;
- Opinion on the draft Law approving Government Emergency Ordinance no.57/2013 amending and completing Law no.220/2008 on establishing the system for promoting the energy production from renewable sources, with the subsequent amendments - the draft regulation is under parliamentary debates;
- Opinion on the draft GD amending GD no.1215/2009 establishing the criteria and conditions for the implementation of the support scheme for the promotion of high efficiency cogeneration based on a useful heat demand;
- Favourable opinion on the draft GD for the application of EC Decision no. C (2012) 9780 final - the draft regulation became GD 166/2013;
- Favourable opinion on the draft Law on the organization and functioning of the Economic and Social Council;
- Favourable opinion on the legislative proposal for transferring free of charge the mining exploitation Alunu Berbești from State's public domain and from the administration of the National Society of Lignite Oltenia to the State's public domain and to the administration of Vâlcea County Council;

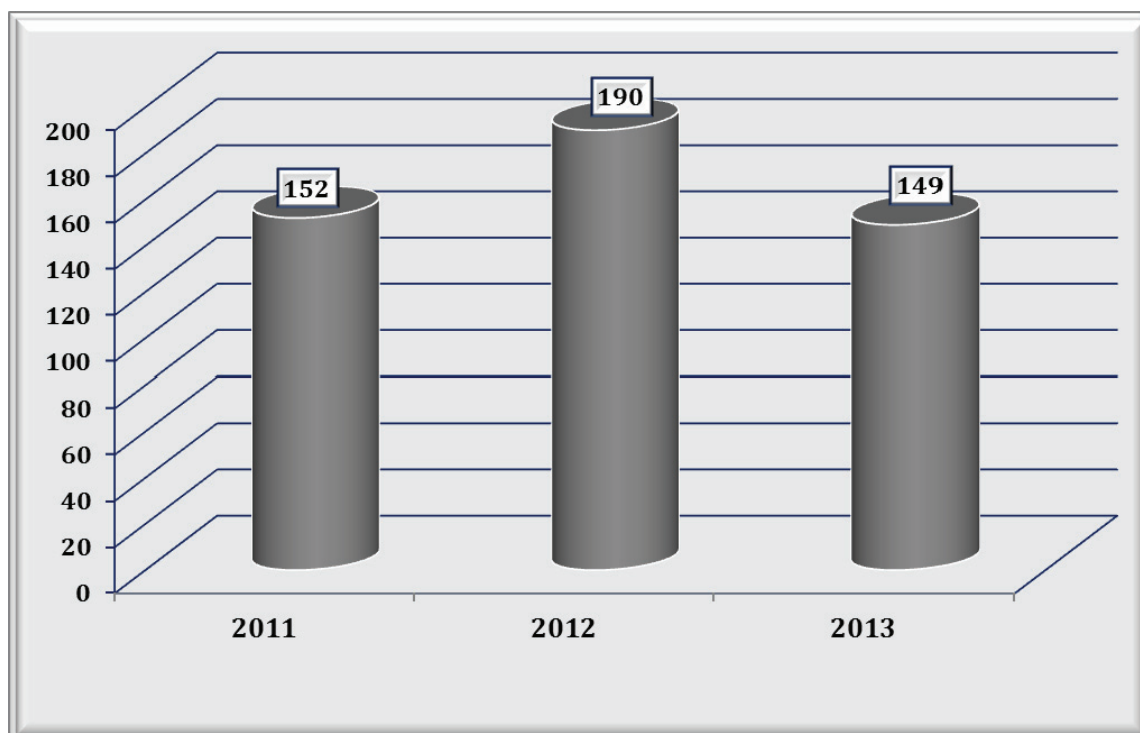
- Favourable opinion on the draft GEO regulating certain fiscal measures for funding from State's budget the financial corrections for failing to comply with the procurement legislation for the Sectoral Operational Programme Environment 2007-2013 - *the draft regulation became GO 15/2013;*
- Response sent to the Chamber of Deputies regarding the draft law approving GEO nr.64/2013;
- Intervention to the Parliament - the industry commission of the Chamber of Deputies - on the Draft Law amending and completing the Law no.38/2003 on taxi transportation – the draft regulation is subject of the parliamentary procedures within the Chamber of Deputies - *the Commission for Industries;*
- Intervention to the Parliament on the legislative proposal amending and completing Law no.260/2008 on compulsory home insurance against earthquakes, landslides and floods - *the draft regulation was approved in compliance with the Competition Council's observations, and it become Law 243/2013;*
- Intervention to the Parliament on the legislative proposal on the protection of Romanian entrepreneurs - *the view of the Government upheld the Competition Council comments that were taken into consideration, but the legislative proposal was rejected by the Senate;*
- Intervention on the draft GEO on the establishment, organization and functioning of the National Gambling Office and amending GEO no.77/2009 regarding the organization and operation of gambling - the Competition Council's position was accepted in the sense that the harmonization of the legislation with the competition rules will be done by transposing them in the future regulatory actions;
- Intervention to the Ministry of Transport on the Privatization strategy of CN CFR Marfă SA, concerning the GD amending paragraph 2 item 9 of the Annex of GD 526/2013 for the approval of the main elements of the sale contract of share between the Romanian State through the Ministry of Transport, as the seller, and SC Grup Feroviar Român SA, as the buyer, for the purpose of transferring the ownership of a package of shares representing 51 % of the capital of SNTRM "CFR Marfă" SA – *the observations of the Competition Council were not accepted, the draft GD was not approved by the Government;*
- Intervention to the Parliament on the Draft law approving Government Emergency Ordinance no.57/2013 amending and completing Law no.220/2008 on establishing the system for promoting the energy production from renewable sources, with the subsequent amendments - *the draft legislation is still the subject of the parliamentary debates.*

### III. Statistics on the Competition Council's court dossiers

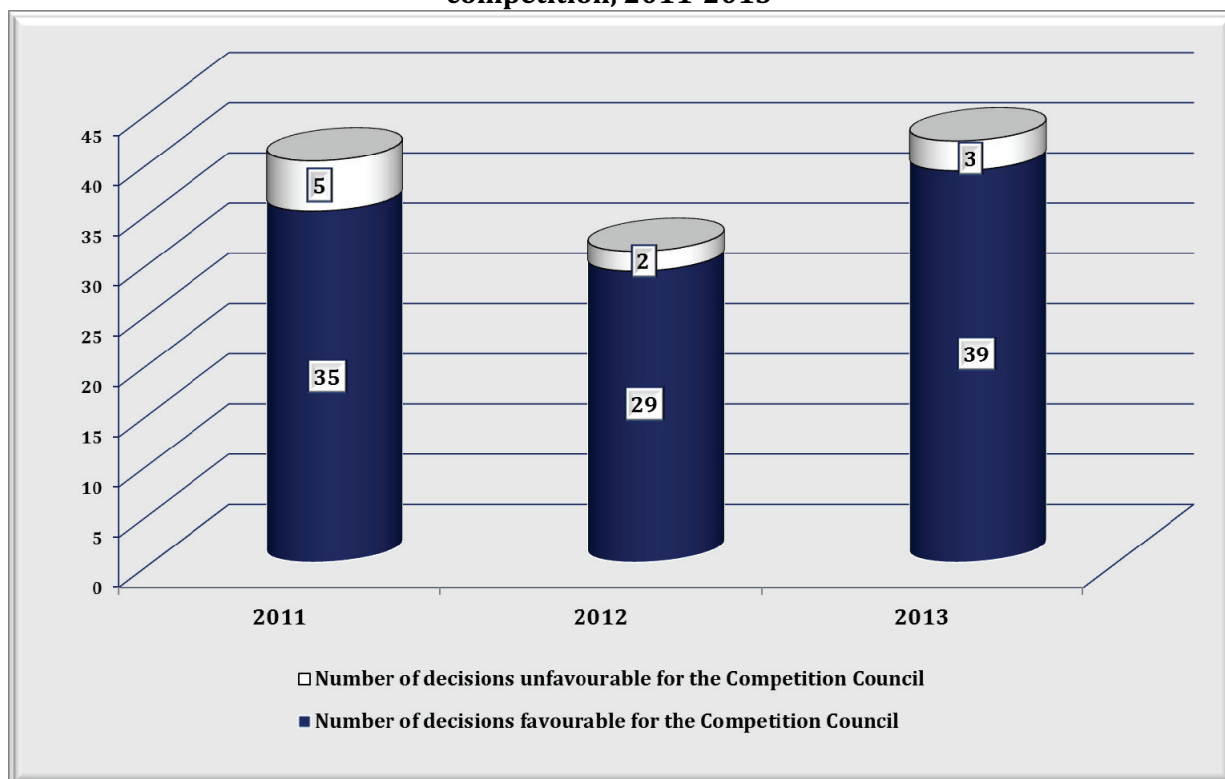
Graph no. 37. Number of dossiers involving the Competition Council, 2011-2013



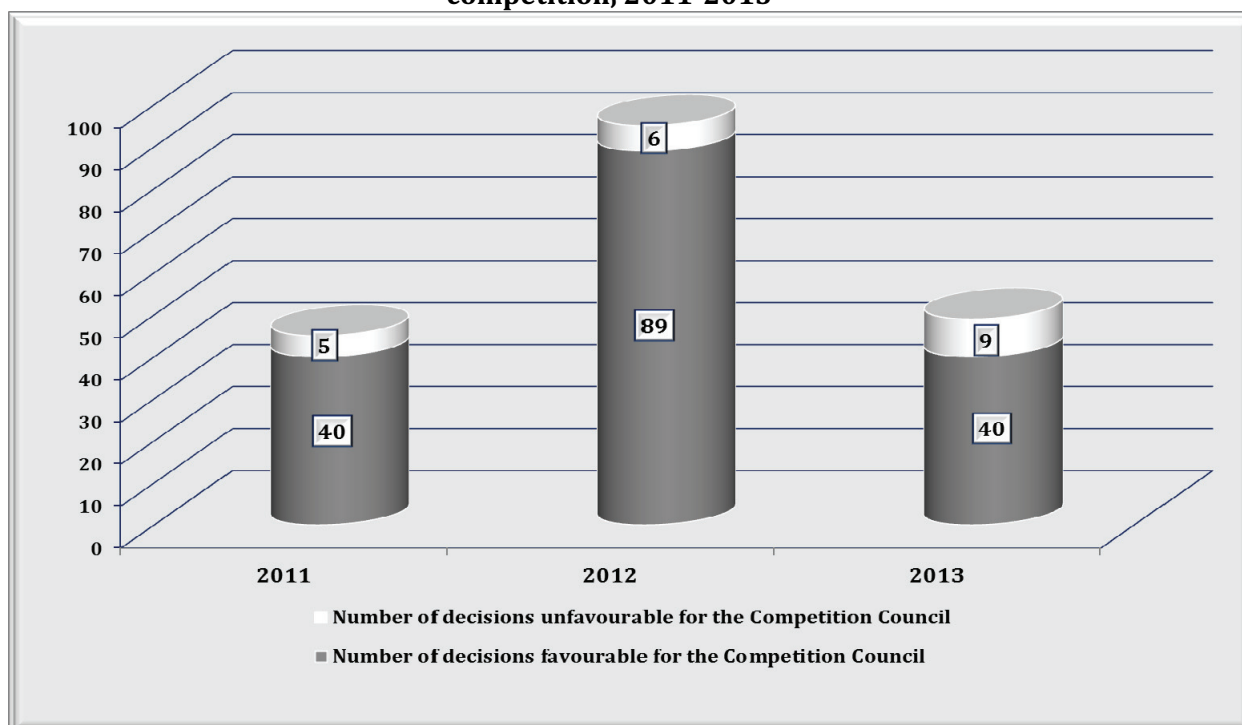
Graph no.38. Number of dossiers on competition, 2011-2013



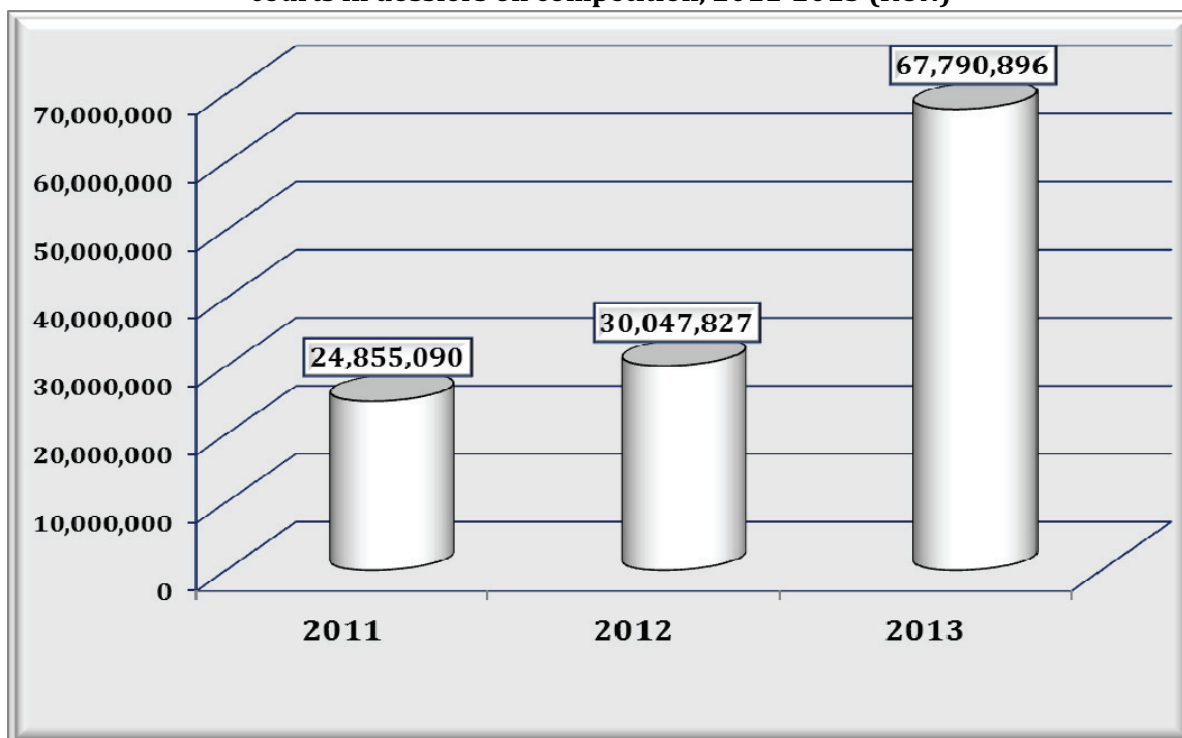
**Graph no. 9. The structure of the irrevocable decisions of the courts in dossiers on competition, 2011-2013**



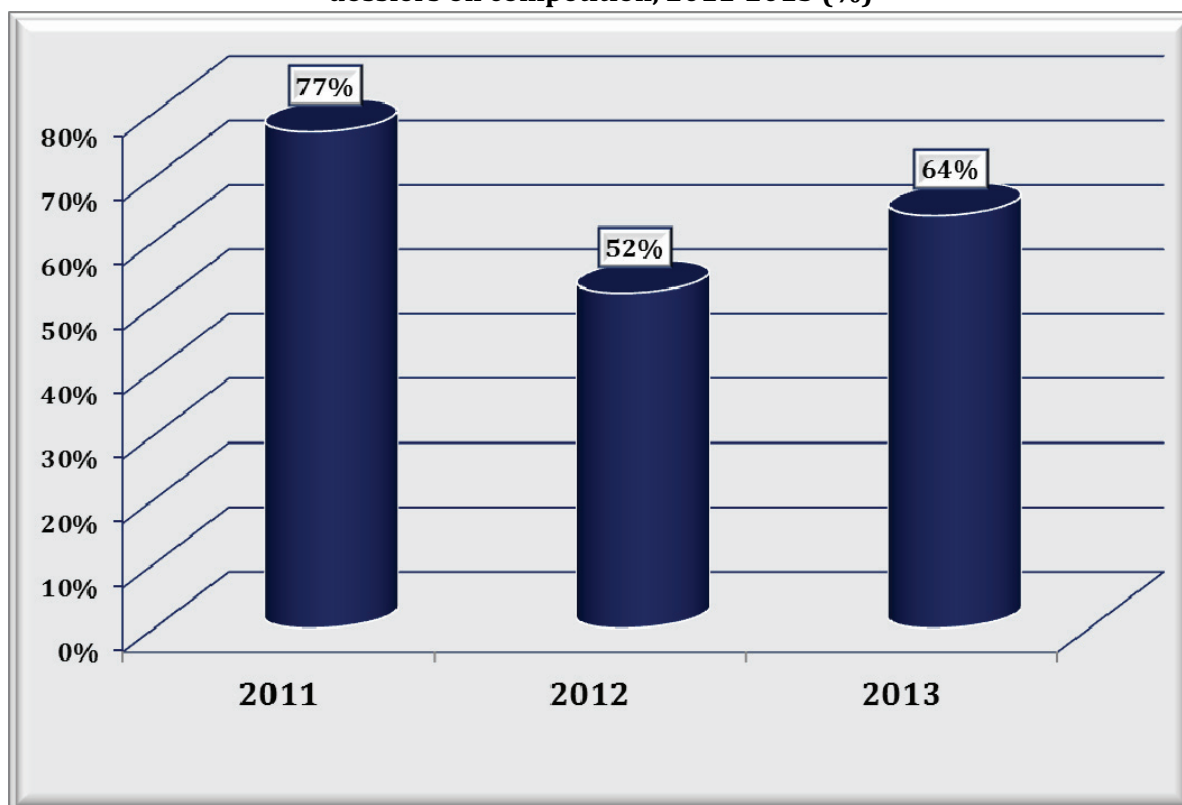
**Graph no.40. The structure of the definitive decisions of the courts in dossiers on competition, 2011-2013**



**Graph no. 41. The value of the fines maintained through irrevocable decisions of the courts in dossiers on competition, 2011-2013 (RON)**



**Graph no.42. The quantum of the fines maintained irrevocably by court decisions in dossiers on competition, 2011-2013 (%)**



#### **IV. Formal opinions in the State aid field issued by the Competition Council in 2013**

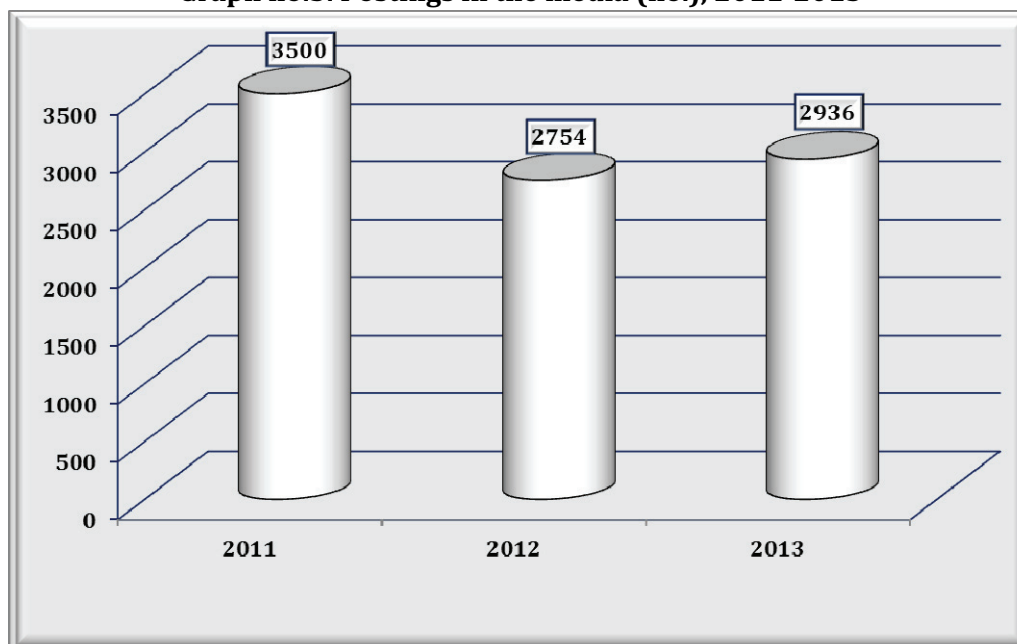
- Formal opinion on the draft of Emergency Ordinance on the set-up of the tax on the supplementary incomes resulted from the de-regulation of the prices in the natural gas sector
- Formal opinion on the State aid scheme for the start-up of new air routes with departure from the International Sibiu Airport;
- Formal opinion on the scheme for start-up of new air routes with departure from Oradea Airport;
- Formal opinion on the draft of Emergency Ordinance on the amendment and completion of certain normative acts regarding the privatization;
- Formal opinion on the draft of Law on the public-private partnership;
- Formal opinion on the draft of GEO on the amendment and completion of the Law no. 220/2008 for the establishment of the system for promoting the production of energy from renewable energy sources, with the subsequent amendments and completions;
- Formal opinion on the draft of Government Emergency Ordinance for the amendment and completion of the Law no. 138/2004 on land reclamation, republished, with the subsequent amendments and completions;
- Formal opinion on the individual notification of the support measure consisting in granting green certificates for the electrical wind power plant Fântânele-Vest based on the Scheme on the promotion of the production of electricity from renewable energy sources, set up by the Law no. 220/2008, republished, with the subsequent amendments and completions;
- Formal opinion on the State aid scheme on the financing of the research-development-innovation projects within the Programme Research in Priority Fields within the SEE Financial Mechanism 2009- 2014;
- Formal opinion on the on regional State aid scheme on energetic efficiency;
- Formal opinion on the information sheet concerning the State aid for large investment projects granted to IBM ROMANIA under the scheme of State aid relating to the establishment of a State aid scheme for supporting investments that promote regional development through the use of new technologies and the creation of jobs, implemented by GD 7972012;

- Formal opinion on the draft of Order on the approval of the conditions for granting the support measures for the investments made within industrial;
- Formal opinion with respect to the Government Decision on amending and completing Government Decision no. 761/2012 regarding the approval of the privatization of the National Company "Poșta Română" SA;
- Formal opinion on the State aid granted to SC STAR ASSEMBLY SRL, based on the Government Decision no. 753/2008 for the setup of a regional development State aid scheme for the promotion of investments, with the subsequent amendments and completions;
- Formal opinion on the notification of State aid scheme for the construction of a national broadband infrastructure in less-favoured areas in Romania, through the use of the structural funds (Ro-NET);
- Formal opinion on the amendment of the State aid scheme enforced through the Government Decision no. 753/2008 for the setup of a regional development State aid scheme for the promotion of investments;
- Formal opinion on the extension of the State aid scheme "Boosting regional development by making investments for the processing of agricultural and forestry products in order to obtain non-agricultural products";
- Formal opinion on the State aid scheme for regional waste management through recycling technologies, for increasing the production of energy from renewable sources of energy and for the protection of water resources by applying the technologies of non-hazardous waste water treatment plants;
- Formal opinion on the State aid scheme "Financing the RDI Projects in accordance with the National Research, Development and Innovation II Plan";
- Formal opinion on the extension of the State aid scheme "Support for the consolidation and modernization of the productive sector through investments made by large enterprises", related to the operation a) "Support for the consolidation and modernization of the productive sector through tangible and intangible investments – large enterprises";
- Formal opinion on the extension of the State aid schemes: "Support for the reinforcement and modernization of the productive sector through investments made by small and medium size enterprises", "Support for the integration of undertakings within the supplier chains or clusters", "Development of support structures for the national and international interest business – Competitiveness Poles";
- Formal opinion on the State aid scheme for the support of the investments in the extension and modernization of the networks for the transport of electricity and natural gas;

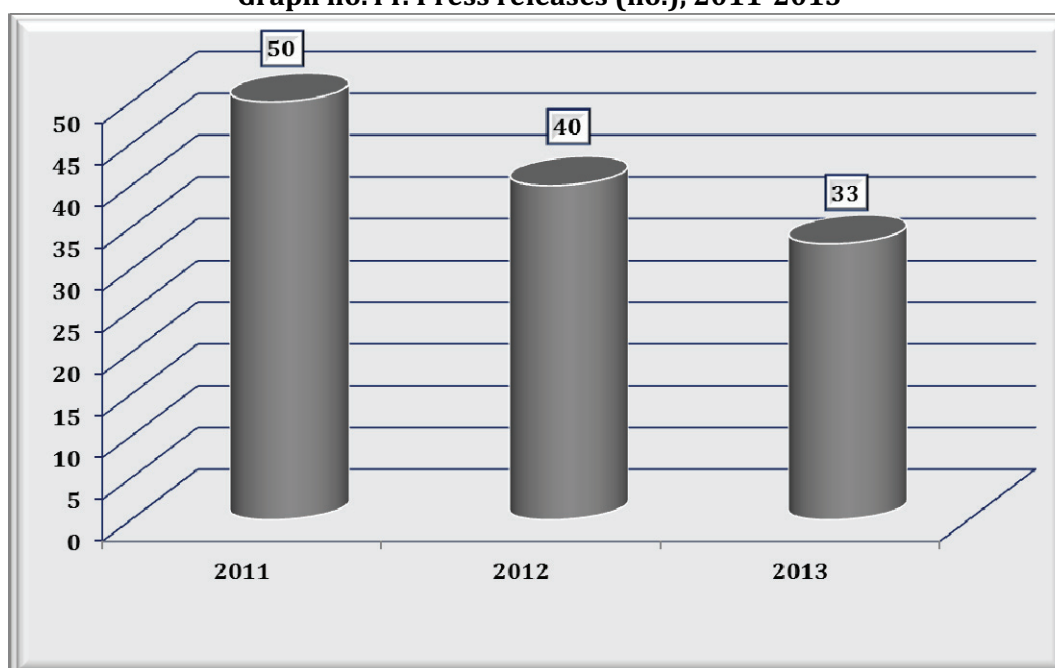
- Formal opinion on the extension of regional State aid scheme for exploitation of renewable energy resources, established by Government Decision no. 750/2008;
- Formal opinion on the extension of the horizontal State aid scheme for lasting development and the reduction of emissions;
- Formal opinion on the extension of the State aid scheme “State aid scheme in the form of venture capital through one or more venture capital funds, as part of the implementation of the JEREMIE initiative in Romania”;
- Formal opinion on the extension of the State aid scheme for the investments made by small and medium size enterprises in order to develop the e-economy;
- Formal opinion on the amendment of the State aid scheme established through the Order of the minister of economy no.2162/07.11.2013 on the approval of the regional State aid scheme for “The financing of the projects through the Programme energy efficiency within the Financial Mechanism of the European Economic Area 2009-2014”.

## V. Promoting actions

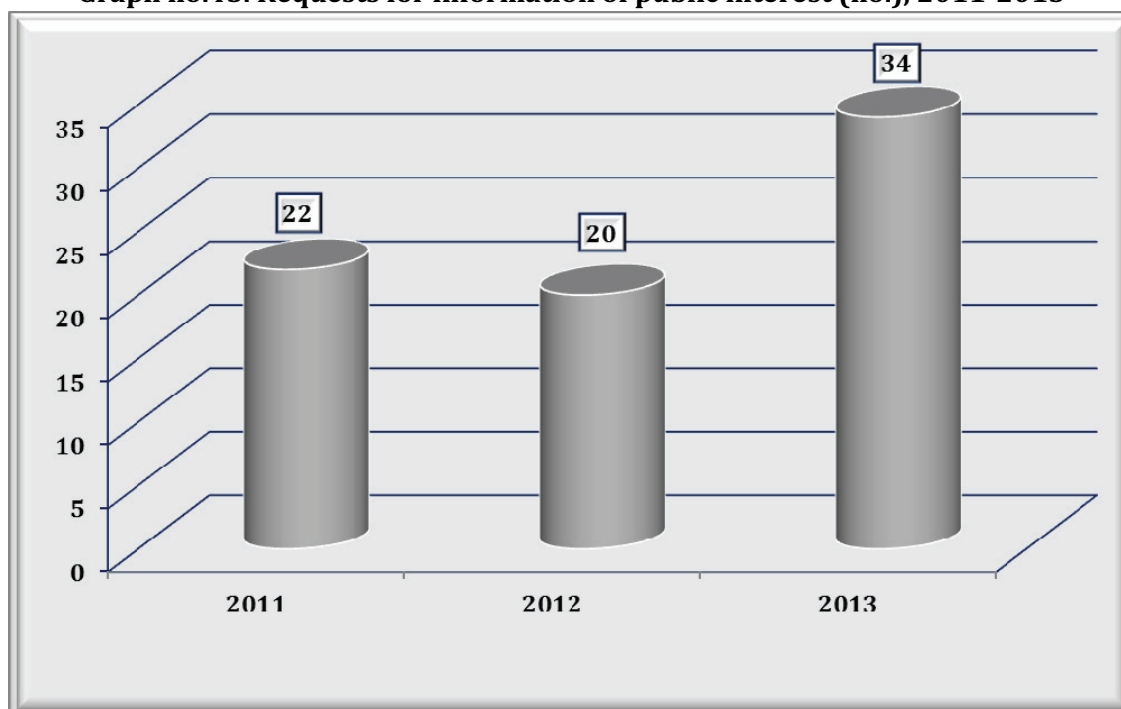
Graph no.3. Postings in the media (no.), 2011-2013



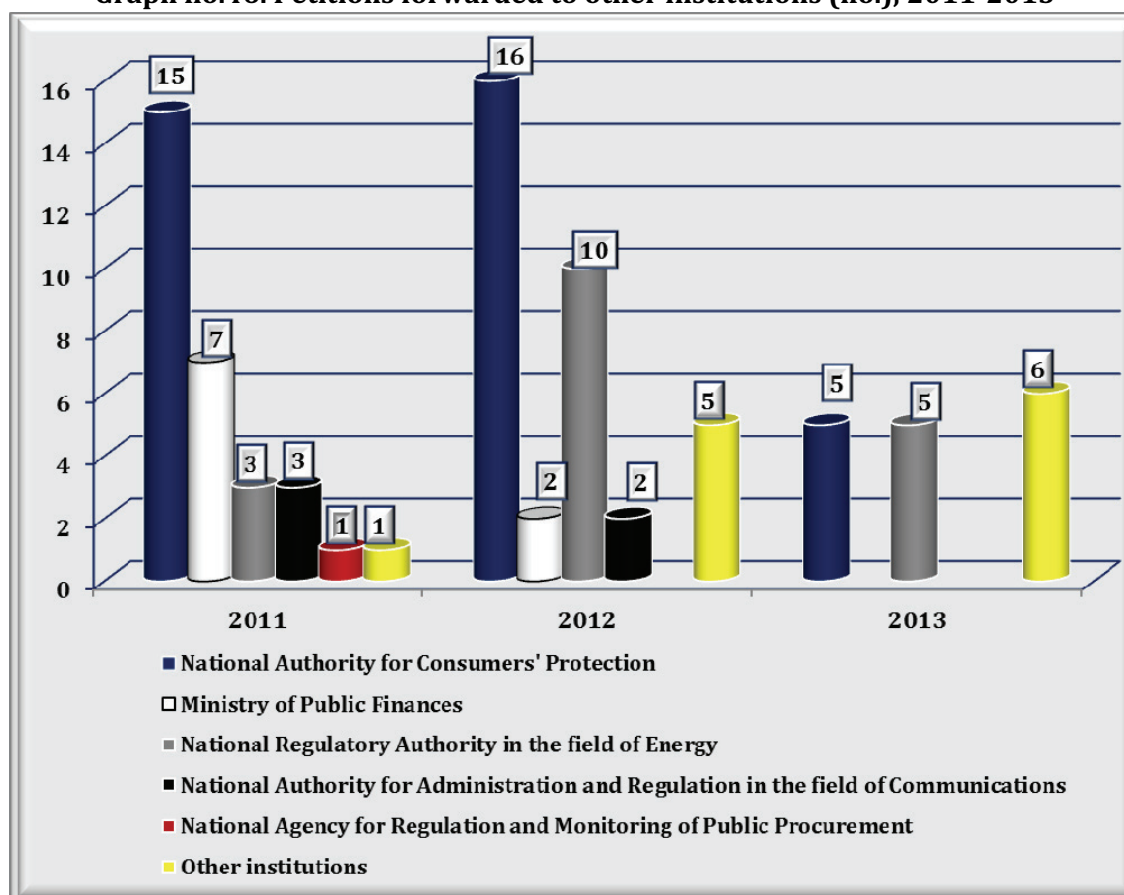
Graph no.44. Press releases (no.), 2011-2013



Graph no.45. Requests for information of public interest (no.), 2011-2013



Graph no.46. Petitions forwarded to other institutions (no.), 2011-2013



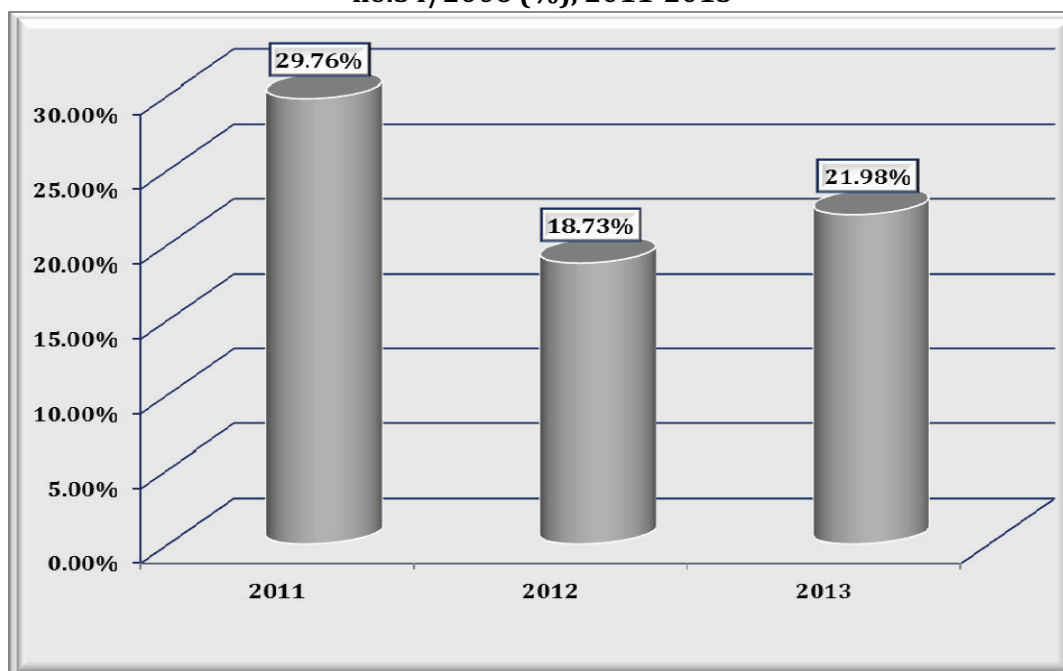
## VI. Financial and human resources of the Competition Council

**Table no. 7. Granted budget - the main allocations  
(thousands RON), 2011-2013**

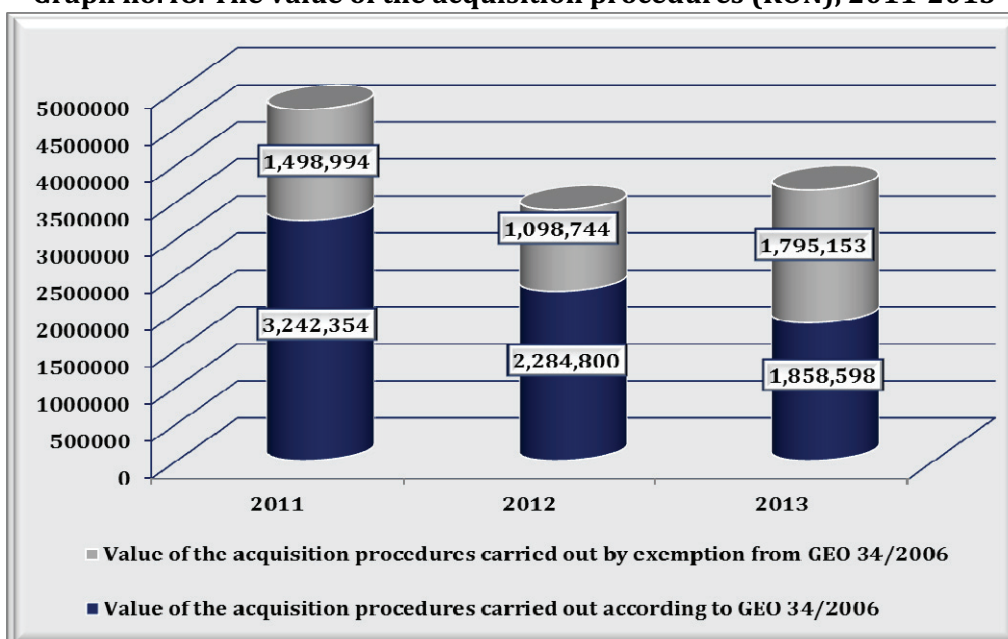
	Buget acordat		
	2011	2012	2013
<b>Total</b>	<b>34.328</b>	<b>41.251</b>	<b>45.148</b>
Personnel expenses	28.838	30.590	35.236
Goods and services	4.555	3.853	3.781
Other transfers	46	48	-
Nonfinancial assets	889	574	-
Non-reimbursable external funds	-	6.186	5.024
Contributions and fees to international bodies	-	-	481
Capital expenses	-	-	626

Synthetic data on the approved budget of the Competition Council can be accessed at:  
[www.competition.ro/about-us/public-information](http://www.competition.ro/about-us/public-information)

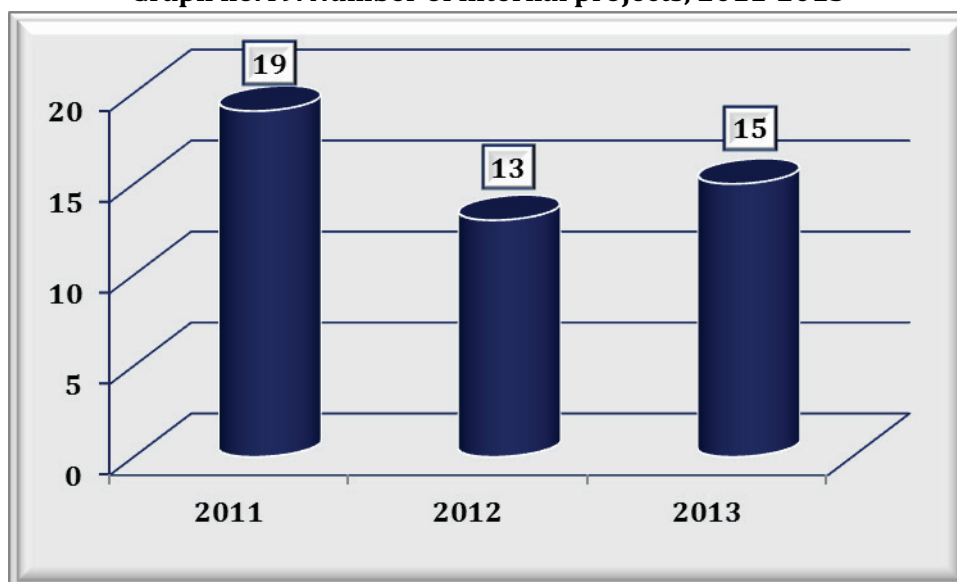
**Graph no.47. The weight of the number of procedures through the Electronic Public Acquisitions System in the total number of procedures carried out based on GEO no.34/2006 (%), 2011-2013**



Graph no.48. The value of the acquisition procedures (RON), 2011-2013



Graph no.49. Number of internal projects, 2011-2013



Graph no.50. The budget allocated for the projects (RON), 2011-2013

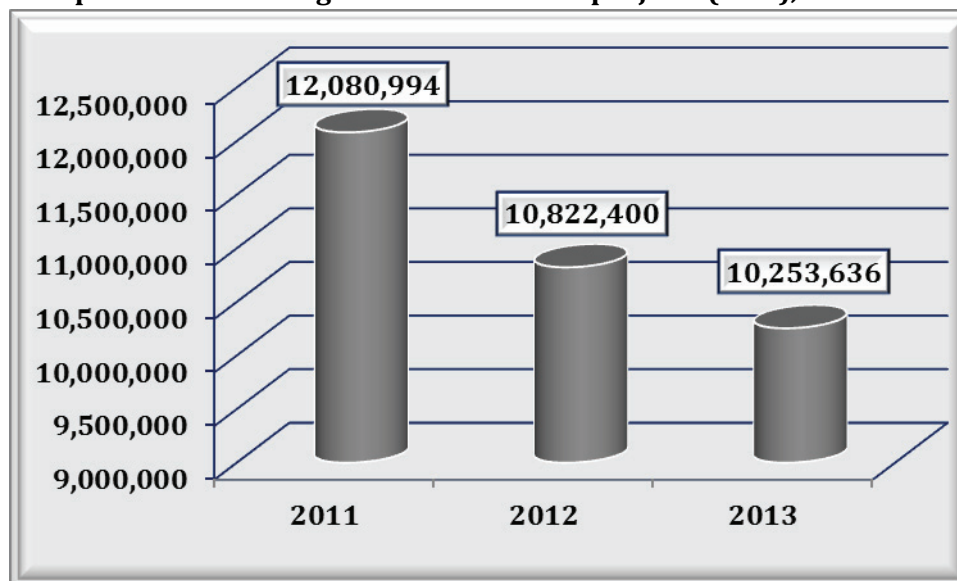


Table no.8. The share of the personnel categories (%), 2011-2013

Year	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
2011	71.0	21.0	1.4	6.6
2012	72.3	19.9	1.0	6.8
2013	69.9	18.6	2.3	9.2

Table no. 9. The structure of the personnel based on their category (no), 2011-2013

Year	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
2011	203	60	4	19
2012	211	58	3	20
2013	214	57	7	28

**Table no.10. Recruitments based on the hiring manner (%), 2011-2013**

Recruitments	Share in total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
For a non-determined period	10.0	16.7	-	-	-
For a determined period	70.0	83.3	33.3	100	-
Detachment	20.0	-	66.7	-	-
Transfer	10.0	16.7	-	-	-
<b>2012</b>					
For a non-determined period	61.8	64.7	69.2	-	100
For a determined period	32.4	35.3	15.4	100	-
Detachment	-	-	-	-	-
<b>2013</b>					
For a non-determined period	70.4	75.0	66.7	-	100
For a determined period	18.5	18.8	11.1	100	-
Detachment	3.7	-	11.1	-	-
Transfer	7.4	6.3	11.1	-	-

**Table no.11. Recruitments based on the hiring manner (no.), 2011-2013**

Recruitments	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
For a non-determined period	1	1	-	-	-
For a determined period	7	5	1	1	-
Detachment	2	-	2	-	-
Transfer	1	1	-	-	-
<b>2012</b>					
For a non-determined period	21	11	9	-	1
For a determined period	11	6	2	3	-
Detachment	-	-	-	-	-
<b>2013</b>					
For a non-determined period	19	12	6	-	1
For a determined period	5	3	1	1	-
Detachment	1	-	1	-	-
Transfer	2	1	1	-	-

Table no.12. Departures from the institution based on the leaving manner (%), 2011-2013

Departures from the institution	Share in total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Retirement	7.1	14.3	-	-	-
End of the determined period	21.4	28.6	20.0	-	-
Resignation	14.3	28.6	-	-	-
Amiable agreement to and the job rapports	42.9	28.6	60.0	-	50.0
Other reasons	14.3	-	20.0	-	50.0
<b>2012</b>					
Retirement	31.6	33.3	33.3	-	-
End of the determined period	21.1	25.0	-	100	-
Resignation	10.5	-	33.3	-	-
Amiable agreement to and the job rapports	36.8	41.7	33.3	-	-
<b>2013</b>					
Retirement	57.1	63.6	83.3	-	-
End of the determined period	19.0	9.1	16.7	66.7	-
Resignation	9.5	9.1	-	-	100.0
Amiable agreement to and the job rapports	14.3	18.2	-	33.3	-

Tabelul nr. 13. Plecări din instituție repartizate după modalitatea utilizată (nr), 2011-2013

Departures from the institution	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Retirement	1	1	-	-	-
End of the determined period	3	2	1	-	-
Resignation	2	2			
Amiable agreement to and the job rapports	6	2	3	-	1
Other reasons	2	-	1	-	1
<b>2012</b>					
Retirement	6	4	2	-	-
End of the determined period	4	3	-	1	-
Resignation	2	-	2	-	-
Amiable agreement to and the job rapports	7	5	2	-	-
<b>2013</b>					
Retirement	12	7	5	-	-
End of the determined period	4	1	1	2	-
Resignation	2	1	-		1
Amiable agreement to and the job rapports	3	2	-	1	-

Table no.14. The structure of the personnel based on the age category (%), 2011-2013

Age category	Share in total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Up to 30 years	5.9	7.4	3.3	-	-
Between 30-40 years	38.8	41.4	30	75.0	31.6
Between 40-50 years	21	18.2	28.3	25.0	26.3
Over 50 years	34.3	33	38.3	-	42.1
<b>2012</b>					
Up to 30 years	6.2	6.6	3.4	33.3	5.0
Between 30-40 years	39.7	43.6	29.3	33.3	30.0
Between 40-50 years	21.2	17.5	29.3	33.3	35.0
Over 50 years	32.9	32.2	37.9	-	30.0
<b>2013</b>					
Up to 30 years	6.9	7.5	5.3	28.6	-
Between 30-40 years	43.5	48.1	36.8	28.6	25.0
Between 40-50 years	20.3	16.4	31.6	14.3	28.6
Over 50 years	29.4	28.0	26.3	28.6	46.4

Table no.15. The structure of the personnel based on the age category (no.), 2011-2013

Age category	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Up to 30 years	17	15	2	-	-
Between 30-40 years	111	84	18	3	6
Between 40-50 years	60	37	17	1	5
Over 50 years	98	67	23	-	8
<b>2012</b>					
Up to 30 years	18	14	2	1	1
Between 30-40 years	116	92	17	1	6
Between 40-50 years	62	37	17	1	7
Over 50 years	96	68	22	-	6
<b>2013</b>					
Up to 30 years	21	16	3	2	-
Between 30-40 years	133	103	21	2	7
Between 40-50 years	62	35	18	1	8
Over 50 years	90	60	15	2	13

Table no.16. The structure of the personnel based on the sex category (%), 2011-2013

Sex category	Share in total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Women	54.9	55.2	55	50.0	52.6
Men	45.1	44.8	45	50.0	47.4
<b>2012</b>					
Women	57.9	58.3	55.2	100	55.0
Men	42.1	41.7	44.8	-	45.0
<b>2013</b>					
Women	57.5	58.4	57.9	85.7	42.9
Men	42.5	41.6	42.1	14.3	57.1

**Table no.17. The structure of the personnel based on the sex category (no.), 2011-2013**

Sex category	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Women	157	112	33	2	10
Men	129	91	27	2	9
<b>2012</b>					
Women	169	123	32	3	11
Men	123	88	26	-	9
<b>2013</b>					
Women	176	125	33	6	12
Men	130	89	24	1	16

**Table no. 18. The structure of the personnel based on the type of the functional unit where it is allocated (%), 2011-2013**

The type of the functional unit	Share in the total personnel	Competition inspectors	General public functions and contractual personnel	Management personnel
<b>2011</b>				
Competition directorates	25.9	31.5	6.7	31.6
State aid directorates	8.7	10.8	1.7	10.5
The territorial directorate (including the territorial inspectorates)	30.4	40.9	3.3	10.5
The legal directorate	4.9	5.4	1.7	10.5
The research directorate	4.9	5.9	1.7	5.3
The external relations directorate	5.6	5.4	6.7	5.3
Secretary General directorates	17.1	-	76.7	15.8
Internal auditing unit	0.3	-	1.7	-
Public managers	0.7	-	0.0	10.5
Dignitary cabinets	1.4	-	6.7	-
<b>2012</b>				
Competition directorates and services	25.0	29.9	6.6	31.6
State aid directorate	7.2	8.5	1.6	10.5
The territorial directorate (including the territorial inspectorates)	29.5	38.4	4.9	10.5
The legal directorate	5.1	6.2	1.6	5.3
The research directorate	6.5	7.6	1.6	10.5
The external relations directorate	6.2	7.1	1.6	10.5
Railway Supervision Council	0.3	0.5	-	-
The Plenum assistance compartment	1.4	1.9	-	-
Secretary General directorates	16.4	-	73.8	10.5
Internal auditing unit	0.7	-	3.3	-
Public managers	0.7	-	-	10.5
Dignitary cabinets	1.0	-	4.9	-
<b>2013</b>				
Competition directorates and services	25.2	31.3	4.6	25.9
State aid directorate	7.2	8.4	1.5	11.1
The territorial directorate (including the territorial inspectorates)	27.8	37.4	4.6	7.4
The legal directorate	5.6	6.5	3.1	3.7
The research directorate	6.2	7.5	1.5	7.4
The external relations directorate	5.9	6.1	4.6	7.4
Railway Supervision Council	1.0	1.4	0.0	-
The Plenum assistance compartment	1.3	1.4	1.5	-
Secretary General directorates	15.4	-	64.6	18.5
Internal auditing unit	0.7	-	3.1	-

The type of the functional unit	Share in the total personnel	Competition inspectors	General public functions and contractual personnel	Management personnel
Public managers	0.3	-	1.5	-
Dignitary cabinets	3.6	-	9.2	18.5

**Table no.19. The structure of the personnel based on the type of the functional unit where it is allocated (no.), 2011-2013**

The type of the functional unit	Total personnel	Competition inspectors	General public functions and contractual personnel	Management personnel
<b>2011</b>				
Competition directorates	74	64	4	6
State aid directorates	25	22	1	2
The territorial directorate (including the territorial inspectorates)	87	83	2	2
The legal directorate	14	11	1	2
The research directorate	14	12	1	1
The external relations directorate	16	11	4	1
Secretary General directorates	49	0	46	3
Internal auditing unit	1	-	1	-
Public managers	2	-	-	2
Dignitary cabinets	4	-	4	-
<b>2012</b>				
Competition directorates and services	73	63	4	6
State aid directorate	21	18	1	2
The territorial directorate (including the territorial inspectorates)	86	81	3	2
The legal directorate	15	13	1	1
The research directorate	19	16	1	2
The external relations directorate	18	15	1	2
Railway Supervision Council	1	1	-	-
The Plenum assistance compartment	4	4	-	-
Secretary General directorates	48	0	45	2
Internal auditing unit	2	-	2	-
Public managers	2	-	-	2
Dignitary cabinets	3	-	3	-
<b>2013</b>				
Competition directorates and services	77	67	3	7
State aid directorate	22	18	1	3
The territorial directorate (including the territorial inspectorates)	85	80	3	2
The legal directorate	17	14	2	1
The research directorate	19	16	1	2
The external relations directorate	18	13	3	2
Railway Supervision Council	3	3	-	-
The Plenum assistance compartment	4	3	1	-
Secretary General directorates	47	0	42	5
Internal auditing unit	2	-	2	-
Public managers	1	-	1	-
Dignitary cabinets	11	-	6	5

**Table no.20. The structure of the competition inspectors based on the professional grade (%), 2011-2013**

The type of the functional unit	Share in the total no. of inspectors	Debutant	Assistant	Principal	Superior
<b>2011</b>					
Competition directorates	31,5	-	38,1	39,7	24,3
State aid directorates	10,8	-	4,8	19,0	8,7
The territorial directorate (including the territorial inspectorates)	40,9	-	26,2	20,7	58,3
The legal directorate	5,4	-	11,9	6,9	1,9
The research directorate	5,9	-	9,5	6,9	3,9
The external relations directorate	5,4	-	9,5	6,9	2,9
<b>2012</b>					
Competition directorates and services	29,9	-	25,0	31,8	30,1
State aid directorate	8,5	-	3,1	9,1	9,7
The territorial directorate (including the territorial inspectorates)	38,4	-	25,0	25,8	49,6
The legal directorate	6,2	-	15,6	7,6	2,7
The research directorate	7,6	-	12,5	13,6	2,7
The external relations directorate	7,1	-	12,5	9,1	4,4
Railway Supervision Council	0,5	-	-	1,5	-
The Plenum assistance compartment	1,9	-	6,3	1,5	0,9
<b>2013</b>					
Competition directorates and services	31,3	50,0	28,1	34,8	29,7
State aid directorate	8,4	-	3,1	10,1	9,0
The territorial directorate (including the territorial inspectorates)	37,4	-	25,0	24,6	49,5
The legal directorate	6,5	-	15,6	7,2	3,6
The research directorate	7,5	50,0	9,4	13,0	2,7
The external relations directorate	6,1	-	9,4	7,2	4,5
Railway Supervision Council	1,4	-	6,3	1,4	-
The Plenum assistance compartment	1,4	-	3,1	1,4	0,9

**Table no.21. The structure of the competition inspectors based on the professional grade (no.), 2011-2013**

The type of the functional unit	Total no. of inspectors	Debutant	Assistant	Principal	Superior
<b>2011</b>					
Competition directorates	64	-	16	23	25
State aid directorates	22	-	2	11	9
The territorial directorate (including the territorial inspectorates)	83	-	11	12	60
The legal directorate	11	-	5	4	2
The research directorate	12	-	4	4	4
The external relations directorate	11	-	4	4	3
<b>2012</b>					
Competition directorates and services	63	-	8	21	34
State aid directorate	18	-	1	6	11
The territorial directorate (including the territorial inspectorates)	81	-	8	17	56
The legal directorate	13	-	5	5	3
The research directorate	16	-	4	9	3
The external relations directorate	15	-	4	6	5
Railway Supervision Council	1	-	-	1	-
The Plenum assistance compartment	4	-	2	1	1
<b>2013</b>					
Competition directorate and services	67	1	9	24	33
State aid directorate	18	-	1	7	10
The territorial directorate (including the territorial inspectorates)	80	-	8	17	55
The legal directorate	14	-	5	5	4

The type of the functional unit	Total no. of inspectors	Debutant	Assistant	Principal	Superior
The research directorate	16	1	3	9	3
The external relations directorate	13	-	3	5	5
Railway Supervision Council	3	-	2	1	-
The Plenum assistance compartment	3	-	1	1	1

**Table no. 22. The structure of the personnel with general public functions based on the professional grade (%), 2011-2013**

The type of the functional unit	Share in the total public servants with general functions	Assistant	Principal	Superior
<b>2011</b>				
Competition directorates	13.6	25.0	-	9.1
The territorial directorate (including the territorial inspectorates)	4.5	12.5	-	-
The legal directorate	9.1	-	-	18.2
Secretary General directorates	59.1	50.0	100	54.5
Internal auditing unit	4.5	-	-	9.1
Public managers	9.1	12.5	-	9.1
<b>2012</b>				
Competition directorates and services	15.8	25.0	-	25
The territorial directorate (including the territorial inspectorates)	5.3	-	14.3	-
Secretary General directorates	57.9	50.0	85.7	37.5
Internal auditing unit	10.5	-	-	25
Public managers	10.5	25.0	-	12.5
<b>2013</b>				
Competition directorates and services	10.5	-	20.0	-
The territorial directorate (including the territorial inspectorates)	5.3	-	10.0	-
The legal directorate	5.3	33.3	-	-
The external relations directorate	5.3	-	-	16.7
Secretary General directorates	57.9	33.3	60.0	66.7
Internal auditing unit	10.5	-	10.0	16.7
Public managers	5.3	33.3	-	-

**Table no.23. The structure of the personnel with general public functions based on the professional grade (no.), 2011-2013**

The type of the functional unit	Total public servants with general functions	Assistant	Principal	Superior
<b>2011</b>				
Competition directorates	3	2	-	1
The territorial directorate (including the territorial inspectorates)	1	1	-	-
The legal directorate	2	-	-	2
Secretary General directorates	13	4	3	6
Internal auditing unit	1	-	-	1
Public managers	2	1	-	1
<b>2012</b>				
Competition directorates and services	3	1	-	2
The territorial directorate (including the territorial inspectorates)	1	-	1	-
Secretary General directorates	11	2	6	3
Internal auditing unit	2	-	-	2
Public managers	2	1	-	1

The type of the functional unit	Total public servants with general functions	Assistant	Principal	Superior
<b>2013</b>				
Competition directorates and services	2	-	2	-
The territorial directorate (including the territorial inspectorates)	1	-	1	-
The legal directorate	1	1	-	-
The external relations directorate	1	-	-	1
Secretary General directorates	11	1	6	4
Internal auditing unit	2	-	1	1
Public managers	1	-	1	-

Table no.24. Professional specialisation of the personnel (no), 2011-2013

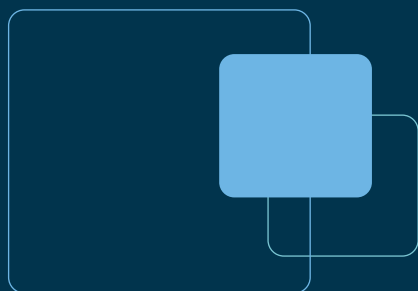
Professional training	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Management personnel
<b>2011</b>					
Economists	170	133	26	3	10
Jurists	47	39	2	-	6
Economists and jurists	3	3	-	-	-
Economists and other specialization	4	4	-	-	-
Jurists and other specialization	2	2	-	-	-
Another professional specialization	39	22	11	1	3
Medium and general studies	21	-	21	-	-
<b>2012</b>					
Economists	171	131	28	2	10
Jurists	46	38	2	-	6
Economists and jurists	6	6	-	-	-
Economists and other specialization	2	2	-	-	-
Jurists and other specialization	4	4	-	-	-
Another professional specialization	44	30	9	1	4
Medium and general studies	19	-	19	-	-
<b>2013</b>					
Economists	179	136	28	1	14
Jurists	58	46	6	1	5
Economists and jurists	5	3	-	-	2
Economists and other specialization	2	1	-	-	1
Jurists and other specialization	2	2	-	-	-
Another professional specialization	46	26	12	2	6
Medium and general studies	14	-	11	3	-

**Table no.25. The structure of the personnel based on the education level (%), 2011-2013**

Education level	Share in total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Education level
<b>2011</b>					
General school	0.6	-	3.3	-	-
High school diploma	6.6	-	31.7	-	-
University diploma	61.2	66	50	75.0	42.1
Master diploma	28.3	31	13.3	25.0	47.4
PhD studies	3.1	3	1.7	-	10.5
<b>2012</b>					
General school	0.7	-	3.4	-	-
High school diploma	5.8	-	29.3	-	-
University diploma	53.8	58.8	50.0	100	5.0
Master diploma	35.6	37.0	15.5	-	85.0
PhD studies	4.1	4.3	1.7	-	10.0
<b>2013</b>					
General school	-	3.5	-	-	-
High school diploma	-	15.8	42.9	-	-
University diploma	59.3	57.9	28.6	39.3	59.3
Master diploma	36.0	21.1	28.6	50.0	36.0
PhD studies	4.7	1.8	-	10.7	4.7

**Table no.26. The structure of the personnel based on the education level (no.), 2011-2013**

Education level	Total personnel	Competition inspectors	General public functions and contractual personnel	Dignitary cabinet personnel	Education level
<b>2011</b>					
General school	2	-	2	-	-
High school diploma	19	-	19	-	-
University diploma	175	134	30	3	8
Master diploma	81	63	8	1	9
PhD studies	9	6	1	-	2
<b>2012</b>					
General school	2	-	2	-	-
High school diploma	17	-	17	-	-
University diploma	157	124	29	3	1
Master diploma	104	78	9	-	17
PhD studies	12	9	1	-	2
<b>2013</b>					
General school	2	-	2	-	-
High school diploma	12	-	9	3	-
University diploma	173	127	33	2	11
Master diploma	105	77	12	2	14
PhD studies	14	10	1	-	3



## COMPETITION COUNCIL

**1ST Piața Presei Libere, sector 1, Bucharest, Postal code 013701**

**Phone: 021.31.81.198, 021.31.18.11.99, Fax: 021.31.84.09**

**[www.competition.ro](http://www.competition.ro)**

**E-mail: [presedinte@consiliulconcurente.ro](mailto:presedinte@consiliulconcurente.ro), [presa@consiliulconcurente.ro](mailto:presa@consiliulconcurente.ro)**