



**International  
Competition  
Network**

**ANTI-CARTEL  
ENFORCEMENT  
TEMPLATE**

**CARTELS WORKING GROUP  
Subgroup 2: Enforcement Techniques**

**Albania**

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# ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

## IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses which suffer from cartel activity to get information about the possibilities of lodging a complaint in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

## 1. Information on the law relating to cartels

<b>A. Law(s) covering cartels:</b>	Law no. 9121, date 28.07.2003 "On Competition protection" (amended) Available in English: <a href="http://www.caa.gov.al">www.caa.gov.al</a>
<b>B. Implementing regulation(s) (if any):</b>	Regulation "On the exemption of the categories of specialization agreements " approved with the decision of miratuar me vendimin no. 190, 26.05.2011 Regulation "On the exemption of the categories of research and development agreements" approved with decision no. 187, 03.05.2011 Regulation "On exemption of the categories of technological transfers agreements" approved with decision no. 179, 02.03.2011 Guideline" On the evaluation of vertical agreements, decision No. 145, 15.04.2010 Guideline "On the evaluation of horizontal agreements", decision No. 137, 15.02.2010 Regulation "On agreements of minor importance " De minimis, decision No. 203, date 08.11.2011 Regulation "On fines and leniency" decision No.120, 10.09.2009 Guideline "On market definition" decision no. 76, date 07.06.2008

	<p>Guideline "On the form of the notification of the agreement ", no. 14 date 26.01.2005 and the form of the notification of the agreement.</p> <p>Regulation "On investigation procedures"</p> <p>Regulation "On block exemption of the categories of vertical agreements and concerned practices".</p> <p>Regulation "On block exemption of the categories of vertical agreements and concerned practices in motor vehicle sector.</p> <p>Regulation "On the implementation of the article 6 of the Law toward some categories of the agreements, decisions and practices in the insurance sector". Decision No.286 , date 21.05.2013</p> <p>Regulation "On the categories of the agreements and concerned practices in the market of air transport" .</p> <p>Available in English</p> <p><a href="http://www.caa.gov.al">www.caa.gov.al</a></p>
<p><b>C. Interpretative guideline(s) (if any):</b></p>	<p>Guideline "On evaluation of the vertical agreements" , decision no.145, 15.04.2010</p> <p>Guideline "On evaluation of the horizontal agreements", decision No. 137, date 15.02.2010</p> <p>Guideline "On market definition " Decision No.76, date 07.06.208</p> <p>Guideline "On the form of the notification of the agreements". decision, No.14 date 26.01.2005 and the notification of the agreements form.</p> <p>Guideline "On the assessment of vertical agreement"</p> <p>Guideline "On the assessment of horizontal agreement"</p> <p>Available in English</p> <p><a href="http://www.caa.gov.al">www.caa.gov.al</a></p>
<p><b>D. Other relevant materials (if any):</b></p>	<p>Publications such as:</p> <p>Competition Policy ;</p> <p>Questionnaire: The Market and Competition ,</p> <p>The Booklet: Competition in Albania;</p> <p>Signs of forbidden agreements in public procurement;</p> <p>Information booklets;</p> <p>Booklet "Competition Law and consumer";</p> <p>Legal and sublegal acts in competition field;</p> <p>Complaint form;</p> <p>Competition in Economy;</p> <p>Terminological Competition Dictionary; etc.</p>

## 2. Scope and nature of prohibition on cartels

<p><b>A. Does your law or case law define the term “cartel”?</b></p> <p><b>If not, please indicate the term you use instead.</b></p>	<p>Lwr nr 9121; of 28.07.2003 'On Competition Protection" does not define the word cartel but it is used as prohibited agreement.</p> <p>The law (amended) define the notion of cartel. Article 3 of the law defines the notion of agreement and article 4 defines the notion of prohibited agreement.</p>
<p><b>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas<sup>1</sup>) and other types of “cartels”?</b></p>	<p>The law defines the hard core cartels from the other types of infringement of the law. According article 4 of the law, there are defined the hard core cartels. Article 73 and 74 of the law forssess the fines for serous infringments and the fines for not serious infrigments.</p>
<p><b>C. Scope of the prohibition of hardcore cartels:</b></p>	<p>According the law (article 4) are prohibited those types of agreements which : directly or indirectly fix purchase or selling prices, or any other trading conditions; limit or control production, markets, technical development, or investment; share markets or sources of supply; Apply dissimilar conditions to equivalent transactions to other trading parties, thereby placing them at a competitive disadvantage; make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which, by their nature or according to commercial usage, have no connection with the subject of such contracts. Also there are two other articles in our law (Article 5 and 6) according exemptions. The prohibition of Article 4 (1) may not apply to agreements contributing to improving the production or distribution of goods and/or services or to promoting technical or technological or economic progress, while allowing customers or consumers a fair share of the resulting benefit, and which do not:</p> <p>1) impose on the participating undertakings restrictions which are not indispensable to the attainment of these objectives; and</p> <p>2) significantly restrict competition in respect of the products or services which are subject of those agreements. Article6: The Commission is entitled to adopt regulations on the categories of agreements to be excluded from the prohibition of Article 4 (1). These regulations shall detail the conditions to be met in order to benefit from the exemption of the prohibition laid out in Article 4 (1)</p>
<p><b>D. Is participation in a hardcore cartel illegal <i>per se</i>?</b></p>	<p>Yes, the participation in a prohibited agreement is ilegal per se and the authority has to intervene in such a case.</p>

<sup>1</sup> In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	According our legislation in force, the prohibited agreements (cartels) are not considered as criminal, and an administrative fine is imposed in cases where cartels are detected.
<b>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</b>	Participation in a hard core cartel for undertakings is an administrative offence and the Albanian Competition Commission has the right to impose fine on those undertaking that are members of a cartel. Also the law forsses fines for individual that are individual sanctions.( The Commission may impose fines on individuals not exceeding 5 million lek (Approx. 35 000 euro) on individuals, if they, intentionally or negligently, carry out or co-operate to carry out actions against the competition law)

### 3. Investigating institution(s)

<b>A. Name of the agency, which investigates cartels:</b>	Albanian Competition Authority is the institution responsible for prosecuting and detecting cartels.
<b>B. Contact details of the agency:</b>	Rruga "S. Frashëri", Nr. 4, Kati IV Tirane, Shqiperi Tel: 04 / 23 45 04 Fax: 04 / 23 44 97 E-Mail: competition@caa.gov.al Website: www.caa.gov.al Available in English
<b>C. Information point for potential complainants:</b>	Complaint form ,(Available in the website) must be fulfilled and send in the address: Rruga "S. Frashëri", Nr. 4, Kati IV Tel: 04 / 23 45 04 Fax: 04 / 23 44 97 E-Mail: competition@caa.gov.al Website:www.caa.gov.al
<b>D. Contact point where complaints can be lodged:</b>	Rruga "S. Frashëri", Nr. 4, Kati IV Tel: 04 / 23 45 04 Fax: 04 / 23 44 97 E-Mail: competition@caa.gov.al Website:
<b>E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.</b>	The Competition Authority may ask the help of the Police Department in cases where inspections and down raids are necessary for a specific case.

#### 4. Decision-making institution(s)<sup>2</sup> [to be filled in only if this is different from the investigating agency]

<b>A. Name of the agency making decisions in cartel cases:</b>	Albanian Competition Authority and the decision making body is the Competition Commission. The Albanian Competition Authority is composed of the Secretariat (administrative body) and the Commission (decision taking body)
<b>B. Contact details of the agency:</b>	Rruga "S. Frashëri", Nr. 4, Kati IV Tirane, Shqiperi Tel: 04 / 23 45 04 Fax: 04 / 23 44 97 E-Mail: competition@caa.gov.al Website: www.caa.gov.al Available in English
<b>C. Contact point for questions and consultations:</b>	Rruga "S. Frashëri", Nr. 4, Kati IV Tirane, Shqiperi Tel: 04 / 23 45 04 Fax: 04 / 23 44 97 E-Mail: competition@caa.gov.al Website: www.caa.gov.al Available in english
<b>D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.</b>	The Competition Authority is the only responsible institution dealing with competition cases and in this case with cartel behaviour. The procedures are well defined in our main law and other secondary legislation, prescribing the way the institution realizes the investigation and afterwards the decision taking process. The Competition Authority is a public body, independent in realizing its tasks.
<b>E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?</b>	Based on Albanian Competition Law no.9121, of 28.07.2003 cartel conduct are considered administrative infringements.

#### 5. Handling complaints and initiation of proceedings

<b>A. Basis for initiating investigations in cartel cases:</b>	Based on Albanian Competition Law no.9121, of 28.07.2003 we can initiate an investigation procedure based in a complaint, ex officio, leniency application, notificaton, by request of the Parliament or other regulatory bodies, etc.
<b>B. Are complaints required to be made in a specific form (e.g.</b>	The complaint are required to be made in a specific form which can be found in our web page: :

<sup>2</sup> Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

<b>by phone, in writing, on a form, etc.)?</b>	<a href="http://www.caa.gov.al/complain/list/page/1">http://www.caa.gov.al/complain/list/page/1</a> , and delivered in our premises by mail or other forms.
<b>C. Legal requirements for lodging a complaint against a cartel:</b>	Based in our law, it is not necessary to be a legitimate interest on behalf of the person (individual or undertaking) that delivers the complaint.
<b>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?</b>	Albanian Competition Authority takes into consideration all the complaints addressed to our institution and processes only the ones that are object of our Law.
<b>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</b>	In all the cases in which the complaint is not object of our Law, the complainant receives an answer from ACA where are submitted all the reasons why the complaint has not been taken into consideration.
<b>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</b>	Based on administrative code the deadline is 15 working days.

## 6. Leniency policy<sup>3</sup>

<b>A. What is the official name of your leniency policy (if any)?</b>	Regulation "On fines and leniency" <a href="http://www.caa.gov.al">www.caa.gov.al</a> . We have also prepared a leniency programme but it hasn't been approved yet.
<b>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</b>	Yes, according to our law, the Competition Commission can offer full and partial leniency depending on the case and on the help that one certain undertaking gives in order to detect the cartel. Based on the leniency program the applicant can profit full or partial leniency depending from the application law and the importance of the brought evidence.
<b>C. Who is eligible for full leniency?</b>	Full leniency can be granted to the first one that comes to the Competition Authority. Only the first applicant on leniency profits from the full immunity.
<b>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an</b>	Article 8, point 1 of the Regulation "On fines and leniency"  Immunity from fines  1. The Competition Commission may grant immunity from fines if the undertaking comes forward for first and assists on the

<sup>3</sup> For the purposes of this template the notion of 'leniency' covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like 'leniency' 'amnesty' and 'immunity' are considered as synonyms.

<p><b>investigation?</b></p> <p><b>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</b></p>	<p>investigation of the prohibited agreement and the identification of the responsible persons, by making available evidence and information that were not formerly in the possession of the Competition Authority, and the enable the latter to proceed with the following steps:</p> <ul style="list-style-type: none"> <li>a) To launch an investigation concerning a prohibited agreement;</li> <li>b) To identify an infringement, pursuant to Article 4 of the Law.</li> </ul> <p>To benefit from full immunity the date of application must be before the opening of the investigation procedure. and also Article 9, point 2.</p> <p>The Competition Authority shall not accept a request for leniency from fines if such request has been presented after the completion of the investigation report.</p>
<p><b>E. Who can be a beneficiary of the leniency program (individual / businesses)?</b></p>	<p>Undertakings are beneficiaries from this programme. Also individuals can benefit from leniency program. (directors of undertakings) in the case of individual applications, and also undertakings.</p>
<p><b>F. What are the conditions of availability of full leniency:</b></p>	<p>Article 8 of the Regulation.</p> <p>Immunity from fines</p> <p>1. The Competition Commission may grant immunity from fines if the undertaking comes forward for first and assists on the investigation of the prohibited agreement and the identification of the responsible persons, by making available evidence and information that were not formerly in the possession of the Competition Authority, and the enable the latter to proceed with the following steps:</p> <ul style="list-style-type: none"> <li>a) To launch an investigation concerning a prohibited agreement;</li> <li>b) To identify an infringement, pursuant to Article 4 of the Law.</li> </ul> <p>2. In order to be eligible for immunity from fines, the undertaking must fulfill the following:</p> <ul style="list-style-type: none"> <li>a) To make available to the Competition Authority a copy, or description of the prohibited agreement, where are included the purpose, the scope, the way of functioning, the relevant products involved, the relevant market, the extension and the assesment of the market volume impacted by the prohibited agreement, the date of the agreement, the place of signature, the content and the participants to the agreement, as well as other information that may assist the Competition Authority in the uncovering of the prohibited agreement.</li> <li>b) To disclose the name and address of the undertaking that is applying for applying for immunity from fines, as well as the name and addresses of all the undertakings that participate to the prohibited agreement.</li> <li>c) To disclose the names, positions and addresses of all the offices, and when necessary, the addresses of all the individuals who, to the knowledge of the undertaking applying for immunity from fines, are or have been involved with the the prohibited agreement, as well as all those individuals that have been involved on behalf of he parties.</li> <li>d) To inform the Competition Authority whether it [i.e. the undertaking applying for immunity from fines] has withdrawn</li> </ul>



	<p>from the participation to the prohibited agreement.</p> <p>e) To be available to the Competition Authority for answering its requests that are related to the prohibited agreement.</p> <p>f) To refrain from destruction, falsification or correction of the relevant information pertaining to the prohibited agreement.</p> <p>g) To disclose other information related to the prohibited agreement.</p> <p>3. Leniency from fines as stipulated under Article 2 of this Regulation shall not be conceded if, at the time of the application by the undertaking, the Competition Authority had already had available sufficient information to support the following measures:</p> <p>a) To launch an investigation concerning a prohibited agreement;</p> <p>b) Has already launched such an investigation;</p> <p>c) To make a decision. 4. Leniency from fines as stipulated under Article 2 of this Regulation shall be conceded if, at the time of the application by the undertaking, the Competition Authority had not sufficient information to uncover an infringement pursuant to Article 4 of the Law.</p> <p>5. The undertaking that has taken the initiative to obligate the other undertakings become part of the prohibited agreement, or to remain within the agreement, does not benefit from this type of leniency from fines.</p>
<p><b>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</b></p>	<p>Article 10 of the Regulation.</p> <p>Partial leniency from fines</p> <p>1. The undertaking that notifies the participation in a prohibited agreement and that does not meet the criteria for immunity from fines, may apply for a partial leniency from fines. 2. In order to become eligible for a partial leniency from fines the undertaking must make available to the Competition Authority such information that consists in added value to the uncovering of the prohibited agreement. In the evaluation by the Competition Authority are taken into consideration such evidence that concern the infringement and the time when it became effective. This type of evidence is deemed more valuable than subsequent evidence. Similarly, the evidence directly connected to the aforementioned facts shall be deemed to having a greater value than indirect evidence.</p> <p>3. Through its final decision, the Competition Commission determines the level of leniency from fines as follows:</p> <p>a) For the first undertaking applies a reduction of 30-50%;</p> <p>b) For the second undertaking applies a reduction of 20-30%;</p> <p>c) For the subsequent undertakings applies a reduction of 20%.</p> <p>4. In order to determine the level of reduction of the fine within each of these bands, the Competition Authority will take into account the time at which the evidence fulfilling the condition stated under point 2 of this Article, was submitted and the extent to which it represents added value. The Commission may also take into account the extent and continuity of any</p>

	<p>cooperation provided by the undertaking following the date of its submission.</p> <p>4. If an undertaking was the first to provide evidence relating to facts previously unknown to the Competition Authority, and which have a direct bearing on the gravity of the infringement, or duration of the suspected agreement, the Authority will not take these elements into account when setting any fine to be imposed on the undertaking which was the first, or the only one to provide such evidence.</p>
<p><b>H. Obligations for the beneficiary after the leniency application has been accepted:</b></p>	<p>Article 8, letter e and f of the Regulation.</p> <p>e) To be available to the Competition Authority for answering its requests that are related to the prohibited agreement.</p> <p>f) To refrain from destruction, falsification or correction of the relevant information pertaining to the prohibited agreement.</p>
<p><b>I. Are there formal requirements to make a leniency application?</b></p>	<p>Article 9 , point 1 of the Regulation.</p> <p>The undertaking interested in obtaining a leniency from fines should submit a request in writing to the Authority for immunity from fines, or partial leniency from fines.</p> <p>It must be in a written form.</p>
<p><b>J. Are there distinct procedural steps within the leniency program?</b></p>	<p>Article 9 of the Regulation.</p> <p>Application procedures for immunity from fines</p> <p>The undertaking interested in obtaining a leniency from fines should submit a request in writing to the Authority for immunity from fines, or partial leniency from fines.</p> <p>1. The undertaking interested in obtaining a leniency from fines should submit a request in writing to the Authority for immunity from fines, or partial leniency from fines.</p> <p>2. The Competition Authority shall not accept a request for leniency from fines if such request has been presented after the completion of the investigation report.</p> <p>3. The applicant undertaking must notify the Competition Authority on prior applications on for leniency from fines and concessions of such leniency.</p> <p>4. Once the immunity from fines is conceded, the Competition Commission determines the timeframe within which the applicant undertaking must submit the requested information, in order to fulfill the criteria for leniency from fines.</p> <p>In cases of default to comply with the aforementioned criteria, the applicant does not benefit from leniency from fines.</p> <p>5. If the applicant undertaking has failed to comply with the determined criteria and timeframes, the Competition Authority notifies the undertaking on such default in writing. In such a case, the undertaking may withdraw the application for immunity from fines, or request that the Competition Authority takes into consideration a request for partial leniency from fines.</p> <p>6. The Competition Commission does not take into consideration other requests for leniency from fines that concern a given infringement, before making a decision on an ongoing application concerning the same infringement.</p>

<p><b>K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?</b></p>	<p>Article 9, point 4 of the Regulation.</p> <p>Once the immunity from fines is conceded, the Competition Commission determines the timeframe within which the applicant undertaking must submit the requested information, in order to fulfill the criteria for leniency from fines.</p> <p>In cases of default to comply with the aforementioned criteria, the applicant does not benefit from leniency from fines.</p>
<p><b>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</b></p>	<p>Leniency is given via Competition Commission Decision. The Competition Commission is the responsible body of giving full leniency or partial leniency, after respecting all the necessary procedures according to the law. There are specific articles of the law and the relevant regulation (article 77 of the main law nr. 9121, dated 28.07.2003 "On Competition Protection" and articles 8,9,10,11 of the Regulation "On fines and leniency from fines") that clarifies the procedures and when leniency is granted.</p>
<p><b>M. Does your legislation have a marker system? If yes, please describe it.</b></p>	<p>We do not have a specific marker system but we refer to article 9, point 6 of the Regulation.</p> <p>The Competition Commission does not take into consideration other requests for leniency from fines that concern a given infringement, before making a decision on an ongoing application concerning the same infringement.</p>
<p><b>N. Does the system provide for any extra credit<sup>4</sup> for disclosing additional violations?</b></p>	<p>The leniency program does not provide extra credit. If the applicant provides information about a cartel in another market, then it should be treated as a new application.</p>
<p><b>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</b></p>	<p>Yes, Albanian Competition Authority is obligated to keep the confidentiality based on article 30 of the Law.</p> <p>Keeping confidentiality and commercial secrets 16</p> <p>1. The members of the Commission and all Secretariat employees, or other persons authorized by the Commission to apply this Law shall be subject to professional secrecy and shall not divulge to any person or authority whatsoever confidential information acquired owing to their duties, except the cases when it is needed to testify before a court. Such obligation continues to apply also after the termination of the duty.</p> <p>2. Secretariat publications shall not contain information constituting commercial secret.</p>
<p><b>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</b></p>	
<p><b>Q. Contact point where a leniency application can be</b></p>	<p>Rruga "Sami Frasheri", Nr 4, Kati IV; Tirana; Fax: +355 4 234 497</p>

<sup>4</sup> Also known as: "leniency plus", "amnesty plus" or "immunity plus". This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

<b>lodged:</b>	Phone: +355 4 234 504 www.caa.gov.al; e-mail: competition@caa.gov.al
<b>R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?</b>	The decision can't be revoked like all the other decisions of the Competition Commission. Article 46 of the Law. Revocation of the decisions The Commission may revoke or modify its decisions by imposing conditions, or supplemented obligations, insofar as: a) One or some of the facts which has served as a basis of taking the decision has changed; b) The parties contravene an obligation attached to the decision; c) The decision is based on incorrect information or was obtained by means of deceit.
<b>S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?</b>	

## 7. Investigative powers of the enforcing institution(s)<sup>5</sup>

<b>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids<sup>6</sup>, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</b>	According our law, our institution has full competences to undertake investigative procedures such as request for information, down raids neraby the undertakings, searches the premises and computers , etc according article 35 and 36 of the law. This kind of inspection requires the authorization from the Competition Commission. Whereas, where the inpsection is performed neraby the other premises such as the homes and apartments of the administrators, menagers, directors atc, a special warrant from the court is needed.
<b>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</b>	According our law, article 37, after a court warrant, we can inspect the individual premises from 7.00 am till 18.00 pm , for facts and evidences where there are based reasons that information can be found to these premises.
<b>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another</b>	We haven't had any such a case, but according the warrant of the court subject of the inspection is that certain case and not other case.

<sup>5</sup> "Enforcing institutions" may mean either the investigating or the decision-making institution or both.

<sup>6</sup> "Searches/raids" means all types of search, raid or inspection measures.

<p>case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</p>	
<p>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</p>	

## 8. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases:</p>	<p>According our procedures, the parties under investigation has the right of defence. During the procedures, consultative meeting with the working group can be organised where the parties give their version. Also, after the final procedures. the parties have the right of access to the final report and other material and documents in which the case handlers has based their report. Afterwords, they have the right to bring in writing form their argumnets against the findings of the report. The competition Commission in any case organises a hearing session, in which the parties can present their claims for the report. Also after the decision of the Competition Commission, an administrative request can be delivered neraby the CC to review this decision. And, in the end are the court procedures to be followed.</p>
<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation?</p>	<p>According our law, (article 30) The members of the Commission and all Secretariat employees, or other persons authorized by the Commission to apply this Law shall be subject to professional secrecy and shall not divulge to any person or authority whatsoever confidential information acquired owing to their duties, except the cases when it is needed to testify before a court. Such obligation continues to apply also after the termination of the duty.</p>

## 9. Limitation periods and deadlines

<p>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings</p>	<p>The deadline to close the indepth investigation procedure is up to 6 months from the date of opening this procedures. But this deadline can be extended in the cases where further investigations are neded that has to do withadded information and specialised expertise for examining the case.</p>
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<b>must begin or a decision in the merits of the case must be made?</b>	
<b>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</b>	For the preliminary investigation the law does not provide any deadline to finish the investigation whereas for the in-depth investigation, the deadline set in article 43, of 6 months has to be respected.
<b>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</b>	The parties, within 30 days from the moment of taking knowledge of the decision has the right of the administrative review of the decision (decision to be reviewed from the institution that has issued the decision, in this case the Competition Commission). After that, within 30 days, they have the right to bring a claim in front of the court, for court review of the decision.

## 10. Types of decisions

<b>A. Please list which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1.</b>	The competition Commission after detecting a cartel, may issued decision for imposing a fine, a decision for closing the investigative procedures and also a decision to bring to an end this prohibited agreement.
<b>B. Please list which types of decisions on the merits of the case can be made in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 10/A).</b>	The decisions are those as set in point 10A above.
<b>C. Can interim measures<sup>7</sup> be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both<sup>8</sup>.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</b>	<p>The competition Commission, which is the decision taking body, is the collegial body which is responsible of giving interim measures. The criteria to take interim measures are those set in article 44 after which The Commission, on its initiative or following a request from the undertakings concerned and at any time of the procedure, may adopt all the necessary interim measures, in cases of an urgency due to the risk of serious and irreparable damage to competition on the basis that there might be an infringement of articles 4 (prohibited agreement) and 9 (abuse of dominant position).</p> <p>This decision, is taken for a specific time and may be renewed when it is necessary.</p>

<sup>7</sup> In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

<sup>8</sup> Only for agencies which answered “yes” to question 2.C. above

## 11. Sanctions for procedural breaches (non-compliance with procedural obligations)<sup>9</sup>

<b>A. Grounds for the imposition of procedural sanctions / fines:</b>	Where it is concluded that we have to do with a prohibited agreement, sanctions such as fines are imposed.
<b>B. Type and nature of the sanction (civil, administrative, criminal, combined):</b>	The nature of the fine is administrative fine.
<b>C. On whom can procedural sanctions be imposed?</b>	To the undertakings part of the agreement, to administrators, to managers, to directors etc.
<b>D. Criteria for determining the sanction / fine:</b>	Gravity, duration
<b>E. Are there maximum and / or minimum sanctions / fines?</b>	Up to 10% of the total turnover of the previous financial year.

## 12. Sanctions on the merits of the case

<b>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</b>  <b>On whom can sanctions be imposed?</b>	The nature of sanctions in cartel cases are administrative (fine imposed)  The sanctions can be imposed to the undertakings (individual undertakings) , associations of undertakings but also the law provides individual fines imposed to individuals (article 78 of the law)
<b>B. Criteria for determining the sanction / fine:</b>	The criteria for setting the fine are provided to our regulation "On fines and leniency from fines". The fine can be up to 10% of the turnover of the undertaking and the criteria to be taken into consideration are those of the gravity, duration of the violation, illegal gain of the undertaking from this violation, etc.
<b>C. Are there maximum and / or minimum sanctions / fines?</b>	The maximum that can be set is 10 % of the turnover of the undertaking.
<b>D. Guideline(s) on calculation of fines:</b>	Our institution has approved a regulation "On fines and leniency from fines" which is in full line with the EU legislation. This regulation can be found in our website <a href="http://www.caa.gov.al">www.caa.gov.al</a> ( <a href="http://www.caa.gov.al/uploads/laws/Regulation%20On%20Fines%20and">http://www.caa.gov.al/uploads/laws/Regulation%20On%20Fines%20and</a>

<sup>9</sup> In some jurisdictions non-compliance with procedural obligations (e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.) can be sanctioned.

	%20Leniency.pdf) and is available in English.
<b>E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?</b>	When the case is challenged before the court, the parties can require from the court the suspension of the effect until the procedure court finishes. The decision is in the evaluation of the judge to be decided on this request. Our law 'On Competition Protection' does not set any such criteria in this case.

### 13. Possibilities of appeal

<b>A. Does your law provide for an appeal from a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</b>	The Decision of the Competition Commission (CC) for detecting a cartel and imposing a fine is a subject of appeal before the court. The claims against the decision of CC may be also the fact of detecting cartels but also procedural aspects of the decision.
<b>B. Before which court or agency should such a challenge be made?</b>	Till now the decisions are challenged before the Tirana District Court. Italy has been approved the law for the administrative court and from now and the beginning the decisions will be brought before the administrative court.