



International
Competition
Network

**ANTI-CARTEL
ENFORCEMENT
TEMPLATE**

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

**Republic of Macedonia
[updated: 30.04.2009]**

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

A. Law(s) covering cartels:	<p>Law on Protection of Competition ("Official Gazette of the Republic of Macedonia No.04/05, 70/06 and 22/07")</p> <p>The text of law is available on macedonian and english</p> <p>Background rules on procedures: Law on General Administrative Procedure (Official gazzete of the Republic of Macedonian No.38/05 and 110/08) and Law on Misdemeanors (Official Gazzete of the Republic of Macedonia No. 62/06)</p> <p>Homepage address of the Commission for Protection of Competition: www.kzk.gov.mk</p>
B. Implementing regulation(s) (if any):	None
C. Interpretative guideline(s) (if any):	None
D. Other relevant materials (if any):	<p>Regulation on block exemption of horizontal agreement for specialisation</p> <p>Regulation on block exemption of transfer technology agreements, license agreements and know-how agreements</p> <p>Regulation on block exemption of agreement for distribution and servicing motor vehicles</p> <p>Regulation on block exemption of insurance agreements</p>

	<p>Regulation on block exemption of horizontal agreements for research and development</p> <p>Regulation on block exemption of vertical agreements for exclusive right of distribution, selective right of distribution, exclusive right of purchasing and franchising</p> <p>Regulation on agreements of minor importance</p> <p>Regulation on the detail criteria for appraisal of concentrations and the form and the content of the notification.</p> <p>All these regulations are available in English.</p> <p>Homepage address of the Commission for Protection of Competition: www.kzk.gov.mk</p>
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2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”?</p> <p>If not, please indicate the term you use instead.</p>	<p>The Law on protection of competition defines the term:</p> <p><i>"Agreements and decisions"</i> as legal acts that regulate the issues related to the working conditions of the undertakings as far as those conditions are directed towards prevention, restriction or distortion of competition. This relates also to the specific provisions of the agreements or decisions which can be explicit or tacit.</p> <p>Article 7 of the Law on protection of competition stipulates that</p> <p><i>"Agreements concluded between undertakings, decisions by associations of undertakings and concerted practice which have the prevention, restriction or distortion of competition as their objective or effect shall be prohibited"</i>.</p>
<p>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 quotas¹) and other types of “cartels”?</p>	<p>According to the Law, all agreements concluded between undertakings, decisions by associations of undertakings and concerted practice which have as their object or effect the prevention, restriction or distortion of competition shall be prohibited, and in particular, those which:</p> <ol style="list-style-type: none"> 1) directly or indirectly fix purchase or selling prices or any other trading conditions; 2) limit or control production, market, technical development or investments; 3) share markets or sources of supply; 4) apply dissimilar conditions to equivalent or similar legal transactions with other trading parties, thereby placing them in a position of competitive disadvantage; 5) make the conclusion of agreements 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 agreements. <p>These types of agreements are considered especially</p>

¹ 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.

	disruptive and therefore treated as hard-core cartels.
C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors.]	<p>The agreements from article 7 of the Law which have as their object or effect the prevention, restriction or distortion of competition are prohibited. But, agreements, decisions of associations of undertakings and concerted practices that contribute to improving the production or distribution of goods and services or to promoting technical or economic development, while allowing consumers a fair share of the resulting benefit, and which do not:</p> <ol style="list-style-type: none"> 1) impose on the undertakings concerned restrictions, which are not indispensable to the attainment of these objectives and 2) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question, <p>shall not be prohibited and will be individually exempted from the prohibition of article 7. In this context, our Law provide also block exemptions from the general prohibition of article 7. Block exemptions are for the following types of agreements:</p> <ol style="list-style-type: none"> 1) vertical agreements for exclusive right of distribution, selective right of distribution, exclusive right of purchasing and franchising; 2) horizontal agreements for research and development or specialization; 3) agreements on transfer of technology, license or know-how; 4) agreements on distribution and repairing motor vehicles and 5) insurance agreements. <p>Also, the Law does not prohibit agreements of minor importance in which common market share of the parties of the agreement and the undertakings under their control on the market does not exceed the threshold of 10%, where the agreement is concluded between undertakings operating within same level of production or trade (horizontal) or the threshold of 15% where the agreement is concluded between undertakings operating within different level of production or trade (vertical).</p>
D. Is participation in a hardcore cartel illegal per se?	Yes
E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?	Participation in a hard core cartel is breach of the provisions of the Law on Protection of Competiiton and it also constitutes an administrative offence.

3. Investigating institution(s)

A. Name of the agency, which investigates	Macedonian Commission for Protection of Competition (Qualified Personnel Department within the Commission)
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cartels:	
B. Contact details of the agency:	Commission for Protection of Competition Address and mail: Dame Gruev 1, 1000 Skopje Republic of Macedonia tel: +389 2 3 298 666 fax: +389 2 3 296 466 e-mail: kzk@kzk.gov.mk rozanav@mon.upr.gov.mk
C. Information point for potential complainants:	Commission for Protection of Competition Address and mail: Dame Gruev 1, 1000 Skopje Republic of Macedonia tel: +389 2 3 298 666 fax: +389 2 3 296 466 e-mail: kzk@kzk.gov.mk rozanav@mon.upr.gov.mk
D. Contact point where complaints can be lodged:	Complaints can be submitted in person (Mon-Fri: 8.30-16.30) or by post. There is no special form for lodging complaints.
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	In some cases, other state bodies and regulatory agencies may assist in the investigation with expertise and men power. .

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

A. Name of the agency making decisions in cartel cases:	
B. Contact details of the agency:	
C. Contact point for questions and consultations:	
D. Describe the role of the investigating agency in the process leading to the sanctioning of the	

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

cartel conduct.	
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	

5. Handling complaints and initiation of proceedings

A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]	The procedure before the Commission shall be carried out pursuant to the Law on General Administrative Procedure. The Commission may initiate procedure ex officio or upon request of a party.
B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?	Request for initiation of a procedure can be made by written submission to the Commission delivered personally or mailed through the post. There is no specific form that should be completed but there should be some information that the request must contain in order to be processed by the Commission: <ul style="list-style-type: none"> - the business name and registered office of the legal entity, or name, surname and address of the person submitting the request; - data regarding the person against whom the request is submitted and - description of factual condition, behaviour or circumstances which are the reason for submission of the request. The person submitting the request may attach to the request the following: <ul style="list-style-type: none"> - available evidences which prove the findings - data regarding the relevant market; - data regarding the market participation and competitors' participation; - excerpt from the trade register or other registration of the person submitting the request and - financial statement for the preceding year. The day when the Commission receives all data and documents shall be considered as the day of receipt of the request.
C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]	There are no separate legal requirements, except those mentioned above in 5/B, which are necessary to lodge a complaint i.e. to submit the request for initiation of a procedure against a cartel. Any person who will submit all necessary data (5/B) may submit a request or to lodge a complaint.
D. Is the investigating agency obliged to take action on each complaint	When the Commission receives the request for initiation of a procedure, it can adopt a decision for initiation of a procedure and then submit this decision and initiating request to the

<p>that it receives or does it have discretion in this respect?</p>	<p>opposite party. The opposite party has the right to give a reply within 8 days of the receipt of the decision for initiation of a procedure. The Commission can also, after receiving the complaint, decide that the conditions for initiation of a procedure are not fulfilled, adopt a decision rejecting the complaint. The complainant can lodge a complaint to the Administrative Court against this Commission's decision. But there are also cases when the Commission receives complaints for certain behaviours which do not fall within its competences. In such a case, the Commission informs the party that the Commission is not competent and advises the complainant which is the competent body the complaint should be addressed to.</p>
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</p>	<p>If the Commission receives a complaint about a behaviour which falls within the scope of its competence, it is required to follow up on the complaint. If the preliminary investigation reveals that the conditions and the thresholds for an initiation of a procedure are not fulfilled, it will adopt a reasoned decision proclaiming that the conditions for initiation of a procedure are not fulfilled. The complainant can lodge a complaint against this Commission's decision to the Administrative Court within 30 days of the receipt of the decisions.</p>
<p>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?</p>	<p>There are no time limits in which the Commission is obliged to take the decision whether to investigate or to reject a complaint for initiation of a procedure</p>

6. Leniency policy³

<p>A. What is the official name of your leniency policy (if any)?</p>	<p>The Law on Protection of Competition doesn't provide for a leniency policy.</p>
<p>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</p>	
<p>C. Who is eligible for full leniency?</p>	
<p>D. Is eligibility for leniency dependent on the</p>	

³ 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>enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>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?</p>	
<p>E. Who can be a beneficiary of the leniency program (individual / businesses)?</p>	
<p>F. What are the conditions of availability of full leniency:</p>	
<p>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</p>	
<p>H. Obligations for the beneficiary after the leniency application has been accepted:</p>	
<p>I. Are there formal requirements to make a leniency application?</p>	
<p>J. Are there distinct procedural steps within the leniency program?</p>	
<p>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?</p>	
<p>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</p>	

decides about leniency applications?	
M. Does your legislation have a marker system? If yes, please describe it.	
N. Does the system provide for any extra credit ⁴ for disclosing additional violations?	
O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.	
P. Is there a possibility of appealing an agency's decision rejecting a leniency application?	
Q. Contact point where a leniency application can be lodged:	
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?	
S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?	

7. Investigative powers of the enforcing institution(s)⁵

A. Briefly describe the investigative measures	The Commission for Protection of Competition (the Qualified Personnel Department), for the purpose of performing its tasks
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⁴ 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.

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

<p>available to the enforcing agency such as requests for information, searches/raids⁶, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</p>	<p>as stipulated in the Law, may request from the undertakings or associations of undertakings to submit data related to their economic and financial situation and their business relations and connections, as well as data in regard to their statutes and decisions and the number and identity of the members affected by such decisions.</p> <p>The persons requested to submit data are obliged to submit the requested data, and the data must be correct, complete and true and submitted within the specified time limit.</p> <p>The authorized persons of the Commission and, when needed, the accompanying persons may conduct any necessary inspections in the undertakings or association of undertakings and may:</p> <ol style="list-style-type: none"> 1) enter any business premises, land and means of transport of the undertaking or association of undertakings; 2) examine the books and other records related to the business, irrespective of the medium on which they are performed and stored; 3) take or obtain in any form copies or extracts from such books or records; 4) seal any business premises and books or records for the period and to the extent necessary to perform the inspection, but no longer than 7 days and 5) ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers. <p>In the case when the required access to books or other records related to the business is denied or incomplete or where the answers to the questions asked are incorrect or misleading, that is an infringement according to this Law.</p> <p>If a reasonable suspicion exists that the undertaking or the association of undertakings or third party possesses records or other objects which may be relevant to prove the violation of the provisions of this Law, the Commission may, with a decision, ask the competent court to issue written order for inspection of a person, residence or business premise, as well as seizure of objects and other documentation of an undertaking, association of undertakings or a third party.</p>
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</p>	<p>If a reasonable suspicion exists that the undertaking or the association of undertakings or third party possesses records or other objects which may be relevant to prove the violation of the provisions of this Law, the Commission may, with a decision, asks the competent court to issue a written order for inspection of a person, residence or business premise, as well as seizure of objects and other documentation of an undertaking, association of undertakings or a third party.</p>
<p>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court</p>	<p>Data collected during the procedure before the Commission may be used only for the purpose for which they were acquired.</p> <p>All evidences and acts obtained in original from a party in the procedure shall be kept by the Commission until the final completion of the procedure, and in case when a complaint for initiation of an administrative dispute has been filed until completion of the procedure upon the complaint.</p>

⁶ “Searches/raids” means all types of search, raid or inspection measures.

warrant needed)?	
D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.	No

8. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases:</p>	<p>If parties with opposite interests participate in the procedure in front of the Commission, the Commission submits the decision for initiation of procedure and the request for initiation of a procedure to the opposite party.</p> <p>The party is entitled to give reply within 8 days following the receipt of the decision for initiation of a procedure. Exceptionally, the period may be extended upon a request of a party for additional 15 days, due to existence of justified reasons for such extension.</p> <p>If the Commission decides to hold a public hearing, than every party has a right to be heard and every party has the right to legal representation.</p> <p>The parties in the procedure in front of the Commission are entitled to inspect the file of the case and to make, at their own expense, a transcription or copy of certain documents.</p> <p>Any party to the proceedings has a right to professional secrecy of the information provided. That means that if the party has strictly pointed out that some data are professional secrets, than they should be kept as such under the label of professional secrecy.</p> <p>In case damage is caused by any action prohibited by the provisions of this Law, the person that suffered the damage may request compensation according to the law.</p> <p>The party has a right to lodge a complaint for initiation of an administrative dispute against the Commission's decision to the Administrative Court and the lodging of such a complaint suspends the execution of the Commission's decision.</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>The President, the members of the Commission and the employees are obliged to keep confidential information as professional secrets, regardless of the manner in which they were obtained, and the obligation to keep the professional secrets shall continue to apply even after the termination of the employment with the Commission.</p> <p>The persons referred to in above, shall not give statements in the public which may undermine the reputation of the legal or natural entity, in regard to the measures undertaken by them or the procedures initiated in the course of performing their competencies, until their final closing, except in the case of publishing general information or information regarding the undertaking.</p> <p>The privilege of professional secrecy covers especially such matters as:</p>

	<p>1) determined by law or other legal act as being a professional secret;</p> <p>2) determined by a general or other acts of an undertaking to be professional or business secrets and</p> <p>3) determined to be a business or professional secret by the undertaking or by the person from which documentation has been taken.</p> <p>Any data and documents that have been made accessible, in any manner, to the public, or that have been officially published on the basis of any other act or decision of the managing bodies of the undertaking, are not considered to be professional secrets.</p>
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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 must begin or a decision in the merits of the case must be made?</p>	<p>The Law stipulates a statute of limitations only for the initiation and the conduct of a misdemeanour procedure. These limits are 3 and 5 years, depending on the type of misdemeanour.</p>
<p>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</p>	<p>The Commission is obliged to make a decision pursuant to the provisions of this Law within four months as of the day of the determination of all relevant facts in the procedure, unless otherwise stipulated in the Macedonian competition law.</p> <p>The Commission can extend the deadline for the decision-making for additional three months if it considers that additional expertise and analysis is necessary in order to determine the factual condition and to assess the evidence or when a specific sector or market is at stake. If this is the case, the Commission informs, in writing, the parties to the procedure before the expiration of the deadline stated above.</p>
<p>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</p>	<p>The commencement of a procedure to investigate an alleged cartel cannot be challenged.</p> <p>Any party to the procedure is entitled to lodge a complaint for initiation of an administrative dispute against the Commission's decision to the Administrative Court of the Republic of Macedonia. If the complaint is lodged against decision adopted in an administrative procedure, the deadline for lodging is 30 days from receipt of the Commission's decision, while if the attacked decision was adopted in a misdemeanour procedure, than the deadline for lodging the complaint is 8 days from the receipt of the Commission's decision.</p> <p>Such a complaint suspends the enforcement of the decision.</p>

10. Types of decisions

<p>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.</p>	<p>The Commission can with a decision adopted in an administrative procedure:</p> <ol style="list-style-type: none"> 1) determine that the agreement, decision or separate provisions thereof and concerted practice are prohibited; 2) prohibit further application of the agreement, decision or separate provisions thereof and concerted practice in terms; 3) determine terms and measures for elimination of harmful consequences from application of such agreement, decision or separate provisions thereof and concerted practice and 4) determine other adequate measures and terms for their execution for the purpose of establishing competition between undertakings on the relevant market. <p>On the basis of such a decision adopted in an administrative procedure, the Commission can then adopt a second decision, in a misdemeanour procedure imposing a fine for the cartel to the undertaking engage in such a prohibited agreement. The fine can go to up to 10% of the value of the aggregate annual turnover of the undertakings, realized in the business year preceding the year when the misdemeanour has been committed</p>
<p>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).</p>	<p>The same decision as in 10/A</p>
<p>C. Can interim measures⁷ be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both⁸.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</p>	<p>The Commission for Protection of Competition may adopt a decision for interim measures when it determines that separate acts and actions preventing, restricting or distorting the competition can cause direct harmful implication for certain undertakings, or for certain economic sectors or consumers' interests.</p> <p>With such a decision the Commission orders termination of all disputed actions, fulfilment of certain conditions and other measures necessary to eliminate the harmful implications of prevention, restriction or distortion of the competition. In the decision the Commission also determines the duration of the measures which in general can not be longer than three months.</p>

⁷ 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].

⁸ Only for agencies which answered "yes" to question 2.C. above

11. Sanctions for procedural breaches (non-compliance with procedural obligations)⁹

<p>A. Grounds for the imposition of procedural sanctions / fines:</p>	<p>The Law envisages the following procedural misdemeanours:</p> <ul style="list-style-type: none"> -the undertaking has submitted incorrect or misleading data: -the undertaking failed to proceed upon a decision by the Commission for submitting data or submitted incorrect, incomplete and misleading data - the undertaking has given incorrect or misleading replies or has not proceed upon the request of the Commission for supplementing or correcting the incorrect, incomplete or misleading replies, given by an employee in the undertaking, in the determined time limit -the undertaking has failed to proceed or refused to give complete replies on the facts related to the subject and goal of the inspection, according to the decision adopted by the Commission and -the undertaking had reopened the seals stamped according to the provisions of the Law.
<p>B. Type and nature of the sanction (civil, administrative, criminal, combined):</p>	<p>Administrative</p>
<p>C. On whom can procedural sanctions be imposed?</p>	<p>Procedural fines can be imposed on a legal entity, responsible person in legal entity and on a natural person which has the capacity of an undertaking.</p>
<p>D. Criteria for determining the sanction / fine:</p>	<p>While determining the amount of the fine, the nature, seriousness and duration of the misdemeanour are considered.</p>
<p>E. Are there maximum and / or minimum sanctions / fines?</p>	<p>The maximum fine which can be imposed on the undertaking that has committed a procedural misdemeanour goes up to to 1% of the value of the total annual income of the undertaking (articulated in absolute amount), realized in the business year preceeding the year of the misdemeanor.</p> <p>A fine in an amount of 2.000 Euros up to 5.000 Euros, in denar equivalency, shall be imposed for the above mentioned procedural misdemeanor to a natural person, which according to the provisions of this Law has the capacity of an undertaking.</p> <p>A fine in an amount of 500 Euros up to 2.000 Euros, in denar equivalency, shall be imposed for the above mentioned misdemeanors to the responsible person in the legal person</p>

⁹ 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.

12. Sanctions on the merits of the case

<p>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</p> <p>On whom can sanctions be imposed?</p>	<p>Administrative fines are imposed to the legal entity, responsible person in legal entity and to the natural person which, according to the provisions of the Law, has the capacity of an undertaking.</p>
<p>B. Criteria for determining the sanction / fine:</p>	<p>While determining the amount of the fine, nature, seriousness and duration of the misdemeanor shall be considered.</p>
<p>C. Are there maximum and / or minimum sanctions / fines?</p>	<p>According to the provisions of the Law on Protection of Competition, being a part of a cartel is a serious violation of the provisions of this Law and for such a behaviour the undertaking as a legal entity can be sanctioned with a fine amounting up to 10% of the value of the aggregate annual turnover of the undertaking, realized in the business year preceding the year when the misdemeanor has been committed. Additionally, a fine in an amount of 10.000 Euros up to 20.000 Euros, in denar equivalency, shall be imposed for such a misdemeanor to a natural person, which according to the provisions of this Law has the capacity of an undertaking.”</p> <p>Also a fine in an amount of 2.000 Euros up to 10.000 Euros, in denar equivalency, is imposed for this misdemeanor to the responsible person in the legal entity (the undertaking-culprit).</p>
<p>D. Guideline(s) on calculation of fines:</p>	<p>There are Guidelines on the method for the calculation of fines imposed on the basis of article 47 of the Law (the article that regulated the fines for the serious violation of the provision of the Law). These Guidelines are available on the website of the Commission, but only on Macedonian language.</p>
<p>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?</p>	<p>Yes, the lodging of a complaint to the Administrative Court of the Republic of Macedonia in the specified time limit (30 days for the decisions adopted in the administrative procedure and 8 days for the decisions adopted in the misdemeanor procedure) suspends the enforcement of the Commission's decision pending the decision of the Administrative Court.</p>

13. Possibilities of appeal

<p>A. Does your law provide for an appeal from a decision that there has been a violation of a prohibition of cartels? If</p>	<p>According to the Law, when the Commission adopts in an administrative procedure a decision that a cartel agreement has been concluded between 2 or more undertakings, such a decision can be appeal by lodging a complaint to the Administrative Court within 30 days from the receipt of the</p>
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<p>yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?</p>	<p>decision. When the Commission adopts a decision in a misdemeanor procedure fining the undertakings participating in the cartel, that decision can also be appealed by lodging a complaint to the Administrative Court within 8 days from the receipt of the decision. Both decisions can be attacked because of:</p> <ul style="list-style-type: none"> - Wrong application of substantive legal provisions - The decision was adopted by a non-competent body - The procedure when adopting the decision was not properly followed, especially if the factual situation was not assessed properly or the Commission made wrong conclusions on the bases of the correctly determined factual situation
<p>B. Before which court or agency should such a challenge be made? [if the answer to question 13/A is affirmative]</p>	<p>Before the Administrative Court of the Republic of Macedonia</p>