

Regulation
"On the Functioning of the Competition Authority"

Pursuant to Law No. 9121, dated 28.07.2003, titled "On Protection of Competition" (hereinafter referred as the Law"), and specifically its Article 24, letter "c", and Article 84, letter "a", of the Law, the Competition Authority approves the Regulation "On the Functioning of the Competition Authority."

Article 1
Object

The object of this Regulation is the definition of the rules of the organization of the work of the Competition Authority, its tasks and responsibilities, and the manner of their implementation.

Article 2
Field of implementation

This Regulation is applied to all the activities of the Competition Authority, in compliance with the legal obligations for the protection of free and effective competition in the market.

Article 3
General principles of the work of the Competition Authority

1. The Competition Authority operates as an independent public institution, responsible for the protection of free and effective competition in the market, as well as for the institution of the culture of competitiveness in the Albanian market context, through the drafting of the national policy on competition, and the enforcement of the competition legislation.
2. In the exercise of its competencies in relation to the enforcement of the Law and other bylaws in effect, the Competition Authority establishes institutional relations and cooperates with the Parliamentary Commissions, as well as institutions of central and local administration, other public institutions and the other stakeholders.
3. The Competition Authority, in compliance with the effective legislation, drafts and executes its own budget, in cooperation with the Ministry of Finance and the Parliament of the Republic of Albania.
4. The Competition Authority aims at establishing institutional relations, bilaterally and multilaterally, both at the regional and global levels. The Competition Authority maintains relations with international organizations, participates in various activities and events that take place both in Albania and abroad, in cooperation with these

organizations, and does all this in observance of the mutual agreements and the effective legislation.

5. The Competition Authority is responsible to provide the completion of the legal framework with regard to competition through the drafting of bylaws, such as regulations and guidelines. The Competition Authority aims at harmonizing the domestic legislation with the European Union legislation in the field of Competition.

6. In order to ensure a normal functioning in the work of the Competition Authority, as well as accountability and correctness in the decision-making and implementation processes, the Competition Commission and its Secretariat are guided by Law No. 9121, dated 28.07.2003, titled "On Protection of Competition" (as amended) and all the other legal acts issued in support of its implementation. Furthermore, the Competition Secretariat abides by the dispositions of Law No. 9131, dated 08.09.2003, titled "On the Rules of Ethics in Public Administration" the other legal acts issued in support of its implementation.

Article 4 **Structure and organization**

The Competition Authority is composed of the Competition Commission, which is the decision-making body, and the Secretariat, which is the administrative and investigative body.

The organizational structure of the Competition Commission is approved by the Parliament, pursuant to Law No. 9584, dated 17.07.2006, titled "On Wages, Remuneration and Structure of Independent Constitutional Institutions, and the other Institutions Created on the basis of the Law."

Article 5 **The competencies of the Chairman and the members of the Competition Commission**

1. The Competition Commission operates as a collegiate body. The tasks and responsibilities of the Commission are defined under Article 24 of the Law.

2. The Competition Commission is headed by the Chairman, who is appointed by the Parliament of the Republic of Albania. The tasks and responsibilities of the Chairman are defined under Article 25 of the Law.

3. The Chairman is the executive manager of the daily work of the Competition Authority. He chairs the meetings of the Commission, and ensures the implementation of the Law.

4. As the head of the institution, the Chairman is responsible to ensure proper addressing of the issues presented to the Commission, and for the overall well-functioning of the work of the Competition Authority.

Article 6
Absence from work and/or invalidated ability to exercise the functions

1. In the case that the Chairman of the Commission is absent from work, or his/her ability to exercise his/her functions is invalidated, the Deputy Chairman shall be in charge to exercise the Competencies of the Chairman, in compliance with the provisions of the Article 25 of the Law.
2. In the case that both the Chairman and the Deputy Chairman are absent from work, or their ability to exercise their functions is invalidated, one of the members of the Commission shall be in charge to exercise the competencies regarding the overall well-functioning of the work of the Competition Authority.

Article 7
Other relations with the public

The official statements of the Chairman, Deputy Chairman, the members of the Commission, and the other staff of the Competition Authority, in relation with the work of the Competition Authority, as a rule, are made in based on prior consultation with the Competition Commission.

Article 8
Routine meetings

1. The Chairman decides on the date and the time of the regular meetings [of the Commission], except in cases when the Commission has decided otherwise. If the need arises, the Chairman may call extraordinary meetings.
2. The members of the Commission and the General Secretary shall be immediately notified on any changes of the date and time of the meetings, as well as on the extraordinary meetings called by the Chairman.
3. The Chairman may adjourn, or close the meeting before the expected time, if the circumstances are such that justify such decisions. In such cases, the Chairman must explain the reasons for the decision, and the explanation is duly recorded in the minutes of meeting.

Article 9
Calling of meetings

1. The Chairman is obligated to call a meeting when it is required, in writing, by at least 1 (one) member of the Commission. Such requirement must be made in writing and the text

must contain the issues proposed to be discussed. The topics/issues of such meetings must be in compliance with the mandate of the Commission, as defined in the Law.

2. The notifications for calling a meeting shall be made within 7 (seven) days upon the presentation by at least 1 (one) member of the Commission of the request to call the meeting, and at least 3 (three) business days prior to the date set for holding the meeting.

3. The notification for calling a meeting must provide for a clear and detailed explanation of the issues to be discussed in the meeting.

Article 10 **Participation in the meetings of the Commission**

1. In the meetings of the Commission are eligible to participate the Secretary General, any of the directors of the Departments of the Secretariat, and, if necessary, can attend other specialists of the Secretariat or outside experts, who have been involved in addressing the issues under consideration are entitled to participate. The participation in the meeting of other specialists of the Secretariat and outside experts is subject to prior approval by the Commission.

2. As a rule, the meetings of the Commission are closed to the public. However, in special cases and upon proposal of the Chairman/member and approval by the Commission, the meetings may be open to the public and the media.

Article 11 **Order of the day**

1. The Chairman decides on the order of the day of any meeting. The order of the day must include those issues that have been presented to the Commission for review by the Secretariat, and that have been required [to be included] by members of the Commission. The members of the Commission, who wish to include additional issues to the order of the day of the meeting, must address the Commission with a written request at least 3 (three) business days before the date of the meeting.

2. The order of the day of the meeting must be distributed to all the members of the Commission at least 7 (seven) business days before the date of the meeting. As a rule, the investigation reports prepared by the Secretariat must be made available to the members of the Commission at least 7 (seven) business days before the date of the meeting.

Article 12 **Decision-making**

1. The Commission makes decisions only for those issues that are included in the order of the day of the meeting, except in cases when the majority of the members of the Commission decides to discuss and make decisions on issues that were not included in the original meeting agenda.

2. The Commission decides to launch a general investigation in a sector of the economy, pursuant to Article 41 of the Law.
3. The Commission decides to start a preliminary investigation procedure, pursuant to Article 42 of the Law.
4. Decisions regarding the cases foreseen under paragraphs 2 and 3 may be made upon the proposal of one member of the Commission.
5. On the basis of the report presented by the Secretariat, the Commission decides on the approval or disapproval of the opening of in-depth investigation procedure.
6. In any case, the decisions are made in compliance with Article 26 of the Law.

Article 12 /1
Argumentation and publishing of the decisions

“The decisions adopted by the Commission of the Competition Authority are associated with the argumentations [for the decision made] no later than 15 days from the adoption [of the decision] at the respective meeting of the Commission.

If during the voting process there are votes against it, the members of the Commission [voting against] brings to evidence his/her objection at the part pertaining to the signatures, by adding to his/her signature the note pro or against.

The decisions adopted by the Commission of the Competition Authority, along with the minority opinion, argued, if there is any, are published in the Official Bulletin of the decisions of Competition Authority.”

Article 13
Calling of extraordinary meetings

Besides the cases when the meeting of the Commission is organized in compliance with the approved procedures, a meeting of the Commission shall be considered valid also in other cases, provided that these conditions are fulfilled: all the members of the Commission have previously agreed to hold such a meeting, have agreed with the agenda and all of them participate in it.

Article 14
Hearing sessions

1. Prior to making a decision, the Commission may, at any moment during the proceedings, organize hearing sessions, where the parties involved in the process are given the opportunity to present their opinions in writing and/or verbally.

2. Upon request of the interested parties, the Competition Commission may, at any moment during the proceedings, organize hearing sessions, where the parties involved in the process are given the opportunity to be heard by the Commission.
3. The Commission may invite to such hearing sessions third parties, or experts who have been involved in addressing the issues under consideration.
4. As a rule, the hearing sessions are closed to the public. The party that is being heard may make a preliminary request to prohibit the participation in the hearing session of the other party/parties or experts who have been involved in addressing the issues under consideration.
5. As the case may be, the Commission decides whether the hearing sessions shall be open or closed to the public.

Article 15

The tasks of the Cabinet attached to the Commission

The Cabinet attached to the Commission has the following tasks:

- Organizes the meetings of the Commission;
- Maintains relations with the mass-media;
- Issues press declarations regarding the official activity of the Competition Authority; and,
- Organizes the external activities of the Competition Authority.

Article 16

Organization of the meetings of the Commission

1. The meetings of the Commission and the hearing sessions are organized by the Cabinet, which, in cooperation with the Secretariat, is responsible, to submit the relevant documentation to the members of the Commission, within the deadlines defined in this Regulation.
2. The Cabinet monitors the compliance with the deadlines in the submission of the investigation reports, requests made, as well as any other documentation to be reviewed by the Commission. In performing this task, the Cabinet cooperates closely with the Secretariat.
3. The Cabinet is responsible to ensure compliance with the deadlines for the notification of the parties participating to hearing sessions, to include third parties and experts, who have required, or are invited to participate in the hearing sessions. In performing this task, the Cabinet cooperates closely with the Secretariat.

4. The Cabinet provides for keeping record of the minutes of meetings. Such records shall be signed by the members of the Commission attending the meeting, and will subsequently be registered at the register of the Competition Commission.

5. As a rule, at the end of each meeting of the Commission, the Cabinet issues a press release.

Article 17 **The competencies of the Secretariat**

1. The Secretariat is chaired by the Secretary General.
2. The competencies of the Secretariat are defined under Article 28 of the Law. The Secretariat exercises its functions in compliance with the Law, and in an independent manner, except in the cases that are under the competence of the Commission.
3. In addition, the Secretariat drafts and presents for approval to the Competition Commission the draft-regulations that are pertinent to its fields of activity, as well as other draft-guidelines and draft-acts that are related to the implementation of the Law, within the deadlines that are determined by the Competition Commission.

Article 18 **Competencies of the Secretary General**

1. The competencies of the Secretary General are defined under Article 29 of the Law.
2. The Secretary General undersigns all the procedural decisions made on behalf of the Secretariat.
3. The Secretary General is in charge for the organization of the work of the Secretariat. In particular, he/she coordinates the operations of the Departments and sectors subsided to it, with an aim to increase the efficiency of the work of the Secretariat.

Article 19 **Structure of the Secretariat, Objectives and Responsibilities**

1. In compliance with the Law and the Decision of the Albanian Parliament No. 96, dated 30.04.2007, titled "On the Approval of the Structure and Organization of the Competition Authority" the Secretariat composed of three departments and one sector. The organization Chart of the Competition Authority is enclosed as Annex 1 of this Regulation.
2. The mission of the Market Monitoring Department is the monitoring, research and investigation of market conditions in order to identify any practices that impede, deform or restrict the competition in the market, pursuant with the definitions of Law No. 9121,

dated 28.07.2003, titled “On Protection of Competition” and the other bylaws issued to support its implementation.

The department is divided into three sectors, according to the main fields of operation established in the Law, and specifically, the Abuse with Dominant Position Sector, the Anti-Cartel Sector, and the Concentrations Sector.

- Abuse with Dominant Position Sector, is responsible to monitor the implementation of the Law by the undertakings that have a significant market power and monitors the occurrence of any event of abuse with dominant position of one or more undertakings.

- Anti-Cartel Sector, or the sector of prohibited agreements, reviews all the documentation of prohibited agreements that imply price fixing, restriction of supply, sharing of markets or that create market entry barriers.

- Concentrations Sector reviews the documentation of concentrations that imply the acquisition of control, merging of undertakings or the creation of new undertakings. The sector follows closely the cases of creation or consolidation of dominant position in the market and forwards proposals and recommendations for their mitigation, as appropriate.

3. The Juridical and Integration Department is composed of two sectors and has the following, main objectives:

- The study of the laws and other legal acts in effects with the view of assessing their compliance with the Law, as well as the degree to which such laws and bylaws impede or restrict competition and aiming at the harmonization of domestic legislation with the “Acquis Communautaire”. In addition, the sector deals with the assessment of compliance of draft laws regarding the field of competition, prepared by other central and local institutions

- Implementation of current policies and adaptation of new policies in the drafting of new legislation regarding the issues of competition.

- In cooperation with the other departments, is responsible to follow-up court procedures and lawsuits and preparation of documentation relevant to such procedures, where the Competition Authority is a party.

- In cooperation with the Cabinet, provision of support and expertise for the drafting and editing of the juridical acts of the Authority and the Commission, in particular, any time such support and expertise is required by the latter.

4. The Human Resources, Services and Documentation Department is composed of two sectors and has the following, main objectives:

- Effective management of human resources, organization, qualification and training of the employees, in compliance with Law No. 8549, dated 11.11.1999, titled “On the Civil Service”.

- Monitors the implementation of all staff policies that include the meeting of professional requirements, the evaluation and classification of tasks, recruitment and selection, evaluation of work performance, payment, training, work discipline and procedures that regulate the relations between the employees, with the aim to ensure their continuous implementation within the institution.

- Develops, advises and coordinates outsourcing and communication strategies that aim at motivating staff commitment in the accomplishment of the tasks and the minimization of conflicts.

- Monitors the effective use of financial and material goods.

5. The Research and Analysis Department has as its main objective the monitoring and analysis of market conditions with respect to the application of free and effective competition in Albania.

6. The directors of the Departments direct the activity of their department. The directors of the Departments report on a regular basis to the Secretary General.

7. The directors of the Departments are in charge of the management of work at their departments and the efficient use of the human resources at their respective departments. They inform the employees of their departments on the work objectives and all the other important issues related to the management of the work of the department. They perform division of work and control of performance.

8. The directors of the Departments have the competence to approve [or disapprove] the eventual requests of their employees to discontinue the work activity for personal reasons, within only one business day.

Article 20

Informing and reporting procedures

1. The Secretary General informs, in writing, and reports to the Commission upon requirement by the latter.

2. Informing and reporting follows the rules of hierarchy.

Article 21

Relations between the Commission and the Secretariat

1. The Secretariat informs immediately, in writing, the Commission in all the cases when it launches a preliminary investigation, which is made on its own initiative, upon requirement of the interested undertakings, or upon a complaint filed by third parties. The preliminary investigation has as objective to track any eventual restriction of competition.

2. In cases when the Secretariat thinks that [as a result of communication to the parties] the investigation procedure may become compromised, or the collection of evidence during inspections made pursuant to Article 36 and 37 of the Law becomes impossible, the Secretariat has no obligation to communicate to the parties the opening of the preliminary investigation procedure.

3. The undertakings under investigation, or any other interested parties, have no right to access the files in the course of the preliminary investigation procedure.

4. Upon completion of the preliminary investigation procedure, the Secretariat prepares and presents to the Commission a report, and forwards a formal request to the Commission for the opening of the in-depth investigation procedure, in compliance with Article 43 of the Law. In this case, Article 12 of this Regulation is applied.

5. Upon completion of the preliminary investigation procedure, the Secretariat prepares and presents to the Commission the final report, based on the findings and analysis performed, and including the relevant recommendations. In this case, Article 12 of this Regulation is applied.

6. The Secretariat implements the decisions of the Commission.

Article 22

Working groups

Working groups are created to address issues that fall within the scope of two or more departments and that are within the scope of the Secretariat. Such working groups are composed of specialists of various departments. Each working group has one leader.

2. The members of any working group are nominated by the directors of the Departments. The composition of the working group is approved by the Secretary General. the Secretary General appoints the head of the group.

3. The Working Group, in consultation with the Secretary General and the directors of the directorates, defines the methodology and matrix of actions, which are attached to the minutes of meeting of the Working Group. The approval of the minutes of meeting of the important meetings of the Working Group, and the final report of the investigative phase, is achieved by consensus or majority vote, (if such approach becomes necessary), during the conclusive meetings of the Working Group, for which are always recorded the minutes of meeting. In parts where there can be no consensus among members of the Group, the member(s) holding a minority opinion is named, while the minority opinion is reflected at the end notes of the page.

4. The Report together with the investigation file is submitted to the Secretary General. The latter requires prior opinion concerning the Report to the directors of the Directorates (excluding those who were members of the investigative Working Group), who give it in writing as soon as possible, but no later than 15 days from the day that they received information on the report.

5. Upon receiving the Report by the Working Group, the Secretary General [proceeds as follows:]

a) In the event that he/she finds that the procedures and conclusions of the Report have a basis, proceeds to submit it, along with the corresponding account, for review to the

Commission, within 5 working days, and reports it before the Commission together with the Chairman of Working Group.

b) If the Secretary General is not convinced about the facts, procedures and conclusions of the Investigation Report, he/she may return it only once back to the Working Group for review, together with his/her remarks and suggestions on the report.

c) When the Working Group or the majority of its members, even after the returns of the Report by the Secretary General do not agree with the remarks and proposals, prepares counter-arguments to the Secretary General's remarks. In this case the Secretary General submits the Report along with the investigative file to the Commission. The presentation of the Report before the Commission, in this case will be made by the Working Group itself, while the Secretary General clarifies his/her own remarks on the report.

Article 23

Internal control procedures

1. The Commission creates a provisional Working Group to perform the control of the internal activity of the Competition Authority.
2. During the period of their mandate, the members of the Working Group are entitled to consult all the documentation pertinent to the object of control.
3. At the conclusion of the control, the Working Group presents to the Commission a detailed report on the findings and makes the relevant recommendations.

Article 24

Registration of documentation

1. The Competition Authority maintains a general register, which serves to register, store and use all the incoming and outgoing correspondence, in compliance with Law No. 9154, dated 06.11.2003 titled "On Archives".
2. The movement of correspondence is made on the basis of administrative hierarchy.
3. The outgoing correspondence, before being sent, must be submitted, in original, to the Archive office, where is registered and its delivery is confirmed by providing for sending it at the post office.
4. The registered correspondence is filed and stored up at the Archive of the Competition Authority.

Article 25

Registration of notifications

1. The Competition Authority maintains a special register, where are registered the notifications of agreements and concentrations. Such register, which is maintained both

in hard copy and electronically, is under the responsibility of the Concentrations Sector and is overseen by the Director who heads this sector.

2. Upon receipt of the Notification, the Secretariat issues a written certification, where are denoted the reference numbers of the registration and the date on which was the notification and all the annexed documentation was received.

3. The Secretariat informs, in writing, the Commission, on the exact date of the submission of the notification and the annexed documentation, for the fulfilled form of notification from the participating parties in a concentration.

4. The Secretariat, for the assessment of the concentration, applies the regulation "For applying concentration procedures of undertakings"

Article 26 Confidentiality

In order to ensure secrecy and confidentiality with regard to all the materials of the correspondence, all the proceedings of the staff of the Competition Authority shall be compliant with Article 30 of the Law, the Code of Administrative Procedures, the Rules of Ethics of the Competition Authority, and the other legal acts in effect.

Article 26/1

Complaints, requests and notifications that individuals wish to submit to the Competition Authority, must be presented in written form and by filling in the model form, as provided in this regulation. Those who are unable to submit a complaint in writing, or do not wish to do so, may present it orally. In this case the Protocol Office employee will note the complaint, request or notification made, will make note that the person who presents it do not wish to formally deposit it and will sign under it together with another employee of the institution and that is present during the abovementioned procedure.

In cases when the Competition Authority or the employees of the institution are presented with complaints, requests or reports in writing, but that are submitted by hand or email, and that concern issues that are under the jurisdiction of the institution, they must be recorded in the relevant protocol book.

The Competition Authority takes into consideration also the anonymous complaints if they concern issues that are under the jurisdiction of the institution. These complaints are recorded in the Book of the protocol.

In any case, the Competition Authority official who comes to know of a complaint, made either in writing or orally, and that has been submitted in any manner, is bound to maintain the confidentiality on the identity of the person who made the complaint, as well as on the content of the complaint, pursuant to the obligation stipulated in Article 30 of Law 9121 "On the protection of Competition."

Article 26/2

The Model Complaint Form

“The Model Complaint Form that must be completed in the cases when a person approaches the Competition Authority in order to present a complaint or notification, must be signed and submitted by the person who makes the complaint, or his/her legal representative. The complaint must include:

-1. Firstly, the specification of the person who is filing the complaint, if he/she wishes to do so.

a. to be identified; or,

b. remains anonymous.

In there must be noted the date of the completion of the form, or the date of the submission of the form.

- 1/a. The identity, address of residence, or work address of the person who is filing the complaint, and to who are violated the rights and liberties, as well as other contact data such as telephone number, fax number or electronic address (email). All this applies if the person who is filing the complaint meets letter “a” of paragraph 1 of this Article;

-2. Allegations for the suspected limitations or restrictions of competition towards him/her, or other subjects;

- 3. The name of the enterprise or the institution that is suspected to violate the law, and in relation to which is complaining or signaling;

- 4. Description of facts to which is referring;

- 5. Ordering of evidence at his/her disposal concerning the suspected breach;

-6. Names of other public institutions that have been previously informed on the issue that is the object of the complaint;

-7. Any type of document, original or copy, which is in support of the complaint, request of notification.

The Model Complaint Form can be found at the official webpage of the Competition Authority.”

Article 26/3

Handling of complaints

Within 24 hours from the time of arrival at the institution, must take place the distribution of requests, complaints or reports by the Secretary General, who marks the sector or directorate, in which competence is the tracking of the issue.

The Secretary General assesses whether the request is within the jurisdiction of the Competition Authority and notifies the Commission on that assessment.

The party / parties that have filed a complaint or request should be notified by the Secretary General on its proceeding, no later than 15 days from date of receipt by the Authority. At the conclusion of the procedure, the Authority shall notify the interested parties on the results of the administrative proceedings of the complaint, request, or notification in accordance with the dispositions of the Law "On Protection of Competition."

Article 27 **Amendments to the Regulation**

Any amendments to the Regulation "On the Functioning of the Competition Authority" shall be made upon proposal of at least one member of the Competition Commission, or the Secretariat.

1. Any amendments to the Regulation shall be approved by the Commission, pursuant to the Law.
2. The proposed amendments and the relative report shall be submitted to the Commission no later than 15 days prior to the date of their review by the same.

Article 28 **Effective date of the Regulation**

1. The Regulation "On the Organization and Functioning of the Competition Authority", approved by Decision No. 2, dated 17.03.2004 of the Competition Commission becomes null and void.
2. This Regulation shall enter immediately into effect.

