



**REPUBLIC OF ALBANIA
COMPETITION AUTHORITY**

REGULATION

**FOR APPLYING CONCENTRATION PROCEDURES OF
UNTERTAKINGS**

In pursuance of articles 24, letter dh and 84, letter c of law no.9121 data 28.07.2003 “On Competition Protection”, Competition Authority approves regulation “For applying concentration procedures of undertakings”.

Part I

Notification

Article 1

Obligation for notification of concentration

1. Notifications must be submitted by undertakings determined by article 53, paragraph 1 of the law.
2. Whether the notification, which fulfills the requirement of the article 53 of the law, is not signed by the legal representative of undertaking, but by an authorised person, then the latter must be provided with a written authorisation where is stated the right for representation.
3. Whether it is a joint notification, it must be submitted by a common representative, who has the right to transmit and receive documents on behalf of notifying parties.
4. Notifying parties or their representatives that do not perform activity in Republic of Albania, must ensure an address, where the Authority can send the necessary correspondence.

Article 2
Submission of notifications

1. Notifications must be submitted in accordance to Notification Form, attached to Notification Form of Concentrations and on the Possibility for a simplified Notification, approved by Competition Commission Decision No. 8, date 1.06.2004 (here in after referred to Guideline). Joint notifications must be submitted in a single form.
2. Three copies of each notification and the attached documents (defined in the notification form) must be submitted in the Notifications Office of the Authority, in the address showed in the Guideline. This communication must be done during working hours vis-à-vis a certification for its delivery.
3. At least, one of document copies attached to notification (defined in the Notification Form) must be original or notarized copies. The Authority can require at any time additional documents, which must be original or notarized copies. Each attached document must contain explicitly the name of the parties who make the notification.
4. Notification must be submitted in Albanian language even if the juridical or physical person making the notification is not a resident or doesn't have an office in Albania. The Authority may authorize notifying parties to make the notification in the English language.
5. The documents attached to Notification Form must be provided in their official language. Whether their official language is not Albanian or English, a notarized translation in Albanian language must be attached to the notification.

Article 3
Information and documents that must be provided

1. Notification should contain the required information in the Notification Form attached to the Guideline, in an explicit and complete manner.
2. The Authority may exempt from obligation to give any specific information required in the Notification Form (including documents), when it is convinced that this information is not necessary for the reviewing of the question.
3. The Authority immediately must officially inform the parties who have made the notifications or their representatives for the receipt of notification and of any other

information sent in response to the request of the Authority on basis of the article 54 of the Law.

Article 4 **When the notification becomes effective**

1. Notification becomes effective on the date when they are submitted in the Notification Office of the Authority.
2. When the information provided in Notification Form, including documents, is incomplete as far as a material is concern, than the Authority, based on the article 54 of the law, shall officially inform within five days, the notifying parties or their representatives to complete the information within a time limit. In these cases the notification will become effective at the day that the Authority has received the complete information.
3. Changes of the data contained in Notification Form, which are known or unknown by notifying parties, must be communicated to the Authority within ten days. In such cases when these changes may have an important effect on the estimation of the concentration, the Authority may recognize the notification as effective on the date when the Authority has received information on the changes. In such case, the Authority must notify officially within ten days the notifying parties or their representatives.
4. Incorrect and misleading information is considered to be incomplete on the basis of article 33, paragraph 2 of the Law.
5. When the Authority publishes the fact of a notification on the basis of article 64 of the law, must specify the information about the date when the notification has been received. When the date of entering into force of the notification is later than specified date in this publication, the Authority must deliver another publication, in which is published the posterior date.

Article 5 **Response of the Authority on the notification**

In any case when the Commission takes a decision that the notified transaction does not constitute a concentration according to the article 10 and 12 of the Law, the Authority must officially inform notifying parties or their representatives, in accordance with the time limits defined in article 56 of the Law.

Part II
Time Limits

Article 6
The beginning of time limits

1. The period of two months to initiate preliminary procedures defined in article 56 of the Law shall start at the following working day after the day when the notification becomes effective.
2. The period of three months for to carry out in-depth procedures defined in the article 57 of the Law shall start at the following working day after the day when Commission has taken the decision for the initiating in-depth procedures.

Article 7
Termination of time limits

1. The period of two months to initiate the preliminary procedures shall end with expiring of the day of second month, which has the same date as the day, in which has started the period. When such a day does not occur in the last month, than the period shall end with the expiry of the last day of this month.
2. The period of three months to initiate in-depth procedures shall end with expiry of the day of third following month, which has the same date with that day which has started the period. When such a day does not occur in the third month the period shall end with the expiry of the last day of that month.
3. When the last day of period is not a working day the period shall end with the expiry of the following working day.

Article 8
Involvement of holidays

If the period calculated according to article 7 of this Regulation has expired and if the official holidays or other holidays fall during the referred periods of article 56 and 57 of the Law, the same number of working day shall be added this periods.

Article 9
Suspension of time period

1. Refereed periods in article 56, 57 of the Law shall be suspended when the Authority in pursuance of article 33, point 2 of the Law must take a decision because:
 - a. Information required by the Authority in accordance with article 55 of the Law from one of the notifying parties or other interested parties, has not been provided or is incomplete within time period assigned by the Authority.
 - b. Information required by the Authority in accordance of article 55 of the Law from a third party it is not complete or has not been provided within time period assigned by Authority due to the circumstances of one of the notifying parties or any other involved party.
 - c. One of the notifying parties or involved parties has refused to be subdued to inspections that are considered necessary by the Authority based on article 55 of the Law or to collaborate on carrying out an investigation.
 - d. The notifying parties have failed to inform the Authority on the change of facts contained in the Notification Form.

2. Time limits stipulated in articles 56, 57 of the Law shall be suspended:
 - a. In the referred cases in point 1 (a) and (b) of this article for the period between the end of time period determined in the request for information and providing of complete and correct information required by the Commission decision.
 - b. In the referred cases in point 1 (c) of this article, for the period between unsuccessfully efforts to carry out the investigation and ending of investigations authorized by Commission decision.
 - c. In the referred cases in point 1 (d) of this article for the period between the change of the facts and receiving complete and correct information required by the Commission decision or by ending of investigation authorized by him.

3. Suspension of time period shall begin in the following day of the event, which caused suspension. It will expire in the end of that day in which the reason of suspension has stopped to exist. If this day is not a working day suspension shall end in the following working day.

Article 10
Compliance with time limits

Time limits determined in article 56, 57 of the Law shall be considered complete if Competition Commission has taken the respective decision before expiring of this time limits.

PART 3
Hearings of parties

Article 11
The parties to be heard

According to article 39 of the Law the parties, which have the right to be heard, are:

- (a) notifying parties who are the persons or undertakings which have submitted a notification according to article 53 of the Law.
- (b) other parties involved, who are other parties which are included in the concentration plan, with the exception of notifying parties, such as seller and the undertaking which is object of concentration.
- (c) third concerned parties that may be physical or legal person, including consumers, suppliers, competitors, and in particular members of public administration or representative of association of these undertakings.
- (d) parties towards which the Competition Commission is thinking to take a decision based on article 73, 74 and 76 of the Law.

Article 12
Decisions for interim authorization of the concentration

1. Where the Commission considers taking a decision on the basis of article 60 of the Law, which adversely affects one or more parties, the Commission should notify in written the notifying parties and other parties concerned, with regard to its remarks and shall define the time period within which they may submit their comments.
2. Where the Commission, on the basis of article 60 of the Law, has taken a preliminary decision according to point 1 of this article, without the notifying parties or other parties concerned being given the opportunity to make known their views beforehand, the Commission should, within 5 days, submit to parties the preliminary draft of the decision and define the time period within which they may give their views.

Where the notifying parties and other concerned parties have submitted their views, the Commission shall take the final decision by revoking, amending or confirming the preliminary decision. Where the notifying parties or other parties concerned have not submitted their views within the defined time period, the preliminary decision of the Commission shall be definitive.

3. The notifying parties and other parties concerned submit their views in written or through hearing sessions within the defined time limit. They may confirm in written their views expressed in hearing sessions.

Article 13 **Taking of Decisions**

1. Where the Commission considers taking a decision according to article 56, point 1 of the Law, the Commission shall hear the notifying parties.
2. The Authority submits to notifying parties, in written, the remarks of the Commission and defines the time limit within which the notifying parties may inform in written the Authority concerning their views.
3. The Authority informs in written also other concerned parties about these remarks, and defines the time limit within which the parties may inform the Authority in written on their views.
4. The Authority, after submitting its remarks to notifying parties, upon request, gives them access to files in order to provide them the opportunity to exercise the right of defence.

Upon request, the Authority gives to other concerned parties, which has been informed about the remarks, the right to consult the documentation within the defined time limit.

5. The parties, which are subject of Commission's remarks or those which has been informed about these remarks, within the defined time limit, give their views about the remarks in written, and may submit their reasons on the issue and attach any necessary documents for bearing out the evidences provided by them. Also, the parties may propose the Authority hearing of persons, which may bear out these evidences.
6. Where the Commission considers taking a decision on the basis of article 73, 74 and 77 of the Law, the Commission should hear the parties concerned and shall apply the procedures stipulated in points 2, 3 and 4 of this article.

Article 14 **Hearing sessions**

1. The Authority should give the notifying parties the opportunity to submit their arguments in a hearing session, if it is requested by them in written and have expressed their interest. The Authority, may give the parties the opportunity to express their views in hearing sessions, also in other cases.
2. The Authority should give the concerned parties the opportunity to submit their arguments in hearing sessions if it is requested by them in written and have expressed their interest. The Authority may give the parties the opportunity to express their views in hearing sessions, also in other cases when the Authority deems necessary.
3. The Authority should give the parties, with regard to which intends to apply fines, in compliance with article 73, 74 or periodical fines in compliance with article 76,

to submit their arguments in hearing sessions if it has been requested by them in written. The Authority, may give the parties the opportunities to express their views in hearing sessions, also in other cases when deemed necessary by the Authority.

4. The Authority invites in written the persons, who shall be heard, to participate in hearing session on the defined date.

Article 15 Organization of hearing sessions

1. The inspector assigned with the issue should conduct the hearing.
2. The persons invited to participate should be represented personally or by a legal representative. An authorized person may represent undertakings and associations of undertakings.
3. Persons heard by the Authority may be assisted by their legal representatives or other qualified persons accepted by the inspector in charge with the issue.
4. Hearing sessions are not open to the public. Each person may be heard individually or in the presence of other invited persons, taking into consideration the legitimate interest of undertakings for the protection of their business secrecies and other confidential information.
5. Each person's statements should be registered. Upon request, the registering of the session should be put at the disposal of the persons participating in the session. It should be considered the legitimate interest of undertakings for the protection of their business secrecies and other confidential information.

Article 16 Hearing of third parties

1. Where other parties from those mentioned in the article 14 of this Regulation, have requested in written to be heard, the Authority informs them in written on the nature and issue under procedure and determines the time limit within which they may submit in written their views.
2. Parties mentioned in point 1 of this article submit their views in written within the determined time limit. The Authority, when it deems necessary, may give them the opportunity to participate in a formal hearing session. The Authority, may give the parties the opportunity to express their views orally also in other cases.
3. In the same way, the Authority may give to any third party the opportunity to express their views.

Article 17
Confidential information

1. The information, including documents, are not to be disseminated from the Authority, if contain business secrecies or other confidential information of any person or undertaking, including notifying parties, other interested parties or third parties, or any other confidential information and which are not necessary for proceeding with case.
2. Each party, which makes known its views according to previous articles of this chapter, shall clearly identify each material to be considered confidential, to give the appropriate reasoning and provide a non confidential version, separated from the confidential one, within the time limit determined by the Authority.

Chapter IV
Commitments related to compatibility of concentration

Article 18
Time limits for the commitments

1. The commitments proposed to the Authority by undertakings according to article 56, point 2, which are considered from the parties as the basis for the decision, should be submitted nearby Authority not later than one (1) month from the receipt of notification.
2. The commitments proposed to the Authority by concerned undertakings, according to article 57, point 2, which are considered from the parties as the basis for the decision, should be submitted nearby the Authority not later than two (2) months beginning from the date of opening the in depth investigation.
3. Point 1 and 2 of this article shall be applied in compliance with article 6 and 9 of this Regulation.

Article 19
The procedure for commitments

1. An original copy of the commitments proposed to the Authority by undertakings in compliance with articles 56, 57 of the Law should be submitted nearby the Authority under the address given in the Notification Form attached to the Guideline.
2. Each party that proposes commitments nearby Authority shall clearly identify each document (data) being considered confidential, give the appropriate reasons and provide another non-confidential version within the time limit determined by the Authority.

Chapter V General Provisions

Article 20 Delivery of documents

1. Delivery of documents and invitations from the Authority to the addressees may be carried out by:
 - a) Delivering personally to the addressee.
 - b) Registering the letter with the confirmation of the addressee
 - c) Sending a fax with a reply request to the addressee for confirming the receipt
 - d) Telex
 - e) Electronic mail with the request for confirming the receipt
2. With the exception of cases providing otherwise, the paragraph 1 shall be applied from notifying parties, other parties involved or third parties, for delivering the documents to the Authority.
3. Where the document has been delivered via telex, fax or electronic mail it is presumed that has been received from the addressee on the same date when the document has been delivered.

Article 21 Receipt of Documents by the Authority

1. Based on the provisions of the article 4/1 of this Regulation, the notification should be submitted nearby the Authority under the address given in the Notification Form attached the Guideline, or under the address given in the letter received, before the termination of the determined time limit.

The additional information required for completing the notification according to article 4/2 and (4) of this Regulation or to give additional information for the notification according to article 5, should be submitted to the Authority under the above-mentioned address or the one showed in the received letter, before the termination of defined time limit.

Written comments, about Authority's communications in compliance with articles 12 (1) and (2), 13 (2) and 16 (1) of this Regulation, should be submitted nearby Authority under the above mentioned address or under the address given in the received letter, before the termination of determined time limit.

2. Where the last day of time limit is not a working day or is an official holiday, the time limit shall end with the expiry of the following working day.

Article 22
Determination of time limits

As a rule, the Authority, for determining the time limits, should take into consideration the necessary time for completing the notification form and urgency of the issue.

Time limits shall be determined on calendar basis, taking into consideration the holidays.

Article 23
Definition of working days

The term “working day” used in this Regulation means all the days with exception of Saturdays, Sundays, and official holidays.

Article 24
Entering into force

This Regulation enters into force immediately.